Legislative Council

Thursday, 20 November 1980

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 11.00 a.m., and read prayers.

STANDING ORDER No. 341

Suspension

THE HON. A. A. LEWIS (Lower Central) [11.04 a.m.]: I move, without notice—

> That Standing Order 341 be suspended in order that I may move a motion without notice to allow the discharge of a member and the appointment of another to serve on the Select Committee appointed to inquire into and report on National Parks.

The PRESIDENT: This motion requires the concurrence of an absolute majority. There being no dissentient voice I declare the motion carried with an absolute majority.

Question thus passed.

LAND: NATIONAL PARKS

Select Committee: Membership

THE HON. A. A. LEWIS (Lower Central) [11.05 a.m.]: I move—

> That pursuant to Standing Order 341 the Hon. P. G. Pendal be discharged from service on the Select Committee appointed to inquire into and report on National Parks, and that the Hon. T. Knight be appointed in his stead.

Question put and passed.

NURSES AMENDMENT BILL

Second Reading

Debate resumed from 5 November.

THE HON. H. W. OLNEY (South Metropolitan) [11.06 a.m.]: By and large the Opposition supports this measure. There are a number of different aspects of the amending Bill which we find quite satisfactory and there are one or two about which we raise queries. A perusal of the notice paper will indicate that at the appropriate stage the Minister intends to move a number of amendments. I think it can be said fairly that all these amendments emanate from the rather vigorous and well-reasoned approach to this measure in the other place by the member for Melville who has the responsibility on behalf of the Opposition in this field of activity. He proved to be the equal of the Minister on this legislation and has been able to convince him by logical argument that a number of changes ought to be made to the Bill. In fact, there is probably only one change which we would still want made to satisfy all our objections.

One of the major aspects of this Bill is to alter the constitution of the Nurses Board. Initially, the intention is to increase the membership from 17 to 18 and to reduce the role of the medical profession on that board by reducing the number of medical practitioners required to be on it from four to two.

Originally it was proposed that the Chairman of the Nurses Board should be selected by the Minister from the members of the board itself, but the amendment proposed, which is in line with what the Opposition was advocating elsewhere and which was drafted with the co-operation of the Minister and the shadow Minister, will enable the Minister to select a chairman even from outside the membership of the board. He will do so after taking note of, although not necessarily being bound by, the recommendations of the Nurses Board itself. In the event of the chairman being selected from outside the board, the membership of the board will be increased to the extent of the addition of the chairman. It is pleasing to note that in the reconstitution of the Nurses Board the tendency will be to reduce the very significant influence of the medical profession and to increase the influence of the nursing profession. The Bill is to be commended for the provisions it contains and the Government is to be commended for putting forward those provisions to enable the various branches of the nursing profession to nominate appropriately qualified people to the Nurses Board so that the board will fairly represent as wide a range of interests within the nursing profession as it is possible to achieve.

It is also pleasing to note that the Government has accepted the Royal Australian Nursing Federation which happens also to be an industrial union registered as such as the appropriate body to nominate members to the Nurses Board from the ranks of the trained nurses. Similarly, the Psychiatric Nurses' Association, which is also an industrial organisation, will be given the role of nominating to the board a representative of the psychiatric nurses.

In recent years the role of those who have been called nursing aides in the nursing profession has changed somewhat. Indeed, that classification will be changed to "enrolled nurse" which will give some recognition of the fact that the nurses formerly called nursing aides are to have an enhanced status which they truly merit. The Act will be amended so as to remove the reference to

"nursing aide" and to insert the description "enrolled nurse".

In the past there was representation by the nursing aides on the board. The representatives were simply appointed by the Minister. He had an informal arrangement with the Hospital Employees' Union, the union to which most nursing aides currently belong, whereby representatives were suggested by the union's members and the union selected who it wanted to be appointed by the Minister.

As a result of debate elsewhere apparently the Minister has agreed to place the nursing aides in the same position as the other branches of the nursing profession. The proposed legislation will provide for the appointment to the Nurses Board of enrolled nurses nominated by their industrial union—the Hospital Employees' Union.

The Opposition supports the changes to be made. In particular it supports the proposed amendments the Minister has indicated he will move during the Committee stage. It is generally accepted by the nursing profession that the re-arrangement for the personnel and of the structure of the Nurses Board are a progressive step. We commend the move.

A number of other changes proposed in the Bill involve matters which I do not propose to canvass and really involve the updating of some of the terms traditionally used which are not in keeping with modern practice. I mentioned the change to be made from "nursing aide" to "enrolled nurse", and there are some other proposed changes relating to nurse educators and the like. We support those moves so that the Act will make sense in terms of the modern use of the English language.

One nonsense amendment seems to appear in most Bills, and this Bill is no exception. It has a nonsense amendment which need not be included and probably will do exactly the opposite to what the Minister wants it to do. I refer to clause 12 of the Bill which will amend section 25 of the principal Act. The Minister said in his second reading speech—

> A minor amendment is to delete the provision for an offence and its penalty when a person does not notify the registrar of a change of address.

Of course, he is talking about registered nurses and the like. He went on to say—

> Such offences have been found to be impractical to police and charge, as the offence is not apparent until the person advises the board, at which time the basis of the offence no longer exists.
>
> The provision requiring advice of a change of address will be unaffected. If a penalty is required to be imposed, it can be covered by the Act's general penalty clause.

What he is saying is, "Well, it is so hard to detect and police under the Act this very minor offence of not informing the board of a change of address". It is an offence which under the existing legislation draws a penalty of $5 and we will repeal it. The proposed amendment will strike out subsection (2) of section 25 which states—

> A person who, without reasonable cause, fails to comply with this section is guilty of an offence.

That would be all right, I suppose, if it were not for section 42 of the Act which continues to make a breach of any provision of the Act an offence punishable by a penalty of up to $200. So, the poor old nurse who does not advise the board of her change of address will now be up for a maximum penalty of $200 instead of $5, whereas the intention of the legislation is to altogether remove that offence from the Statute.

The other major change is one which causes me some concern. It is the proposal to amend section 29 of the Nurses Act which deals with the disciplinary powers of the Nurses Board. The provision at present in the Act is to the effect that the board may take disciplinary action against a registered nurse if, before or after she became a nurse, she had been involved in some misconduct. The Act refers to certain types of misconduct. The relevant reference is—

> (c) has been guilty of gross negligence, malpractice, impropriety or misconduct in respect of her calling of a nurse . . .

The board if it thinks it is just under the circumstances, may do one of a number of things. It may remove her name from the register, suspend her registration with or without conditions, fine, caution, or reprimand her, or require her to give certain undertakings in relation to good behaviour.

The conduct which gives rise to the use of the disciplinary powers of the board, as presently provided, is gross negligence, malpractice, impropriety, or misconduct in respect of the calling of a nurse. Clause 13(b) seeks to delete the word "gross".

In regard to that clause the Minister stated in his second reading speech—

> Another amendment is to delete the word "gross" from the term "gross negligence" in the provision for disciplinary power of the

board. It is apparently very difficult to prove "gross" negligence.

I suggest it is difficult to prove wilful murder because not many wilful murders are committed; it is difficult to prove treason because not much treason is committed; and it is difficult to prove gross negligence because it does not happen very often.

So it should be made difficult for the board to prove a serious offence—one which could deprive the offender of his or her livelihood. In his second reading speech the Minister said—

> As there is no provision to find a person guilty of any lesser level of negligence than gross negligence, this amendment will provide that facility. This will not detract from the board's disciplinary powers.

If one looks at the existing section of the Act there seems to be a categorisation of this conduct, if one likes, in a descending order of importance. It starts with gross negligence, and then follows malpractice, impropriety, and misconduct.

It seems to start with the most serious conduct a person could be guilty of, and then it goes down the scale. The Minister suggests this amendment is intended to make a lesser degree of negligence sufficient to invoke the disciplinary powers of the board.

Firstly, I want to query what would, in fact, be the result. In this respect one has to have some regard to exactly what is meant by "negligence" and "gross negligence". "Negligence" is a term which is appropriate to civil law, the law which relates to the relationship between individuls—between subject and subject—and in a circumstance where a person has failed to take reasonable care in his conduct and causes an injury to another, then that person is said to be negligent and is liable for damages for the injury he inflicts. That is the civil concept of "negligence".

I will refer to a commonly-accepted definition of "negligence"; that is, "the absence of care according to the circumstances". That is all very well in civil law, and I do not think that this legislation is intended to be interpreted according to the ordinary civil standard of negligence. Indeed, the use of the term "gross negligence" indicates in fact, to the contrary. If one looks at the books in our Parliamentary Library, particularly the series "Words and Phrases Legally Defined", one finds it is interesting to see under the heading of "gross negligence" that it has been said by courts—and here we are going back something like 140 years and right through history since then—"The term 'gross negligence' is found in many reported cases on this subject. It is manifest that no uniform meaning has been ascribed to those words". So, in 1842 its meaning was not known.

Another court some 150 years ago stated "It may well be doubted whether between negligence and gross negligence, any intelligible distinction exists". In England 150 years ago judges were querying whether there was any real difference.

In more contemporary times—1951—Lord Goddard said—

> The use of the expression "gross negligence" is always misleading. Except in the one case when the law relating to manslaughter is being considered, the words "gross negligence" should never be used in connection with any matter to which the common law relates . . .

That, perhaps, destroys the whole of my argument to the extent that I am complaining about the removal of the word "gross" from the phrase "gross negligence" which word, authorities would seem to suggest, makes no difference. In fact, the same lack of care would be required to prove negligence as to prove "gross" negligence.

The problem I have about this particular change is that according to the law—and if this matter ever got to the courts perhaps it would be so decided—a court may say that the amendment we are now about to make has made no difference. The practical fact of the matter is that this Act is administered by the Nurses Board, a board of lay people in the legal sense. Those people, obviously, will be influenced by the fact that Parliament, according to the stated intention of the Minister, intentionally decided to make something less than the old concept of "gross negligence" as the basis for disciplinary action. Indeed, the appeal procedures run from the board to a local court. I suggest this amendment may well lead the Nurses Board—at least it will create the potential for the Nurses Board to be led—into error. It is very important that there always should be a well defined limitation on the powers of any disciplinary body, particularly where the disciplinary body has the power to deprive a person of his or her livelihood.

I have a great concern that the deletion of the term "gross" from "gross negligence" may make it seem to the Nurses Board that mere carelessness becomes a ground for deregistration or other penalties that can be imposed. I suggest that this is an unsatisfactory state of affairs.

There is already a range of options. If a nurse's conduct amounts to malpractice, impropriety, or misconduct—and those are the terms which are

suggested—then some disciplinary power arises. The concept of negligence is common in other contexts; for example, when one takes his eyes off the road for a second and does not pull his car up in time to stop from bumping the rear end of the car in front. That is a momentary inadvertence which could be regarded as negligence.

One has always to look to the welfare of the public. In this case it will be the patients. All nurses are employed. I suppose some practising nurses work in a purely contract situation, but the vast bulk of them practise their profession as employees of hospitals and similar organisations. Of course, a nurse whose conduct does not measure up to the requirements of the employer would be liable to dismissal which is a very serious penalty at the best of times. I have no doubt that the employer who dismisses a nurse for carelessness would be well within his or her rights.

The Hon. G. C. MacKinnon: The Director of the Mental Health Services (Dr Bell) would probably argue with you about that.

The Hon. H. W. OLNEY: I do not really want to get into the merits of a particular case; but, yes, certainly he would.

The Hon. G. C. MacKinnon: It does present a difficulty.

The Hon. H. W. OLNEY: The whole matter of the power of dismissal, particularly by a quasi-Government instrumentality, is a fairly hot issue, as the Hon. Graham MacKinnon would know. However, in the ordinary law of master and servant there is no question about it; for what amounts to misconduct an employer can either dismiss a person summarily or terminate his employment by giving an appropriate period of notice.

I wish to reiterate my concern that this amendment may give the Nurses Board the wrong impression. I think it is a wrong impression which is created by what I believe to be a misconception as to the effect of the amendment as set out in the Minister's speech. It may give the Nurses Board the wrong impression that a course of conduct by a nurse much less reprehensible than is now required will in future provide a basis for disciplinary procedures.

The real problem is that any one of the acts of misconduct in paragraph (c) of section 29(1) can lead to any one of five different types of penalty; so that even the least serious of offences can give rise to deregistration. It is a matter for discretion by the board in every case, and that is proper. It is because there is this wide discretion that I again express concern that the board may be misled into thinking the amendment has made a significant change to the standard of conduct that is sufficient to justify the imposition of the disciplinary powers.

The Hon. D. J. Wordsworth: How do you suggest we overcome the problem? We can either take it out or leave it in.

The Hon. H. W. OLNEY: I think it may as well be left in because on the face of it, it will not make any difference, and it will not mislead the board into thinking there has been a change. That is my concern. Before I researched the matter, I initially held a different view. I thought "gross negligence" and "negligence" were two different things; but when I researched it I found those terms in this context are each talking about the same thing. Therefore, perhaps the Nurses Board is being misled by the fact that a change is being made.

It may be that if the Parliament wishes a lesser form of misconduct than gross negligence to be actionable, perhaps another term could be used. Perhaps "carelessness" or some other term could be defined in more detail in the Bill.

My view is that only the most serious of offences ought to be capable of being the basis upon which to deprive a person of registration. In any situation the employer always has his remedy for negligence which is actionable in terms of causing injury, in which case the injured person also has a remedy at common law by way of damages. That is a remedy which, of course, in most cases would fall back on the purse of the employer because of his liability for the acts of his servants. The second remedy is where the negligence is such as to give rise to criminal proceedings in which case the procedures of the criminal law would be put into motion against the nurse in question.

The Hon. D. J. Wordsworth: Appreciating that you are a very careful person, when you hire a nurse, would you ask for her record?

The Hon. H. W. OLNEY: I do not doubt that the Government hospitals would do that.

The Hon. D. J. Wordsworth: You can employ a nurse privately.

The Hon. H. W. OLNEY: Oh, yes. I do not even ask the people I employ in my office whether they have a criminal record.

The Hon. D. J. Wordsworth: That is why the public rely upon the Nurses Board to do that.

The Hon. H. W. OLNEY: I agree, and it is quite proper it should do that. However, I suggest that any nurse who in the past has been guilty of conduct which would lead to criminal conviction would be capable of being deregistered for

malpractice, impropriety, misconduct, or gross negligence; so very serious offences are always covered.

I am worried that this change may be seen to be reducing the degree of misconduct—I use that word in a general sense—or carelessness which justifies deregistration.

I simply raise this matter for the consideration of the Government and express the hope that perhaps if the Nurses Board in the future reads what was said in Parliament about this Bill in order to ascertain the meaning of it, it will read both the Minister's speech and that of the Opposition.

With that reservation, we will support the rest of the legislation.

Debate adjourned to a later stage of the sitting, on motion by the Hon. N. E. Baxter.

(Continued on page 3794)

REAL ESTATE AND BUSINESS AGENTS AMENDMENT BILL

Second Reading

Debate resumed from 12 November.

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [11.37 a.m.]: A considerable amount of debate occurred on this Bill, and some pertinent comments were made from both sides of the House. I understand some concern was expressed by a number of members, and I would like to make one or two points.

This is an important Bill and, indeed, an important Act, because it affects the public very much indeed. The public may be caused a great deal of trouble if they deal with the wrong type of people in this industry; and, indeed, if the wrong people get into the industry a great deal of trouble can be caused. It is fair to expect teething troubles with such legislation, and that has been the case with this Act. We have not had many problems, but enough to cause the introduction of this Bill.

Generally speaking, the industry has demonstrated a very responsible attitude to the business in which it is involved. The fact that it requires its members to comply with a code of conduct is a credit to the industry.

One of the reasons for the Bill is to introduce what we call a grandfather clause to permit certain business agents to continue in business. I think 13 persons are involved, and the Bill provides they will not be required to gain academic qualifications. In fact we are really saying the grandfather clause will enable these people to remain in business not as real estate agents, but as business agents—I make that clear—provided they have a permit, and provided they conduct themselves properly.

Concern was expresed by the Hon. Norm Baxter, the Hon. Win Piesse, and others—and certainly the Hon. Jim Brown, who put some amendments on the notice paper—concerning branch managers. Indeed the Bill proposes that branch managers shall be required to gain the qualifications set out for real estate agents if they wish to continue in the business after April 1983.

The Hon. Jim Brown has proposed an amendment to remove that provision and to remove other requirements in clause 16 of the schedule to enable such persons to continue in business indefinitely. If we read clause 16 of the schedule to the principal Act we see that a person who had three years' experience as a real estate salesman prior to 1975 when the Act was proclaimed, was permitted to continue as a branch manager for all time provided he had one year's experience as a branch manager prior to 1975 and provided the board approved of him. Under the amendments I have placed on the notice paper, this will now become an extended grandfather clause.

It is fair to say that in the early days of the debate on the Act there was a concern about "dummying". That meant there was a tendency for someone who was retired and who did not want to continue in business as a real estate agent to place someone in as a branch manager, obviously taking a cut, and putting a dummy front on the business. Those comments appeared in the debate in *Hansard*. However, the responsible Minister in another place has read that debate and he has considered the arguments put forward by the Hon. Jim Brown and others. He agrees with the sentiments expressed in that debate. The House was led to understand that, in fact, branch managers should be able to continue under the conditions set down in clause 16 of the schedule to the Act; and that is the objective of the amendments on the notice paper.

There was another problem that arose, and the Hon. Norman Baxter made some comments about the examination needed to be undertaken by real estate agents. For the information of the House, the examination includes Communications I, Real Estate Practice I, Real Estate Accounting, and Real Estate Law I. In 1971 three more subjects were introduced, and they were Valuation I, Building Construction I, and Real Estate Practice II. Those examinations should be completed, and could be completed, in two years on a part-time basis. Indeed, they can be undertaken by correspondence. In most cases, that would be a reasonable requirement.

I emphasise that branch managers, under the conditions I have mentioned, will not be required to do those examinations. However, it is fair that real estate agents should be qualified in those areas, as they have a responsible job to do. It is not unreasonable, in most cases, to expect people to obtain those academic qualifications.

The Hon. Norman Baxter mentioned the number of people involved, and I think he said there were 28 branch managers. My information is that the number would be nearer 68; so a considerable number is involved.

The Hon. Norman Baxter also made the point, as did other members, that country branch managers become part of the town life. They may have been part of a business for a number of years, and they are accepted by the townspeople even though they have no academic qualifications. They understand people, and generally they have the confidence of the community. He suggested those are very strong qualifications they possess.

Another matter raised by the Hon. Neil McNeill and the Hon. Tom Knight related to developers. I make it quite clear to them there is no intention of changing the present requirements. If a developer is prepared to register, and if he is prepared to keep records at no cost, he is able to sell his own property and deal in his own property. If he wishes to employ a person to sell his property—maybe he has built a house or a block of houses—he is able to do that simply by employing a real estate salesman, not a real estate agent.

For the information of members, the qualifications required for real estate salesmen can be attained in a one week's course; so that is not a difficult and unreasonable requirement. I think the honourable members thought that a person selling for a developer would be required to hold a real estate agent's licence; but that is not the case.

I draw the attention of all members to my amendment on the notice paper. This amendment will do what the Hon. Jim Brown requires, but it has been tidied up by the Crown Law Department. I have given the Hon. Jim Brown a copy of the amendment, and I have discussed the matter with him. I think it satisfies him, and all the members who spoke on this Bill.

I thank members for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. G. E. Masters (Minister for Fisheries and Wildlife) in charge of the Bill.

Clauses 1 to 12 put and passed.

Clause 13: Schedule amended—

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

> Pages 5 and 6—delete paragraphs (g) and (h) and substitute the following paragraph—
>
> > (g) in clause 16, by deleting in subclause (1) "A person" and substituting the following—
> >
> > "Notwithstanding subsection (2) of section 37, a person".

I hope I have explained the amendment to the satisfaction of members. It fulfills the requirements of the Hon. Jim Brown and others.

The Hon. N. E. BAXTER: I express my appreciation to the Minister (the Hon. Gordon Masters), and the Minister who handled this legislation in another place, for the notice they took of my plea on behalf of the branch managers of real estate agents. I thank them for their trouble in providing an amendment that will clear up the whole issue. I am told there was some misconception in regard to the position of business managers; but this amendment will meet the situation and provide the grandfather clause to which the business managers are entitled.

The Hon. J. M. BROWN: I note the comments made by the Hon. Norman Baxter. At all times the Minister has shown me the greatest courtesy in relation to the amendment now before us. Not only does that amendment replace the one I suggested at the outset, but it goes a step further.

I have had a consultation with the Real Estate Institute of Western Australia and I use this opportunity to advise the Minister that its members were concerned, in the first instance, that there was no provision for the branch managers who had been operating. Indeed, Mr Kevin Sullivan, the President of the Real Estate Institute, referred to the Real Estate and Business Agents Act in a letter addressed to the Leader of the Opposition (the Hon. D. K. Dans). He expressed the support of the institute for the amendment I proposed.

I should like to tell the Minister that support was expressed also in correspondence forwarded to the Chief Secretary by the Real Estate Institute im May of this year. I believe the proposition presented, in the main, was in the interests of real estate agents who operated in the

country; but it certainly gives a much wider field for all real estate branch managers in the State. The Minister mentioned there are approximately 28 of them.

The amendment which emanated from the Crown Law Department supersedes the private members' amendment provided by me.

I should like to point out also the help and co-operation received from the private members' Parliamentary Draftsman and also from the Minister (the Hon. G. E. Masters). This Chamber has had an opportunity to correct a situation which would have been deleterious to country real estate branch managers.

The Hon. T. KNIGHT: I was concerned about the implications of this Bill, because I saw it as being the first foot in the door towards eliminating the right of builders and developers in country areas—and, indeed, in the city—to sell their own properties. It always has been understood that, as far as a private person is concerned, he may sell his own property. However, since I have been a member of this Chamber, it appears new legislation is being introduced which is designed to register particular bodies.

I fought for approximately 15 years to have the Builders' Registration Act extended to people in country areas and yet we still have opposition to that. Here we have amendments to an Act designed to register real estate and business agents. That is probably the first wedge in the door towards eliminating builders from selling their own properties.

However, I accept the Minister's explanation. I appreciate the effort expended by the Minister and his staff in relation to this legislation. He has given an assurance that this Bill is not a foot in the door towards eliminating the rights of building contractors and, of course, speculators and developers in the field of real estate and housing development, to sell their own properties.

I hope such people will recognise the benefits of registration which will protect the industry and the people dealing with it. I hope also, in the near future, this Parliament will see fit to extend the Builders' Registration Act to afford further protection to country people in the case of indiscriminate builders.

The Hon. P. H. WELLS: In rising to support the amendment I should like to point out it is rather pleasing for a new member to the Chamber to see legislation being examined and reviewed here. I trust the amendment will be supported also when the legislation is dealt with again in the Legislative Assembly. It was suggested when the other place dealt with the amendments to the Acts Amendment (Motor Vehicle Pools) Bill which had been made in this place that the upper Chamber was being used as a means by which amendments could be inserted in legislation.

However, it is the purpose of this Chamber to make these types of amendments and review legislation. The Hon. Jim Brown and other members examined the legislation and asked questions about it. I believe it was the Government's intention all along that the measure should contain a grandfather clause.

On page 2513, volume 13, of *Hansard* of 1978, Mr O'Neil (now Sir Desmond O'Neil) made the following comment when speaking on new clause 16 of the schedule to the Real Estate and Business Agents Bill—

> This provision allows the continuation in office of office managers who are currently not qualified under the provisions of this legislation.

On that occasion, the Opposition supported that concept, as did the Government, as can be seen from page 2484 of *Hansard* of the same year where Mr T. D. Evans said, "I believe the grandfather clause is desirable." Therefore, it can be seen both the Government and Opposition supported it.

I am indebted to the Minister handling the Bill in this Chamber and also to the Minister who handles this portfolio for the information provided to me when I was endeavouring to understand the clause to ensure that people who had made a major contribution in the area of real estate and who operate as branch managers in the country and the city, will be allowed to continue to contribute to the industry.

I support the amendment.

The Hon. G. E. MASTERS: I thank members for their support of the amendment and I have taken note of their comments. I rather expected the Hon. Tom Knight might refer to the Builders' Registration Act, because he has a particular interest in that regard.

The Hon. Peter Wells and other members have expressed their appreciation for the changes which have been made and it is worth noting that a number of times recently such amendments have been made in the course of debate in this Chamber.

A number of people suggest this Chamber is manipulated or is simply a rubber stamp. That is an unfair allegation. At times, in view of our different philosophies, we must take a firm stand on certain issues. That will always be the case.

However, when dealing with legislation such as this which is of considerable importance to the public and to those involved in the industry, it is a great benefit to ensure there is at least a "double consideration", if I can use that phrase, of the Bill. That demonstrates the important part this Chamber can play with regard to these sorts of issues.

With those comments, I thank members for their support.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife), and returned to the Assembly with an amendment.

GOVERNMENT RAILWAYS AMENDMENT BILL

Second Reading

Debate resumed from 13 November.

THE HON. F. E. McKENZIE (East Metropolitan) [12.00 noon]: The Opposition opposes this Bill, which is another step in the implementation of the land freight transport policy of the Government. It is a policy which the Opposition does not support and for which it has never indicated support because it can be likened to the situation of the Kwinana power station and its long-term result.

Some years ago a Liberal Government—despite the Opposition's indication that it opposed the move—approved the conversion of the power station from coal to oil fuel. At that time the Government did not heed the warning of the Opposition, so we find today that the power station has been converted back to coal at a very great expense to the State.

We believe that in the long term this land freight transport policy will have a deleterious effect on people in country areas. It might not be so bad if the Government carried out the recommendations of the Southern Western Australia Transport Study in total; perhaps then the policy might not be so damaging to the State. However, the Government has not done that and that is the reason for our opposition to the Bill.

This Bill seeks to amend the Government Railways Act and in doing so will remove a number of provisions which in the long term will have an effect on the people in country areas. One of those provisions relates to the common carrier clause.

In the initial days of our history, the railways had a monopoly on land freight. However, in 1930 with the advent of the motor industry, there was a threat to rail freight. The Government of the day introduced regulations which were aimed at protecting the railway system.

The regulations which were instituted in the early days have remained until the present time and certainly there is a need to examine these regulations to ascertain their effects in this present day. However I believe it would be far better for this State to have a centralist railway transport system. Notwithstanding that, regulations are needed so that the transport system of the State is based on the principle that the user pays.

The Hon. D. J. Wordsworth: We are not changing that. What is your definition of a centralist railway system?

The Hon. F. E. McKENZIE: It should be a monopoly operated by the State because it has worked well for a long time and there is no reason for it not to continue. This is apparent if we look at the balance sheets of freight forwarders. I am speaking of the major ones who operate in this State.

The Hon. D. J. Wordsworth: Which boards?

The Hon. F. E. McKENZIE: I was speaking of freight forwarders such as TNT and Mayne Nickless. There are many others, but they are the major ones.

The Hon. D. J. Wordsworth: They are using rubber wheels as well as railways.

The Hon. F. E. McKENZIE: Yes they are, but they are not using their own rubber wheels. They are utilising subcontractors. In the main, they are not using their own road fleet; they may have a partial road fleet, but they generally utilise small road operators—subcontractors, as they are commonly known. Some of the small contractors are going to the wall.

The Hon. D. J. Wordsworth: I thought you said they were doing well.

The Hon. F. E. McKENZIE: The major freight forwarders are doing well. If there were a provision in the Bill to enable Westrail to compete with the freight forwarders then that would have helped the situation. However this Bill excludes Westrail from entering that type of operation.

Section 24 of the Railways Act is to be amended and the manner in which the Government has introduced the amendment has indeed been a very sneaky way to ensure that a penalty will be imposed on employees of the commission. The Government has attempted to do this without its being noticed by members. Every other clause has been mentioned by the Minister in his second reading speech, but there was no mention of this clause which has a very drastic effect on employees.

I wish to refer to the amendment to subsection 7 of the Railways Act. I hope the Minister will indicate in his reply that he is prepared to have this clause deleted. I ask that for a very good reason because I believe anything which has an effect on employees of the commission requires a discussion between the organisations which represent the employees; in other words, the trade unions and the commission. This should be done before the Government attempts to amend that section of the Act. We have provisions in the Act which can be carried out without reference to the unions. This is what has happened on this occasion and it may not have been so bad if it had been in keeping with the other penalty changes in the Bill.

This particular penalty is increased by 500 per cent. The last time an increase was made was in December 1960—some 20 years ago. There may be some justification for this increase.

The Hon. Neil Oliver: Do you approve of this form of disciplinary action?

The Hon. F. E. McKENZIE: Yes. I am not disagreeing with it.

The Hon. Neil Oliver: I have my doubts.

The Hon. F. E. McKENZIE: I think this penalty should be looked at, in view of the changing times, but the people who should do this are the people who represent the workers.

The Hon. Neil Oliver: It is almost a military form of action.

The Hon. F. E. McKENZIE: Yes, maybe it is a little archaic. I have expressed my personal opinion and I am not opposed to that principle of discipline, but I think it is time to review continually these types of penalties.

My argument relates to the increase which has been provided in the Bill. The increase is from $20 to $250; it is increased 12½ times.

I draw members' attention to pages 5, 6, and 7 of the Bill. A number of sections have been amended, and the penalties have been increased by a ratio of five. I remind members opposite that both the penalties I referred to were increased in December 1960, and on that occasion they were both doubled. There has been no movement since 1960 in the $20 penalty as provided for in section 24, or the $40 penalty as provided for in sections 41, 43, 45, 46, and 48.

The Hon. Neil Oliver: Have you tried to relate this to inflation?

The Hon. F. E. McKENZIE: I am trying to show the injustice that has occurred. Both penalties were doubled in 1960, but now one is being increased 500 per cent. I am not intending to argue that point because there is probably some justification to increase the penalty 500 per cent over this 20-year period. However, I am arguing that the penalties this Act can impose on the public have been increased 500 per cent, and yet the penalties that can be imposed on employees have been increased by 1 250 per cent. Where is the justification for that?

I know it was said in another place that the Chairman of the Railways Appeal Board apparently indicated to representatives of the Commission that the problem is the fines are too low and this prevents the board from doing anything other than to dismiss employees.

Just this morning I spoke to the Secretary of the Engine Drivers and Firemen's Association of Australasia (Mr Les Young) who told me that he has checked the records back to 1967 and he could not find any request by a chairman of the board to increase the penalty to $250. I remind members that the board is a tripartite body. That was the information I received from the secretary of the union just half an hour ago.

The Hon. Neil Oliver: Frankly, don't you think it is an archaic way to deal with employees?

The Hon. R. Hetherington: Of course it is.

The Hon. F. E. McKENZIE: I repeat again: If the penalties affecting the public are to be increased 500 per cent, why are the penalties affecting employees to be increased 1 250 per cent?

Through you, Mr President, I ask the Minister to delete this particular clause. Before this section of the Act is amended, consultation should be sought with the union. If there has been a Chairman of the Railways Appeal Board—who is a stipendiary magistrate by the way—who has said at some time that the penalty is too low, let the parties get together and find out who that chairman was.

Over the years I have appeared as an advocate before the board on a number of occasions, and I know that the position of chairman changes quite regularly. So one chairman may have one opinion,

and another chairman may have another. The correct course to follow, for the sake of industrial relations, would be to get the employer and the employees together to discuss legislation before bringing such a provision to Parliament.

The Hon. Neil Oliver: For my information, is it required to have a legal practitioner present?

The Hon. F. E. McKENZIE: That is up to the appellant. In almost every case the appellant chooses an advocate from the union.

The Hon. Neil Oliver: Someone who is experienced in legal matters anyway.

The Hon. F. E. McKENZIE: No, a union representative would not be experienced in legal matters at all. He would not be a member of the legal profession.

The Hon. Neil Oliver: Oh, no.

The Hon. F. E. McKENZIE: And he would not attempt to be. The accepted principle is that it is better to have a layman representing an employee.

The Hon. Neil Oliver: A grass-roots man.

The Hon. F. E. McKENZIE: It is very hard to convey to a legal man just what is involved. An appellant needs someone who understands the technicalities of the railway industry.

I again ask the Minister to delete this clause. If there is no consultation in regard to this penalty, industrial action could follow the imposition of a penalty of $250. I would like to read section 79 of the Act to members so that they are fully aware of what can happen to an employee. It reads—

> Any person who, being permanently employed on a Government railway, is, under section seventy-three of this Act,—
>
> (1) fined; or
> (2) reduced to a lower class or grade; or
> (3) dismissed; or
> (4) suspended from employment in such circumstances as to involve loss of pay; or
> (5) transferred by way of punishment involving loss of transfer expenses, . . .

The board may do a number of things to such an employee, and I remind members that the board is composed of an employer representative, an employee representative, and a chairman.

The Hon. D. J. Wordsworth: We are only talking about a maximum penalty. It is not the prescribed penalty.

The Hon. F. E. McKENZIE: That is right, but maximums tend to indicate to tribunals what ought to be imposed.

The Hon. D. J. Wordsworth: That used to be so at one time, but I am beginning to wonder whether it does.

The Hon. D. K. Dans: You should throw them out—they never work.

The PRESIDENT: Order! There is far too much audible conversation in the Chamber, and I ask everybody to refrain from carrying on any conversation.

The Hon. F. E. McKENZIE: Perhaps this fine has been imposed on a number of occasions—I do not have the figures. Maybe the fault lies with the commission in the first place, and then with Parliament more latterly, because if a $20 fine was not sufficient, it should have been increased in stages. Surely the commission could have entered into discussions with the union at any time during the last 20 years, particularly as a chairman of the board is alleged to have said that the fine is not high enough. I do not know whether this chairman believed that the fine should be increased to $250. Maybe the Minister knows that. It seems that nobody really knows, including the secretary of the union.

I am not sure of the position with regard to other increases. I do not know whether there has been any discussion with the commissioner. The union is quite annoyed that no mention was made of this matter during the Minister's second reading speech. If the Minister will not agree to my request to delete the clause, we will discuss the matter further during the Committee stage.

Parliament will resume early next year, which is only a few months away. The Bill could be brought forward again and amended if it were necessary. While there is the possibility of union industrial action on the matter, the Government would be well advised to delay the amendment of this clause until the matter is sorted out. If this matter had been covered by an industrial award, the Government could not take such action without the union knowing about it because the union would have had a claim served on it.

Another major item contained in this Bill is the provision which will have the effect of removing the common carrier clause. I have mentioned the need for regulations to protect the railway system; the move to regulations was a good one. However, I suppose the removal of the common carrier clause naturally follows the removal of road freight regulations.

Over the years, as the regulations have been removed, we have noticed that the railways have been left with freight which is uneconomic, and which road freight hauliers do not want to touch. For years, the effect of the common carrier clause

has been to force the Railways Department to accept any freight which is brought forward. There must come a time when the Commissioner for Railways becomes concerned at being given the freight leftovers, while other hauliers take the cream of the trade. We must also bear in mind this involves a considerable subsidisation of the railways system, because the regulations provide for some goods to be subsidised at the expense of others.

The railways has also been forced to gazette its traffic so that everybody knows the freight rates it charges. It has been quite easy for other transport operators to undercut those gazetted rates. The Minister for Lands made the following statement in his second reading speech—

> In short, the Commissioner for Railways will be required to continue to publish "gazetted rates" for traffics regulated to rail, but a similar requirement will not apply to traffic opened to competition.

I applaud that move. However, there have never been gazetted rates for freight such as iron ore and bauxite. We have never known what rate the companies are required to pay for the haulage of such freight. Of course, there is no question that the road hauliers could not compete in these fields, because they are the areas in which the railways really comes into its own.

In spite of the fact that in other areas, the railways charges what the traffic can bear, in my opinion the mining companies have not been charged on that basis, even though the freight traffic may not have been profitable for the department. I questioned the commissioner's claim that the trade is profitable to the Government; be that as it may, the principle of charging what the traffic can bear has not been applied with respect to the transport of iron ore and bauxite.

I would like the Minister one day to table the figures relating to the transport of ore, to satisfy the questions which are in my mind. In my opinion, the iron ore and bauxite companies have been doing very well out of the railways system, and out of the taxpayer of Western Australia.

The Hon. D. J. Wordsworth: The only time we did that sort of thing was when we were running the rail services for the MTT, and I recall the disputes which arose with regard to those figures.

The Hon. R. G. Pike: You are quite wrong to say that about the iron ore companies. What about the volume of traffic and the total infrastructure of the system which has built up as a result? You want to have your cake, and eat it too!

The Hon. F. E. McKENZIE: Mr Pike should go and speak to the farmers. They have been paying double the freight rate charged to the iron ore companies for the ore which is freighted from Koolyanobbing. I do not know from where they got their figures, but that is what the farmers informed me.

The Hon. J. M. Brown: Wheat is a volume business, too.

The Hon. F. E. McKENZIE: Mr Pike should not tell me there is any justification to charge the farmers double what is being charged to the iron ore companies.

The Hon. R. G. Pike: How much have the wheat farmers contributed to the infrastructure of the railways? Very little.

The Hon. F. E. McKENZIE: The wheat farmers and the other farmers of the State have been the backbone of Western Australia for many years, and they will continue to be in the future.

The Hon. R. G. Pike: Answer the question. How much of the capital cost of establishing railway lines and the rest of it have the farmers contributed? They have not contributed as much to the infrastructure of the railways as the ore companies, and these facilities eventually belong to the State.

The Hon. D. K. Dans: Over the years, the amount contributed by the farmers could not be calculated.

The Hon. F. E. McKENZIE: Mr Pike should go and ask the wheat farmers. I am prepared to stand by the farmers, because long before we ever heard of iron ore and bauxite, the farmers were here, and they will be here long after iron ore and bauxite are gone. They have been the backbone of this State for years, and they will continue to be for years. Whilst I have some quarrels with the farmers in certain areas, I have never forgotten they are the backbone of this State.

The Hon. R. G. Pike: That is not the argument. You will be telling us in a moment that motherhood and fatherhood is a good thing.

The Hon. F. E. McKENZIE: It is completely unfair to charge farmers double the freight rate charged to the mining companies; in fact, the farmer is subsidising the mining companies.

The Hon. R. T. Leeson: Of course he is.

The Hon. F. E. McKENZIE: That is the way I see it, but if Mr Pike sees it differently, that is his business.

The Minister, in his second reading speech, went on to say—

By virtue of the amendments contained in the Bill, the Railways Commission will also be required to charge freight rates for freed traffics which are, at least, sufficient to cover the costs directly attributable to the carrying of those traffics.

The Hon. D. K. Dans: Get it on the sea road; that is the one.

The Hon. F. E. McKENZIE: This provision will mean that Westrail no longer will be able to assist those least able to cope with increased freight costs.

Sitting suspended from 12.30 to 2.15 p.m.

The Hon. F. E. McKENZIE: The provisions in the Bill will most certainly affect the operations of Westrail. Clause 5(4) of the Bill states that the commission shall not provide a service or use road vehicles when other road transport is available which provides an adequate standard of service at a reasonable cost.

That provision in the Bill allows for discrimination against a public utility. Putting aside my earlier stated philosophy in regard to regulations versus commercialisation of the railway industry, the Government's land freight transport policy provides for commercialisation and the Government is therefore discriminating against a public utility by not allowing Westrail to compete alongside the private road transport operators.

I wish to take issue with the Government on that point. With this Bill Westrail will not be allowed to compete. Perhaps we should look at some of the provisions in the SWATS report. There are a number of technical papers associated with the report and a final summary which was carried out in December 1977. I wish to point out the disadvantage faced by Westrail and to develop my arguments along the aspect of discrimination against public utilities.

If one takes into consideration the findings of the SWATS report, it is obvious that rail is discriminated against. This fact is illustrated and dealt with in detail in chapter 8 of the main report.

On page 9 under part (8) of the summary of the SWATS report the following recommendation is made—

> That the road maintenance contribution be recognised as justifiable.
>
> The contribution covers costs incurred by most transport vehicles. However, large vehicles inflict more damage than they pay for, and they should pay more.
>
> The preferred approach is a scheme which increases the diesel fuel tax to 8.8 cents per litre, and increases the contribution for goods vehicles with five or more axles from the present 0.17 cents to 0.23 cents per tonne-kilometre.

I will endeavour to bring the figure of 8.8c per litre up to date. In November 1979 the 8.8c per litre had moved to 13.9c and the road maintenance charge per tonne kilometre had moved from 0.23c to 0.36c.

The PRESIDENT: Members are engaging in far too much audible conversation while a member is endeavouring to convince the House of his point of view.

The Hon. F. E. McKENZIE: Thank you, Mr President. The SWATS report recommended that the road maintenance charge should be 0.36c per tonne kilometre, and I ask members to bear in mind that the prices I quoted earlier were 1979 prices.

The truck blockade on the Razorback Mountain in New South Wales affected every State in Australia. As a result of that blockade, road maintenance tax was abolished. The States brought in legislation to raise revenue by way of a diesel fuel tax. This varied from State to State, and, currently, I think it is about 4c a litre. However, instead of sheeting home responsibility to the user in respect of the provision of roads, the various State Governments have forced every motorist in Australia to pay a tax of some sort. It has been recognised that the heavy vehicles cause the most damage, and the petrol-driven motorcars cause the least damage.

When we compare the deficiencies of rail and road transport, we find road transport is given a clear and distinct advantage over rail because the road transport operators are not meeting their correct proportion of road costs, if we take note of the findings of the SWATS report. There cannot be true free competition until both road and rail transport are bearing their proper share of the cost. So every motorist in Western Australia to some extent is subsidising the big five-axle vehicles. If members read chapter 8 of the main report of the SWATS study, they will see set out the reasons for this statement.

There have been conflicting opinions about the degree of damage caused by heavy vehicles. In fact, when the problem with road maintenance tax arose last year, the Royal Automobile Club recommended that road maintenance tax be retained.

So rail transport is disadvantaged straight away, because the owners of the private road

transport vehicles are not meeting their true and proper share of road costs.

That clears up the point I wanted to make: This Government is discriminating against a public utility by not letting it compete on the roads. It is already fairly disadvantaged. The Government is saying to the public utility that there are sufficient private road hauliers in this field to provide a road service.

The Hon. D. J. Wordsworth: You don't think the passenger service to Kalgoorlie is helping to subsidise that line?

The Hon. J. M. Brown: Do you mean *The Prospector* service?

The Hon. D. J. Wordsworth: *The Prospector* and other passenger services are subsidising the heavy freight on those lines in the same way that cars are subsidising road transport.

The Hon. F. E. McKENZIE: Perhaps I can enter into that argument at some other time.

The Hon. D. J. Wordsworth: It is relevant to your argument.

The Hon. F. E. McKENZIE: I do not intend to comment on the Minister's interjection, but I will give it some thought.

The Government's proposal is not new. Anyone would think that it was an innovation dreamed up by the Government. Apart from the discrimination involved in the Government's proposal, the scheme is the same as the one that has operated in Canada for some time. One of the technical papers included in the SWATS report compares the Western Australian transport service with the service in Canada. I would like to read from one of these papers. On page 17 the following appears—

> In Canada, where railways have always been so vital, careful consideration has led to reliance on commercial forces. It is interesting to note, that in overseas shipping Australia has adopted a comparable approach.

I will just interpolate there to say that I do not think the system with overseas shipping has been a resounding success. Quite often we see articles in the Press comparing our shipping costs with those of other countries. To continue—

> Canadian experience would suggest a similar reliance on commercial forces for domestic transport.

Then under the heading "Relevance of Canadian Experience to Western Australia", the following appears—

> The economic conditions in Western Australia and Western Canada have many similarities. The importance of the exports of natural resources to the economy and to the railways is similar. The railways are vital to the economic and social well being of communities in some locations but these lines are not always profitable. In some locations, where railways are used little, there is no longer an economic or social justification for their continued operation.
>
> Similar issues exist in both regions. How can efficiency in the provision of commercial services be encouraged and shippers charged reasonable rates? How can unremunerative but socially desirable services be maintained at an effective level and efficiently? How can the respective roles of the modes of transport be determined?

The Hon. D. J. Wordsworth: We have said we intend to subsidise those ones you are talking about.

The Hon. F. E. McKENZIE: Quite true, and I am not denying that. The Government intends to provide some subsidies, but what is the difference between subsidising private transport operators and subsidising Westrail?

The Hon. D. J. Wordsworth: Because most of them are privately-owned companies, and they might be off-rail.

The Hon. F. E. McKENZIE: Exactly; I am not arguing about that.

The Hon. D. J. Wordsworth: I am talking about places that are off the railway line—places like Bremer Bay, and the like.

The Hon. F. E. McKENZIE: I am not arguing about that. However, Westrail has a road freight service which operates to those areas, in some cases in competition with rail.

The Hon. D. J. Wordsworth: Not in competition; it is not allowed to. Generally, the Westrail road service wants it all to itself.

The Hon. F. E. McKENZIE: Since the Government started deregulating, that does not happen; Westrail is left with all the rubbish, and the prime freight—the cross-subsidisation which was providing a subsidy—has gone to the road hauliers.

The Hon. D. J. Wordsworth: I would not say that. We still see Westrail trucks loaded with wool travelling up from Williams.

The Hon. F. E. McKENZIE: Yes, but only because the railways has remained wool-regulated. That is one good part of the Government's policy. However, if any

disadvantages are suffered under this scheme, it is the farmer who must bear them.

The quote continues—

> The general experience in Canada with the policy outlined has been favourable.

There is something to be said for commercialisation. To continue—

> It provides sound principles on which to base the revision to railway and transport policy in Western Australia. These principles are as follows:
>
> 1. Provide railway management with a clear responsibility to manage the railway on commercial grounds free from political intervention.
> 2. Place reliance on the working of competitive forces with a minimum of regulatory constraints.
> 3. Ensure that the requirements of government policies or the provision of public facilities do not place burdens or give a commercial advantage to one mode over another.

That already happens with regard to the road maintenance tax.

The Hon. D. J. Wordsworth: Do you support those clauses?

The Hon. F. E. McKENZIE: Yes; given the Government's policy, they are very sound principles. However, the Government is not supporting the one I am about to quote.

The Hon. D. J. Wordsworth: What about the first one you read out? You just said you wanted a central rail service as a monopoly.

The Hon. F. E. McKENZIE: As it was previously used.

The Hon. D. J. Wordsworth: But that is not what you just read to the House. How do you reconcile the two statements?

The Hon. R. Hetherington: He is saying that if he cannot have the one he would like, he would like something better than what you are giving us.

The Hon. F. E. McKENZIE: I thank my colleague for his interjection; that is exactly the position. However, the worrying thing is that the Government is not doing it; it is picking and choosing and cutting the guts out of the railway system in order to assist the private operators. The Government cannot deny it has been lobbied by the private transport industry.

The Hon. D. J. Wordsworth: Would you call refrigerated transport a desirable freight?

The Hon. F. E. McKENZIE: Most certainly, and that is where the trouble started.

The Hon. D. J. Wordsworth: The Commissioner for Railways did not think so when he signed the recommendation to take it from rail.

The Hon. F. E. McKENZIE: The trouble started when this Government began to hive off the cream of the trade to private enterprise, so that the private operators could survive.

The Hon. D. J. Wordsworth: It was a recommendation of the Commissioner for Railways.

The Hon. F. E. McKENZIE: Only after consultation with the Transport Commission, and only after an approach was made to the Transport Commission by private operators.

The Hon. J. M. Brown: It was the greatest blunder ever.

The Hon. F. E. McKENZIE: It has been proved throughout the State that it was a blunder, and our public utility is going further down the drain.

The Hon. D. J. Wordsworth: Would you have trains running around the countryside delivering 20 kg refrigerated parcels?

The Hon. F. E. McKENZIE: The next clause I wish to quote is the nub of the entire matter and demonstrates how the Government is prepared to make decisions at the expense of its public utility. It states as follows—

> 4. Allow railway management freedom in the use of resources including entry into the trucking industry under the same regulations as may apply to independent truckers.

That is what the Government is not doing. Because of its political philosophy it is prepared to listen to the pleas of private road transport operators. It has received submissions from the Road Transport Association, and has agreed to its requests on all counts.

I wish to quote now a letter written to the then Minister for Transport (the Hon. D. J. Wordsworth) on 27 July 1978. It demonstrates the Government's willingness to consider only in part the report presented by the Director General of Transport and the Commissioner for Railways. The letter states, in part, as follows—

> The suggestion that Westrail, having finally proved to itself that its rail services are inadequate in many instances, will now be permitted, and even encouraged, to operate an extensive road service, is completely rejected on two grounds—

The Hon. D. J. Wordsworth: From what are you quoting?

The Hon. F. E. McKENZIE: I am referring to a letter written to the then Minister for Transport (the Hon. D. J. Wordsworth) by the Road Transport Association commenting on the SWATS report. The proposals contained in the letter are in line with the Government's political philosophy, so I can well understand the Government's going along with it; it is concerned only with private enterprise, at the expense of the public utility, which is owned by the people.

The letter continues—

> (a) This State, and indeed this nation, has developed its economic strength based upon a free enterprise system, where private initiative and capital has been used to develop the country.

I do not take issue with that; that might be very true. However, the Government has excluded Westrail from this road service operation. What happened when the updated submission—which, obviously, was prepared by a consultant, because it is a very professional document—entitled "Transport Policy for the Future in Western Australia", prepared by the Road Transport Association was presented in 1979? On page 2 of that report, the summary states as follows—

> (5) Policy should aim to maximise the role of private enterprise in transport, and minimise the role of Government—with proper regard for public interest.

They tacked that bit on the end to make it sound better.

The Hon. R. G. Pike: It sounds very good to me.

The Hon. F. E. McKENZIE: Of course it does; it is in line with the honourable member's philosophy. If Mr Pike had his way, he would do away with government altogether. I do not say he would go as far as the Progress Party, but he would go along that road.

That is exactly what the Government has done with this Bill and that is why we disagree with it. The Government is deliberately discriminating against a public utility. What is wrong with allowing Westrail to compete with the private road operators? It would not need to have a fleet of trucks. Surely to goodness the Government could establish a public road transport utility which could say to a subcontractor, "We have some freight which needs to go to Bunbury. What is your price?" This could be healthy for the trucking industry. We should not leave the business entirely in the hands of a few freight forwarders. All Westrail can do now is say, "We will do the rail part from Kewdale to Bunbury, and you will have to handle the off-loading and forwarding at the other end."

The Hon. D. J. Wordsworth: That is happening at present.

The Hon. F. E. McKENZIE: The Minister is referring to the door-to-door service. However, that service uses a rail component which is already disadvantaged. It is not operating at optimum efficiency.

The Hon. D. J. Wordsworth: Now you are changing your tune.

The Hon. F. E. McKENZIE: I am not changing my tune; I am simply saying that Westrail should be allowed to go on the open market as a public utility competing with private enterprise and utilising facilities which already exist.

The Hon. D. J. Wordsworth: It says it does not have enough money to fix up the rails.

The Hon. F. E. McKENZIE: Westrail could do the self-same thing if the Government allowed it to go to the private road hauliers. It could go to perhaps 100 subcontractors and say it had a load of goods to go to Bunbury. It is more efficient and more economic for those goods to go by road for the whole journey. Why could Westrail not go to the 100 road haulage subcontractors?

The Hon. P. H. Wells: Don't you like promoting the railways?

The Hon. F. E. McKENZIE: The Government is specifically excluding Westrail from doing that in this Bill. Westrail can provide a service only onto the rail and a service at the other end. Westrail can be scalped as this is not the most economic method because of the handling involved. I shall quote another recommendation in the SWATS report to be found on page 8 as follows—

> That the handling of small freight consignments and parcels be transferred to a new and separate division of Westrail, to be known as Westfreight.
>
> The purpose of the recommendation is to enable a relatively uneconomic and labour intensive sector of traffic to be adequately served under a separate 'organisational roof' with its own separate set of accounts.
>
> The reason is that small consignments and parcels, while of great importance to many people, require a mode of handling that will be increasingly out of step with the rapidly growing and highly mechanised bulk transport traffic that provides, and will increasingly provide, the major earning power of Westrail.

> By keeping the two kinds of business separate, problems that could adversely affect railway employees will be avoided. Furthermore, the separate business philosophies required for the two kinds of business can be pursued without conflict.

Let us consider the co-directors' recommendation made in December 1978. It reads as follows—

> The Commissioner of Railways be charged with establishing a new organisation to serve as a distinct and separate vehicle for the commercialisation of Westrail.

That is very similar to what I previously quoted. To continue—

> The co-Directors suggest it could be called "Westfreight". Westfreight would be controlled by Westrail and would compete with road operators for any commodity group opened to competition.
>
> While Westfreight will need to be established from the outset as a commercial organisation it will also need to have the capacity to provide public service where Government decrees that such service is required. Consequently it will need to have an adequate understanding of its cost structure for commercial reasons and to demonstrate to Government what the subsidies need to be for the execution of the public service, subsidies essential if the commercial component of its operation is to remain viable. It follows that Westfreight, to be successful, must be established and allowed to function in all respects as a commercial entity rather than as a Government agency.
>
> Westfreight will, in the course of its business, run its own transport and/or hire the services offered by Westrail or any other transport operator in similar fashion to any of its competitors in the transport industry.

The last potion indicates the desire of the co-directors that Westrail be allowed to compete alongside the private road hauliers.

The Hon. D. J. Wordsworth: Do you think the taxpayers would be happy to be taxed so Westrail could purchase trucks to compete with private enterprise?

The Hon. F. E. McKENZIE: I have not said that.

The Hon. D. J. Wordsworth: I know, but that is what the report says.

The Hon. F. E. McKENZIE: The Minister is saying the community will be taxed, but that is not correct. The Minister knows Westrail can borrow money from overseas; he knows Westrail has that power if there is no money available from loan funds. There is no reason it could not do that and operate profitably such as private enterprise firms like TNT, Altrans, OD Transport, Bells, and others operating at the expense of the taxpayer. I am saying the Minister should leave it to Westrail's judgment.

The Hon. D. J. Wordsworth: You are preaching pure socialism. You are saying that as private enterprise is succeeding you want a slice of the cake.

The Hon. F. E. McKENZIE: The Government is taking that part of Westrail's business away from it and giving it to private enterprise without allowing Westrail to compete.

The Hon. D. J. Wordsworth: No.

The Hon. F. E. McKENZIE: The Government is, and this Bill provides that this section of Westrail's operations is to be placed in a situation whereby Westrail cannot compete with the private road hauliers.

I will finish on this item as I have made my points quite clearly. I think the Government is wrong, given that commercialisation is present. It is unfair that the Government should discriminate in this way against the railways.

What did the Commissioner for Railways tell the Government in its report this year with respect to this policy the Government appears to be speeding up? I read recently that the Premier or perhaps the Minister for Transport had said that the Government would have to speed up the process because of the additional loss incurred last year by Westrail. In his report the commissioner said—

> Given these conditions, the future under the new transport policy holds promise and the market may be reasonably relied upon to keep the State's transport system efficient. However, economic efficiency of the system may not be the prime objective in the years ahead as liquid fuel becomes scarce and a new dimension may well come into transport policy—fuel conservation. For this reason I would recommend that Government move cautiously before stripping away all regulation and placing complete reliance on the market.

That was the warning I issued to the Government earlier in my opening remarks; I said the Government had done the same thing at Kwinana in regard to the power station where the Government made a mistake for which this State is paying dearly. What the Government is doing now, particularly in respect of the discrimination

against Westrail, will have the same drastic effects on the community in the years ahead. On every occasion the Government seems to move at a time when all the signs indicate that it ought not do so.

The Hon. D. J. Wordsworth: Wasn't the SWATS report a report on fuel conservation?

The Hon. F. E. McKENZIE: There are recommendations in that regard, too. The Government is doing the same thing with our suburban rail system. A recent newspaper report indicated that for the first time since 1972 there had been an increase in the number of people returning to public transport. I remind the Minister for Lands that in his term as Minister for Transport the Commissioner for Railways presented a report indicating that the patronage on the suburban rail system in 1978 had increased by 10.7 per cent.

The Hon. D. J. Wordsworth: We would certainly hope that was so considering the amount of money and work put into the system.

The Hon. F. E. McKENZIE: What did the Government do? The very next year it closed the Fremantle-Perth suburban passenger service. The Minister cannot deny that.

The Hon. D. J. Wordsworth: Look at the money which has gone into the Armadale and Kwinana lines.

The Hon. F. E. McKENZIE: How much money? What has the Government done except build a station at Kelmscott for which there was no real need? The Government would have done better to upgrade the Fremantle-Perth line. The Government's mistake in that regard will be a burden on the State's rail services because of interest payments and the like. The Government built a flash new station that meant nothing.

Several members interjected.

The DEPUTY PRESIDENT (the Hon. R. J. L. Williams): Order!

The Hon. F. E. McKENZIE: I remind members that this Government seems to do things when it ought not do so. The year after there was a 10.7 per cent increase in suburban rail passenger users the Government decided to close the Fremantle-Perth line. I admit that there had been a further report which indicated that patronage on that line had fallen. But the Government is doing the same thing now. All the signs are obvious. The cost of fuel is rising, which shows there is an advantage in a good rail system, yet the Government is entering into this sort of transport plan which will prove to be disastrous for the State.

I oppose the Bill.

The Hon. I. G. Pratt: I think it is a good idea. I do not think it is bad.

THE HON. R. G. PIKE (North Metropolitan) [2.50 p.m.]: I rise to support this Bill. In doing so I say that I think the debate so far has been very interesting. It has revealed the clear dichotomy of the coalition parties' free enterprise philosophy and the Labor Party's gloomy socialist philosophy which states that the State must automatically run something better than can free enterprise.

It is interesting to note that the member who just resumed his seat said that what we have with this Bill is a situation of the Government taking from public interprise the right to transport and giving it to private enterprise. What a big deal! What a terrible thing! Should we sit here and feel guilty and cringe as the Hon. Fred McKenzie waves his finger at us and says we are giving rights to the private enterprise sector? He must remember and I must remind him that the history of railways in Australia is a history of the Commonwealth Government and State Governments operating railways basically because railways were required in areas of non-density as well as in areas of density. The Liberal Party—I understand the Country Party as well—accepts the proposition that when an area of non-density needs to be opened up it is very much the responsibility of the State to open a service for that area.

Let this be clearly understood—this is my personal view, my judgment—it is not the business of the State to be involved in a service which can be profitably carried out by private enterprise. As a consequence of private enterprise carrying out such functions it will pay taxes and the public can receive the consequences of the tax contribution. The member referred to Mayne Nickless and other private enterprise transporters which conduct road transport in competition with the railways. He wondered how the Government could contemplate allowing such a move. I say to the member that the private companies operate a competitive enterprise which makes profits and from those profits it pays taxes for the benefit of the public. That is our philosophy for the running of our country.

The Hon. F. E. McKenzie: They do not have a common carrier clause covering them.

The Hon. R. G. PIKE: The member seems to be very confused in regard to what this Bill will do. The point was made very clearly in this place and in another place that the Government does not want to see Westrail spending public money to buy or lease road trucks for areas in which

private enterprise can operate a road service at an adequate cost and with a reasonable standard.

The Hon. F. E. McKenzie interjected.

The Hon. R. G. PIKE: I ask the member to allow me to put the proposition to him. What is unreasonable about that Government's saying that where a transport facility is available the railways should be able to use it? The Government has not gone into this matter willy-nilly; it has studied the situation. It is aware the road transport facilities are now available, and the railways can make use of them by using contractors or subcontractors. I put it to the member that when his party was in Government, as the Labor Party has been on occasions, it had a worse record than any other Government in regard to the services provided for farmers and the rest of the community in Western Australia. If members are not happy with the Labor Party's dismal, dreadful, and debilitating efforts in relation to the railways when it was in Government I ask them to contemplate the Federal Labor Party's activities when it was in Government. I ask members to consider the abolition of the superphosphate bounty which hit at the jugular vein of every farmer.

Several members interjected.

The Hon. R. G. PIKE: That is democracy at its absolute worst.

I will return to the Bill. The Government has said the private road contractors have a capacity to provide the service. I will put the lie to and repudiate the statement of the Hon. Fred McKenzie which he gave in regard to what he said was an apparent half-nelson on the railways that the Government will allow the private operators to have. Of course, we know the half-nelson is the grip the Labor Party has on its parliamentary members.

The Government has said that if Westrail decides to use its road vehicles, within 14 days of that decision to operate a service it can submit its request to the Transport Commission which will submit the request to the Minister. The second reading speech commences at page 3477 of *Hansard* and I suggest the member reads what was said.

The Hon. F. E. McKenzie: So what do we have?

The Hon. R. G. PIKE: We have a farrago of facts and fantasy presented by the member which reveal the attitude of the Labor Party which requires everything to be under State control. When it sees a choice between the State running an organisation with all the people that involves and free enterprise beginning to give the public a choice it believes the public should have no choice. For the Liberal Party and the Country Party coalition there is always a choice. That is what this Bill is all about.

I support the Bill.

THE HON. R. HETHERINGTON (East Metropolitan) [2.57 p.m.]: For me to rise and follow my honourable friend, the Hon. Fred McKenzie, is to try to gild the lily. However, I will try to be brief even though he said all that was needed to be said.

The Hon. P. G. Pendal: Will you refer to the Kelmscott bus transport system since it is in my electorate? The Hon. Fred McKenzie said several things about it.

The DEPUTY PRESIDENT (the Hon. R. J. L. Williams): I call the Hon. Robert Hetherington.

The Hon. F. E. McKenzie interjected.

The DEPUTY PRESIDENT: I call the Hon. Robert Hetherington.

The Hon. R. HETHERINGTON: Before I say what I intended to say I would like to refer briefly to the remarks made by the Hon. Robert Pike who seems to think it is important that a public enterpirse should not make a profit, and if it seems to be making a profit the Government should bring in legislation to make sure that it does not.

The Hon. R. G. Pike: I did not say that.

The Hon. R. HETHERINGTON: I ask him to refer to his speech if he cares to analyse what he said. It seems to me that this is quite often what conservative Governments do; they are so concerned with the ideology that public enterprise should not make profits and that if public enterprise does make a profit it should be sold or emasculated by legislation. If a public enterprise which existed initially and necessarily, as the Hon. Robert Pike pointed out, to provide a service which was unprofitable, and it turned its loss by competition into a profit, I do not see that it should not be encouraged to continue. Then we might not need the taxes paid by the multitude of private enterprise firms, about which he spoke, in order to subsidise the debts incurred by the railways because the railways have not been allowed to compete. It all becomes very circular.

Let me say at the outset that if the Bill consisted only of clauses 7 to 13 the Opposition would agree with it. We mainly dislike clauses 3 and 5. I will speak briefly about clause 5, and then have something to say about clause 3. The thing about clause 5 is that it could prevent, under proposed subsection (4) of proposed section

28A, Westrail from competing in an area where a service already exists.

The proposed subsection provides that where there is already other road transport, and if it is adequate—and its adequacy will be decided by the Minister—then Westrail will be prevented from competing although it may be able to compete successfully and profitably. That competition may be able to make the particular section of line profitable rather than run at a loss.

A number of clauses follow which, in themselves, look innocuous enough. But, as we will point out when considering another Bill which may come before this House in due course, the important point in legislation is not only what is written in it—although we do not know what is written in the legislation because the second reading speech does not tell us—but also what is the intention of the people who are to operate the provisions of the Bill.

So, as a sop for the time being, the Bill sets out that if Westrail is operating successfully in competition with other established road hauliers, then it may continue to do so until the Minister decides differently. In other words, it will be allowed to operate for the time being, but the sword is poised above it and will come down in the fullness of time—as soon as conveniently possible. Once the public is lulled into a false sense of security the sword will come down and the Minister will prevent Westrail from continuing to give that service. If he wants to prevent a service from operating, or get rid of it, ultimately the Minister will decide. Of course, we know how the Minister will decide because we know his record in the past. We know he will decide against Westrail. If Westrail looks as if it can compete it will be prevented from doing so by the Minister acting on behalf of the Government.

The ideology of the Government is that public enterprise must be kept in check. It must provide a service.

The Hon. D. J. Wordsworth: You are talking a lot of utter rubbish.

The Hon. R. HETHERINGTON: I do not think so.

The Hon. D. J. Wordsworth: At least the Hon. F. E. McKenzie was sticking to the point.

The Hon. I. G. Pratt: Mr McKenzie knew what he was talking about.

The DEPUTY PRESIDENT (the Hon. R. J. L. Williams): Order! The Hon. Robert Hetherington.

The Hon. R. HETHERINGTON: Thank you, Mr Deputy President.

It will be found, in fact, that Westrail is not allowed to compete when it could successfully. One gets this idea that a public enterprise must be there only to provide an unprofitable service which nobody else will provide. It would be a good idea to change our views. My view is that one should not always be opposed to private enterprise, but that public enterprise should be encouraged to be profitable. It should be encouraged to offer a service and to compete. If it can make a profit, that is fine, because we would then not have to raise as much tax and we would not need to subsidise the service. Of course, if it cannot make a profit because it provides a service, then so be it.

I am reminded of the fact that in my home State of South Australia a railway was put through to Quorn. By no stretch of the imagination could it be said it was profitable until it was found that Quorn was a very good place to grow wheat. The railway then became profitable. Fortunately, the section serving the wheat growers could not be divided from the rest of the system; otherwise no doubt, the Playford Government would have sold it. So, in principle the Opposition is opposed to clause 5.

I want to speak particularly to clause 3. It is of no use members telling me to read the Minister's second reading speech to find out the intention of the Government, because it is not mentioned. We are not told what is to happen under the provisions of clause 3, or the intentions of the Government with respect to it.

We sometimes read in history books that rulers are labelled with names, such as "Charles the Great", or "Charles the Hammer", that is "Charles Martel" which I have suggested in the past is applicable to the Premier. Perhaps we now have "Cyril the Sly".

The Hon. P. H. Wells: You are running short of material now.

The Hon. I. G. Pratt: He is completely overshadowed.

The Hon. R. HETHERINGTON: Clause 3 has been slipped in without any reference to it in the second reading speech. No discussions in regard to it were held with the unions concerned, which is inconsistent with other parts of the Bill. It is a disgraceful clause, and the manner in which it was introduced is worse. No union whatsoever was consulted. This is one area where unions might have been consulted. I have been informed on good authority that the secretary of one of the unions said it was not consulted. On an issue like this it should have been consulted.

I think the Hon. Neil Oliver was correct in what he said about clause 3.

The DEPUTY PRESIDENT (The Hon. R. J. L. Williams): The honourable member has mentioned the Hon. Neil Oliver. He is not on the record as having spoken to this measure.

The Hon. R. HETHERINGTON: But he interjected, and I did hear him. I am sorry if you, Mr Deputy President, did not. He interjected and said he thought that this kind of section which gives the commissioner the right to fine railway workers who have infringed the by-laws was reminiscent of the military. It allows the commissioner to fine anybody guilty of breaches of the railways regulations.

The Hon. W. R. Withers: Did you say that the Hon. Neil Oliver made that interjection?

The Hon. R. HETHERINGTON: Yes.

The Hon. W. R. Withers: When?

The Hon. R. HETHERINGTON: When Mr McKenzie was speaking.

The Hon. W. R. Withers: He is paired; he is not in the House.

The Hon. R. HETHERINGTON: He was at that particular time.

The Hon. W. R. Withers: No he was not in the House, I have just been informed by the Whip.

The Hon. R. HETHERINGTON: Well, it must have been mental telepathy!

The Hon. D. J. Wordsworth: If he had been here he would have said it anyway.

The Hon. R. HETHERINGTON: Yes, that is so.

The Hon. I. G. Pratt: That really makes the speech.

The Hon. R. HETHERINGTON: I am sorry if I quoted a member who officially was not here. I was under the impression that when a member was paired he could not vote, but that does not mean he cannot interject.

In any case, this clause will allow a worker to be fined, and for the penalty to be recovered by deducting it from his salary. I do not intend to object at this stage. It is something that should be considered—whether this is no longer appropriate.

However, I am not raising any particular objection to that at this stage. It is in the Act and the unions as far as I know have not made representations to have it removed from the Act; nor has it been an issue. So I am not taking issue with it, but mentioning it in passing.

However, what I do take issue with is that the Act as it now stands says such people can be fined a maximum of $20, and it also says that other people who enter railway property and break by-laws can be fined a maximum of $40.

The Hon. H. W. Gayfer: To what section of the Act are you referring?

The Hon. R. HETHERINGTON: I am referring to sections 41, 43, 45, 46, and 48, as referred to in page 5 of the Bill. The fines of $20 and $40 were amended and increased in 1960. Of course, it is to be expected that they should be increased now, and the Minister's second reading speech certainly made reference to clauses 7 to 11 of the Bill and referred to the fact that magistrates have complained that the $40 maximum is not enough. I can see no disagreement with that and I find the explanation quite adequate. So it is thought, and reasons have been given for it, that the fine for people who break by-laws relating to railway property should be increased from $40 to $200.

However, in clause 3 the maximum fine for employees of the railway unions is raised from $20 to $250. This seems to me to be odd and inconsistent, particularly as in his second reading speech the Minister—and I do not blame him because he did not write the speech—gave no reason for it.

The Hon. D. J. Wordsworth: Do you believe our founding fathers set exactly the right proportion when they set the initial fines?

The Hon. R. HETHERINGTON: I believe if there was a relationship between fines originally and at a subsequent date that relationship was maintained when the fines were increased, and the relationship is not to be maintained in this instance, then the Minister introducing the Bill should explain why it is not to be maintained. Certainly if the relationship is not to be maintained and if people are interested in industrial harmony, then before the Bill was introduced to Parliament some discussion should have been held with members of the union. One union secretary—and I mention this neither as a threat nor a promise, because it may have been said in the heat of the moment—said that if any of his members were fined the maximum of $250 there would be no trains running. He took a very poor view of the increase in the penalty. I am not putting that out as a threat; it was probably made in anger and in the heat of the moment; and that gentleman is angry because he was not consulted before the Bill was introduced.

The Hon. P. G. Pendal: It could only be a threat.

The Hon. R. HETHERINGTON: It seems to me that if it was intended to alter the fines and not to maintain the relationship between them, there should have been negotiations with the unions. I believe negotiations should still take place. I repeat the request of my friend, the Hon. Fred McKenzie, to the Minister to delete this clause so that negotiations may occur, and if agreement is reached we will be only too happy in the next session to support a quick little Bill to amend the provision. It would not take us very long to do so, and the next session is not terribly far away; and if we have managed with the present fines since 1960, we can probably manage with them a little longer.

Otherwise, if the Minister is not prepared to do that, I would like to hear from him a guarantee that the matter will be taken up and negotiated with a view to varying the provision later. I am not seeking a promise, but asking for some kind of guarantee that meaningful negotiations will occur; because this is a very poor feature of the Bill. It is a poor feature for three reasons: firstly, the relationship between fines is not maintained; secondly, no explanation has been given either here or in another place as to why it is not maintained; and, thirdly, the provision has been included in the Bill without any negotiations whatever with the unions concerned.

As my honourable friend, the Hon. Fred McKenzie, would be the first to point out, the unions concerned are not unreasonable; they are always prepared to negotiate and to listen to sensible argument.

The Hon. D. K. Dans: There are no unreasonable unions.

The Hon. R. HETHERINGTON: I have no doubt an amicable agreement could have been reached—

The Hon. R. G. Pike: Has Mr Dans a big tongue or a big cheek?

The Hon. G. E. Masters: He has a big smile.

The Hon. R. HETHERINGTON: —between the Government and the unions which would have made my speech unnecessary; and I would have preferred not to make it because I would rather this clause was not introduced in the way it has been.

The Hon. I. G. Pratt: Do you agree with Mr McKenzie that the Kelmscott transfer station is a waste of money and should not have been built?

The Hon. R. HETHERINGTON: I agree with Mr McKenzie to this extent: I believe it would have been wiser had the Government built a transfer station south of Fremantle before building the one at Kelmscott—

The Hon. R. G. Pike: They could not do that because Jamieson closed the lines.

The Hon. R. HETHERINGTON: The Government should have built such a station south of Fremantle, which would have enabled it to maintain more successfully the Fremantle-Perth railway. I will not go beyond that.

The Hon. F. E. McKenzie: Answer that one!

The Hon. I. G. Pratt: You don't agree that should have been done instead of Kelmscott? Mr McKenzie said the Kelmscott one should not have been built.

The Hon. F. E. McKenzie: I didn't say that; I said it was an unwarranted expense.

The Hon. R. HETHERINGTON: I have stated in precise and careful terms what I think. I will not add to that.

I oppose the Bill.

THE HON. P. G. PENDAL (South-East Metropolitan) [3.18 p.m.]: I rise to support the Bill and to make a brief comment. I was appalled to hear Mr McKenzie comment a few minutes ago, and repeat it several times, that in his view the bus transfer station at Kelmscott is an unwarranted expense. I am appalled to hear him say that because the whole point of building that bus transfer station was to encourage people in the more frequent use of rail traffic.

The Hon. F. E. McKenzie: Has that happened?

The Hon. P. G. PENDAL: Mr McKenzie well knows that the Kelmscott bus transfer station has been opened no more than a few months. Any experiment is worth continuing with until a decision can be made with some firmness as to whether it is a correct move. It is amazing to suggest that a bus transfer station which was built for the sole purpose of encouraging people to use public transport is an unwarranted expense, especially when it comes from a member who is allegedly committed to rail.

I go one step further and challenge the member representing the area of Kelmscott in the lower House to state whether he repudiates the stand taken today by the Hon. Fred McKenzie and the Hon. Robert Hetherington, and to say whether it is an unnecessary expense and, therefore, by implication it should be closed.

Mr McKenzie's comments make a mockery out of the fuss and bother caused by the Labor Party in this State in respect of the Fremantle-Perth railway. If members of the Labor Party were serious in their advocacy in regard to that railway, they would welcome with open arms

every step the Government has taken in regard to innovations like the Kelmscott bus transfer station. More than that, their comments today throw doubt on the whole of the Labor Party's policy—

The Hon. R. G. Pike: Its honesty?

The Hon. P. G. PENDAL: Maybe even its honesty; but certainly it throws into doubt its policy.

The Hon. F. E. McKenzie: Talk about something you know something about. You know nothing about our policy.

The Hon. P. G. PENDAL: I know about this because it is in my electorate.

The Hon. F. E. McKenzie: You know nothing about our policy.

The Hon. P. G. PENDAL: Mr McKenzie and Mr Hetherington will rue the day they made that comment in this House. It will be an embarrassment for many years to come to their lower House colleague in the seat of Gosnells, and it will cause a lot of consternation amongst the people, not only of Kelmscott but also of an area within a radius of five to 10 miles, who have learnt that that transfer station is one of the finest innovations in public transport anywhere in this State. The Hon. Fred McKenzie has gone on record, as has his colleague in the same province, by saying that that has been a waste of money. I hope the people in that region, who have welcomed this innovation, will take due note of their comments.

I support the Bill.

Personal Explanation

The Hon. R. HETHERINGTON: I ask leave of the House to make a short personal explanation because I have been misrepresented.

Leave granted.

The Hon. R. HETHERINGTON: I want to make clear that at no stage did I say the Kelmscott interchange was a waste of money. My statement—

The Hon. P. G. Pendal: But you supported Mr McKenzie's remarks.

The Hon. R. HETHERINGTON: My statement, as *Hansard* will show, was that I agreed with my friend to the extent that I believed that before the Kelmscott interchange was built, there should first have been one built at Fremantle. I stand by that statement. Certainly now that the Kelmscott interchange is there, I do not want to tear it down or do anything like that. It is there and it is useful.

I just want to make clear I did not say it was a waste of money. I just said that my priorities were different.

Debate Resumed

THE HON. N. E. BAXTER (Central) [3.22 p.m.]: I have listened to a lot of debate on this Bill this afternoon, and it had nothing at all to do with the Bill. I cannot find anything about building a bus transfer station at Kelmscott—

The Hon. P. G. Pendal: Neither could we; but it was Mr McKenzie who raised it.

The Hon. N. E. BAXTER: —and there was nothing to do with the Fremantle-Perth railway. This Bill deals with the handling of goods traffic. Let us stick to what is in the Bill, and not deviate from that subject matter—

The Hon. R. G. Pike: They are doing it now, instead of on the adjournment debate.

The PRESIDENT: Order!

The Hon. R. Hetherington: If you are not careful, I will try something on the adjournment debate.

The Hon. N. E. BAXTER: We are trying to put Westrail into the position where it can provide a service, particularly to the country people, in the delivery and handling of goods. That is most important for the members who represent country areas. To deviate from this Bill into a discussion on anything else is not correct.

The Hon. R. G. Pike: Then get on with the Bill and forget about the pontification.

The Hon. N. E. BAXTER: I have not looked at the Bill in its entirety; but I want to make a comment on some of its provisions.

Clause 3 amends section 24 to increase from $20 to $250 the penalty for a breach of the by-laws by employees. That seems to be a very large increase. The Minister did not refer to consultations with anybody; and as far as I can see, there is no mention in the Minister's second reading speech about that. One would have thought, if a penalty was to be increased from $20 to $250, it should have been mentioned by the Minister in his second reading speech. He should have given some sound reasons for the increase.

I notice that in the latter part of the Bill, referring to sections 41, 43, and others, penalties have been increased to $200 for breach of the by-laws for serious offences such as removing some of the assets of the railways from railway land, among other things. There is the explanation that the inadequacy in the penalty has been the subject of comment by magistrates. This may be quite right. If the penalties are not considered by the

magistrates to be sufficient, the penalties should be changed. That explanation is given; but in relation to clause 3, there is no explanation.

Now we come to what the Bill is really about. In the Minister's second reading speech he said—

> Westrail is primarily a rail operator, and it should use road transport principally to facilitate its rail transport operations. Members will see this policy quite explicitly reflected in the Bill.

I agree with that, because it is something that has not been thought up in a few minutes. It is a policy that has been the matter of consideration for a number of years—not months, but years. There is an attempt by the Minister and the Government to establish a rail policy which is suited to the people who want their goods transported, and particularly the people who want huge volumes of goods such as wheat and super transported. That is one of the major points we have to consider when we consider a rail transport policy. After all, one of the products carried on the railways which pays the most is the wheat crop of Western Australia.

By this Bill, the Government is attempting to establish an efficient policy for the transport of wheat, super, and other products on the railways of Western Australia. It is not an easy matter when the Government has to subsidise the carriage of goods throughout the rail system. We are not the only State in this position. Other States are in the same position in relation to the rail transport of goods. Most Governments have found it necessary to subsidise that haulage, otherwise the production of goods such as wheat—

The PRESIDENT: I ask honourable members again to refrain from their conversations. They are making it difficult, not only for the *Hansard* reporter to hear what the honourable member is saying, but they are also making it difficult for the Chair to hear. The Hon. N. E. Baxter.

The Hon. H. W. Gayfer: Probably the exception is South Australia, which Mr Hetherington talked about.

The PRESIDENT: It is also making it difficult for me to hear other honourable members.

The Hon. N. E. BAXTER: It was a different story for South Australia.

The Hon. D. K. Dans: Why?

The Hon. N. E. BAXTER: In his second reading speech, the Minister said—

> There should be sufficient capacity in the road transport industry to ensure that Westrail will be able to secure the services of subcontractors at competitive rates.

I believe that can be shown. The Government should attempt to secure the services of subcontractors, and make something of our railway system and something of our road transport system in this State. In the circumstances where rail transport services are not available, the Government is prepared to use road transport vehicles to provide services at a reasonable rate.

I do not think there is much more to say about this Bill, except that it is an attempt to put our rail system on a viable basis. We realise it will be necessary to continue the subsidisation of rail freights. It is not possible to impose on the primary producers of this State, let alone other industries, a total rate that will cover the cost of transport.

The cost of our railways is huge. The distances are so vast that it creates a very difficult situation to run what would be a viable, competitive, profitable railway system.

I support the Bill; but I would like to hear something from the Minister with regard to clause 3, to learn why the $20 penalty has been increased to $250.

THE HON. I. G. PRATT (Lower West) [3.29 p.m.]: I rise to support the Bill. As my friend and colleague, the Hon. Norman Baxter, said this Bill is concerned mainly with the matter of fines imposed, and with freight policies.

It is a fact that one of the problems of the Fremantle-Perth line regarding its viability was the cutting off of the freight services. I suppose that is why the Hon. Fred McKenzie raised the subject. I could not understand his raising it for any other reason. As the Hon. Fred McKenzie has raised it and it has become part of the debate, I believe I should comment on it.

I agree fully with my colleague, the Hon. Phil Pendal, in his repudiation of the statement made by the Hon. Fred McKenzie in regard to the Fremantle-Perth railway line and the Kelmscott transfer station. The Hon. Fred McKenzie said clearly that the Kelmscott transfer station was a waste of money and we should have spent that money on keeping the Fremantle-Perth railway line open.

The Hon. D. K. Dans: Hear, hear!

The Hon. I. G. PRATT: Having reiterated that point, with which the Hon. Des Dans agrees, I turn now to the personal explanation of the Hon. Bob Hetherington which I maintain was an insult to the intelligence of members of the House. The

Hon. Bob Hetherington said he agreed with the Hon. Fred McKenzie in so far as certain matters were concerned, and he then put a totally different case to us. The Hon. Bob Hetherington cannot have it both ways; either he agrees with the Hon. Fred McKenzie's remarks, or he disagrees with them. He cannot, "agree with the Hon. Fred McKenzie in so far as ..." and then disagree with him.

The Hon. R. Hetherington: I can and I do.

The Hon. I. G. PRATT: The Hon. Fred McKenzie said it was wasteful to spend money on the Kelmscott transfer station and that we should have spent it on keeping open the Fremantle-Perth railway line. The Hon. Bob Hetherington said we should have spent the money on the construction of a transfer station at Fremantle. That is a different proposition and it is not a matter of agreeing with the Hon. Fred McKenzie. To expect us to swallow that, as he admits to wriggling off the hook, is an insult to the intelligence of members of the House.

The Hon. D. K. Dans: What is all this about "wriggling off the hook"?

The Hon. I. G. PRATT: Whilst the Hon. Bob Hetherington is under the microscope—

The Hon. R. Hetherington: It is a rather woolly microscope.

The Hon. I. G. PRATT: —I should like to point out I take exception to the comments he made in relation to the Minister for Transport who is my colleague within the Dale section of my province. I take exception to the sarcastic and snide comments the Hon. Bob Hetherington made about Mr Rushton.

By way of interjection, quite against my nature, I referred to Hon. Bob Hetherington as "Bob the Insignificant" and he had an opportunity to ask me to withdraw the remarks I had made about him; but the Hon. Bob Hetherington did not choose to take advantage of that opportunity.

The PRESIDENT: Order! I am having difficulty hearing the honourable member. I ask other members to show the courtesy of keeping relatively quiet while the member is on his feet.

The Hon. I. G. PRATT: Although the Hon. Bob Hetherington had and did not use the advantage offered by the Standing Orders of this House to ask me to withdraw the remarks I made about him, I should like to point out the Minister did not have an opportunity to comment on Mr Hetherington's remarks, because he was not here, and he could not ask for the utter garbage uttered by the Hon. Bob Hetherington to be withdrawn. As a result, it appears in the *Hansard* record of the debate.

The Hon. J. M. Berinson: You could have asked for the withdrawal under Standing Orders.

The Hon. I. G. PRATT: I am saying the Minister for Transport did not have the opportunity to protect himself. For the information of the Hon. Joe Berinson, I am now taking a stand on behalf of the Minister. I am not asking that the comments be withdrawn, because I believe they should be on the record in order to indicate the way in which the member behaves in the House. Such comments are disgraceful and utterly uncalled for.

Mr Rushton is a hard-working member representing Dale and a hard-working Minister representing the State of Western Australia and this Government. The snide, sarcastic remarks made about him in his absence were unwarranted and uncalled for. The Hon. Bob Hetherington could have said the Minister was wrong and that would have been fair enough; but it was completely uncalled for and a reflection on this House for the member to make such personal, vindictive remarks.

Debate adjourned, on motion by the Hon. M. McAleer.

LOCAL GOVERNMENT SUPERANNUATION BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [3.35 p.m.]: I move—

That the Bill be now read a second time.

This Bill establishes the machinery for the introduction of a completely new superannuation scheme for local government employees.

Its introduction into the Parliament marks the culmination of a lot of hard and painstaking work, including negotiations with representatives of both local government employers and employees.

It is difficult enough to design any new superannuation scheme. The problem is even greater when that scheme has to provide for complete portability between 138 municipal councils.

The existing local government superannuation scheme under which employer and employee contributions are applied to meet the premiums

on life assurance policies, is considered to be quite outmoded in terms of modern superannuation plans.

The sum assured under a life policy does not produce a particularly attractive retirement benefit and the present scheme does not provide any form of benefit on account of temporary or permanent disablement occurring prior to retirement age.

The scheme proposed by this Bill is based on the establishment of a single managed fund into which all contributions would be paid and which would be invested to the best possible advantage consistent, of course, with the need to maintain a stable and secure fund.

The Bill sets down the framework for the new scheme and provides for the detailed matters to be prescribed by regulation. The scheme has been discussed at various stages with both local government employer and employee representatives.

On the employers' side, the discussions have involved the Local Government Association and the Country Shire Councils' Association, whilst the employees' interests have been represented by the Municipal Officers' Association, the Municipal Employees' Union, the Association of Professional Engineers, and the Institute of Municipal Administration.

It is gratifying to note that there is a high degree of approval—although not quite universal—of the proposed scheme.

On the employees' side, the Municipal Officers' Association would have preferred to see employing authorities compelled to contribute at a higher rate than is proposed. Nevertheless, the association indicated that it was anxious to see the scheme proceed even if the higher rate could not be included.

However, the stand taken by the Municipal Employees' Union was not quite as conciliatory. Like the Municipal Officers' Association, it advocated a greater compulsory contribution rate by employing authorities, but unlike the association it refused to concede that the scheme should proceed even if the higher rate were not agreed. A number of other objections submitted by the union were not substantiated.

For the employers, the associations of local government initially expressed some misgivings about the State Superannuation Board's involvement in the administration of the scheme, but, after discussions on this issue, indicated that they accepted the position.

The Minister for Local Government has expressed satisfaction that the discussions and negotiations that have taken place over a long period have given all interested parties plenty of opportunity to thoroughly examine the scheme and make their views known, and that no objection of any substance remains unresolved.

All interested parties acknowledge that the new scheme will represent a vast improvement over the existing local government superannuation scheme.

It is believed that the implementation of this new scheme will reinforce the career aspect of local government employment. It will provide a range of benefits in keeping with modern superannuation arrangements and should have sufficient flexibility to accommodate any changes that may become desirable in the future.

I shall now give a brief description of the more important features of the proposed new scheme.

A single local government superannuation board would be established to administer the scheme and, in particular, to make arrangements for its detailed administration, insurance cover for death and disablement benefits, and for the investment of scheme funds.

Instead of insuring for death and disablement benefits, the local government superannuation board could elect to carry these risks in the fund.

The Chairman of the State Superannuation Board would be the chairman of the proposed local government superannuation board which would also be serviced by State Superannuation Board officers.

The local government superannuation board would be empowered to delegate most of the duties and functions given to it under the Bill or the regulations. In this way, the board would be able to enter into contracts with appropriate organisations to carry out the detailed administration of the scheme and to manage the investment of scheme funds.

All members of the existing local government superannuation scheme would transfer automatically to the new scheme. Their existing life policies would be surrendered and paid into the new fund.

It is intended that the regulations would allow members to make basic contributions to a maximum of 6 per cent of salary and for municipalities to contribute to a maximum of 9 per cent, with the proviso that the municipalities' contributions may not be less than 5 per cent of salary and not greater than 1.5 times a member's basic contribution rate.

Members would also be permitted to make supplementary contributions not exceeding 3 per cent of salary.

All contributions to the fund would be invested after meeting the cost of death and disability insurance, and administration expenses. Each member would be credited with his own and his employer's matching contributions less an amount representing his share of insurance and administration costs, to which would be further credited his proportion of investment earnings.

It is proposed to prescribe the following benefits by means of regulations—

> On retirement at age 60 years, or later, a member to receive the amount of his credit in the fund.
>
> On death, the member's credit, plus an insured amount—equal to 12½ per cent of salary multiplied by the number of years to age 60—to be payable.
>
> On temporary total disablement, a member to be paid a monthly income and on permanent disablement to be entitled to the same benefit as would be payable on death.

I commend the Bill to the House.

THE HON. J. M. BROWN (South-East) [3.43 p.m.]: The Opposition supports and welcomes the new superannuation Bill for local government. This legislation is long overdue because the existing superannuation fund legislation was introduced in 1949 and it has not been the subject of many amendments; it has certainly not been a subject of very much importance.

The original 2½ per cent contribution has been subsequently increased to 4 per cent with the advantage of local government authorities increasing their contribution to 5 per cent and with a similar requirement from the employee.

The proposal in the legislation is to make the contribution 5 per cent with a maximum contribution from the council of 1½ times the contribution of the employee. The level to which that can go is a 6 per cent contribution by the employee and a 9 per cent contribution by the local authority.

There is no uniformity amongst the local authorities as to whether they will make this contribution and I believe one point made by the Municipal Employees' Union, with which point I concur, was that this provision should be phased in over a period of time so as to ensure uniformity.

I appreciate the opposition by the Country Shire Councils' Association and perhaps its opposition to this move created a stalemate during negotiations. Naturally, with a great deal of interest, we will view the regulations which will be detailed at a later date because really the Bill covers the formation of the fund and the regulations will cover the operations of the fund. The regulations will come under greater scrutiny by members on this side of the House than will the Bill, in order that we might ascertain the level of benefits which are to be extended and the way in which the fund will operate.

There have been grave injustices in the past with regard to employees being unable to draw from the fund. I have witnessed two tragedies with employees who have been forced to surrender their benefits because of early retirement in cases of ill-health. They have subsequently passed on within a year or two of retirement and instead of receiving the benefit to which they would have been entitled under the new regulations, they were not paid any more than the surrender value of their policies. In other words, the contributions they made throughout their working days could not be enjoyed in their retirement.

I know of an instance where a person was suffering from asbestosis because he had worked at Wittenoom. He was in the unfortunate position of not being able to receive the benefits of his contributions, but because of his wisdom his widow received them.

Sitting suspended from 3.46 to 4.02 p.m.

The Hon. J. M. BROWN: Before the suspension I referred to the disablement clause, a provision which is not included in the present superannuation scheme. I referred to the vast improvement in the amount made available for disablement in the proposed scheme. I referred also to the provision made for temporary disablement.

Another pleasing aspect of the scheme is that a sum equal to 12½ per cent of salary for each year of service to age 60, plus the amount credited to the member's fund, may be paid to a beneficiary. That is the type of provision which should have been introduced into the existing scheme many years ago.

Another matter which concerns me, and to which I have referred, is portability of superannuation. I have referred to the fact that it is a 5:5 contribution, which is able to rise to a maximum of a 6:9 contribution when an employee leaves one local authority to work for another local authority. I wonder whether that will be a criterion in respect of persons leaving their jobs; perhaps they will leave their positions in order to

obtain higher retirement benefits in another position.

We have 138 local authorities in the State, and I believe the superannuation scheme should be uniform. I point out that this is one of the propositions that the Municipal Employees' Union debated at length; it was not supported by the Country Shire Councils' Association. No doubt the Minister's final decision is well understood, but that does not make the scheme satisfactory. We realise difficulties have been faced in this respect.

Uniformity should have been introduced in the best interests of the local governing authorities and their employees; it would be far better to have uniformity than the piecemeal type of operation we have had in the past.

It is worthy of note also that the Perth City Council will continue with its own scheme, although its employees will be able to join the new scheme. I do not know the reason the Perth City Council operates its own scheme; it is something which has puzzled me for some time, although I have never investigated the matter.

Several other items require further questioning. I asked the Leader of the House, representing the Minister for Local Government, what was going to happen to reserve accounts Nos. 1 and 2, and the local governing bodies' employees' funds. The answer was that the Minister did not know the amount of any funds which would be transferred to the new local government superannuation fund. When the Act is promulgated and regulations are made to organise the superannuation fund, the chairman of the board together with the members of the board will have some responsibility in respect of deciding how the scheme should be brought into effect. We do not know what the contributions will be, and we recognise that all employees will expect the existing cover to be expanded. This is a matter of concern to us because we do not know what will happen. We are in a position similar to that of Christopher Columbus. When he set out he did not know where he was going, when he found America he did not know where he was, and when he got back he did not know where he had been.

The Hon. P. H. Wells: Like some speeches.

The Hon. J. M. BROWN: Mr Wells would be an expert!

The Hon. P. H. Wells: I was not saying that about your speech, but about some speeches.

The Hon. J. M. BROWN: I do not know the reason for that comment.

I was referring to the fact that we have no information about the fund. This is a matter of tremendous importance within the third arm of government; and the superannuation conditions of employees in that area are not comparable with the benefits enjoyed by employees within the other arms of government. As a matter of fact, many a Government employee would possibly want to transfer to local government, and vice versa. Always they have been penalised for that in the past because they could not carry superannuation benefits with them.

One of the most progressive steps to be taken is that of the clearing up of reserve funds Nos. 1 and 2. I believe reserve fund No. 2 has not been operated in accordance with the intention of the original Act; in other words, it has an accumulation of funds which in my opinion should have been applied to retiring employees. Instead of that, funds have been paid to another account, and when the employee ultimately reached retiring age he received the funds due to him. This meant that anyone who left local government earlier than retiring age was entitled to receive only the surrender value after 10 years' service; and if he left prior to the completion of 10 years' service he was entitled to the contributions of the corporation for every year of service, provided he paid the amount required; although that was never really put into effect by local governing bodies.

Another matter that concerns me is the membership of the fund. In the past some local authorities felt only administrative staff and key personnel were eligible to be members; yet the regulations clearly stipulated that an employee of local government was entitled to membership unless he was only temporarily employed. Some local authorities made it a condition of employment that persons could join the fund immediately provided they received the approval of the respective committees. Another proposition was that an employee could join the fund after 12 months.

Another matter of tremendous importance concerns the canvassing of employees to let them know about the fund. Will this be the responsibility of the respective organisations such as the Local Government Association, the Municipal Officers' Association, and the Municipal Employees' Union, or will it be the responsibility of the clerk? They are some of the answers for which we should be looking. They will all be detailed in the regulations.

When we look at the Bill, we realise we are discussing a proposition of long-term benefit to the employees in local government, and of

particular benefit to local government generally. There will be stability within the industry with such a retirement fund. Those sorts of questions should be answered because, in the past, if a person wanted to join a fund, he went through an agent of the AMP Society or through the office. There were members' representatives throughout the State, and they were able to advise the employees of the benefits to be obtained. There was not a vast campaign to enrol members; and many of the representatives were discouraged from visiting the employees. Often, recruitment to the fund was left to the clerk of the council or the office.

I could instance occasions on which the members were not given the full value to which they were entitled.

The Hon. H. W. Gayfer: There were ones on 4:4.

The Hon. J. M. BROWN: Some of them are still on 4:4. However, it was a benefit to them. Sometimes I felt the council held itself at risk by not supporting what was introduced for the benefit of the employees.

The Hon. H. W. Gayfer: Or promoting.

The Hon. J. M. BROWN: Yes. The Hon. H. W. Gayfer says the right word—"promoting" something that was of benefit. That was not fair to the members. I trust this anomaly will be overcome when the Bill is enacted.

The Local Government Superannuation Bill of 1980 has the support of the Opposition. We welcome it, and trust that some of the matters raised can be answered. We look forward to the promulgation of the regulations.

I support the Bill.

THE HON. V. J. FERRY (South-West) [4.12 p.m.]: I express my support for the Bill. In so doing, I am mindful of the discussions over a very long period to bring about the legislation now before us.

Personally, I have had many discussions over several years with both the representatives of local authorities and the employees of authorities. I know something of the trauma that has preceded the printing of this Bill. I wish it well in the future.

Obviously there will be some difficulties from time to time. I have no doubt that they will be tackled and worked out in the fullness of time. I wish the legislation well.

THE HON. H. W. GAYFER (Central) [4.13 p.m.]: Like the previous speaker, I rise only to express my support for the legislation. I agree with the Hon. Mr Brown that perhaps it does not go far enough; but it is a start, and that is the main thing.

Those of us who have been connected with local government for many years realise the deficiencies within the previous scheme, or schemes, because there seemed to be a proliferation of them. Certainly there have been some very sad, heartrending cases when people have contributed regularly to some scheme or other, but a mere pittance of a pay-out in the form of an insurance policy for $10 000 has been made on their death, as I know of in one case in which the person concerned was the clerk of the council, and he was earning about $25 000 a year.

I know the problems that have been associated with local government superannuation, particularly in the portability field. With the co-operation of all the 138 shires, each to each, and with the co-operation of the Country Shire Councils' Association, the Local Government Association, and other instrumentalities, there may be a better understanding and a better acceptance of portability than there was before.

Mr Brown will recall the many arguments we have had at Merredin in relation to this.

The Hon. J. M. Brown: At our ward conferences.

The Hon. H. W. GAYFER: Yes. In the main, the argument occurred because there was no unified approach by the 18 shires in the area. In those days they lacked the leadership to go forward with a plan that was suitable to all. This has been overcome by the fact that the representatives of the shires, the municipal officers, and everybody else have come together and talked about the problem. Therefore, we have a Bill before us.

I join Mr Ferry and Mr Brown in trusting that this Bill will provide an answer to the problem. It will not be the complete answer, but at least it is the foundation. It is something on which to build, as happens with most superannuation funds. The funds gain experience in the building up of their finances, and they are able to increase the benefits that flow to the members.

This Bill is not the ultimate answer—we know that—but it is the start of something that has been coming for a long time. I am pleased to see it before us now.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [4.17 p.m.]: I thank the Hon. J. M. Brown for his indication of the support of the Opposition to this Bill, and I thank also the Hon. Vic Ferry and the Hon. Mick Gayfer for their support. They have all appreciated that an important principle has been

adopted in this Bill, and that is the principle of portability of superannuation from one local authority to another.

As members know very well, we have followed a long and hard road in reaching this stage because of the differences between the 138 local authorities in the State. They have different financial set-ups, different superannuation funds, different rates of contribution, and so on; so there has been a great deal of reconciliation between them. It has not been an easy task for the Minister to reach the stage where she is able to say that portability can be enshrined in the proposed Act.

Members have all said that they accept that principle. They have indicated they share various apprehensions about odd parts of the Bill, and they hope there will be changes made from time to time. We have seen changes made in other superannuation funds.

Generally speaking, I appreciate the support that has been given to the Bill.

If members refer to clause 27, they will see it is a very comprehensive clause which provides comprehensive regulation-making powers. Many of the matters to which the Hon. J. M. Brown adverted will be dealt with in one way or another under the regulations.

One important matter was adverted to in another place; and I propose to move an amendment to the schedule at an appropriate stage. That amendment will ensure that representatives of the Municipal Employees' Union and other representatives who are on the board might be held to have an indirect pecuniary interest when they come to discuss increases in benefits from the fund. They may well be discussing such things from time to time; and it was suggested in another place they might have an indirect pecuniary interest.

Be that as it may, in order to alleviate any doubts I do have an amendment which will ensure that they can deliberate and decide on questions in that event, provided their indirect pecuniary interest is held only in common with that of other members of the fund, and provided it does not concern their own particular superannuation benefit, as distinct from all the members of the fund.

I thank members for their support.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. I. G. Medcalf (Leader of the House) in charge of the Bill.

Clauses 1 to 26 put and passed.

Clause 27: Power to make regulations—

The Hon. J. M. BROWN: The Leader of the House referred to the wide powers under the regulations as set out in this clause, and I acknowledge that the powers are wide. I have studied the matter rather extensively and I direct a question to the Leader of the House. Will there be a provision in the legislation to ensure a member under the existing scheme receives no less than the existing time of the benefit or the proposed time of the benefit under the new scheme?

I have examined the Bill and the second reading speeches made in both Chambers and the matter does not appear to have been covered. The new scheme appears to be far better and it would be inappropriate if at least the existing time of benefit was not maintained for the members or the proposed time of the benefit when the member reaches 60 or 65 years of age.

The Hon. I. G. MEDCALF: I am not really able to give the member a specific answer. I would, if I could, but I am not able to do so. However, I would be very surprised if, after all the negotiations with the associations concerned, that matter was not taken into account. I shall certainly raise it with the Minister and ensure the member receives a reply.

Clause put and passed.

Clause 28 put and passed.

Schedule 1—

The Hon. I. G. MEDCALF: I move an amendment—

> Page 24—insert after the word "Board" in subclause (1) of clause 8 the passage ", otherwise than as a member of and in common with other members of the scheme,".

Amendment put and passed.

Schedule 1, as amended, put and passed.

Schedules 2 and 3 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Leader of the House), and returned to the Assembly with an amendment.

ADOPTION OF CHILDREN AMENDMENT BILL

In Committee

Resumed from 15 October. The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clause 4: Section 10 amended—

The CHAIRMAN: Progress was reported on the clause after the Hon. H. W. Olney had moved the following amendment—

> Page 3, after line 11—Add the following passage—
>
> "provided that notwithstanding the provisions of paragraphs (a), (b) and (c) of this subsection where
>
> (d) a child the subject of an application for an order for adoption has attained the age of twelve years, and
>
> (e) the application seeks an order to confer on the child the surname by which the child was known immediately before the making of the order,
>
> the Judge may make an order conferring that surname on the child if he is satisfied that the child agrees to continue to be known by that name."

The Hon. H. W. OLNEY: When this clause was last before the Committee I moved an amendment which is printed on the notice paper. Subsequently the Minister indicated he proposed to move an amendment which would express the identical concept contained in my amendment and perhaps, if I can say so, it expresses it in a somewhat better manner.

Accordingly, on the understanding the Minister will move his amendment, I seek leave to withdraw the amendment I proposed.

Amendment, by leave, withdrawn.

The Hon. D. J. WORDSWORTH: I am not in a position to move my amendment, until the Bill is recommitted.

Clause put and passed.

Clauses 5 to 8 put and passed.

Title put and passed.

Report

Bill reported without amendment.

Recommittal

Bill recommitted, on motion by the Hon. D. J. Wordsworth (Minister for Lands), for the further consideration of clause 4.

In Committee

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clause 4: Section 10 amended—

The Hon. D. J. WORDSWORTH: I move an amendment—

> Pages 2 and 3—Delete the remainder of the clause after the word "is" in line 28 on page 2, down to and including the passage "child.", in line 11 on page 3, with a view to substituting another passage.

The Hon. R. HETHERINGTON: I would like to put on record I welcome this amendment. I am glad the Government has seen fit to listen to the argument so ably put forward by my good friend, the Hon. Howard Olney.

Amendment (deletion) put and passed.

The Hon. D. J. WORDSWORTH: I move an amendment—

> Page 2, line 28—Substitute the following for the deletion—
>
> "amended—
>
> (a) by repealing subsection (1) and substituting the following subsection—
>
> "(1) Subject to subsection (1a) of this section, the surname to be conferred on the adopted child by an order of adoption shall be—
>
> (a) where the adoption is by two adopting parents, the surname of the adopting father;
>
> (b) where the adoption is by one adopting parent and paragraph (c) of this subsection does not apply in relation to the adoption, the surname of the adopting parent;

(c) where the adoption is made pursuant to subsection (4) of section 4 of this Act by one adopting parent who is the husband of the parent of the child, the surname of the husband of the parent of the child.";

and

(b) by inserting the following subsection—

"(1a) Where an application for an order of adoption—

(a) is in respect of a child who has attained the age of twelve years; and

(b) the application seeks to allow the child to continue to use the surname by which the child is known at the time of the making of the application for the order of adoption,

the Judge may order that the child be allowed to continue to use the surname by which the child is known at the time of the making of the application if it is established to the satisfaction of the Judge that—

(c) the child consents to continue to be known by the surname by which he is known at the time of the making of the application for the order of adoption; and

(d) in all the circumstances of the case in question to allow the child to continue to use the surname by which the child is known at the time of the making of the application is for the welfare and in the best interests of the child." "

I thank members for their support. As members probably realise, this amendment goes back into an earlier clause in the Bill and we had to go a complete circle before it could be debated.

The amendment now before us defines clearly the various types of adoptions which can take place. They have been listed.

The greatest difference between the amendment proposed by the Hon. Howard Olney—which he withdrew and for which I thank him—is that not only have we defined different types of adopting parents, but also we have given the judge the discretion set out in the amendment proposed by Mr Olney. Under his amendment, if it is the wish of a 12-year-old child to retain his former name, the judge has to allow that automatically. The context of this amendment is that it is at the judge's discretion.

The Hon. P. H. Wells: In the best interests of the child.

The Hon. D. J. WORDSWORTH: That is so.

The Hon. H. W. OLNEY: The Minister may well be correct in what he said in the last part of his remarks. I would have thought to the contrary in that my proposal did finish up with the provision that the judge may, in this situation, make an order.

I think the Government proposal is better than the one I submitted. We are becoming used to amendments being larger than the original proposals put before us. I was somewhat timid in drafting my amendment; I did not want to weary the House with a complicated formula. The Government has adopted the concept of my amendment—a concept which, if one reads the second reading speech of the Chief Secretary in another place (Mr Hassell), seems to be consistent with what the Chief Secretary thought the Bill was doing.

As the session draws to a close it is very pleasant to know that twice in two days I can say how grateful I am to Mr Hassell for his having accepted amendments sponsored in this Chamber.

The Hon. I. G. PRATT: I support the amendment and I want to make it clear it was my intention to support the Hon. Howard Olney in his original amendment.

There is one minor point on which I have certain reservations, but not enough to prevent my supporting the Bill. I refer to the use of the word "welfare" in paragraph (d). I think it would have been good enough to state "in the best interests of the child". It appears to me it might be necessary to prove there will be an improvement in the welfare of the child. We are attempting to satisfy the wishes of all those involved.

I have been assured my fears are groundless, but they are not completely dispelled. I intend to support the amendment, and we will see what happens. I hope my fears are groundless.

The Hon. D. J. WORDSWORTH: I am not sure whether I misled the honourable member, but it is for the welfare and best interests of the child. It is not for the best welfare.

The Hon. I. G. Pratt: I did not say that.

The Hon. D. J. WORDSWORTH: I thought the honourable member might have misunderstood.

The Hon. R. HETHERINGTON: I am not sure this is not an appropriate place, but as this

amendment does set out different classes of adoptions and names, perhaps the time has come, at a stage when women are retaining maiden names and anxious that their children sometimes—with the agreement of their husbands—take the mothers' names, for the Government to give this some consideration.

I am not saying it should be introduced now. It is a difficult problem. I ask the Minister to bring this matter before his colleague in another place, and I hope consideration will be given to it at a later date.

The Hon. P. H. WELLS: I want to thank the Hon. H. W. Olney for having raised this matter. This is a Chamber of Review, and it is good that members can raise matters of this kind. We can then consider them in depth. That is a major role of this Chamber. Contributions have been made from both sides of the Chamber, and we have reached agreement on a reasonable amendment.

The Hon. R. Hetherington: It happens in the other place, too sometimes, of course.

The Hon. P. H. WELLS: Members are making such contributions here with reasonable frequency. Queries raised by members in this place have caused other members to look seriously at certain matters, and it is healthy that we should consider such things before legislation completes its passage here.

We hope that the legislation we are passing is the best possible to help the families for whom it is designed. I support the amendment.

The Hon. P. G. PENDAL: As one of the members who spoke at the time the query was raised, I commend the Hon. H. W. Olney for having raised it. I commend also the Minister for Lands and the Chief Secretary for their willingness to look in depth at a suggestion that seemed to contain a great deal of merit.

I believe the amendment the Government has introduced goes a little further than the amendment proposed originally by the Hon. H. W. Olney in that it will define even more clearly the discretionary responsibilities of judges of the Family Court on adoption matters.

In these circumstances where we are breaking tradition and setting some sort of precedent, it is just as well—indeed it is a good thing—to define a little more clearly the responsibilities of the judge.

Amendment (substitution) put and passed.

Clause, as amended, put and passed.

Further Report

Bill again reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Lands), and returned to the Assembly with amendments.

NURSES AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

THE HON. N. E. BAXTER (Central) [4.45 p.m.]: This Bill is to amend several definitions in the Act, and it provides for a new departure in the method of appointment to the Nurses Board.

I would like to refer firstly to the definition of the term "school of nursing". That seems to be quite in order and it will bring the Bill up to date in regard to the establishment of the Western Australian School of Nursing.

I notice that it is intended to bring in the Department of Health and Medical Services under the definition of "Department".

I wonder whether it is really necessary to change the term "nursing aide" to the term "enrolled nurse". This is really a case of "six of one and half-a-dozen of the other". I cannot see anything wrong with the term "nursing aide". During my time as Minister for Health, we received no complaints from nursing aides about their title. Perhaps this has come about with the higher education of nurses.

I notice that there are to be quite a few changes to the composition of the board. Firstly, its membership is to be increased from 17 to 18. As far as I understand the amendments, there will now be four more nurses on the board. Under the provisions of the parent Act, there were 11 nurses on the board, including the matron of a general hospital situated within 25 miles of the GPO. Of course, these days, the heads of nursing staffs are known as directors of nursing and not as matrons. That appointment to the board has been abolished and another nursing appointee has been substituted.

In his second reading speech the Minister referred to a medical practitioner appointee being taken off the board. However, looking at the composition of the board, it seems it will still contain two medical practitioners, one of whom will represent the department. I would like to ask the Minister whether the person who will represent the department will be an employee of

the department or a doctor employed by the department. Although I do not want to refer back again to my days as Minister, I must really do so to point out that I attempted to take the medical staff of the department off boards wherever possible. These highly-paid officers of the department have a great deal of work to do and I endeavoured, wherever possible, to replace representatives of the department on the boards of teaching hospitals.

At that time the medical officers were being paid around $30 000 a year, so it is probably a great deal more these days. That is too much for them to sit around on boards which are discussing domestic matters, particularly when there is so much work to do in the department. It is better for these departmental officers to spend their time on the job they are paid for than to spend it sitting on boards.

If it is the intention of this Bill to appoint a medical practitioner from the department to the Nurses Board, I am inclined to oppose the provision. The situation in the department today is deplorable. The assistant director is retiring in a few months, and three vacant positions have been filled temporarily at the moment by somebody down the line, and then somebody further down the line is supposed to be doing the work of these people. However, there is nobody further down the line. I understand one of these positions will become vacant tomorrow.

So, out of five positions only two officers of the Medical Department are appointed. The Bill proposes the appointment to the Nurses Board of a medical practitioner who will represent the Department of Health and Medical Services. I wonder where we are going with a proposal such as this one.

Another person to be removed from the Nurses Board is the Director of Mental Health Services. I do not have any complaint about that. However, she is to be replaced by a registered mental health nurse, who shall represent administration or education within a hospital associated with a mental health school of nursing. Perhaps this provision will work out satisfactorily.

The Bill provides for the addition of two nurses to the Nurses Board. Once again, while I do not question the ability of these people, I doubt the wisdom of such a move. One is to be a person registered as a general nurse who shall represent general nursing administration within the department. That can be only Mrs Bowmen or her assistant, because I assume that to represent the department, one would need to be employed by the department.

The other person is to be a general nurse who shall represent the community nursing administration within the department.

I do not really hold with such appointments. It is not necessary to draw on people already employed by the department; other appointees could be found. Further, it is not necessary to have as many nurses on a board of this size.

Another appointee is to be a general nurse who shall represent nursing education at a tertiary level. This can refer only to the nursing course conducted by WAIT. I may be a little old-fashioned, but I do not hold with providing for a higher degree in nursing. I believe nurses are there to look after patients; they do not need to be highly educated. A good, sound education, combined with proper nursing training should enable these people to look after patients, as is the role of all nurses.

The Bill also provides for the appointment of two enrolled nurses. When I was Minister, representations were made to have two nursing aides appointed to the board. This Bill provides for two enrolled nurses, each of whom is practising in a general hospital associated with a school of nursing for enrolled nurses.

In those days, we had a rather *ad hoc* arrangement whereby the Hospital Employees' Industrial Union and the directors of nursing of the principal teaching hospitals took part in any recommendation as to which aides should be appointed to the board. The union would submit the names to the Minister, and they would then be referred to the relevant directors of nursing for advice. Nobody would know better than the directors of nursing—under whom these nursing aides work—whether or not they are suitable to be appointed to the board.

I am rather surprised the Government has agreed to place an amendment on the notice paper which, in effect, will give the Hospital Employees' Industrial Union the last say; there is no let out for the Minister; the people nominated by the union will be appointed. It is my view the Minister should have the last say on the recommendation, which is one of the reasons I was not prepared to let the Hospital Employees' Industrial Union tell me, as Minister, whom I should appoint to the board.

I believe this amendment goes beyond the original intention of the legislation, and I give notice to the Government that I cannot go along with its proposal.

I refer now to the appointment of chairman of the board. I am not at all happy with the amendment the Government has placed on the

notice paper to delete certain words on page 5 of the Bill. The words proposed to be substituted are complete gobbledygook, which could not be understood by anyone. I read it and tried to understand it and could not; I referred the amendment to a number of other members who also could not understand it. I understand that even the Minister in charge of the Bill cannot understand the amendment.

The Hon. G. C. MacKinnon: In the first place, he could not.

The Hon. N. E. BAXTER: It is an unnecessary conglomeration of words, which can be expressed in much simpler terms. I have circulated an amendment to the amendment—which, on reflection, I realise may itself need a few changes—which I believe will simplify the situation. The essence of the proposal is that the Minister is not bound to select a chairman from the members of the Nurses Board, but may go outside the board and appoint a person as chairman who, in effect, would become the nineteenth member of the board.

Other than that, the Bill contains purely machinery provisions to which I have no objection. Mr Olney has dealt with some other aspects of the Bill, which time precludes my discussing. Most appear to be minor matters. Apart from those few objections I support the Bill.

THE HON. W. M. PIESSE (Lower Central) [5.01 p.m.]: I support the Bill mainly because I am told it is what the nurses themselves want. However, as a nurse from way back I am very puzzled with some of the amendments requested. It seems to me it will be very interesting to watch how these changes unfold when the Bill becomes law. It seems we are on the way to creating the great Australian "sameness".

In the olden days, trainee nurses were trainee nurses—it was obvious to everyone. They were not qualified; they were nurses in training. There was no doubt about what they were. When they were trained nurses they were trained and able to register as such. There was no confusion. It appears we are going to bring in all these strange new terms whereby we will have enrolled nurses and registered nurses. Nothing indicates exactly with whom we will be dealing if we happen to walk into a hospital and speak with a nurse. We will not know if she is enrolled, registered, or trainee. It will be very confusing.

In the case of midwives there is to be a change and they will be all called midwifery nurses. Previously, midwifery nurses were not yet qualified and midwives were qualified, and able to do a particular job, but now they will be all midwifery nurses. No-one will know just what stage of education they have reached.

Perhaps I am just old-fashioned—I admit I am—but it will be strange and instead of training a trainee nurse we will have an educating nurse or a nurse being educated. If she is educated it will not necessarily mean she is also fully trained. In other words, when trained; we recognised a person with practical experience and theoretical knowledge. She may have been through it all and know all the necessary treatments, but if she is being educated only it does not seem to me that it will be the same, somehow. However, this may be an old-fashioned idea. I cannot see that this change in terminology will produce better nurses, although I hope I am proved wrong.

To some extent I disagree with what the Hon. Norman Baxter has said with respect to people being appointed to the board. I think a Nurses Board should be composed mostly of nurses. I have some reservations about the manner of selection of these people, but we can only wait and see how it all turns out. I support the Bill with some reservations.

Debate adjourned until a later stage of the sitting, on motion by the Hon. W. R. Withers.

APPROPRIATION BILL (CONSOLIDATED REVENUE FUND)

Consideration of Tabled Paper

Debate resumed from 12 November.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [5.05 p.m.]: This motion is an innovation of recent years which appears to have worked quite well in comparison with problems experienced under the previous system for dealing with Budget papers in this House. Since the motion was introduced on 1 October, a large number of members have availed themselves of the opportunity to speak on a variety of subjects and it has been pleasing to note that several of those members have evidently given the Budget papers close scrutiny and, while complimenting the Government on the presentation of yet another balanced Budget, have come forward with some constructive criticism in respect of particular items of expenditure.

I thank members for their contribution to this debate and in doing so point out that, as is customary with debates of this nature, all speeches have been examined and relevant matters requiring further consideration have been referred to the appropriate Minister for attention and direct reply. Naturally, such procedure not

only ensures that matters raised are directed to the right quarter and hopefully answers provided, but also relieves me of the necessity to go into considerable detail in closing the debate. Of course, this does not absolve me from an obligation to comment on those matters concerning my own portfolio should I be in a position to do so at this juncture.

The Hon. P. G. Pendal raised the question of bail hostels and I wish to make some comment on that matter. The background to the bail hostel concept in Western Australia is derived from overseas experience, in particular from the United Kingdom, where the 1972 Criminal Justice Act empowers probation committees to set up bail hostels.

In April 1977 the Probation and Parole Service in this State submitted a memorandum drawing attention to proposed developments in Victoria where it was planned to use a section of a new hostel for homeless people for the purpose of a bail centre. This would allow bail to be granted to persons such as those who are of no fixed abode and who would otherwise have their application for bail refused. Victoria did not proceed with bail hostels.

In November 1977 the Law Reform Commission published a working paper, project No. 64, entitled "Review of Bail Procedures", and sought public comment. The Commission's final report presented in March 1979 supported the introduction of a bail hostel on an experimental basis. This proposal was supported by the probation and parole service and the Government has now approved the establishment of a bail hostel in Perth in this current financial year. Action is at present being taken to locate suitable accommodation.

I must point out that the categories of persons suitable for admission to a bail hostel must be reasonably flexible. In this regard, the person with no fixed place of abode, the person unable to raise a surety, and the person who because of domestic problems cannot be released on bail to his home, would have a high priority for admission. However, this would be subject to the previous criminal history, the type of offence, and the mental state of the person being charged with an offence.

The advantages of bail hostels are that selected persons are kept out of the prison system until sentenced, and that those employed or on social security benefits will be required to contribute to their keep while continuing in employment or to seek employment. Also, they will be in daily contact with a professional officer, other than a policeman or prison officer, to whom they may turn for advice.

It is of interest to note the comments of the Under Secretary for Law (Mr Christie) when he addressed the annual meeting of the Western Australian branch of the Australian Crime Prevention Council in 1978. At the time, Mr Christie had recently completed an inspection of the bail hostel system in Britain and informed the meeting that very few people referred to bail hostels had ultimately received a custodial sentence. In his words, "This was the justification for the alternative to custodial remands. People had been kept out of the prison system."

I should also like briefly to refer to the comments made by the Hon. Bob Hetherington in connection with the Family Court. The member referred to a visit he had paid to that court and I thought perhaps there were one or two aspects of his remarks on which I should briefly comment.

In the first place he made the statement that the court was not a public court. The court does regard itself as a public court. It is in fact open to the public and that is the view which is taken by the judges of that court. It being a State court it has the power to organise its procedures in accordance with the rules laid down by this Parliament, the rules of the State which have traditionally regarded all courts as being open.

One might get the impression from the Press that this is not so, but the problem arises not in relation to the court not being a public court but in relation to the fact that its proceedings cannot be reported. That is not the fault of the State Family Court. It has to administer the Family Law Act which is a Commonwealth Statute and makes quite clear that the proceedings of the Family Court cannot be published. This is the point at which problems occur and why the allegation is made that it is a secret court; it is not an open court; and it is not a public court.

I know the member said he was asked what his business was when he went into the court. I can assure him after my investigation of the case that the court orderly was trying only to be helpful. Even if the parties had objected to the member being there, he was quite entitled to be there and would not have been excluded from being there by the orderly or the court.

The Hon. R. Hetherington: That was not the impression I gained. I am glad the matter has been cleared.

The Hon. I. G. MEDCALF: The registrar has been furnished with a copy of the honourable member's comments. No doubt the registrar appreciates the member did not have that

impression. However, it was not the intention to exclude him in any way. The public is quite entitled to walk into any Family Court and to listen to any case. In fact, the Press can do so, but it is not allowed to report any case.

On the occasion when the Family Court was opened I expressed my disapproval of the inability of the proceedings to be reported. I have given my reasons for that belief and I think they are perfectly justified. I was pleased to see recently that the Commonwealth parliamentary inquiry into the Family Law Act to which I made a submission and to which other people made a similar submission has accepted that the proceedings ought to be reported.

The Federal Attorney General has indicated his approval that that ought to be the situation and that changes should be made. Whether the changes will be made is something to be decided and is in the hands of members of the Commonwealth Parliament. They regard matters involving family law as matters of conscience and will not vote necessarily in accordance with party dictates. They have not done so in the past and therefore no guarantee exists that because the Federal Attorney General has expressed a view, it will find favour with members of the Commonwealth Parliament. I thought I would clarify those points raised by the honourable member. They were the only matters which related to my portfolio.

As I have said, members can rest assured that the queries they have raised will be answered. I have personally sent letters to the Ministers responsible with extracts of the appropriate comments recorded in *Hansard* and have requested Ministers to provide answers. If members do not receive replies I would be glad if they would let me know and I will follow up their queries. I thank members for their contributions to this debate.

Question put and passed.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [5.28 p.m.]: I move—

> That the House at its rising adjourn until 11.00 a.m. on Wednesday, 26 November.

Question put and passed.

House adjourned at 5.29 p.m.

QUESTIONS ON NOTICE

HOUSING FUNDS

Development

460. The Hon. R. J. L. Williams (for the Hon. NEIL OLIVER), to the Minister representing the Minister for Housing:

With reference to the General Loan Fund, Estimates of Expenditure for the year ending 30 June 1981 in respect to land development—

(1) Are the additional loans funds of $2.214 million for land development due to escalation of costs against the previous year?

(2) If not, is it the intention of the State Housing Commission to develop additional allotments?

(3) In what general areas will the development funds be expended?

The Hon. G. E. MASTERS replied:

(1) The additional funds will be utilised to meet increased costs due to inflation and as a greater proportion of the programme is in the areas of higher costs.

(2) Answered by (1).

(3) The development funds will be largely expended in servicing allotments for the commission's current programme, particularly in north-west and country areas.

HOUSING

Aborigines: Commonwealth Funds

475. The Hon. F. E. McKenzie (for the Hon. LYLA ELLIOTT), to the Minister representing the Minister for Housing:

(1) Have the total funds allocated to the State by the Commonwealth for Aboriginal housing for the last financial year been expended?

(2) If not, what proportion has been expended?

The Hon. G. E. MASTERS replied:

(1) Yes.

(2) Answered by (1) above.

SHIPPING: STATE SHIPPING SERVICE

New Vessels

490. The Hon. D. K. DANS, to the Minister representing the Minister for Transport:

(1) Is the company that is to supply the new State Shipping Service vessels experiencing financial difficulties?

(2) If "Yes," will the delivery of the two vessels be affected?

(3) If so, to what extent will the delivery be affected?

The Hon. D. J. WORDSWORTH replied:

(1) The original charterers who had contracted to subcharter the vessels to Western Australian Coastal Shipping Commission are experiencing financial difficulties and these contracts have now been voided and new charter parties have been executed by Western Australian Coastal Shipping Commission with the owners of the vessels.

(2) and (3) Delivery of the vessels will not be affected.

RECREATION

Football: Player Drafting System

491. The Hon. H. W. Gayfer (for the Hon. TOM McNEIL), to the Minister representing the Minister for Recreation:

In view of the decision of the Victorian Football League and the Western Australian Football League to operate a player drafting system between the two States for the 1982 season, conditional on players having to be 24 years of age, played 110 senior games, or played 50 games over five years, before becoming eligible for transfer at a set fee of $40 000, would the Minister advise—

(1) What will the situation be in the case of a junior player whose father is transferred to Victoria in his occupation?

(2) What period of time must any young player spend in Victoria before the drafting conditions no longer apply?

(3) As this sweetheart deal is oppressive and a restriction on the freedom of the individual, will the Minister call for a full report on this agreement reached between the two States and its effect on all young Australian rules football players?

The Hon. D. J. WORDSWORTH replied:

I am advised as follows—

There are two separate issues involved and two separate schemes are being developed as follows—

(a) The Victorian Football League drafting scheme: The Victorian Football League is drawing up a drafting agreement to be administered internally by the VFL as a domestic arrangement to equalise each club's opportunities for recruitment.

(b) The Interstate Clearance Scheme: This is still being negotiated between the VFL and the WAFL for the 1981 season.

(1) Negotiations for an interstate clearance scheme are still being finalised. However, I am assured that provision is being made for an independent arbitrator to cover extenuating circumstances.

(2) Drafting conditions are a domestic responsiblity of the VFL.

(3) No. The clearance scheme between the VFL and the WAFL is still being negotiated and is not considered a matter for regulation by this Government.

RAILWAYS

Midland-Perth and Armadale-Perth: Passenger Subsidy

492. The Hon. F. E. McKenzie (for the Hon. LYLA ELLIOTT), to the Minister representing the Minister for Transport:

Further to my question 442 of Tuesday, 18 November 1980—

(1) What is the cost subsidy per passenger on—

(a) the Armadale line; and

(b) the Midland line?

(2) Is it a fact that the figure given by the Minister of 1.7 million as the number of former rail patrons who now travel by bus in the Perth-Fremantle corridor, reveals that there has been a drop of 800 000 passengers on the total number who previously used the train on the Fremantle line—2.5 million?

(3) Is the Minister aware that to the 44c loss per bus passenger must be added the cost to these 800 000 lost passengers of travelling by private vehicle which based on current RAC cost estimates for a medium car would be $2.85 million per year?

The Hon. D. J. WORDSWORTH replied:

(1) (a) and (b) The cost subsidy per rail passenger is a figure calculated for the entire suburban rail service. No figure for individual lines is available.

(2) No. The figure of 1.7 million journeys by former rail patrons is the figure for the year 1979-80. As the Perth-Fremantle rail service ceased in September 1979, the figure applies only to a 10-month period, and is therefore not comparable with former rail patronage for a full year.

In addition it should be noted that a proportion of the former patrons of a service in any particular year cease to use the service because of a change in their travel needs, and are replaced by a similar proportion of new patrons. Surveys by the MTT show a natural "turnover" of passengers in excess of 20 per cent in a year. That is, over 20 per cent of the individuals who use a public transport service in any year do not use it in the succeeding year because of factors such as change in residence, change in job location, school leaving, retirement, death, etc.

(3) Surveys by the MTT indicate that total public transport patronage in the corridor regardless of former travel

habits of patrons, has held steady since the closure of the Perth-Fremantle rail service. Very recently, there have been encouraging indications of a growth in patronage and the entire metropolitan public transport system, suggesting that additional passengers are being won away from private cars. This implies a net saving in the total private vehicle operating costs to which the member refers.

The member will be interested in comparative Main Roads Department traffic counts for the Perth-Fremantle corridor, comparing the number of vehicles travelling on a weekday between 7.00 a.m. and 7.00 p.m.

Stirling Highway		
North of Tydeman Road	July 1979	14 663
	May 1980	13 421
North of Eric Street	July 1979	26 773
	June 1980	24 174
West of Broadway	July 1979	24 966
	November 1980	22 712
Gugeri Street		
West of Chancellor Street	July 1978	15 501
	July 1980	13 343
Railway Road		
West of Aberdare	August 1979	14 417
	April 1980	12 779
North of Nicholson Road	August 1979	12 089
	April 1980	11 852

RAILWAY WAGONS

Private Contract

493. The Hon. F. E. McKenzie (for the Hon. LYLA ELLIOTT), to the Minister representing the Minister for Transport:

Further to my question 437 of Thursday, 13 November 1980—

(1) During the past financial year—

(a) what traffic was refused by Westrail due to lack of wagons;

(b) who were the customers; and

(c) what was the total revenue lost?

(2) If "Nil", why were the wagons which constitute the "considerable backlog of repair work" not attended to during the year?

(3) (a) What was the alternative type of wagons considered for hiring as referred to in the answer to question 437 (1);

(b) who had the wagons available; and

(c) upon what capital value and period of lease was $29 per day based?

(4) On the basis of $29 per day and comparable capital values and lease times, what are the lease charges daily on—

(a) linc buses;

(b) the buses just currently ordered; and

(c) the wagons referred to in the answer to question 437 (1)?

(5) As the Minister's reply indicates that the price differential of $4 242 per wagon represents labour costs—

(a) does this indicate that the employees who built the 18 wagons at Midland workshops, are being underpaid for their labour compared with those employed in private industry; and

(b) if so, would he agree that an amount equivalent to $4 242 x 18 be distributed to the Westrail employees who built the wagons?

The Hon. D. J. WORDSWORTH replied:

(1) (a) to (c) The analysis referred to in answer to question 437 dealt with expected future revenue losses if the wagons were not to be available.

(2) Because Midland workshops did not have the capacity to do the work.

(3) (a) to (c) The alternative type of wagons are standard gauge flat top wagons from the Railways of Australia intersystem pool, on which a hire charge of $29 per day has been set by the Railways of Australia.

(4) (a) to (c) The $29 per day hire charge is an arrangement between the Railways of Australia and bears no relationship to what might be charged for any other equipment outside of Railways of Australia control.

(5) (a) and (b) No.

LOCAL GOVERNMENT ACT

Amendment: Electoral Provisions

494. The Hon. PETER DOWDING, to the Minister representing the Minister for Local Government:

(1) Is it Government policy to amend the Local Government Act to enable the spouse of an owner or occupier to cast a vote in Local Government elections?

(2) Is the Minister aware that since mining companies in the Pilbara lease company housing to the worker and not to the worker and a spouse, many women in the Pilbara are deprived of an opportunity to vote at local government elections?

(3) Did the Minister, prior to the State election, announce that a Bill to increase the franchise in this way would be introduced in Parliament this year?

(4) Will such a Bill be introduced?

(5) If not, why not?

(6) If no Bill is introduced, will women in the Pilbara married to workers in the iron ore industry be entitled to a vote?

The Hon. D. J. WORDSWORTH replied:

(1) The Local Government Act already makes provision for the enrolment of the spouse of an owner of property. A Bill under preparation for the re-enactment of the electoral provisions of the Local Government Act, will provide for the franchise to be extended to the wives of occupiers.

(2) Yes.

(3) I had announced that the Bill would make provision for the enrolment of the spouses of occupiers and that I hoped to be able to introduce the Bill during this current sitting.

(4) I recently announced that it will not be possible for the Bill to be introduced during this current sitting.

(5) The introduction of a Bill at this late stage would not allow adequate time for its consideration by the Parliament.

(6) They would not be entitled to vote merely on the basis of their being the spouses of occupiers.

ROAD

Eveline Road

495. The Hon. F. E. McKenzie (for the Hon. LYLA ELLIOTT), to the Minister representing the Minister for Works:

(1) Is the Minister aware—

(a) that Eveline Road, Middle Swan, has for some time been in need of upgrading; and

(b) that this road serves the Middle Swan Primary School, Swan Districts Hospital, and employees of Midland Brickworks, and is inadequate for this purpose?

(2) Has his department been requested to contribute to the cost of upgrading this road?

(3) If so—

(a) will funds be provided; and

(b) when?

The Hon. G. E. MASTERS replied:

(1) (a) Yes, approximately 15 per cent requires resurfacing.

(b) Yes, but adequacy for this purpose is not known.

(2) Yes.

(3) (a) and (b) No.

INDUSTRIAL DISPUTES

Hamersley Iron Pty. Ltd.

496. The Hon. PETER DOWDING, to the Minister representing the Minister for Police and Traffic:

(1) Have inquiries been made through the Police Department from Hamersley Iron as to the number of lost time through strikes?

(2) Do the police seek this information from mining companies and if so—

(a) what companies; and

(b) why?

(3) Do the police collect other statistics relating to industrial matters, and if so, what statistics and why?

The Hon. G. E. MASTERS replied:

The Minister for Police and Traffic advises as follows—

(1) Not to my knowledge.
(2) Not to my knowledge.
(3) Yes. Police man hours incurred attending industrial disputes, for manpower planning purposes.

LAND

Valuations

497. The Hon. F. E. McKENZIE, to the Minister representing the Treasurer:

(1) Is the Minister aware that there is a considerable number of country State Housing Commission tenants and other similarly-placed country people wishing to purchase homes under State control who are frustrated because the Valuer General will not despatch a valuer into the country areas because of an alleged severe limitation placed by the Government on the allocation of travelling expenses for this purpose?
(2) Will he take action to ensure valuations under these circumstances are speedily effected to overcome the distress being experienced?
(3) (a) If so, will he indicate a date on which the current backlog will be cleared; and
(b) if not, why not?

The Hon. I. G. MEDCALF replied:

(1) to (3) The Valuer General, like all sections of the Government work force, has an expenditure budget and within which financial limits he must operate.

It is not economically feasible, nor would it be prudent management, to despatch a valuer to a country area, or for that matter, even to a metropolitan suburb, upon receipt of each and every request. To do so would cause unwarranted expenditure of public funds.

As a result, requests for valuations may be delayed until a sufficient number are on hand to warrant the expense of sending a valuer to that particular area.

Alternatively, if the inspection can be made as a result of a valuer being in a nearby district or on his way to another country town, then it would be done earlier.

If the Valuer General were made aware of the need for urgent attention to an individual case, I am certain he would comply with the request.

Should the member care to give me details of any specific case he has in mind, I shall arrange for the matter to be investigated.

QUESTIONS WITHOUT NOTICE

TRANSPORT: BUSES

Mercedes Benz

147. The Hon. F. E. McKenzie (for the Hon. LYLA ELLIOTT), to the Minister for Lands:

With reference to the article in *The Sunday Times* of 16 November concerning the order placed by the MTT for 38 Mercedes Benz buses—

(1) What is the name of the leasing company?
(2) Where is it located?
(3) In view of the announcement that deliveries will begin in December, when was the first firm order placed with the leasing company?

The Hon. D. J. WORDSWORTH replied:

(1) and (2) No leasing company is involved at the present time.
(3) The order for delivery of chassis only was placed through Diesel Motors Ltd. on 2 October 1980 and delivery of these chassis is expected to commence in December 1980.

COURTS: SUPREME AND DISTRICT

Jurors

148. The Hon. H. W. OLNEY, to the Attorney General:

I refer the Attorney General to a question I asked on 12 November 1980 concerning the preparation of jury lists for the Supreme and District Courts.

The thrust of the question concerned the pre-trial inquiries about the jurors on the list. Part of the answer was that inquiries are made to ascertain whether a person on the list had been convicted of an offence and it was pointed out that the provisions of the Juries Act disqualify such a person unless he or she has received a free pardon.

Is the Attorney General prepared to investigate the procedures for the preparation of jury lists so that such persons can be eliminated from those lists before they are prepared—that is, persons who are in fact disqualified—so as to prevent this need to investigate people who are listed, after their names have been put on the lists and handed to the other parties?

The Hon. I. G. MEDCALF replied:

I shall inquire into the matter.

HEALTH: ALCOHOL

Alcoholic Rehabilitation Funds

149. The Hon. F. E. McKenzie (for the Hon. LYLA ELLIOTT), to the Minister representing the Treasurer:

Further to my question 474 of Wednesday, 19 November 1980—

(1) In addition to revenue appropriated for the treatment of inebriates in facilities provided by the Department of Corrections and hospitals and health services, have funds been provided to voluntary bodies working in this field?

(2) If so, are these funds still available to voluntary groups?

(3) If not, why not?

The Hon. I. G. MEDCALF replied:

(1) to (3) The Premier requests that the question be placed on the notice paper because the answer is not readily available.