Legislative Council

Thursday, the 5th October, 1978

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 2.30 p.m., and read prayers.

ACTS AMENDMENT (SUPREME COURT AND DISTRICT COURT) BILL

Introduction and First Reading

Bill introduced, on motion by the Hon. I. G. Medcalf (Attorney General), and read a first time.

QUESTIONS WITHOUT NOTICE

Point of Order

The Hon. R. F. CLAUGHTON: On a point of order, Mr President, it is probably not intended but you did not call for questions without notice. Is it the intention that they be taken at a later stage of the sitting?

The PRESIDENT: I intended to leave questions without notice until we had taken questions on notice, in case some questions without notice needed to be asked as a result of the answers to questions on notice.

PUBLIC SERVICE BILL

In Committee

Resumed from the 4th October. The Deputy Chairman of Committees (the Hon. T. Knight) in the Chair; the Hon. G. C. MacKinnon (Leader of the House) in charge of the Bill.

The DEPUTY CHAIRMAN: Progress was reported after clause 19 had been agreed to.

Clause 20: Constitution of Public Service—

The Hon. J. C. TOZER: This is a very simple clause but it raises questions in my mind. Perhaps there is a simple explanation. I wonder what makes a department, or a subdepartment but, more importantly, what makes non-departments. I refer to the commissions or the Main Roads Department. That department appears not to be a department. We have the State Energy Commission; why do we not have an energy department?

It had been my thought that the only reason these instrumentalities are not departments was that they had the right to borrow money on their own account. That may be the only one and good enough reason.

It is most confusing when we have the Metropolitan Water Board, the employees of which are, in fact, civil servants. However, the employees of the Main Roads Department are not civil servants. The staff of the State Housing Commission were not civil servants, but they probably are now. Perhaps a simple comment may help the members of this Committee.

The Hon. R. F. CLAUGHTON: I seek the same sort of clarification, and I am pleased that the Hon. John Tozer has raised the matter. During earlier debate on clause 5 I proposed a definition of "State Service" to clarify this particular matter. I accepted the Ministers assurance that it was not necessary, as the matter was covered by this particular clause. I would be pleased to have a clarification for the very reason I set out when discussing the proposals for a definition.

The Hon. G. C. MacKINNON: The only answer I am aware of is contained in Public Service regulation 99, part VII—miscellaneous. It reads—

> 99. Subject to the provisions of any Act constituting any State Service, the Governor on the recommendation of the Board, may—
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> (a) establish any part of the State Services as a Department of the Public Service;
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> (b) establish any part of the State Services or any part of a Department as a Sub-department of the Public Service; or
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> (c) abolish any Department or Subdepartment that has been established in accordance with the Act and these regulations.

That is the regulation under which it has been done as members will obviously be aware. I think all the departments at one time were set out under the old Colonial Secretary, to the best of my knowledge, who, in direct line of descent, is now represented by the Chief Secretary. I think from that department all the bits and pieces were chiselled off. One of the most recent, during my time, was the Department of Fisheries and Wildlife which became a department in its own right purely by an act of Executive Council in accordance with this regulation 99.

The regulation sets out that the Public Service shall be constituted of departments and subdepartments, and the regulation-making power sets out the way in which it is done. It is done by governmental action. If the Government desires to close down the Department of Fisheries and Wildlife, or the Department of Conservation and Environment—which also was established and became a department in my time—it will be abolished in the same way with the repeal of the Act.

The Metropolitan Water Board is a board despite the fact that it has an Act of its own. I hope that explains the position. When the honourable member shakes his head to signify that it does not explain the position, I just cannot see why. It is explained to me, and I do not see why that is not a simple explanation. The departments come under one Act or another. A department can come under its own Act, and in the case of public servants they come under the Public Service Act. Everyone who works for the Government is under the Public Service.

The Hon. J. C. TOZER: I understand the Minister's difficulties, and it is quite impossible to segregate discussion on clause 20 from discussion on clause 21. Clearly, the Minister may find that my question can be applied appropriately to clause 21.

I know this has happened, and really my question was, "Why?" That is the question I ask. Of course, I even ventured a reason, which was the power given to some Government instrumentalities to borrow independently in parallel with the system of Loan Council borrowings. That may be the reason. My question has not been answered inasmuch as we are talking about the Public Service Bill and about public servants. We know that people employed by the Main Roads Department are public servants, but they will not be covered by the terms of this Bill. This applies also to people employed by the State Energy Commission, and other instrumentalities; whereas other departments, doing comparable jobs, are departments in fact and their employees come within the terms of the Public Service Bill. I would like an explanation on why the situation exists.

The Hon. G. C. MacKINNON: The honourable member is quite wrong in his basic assumption that these people are public servants. They are not, because they are not covered by the Act.

The Hon. J. C. Tozer: You said, "public servants", not I.

The Hon. G. C. MacKINNON: The honourable member said that everyone appreciates they are public servants. They are not. They are servants to the public, but they are not public servants. I said "Government employees". The honourable member asked why does a department become a department. It becomes a department because the Government—therefore the people—desires that it should become a department.

The Hon. J. C. Tozer: Why does the SEC not become a department?

The Hon. G. C. MacKINNON: Because th Government does not want it to become a depart ment. That was the desire at the time. It is system of management about which I have grav and serious doubts. Nevertheless, it became ver fashionable and acceptable to establish commis sions because the cry, at the time, was to remov them from the day-to-day effects of politics. I is a principle with which I have disagreed—s far as one can have private views.

I believe, and I always have—and I think it i clearly known by members here—that a Ministe should be, in fact, totally and absolutely respon sible. The people can change the management a the ballot box, which is tremendously importan and indeed the one remaining proper protest situa tion in which we find ourselves.

I have elaborated on this question because th debate has taken a turn about the structure an form of Goverment, not about the Public Servic Bill. I do not want to fall into that trap. I d not think we should allow this debate to go o in that direction.

The honourable member asked why is a de partment a department. One might as well as why is a cow a cow—because it grows horns an gives milk. Why does the Government take totall different forms in different States? I can give a instance of a State where a major departmen dominates all other Statutes. It is the Departmen of Conservation and Environment. I have visite those States.

In this State it is a very minor department, bu it carries out the same work although in a totall different way. Why is that? The answer is that th departments have developed with different form and structures in the two States. They developed according to the wish of the people who happened to be in government. However, the public servan is a person controlled by the Act. He hap pens to work for the Government, but many people who work for the Government are not public ser vants. They could become public servants if the Governor suddenly changed the legislation relat ing to, say, the State Energy Commission, or the Metropolitan Water Board. If these institutions were Government departments, the people working in them would be public servants. That is the reason that the Public Service has only one union and I picked up this point yesterday when the honourable member was speaking. The Civil Service Association is the only union controlling public servants. The Public Service does not have a craft union; it has an industrial union. Again I believe that is a very good thing. I hope that has answered the question.

The Hon. R. F. CLAUGHTON: Part of the question is answered by the provision contained in clause 31 relating to the difference between public servants and Government employees. However, I cannot help feeling that we still need a definition of the term "Public Service". From the remarks made by the Leader of the House, it appears that departments or sub-departments are created and given a title under an Act or by a decision of Executive Council. I believe the legislation could have been improved on this point.

The Hon. G. C. MacKinnon: It is interesting that the definition is not there, and this discussion has highlighted that fact.

The Hon. R. F. CLAUGHTON: After listening to the discussion I believe the legislation would be improved with the inclusion of the definition. However, as I said earlier, I do not intend to press this point.

The Hon. G. C. MacKinnon: We have got by without it for 150 years; let us leave it.

The Hon. R. F. CLAUGHTON: We have not got by without it.

The Hon. G. C. MacKinnon: We have, you know.

The Hon. R. F. CLAUGHTON: In the present Public Service Act the terms "State Service" and "Public Service" are defined in the terms of the amendments I had proposed to clause 5. If it is found to be necessary in the future, no doubt the Government will introduce the amendments.

The Hon. R. HETHERINGTON: I can see it is convenient to say that a department is anything a Government says is a department, but this brings up the question I raised earlier: Perhaps we should define what a department does, what constitutes the Public Service, and the relationship between the Public Service and the Government and the Minister. As it is we need to look at a whole series of Acts, legislation, and a number of conventions to work out what it is.

I assume that a department is an organisation which administers the policy of the Government, and which is directly responsible to a Minister, as distinct from a statutory authority. At present we have a whole range of departments, sub-departments, and authorities. It would be a good idea to try to sort them out and to work out what work they are to do. Perhaps the Leader of the House thinks this would be too difficult and so he seeks to adopt the pragmatic view and say that a department is anything a government says is a department. As the Cheshire cat said to Alice in Wonderland, "Words mean what I want them to mean." I am not happy about this provision.

The Hon. G. C. MacKINNON: I say again that we are getting into an argument about the form and structure of government itself. I do not see the two points that Mr Hetherington raised as being necessary parts of a cohesive whole. I agree, and I am on record as saying, that I believe there is room now for a very detailed re-examination of the nature and form of government and the machinery of government. I have mentioned before the Province of Toronto in Canada, which is the only State I know of to have undertaken such a detailed study. The gentleman in charge of this study, Professor Wright, is known to me personally. I have visited him in Canada, and he has visited Western Australia.

We could undertake such an exercise, but that is a totally different matter. In my opinion we should leave it to the Government to decide whether a department will be a department, or whether it will be a commission or an authority. Such a decision could well vary from Government to Government. Our Government could well set up a department of commerce simply to issue licences, whereas the Australian Labor Party could set up a department of commerce to run all the grocery stores—at least that is the impression that could be gained from reading the report in today's Press.

The Hon. R. Hetherington: I think that is going a bit far.

The Hon. G. C. MacKINNON: I was simply giving an example.

The Hon. R. Hetherington: I do not think I like that example.

The Hon. G. C. MacKINNON: But the honourable member understands what I mean.

The Hon. R. Hetherington: Yes, I understand.

The Hon. G. C. MacKINNON: I do not think the two necessarily travel hand in hand. I agree with one point and I disagree with the other, but I suggest we return to the Bill. Perhaps at some time in the future a motion could be moved about the nature and form of government. This matter could be fully discussed then.

Clause put and passed.

Clause 21: Departments—

The Hon. J. C. TOZER: One does not argue with the substance of this clause at all, and one could give examples where perhaps such things as amalgamating, dividing, or abolishing departments, should be put in train. Perhaps the Government should look at this matter with some urgency. The name of a department should reflect the

activity of that department. I firmly believe that the Department of Industrial Development should adopt the name given to it by a previous Labor Minister—the Department of Development and Decentralisation—to truly describe its function and certainly to absorb all aspects of decentralisation which may be covered by other departments that have sprung up. I simply wished to make that brief comment.

Clause put and passed.

Clauses 22 to 25 put and passed.

Clause 26: Permanent Heads—

The Hon. N. E. BAXTER: I wish to raise a query on a matter which I have discussed with the Public Service Board. This clause states that there shall be a separate permanent head of each department. Does it mean that it is mandatory that there shall be a permanent head of each department, or does it mean a person can be appointed as permanent head of more than one department. I am inclined to think the provision in the clause means what it says, and I would like an answer from the Minister and a legal interpretation on what it means.

The Hon. G. C. MacKINNON: The honourable member is fully aware that legal interpretations and opinions are not given in Parliament, and so he will not get any legal interpretation from me. He is well aware of the practice adopted.

The honourable member asks whether the provision means that there shall be a separate and distinct person who shall be designated as the permanent head of each and every department, or that there must be a person who can represent one or a collection of departments. I think the latter interpretation is the correct one.

It means there shall be a person for each department who is technically the permanent head. He is the one against whom legal action can be taken, but that person can be the permanent head of more than one department.

No doubt, the honourable member will recall that when he was the Minister for Health he found on going through the files that Mr Devereux, who was a well-known and tremendously capable civil servant, was at one time the permanent head of two or three departments. Subsequently when the organisation was changed, Dr Davidson became the permanent head of more than one department, but he was the permanent head for each department separately. He was not designated as the permanent head, collectively. The fact that it happened to be one person did not make any difference. I hope that answers the query raised by Mr Baxter.

The Hon. J. C. TOZER: In discussing clause 26 we should bear in mind the provisions in clauses 27 and 28. Mr Baxter has raised the question of a permanent head who may cover different departments. Some confusion exists, but this was partly cleared up when the Leader of the House described to us yesterday the need for a "senior officer".

I think the Under Secretary for Lands is the permanent head of the department, but there is the Surveyor General who is of equal seniority. Both are dedicated and able officers, but the Surveyor General (Mr Morgan) would be upset if the permanent head pushed his professional staff around.

What I have said is not confined to the Department of Lands and Surveys; it also applies to the Public Works Department of which Mr Lewis is the permanent head. But no-one can tell me that he is more senior to Mr Hillman, the Director of Engineering of the Public Works Department. It does lead to some measure of confusion in cases where there is a permanent head who is of equal seniority or has more seniority than the professional officer in charge of the technical wing.

The Minister may wish to comment on the specific definition as to where the permanent head stands, in relation to the senior professional officer in the department working alongside him.

The Hon. G. C. MacKINNON: This demonstrates that great care must be exercised in the choice of words. Mr Tozer has used the words "senior to" in referring to Mr Lewis, the Under Secretary of the Public Works Department. This is a question of authority and responsibility. We can argue as to whether Mr Lewis is senior, but the fact is he has the authority and is responsible to the Minister. If the Minister so wishes he could deal solely with the permanent head, although the professional officer could well be in receipt of a higher salary and possess higher qualifications.

The Hon. R. F. Claughton: It is not a question of seniority of years.

The Hon. G. C. MacKINNON: What we are talking about is the authority and the responsibility of the officers. I can give a number of examples, and I have mentioned the case of Dr Davidson and Mr Devereux. At one time Mr Devereux was the permanent head of three separate departments—Mental Health, Public Health, and Chief Secretary. Dr Davidson was in receipt of a higher salary, but the officer who was responsible to the Minister was Mr Devereux. This is a matter of authority and responsibility, and not a question of seniority.

The Hon. N. E. BAXTER: I am not satisfied with the Minister's explanation. I had an argument on this very matter with the Chairman of the Public Service Board (Mr Cooper) in 1975 when Dr Roberts was appointed Director General of Medical Services. The Chairman of the Public Service Board said that the Public Service Act provided that there should be the permanent head of the department.

However, the existing Public Service Act does not provide for that at all. Sections 17 and 18 state—

> 17. The Public Service shall consist of five divisions, that is to say—
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> (a) The Special Division.
>
> (b) The Administrative Division.
>
> (c) The Professional Division.
>
> (d) The Clerical Division.
>
> (e) The General Division.
>
> 18. (1) The Special Division shall include such Permanent Heads of Departments, and such other officers and offices, as the Governor on the recommendation of the Board determines.

Nowhere in the existing Act is provision made to cover the permanent head of a department. The provision in the Bill I believe has emanated from my discussions with the Chairman of the Public Service Board in 1975. In 1974 I went to Cabinet with a suggestion that there should be two heads of the two departments respectively; I refer to the Medical Department and the Public Health Department. My suggestion was agreed to. However, when the changeover was made in 1975 a different attitude was adopted by the Public Service Board.

The Hon. G. C. MacKINNON: I do not understand completely what Mr Baxter has said. What he is saying is that he disagrees with what is contained in the Act.

The Hon. N. E. Baxter: It is not in the existing Act.

The Hon. G. C. MacKINNON: The honourable member disagrees with what is contained in the Bill, so he has verified my explanation of the Bill. He says the provision ought not to be included in the Bill.

The Hon. N. E. Baxter: I say it does not provide that one person shall be the permanent head of each department.

The Hon. G. C. MacKINNON: It does not say that, but it is possible for that to be done.

The Hon. N. E. Baxter: I would like a legal opinion on that.

The Hon. G. C. MacKINNON: The honourable member can take a case before a court one day, and a decision will be made. We will then know. I claim that my explanation is the proper one, and it is the meaning which the Parliamentary Draftsman intended it to have. The only way we can be certain about these matters is for a person to take a case to court and obtain a decision.

The Hon. N. E. Baxter: Tell me where it emanated.

The Hon. G. C. MacKINNON: It emanated from a common practice. The common practice has been put into words, because that is what has been done for a great number of years.

The Hon. R. F. CLAUGHTON: I am not a lawyer, but I would have to concur with the interpretation given by the Leader of the House. If Mr Baxter is really genuine about his concern, he would need to add words to this clause to the effect that no person may be permanent head of more than one department.

The Hon. G. C. MacKinnon: You have to influence him to do it.

The Hon. R. F. CLAUGHTON: That is what would be necessary to clarify the position. If he does not make that move, we can only believe that his feelings about it are not strong.

Clause put and passed.

Clause 27 put and passed.

Clause 28: Senior Offices—

The Hon. R. F. CLAUGHTON: I oppose the clause. There are two reasons for this stand, one of which we debated earlier on the question of "senior office" when we were discussing the definitions in the Bill. The second reason I wish to explain now. It relates to the principles I would like to see as the basis for the Public Service. Amongst those principles are the independence and impartiality of the members of the Public Service.

In this clause, which gives the right to the Governor to establish an office and to cancel an office, there is potential for politicising the Public Service and ensuring that it loses its independence and its impartiality.

If a person appointed to one of these offices declared under this provision is vulnerable, and if he does not do what is requested of him by the Government, no matter what the reason, then by a simple act he may be dismissed from office. That must be clearly seen as placing the public servant in a vulnerable position. I believe it goes very much against the sorts of principles upon which the service ought to be established.

It may well be that the Government desires to establish what has been euphemistically called "flexibility". Members must be aware of what consequences may flow from that facility. If someone implants greater flexibility into the Public Service and then causes a high politicisation of the service, his loss is far greater than his gain. Once this starts at high levels, the politicisation and insecurity can permeate right down into the lower echelons of the service.

For those sorts of reasons I am opposed to this particular clause.

This is one of those areas where I see value in the idea, but the execution of the idea has been unfortunate. If we are permitted longer consideration of this problem we may be able to arrive at a better proposition. Until we do that, this clause should be opposed.

The Hon. G. C. MacKINNON: I am afraid that the attitude of the Australian Labor Party to the civil servant has become retrogressive. The party has not brought itself up to date with facts. I mentioned this aspect yesterday. I do not wish to upset anybody and bring down a storm of debate. Until recent years, in most businesses of any size, the majority of the people were persons with very modest scholastic attainments. The facilities were not available for them to attain a high degree of scholastic attainment. That is why seniority became important in these fields. We spoke about that aspect yesterday.

The Civil Service has changed considerably in recent years. Within the Civil Service now there is a great number of ambitious young men with very high professional qualifications. They see no problems about moving into or out of the service. The service is in an infinitely more mobile situation. In fact, the whole of society is infinitely more fluid and more flexible. These people are looking for the sorts of opportunities offered. Therefore, the stepping-stone arrangements that were adhered to in the past are regarded by the rank and file as unimportant. They are seeking other avenues of promotion. It is in answer to this demand that the position of "senior office" has been created.

We spoke about this situation recently. There are people who are being paid more than the permanent head. This has called for a designation. I listed some designations yesterday, and these will be known as "senior office".

The attitude to the Civil Service has changed in recent years. There is a desire for change. I sincerely hope that the Committee would not agree to the deletion of this innovation. The Government believes it is a good one. It is highly desirable, and it ought to be retained.

The Hon. R. HETHERINGTON: I sympathise with what the Government is trying to achieve. However, I believe this clause has possible dangers in it.

I gather from what the Minister said yesterday that a senior officer would be somebody appointed next to a permanent head. I am not sure whether that is intended in the Bill. I am not sure whether a senior officer will be doing what the Government intends.

In my opinion, the words "the more responsible administrative or professional . . . functions of the Public Service" are not particularly precise. Perhaps the words have more precision than I know. I am a little perturbed by this kind of thing.

I understand that a separate office might be declared, and a person appointed to it. When that person moves out of it for reasons of his own, it may not be decided to continue the office. It may have been an office that was peculiarly suited to a particular person.

The wording of the clause does provide the opportunity for a senior office to be declared and a senior officer to be appointed to that office, although he might still in his own mind be doing a good job and might not want to move out of it. It could be possible for the office to be abolished and I presume therefore that the rank of the officer would then revert to something else. If the Minister can assure me that this is not in the clause I would feel much happier.

I would be pleased if the Minister did not accuse us merely of trying to pour cold water on anything new the Government is trying to do. We are not unsympathetic and certainly I want to ensure we have an efficient Public Service, because an efficient Public Service is most important in our modern political system. As far as I can see generally we have one, and I want to keep it that way.

However, when something new is suggested, it is not reactionary or retrogressive to question it, to look at the words involved, to ask whether the clause is doing what the Government intended it to do, or to suggest that there may be some danger. After all, I have been told on a number of occasions that this is a House of Review. I want to review the clause. The Minister has gone part of the way towards satisfying me, but not all the way. The wording of the clause leaves the opportunity for abuses and the Government should consider whether this is the case or whether I am misreading the words.

The Hon. G. C. MacKINNON: Mr Hetherington is imagining that something is new, when it has been in existence all the time. For instance, at present it is possible to abolish a position and declare surplus a position, whether it be that of a junior typist or a permanent head. The position then no longer exists. The only new thing we are allowing for is the new designation and "term appointments". The Bill introduces a new concept of more responsible positions being designated as senior offices.

The Hon. R. Hetherington: How responsible is "more responsible"? It is vague. More responsible in comparison with what?

The Hon. G. C. MacKINNON: That is a question like the one Mr Tozer asked and the Deputy Leader of the Opposition knows the answer as well as I do. This concept has two principal objectives, firstly, to enable term appointments when and where necessary in the higher administrative and professional posts, and secondly, to reduce the volume of Executive Council papers, with appointments, promotions, etc., below senior office being made by the board.

Under the first point, provision has been made for term appointments not exceeding seven years. It is anticipated that such appointments will be on a limited scale in selected positions with the majority of cases being normal career appointments. These selected positions would include those where a particular professional skill or special experience is necessary. Appointments to these positions would not be regarded as being in the normal career stream of the Public Service. Yesterday I gave as an example the Cockburn study.

With regard to the second point, it is essential to have effective and easily recognisable means of providing a line of demarcation between those appointments which require the approval of the Governor and those appointments that may be made by the board.

Currently those appointments and promotions, which require approval by the Governor, are determined partly on the divisional structure of the Public Service and partly on salary rates. This system is somewhat cumbersome and difficult to follow.

The senior office approach provides a suitable alternative which substantially streamlines the administrative process.

The total number of senior offices will be small and will include only some senior positions—not the permanent head—in a department.

Members will recall that yesterday I gave some examples of that. In the Public Works Department it included the Director of Engineering and the Principal Architect, and in the Department of Industrial Development the senior office would be the deputy co-ordinator.

It should be noted that the terms "Permanent Head", "senior office", or "senior officer" will not be used as a title for individual positions. As shown in the above examples, each position will carry its own individual title identifying the position within the framework of the particular departmental structure.

The "senior office" concept relates only to the administrative machinery for appointments and promotions. It does not relate in any way to the questions of classification or salary levels of the positions concerned, nor does it involve any changes in the special division or the existing Salaries and Allowances Tribunal coverage.

The Hon. R. F. CLAUGHTON: It is unfortunate that when replying to my earlier remarks on the clause the Minister saw fit to be denigrating about them. I thought I was giving a sober and rational view.

The Hon. G. C. MacKinnon: I was very careful to say I did not want to denigrate—

The Hon. R. F. CLAUGHTON: The Minister did not have to, but he saw fit to do so. I thought I had indicated that we saw value in what the Government was proposing and that our concern was about the way it was expressed in the clause. That is different from being opposed to the concept.

The Hon. G. C. MacKinnon: Would you explain a point to me? How can your calling us conservative not be denigrating, but when I say—

The Hon. R. F. CLAUGHTON: When have I ever called the Minister conservative?

The Hon. G. C. MacKinnon: On numerous occasions.

The Hon. R. F. CLAUGHTON: If the Minister were to check he would find that it would have been on only rare occasions.

The Hon. G. C. MacKinnon: Let us not make it personal. When your side refers to our being conservative—

The DEPUTY CHAIRMAN (The Hon. T. Knight): Order!

The Hon. R. F. CLAUGHTON: We are dealing with the Bill and—

The Hon. G. C. MacKinnon: I am being serious. I want to know the difference.

The DEPUTY CHAIRMAN: Order! The honourable member will continue without interjections.

The Hon. R. F. CLAUGHTON: Thank you, Sir. I have been attempting to deal with the legislation.

The Hon. G. C. MacKinnon: I think you are retrogressive. I am not insulting you.

The Hon. R. F. CLAUGHTON: We are attempting to be co-operative about it.

The Hon. D. K. Dans: We could call you Tories.

The Hon. R. F. CLAUGHTON: The objection I have made concerns the way the provision has been expressed. If the matter could be given longer consideration and further inquiries could be made about it on a wider basis, it may well be possible for us to come up with a better expression of what we are trying to do.

The Public Service is not a business any more than Parliament is a business. In the process of government there must be checks and balances. The Public Service cannot operate in the same way as a business can operate. That is in the nature of the animal itself.

The Hon. G. C. MacKinnon: I wish you would underline that in your speech, because I get complaints that the Public Service should be more businesslike. I would like you to repeat that, because that is the criticism I get.

The Hon. R. F. CLAUGHTON: I wish the Minister would keep to the subject of the debate. People outside complain about all sorts of things and often the Minister has said, "I can understand your problem, but this is the fact." What we are doing is presenting the facts of this issue, not someone else's objection which has been voiced merely because someone was not able to get his own way on a matter.

The Hon. G. C. MacKinnon: Good point!

The Hon. R. F. CLAUGHTON: In any Government, checks and balances must exist and so it is not possible to be free in what is done. All I am saying really is that to me the clause provides an opportunity for the politicisation of the Public Service. I do not think any of us in this Chamber would want to see that happen—at least I would hope not. If there is some other way to approach this matter, I think it should be taken. I intended to move for the deletion of the clause but I will not press it. It has given me an opportunity to express my thoughts. I do not have an alternative proposal on the notice paper.

The Hon. G. C. MacKinnon: I have tried to explain it.

Clause put and passed.

Clause 29: Appointment of Permanent Heads and Senior Officers—

The Hon. J. C. TOZER: Whereas Mr Claughton and Mr Hetherington saw dangers in the preceding clause, this is the clause which I believe is fraught with danger. The particular words I find rather disconcerting are—

> On the recommendation of the Board, the Governor may appoint any person, whether an officer or not, to fill a vacancy in the office of a Permanent Head or a vacancy in a Senior Office.

It is my feeling that this provision, used indiscriminately and unwisely, could result in the introduction of what I will call political appointments. The grave danger lies in the possibility that a Government or a particular Minister would introduce such an outside appointment.

I know the appointment is to be made by the Governor on the recommendation of the board, but I think it could be quite disastrous.

A number of such appointments were made in Canberra in the period 1973-1975. I have no doubt some of the men appointed were quite brilliant but they were not experienced in the matter of government, or the tradition of the Civil Service being completely divorced from politics and always steering a middle path in advising the political chiefs where the Government stood or what were the rights and wrongs of a situation as it affected the administration of government. I think this clause introduces a grave danger.

There is also the point that we must never let such appointments get out of hand, because clearly they would contribute largely to the destruction of the career service aspect of the Public Service, where men, through diligence, study, and hard work over many years, look forward to attaining the top rank in the service. So clearly indiscriminate use of this provision could also upset that aspect.

I am not arguing about subclauses (2), (3), and (4). The only words which worry me are those I have quoted. In qualification of what I have said so far, I do not mind those words remaining but it is my genuine hope that the provision will be rarely used, and used only for what appear to be essential needs. I am divorcing these comments from the comments I will make in regard to clause 30.

The Hon. G. C. MacKINNON: I feel sure I can allay the worries of the honourable member. Section 24 of the present Public Service Act reads—

> If at any time in any special case it appears expedient or desirable in the interests of the Public Service to appoint to any Division some person who is not in the Public Service, or who, being in the Public Service, holds an office exempted from the provisions of this Act, the Governor may, on the recommendation of the Commissioner, appoint such person accordingly, without either examination or probation . . . .

And so on. There is nothing specifically new about it.

The very important words the Committee should note in clause 29(1) are, "On the recommendation of the Board". In other words, it cannot be a political appointment. It has to be made on the recommendation of the board. That has a second advantage and protection, which according to Mr Tozer is necessary; that is, it does not interrupt the career structure of the service.

The board, of course, is properly jealous of the career structure, and should always be seen to be so, because that is what attracts good, lively candidates, and one would hope in its own interests the board would never forget that career structure. Having had some experience of this, I know one is loath to bring in people from outside because it upsets the people in the chain; and there must be a marked advantage in doing it.

Let us assume there is a developing area in the State, it is desirable to appoint someone with very specific managerial skills to manage the development of that area for a period of five, six, or seven years, and it is not desired that the person move out of that situation: the area is growing very rapidly—too rapidly for the local authority or local authorities to cope with building new towns, industries, and the like. I think the analogy to which I am referring is already coming to members' minds. That is a classic case where a person would be put in that senior position, because he would be lifted out of the career structure, appointed for a period, and expected to remain in that position.

There is a number of such examples. I gave one yesterday in relation to a scientific officer. There is a greater number of these in the present day, but nevertheless not a large number in comparison with the overall Public Service. There would never be a large number of such appointments, and I think it is desirable that they never be in large numbers. If they become an appreciable percentage of the Public Service, we will want to find another solution.

The point the honourable member raised ought to be considered and remembered, but I assure him such appointments will be carefully considered and his worries can be set at rest. The checks and balances so loved by Mr Hetherington are well and faithfully in evidence in the whole situation.

The Hon. R. F. CLAUGHTON: I have noted the comments the Premier made in respect of this matter in the Legislative Assembly, which are reported on page 2935 of *Hansard*. He said—

> There is no suggestion of wholesale appointments outside the Public Service.

I took that at its face value, although I had earlier made the same point as Mr Tozer, that there had to be concern for the morale of the Public Service in making appointments from outside.

I would like to mention the R. H. Doig Executive Training Centre at Mt. Lawley, which is extensively used by the Public Service for training its own personnel. I had a short conversation with the members of the Public Service Board who have been in the Chamber during this debate, and they explained to me in more detail what took place at that centre. I express my thanks to them for the information they gave me.

We do have a highly active Public Service training system, and the Public Service is well aware of the need for officers to maintain their knowledge and expertise in the field of management and organisation. We would not like to discourage young people from entering the Public Service and taking on these courses. However, if promotion is effected by bringing in outside people, it would defeat the whole purpose of this training scheme.

I do not intend to proceed with the amendments in my name on the notice paper, because they have been dealt with in the debate on the earlier clauses.

The Hon. GRACE VAUGHAN: I refer to the provision in subclause (2) which states that in making an appointment the Governor may, on the recommendation of the board, specify a term of appointment not exceeding seven years. I presume this will apply to future appointments.

The Hon. G. C. MacKinnon: Yes. Everything that has been done under the existing Act is validated, and will continue to be in force.

The Hon. GRACE VAUGHAN: What will happen at the end of the specified seven-year term? Will the position be advertised?

The Hon. G. C. MacKINNON: That depends on the person concerned. For instance, the Director of the Department of Conservation and Environment did not seek a renewal of his appointment; but the Conservator of Forests has consistently sought a renewal of his term. His term has been seven years, and that has applied for a great number of years. The Conservator of Forests was appointed to a position of great authority, so as to remove him from the influence of politics when, years ago, a great deal of valuable land was taken up for farming. At the time it was considered not proper to do that.

This depends on the wishes of the Government. To some extent it depends on the wishes of the individual concerned and upon the exigencies of the service. In other words if the appointment was for a term of seven years and the job was completed, the officer concerned could be returned to the university or the engineering firm from which he came.

The Hon. GRACE VAUGHAN: When the term has expired, it is a matter of the Public Service Board arriving at a decision on whether the Government should respond to the wishes of the officer holding the position. Alternatively, if for some other reason the Public Service Board did not wish to retain the services of the officer concerned, would the position be advertised? Furthermore, under subclause (4) could the board transfer the officer to some other position?

The Hon. G. C. MacKINNON: Reference has been made to a seven-year term, but that is the maximum. It could be a two or three-year term. It may be that the job has been completed, and there could be a change of Government. There could be a very firm desire not to continue the office, or the incoming Government might decide it was contrary to its policy to continue the office and so it allows the appointment to run its term. There could be a whole host of reasons. Perhaps the honourable member will clarify the query she has raised, so that I can understand it fully.

The Hon. GRACE VAUGHAN: What I am putting to the Minister is that provision has been included in the Bill to cover various situations. One could understand the termination of an appointment where the job has been completed, and where the term has expired.

Let us suppose that a permanent head has been appointed and at the end of his seven-year term he wishes to remain in his position, but the Government does not require him. He might have been appointed by a previous Government, and might have been regarded as a political appointee; or it might not have anything to do with political philosophy.

The Hon. G. C. MacKinnon: It might have something to do with competence.

The Hon. GRACE VAUGHAN: It might have something to do with the Government's assessment of competence. The incumbent might think that he is very competent. I agree that it is not possible for everything to be set out in the Bill.

Sitting suspended from 3.46 to 4.04 p.m.

The Hon. G. C. MacKINNON: Again, this is an open-ended clause. It is necessarily so as a result of the wide range of reasons some of which have already been canvassed. One we have not canvassed is where a departmental officer in the normal career structure is made, say, a permanent head and for whatever reason the Government of the day considers he should no longer be allowed to retain that position; in other words, he is there for a term. In that case the officer would go back to the normal framework of the department that he left. The Minister would make a recommendation to Cabinet and the matter would, of necessity, go through the normal channels.

The Hon. R. F. Claughton: This is covered under subclause (3) where they come from the Public Service.

The Hon. G. C. MacKINNON: That is right. It is difficult to forecast exactly what the system would be, except that as in all cases like this the matter would be the subject of extremely close examination by the Chairman of the Public Service Board, perhaps the board itself, and the Minister; and possibly even Cabinet would be involved. That is what happens, and I am referring not only to my own experience but also to cases I have looked up on files when members opposite were in government.

Knowing Mrs Vaughan's background I take it she is asking whether all these human considerations are taken into account. The answer is that they are, because this is a most serious matter at times, although at other times it is not. The officer could say, "I have finished the job; now I am going to the United States" or wherever.

Clause put and passed.

Clause 30: Particular employments—

The Hon. J. C. TOZER: I will not put forward an argument in respect of this clause. In the second reading debate I drew attention to the fact that I would make comments and raise some questions on the matter of contract employment..

When re-reading the Bill immediately before the suspension I noted that what I was talking about is not included in clause 30, which enables the board to employ people under certain conditions. I was speaking of a ministerial contract, which has nothing to do with the sort of contract in this clause. Obviously the board needs power to employ consultants, marketing agents, advertising agents, or whatever. It must reserve unto itself the right to engage some form of contract employment. I do not argue with that.

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

> Page 16, line 32—Insert after the word "may" the words "after consultation and agreement with the Civil Service Association or any other relevant union".

I am asking that the Civil Service Association or any relevant union be consulted in the matter of casual employment of persons outside the scope of the Public Service. It seems to me such consultation should occur as a matter of course and, therefore, I find it difficult to understand the Government's reason for not accepting a similar amendment in another place.

The objection raised in the other Chamber was that if the amendment were included consultation with the union would be required in respect of every appointment of this sort. Of course, that is not intended, and the Government would very well understand that. The intention is that consultation would occur and then an understanding about the conditions and the nature of the tasks involved would be reached with the union. Once that understanding was reached the specific appointments could be made. Such consultation would not have to be entered into every time an appointment was made.

We all know that in order to provide the things we wish to provide in legislation, time and time again it is necessary to write into measures provisions which sound horrific and repressive, and it appears all sorts of dreadful things are possible under them. That occurs because it is the only way in which it is possible to cover all eventualities.

Of course, in those cases, as in the case before us, it is not intended that the provisions be taken to the extreme. I am sure the Government understands that is the situation. Certainly the Civil Service Association views the amendment in that light, and I am sure the Public Service Board understands what is the intention. It has been said that discussions would occur; however, we want this written into the Bill to ensure that they do because assurances are not always sufficient. As a result of the intention expressed by the Government, it should have no quarrel with the amendment.

The Hon. G. C. MacKINNON: I hope the Committee will not accept the amendment, because the board's authority to employ staff of any kind would be subject to consultation and agreement with the Civil Service Association. That is the meaning of the amendment. That would be an impracticable and completely unwarranted arrangement, preventing the board from exercising its statutory responsibility in respect of approving and appointing persons.

A fear has been expressed in some quarters that this particular clause may lead to a proliferation of casual appointments. It has not done so in the past, and there is no reason that it should lead to this in the future. It is necessary, of course, to have the term "part-time, or casual" contained in the Bill because there is a number of situations in the service where there is need for casual and part-time employment. There may be an extra load of work in a particular locality. Part-time people are employed to meet a whole host of situations—sometimes the situations arise rapidly. In country areas, there is always likely to be a situation where people are needed for a couple of days a week.

The Public Service cannot manage without part-time and casual employees. They have not proliferated in the past. There is no reason that they should in the future. The people running these organisations are reliable and efficient. Therefore I hope that the Committee will not accept this amendment.

The Hon. D. W. COOLEY: There is a principle here which the Leader of the House should have regard for. That is the question of consultation with the union, but not so much in relation to the employment of people. I do not think any union would be presumptuous enough to expect that—maybe the Waterside Workers' Federation would. In most cases, unions do not determine who shall be employed or how they shall be employed. Most unions, including the Civil Service Association, work under an award or an agreement. I think it is an agreement in this case.

Surely there should be some consultation with the association as part of the Act says that the board shall determine the conditions of employment, including rates of remuneration, of such persons either generally or in particular cases.

It is contrary to industrial law for parties to contract outside an award or an agreement. I would think, under these circumstances, there would be contracting outside the agreement. In those circumstances, I think at least the approval of the association ought to be obtained in respect of working conditions and remuneration so far as those aspects relate to their agreement.

The Hon. G. C. MacKINNON: There is no argument with what Mr Cooley said. That course of action is followed. If he looks at clause 3 of the Bill he will see that it reads—

> This Act shall be so construed and administered that, where in any case any provision of this Act is inconsistent with or repugnant to any provision of the Public Service Arbitration Act, 1966, the lastmentioned provisions shall prevail—

With regard to the remuneration provisions mentioned in clause 30—"the terms and conditions of employment, including rates of remuneration" —the board is in constant consultation with the Civil Service Association.

The amendment Mr Claughton is seeking is in relation to the actual appointment of people to part-time, temporary, or casual positions. He asks that the board should call in the Civil Service Association and have a conference with them about the matter. I am saying that is quite impracticable.

The sorts of consultations Mr Cooley is talking about go on all the time. Rates of pay, conditions, and allowances have the force of law. They are laid down by the Public Service Arbitrator. Consultations take place in relation to these matters. There is no doubt about that.

The Hon. R. F. CLAUGHTON: I do not think the situation is as the Minister says. Part of clause 30 reads—

> . . . the Board may—
>
> (a) employ persons on a full-time, part-time, or casual basis and determine the terms and conditions of employment, including rates of remuneration, of such persons either generally or in a particular case . . .

Obviously consultation with the union would be absolutely vital in these circumstances. To say that consultation takes place is not the same as ensuring that they take place in relation to this class of appointment.

As I said before, the intention is not that for every single appointment there should be a discussion. I would say the Minister knows perfectly well that that is not the intention. Unfortunately it is difficult to express this in a way that is unambiguous. The understanding of the Minister, and the point of view expressed by the Civil Service Association, are that the discussion would take the form of a general agreement on the nature of these appointments. In these specific cases, once consultations have taken place and agreements have been reached, the matters will be settled. There will be no disharmony and no dispute, and the Public Service will be able to operate smoothly.

We do not wish to create a situation similar to that which led to the strike in 1920. That strike took place because of these sorts of appointments. The people at that time were called "temporary employees". Their position has now been re-expressed as "temporary officers". In this Bill we are returning to that same class of appointment which led to that strike.

We do not wish to regress to former times. We have to remember that when this Bill is passed the old terms and conditions of appointment will be thrown into limbo. All of those aspects will have to be negotiated and rewritten. We are taking them all out of the existing Act. This is a completely new ball game, as the saying goes.

I think it is sensible to ensure that possibilities of conflict do not arise. I am sure the Public Service Board would approach this matter with as much goodwill as the Civil Service Association. This legislation has provided opportunities for conflict; but the association has taken a soft line.

In the issue of the journal I quoted in the debate previously, there was an unemotional discussion of the contents of the Bill. There was a full print of the Bill contained in that particular issue. The only complaint in the journal was that the Government had claimed consultation. It was said that very little consultation took place.

The Civil Service Association has approached these matters in a conciliatory fashion. I suggest that is how they will continue to approach their responsibilities in relation to the terms and conditions of employment. The least we can do is to ensure that there is a requirement that consultation takes place. I suggest the extreme interpretation of the proposal is not what would happen in fact. It would happen no more than it happens in other proposals in legislation that comes before this Chamber.

I urge members to support the amendment.

The Hon. G. C. MacKINNON: The sorts of consultations about which the member is talking do take place. There is no need to write them into the Act.

With regard to the terms and conditions of employment—whether or not the board will employ females on a particular range of jobs; whether they shall be under 20, or over 20; what sort of pay they shall receive—those matters are the subject of consultation. In the same way, when it is time for the regulations to be written, the Civil Service Association will be consulted. That is what the member was talking about.

Let us look at what Mr Claughton asks for in his amendment. As amended, the section of the Bill would read as follows—

> 30. Without limiting the generality of the powers of the Board as provided by subsection (2) of section 14, the Board may after consultation and agreement with the Civil Service Association or any other relevant union—
>
> (a) employ persons on a full-time, part-time, or casual basis and determine the terms and conditions of employment, including rates of remuneration, of such persons either generally or in a particular case . . . .

If the board wished to employ somebody for a particular task, it would have to go to the Civil Service Association and say, "Please can we appoint Mr Jack Smith to that position?" The union will say, "Yes, provided he is a member of the CSA", for argument's sake. Mr Jack Smith says, "No, I won't joint the CSA." The board would not have any agreement, and the board could not put him on. We will not accept that position.

Everything the member spoke about is already accepted and done. There is no need to amend. For that reason, I hope the Committee will reject the amendment.

The Hon. R. HETHERINGTON: Once again the Minister is employing the argument that because something is already done we do not need to have safeguards for the future. I do not accept this.

The Hon. G. E. Masters: He said consultation was already carried out. He did not say, "agreement and consultation".

The Hon. R. HETHERINGTON: In that case, I still think the "consultation" part should be written in. If the Minister had said that he would accept "consultation" and omit "agreement" I could understand him better.

The Hon. G. E. Masters: It already takes place. He said that.

The Hon. R. HETHERINGTON: That is the point I am making. I point out to Mr Masters that because consultation takes place now it does not mean that we should not write safeguards into the Bill.

I argued this matter when I was a member of the Staff Association of the University of Western Australia. I wanted the association to move for a statute of tenure. The association said we did not need one. It said, "Everything is going along nicely. The university is behaving properly, so why worry about it?" I said, "Now is the very time when we should sort out a tenure, to look after the future." In that year there was a tenure dispute, and it took seven years to work out a satisfactory statute of tenure.

The Hon. A. A. Lewis: You put it in their minds.

The Hon. R. HETHERINGTON: If we had gone ahead and established our tenure statute earlier we would have avoided all of those problems.

What I am saying is that because something happens it does not mean we should not write into the Bill that it should continue to happen. I cannot see what the Minister is objecting to. It would seem to me that if the board is going to employ a category of persons—part-time, and so forth—it should consult with the union and reach agreement. Every time it wishes to employ a new person in that category, it would not ring the union and say, "Do you accept this person?" The person would be employed under the agreement already reached. If the board wished to break new ground and employ somebody under different conditions, it would then have to seek agreement with the union. This is a sensible approach.

I hope we do not live to see the day when members in this Chamber regret that we have not written safeguards into the Bill—

The Hon. G. C. MacKinnon: If that happens, we will bring it back and amend it.

The Hon. R. HETHERINGTON: It may be too late.

The Hon. G. C. MacKinnon: It is never too late.

The Hon. R. HETHERINGTON: It has been found in other countries to be too late at various times when matters that could have been effected earlier have not been done. I think the amendment is warranted. I think it is sensible. I support it. I am sorry the Minister cannot see his way clear to accepting it.

As a matter of fact, I am wondering whether I will ever see an amendment moved from this side of the Chamber accepted by the Minister. I have been here for only 15 months, so I suppose there is still time. I will keep hoping.

Amendment put and a division taken with the following result—

Ayes 8

Hon. R. F. Claughton	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. F. E. McKenzie
Hon. Lyla Elliott	Hon. R. Thompson
Hon. R. Hetherington	Hon. D. W. Cooley *(Teller)*

Noes 16

Hon. N. E. Baxter	Hon. O. N. B. Oliver
Hon. G. W. Berry	Hon. W. M. Piesse
Hon. H. W. Gayfer	Hon. R. G. Pike
Hon. A. A. Lewis	Hon. I. G. Pratt
Hon. G. C. MacKinnon	Hon. J. C. Tozer
	Hon. W. R. Withers
Hon. M. McAleer	Hon. D. J. Wordsworth
Hon. N. McNeill	Hon. G. E. Masters
Hon. I. G. Medcalf	*(Teller)*

Pairs

Ayes	Noes
Hon. R. H. C. Stubbs	Hon. V. J. Ferry
Hon. Grace Vaughan	Hon. R. J. L. Williams

Amendment thus negatived.

Clause put and passed.

Clause 31 put and passed.

Clause 32: Applications by temporary officers to become permanent officers—

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

Page 17, lines 21 to 25—Delete subclause (1) and substitute the following—

(1) Any person employed in a Department of the Public Service other than as a permanent officer for a period exceeding five years, and whose duties are similar to those of a permanent officer or such as are proper for an officer on the permanent staff to perform, may apply to the Board for appointment as a permanent officer on the grounds that he is performing those duties satisfactorily.

This clause provides a process by which temporary employees may be taken on to the permanent staff. We felt the provision in the Bill was somewhat restrictive. People who are equally entitled to be appointed to the permanent staff remain outside the ambit of the clause. A great deal of the argument put forward by the Minister against my amendments has been that they are either too wide or too narrow. I am saying the same in respect of this particular clause.

I have attempted to express my amendment in a manner which is less wide-ranging than the amendment put forward in the Legislative Assembly, but which is more wide-ranging than the proposal contained in the Bill.

I refer members to the wording of the amendment. This proposal contains three tests for the appropriateness of the appointment of a person to the permanent staff. These tests are: The person must be performing similar duties to those of a permanent officer; those duties must be proper for an officer on the permanent staff, because sometimes a permanent officer performs duties which are not normally part of his occupation; and he must perform the duties at a satisfactory level. It must be remembered that the person has to be employed for a period exceeding five years. He must have been employed for that period so that he has proved he performs satisfactorily.

If we feel persons who are classified as temporary officers are entitled to access to permanent status, surely persons who are working in association with the Public Service, but who are not classified as temporary officers as set down in the previous clause, should have the right to apply also. He will not necessarily obtain the appointment, because the board must determine whether or not the appointment is made.

This is a reasonable request. The Government should broaden the clause in this small way so that it covers the people about whom I am talking.

I should like to point out to new members that if they want to deal with a paragraph of a clause, they must do so at the time the clause is dealt with, otherwise they will miss the opportunity. Having suffered that experience, I should like to advise new members of the action they should take.

The Hon. G. C. MacKINNON: I hope sincerely the House will not accept this amendment. It must be borne in mind that over 3 000 people work for the Public Works Department and they are not part of the Public Service. If we say any person employed in a department of the Public Service, other than as a permanent officer, may apply for appointment, we open up this clause to every wages man in the Public Service.

The Hon. R. F. Claughton: There are three tests. Wages staff will not satisfy the second test.

The Hon. G. C. MacKINNON: It could quite easily happen in a clerical position.

The Hon. R. F. Claughton: It can be seen that there will not be 3 000 of them.

The Hon. G. C. MacKINNON: That is true; but there could well be. Under the existing legislation any temporary employee who has been employed for five years or more may request placement on the permanent staff and he has the right of appeal to the Public Service Appeal Board if the appointment is not made. The amendment moved by the honourable member opposite broadens the clause considerably so that people employed on the wages staff of a Public Service department may be appointed also. In view of that, the amendment is totally unacceptable.

The Hon. R. F. CLAUGHTON: The Minister is putting a wrong construction on the matter. It does not include all of those people. The test contained in the amendment is that a person must be performing duties proper for an officer of the permanent staff. A person digging trenches for the Metropolitan Water Supply, Sewerage and Drainage Board would not come into this category. However, a person performing clerical duties could well come into it. That person should have the opportunity to apply for appointment to the permanent staff and he should have access to the appeal provisions. The number affected will be much more limited than the Minister is trying to put forward.

The Bill provides that temporary officers—we have not been given the total number of them, but it might be considerable—may apply for appointment to the permanent staff; but people who are performing jobs with all the characteristics of Public Service positions, and who are performing satisfactorily, are denied this opportunity. I do not think it is fair to discriminate in that way, and I hope the Committee will agree to the amendment.

Amendment put and negatived.

Clause put and passed.

Clause 33: Restrictions on certain appointments outside the Public Service—

The Hon. N. E. BAXTER: It appears to me this clause does away with ministerial appointments without the sanction of the board. For many years Ministers have made ministerial appointments of a temporary nature. During 1972-73 the Commonwealth Government made money available for the employment of certain people in certain positions for certain reasons. Those positions were filled by ministerial appointments, and were not subject to direction from the board. It appears to me that this provision will allow the board to dictate to the Minister if the Minister wishes to use Commonwealth money to appoint someone to a certain position to carry out a certain duty.

This clause will make it definite that a ministerial appointment must be according to the direction of the board. A sum of $30 000 or $40 000 could be made available for a specific purpose, and whilst waiting for the board to approve a temporary appointment, the specific purpose could disappear. An appointment for a limited period should not necessarily be under the direction of the board.

The Hon. G. C. MacKINNON: The honourable member is quite correct. The clause is aimed, in fact, at eliminating what came to be known as the "shadow public service". The clause provides that a person shall not be appointed to a public office, the duties of which are ordinarily performed by or within a department. Appointments to positions ordinarily filled by public servants must be under the Public Service Act.

I can recall a survey of ministerial appointments when it was found that a surprising number were doubtful with regard to their validity. Something had to be done. The Government believes this clause is desirable. There is a very real need to keep a lid on the Public Service, and not allow total proliferation. This is a tightening up of the position. I think that after further consideration the honourable member will agree.

The Hon. N. E. BAXTER: This provision will stop ministerial appointments unless they are approved by the board. The Minister said that some appointments were of a doubtful nature, where there was no validity for those appointments. I would like him to detail cases where there has been no validity for appointments.

I cannot imagine any Minister appointing anyone unless he has a valid reason. I think it was because Commonwealth money was available that the system of ministerial appointments was introduced. However, that money has been practically cut off and it is unlikely that further ministerial appointments will be made, because Ministers have to work within their budget.

The Hon. G. C. MacKINNON: I can understand the worry of the member. I can recall the situation with which I had something to do where both the Education Department and the Medical

Department were loaded with work because of extra money available from Canberra. We had to employ additional people to handle it.

This is a matter about which Mr Claughton spoke yesterday. If Parliament does not include, say, the Health Act, then that Act will not be subject to these provisions. It could well be that it might be considered desirable that the Health Act should not be subject to these provisions.

The Hon. N. E. Baxter: What about the Community Welfare Act?

The Hon. G. C. MacKINNON: That could be included too. Limitations will be placed only on those Acts which Parliament decides should be under the regulations.

The Community Welfare Act, under which additional appointments could be necessary, could be excluded. However, the power will be back where it ought to be to either include or exclude Acts of Parliament. That came out loud and clear yesterday. I thought the clause would be desired and welcomed by members.

The Hon. J. C. TOZER: I believe Mr Baxter is balking at shadows in this case. It is clear to me that any ministerial appointment will be working within the Public Service structure. It is important that the Public Service Board should give approval to what the Minister plans to do; otherwise, I believe a person in that position would have an untenable office.

Clause put and passed.

Clause 34 put and passed.

Clause 35: Appeals against recommendations for promotions—

The Hon. W. M. PIESSE: I am very unhappy about this clause and I ask the Minister to give me an explanation as to why subclauses (3) and (4) are included. I would even go so far as to ask the Minister to consider the deletion of the subclauses.

My understanding is that the Government is not happy with compulsory unionism. I see no reason for the inclusion of subclauses (3) and (4). Clause 35 (1) reads—

> A permanent officer who was an applicant for a vacant office and who considers he has a better claim to promotion to the vacancy than the officer recommended for promotion may, subject to subsections (2) and (3), appeal against such recommendation . . .

Subclause (3) then reads—

> (3) Where in respect of the vacant office there is a relevant union, a permanent officer applicant has the right of appeal under this section—
>
> (a) if he was, at the time he made his application for promotion to the vacancy, a member of the relevant union;
>
> (b) if he was not, at that time, a member of the relevant union but is employed in the Department in which the vacancy occurs and all the other applicants for promotion to the vacancy were not, at that time, members of the relevant union; or
>
> (c) if, at that time, he was not a member of the relevant union but held a certificate of exemption . . .
>
> and not otherwise.

In other words, a person cannot appeal if he is not a member of a union unless he has a certificate of exemption. Subclause (4) defines a "relevant union" and reads as follows—

> . . . means a union that is party to an award or industrial agreement under the Industrial Arbitration Act, 1912 or the Public Service Arbitration Act, 1966 whereby the terms and conditions of employment appertaining to the vacant office are or will be regulated.

As an example, in this State we have an association of professional engineers. The members of that association are not members of a union. Unfortunately, the association has not been recognised in this State, but it is recognised in other States. Any member of that association, who is not a member of the Civil Service Association, cannot appeal against what he deems to be an unjust promotion. It will be necessary for him to be a member of a union. I would like to know why the provision has been included, and I would be happy to see subclauses (3) and (4) deleted.

The Hon. R. F. CLAUGHTON: I believe the matter to which Mrs Piesse has objected was attended to in the other place when the words "relevant union" were added to this particular clause. To call a group an association is no different from calling it a union.

The Hon. W. M. Piesse: Yes, it is.

The Hon. R. F. CLAUGHTON: I would not think so, as long as it was registered in the Arbitration Court.

The Hon. G. C. MacKinnon: Does the honourable member appreciate that it is too late for him to move his amendment?

The Hon. R. F. CLAUGHTON: We have not yet made any move on the clause. Mrs Piesse did not move an amendment.

The Hon. G. C. MacKinnon: We have discussed the provisions on page 19, so I believe the Deputy Chairman will disallow any move to go back to page 18.

The Hon. R. F. CLAUGHTON: No, we are still speaking to clause 35. I was watching the situation extremely closely.

The Hon. G. C. MacKinnon: Would you refer the matter to the Deputy Chairman?

The Hon. R. F. CLAUGHTON: The only ruling he could make is that my amendment is still in order.

The DEPUTY CHAIRMAN (the Hon. T. Knight): I would like to hear the honourable member who has the floor. Other members will have an opportunity at the conclusion of his remarks.

The Hon. R. F. CLAUGHTON: Thank you, Mr Deputy Chairman. I am sure the Minister is doing his best to confuse the issue. Having got caught once a long time ago, I shall not be caught again.

Point of Order

The Hon. G. C. MacKINNON: Mr Deputy Chairman, would you advise me whether it is in order for a member to go back a whole page in order to discuss his amendment?

The DEPUTY CHAIRMAN (the Hon. T. Knight): We are discussing clause 35, and this clause covers two pages. In my opinion there is no point of order.

The Hon. G. C. MacKINNON: I accept your ruling, Mr Deputy Chairman.

Committee Resumed

The Hon. R. F. CLAUGHTON: I believe the Leader of the House was just being frivolous.

The Hon. G. C. MacKinnon: No, it is a matter that should be clarified.

The Hon. R. F. CLAUGHTON: The Leader of the House has been here long enough to be aware of the Standing Orders.

Mr Pratt, who has been in the teaching service where appeal procedures also are an established fact of life, will understand the point I wish to make in relation to this clause. Where an appointment is made to a position of a lower status than that of some other officer in the same department, it is not open to that other officer to appeal against the appointment because it is not seen as a promotion. On the other hand, any other officer in any other department does have the right of appeal. So we are excluding a section of the Public Service in a very unfair and *ad hoc* way. There seems to be no sound reason for this. It is manifestly unfair that the colleagues of such an officer who may be scattered throughout the rest of the Public Service have every right to contest an appointment to such a position in his department. Such an officer would feel very disadvantaged about the situation.

It can happen that by accepting a position at a lower salary and at a lower grading, a channel of promotion can open up. If such promotional opportunities open up, all those persons of equal or higher efficiency and ability within the Public Service should have the opportunity to apply for such a position or to appeal against the appointment of another officer to it. That situation applies, except in the case of an officer who wishes to appeal against an appointment to a lesser position within his own department.

This amendment was proposed by the Civil Service Association. Apparently this inequity has long been a cause for concern in the association. At this stage we have an opportunity to redress an imbalance in the system. If promotional opportunities are open, they should be open to all persons who believe they have the efficiency, the skill, and the ability to warrant appointment. That is the purpose of the amendment. I move an amendment—

> Page 18, lines 29 and 30—Delete the word "promotion" and substitute the word "appointment" in each line.

The Hon. G. C. MacKINNON: As I understand the present situation, there is a right of appeal outside the particular department. For years the Civil Service Association has been after appeal rights within a department so that if an appointment is made—whether or not it is a promotional appointment—it can be appealed against. This would mean literally that every appointment could be appealed against. If one's secretary goes on holidays and someone else is appointed to take his place, the appointment can be appealed against. For that reason no Government has ever accepted this proposition. For very obvious reasons the Civil Service Association has not been successful in its endeavours.

I can remember on one occasion a person was employed in an acting capacity for 12 months while the appeals were resolved. That is a quite absurd situation. How much worse would it be if there were appeal rights on every appointment? This could mean even a temporary appointment could be appealed against. A major

difficulty has been the definition of the words "promotion" and "appointment". I sincerely hope this amendment will not be passed.

The Hon. R. F. CLAUGHTON: I do not think the Leader of the House was quite fair in the way he expressed his opposition to the amendment. Obviously, if a position is open, all those officers who feel they are eligible for the position will apply for it. Only rarely would an officer seek to apply for a position at a lower level. This would happen only when such a position would open up other opportunities.

When a position is advertised, all eligible people may apply for it. When an appointment is made then the conditions of appeal apply. My amendment would open up the matter in the way the Leader of the House has suggested. Surely when such a promotional opportunity opens up, we would wish people who have the qualities necessary to fill such an appointment to have the opportunity to appeal against an appointment. That is all we are asking. It is raising a red herring to say that the amendment would open up the opportunity for many more appeals. That would not be the case.

Amendment put and negatived.

The Hon. R. F. CLAUGHTON: My next amendment relates to lines 35 to 37 on page 18 of the Bill. We now come back to the discussion which ensued earlier about the position of senior officers. The Leader of the House told us the type of positions which would come within the senior office classification. After yesterday's debate I read the third reading speech to this Bill made by the Premier in another place, and I saw the information given there. Normally one does not look to third reading speeches for an elaboration of matters raised during the Committee stage of a debate, but that was the case on this occasion.

Yesterday I referred to the gap that exists in the grades from the top of the C-II-11 grade up to the category that will now be covered by the classification of senior office. These positions will not now be open to appeal.

When the Leader of the House was speaking, he told us that the Public Service had expanded. Obviously the appointment of heads of departments should not be open to appeal. Such appointments are the prerogative of the Government as are appointments to other top positions in the department. The Public Service has grown to such an extent that instead of a limited number of appointments in this category, there are now at least 1 240 positions in the administrative and professional divisions. That is a very large number, and all the appointments to these positions are excluded from the right of appeal by other officers in the service, both professional and administrative.

This is not a matter that can be corrected by way of conciliation and inclusion in the regulations. It must be dealt with in the appeal provisions in the Bill now before us. The situation has arisen because of the natural growth of the Public Service. Now far more positions are not open for appeal than was intended originally when this exclusion was first introduced many years ago. The intention of this amendment is that all those appointments not made by the Executive Council—and that is the principle applying now—shall be open for appeal. The principle is contained in the present legislation, and it should be included in the measure before us. I move an amendment—

> Page 18, lines 35 to 37—Delete subclause (2) and substitute the following—
>
> (2) A right of appeal shall exist in respect of all offices other than the office of permanent head or an office designated Senior Office.

The Hon. G. C. MacKINNON: This is another provision that the Civil Service Association has been anxious to have included for a number of years, and which successive Governments have been anxious to keep out. By the time officers reach the level we are speaking of, they have sorted themselves out fairly well. When an appointment to such a position is to be made, the people considered for it are usually well and truly on the promotional ladder, if I may put it that way. It is not desired that such appointments should be subject to all sorts of extraneous appeals and delays. Currently the rights of appeal apply only to positions in the clerical division, the general division, and the lower levels of the professional division.

For example, I think it is only the bottom two rungs of the engineering ladder, that are appealable. There is no right of appeal in the middle and senior positions of the professional division. Positions in the administrative and special divisions are not subject to appeal. The amendment seeks substantially to extend the right of appeal to all officers other than the permanent heads.

The Hon. R. F. Claughton: Other than those appointed by the Executive Council.

The Hon. G. C. MacKINNON: That is right. It is a long-standing belief of the board that appointments to middle and senior positions are the managerial prerogative of a permanent head

or the board and should not be subject to appeal proceedings. This view is reiterated in relation to the current request by the association to lift the appealable ceiling. The inclusion of the words "or an office designated Senior Office" is an error, as elsewhere other amendments have the effect of deleting the "Senior Office" concept.

What it boils down to is whether or not we should have the right to hire and fire at these levels. I happen to believe we do, and I ask the Committee not to accept the amendment.

The Hon. R. F. CLAUGHTON: This is one area which demonstrates it would have been better had we had some form of inquiry to determine the various issues.

The Hon. A. A. Lewis: Not if it went on like this Bill has in Committee!

The Hon. R. F. CLAUGHTON: I am sorry if the honourable member finds it tedious, but there is no other way in which it can be done. We are well paid to come here and deal with difficult subjects and I, for one, am not prepared to shirk my responsibilities simply because a matter is rather dry and tedious.

It is very difficult for us from our perspective in this Chamber to deal with a matter of such importance as this. It can be seen by the votes we are judging matters simply on party lines, and that is not the best way of dealing with the problem.

As I indicated, the Executive Council appointments were the principle on which the appeal rights were and have been judged. Because of the increase in the number, we are changing the rules. Is the Government's proposal the best way of handling the matter, or is there some justice to the claim made by the association that it should have appeal rights in these positions as well? I do not feel I am competent to judge on this point; I have put a proposal to the Committee and explained it as best I can. I admit I do not have the knowledge which enables me to make a clear judgment on this proposal, and I do not believe other members are any different. That is why I have suggested the passage of the Bill should be held over so that something could be done along those lines.

The Hon. J. C. TOZER: I do not believe Mr Claughton's amendment has any substance. This matter has been handled perfectly efficiently by regulation to this time. The Minister may be able to confirm that, while the clerical grades can appeal, once one gets almost half-way up the level there are virtually no appeals.

The last annual report of the Public Service Board reveals the total number of appeals since 1974. In 1974-75, there were 104 appeals; in 1975-76 there were 69 appeals; and, in 1976-77 there were 85 appeals. The 85 appeals related to 71 positions of which only eight were upheld. In other words, appointments in the first place are fairly carefully made.

This business of establishing greater efficiency is a very difficult one. People do not appeal unless there is some very good reason. It is my understanding that in the time the Public Service Act has been in force only one engineer has ever appealed. He was at a very junior grade and I believe his appeal was described as "frivolous". Provision is made for the Appeal Court to penalise people who make frivolous appeals.

I agree with the Minister that it can be most frustrating within a departmental office that after a long and tedious appeal procedure, a relatively junior officer who has been holding down a position for some 12 months and doing the job very well finds he is relegated from office because an appeal against his appointment has been upheld.

It is a cumbersome and annoying arrangement but at the same time it is quite essential to ensure there are no blatant wrongdoings on the part of some departmental heads.

The Hon. G. C. MacKinnon: The figures you quoted indicate the selection system is very good.

The Hon. J. C. TOZER: Over the last three years, the successful appellants comprised 7 per cent in 1974, 10 per cent the next year, and 11 per cent the following year. Obviously, the procedure is good and it works.

Amendment put and negatived.

The Hon. G. C. MacKINNON: This clause purely and simply continues a long-standing situation which has been in the parent Act since 1945, and provides that a person is a member of a union, or has an exemption certificate. It is widely accepted there is a tremendous advantage in having an industry union. Members are aware that we in this country suffer from the terrible disadvantage of having the old English system of craft unions. It is extremely difficult to change that situation or, for that matter, any situation to which the country has become accustomed. The Civil Service Association is the organisation's union. The right not to be a member is set out in clause 35(3)(c).

The Hon. W. M. PIESSE: That really means a person must seek an exemption for certain reasons, does it not?

The Hon. G. C. MacKinnon: He has only to ask for exemption, on any grounds at all.

The Hon. W. M. PIESSE: Is that true? He has only to ask for it and it will be granted, and nowhere else is it necessary for him to make application? If he wants to appeal about any other matter he does not have to belong to a union. Is that correct?

The Hon. G. C. MacKinnon: Yes.

The Hon. W. M. PIESSE: I find that most unfortunate.

The Hon. G. C. MacKINNON: I move an amendment—

> Page 19, line 18—Insert after the word "Minister" the words "of the Crown for the time being charged with the administration of this Act".

I refer members to the wording of clause 35 (3) (c). The "Minister" to whom this provision refers means the Minister for the time being administering the department. That implies it could be the Minister for Works, the Minister for Transport, the Minister for Lands, or any other Minister. That is incorrect. The Minister to whom this refers is, of course, the Premier and my amendment will clarify the position.

The Hon. R. F. CLAUGHTON: I agree wholeheartedly with the Minister's amendment. It would be wonderful if he agreed wholeheartedly to one or two of the amendments I intend to move.

Amendment put and passed.

The Hon. G. C. MacKINNON: Mrs Piesse expressed some concern about the passage, "unless the Minister declares upon special grounds that this subsection does not apply in respect of the vacancy". All those things must apply unless the Premier, for the present time administering the Public Service Act, so declares. If he says this does not need to apply then it need not.

The Hon. R. F. CLAUGHTON: I have a further amendment to this clause which seeks to cover the processes by which appeals are made. Members must realise that in this Bill a large amount of what is in the present Act which covered the industrial conditions of the association is being removed. While a lot is being removed, some is being included, and a sort of discretionary choice is being made.

We believe that the rights of appeal should appear in the new Act and, further, that we should set out the procedures by which the appeal should be made.

The amendment deals also with seniority, and I would like to mention something about what has transpired over the last 19 months in the Public Service, from January, 1977, to September, this year. The claim has been made that the Public Service is conditioned to and bogged down on the matter of seniority, but an examination of the matter reveals that is not so.

In the period I have mentioned there were 135 appeals and of these 94 had as the recommended applicant an officer junior in service to the person appealing. This means that in 70 per cent of the cases the junior applicant was chosen because of superior efficiency. This strongly refutes the charge that seniority is a deadening force in the Public Service.

In only four cases did the board disagree with the recommended applicant and change the recommendation on the basis that the more senior officer had shown equal efficiency. So in four cases only did seniority tip the scale in an appeal case.

That leaves the other 41 cases, comprising 30 per cent of appeals, in which the recommended applicant was the senior person. In those cases only three of the appellants were able to establish superior efficiency.

In the main, seniority is not a dampener on promotion in the Public Service, but it has provided a ready means of a tie-breaker in cases where equal efficiency has been shown.

If seniority is withdrawn from the decision-making processes we are left with unknowns on which to base decisions; unknowns such as the cut of a person's suit, the length of his hair, etc.—subjective criteria because no other objective factor can be examined.

These provide very good reasons for us to continue to include seniority as a condition in helping to determine promotional appeals. Therefore, I move an amendment—

> Page 19—Add after subclause (4) the following to stand as subclauses (5), (6) and (7)—
>
> (5) Every appeal shall be in writing, shall clearly and concisely set forth the grounds upon which the appeal is made, shall be despatched or delivered to the Secretary of the Board within the prescribed time, and subject to this Act shall be heard by the Board as early as practicable after the date when the appeal is received by the Secretary.

A copy of the appeal shall also be served on the recommending authority concerned within the prescribed time aforesaid.

(6) An appeal may be made on the ground of:

(a) Superior efficiency to that of the employee promoted, or

(b) Equal efficiency and seniority to the employee promoted.

(7) For the purposes of subsection (2) of this section, "efficiency" means special qualifications and aptitude for the discharge of the duties of the office to be filled, together with merit, diligence and good conduct, but in considering efficiency the recommending authority and the Board shall disregard service in such office in an acting capacity by applicants for the office to be filled.

Provided that in assessing the efficiency of an employee the recommending authority and the Board shall have regard to any service in an acting capacity by that employee in the office to be filled if—

(a) that service was had prior to the occurring of the vacancy then being filled, and

(b) the terms and conditions of employment appertaining to the vacancy then being filled are regulated by the provisions of an award or industrial agreement in force under the Industrial Arbitration Act, 1912, or the Public Service Arbitration Act, 1966, to which the relevant Union is a party.

Provided that, in the case of an employee who is a returned soldier, the term shall include such efficiency as in the opinion of the Permanent Head of Department concerned or the Board, as the case may be, the employee would have attained but for his absence on war service as such soldier.

"Seniority" means by longer period of continuous permanent service after attaining the age of eighteen years.

The Hon. G. C. MacKINNON: Those members who have any knowledge of soccer will know what is meant by an "own goal". When the players kick the ball back towards the goal, the goalie is supposed to pick it up. Now and again he misses and the ball goes through the goal. Mr Claughton has done that. He has submitted an excellent case for our not including the seniority provision in the legislation. He has indicated that it is such a minor consideration it should not be retained in a formal way, and I agree with him. It is of no account any more, bearing in mind that in an informal way if the situation is close, a person can say to the board, "Look, I am senior", and the board can take cognisance of that fact if it so desires.

It has been decided that it will not be a formal ground for appeal and the argument by the honourable member in that connection was excellent and I accept it.

With regard to the remainder of the amendment, yesterday we discussed that it has been seen as highly desirable that we do not have the inclusion of a great deal of material suggesting exactly the way it should be done. That is a matter for regulations. So I strongly oppose the amendment.

The Hon. R. F. CLAUGHTON: Now that the provision has been removed I would be interested to know just how the board will find a substitute for seniority in the cases where there is equality in all other respects. This will open the way to a whole lot of contentious argument that could be so easily avoided if seniority continued to be recognised as a readily measurable and discernible tie-breaker; but I will not pursue the matter.

The Hon. G. C. McKINNON: We agreed yesterday that the seniority portion of the appeal system is not of much account, and Mr Tozer made quite a good point about this. I would be unhappy if it were included in the Bill because I know of nothing else that brings opprobrium on the Public Service as much as that does, and it is quite ridiculous.

If we asked anyone in the street how fellows in the Public Service reached the top we would be told that a public servant has only to stay where he is and live long enough. This is a popular view.

The Hon. R. F. Claughton: Only because some politicians use it as whipping board.

The Hon. G. C. MacKINNON: I have a lot of respect for the honourable member, but that statement is not up to his usual standard. It is not so.

The general public really do have that view, the same as they have erroneous ideas about members of Parliament.

The Hon. R. F. Claughton: They have plenty of them.

The Hon. G. C. MacKINNON: I expect a number of members of Parliament do denigrate the bureaucracy as it is called, but it will be a great thing for the Public Service if this provision is removed because it will take away the odium associated with the idea that everyone is promoted if he lives long enough. It is not true and everyone is agreed about that. I thought I ought to make that point because if the provision is not included, perhaps people will accept the fact that it is not the case and has not been for a long time.

Amendment put and negatived.

The Hon. J. C. TOZER: Mr Deputy Chairman (the Hon. T. Knight), would you permit discussion on the matter the Hon. W. M. Piesse has raised, or is that a closed book?

The DEPUTY CHAIRMAN (the Hon. T. Knight): I suggest that at this stage it would be a closed book.

Clause, as amended, put and passed.

Clause 36: Promotions Appeal Board—

The Hon. G. C. MacKINNON: I move an amendment—

> Page 20—Delete all words in lines 3 to 21 and substitute the following passage—
>
> (c) an officer nominated by the relevant union unless—
>
> (i) the appellant is not a member, or if there is more than one appellant all the appellants are not members, of that union;
>
> (ii) there is no relevant union; or
>
> (iii) there is a relevant union and it fails to nominate an officer at the latest fourteen clear days before the date of hearing,
>
> in which case the Promotions Appeal Board shall include,
>
> (iv) if there is only one appellant, an officer nominated by the appellant; or
>
> (v) if there is more than one appellant, an officer nominated unanimously by all the appellants, or in default of an agreement thereon an officer selected by the Chairman of the Promotions Appeal Board from officers nominated respectively by the appellants,
>
> and each nomination under this subsection shall be in writing duly signed on behalf of the Public Service Board or the relevant union or by the appellant or appellants, as the case requires, and delivered to the Secretary to the Promotions Appeal Board.

A basic feature of employment in the Public Service is the career service concept whereby officers are given the opportunity to apply for and to be promoted into positions of a higher classification.

A permanent officer who was an applicant for a vacant position and who considers he has a better claim to promotion than the officer recommended for promotion may appeal against that recommendation to the Promotions Appeal Board.

Under clause 36 of the Bill the Promotions Appeal Board comprises a chairman who is the Public Service Arbitrator, an officer nominated by the Public Service Board, and an officer nominated by the relevant union or appellant as the case requires.

Following comments made by the Leader of the Opposition during the Committee stage in another place clause 36 has been re-examined in conjunction with the Parliamentary Counsel.

An amendment relating to the employee representative on the Promotions Appeal Board is required, firstly, to cater for the nomination of the employee representative in the situation where there may be more than one appellant to an appeal and, secondly, to cover the situation where the appellant or appellants hold a certificate of exemption from union membership.

This amendment is based on the principle that the employee representative on the Promotions Appeal Board shall be nominated by the relevant union on all occasions unless the only appellant or all appellants are not members of that union or where there is no relevant union or the relevant union fails to nominate a representative.

Where these circumstances occur, the employee representative will be nominated by the appellant or appellants. Where there is more than one appellant and the appellants are unable to agree

on a representative the selection will be made by the Chairman of the Promotions Appeal Board from the persons nominated by the appellants.

On rare occasions, a situation may arise where the appellants include members of a relevant union and officers with a certificate of exemption. In such a case, the employee representative will be nominated by the relevant union.

I was anxious to get that quite long explanation into the record in order that it may be examined. At this stage I thought I would move for progress to be reported. Has the member handling this Bill on behalf of the Opposition any objection to that procedure?

The Hon. R. F. Claughton: No, I think it would be a sensible idea.

The Hon. G. C. MacKINNON: The amendment is rather long, and the explanation is fairly involved. I think it is only fair members should have an opportunity to examine the explanation.

Progress

Progress reported and leave given to sit again, on motion by the Hon. G. C. MacKinnon (Leader of the House).

TEACHER EDUCATION ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. D. J. Wordsworth (Minister for Lands), read a first time.

Second Reading

THE HON D. J. WORDSWORTH (South—Minister for Lands) [5.52 p.m.]: I move—

That the Bill be now read a second time.

It is proposed to introduce legislation later during this session of Parliament which will repeal the Teacher Education Act and enact new legislation designed to establish the constituent colleges of the Teacher Education Authority as independent colleges. Such changes are intended to be implemented early in the new year.

Under the provisions of the current Teacher Education Act, a number of elections must be held prior to the 31st December, 1978, to fill vacancies on college boards and on the council of the Teacher Education Authority. Most of these vacancies will occur on the 1st January, 1979, by which date it is expected the boards and the council will have been abolished.

Rather than proceeding with these unnecessary elections, it has been decided to amend the Teacher Education Act to enable the Governor to take action to fill those vacancies in the Western Australian Teacher Education Authority Council. The Bill also makes provision for the council to fill vacancies in the membership of college boards in lieu of depending on elections.

These actions will enable the bridging of the period between vacancies occurring on and after the 1st December, 1978, and until the Teacher Education Act is repealed. It is the intention of the Government to provide for elected members of college councils in the new legislation and such elections will be implemented as soon as possible once the new colleges Bill has been passed by the Parliament and proclaimed.

At the same time the opportunity is being taken to amend the provisions regarding meetings of the council and the boards to overcome any possible challenge which might be made to decisions of those bodies through questioning of the eligibility for membership in particular of elected persons.

I commend the Bill to the House.

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

SECURITIES INDUSTRY ACT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

QUESTIONS

Questions were taken at this stage.

House adjourned at 5.58 p.m.

ROAD

Orrong Road

340. The Hon. Lyla Elliott for the Hon. F. E. McKENZIE, to the Attorney General representing the Minister for Town Planning:

Further to my question No. 149 on the 9th May, 1978, will the Minister advise whether—

(1) It is intended to hear objections to the recent Orrong Road Amendment orally, or will they be dealt with in writing?

(2) If an objector requests an oral hearing of the Minister will the request be granted?

(3) If not, why not?

The Hon. I. G. MEDCALF replied:

(1) They will be dealt with in writing.

(2) No.

(3) The determination to consider appeals on the basis of written submissions was made in accordance with provisions of the Act. There is no provision in the circumstances for any variation.

FIRE BRIGADE BOARD

Funding

341. The Hon. LYLA ELLIOTT, to the Leader of the House representing the Chief Secretary:

(1) Has the working party of government officers set up to inquire into the funding of the W.A. Fire Brigade Board yet concluded its deliberations?

(2) If so, will the Minister table the recommendations submitted by the party?

The Hon. G. C. MacKINNON replied:

(1) No; however, it is anticipated that it will do so in the near future.

(2) Answered by (1).

342. *This question was postponed.*

COMMUNITY WELFARE

Family Support Services Scheme

343. The Hon. LYLA ELLIOTT, to the Minister for Lands representing the Minister for Community Welfare:

(1) Have the applications for funding under the Family Support Services Scheme which closed on the 3rd March, 1978, yet been approved?

(2) If so, will the Minister table a list of the successful applicants and the amounts granted to each one?

The Hon. D. J. WORDSWORTH replied:

(1) No.

The Minister for Community Welfare forwarded recommendations to the Hon. Minister for Social Security on 18th July for her consideration.

(2) Not applicable.

QUESTION WITHOUT NOTICE

CLOSE OF SESSION: SECOND PART

Target Date

The Hon. D. K. DANS, to the Leader of the House:

I have not had an opportunity to advise the Leader of the House the nature of my question.

Would the Leader of the House be good enough to inform members, as soon as possible, of the approximate date that Parliament is expected to recess?

The reason I ask is there are people who want to make some arrangements to travel overseas and interstate.

The Hon. G. C. MacKINNON replied:

Yes, I will do that. It is, of course, recognised that the time of the rising of the House is not altogether in the hands of the Government. Nevertheless, as soon as it is possible to make an approximation I will do so.