Legislative Council

Thursday, 10 December 1987

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 11.00 am, and read prayers.

TRANSPORT CO-ORDINATION AMENDMENT BILL

Second Reading

Debate resumed from 8 December.

HON G.E. MASTERS (West -- Leader of the Opposition) [11.05 am]: This legislation is designed for three purposes: To provide a licensing system for commercial ferry and hovercraft operations; to provide appeal rights to certain classes of taxi drivers; and to provide for regulations enabling fees to be charged for the transfer of licences, and for the issue of number plates for omnibuses. Of the three, the area which concerns members of my party is the proposed licensing of commercial ferries and hovercraft operations. It is easy for us in this place, and for the Government, to license everything that moves. I assume that discounts horses, but perhaps they are also included. That sort of statement might have been made in the second reading speech; it was certainly made during the debate in the Legislative Assembly. If ever there was an example of legislation being totally unnecessary and of causing additional costs, of increasing bureaucracy and regulation for absolutely no reason whatsoever, it has to be this legislation. I accept that over a period of years, certainly during the time I was on the Government side, we were also guilty of this sort of activity at times; but we are dealing today with this legislation, and I put it to the Minister that the provisions which deal with the licensing of commercial ferries and hovercraft are a complete waste of time and ought to be thrown out.

My understanding is that there was no consultation with the industry whatsoever, even though the Bill was on the drawing board for something like 18 months. If that is the case, the Government or the Minister stand condemned for not carrying out that consultation. After all, we hear claims by this Minister and the Government that it consults with those affected and discusses proposed legislation, yet we are told by the people in the industry, even though the legislation was being considered and drafted 18 months prior to this date, that it was not consulted until two days before the Minister, Mr Troy, introduced the legislation. That is unforgivable, bearing in mind the people most involved have not had sufficient time to consider the implications, nor have they had the opportunity to change the Minister's mind and alter the Bill.

This proposal sets out to bring into being a licensing system based on $1 a seat for hovercraft and commercial ferries. My understanding is that this is likely to bring to the Government something like $8 000 a year. During the debate in another place the Minister gave an indication that not all ferries and not all hovercraft -- we are talking about ferries in this case -- will be licensed. A set of regulations will be introduced, and it may well be that the ferries which have less than 30 seats will be excluded from the provisions. If that is the case, it makes an absolute ass of the statement that all ferries and the like should be licensed and included under this legislation. In other words, the Government is being selective in saying only the bigger ferries will be involved.

It may be that the Minister in this place will say the intention is that all commercial ferries be licensed and levied with a rate of $1 per seat. However, if the Minister in another place stands by his comments, it is pretty obvious that the Government is considering the possibility of excluding ferries with fewer than 30 seats. If that is the case, we are not talking of $8 000 that will be collected by the Government; we are talking of $6 000 because we are talking about 55 ferries with over 30 seats. I put to the Minister that $6 000 received by the department as licensing fees for commercial ferries will not even touch the sides as far as the administration costs are concerned. The Minister in another place said we do not want to make money out of this; we just want to end up neutral. In other words, the fee of $1 will supposedly cover the costs of administration. That in itself is a ridiculous reason for licensing these commercial ferries or, indeed, for arguing that they should be registered at all. I cannot see any reason why they should be registered when they are working adequately at

this time. I say again that $6 000 would not pay for the cost of administering the office to collect the registration fees, even if this was very simply done.

We must understand that if these commercial ferries are to be regulated and licensed, someone has to check on the operations of the vessels to make sure they conform to the regulations that are laid down, and that in itself will cost a great deal of money. The commercial ferries are used mostly on weekends, public holidays, and around Christmas time. If the department is going to check on these vessels, it will have to pay overtime, and I would think the only way the regulations could be policed would be by using a boat, which will add an additional cost. I put to the Government there is absolutely no necessity to license these vessels, and at the end of the day all it will do is cost the department and the public more and more just for the sake of more regulation, control, and licensing. This is the most senseless piece of legislation, so far as good reason for it is concerned, that I have ever seen.

Hon T.G. Butler: Section 6(a) was not all that good. That was pretty senseless.

Hon G.E. MASTERS: I understand the member is always likely to support senseless legislation. He tried to introduce a Bill recently, and made a complete and utter hash of it, and he was rebuked by his Premier and made a fool of himself. It is interesting to note that the member has not even risen to his feet since then because he has had his wrists slapped. The member should pick up this legislation and read it, and stand up and explain the reason for it, rather than making a speech from his seat. I challenge the member: I bet he has not even read the title of this legislation. I think he can read, but he just has not bothered to so do. It is a sad thing when a member of this House cannot even bother to read legislation which is of some importance and will affect people that he is involved with. We know very well that he does not give a damn about the people that he supposedly represents, and he demonstrated that to the people in the gallery only recently when dealing with the abattoirs site and the brickyard.

Hon T.G. Butler: What a fool you are.

The PRESIDENT: Order! I suggest to the Leader of the Opposition that those comments are unbecoming and certainly unparliamentary. The Leader of the Opposition is referring to matters unassociated with this Bill, no doubt designed to cause disorder in the House. I suggest he refrain from that action.

Hon G.E. MASTERS: The last thing I would want to do is cause disorder in this House. I was just saying that the man is a fool if he makes this sort of statement dealing with legislation that he has not even looked at, and that is typical of his performance in this House; but I will not go into that any more because I do not want to disrupt and upset you, Mr President. The funny little man is a fool, and he cannot help it.

This legislation is a complete waste of time, and instead of introducing this sort of stuff, whether it be by my Government or the Labor Government, we ought to tear it up and throw it in the bin as being unnecessary. A calculated income of $6 000 will in no way compensate for the costs of administration and will simply cause more red tape, bureaucracy, and regulation.

I am led to believe from my discussions with people in the industry that the industry is very competitive, modern, and efficient. If we look at the ferries that operate backwards and forwards on the river and to Rottnest and the like, we see they are modern ferries, well organised, and well run, and meet all modern standards and requirements. The people operating the services are in a competitive industry and must maintain their standards. I understand -- and the honourable member who earlier interjected ought to pay attention to this -- that the industry at the moment is operating under six different Acts of Parliament. We are here bringing in another piece of legislation to add another burden to the industry. I understand the industry is operating under the Marine and Harbours Act, the Shipping and Pilotage Act, the Jetties Act, the Fremantle Port Authority Act, the Pollution of the Seas by Oil Act, and the Western Australian Marine (Sea Dumping) Act. I also understand the industry is operating under 16 sets of regulations -- or it may be 14 or even 17 -- and that is the sort of imposition that is being placed on an industry that is highly competitive and is under pressure for a great deal of the time.

Instead of having six Acts of Parliament and 16 sets of regulations, we ought to be saying we

will tear up half of them and give the industry some encouragement. However, this is the way this Government operates. I am not saying to the Minister that we were not guilty of the same sort of thing in our time, because we were, but as times change and as we come, hopefully, to our senses, we ought to impose less regulation and control. The Minister has said the revenue against costs will be neutral, but I cannot accept that. I believe that at the end of the day, or within 12 or 18 months, ferries will be up for $2 a seat instead of $1 just to cover the costs of administration.

Hon Graham Edwards: Why should it happen in this area that the costs would go up when that has not happened in any other area? You are making preposterous claims with no substance to them.

Hon G.E. MASTERS: They are not preposterous claims. I will go through it again.

The PRESIDENT: Order! There is far too much audible conversation in this place, and it is starting to sound like a grandstand at the grand final instead of a House of Parliament. I recommend that honourable members cease their audible conversations and interjections and allow the member addressing the Chair to so do in order that they can more quickly reach the time when they can properly make their comments.

Hon G.E. MASTERS: I restate some of the comments I made because the Minister obviously has not been listening. The proposal is to charge $1 per seat for commercial ferries. Based on the Minister's remarks in another place, it is likely that only 55 ferries will be affected. Those 55 ferries, at $1 per seat, are likely to yield an estimated $6 000. The department will need to play a policing role; it will need to license, regulate, and check the seating. It will need to carry out inspections at the times when the ferries are most heavily used; that is, at weekends, holiday times, Christmas, and the like. That will involve the department in overtime costs and possibly in the use of a vessel. By any stretch of the imagination and by any other examples of the way Government administration works, $6 000 probably will hardly cover the postage stamps, phone calls, and office costs by the time they have finished. Someone will have to be allocated for this, even if only for part of the time. These days $6 000 is nothing; it is just a means that the Government is putting forward in order to gain, unnecessarily, more control; to bring industries into the fold; and to have more regulation and bureaucratic control. If the Minister is saying that those 55 vessels will not be necessarily involved, I suggest he read the Committee debate in the other place in which the Minister for Transport said --

> The vessels we have looked at to date that possibly will have exemptions under this Bill are ferries or hovercraft carrying cargo only, ferries or hovercraft licensed to carry less than 30 passengers, fishing charter vessels, and various vessels involved in emergency or urgent medical situations. Each of those exemptions the member is seeking will come out in regulatory form and will be taken out to clarify the concerns that he has.

We are bringing in legislation on the word of the Minister without any guarantee that the regulations will do exactly as he says. If the Minister says that is what he intends to do, I will not argue with him; I have respect for the Minister and I am sure he will keep his word. However, the understanding he gave in another place needs to be on the record. If the question of over 30-seaters is involved, I refer members to the figure I have cited twice already. For the sake of more regulation and bureaucracy is it really worth it? What on earth will the gains be when the boats are inspected by various departmental officers when they are already subject to six Acts of Parliament and 16 sets of regulations? Now we are imposing another Act and another set of regulations on them. It is bureaucracy and Government gone mad, and it is the very thing we should be working against.

I will discuss in the Committee stage the definition of "ferry" because that is an important matter and the definition can mean everything and anything, although I accept that it depends on the regulations involved. The Minister seems to be able to lay down rules about where ferries should operate, at what times they should operate and the fares they may charge. In other words, the Minister will have total control through the licensing system and the regulations. I believe that is unnecessary and I deplore this sort of legislation. It is about time we went in exactly the opposite direction to where this legislation is going.

HON E.J. CHARLTON (Central) [11.24 am]: The Leader of the Opposition outlined the main thrust of this Bill. Judging by his comments and from comments made in the other place, the area in the Bill causing concern is the one which deals with the licensing system for commercial ferries and hovercraft operations.

The provision regarding taxis and the transfer of licences for number plates for omnibuses is not an area that seems to have attracted too much opposition. From my understanding of the legislation, and after having talked to other people about it, it seems that most people are prepared to go along with that aspect. However, in respect of the licensing of ferries, I fully agree with the statements made -- the last thing we need is to harness people with more regulation and restrictions. On the other hand, we have to acknowledge that in the past there have been some problems. There always will be problems in various industries where the public interest has to be considered from time to time. Someone has to say, "Hang on a tick, you have to operate under some acceptable and satisfactory guidelines." For that reason the National Party would be the first to ask: Who will do something about it?

I can see that the Government -- whether or not for that reason or for some other reason -- intends to implement these regulations. We have to understand what this licensing will result in. If it is just a matter of registering those people who operate on the river or around the coastline of Western Australia, there must be some regard for them in respect of how far the legislation will go. I cannot see anything wrong with that. However, if it is to be just another instrumentality set up to bring in revenue -- $1 this year, $2 next year, $3 the following year and so on --it is not something one would want to be a part of setting up.

The other point is in respect of inspectors. I hope the Minister will categorically guarantee that we will not see people boating up and down the river, boarding the vessels while they are in operation to see whether the owners have more seats than they are entitled to.

Hon Graham Edwards: That is not the intention.

Hon E.J. CHARLTON: Obviously, when we see this sort of proposition, we need to know what it is all about. Far too often in regulation or licensing exercises we see things take place which only bring disrespect and criticism to the people carrying out the legislation. In other words, harassing people when they are trying to go about their business, to earn a quid, not only for themselves but for the nation, and to create and facilitate a service for the Western Australian public. I have discussed this matter with the industry, which is very much opposed to the implementation of this Bill. I can understand that; if I were running a business like this with no problems and I then had to be subjected to Government control without being aware of where it will all end, I would resist it too. I hope the Minister will answer those points I have raised.

Some other aspects need to be clarified, particularly in respect of the use of jetties and so forth. I do not think there is any real need for that and I do not understand why the people who want to be involved -- and I think this is an important issue in respect of the industrial relations side of the Bill -- are dealt with in this way. When the legislation reaches the Committee stage I will be interested to discuss that with the Minister. We do not want to tie these operators to any more regulations than need be if the Government is intent on pursuing the matter.

In summary there are three or four matters I would like dealt with. We need to know whether there is a specific intent to have on paper and on record the people involved in carrying passengers on the ferries and not those operating other charter vessels. We also want to know whether the charge will be kept down to the figure mentioned in the Bill -- and the Minister has already intimated that that is the case. The other aspects relate to industrial relations and jetties. I would like the Minister's comments on those points, and I will deal with them more specifically when we reach the Committee stage.

HON D.J. WORDSWORTH (South) [11.31 am]: I would like to voice disapproval of this Bill; I find it completely unnecessary. It is an amendment to the Transport Co-ordination Act of 1966 which must indicate that the Act has worked successfully for 20 years without the additional restrictions contained in this Bill.

Hon Graham Edwards: In 1966 hovercraft, for instance, were not foreseen to be a form of transport between Hillarys boat harbour and Rottnest. That is now a realistic situation.

Hon D.J. WORDSWORTH: I am glad the Minister raised that because in the Marine and

Harbours Act 1982 one finds a definition of a ship as any kind of vessel used or capable of being used in navigation by water, however propelled or moved, including a barge, lighter, floating restaurant, or other floating vessel, and an air-cushioned vehicle or other similar craft used wholly or primarily in navigation by water.

Hon Graham Edwards: We are not dealing with that Act.

Hon D.J. WORDSWORTH: I know, but that Act successfully dealt with ferries for 20 years.

Hon Graham Edwards: That is not the advice we have received from Crown Law.

Hon D.J. WORDSWORTH: We do not have a reason as to why we need these amendments after 20 years.

Hon Graham Edwards: Because the definition in the Act is too narrow, according to Crown Law advice. You may have some other advice to put before the House.

Hon D.J. WORDSWORTH: I believe it is not a matter of definition or of ferries not being successfully controlled but rather having the Transport Co-ordination Act all-embracing to cover all these modes of transport.

Hon G.E. Masters: Our question is: Is it really necessary?

Hon Graham Edwards: We believe it is.

Hon D.J. WORDSWORTH: Having been the Minister in charge of this portfolio for three years, I know that we did not have any trouble during that period. Yet suddenly we are having trouble now and we are not given any reason for the amendments. A Minister in the other place said, "What about the people they have run down on the river?" It rather staggers me that that sort of remark can be made without supporting evidence. One knows if a ferry had run down someone on the river this Bill would not make any difference.

Hon Graham Edwards: That is right. The Minister was wrong to say that.

Hon D.J. WORDSWORTH: I should not say he was dragging a red herring across the trail, but it was getting close to that. In the past, ferries have been adequately controlled with other legislation. I have referred to the definition in the Marine and Harbours Act where a passenger vessel is defined as a vessel used in unlimited operations on the Australian coast and middle water operations; a vessel certified to carry more than 12 passengers; a vessel for use in all operational areas up to and including offshore operations; and a vessel which carries or is certified to carry more than six passengers. The Act then goes on to refer to pleasure vessels and so on.

One of the odd things about this amending legislation is that it only includes ferries in the Swan River environment. It has nothing to do with vessels operating out of some of our other ports.

Hon G.E. Masters: I believe it has.

Hon D.J. WORDSWORTH: I understood from the Minister's speech that it applied only to the ferries on the Swan River and the near environment. The Marine and Harbours Act is a lengthy Act of over 100 sections, and to date it has successfully controlled shipping around our coast. Ferries are controlled under that Act, and those trading on the Swan and to Rottnest are also controlled by the Fremantle Port Authority Act, which provides in section 65 for the control and management of steam or other ferry boats plying for hire at wharves or public thoroughfares. That definition is fairly self-explanatory and it means the Fremantle Port Authority has control over ferries. So the Acts go on and on and we never seem to run out of legislation affecting ferry operators.

Section 4 of the Shipping and Pilotage Act 1967 says that the Governor may appoint any person to be harbour master of any port, and the harbour master may control the entry and departure of vessels into and from the port and control the berthing, mooring, and moving of vessels within the port. So ferries are affected by six different Acts -- the Marine and Harbours Act, the Shipping and Pilotage Act, the Jetties Act, which relates to the jetties the ferries may use, the Fremantle Port Authority Act, the Prevention of Pollution of Waters by Oil Act, and the Western Australian Marine (Sea Dumping) Act. Generally speaking ferries are nothing other than ships and they are controlled because of that. It does not require another Act and another group of people to control them. The people in the Department of

Transport are not exactly knowledgeable on the ways of the water; their speciality is very much road transport.

Hon Graham Edwards: Helicopters and aircraft are already covered under the Act.

Hon D.J. WORDSWORTH: I intend to speak about that; give me a moment. The State has the ability to register the routes on which our aeroplanes fly. We recently had a debate on that subject. Airlines are more of a Federal matter controlled, to a greater extent, by our two-airline system. The smaller aircraft which may come under this Act do so to meet the landing requirements on the smaller airfields. In many ways this Bill is a political matter. The Government desires to control ferry boat owners from a political point of view.

Hon Graham Edwards: What would be the political purpose, Mr Wordsworth?

Hon D.J. WORDSWORTH: It might be the same situation as that between Ric New and the Government concerning the brickworks.

Hon Graham Edwards: What political purpose would we be seeking here?

Hon D.J. WORDSWORTH: Once the Government starts issuing licences, it would be very easy to find applicants are no longer given licences for the routes they need.

Hon Graham Edwards: That is not the case. Licensing is by right.

The DEPUTY PRESIDENT (Hon Mark Nevill): Order!

Hon D.J. WORDSWORTH: Thank you, Sir. I know you do not like interjections, but I am glad that the Minister has said that licensing is by right. It should be noted in case there is any dispute in the future. If that is so, there is no need for this Bill, which will limit the number of boats on a particular route --

Hon Graham Edwards: No.

Hon G.E. Masters: The Minister is saying that if I buy a ferry I can, by right, licence it.

Hon Graham Edwards: Providing it conforms with safety and environmental matters, and things of that sort. You are reading things into the Bill that are not there.

Hon D.J. WORDSWORTH: They might not be there, but I have an obligation to see what is there. There is also the question of who will man the boats. I will quote from page 5, which says --

> (b) the provisions and requirements of any industrial award or agreement applying to persons engaged in the operation or servicing of the ferry be complied with;

That allows the Minister to set requirements as to how ferries will be manned. This has already happened on the ferries which serviced the United States Navy ships -- they had to conform to union requirements as to manning, and the like. That in itself indicates that there are political implications in this Bill. Apart from servicing naval ships, manning requirements will need to be met by those ships servicing passenger routes. Until now we have seen strong competition on the water where ferry boat owners --

Hon Graham Edwards: You are going to see more competition soon.

Hon D.J. WORDSWORTH: At worst, the owners of those ferries could be accused of racing down the river, causing bow waves and hurting the foreshore and yachts. However, generally speaking, the people of Western Australia have benefited from the ferry routes. If the Minister says that there will be more competition, he is indicating that the Government will impose limiting regulations.

Hon Graham Edwards: We are going to see more competition.

Hon D.J. WORDSWORTH: It will be good to see more competition on these routes. Nevertheless, that implies that there will be regulations on the number of ferries on these routes, just as there are regulations regarding buses on bus service routes.

Hon Graham Edwards: That would require a separate Bill.

Hon D.J. WORDSWORTH: Ferry boat owners are subject to enough regulations under other Acts as it is, without adding this one. We have a very competitive, modern, and efficient ferry service. There is no need for these additional restrictions and governing regulations.

The money raised by them may only be small now, but it will undoubtedly increase and cause extra cost to the passengers who use the ferries, and burden owners with extra regulations.

HON GRAHAM EDWARDS (North Metropolitan -- Minister for Sport and Recreation) [11.46 am]: I thank members opposite for their contributions to this debate. I hope during the course of my remarks I will allay some of the fears that were raised. As I said by way of interjection, things are being read into this Bill which are not there. No reason has been given for throwing this Bill out.

Hon G.E. Masters: Who said we are throwing it out?

Hon GRAHAM EDWARDS: The Leader of the Opposition said that perhaps we should throw it out.

Hon G.E. Masters: I said we should not proceed with it because there is no good reason to introduce that part of the Bill dealing with ferries. We agree with the other part. We are talking about the licensing of ferries, which is the area about which we are concerned.

Hon GRAHAM EDWARDS: I remind members opposite that we are dealing with the Transport Co-ordination Act 1966, not the host of other Acts that were referred to. That Act enables us to license other forms of commercial transport including aircraft, helicopters, and buses, and this is an extension of that. This is put forward on the basis of advice from Crown Law that existing definitions are too narrow to cater for all the things which should be catered for. I will attempt to give an explanation as to why we feel this amendment is necessary. Members will be aware, for example, of the advent of the Hillarys boat harbour. Submissions have already been put forward suggesting the possibility, in the near future, of a hovercraft service operating not only between Hillarys and Rottnest Island, but between the proposed marina in the north, Hillarys, Rockingham, and Rottnest. There has to be some basis of equity in all forms of transport. Other types are licensed; what is the difficulty with these forms of transport?

Hon P.G. Pendal: The ferries are already licensed.

Hon GRAHAM EDWARDS: Crown Law advice is that the existing definition is too narrow to cater for these craft.

Hon P.G. Pendal: What about under the Marine and Harbours Act?

Hon GRAHAM EDWARDS: We are not dealing with the Marine and Harbours Act, which is set up for a different purpose. In the existing Transport Co-ordination Act the definition is too narrow, and that is the matter under consideration. The other Acts are set up for completely different purposes. I am trying to explain to members that their concerns are absolutely unwarranted. It comes down to a matter of politics in that the Government believes that in future there may be some need for this protection. The provisions in the Bill would be acted upon only on the basis of complaint from the public.

Hon G.E. Masters: What sort of protection are you talking about?

Hon GRAHAM EDWARDS: I am talking about consumer protection. The other Acts to which the member referred do not deal with that aspect. It may well be that despite the fact that the industry has operated fairly well in the past, in the future problems may arise due to increased competition, and increased endeavours to attract passengers to one particular service. That has happened in other parts of the world. For example, a price war aimed at driving competitors out of business could ultimately lead to a monopoly situation from which higher prices and poorer service would result. The Government is ensuring that the existing satisfactory conditions and services continue. No-one is suggesting that there is anything wrong with the current situation, but there is potential for it to change; if it changes the Government wants to be in front of it and in a position to act. There is nothing sinister about it.

Hon E.J. Charlton: Because it is the Transport Co-ordination Act, you want to be able to coordinate it?

Hon GRAHAM EDWARDS: Exactly, and that is why I referred members earlier to the title of the Bill. It is not possible to increase fees without coming back to this House. In addition, under this Act permit fees for trucks have not been increased since 1973; therefore, why

should ferry fees be increased? I have explained, and I think it has been accepted, that it is not intended to raise revenue under the provisions of this Bill. It will provide protection to the public that may well be necessary in future. In the course of the Committee stage I am prepared to discuss the other points raised in relation to jetties and industrial relations in more detail and to listen to the members' comments on those issues.

I reiterate the point I made earlier about checks: Following the enactment of this Bill it is not the intention of the Government to have people running around making checks. They are catered for under other Acts and are more related to safety and ensuring that safety provisions are complied with. This legislation will be put in place to provide protection for the public and, indeed, protection for existing and new operators in this area to ensure the service we have enjoyed in the past will continue to be enjoyed. The Bill is as simple as that, and I commend it to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Graham Edwards (Minister for Sport and Recreation) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 4 amended --

Hon G.E. MASTERS: This clause deals with the definition of the word "ferry", and I understand from the Minister that the definition in the Act does not sufficiently cover the areas proposed in the Bill; that is, commercial ferries and hovercraft. Although the definition in the Act appears adequate to me, if the Minister has received that advice, I will not argue with him.

I refer again to the comments made by the Minister in another place regarding the vessels likely to be affected. The definition refers to "a vessel, including a hovercraft, used or intended to be used to carry passengers for hire or reward". If the Government does not make some provision in regulations to exempt certain sized craft, obviously these provisions will affect, for example, a fishing boat that may carry one or two passengers or a small boat capable of carrying two or three passengers.

Hon Graham Edwards: I should have referred in the second reading debate to exemptions.

Hon G.E. MASTERS: If the small craft were included in the definition, the need for and cost of inspections would be considerable. I take it from the Minister's interjection that he intends to make clear that there will be an exemption level.

Hon GRAHAM EDWARDS: It was probably remiss of me not to have referred to that in the second reading debate. The Minister has given an undertaking that he does not intend to licence charter fishing boats and other small craft provided they are not operating contrary to public interest. There will be some exemptions which will be attended to after the Bill is passed.

Hon G.E. Masters: What do you mean by "contrary to public interest"?

Hon GRAHAM EDWARDS: If at some stage in future it was found that a person subject to an exemption was operating in a manner not conducive to the public interest, that would be investigated. I cannot give an example of that, but the Minister has given a commitment that exemptions will be provided. It is a reasonable safeguard in view of that commitment by the Minister.

Hon G.E. MASTERS: I am pleased to have this reference to exemption of certain ferries on the record here as well as in the other place. It is suggested that the exemption could be applied to ferries with a seating capacity of fewer than 30 people. I would be happy if it applied to those with a seating capacity of fewer than 50 people. It seems strange to me that craft with in excess of 30 seats should be required to be licensed, yet those with 29 seats will not be. If the argument for this legislation is that certain standards are to be maintained and controlled in relation to how, when, and where ferries operate, the argument for one as against the other hardly stands up. I am not suggesting the Minister should change his mind,

but that does not seem to be a good enough argument. It may be that craft with over 30 seats are bigger craft and the need for control may arise at that level rather than in relation to smaller craft. Will the Minister comment on this?

Hon E.J. CHARLTON: It is my understanding that charter vessels will be exempted from this legislation. I gather from an earlier comment made by the Minister that, if they come into direct competition with the registered craft at some time in the future, the Minister can declare them as no longer being exempt because they are taking advantage of the situation. In that way those people giving a regular service are protected. Is my understanding correct?

Hon GRAHAM EDWARDS: That is correct. There is always a fine line when one sets a division, and the figure of 30 seats applies to a reasonable charter boat size. Whether that figure was 30 or 50, a decision had to be made. Both members were correct in their comments.

Hon D.J. WORDSWORTH: I thought that the Minister interjected earlier that boats would be registered by right, yet he has just indicated that there will be regulations to limit what size boat will have to be registered and that if the small ones are a nuisance then they will have to be registered, too.

Hon Graham Edwards: Small what?

Hon D.J. WORDSWORTH: The smaller craft mentioned by the previous speaker that could compete with a ferry.

Hon Graham Edwards: A bona fide ferry operator?

Hon D.J. WORDSWORTH: Yes. The Minister would then control them by refusing a licence for that size of boat.

Hon Graham Edwards: We are not setting out to control them but to exempt them provided they do not at some stage in the future attempt to take unfair advantage of that exemption that would be detrimental to the people controlled by the regulations -- that is, bona fide ferry operators.

Hon D.J. WORDSWORTH: If they start to become a nuisance, the exemption will be removed; therefore, they will have to be registered and the Minister can then stop them plying routes.

Hon Graham Edwards: Yes.

Hon D.J. WORDSWORTH: A moment ago the Minister said that every boat would be able to be licensed by right.

Hon GRAHAM EDWARDS: The member has become confused. The Minister would not have the ability to refuse to license an operator once all of the provisions of other Acts were met. It was suggested that at some stage in the future the Minister may take a dislike, say, to a particular ferry boat operator and say that he would not give them a licence. However, that is not the case, and cannot occur. I think the member is confusing the two issues.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Part III amended --

Hon GRAHAM EDWARDS: I move an amendment --

> Page 5, lines 10 to 18 -- To delete proposed section 47AE and substitute the following section --
>
> > 47AE. It is an implied condition of every licence for a ferry granted by the Minister that the provisions of any law applicable to the ferry and its operation be complied with.

I said earlier that I felt that people are reading into this Bill things not intended by it. In an endeavour to make that clear, I am happy to move this amendment.

Hon E.J. CHARLTON: I thank the Minister for moving this amendment, which I agree with. There were a couple of areas that I mentioned during the second reading debate in relation to removing paragraphs (b) and (c), which related to two matters about which I was unhappy. I

am pleased to see them removed. We should not place things in this Bill that are not needed as they would only cause concern for people. The provisions that concerned me had nothing to do with the coordination of the operation of ferries. Had the Minister not moved this amendment I would have moved for the deletion of these paragraphs.

Hon G.E. MASTERS: I do not see this matter in the same way as Hon Eric Charlton. This amendment does not change anything; it merely puts the matter into a different word form. The amendment says that it is an implied condition of every licence for a ferry granted by the Minister that the provisions of any law applicable to the ferry and its operation be complied with, which means any law, whether it be dealing with industrial awards or agreements, or whatever. Once awards and agreements are brought forward by the Industrial Relations Commission they, in fact, in my view become laws. I am advised that it may be a move in the industrial area and I am not saying that it is right or wrong, but that could be the case. I was advised yesterday that a number of ferries that ply backwards and forwards to the American fleet when it arrives in Western Australia -- and God bless them for coming here -- are being pressured by the Federal Government which is insisting that the crews become members of the appropriate union, I think the Maritime Workers Union. That has not been the case previously.

Hon Graham Edwards: That is just not so.

Hon G.E. MASTERS: I am told that that pressure is being applied to ferry operators dealing with American Navy boats visiting Western Australia, that all crews must be in the Maritime Workers Union. If the Minister says that is not true, that is totally different from the information I received from a person who is a ferry owner.

Hon Graham Edwards: But that has absolutely nothing to do with this Act.

Hon G.E. MASTERS: No, but I am just saying we are getting back to the point to which Hon Eric Charlton referred. I am not saying whether it is right or wrong; that is not my argument. I am just saying that is what is happening and I would appreciate the Minister's comments as to whether it is true. I am referring to the amendment which I suggest does very little to change the real impact of the clause as it stood before the amendment was moved.

Hon Fred McKenzie: It takes it out of the Bill.

Hon G.E. MASTERS: It does not.

Hon Graham Edwards: Of course it does.

Hon G.E. MASTERS: It does not. It takes the words out but puts it there in different words. Hon Eric Charlton said, "I am very pleased you have taken out those words in proposed section 47AE(b)." Those words are --

> the provisions and requirements of any industrial award or agreement applying to persons engaged in the operation or servicing of the ferry . . .

I am not saying whether or not those words should be taken out, but the Minister said that would overcome Hon Eric Charlton's question. He was concerned about the reference to industrial awards and agreements. I am saying that the amendment the Minister has brought forward has exactly the same implications; indeed, the ferry operators are required to comply with awards and agreements.

Hon Fred McKenzie: They are now.

Hon G.E. MASTERS: I am not saying that is wrong; I am saying that is the fact of the case and that is what the amendment achieves. Having made that point, because I felt it was necessary that there be no misunderstanding of what is happening, at the same time I made reference to the pressure on ferry operators who, up to now, have not had to have a union crew but now will have to if they want to operate between the American ships and the Port of Fremantle.

Hon E.J. Charlton: Are you saying they are?

Hon G.E. MASTERS: Yes, that is the requirement.

Hon Graham Edwards: Whose requirement?

Hon G.E. MASTERS: The Federal Government's, I understand. I was talking to a ferry

operator who was affected. He said in my office yesterday, "I have joined all my crew up because I have been told that is what I must do if I want to continue with the contract."

Hon. Fred McKenzie: That is irrespective of this Act.

Hon G.E. MASTERS: It is part of it.

Hon Graham Edwards: No, it is not.

Hon G.E. MASTERS: My understanding is that that is the case, and I am sure that is the point Hon Eric Charlton was trying to make. However, I will make another point about clause 6. The Minister said that the Minister for Transport shall give a ferry operator applicant a licence --

Hon Graham Edwards: Yes.

Hon G.E. MASTERS: -- and that the operator has a fair bit of freedom to operate. I am just drawing the Minister's attention to page 3 of the Bill where it says --

> **Permits**
>
> 47AB. (1) The Minister may --

It does not say "shall", so it is up to the Minister to make his own decision one way or another. Proposed section 47AB continues --

> -- grant to the owner of any ferry licensed under this Division a permit authorizing the ferry to operate, subject to such conditions as may be imposed by the Minister.

Hon Graham Edwards: Yes.

Hon G.E. MASTERS: I understood the Minister to say earlier that in fact the Minister shall give a licence -- in effect he said those words -- and that the operator would be fairly free to operate along the routes and at the times --

Hon E.J. Charlton: That is covered in (a) and (b).

Hon G.E. MASTERS: I am saying the Minister may apply and impose conditions that might restrict an operator.

Hon E.J. Charlton: It says there that it is giving him extra.

Hon G.E. MASTERS: It says that the Minister may grant a permit subject to such conditions as may be imposed by the Minister.

Hon E.J. Charlton: Then it goes on.

Hon G.E. MASTERS: It goes on to say "on any deviation from the routes specified in the licence; or temporarily, on any route or in any area not specified in the licence".

Hon E.J. Charlton: It is increasing his operation.

Hon G.E. MASTERS: Is it? I would be happy if that were the case, but in view of what the Minister stated and the meaning of the words "may" and "shall", I would like the Minister's assurance.

Hon Graham Edwards: I have already said that in the second reading speech.

Hon G.E. MASTERS: I am querying this because I think there are some doubts about the words used. We know that if there is any doubt about the interpretation of legislation those people interpreting the legislation make reference to *Hansard*. So it is right for me, and is the correct practice for any member to follow, to make sure it is recorded in *Hansard*, and if there is any argument one can say, "That is the intention of the Bill, that is what the Minister said, and you can expect the Minister of the day to honour his word."

Hon GRAHAM EDWARDS: Exactly -- or any Minister in the future. What the Leader of the Opposition has said in relation to ferry operators and the transportation of American troops may well be the case; I do not know. But this Bill has absolutely nothing to do with that, especially in view of the amendment we have just put before the Committee.

Hon D.J. Wordsworth: It did have, until you pulled it out.

Hon G.E. Masters: I do not think it makes any difference. That is only my opinion.

Amendment put and passed.

Hon E.J. CHARLTON: Proposed section 47AB relates to all the procedures regarding the granting of the permit. Proposed subsection (4) indicates that a permit shall be deemed to take effect upon verbal notification to the applicant that a permit will issue, but shall be deemed not to have taken effect if the written application relating to the permit is not received by the director general within 14 days.

Hon Graham Edwards: Just get on the phone.

Hon E.J. CHARLTON: I hope there will be no complications and that someone does not lose out on a permit because of a foul-up. This is an area where one deals with someone on the telephone who says he has noted the particulars and then one finds he has not, and if one has not submitted a written application one will not get a permit.

Hon Graham Edwards: Something like 20 000 truck permits are issued every year by telephone.

Hon E.J. CHARLTON: I know. That is what I am worried about.

Clause, as amended, put and passed.

Clause 7 put and passed.

Clause 8: Section 49 amended --

Hon D.J. WORDSWORTH: Hon Eric Charlton raised the matter of whether ferries could be stopped and inspected, and the Minister suggested no, because this Act is really concerned with routes and inspections would not be in the nature of the Bill. I am rather surprised that proposed subsection (1)(b)(ba) provides that, for the purpose of determining the number or class of passengers being carried by the vehicle, the vehicle may be stopped and any passengers being so carried or any documents pertaining thereto may be inspected.

Hon Graham Edwards: Yes.

Hon D.J. WORDSWORTH: Apart from anything else, I would like to know what is meant by inspecting the passengers. It seems rather a solid way to put it.

Hon GRAHAM EDWARDS: This provision is to protect the revenue of the State. As members are aware, we pay subsidies to operators -- this refers to buses -- and in paying those subsidies there is occasion to ensure that the subsidies being claimed are indeed accurate subsidies. For that reason this spot-check mechanism is there.

Hon E.J. Charlton: Are you saying this is in direct relation to the --

Hon Graham Edwards: It refers mainly to buses.

Hon D.J. WORDSWORTH: The definition of "vehicles" has been altered.

Hon Graham Edwards: Have you foreseen that people who travel to Rottnest in the future might be subsidised?

Hon D.J. WORDSWORTH: I am pointing out that it is exactly contrary to what the Minister said in answer to the queries raised about ferries being stopped. We have added ferries to the definition of vehicles and under that definition passengers can now be inspected.

Hon Graham Edwards: The same can be said of passengers in aircraft. I do not see any difficulties with this clause.

Clause put and passed.

Clause 9 put and passed.

Title put and passed.

Report

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

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Sport and Recreation), and returned to the Assembly with an amendment.

BILLS (5): ASSENT

Messages from the Governor received and read notifying assent to the following Bills --

1. Acts Amendment (Legal Practitioners, Costs and Taxation) Bill.
2. Evidence Amendment Bill.
3. Electoral (Procedures) Amendment Bill.
4. Judges' Salaries and Pensions Amendment Bill.
5. The Rural and Industries Bank of Western Australia Bill.

TRUSTEE COMPANIES BILL

Returned

Bill returned from the Assembly without amendment.

BILLS (3): ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills --

1. Acts Amendment (Meat Industry) Bill.
2. Acts Amendment (Grain Marketing) Bill.
3. Bread Amendment Bill.

LOCAL GOVERNMENT AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 8 December.

HON P.H. LOCKYER (Lower North) [12.25 pm]: The Opposition agrees to most of the clauses in this Bill. Some clauses cause it concern and some we will oppose in the Committee stage.

Hon Graham Edwards: Can you indicate which ones?

Hon P.H. LOCKYER: Clauses 4, 5, and 6 cause us concern, and we will deal with them in depth during the Committee debate.

We oppose clause 4 because it reduces the number of people required to petition for changes in boundaries of wards to 20. Clause 4 provides that a petition by only 25 per cent or 20, whichever figure is the lesser, of electors is needed to require a council to alter the boundaries of a district and also to require a severance of an area from a district of a municipality or a portion of that district. This provision varies greatly from the section in the principal Act. The Opposition does not believe that 20 people are sufficient to force a decision on a municipality .

Clause 4 also refers to an alteration in the number of boundary commissions that can be appointed. The principal Act provides for one boundaries commission, but this Bill provides for a multiple number to be appointed.

Hon Graham Edwards: What about two?

Hon P.H. LOCKYER: That number is not stated in the Bill.

Hon Graham Edwards: Is your objection to increasing it to two or increasing it to an unknown number?

Hon P.H. LOCKYER: Our objection is to the amount of power given to the Minister to appoint commissions even though, as I understand it, the Minister in the other place assured members that he would not misuse that power. The Opposition objects because it is not set down in black and white. Ministers can change, and a future Minister would be able to appoint commissions of his political persuasion or with leanings to a shire's or municipality's interests.

Hon Graham Edwards: It is more likely to be that than a political persuasion.

Hon P.H. LOCKYER: Yes.

The Opposition also opposes the repeal of section 30A. Clause 6 is the clause that will draw most comment. Section 30A was inserted into the Local Government Act in 1975, I understand following an altercation between the Subiaco and Nedlands councils.

Hon Graham Edwards: It was called the Dadour amendment.

Hon P.H. LOCKYER: Yes, it was. Country shires and municipalities are concerned that this Bill seeks to repeal that section. The Opposition believes that section 30A was put into the Local Government Act for a specific reason. It allows councils to agree on a poll to be conducted among sections of the wards for amalgamation, and its repeal will enable alterations to be made allowing only 20 people to petition the Minister for change without referendum. For this reason we will argue that this part of the Bill has an important place in the Local Government Act.

Hon Garry Kelly: The boundaries aren't changed at all.

Hon P.H. LOCKYER: That is not right, because the system at the present time is such that we need a majority of electors to agree.

Hon Garry Kelly: With Albany or Kalgoorlie -- everyone recognises changes should be made to the municipalities but there are different interests.

Hon P.H. LOCKYER: The honourable member says everybody recognises that, but that is not the case. Some of my colleagues will bring up the situation in Geraldton where the town council would like to take over the urban areas of the Geraldton Shire Council. I understand there are 4 000 electors in areas of the Geraldton Town Council and that a total of 5 000 electors make up the Geraldton Shire Council. The argument is that the Geraldton Town Council would have to consider them because they use the facilities. The electors do not want a change because their rates are cheap.

Hon B.L. Jones interjected.

Hon P.H. LOCKYER: I will allow my colleagues who represent that area to answer. I used Geraldton as an example as I was encouraged by members to do so. The fact is that that section was placed in the Local Government Act for good reason -- to protect the big brother attitude, and we will oppose it. We will also put a number of questions to the Minister during the Committee stage on this point. Never a session goes by without this Parliament doing something to the Local Government Act.

Hon Graham Edwards: It is that sort of Act.

Hon P.H. LOCKYER: As members can see I hold in my hand a copy of that Act, which is virtually a looseleaf folder. The time is well nigh for the totality of the Local Government Act to be revamped. This Act is the most complex of all Statutes in Western Australia.

Hon Graham Edwards: Everyone agrees. That is a major task for next year.

Hon B.L. Jones: The Act was rewritten in 1960.

Hon P.H. LOCKYER: Looking through *Hansard* at all the different Local Government Act debates, no-one has disagreed about taking a stronger look at the Act, but that Act continues to be amended year after year. I understand you, Mr Deputy President (Hon Mark Nevill), are in the process of taking out the wherefores and hereafters in another capacity. Maybe the time has come to go right through the Act from A to Z and to bring down a simple Act.

Hon Graham Edwards: That will happen next year.

Hon P.H. LOCKYER: Hope springs eternal. The job will be a horrific one as the Act has become a higgledy-piggledy hotchpotch and must be a problem for the Department of Local Government to administer. More and more municipalities find difficulty in reading the Act. The Country Shire Councils Association of Western Australia has made its stand very clear. While it agrees with some provisions of the Bill, it opposes the reduction in the number of electors who can subscribe to a valid petition under section 12(1). It opposes amendments to sections 30A, 27, 12, and 6 which relate to the removal of the right of electors to veto the transfer of land from one council to another, and the abolition, dissolution, and amalgamation of municipalities.

The Opposition agrees with the amendments to many sections -- not the least of which concern the tidying up of different sections. The Opposition agrees with the charge of $10 for a copy of the roll because in this day and age local governments should receive some return. A number of questions will be asked of the Minister in the Committee stage concerning the appointment of honorary parking inspectors. We are also concerned with the alteration to the number of petitioners on all three occasions.

While the Opposition supports the second reading of this Bill, it indicates it will oppose certain clauses of the Bill.

HON H.W. GAYFER (Central) [12.37 pm]: The original roads board legislation of 1875 was the basis of the formation of roads boards and ultimately shire councils. The updating of that legislation took place in 1960 during the term of Hon Les Logan, who was then Minister for Local Government. It was considered to be an achievement when that legislation became the present Local Government Act. The present Act has been substantially updated since then and is one of the largest Acts in terms of volume in this State. The Companies Act covers more pages but contains not as many clauses. When one considers that every section contained in the Local Government Act is virtually a separate law, the content of the 1960 Act is amazing.

I was interested in the comments made by the Minister for Local Government in the other place that the proposed rewriting of the Local Government Act will be a major project in 1988, and that it has already commenced. I was also very interested in the Minister for Health's comments that he thought that this would not come about in 1988; in his opinion, the process would take to the end of the century.

Hon P.H. Lockyer: The Minister may be on his own.

Hon Graham Edwards: I think the Minister was loosely indicating the length of the project.

Hon H.W. GAYFER: Regardless of whether a rewrite occurs in 1988, current amendments are before this House. As we near the end of the session these amendments seem to be such that if there were an intention to rewrite in 1988, one would have thought that possibly some of them may have been put aside until that time. At least that is my opinion.

Hon Graham Edwards: There are a number of those things.

Hon H.W. GAYFER: I can see two or three things which will have to wait. Still, we will see that as the day goes on.

Those of us who have served in local government -- and that includes the Minister at the Table -- have gained a sense of dignity and pride in that service. All of us who have served there are very thankful for those early days which we spent in the council chambers, and the impact local government made on us. Indeed we have been fortunate to have a knowledge of local government which we could bring into this House. It helped me when I came here, and I feel sure it has helped many other members who have likewise been through the mill, either as members of roads boards, shire councillors, or as presidents or deputy presidents of shires, or as representatives on the Country Shire Councils Association or on other local government authorities.

That pride stems from the fact that we always believed that we were the third arm of Government. We were also very proud to uphold the autonomy of local government. This autonomy seems to have dwindled somewhat, and it seems to be dwindling more and more over the years, however piously we attend local government receptions and admit to the councillors present that as members of Parliament we believe in the shire council system and in the autonomy of local government; we believe that local government is truly the third arm of government. We have all said it, and we have all heard others say it. If we say it, we should believe in what we are saying; consequently, when we introduce amendments which reduce the autonomy of shires, and when these amendments cut across the wishes of councils generally, we have reason to be alarmed at the removal of the powers which should exist within the Local Government Act.

Our Constitution says in section 52(1) --

> (1) The Legislature shall maintain a system of local governing bodies elected and constituted in such manner as the Legislature may from time to time provide.

(2) Each elected local governing body shall have such powers as the Legislature may from time to time provide . . .

I do not deny it is within the right and province of this place to create the laws and the amendments within the Local Government Act by which councils shall act. But at least if we recognise it as having a degree of autonomy, and as the third arm of government, we should take some notice of what local government says. The people who administer the shire councils -- the members of the Institute of Municipal Management, for example -- knew nothing, until this Bill came out, of the amendments to sections 12, 27 and 30. Likewise the councils were unaware of the amendments in relation to clauses 4, 5, and 6 until the councils were supplied with second reading speeches and Bills --

Hon D.J. Wordsworth: They did not see much of the second reading speech.

Hon H.W. GAYFER: -- which appeared following the introduction of this Bill in another place. Most of them would have received some form of notice around 2 November 1987. This has caused the Country Shire Councils Association and others to be alarmed at the provisions in the Bill, particularly as the 1986 Country Shire Councils Association annual conference endorsed unanimously the Narrogin motion that section 30A shall remain in the Act. That motion was carried unanimously, and it was a major plank of that 1986 annual conference.

Hon J.M. Brown: Does that make it right?

Sitting suspended from 12.45 to 2.30 pm

Hon H.W. GAYFER: Likewise the CSCA Executive resolved recently --

1 It opposes any reduction in the number of electors who can subscribe to a valid petition (under Section 12(1)).

2 It strongly opposes amendments to Sections 30A, 27, and S12(6)(ka) to remove the right of electors to veto --

transfer of land from one Council area to another;

abolition (dissolution) of a municipality;

and amalgamation of municipalities.

These then are the resolutions which generally have flowed in respect of the main crunch of the Bill. The Bill broadly amends the Act in a number of ways. Firstly, local governments are given the power to appoint persons other than their own full-time officers to enforce parking offences; secondly, the situation is restored whereby the rating of mining tenements granted over land held in some other tenure is rateable in both tenures; thirdly, as a result of the Valuation of Land Act being amended to remove the requirement that the gross rental value of land be not less than five per cent of the site, superfluous concessional values under the Local Government Act are removed; fourthly, provision is made so that in local government elections any vacancies filled on the same election day for the same electorate will be by way of a single election, including extraordinary vacancies; and, finally, statutory limits relating to the setting of fees for the sale of electoral rolls will be removed. None of these matters causes me any great concern, although I will be interested to hear them debated further in the Committee stage because the National Party has one or two points to raise about them.

However, the second thrust of the Bill is to provide mechanisms for the review of local government boundaries. In the first instance this will be done by amending section 12 of the principal Act to repeal obsolete provisions so as to provide consistency in terminology and in the number of electors who may initiate the respective petitions seeking change. Secondly, this will clarify the right of petitioners to seek the exercise of more than one power vested in the Governor relating to the constitution of local governments. It will also repeal section 30A of the principal Act, which is viewed as a means of preventing or delaying what may be most desirable change initiated by electors, and it will also provide for the appointment of more than one boundaries commission.

The latter points concern me the most. Certainly I will look at them very carefully, particularly the provision which attempts to oust sections 12, 27, and 30A. I think these are Committee matters and they will be further discussed when the Bill has reached that stage.

HON MARGARET McALEER (Upper West) [2.35 pm]: I start off on a hopeful note. Like Hon P.H. Lockyer I had difficulty in dealing with the Local Government Amendment Bill currently before the House, especially when trying to explain it to one of my constituents, when I finished up dropping all the amendments over the floor. I then discovered, through reading the debate in the Assembly, that there was a looseleaf copy of the Act with all the amendments available. It is available to us now in the form of two copies from the Records Office, and it is available to anybody else by payment to the State Printing Division. This makes life a great deal easier for anyone who has to deal with the Local Government Act. Nevertheless, I look forward to the day when the rewriting of the principal Act is accomplished and, hopefully, the need for additional amendments has abated.

While this Bill makes provision for a number of matters, which have been referred to by previous speakers, in respect of the ability of councils to charge an appropriate price for electoral rolls and for validation of rates on mining tenements in certain circumstances, the central and most important proposals are those dealing with the boundary changes -- that is, to municipalities, the excision of a portion or part of several portions or parts of a local government area and annexation of that portion or portions to another municipality. The Minister claimed that the proposals would improve the efficiency of local government and engender present day community of interest. I believe an important principle is involved in these proposals, which could deprive electors within a portion of the municipality to be annexed -- and not only those electors, but the electors of the whole municipality -- of any right to have a say in the disposal of that part of the municipality or perhaps even of its total dissolution.

It sounds fine to say, as the Minister did, that such proposals, if accepted, would lead to improved local government, but that seems to me to demonstrate a very autocratic attitude. Nobody has ever claimed that democratic procedures are the most speedy or efficient -- if efficiency is to be measured in terms of getting things done without negotiation or compromise. In times of war we give dictatorial powers to a Government to enable it to be efficient. However, we are not in a war situation or even in a situation of crisis in regard to local government boundaries. There is no excuse for curtailing democratic procedures to achieve change, no matter how desirable change might seem to be or in fact is.

People are becoming increasingly worried by government's attitude and insistence on planning. By "government" I do not mean the present Government in particular. The State Planning Commission, with its overriding powers, looms ever larger in the lives of citizens who are losing their ability to dispose of property or to use it according to their wishes. This is being done in the name of good order, efficiency, and the general good of the community. We are only one million-odd people living in an area of one million square miles; yet this Government behaves as though we were millions of people packed onto a tiny island. It is not Governments alone which have that attitude, because we only have to look out our windows to the city business area to see the tiny island mentality at work.

My particular interest in this Bill, apart from the general principle involved, has to do with the provision of boundary changes because of the conflict which has arisen between the Town of Geraldton and the Shire of Greenough, which are within my province. As has been said several times, the Town of Geraldton would like to expand its territory to include, firstly, the suburbs which lie within the boundaries of the Shire of Greenough but form part of the urban area of Geraldton itself. Secondly it might like to expand its claim for further territory into the industrial areas which are part of the Shire of Greenough and were set aside by the Government for industrial development.

The arguments the Town of Geraldton uses are, firstly, that the people from the urban areas in the Shire of Greenough use the town for business and entertainment, and not only use the facilities which are provided, but being a considerable body of people require additional facilities. However, not being ratepayers of Geraldton they do not pay for them. Secondly, Geraldton has no possibility of expansion itself. It is ringed by the Shires of Greenough and Chapman Valley, and not being able to expand it cannot see any way to increase its revenue and is therefore not in a position to lower its rates, for one thing. Geraldton Town Council feels strongly that it should be doing its utmost to provide work for the people of Geraldton, and yet any great industrial development must almost necessarily take place outside the town in Greenough or Chapman Valley, and that limits the town's ability to initiate moves to induce new industries to come to the area.

All this is very understandable and the motives are good in as much as they are related to improving the lot of the citizens and ratepayers of Geraldton. However, it hardly constitutes a claim for a unilateral decision to take over part of the Shire of Greenough or a claim to have the procedure altered so that an annexation of part of the Shire of Greenough can take place without the consent of the electors of that shire. At present it is open to Geraldton to negotiate with the Shire of Greenough. Understandably this is not always terribly productive, although it has had some success. It is also open to the citizens of the Greenough Shire living in urban areas to petition to be included in the municipality of Geraldton. On the most recently quoted figures, given that there are 4 000 people in the urban areas of Greenough compared with 1 000 in rural areas, it goes without saying that they would be able to win a poll. Of course, they are not interested in joining the municipality of Geraldton, and as Hon Phillip Lockyer pointed out, and he quoted the Minister for Local Government who is the member for Geraldton, one of the reasons -- probably the most important -- for the unwillingness of Greenough Shire people to join the Town of Geraldton is that rates are considerably lower in Greenough. That is a very good reason.

The argument runs that the Greenough electors are only able to pay lower rates because Geraldton subsidises them. It is fair to say that for many years the Shire of Greenough was run in an economical way, and it managed its finances particularly well. When it undertook the development of the urban areas, it did so at considerable cost. In addition to the densely populated fringe areas of Geraldton, it has undertaken expensive town planning in the more rural areas where there is much hobby farming. The Shire of Greenough has spent a great deal on this development, and the fact that it is still able to charge lower rates is probably more a function of its successful financial management than subsidising by the Town of Geraldton. In Greenough's defence it can be said too that by arrangement it pays a considerable sum to Geraldton each year in compensation for the use of facilities and amenities. It made possible the building of the regional prison by use of its borrowing power, and it has undertaken responsibility for the airport which services the Town of Geraldton as well as surrounding districts, at some considerable cost.

Those are the arguments in respect of the positions of Geraldton and the Greenough Shire. It should also be said that the Town of Geraldton has never been very comfortable in a local government sense vis-a-vis its hinterland of shire councils. Over the last 20 years the Town of Geraldton has been in and out of the Country Shire Councils Association and has joined and left the Country Urban Councils Association, and it has never felt comfortable in any situation. At present it is probably most comfortable with the Country Urban Councils Association, but it means that the situation will always be difficult while Geraldton has a rural hinterland.

The argument on which the Minister's solution is based -- that when the land use changes on the boundary of a town, or an urban area is developing alongside an urban municipality, the land should be taken into the urban municipality -- seems to me to be too open-ended. At what point does a municipality like Geraldton, Albany, or Narrogin cease to expand its claim to urban development just because it is happening contiguously or nearby? In the Perth metropolitan region there are any number of municipalities, from Peppermint Grove which is small and residential, to Stirling and Wanneroo, which are large and sprawling. Those municipalities have managed to live together; they are interdependent. People live in one and work in another and use the facilities of both. I cannot see that this is anything but a usual and practical arrangement, and one which destroys the argument that larger country towns should increase their size as the urbanisation of their neighbours develops.

I do think that where goodwill is lacking between country urban towns and adjoining rural shires, or where goodwill is not enough to sort out the difficulties, there should be some additional mechanism for negotiations to take place.

Hon Garry Kelly: There should be something to resolve it in part.

Hon MARGARET McALEER: It cannot be resolved in part; it must be resolved by mutual consent.

Hon Garry Kelly: That is what I mean; it has to be resolved.

Hon MARGARET McALEER: An outsider cannot say how it must be resolved. It is not true when it is said that local government is an elected government and, therefore, the

electors are involved. There is no point in denying them their autonomy if a matter is resolved from outside. Although I believe that it is often attributed to personality problems and that some people say that with a change to the membership of councils these problems could be resolved, the problem has been around for too long for it to be simply a matter of personalities. There is some reason to try to facilitate the negotiation position other than that which we already have. I do not believe that it is in the form that the Minister has proposed. What he has proposed is inappropriate and unacceptable and is hypocritical in light of his many claims to be improving the autonomy of local government, and particularly its democratic processes -- in the name of which he has been enrolling non-ratepayers and altering ward boundaries. All in all, I do not support those provisions.

HON GARRY KELLY (South Metropolitan) [2.52 pm]: I support the Bill. I agree with the comments made by all members who have spoken so far about how diabolical is the state of the existing document we call the Local Government Act. It is very difficult to read in conjunction with the many amendments and to make any sense of it.

I agree with Hon Margaret McAleer that there are a lot of measures in this Bill that are not controversial and members do not have any problems with them. As with most legislation, there are a couple of crunch clauses, the main one being clause 30A. I gather that Hon Margaret McAleer could see a lot of merit in what the Government is proposing.

Hon Margaret McAleer: In what the Government is proposing, but not in the way it is proposing to undertake those changes.

Hon GARRY KELLY: The main area of concern is what is known as the Dadour amendment of 1975. It has not been in existence since Adam was a boy, but has only been in existence for 12 years . In historical terms it is a recent amendment to the Act. If the Dadour amendment is allowed to remain unchanged, it will set current local government boundaries in stone.

Although it sounds democratic to give ratepayers of the affected areas a vote in deciding whether an external boundary change will be effected, people who vote at referenda -- that is, if we can get them to the polls; that is one hurdle to overcome -- vote with a variety of motives. I refer members to the history of constitutional referenda in this country in which there have been very good and sensible proposals to amend the Federal Constitution. However, the changes have not been made because people have not taken the time to understand the issues involved in the proposals put forward. People are not prepared to take the trouble to understand the issues and, as a result, they vote "No". I suppose it is lazy in a way, but it is easy to vote "No" because people feel safer. If the so-called Dadour amendment remains in the Act there will never be any rational change to local government boundaries.

In the case of Geraldton and Greenough, Hon Margaret McAleer mentioned that there is a difference in the rates levied. For example, the 4 000 people who reside at Greenough would, if that part of the shire were incorporated in the Town of Geraldton, pay higher rates. I do not dispute that, but I assume that the rate burdens in Geraldton would be lessened if those 4 000 people were incorporated in the Town of Geraldton. There would be a lowering of rates over the enlarged municipality of Geraldton. I am not saying that the people of Greenough would not pay more rates than they do now, but it is wrong to use that as a justification for not changing boundaries when on all other counts, in terms of management of resources of a region, it is the correct thing to do. If the people of Greenough are using the facilities provided by the Town of Geraldton, although Greenough Shire may be making some sort of input into those facilities, surely it would be a fairer and more efficient way of organising the allocation and distribution of resources in that region.

Most people vote with the hip pocket nerve when making a decision, and it can create delays and hold back reforms in the administration of the area. A mechanism should be in place to get away from that situation and to stop the situation from developing. From my understanding, where a shire council and a town council are in close proximity to one another there are often strong personalities in either one or both authorities when it comes to the question of amalgamation or boundary change. It would not matter if Jesus Christ appeared and said to them that it would be better if they got together and formed one authority, there would be no way in which they would agree to amalgamate because of their strong personal antagonisms.

Hon Margaret McAleer: There are other ways of solving problems without touching the boundaries.

Hon GARRY KELLY: There may be, but it would be very hard to reach an agreement between authorities when there are strong personalities involved.

The point has been made that it is impinging on local authorities' autonomy to have boundaries changed with recourse to referendum. The original boundaries were set by this Parliament, not by the people in the various local authority areas. Local government is a creature of the Parliament and the Local Government Act can be amended by this Parliament in every other respect except in relation to boundaries. Members opposite say that people should have a say in the drawing of boundaries, but if they look at this Parliament or the Federal Parliament, the electorate does not have a say in the drawing of electoral boundaries. If it did, it would be impossible to get any sort of redistribution, whether a gerrymander redistribution, one-vote-one-value, or whatever. If we are speaking about Federal boundaries we would have the same boundaries as existed at Federation.

Hon P.G. Pendal: That may not be a bad idea.

Hon GARRY KELLY: I can see that Hon Phil Pendal is not a member of the Federal Parliament.

I do not think that administrative decisions such as the drawing of electoral boundaries are amenable to the electoral process. There are a number of other distractions which come into the process that do not bear directly on the merits of boundary changes in terms of logic, rationality, and efficiency. Boundaries are not amenable to being decided by referendum. Petty jealousies arise, and local governments are very parochial. One local government council will not tolerate losing a bit of territory, no matter how justified on the grounds of efficiency and logic.

Much has been made of the way in which the current Bill is written. I am sure the Minister would be prepared to consider any amendments which would satisfy some of the concerns of Opposition speakers, as long as section 30A is amended so that the necessity for a referendum to decide boundary changes is dispensed with.

Hon Miss McAleer made the point that it is important for people to sit down and talk. Amendments could be framed to give an enhanced role to a local government boundaries commission, which would consider the views of local government authorities involved; organisations like the country shire councils and country urban councils could be represented on that commission, and that body could make recommendations to the Minister which he could either accept or reject. That is a much more rational and sensible way of addressing the question of council boundaries. Sitting around a table with the President of the Shire of Greenough and the Mayor of the Town of Geraldton and their representatives will result in a debate going hammer and tongs. They might burn the midnight oil, but they might also reach a compromise which could be lived with. To put this matter to a referendum process and expect a decision acceptable to both sides is asking too much. I urge the Opposition to look at the Bill and consider local government boundaries. Some anomalies which need straightening out are obvious. They will not be straightened out under the existing legislation.

Some members have pointed out details of proposals they find galling, such as the low number of petitioners. There must be something to trigger the redistribution in a parliamentary process; and there must be some means of triggering a redistribution of council boundaries. No member would subscribe to the belief that boundaries are fixed and unchangeable. I wonder if a member of the Opposition can come up with a proposal to trigger a sensible way of altering council boundaries. It must have a reasonable body of support so that we do not just go through an exercise which very few people want and which would not gain much local support.

We need a practical way of effecting local government boundary changes. Despite all the high-flown rhetoric about democracy, we will not obtain practical, desirable changes to local government boundaries by using the existing section 30A. The proposal in the Bill goes a long way towards achieving that aim, and the detail of the new system leaves room for compromise in the way of amendment. We must concede the present system does not and cannot work. If we want to have local government boundaries which bear some relationship

to the demography of the State and to the developments taking place, we must have a system which will allow boundary changes to proceed on an organised and rational basis.

Members opposite may have seen the article in the paper the other day where it was reported that the Western Australian Chamber of Commerce and Industry is pressing for the CBD to become a local authority. Whether one agrees with the merit or not --

Hon P.G. Pendal: Some of your people are talking about putting East Perth into Victoria Park, which is ridiculous.

Hon GARRY KELLY: That is academic.

Hon P.G. Pendal: It is not; they are serious about it.

Hon GARRY KELLY: Under the present proposals, the chances of getting any debate on the changes, whether we agree with them or not, is not possible, unless it is an academic one.

Hon P.G. Pendal: I am pleased to hear that.

Hon GARRY KELLY: With the proposal of a boundaries commission looking at local government boundaries, there is some way in which reasoned debate can be held about the merits of certain boundary changes. Under the present system it is not possible.

I urge Opposition members to support the second reading and to look seriously at constructive amendments to the clauses they find problems with. The existing section 30A does not work; it is not possible, under that section, to alter council boundaries as the need arises. If we want local government to be responsive to changes in the demography and growth throughout the State, the existing section 30A must be changed.

I support the Bill.

HON D.J. WORDSWORTH (South) [3.08 pm]: I express concern at some of the provisions of this Bill. The first is that of parking, where special parking facilities are to be set aside for disabled persons. It is suggested that local government should have the power to appoint persons other than their own full-time officers to enforce parking regulations. I do not know whether this has been brought about because of these parking facilities for the disabled or not.

A Government member: That is one reason.

Hon D.J. WORDSWORTH: The part-time people who will become honorary attendants will be looking after their particular allotments. I say this knowing the disabled are not the only people who have parking facilities set aside for them.

Hon Graham Edwards: Those are the ones we are most concerned with.

Hon D.J. WORDSWORTH: Perhaps the Minister has the experience to know that the taxi drivers also have parking areas set aside for them.

Hon Graham Edwards: The taxi drivers are usually fairly capable of looking after themselves.

Hon D.J. WORDSWORTH: Other areas are set aside for the loading of commercial goods and so on. Once again, as a result of my experience as Minister for Transport, I had to set aside parking bays for various purposes. Generally speaking they were provided at the request of those who lived nearby who needed the facilities, and these facilities were fully researched. It will be ridiculous if we are to have a lot of part-time inspectors, either voluntary or otherwise, to look after a given area. It will be ludicrous to have people popping out of shops, pulling out a certificate and saying, "You cannot park there; I am an honorary inspector of this area."

Hon Graham Edwards: It is ludicrous if a disabled person cannot have access to a shopping area because of the ignorant and selfish people in the community who will not respect those places. It is unfortunate that they must be policed in the first place, but that is the result of ignorance on the part of people in the community.

Hon D.J. WORDSWORTH: Perhaps it is. I do not want to get into an argument about the disabled, as the Minister seems to want to.

Hon Graham Edwards: I will pursue this matter quite vigorously.

Hon D.J. WORDSWORTH: My mother-in-law can barely walk, and she is not classed as disabled.

Hon Graham Edwards: Of course she is. You are completely ignorant of the facts. It is for those people that these bays have been set aside.

The DEPUTY PRESIDENT (Hon Mark Nevill): Order!

Hon D.J. WORDSWORTH: Most of us agree that there should be separate parking for the disabled. I am agreeable to shires having one or two temporary inspectors where required. Some shires already do. For example, in Esperance the local dog catcher inspects the parking bays on Saturdays.

Hon Graham Edwards: People in country areas are much more considerate of others.

Hon D.J. WORDSWORTH: Perhaps they are. I do not like the fact that the clause is open-ended as to how many inspectors there will be. I am not concerned so much about people parking where they should not, but about people who perhaps overstay their parking time by only five or 10 minutes. If we have voluntary inspectors jumping out of shops waving at motorists who have overstayed their time, the situation will be more ludicrous than it is now with inspectors on motor bikes. That is my reservation regarding this clause.

The rating of mining tenements seems quite sensible. The removal of superfluous provisions in the Act left over from the provision of gross rentals seems to be in order. I have some doubt about the holding of single elections. However, it may solve the problem if all candidates stand for one seat and the most popular gets it. The fee for the sale of electoral rolls is of little consequence.

Undoubtedly the major amendment concerns local government boundaries. Once again, one would not have a clue as to what it is about from a reading of the second reading speech, as there is very little information in it other than the use of some grandiose words such as --

> . . . alignment of economic, social, and demographic characteristics consistent with the development and enhancement of contemporary society.

What a load of rubbish that is. I quote again --

> Local government boundaries should not be seen only in the context of fixed lines on a map . . .

I do not believe they are. A previous member suggested that boundaries were set by Parliament a long while ago. We have gradually seen the successful change of boundaries. In my area we saw the Shire of Gnowangerup successfully split into the Shires of Jerramungup and Gnowangerup. It took a lot of argument, but they were able to resolve the problems of how to share the debts and assets from road plant through to halls. When sections of shires are amalgamated no provision is made for the sharing of debts and assets. It has been suggested that people in one district do not wish to join another shire because they may end up paying higher rates. There is another economic consequence, which is that they often inherit extra debt when they are forced to join with another shire. Sooner or later that debt has to be paid by the ratepayer.

Shires often reflect the type of community which lives in them. Some communities prefer to borrow money for major developments like swimming pools, halls, or roads. Others prefer not to get into debt and put up with fewer facilities. It is unfair that members of one district who live conservatively should find themselves attached to a nearby shire which has borrowed money for a lot of developments. It is up to the shire if it wishes to borrow money, but other people should not be dragged in to pay those debts if they have had no say in incurring them. That is why the Dadour amendment is here, and it is more desirable than these proposed amendments.

I represent the Town and Shire of Albany where one of these debates took place. A group of taxpayers in the Town of Albany formed an organisation called the Albany One Movement. They promoted the practicality of amalgamating Albany Town and Albany Shire, and they did it very well. As it happens, they did not win the debate. I am glad to say that the situation has settled down now and there is no great pressure to continue with it. I have been contacted about this amendment, not by people who wish to use it, but by those who wish to be defended by the Dadour amendment.

The people of Albany have accepted that the residents of the nearby shire do not wish to join the Town of Albany. The issue has died down now, but perhaps in future we will see a change. I hope we do. I hope, after a reasonable amount of time, the question is put again and resolved on the opinions of the day. I hope the town and shire will continue to negotiate on joint funding of facilities. I have to admit that that is one of the problems. The people in the inner area see themselves supplying facilities for those residents in the adjacent area who are not paying their full share. The solution is to have joint funding as far as capital is concerned, and to increase the charges for those facilities so that anyone coming into the centre to use them pays for them.

I do have to remind the people of Albany of what happens here in the city; without doubt the city supplies added facilities for the suburban local government areas surrounding it. No-one has any qualms about coming into Perth and using those facilities. I think the Perth City Council has long since given up thinking it will get any joint funding or anything else for those facilities. Governments realise that regional centres have responsibilities, and we have seen the way the Government has helped to supply some of the major facilities here in the city, such as the Concert Hall, as it has done in major country towns. Albany was helped by the State Government with its town hall development, as were Esperance and other regional centres, and in so doing some of the burden of being a regional centre, shall we say, is taken off the shoulders of ratepayers in the heart of the district.

The other major change which has been made in this section is that the Government has proposed new methods of allowing people to petition for an amalgamation or subdivision, and I say "people" because the most noticeable difference between the Act and the amendment to it is that the amendment refers to electors and the Act refers to ratepayers. I believe that is a great difference, and we will discuss that further when we discuss the Bill in Committee.

Debate adjourned, on motion by Hon Fred McKenzie.

CRIMINAL CODE AMENDMENT BILL (No 2)

Returned

Bill returned from the Assembly without amendment.

MOTOR VEHICLE (THIRD PARTY INSURANCE) AMENDMENT BILL

Second Reading

Debate resumed from 2 December.

HON JOHN WILLIAMS (Metropolitan) [3.23 pm]: The learned Attorney General yesterday drew the analogy, when he sat in this place with two eminent QCs -- and he had not then been elevated to that rank -- that he felt like the articled clerk. I might draw the analogy in dealing with this Bill that the learned Attorney General has taken silk, and when it comes to a Bill like this I feel like someone clothed in sackcloth. All I hope is that after this second reading debate, the Attorney will not cover me with ashes just to give me my final humiliation.

This is a very complicated Bill. It has been brought about by a High Court decision which caused panic in the ranks of insurance companies. However, as I read the Act there was no need for that. The Leader of the House will be aware that I have placed on the Notice Paper an amendment to this Bill in relation to retrospectivity, but before dealing with that amendment I would like the Leader of the House to know that I will not be pressing in any way the amendments that were put down in the other place when this Bill was first debated. Those amendments dealt with section 3 of the principal Act.

I want to explain to the House the reason for the actions I am now taking. We have the approval of the Premier to relate to our colleagues the reason why the amendment to section 3 of the principal Act was not passed. I have heard it said in the past two days, more often than I have heard it said during my 17 years in this House, that a member would like to place something on the record in *Hansard*. The Premier is aware of that, and with the permission of the House when I read this letter and have it actually put on the record, the House will be able to judge what onerous measures we in this House take when we put things on record. It

is not just a matter for a member's whim or conscience; it is regarded very seriously outside this House by the people who have to interpret the law.

This letter was addressed to the member for Darling Range, Mr R.W. Greig, MLA. It says as a footnote --

> The Premier has advised that he has no objection to you making Parliamentary Counsel's advice available to your colleagues.

That is precisely what I am now doing. I am not saying it is an all-important document, but in this particular interpretation it is a necessary document for people outside this House to take note of. The letter says --

> During the debate on the Motor Vehicle (Third Party Insurance) Amendment Bill on Wednesday, 2nd December, 1987, the Premier undertook to seek advice from Parliamentary Counsel on an amendment moved by you to Section 3 of the principal Act.
>
> The Premier has asked me to reply to you on his behalf. The advice received by Deputy Parliamentary Counsel is as follows:
>
> "Parliamentary Counsel and myself are of the view that a 'shopping list' approach to the definition of the word 'driving' is undesirable. Such lists are never exhaustive, but can lead to the power of the Courts to construe the ordinary English meaning of the word being inhibited. We feel that parking is sufficiently related to driving to be necessarily included in the same concept, and so is getting in or out of the vehicle.
>
> Where a provision is not specifically defined the Courts can have regard to context and to normal English usage, and also to established precedent. That power is subject to section 18 of the Interpretation Act 1984 which requires that a construction that would promote the purpose or object underlying the written law shall be preferred to a construction that would not promote that purpose or object.
>
> To determine the meaning of a provision that is thought to be obscure in a particular connotation, section 19 of the Interpretation Act 1984 enables relevant material in Hansard to be considered.
>
> To use the format suggested in Mr. Greig's version would be undesirable because that version purports only to relate to the context of section 3(7) as introduced by clause 5 -- which is restrictive in its application -- and would not flow through to the other references to driving in the Act."
>
> In his reply to the Second Reading Speech, the Premier indicated he would be guided by the advice of Parliamentary Counsel on this matter. The Premier has advised that he has no objection to you making Parliamentary Counsel's advice available to your colleagues.

A copy of that letter was sent to Mr M.E. Stephens, Deputy Leader of the National Party, and to Mr M.W. Trenorden, member for Avon. The real problem with this Bill for the Insurance Council of Australia is that there are certain items in it which cause it some alarm. Hence it is worried that the floodgates which could be opened should in part be opened, but not to the floodgate level. It is causing the council and our side of the House some worry, and that is why we have put the amendment on the Notice Paper. In his second reading speech the Deputy Premier said --

> Although the terminology appearing in the Motor Vehicle (Third Party Insurance) Act 1943 successfully withstood the test of time, all that has now changed with the High Court of Australia judgment of Dickinson *v* The Motor Vehicle Insurance Trust.

Further on he said --

> The decision in the Dickinson case is generally considered to have opened the floodgates for the entitlement of persons injured in stationary motor vehicles to recover damages from the State Government Insurance Commission -- by way of simple example, the loading and unloading of goods-carrying motor vehicles, which in ordinary circumstances would be the subject of workers' compensation claims.

With respect, we cannot agree with those statements. The meaning of the expression "caused

by or arising out of the use of a motor vehicle", as used in legislation similar to the Motor Vehicle (Third Party Insurance) Act 1943-46 has been considered by the High Court in six reported decisions. Those decisions are: Fawcett *v* BHP By-Products Pty Ltd, 1960; The Government Insurance Office of New South Wales *v* King, 1960; The Government Insurance Office of New South Wales *v* R.G. Green and Lloyd Pty Ltd, 1966; Harvey Trinder (New South Wales) Pty Ltd *v* The Government Insurance Office of New South Wales, 1966; Commercial and General Insurance Company Limited *v* The Government Insurance Office of New South Wales, 1973; and The State Government Insurance Commission *v* Stevens Brothers Pty Ltd, 1984.

The point in quoting these cases is that section 10 of the Motor Vehicles (Third Party Insurance) Act of New South Wales provides that the third party insurance policy to be issued by the authorised insurer must insure the owner and the driver against all liability "in respect of the death of or bodily injury to any person caused by or arising out of the use of the motor vehicle in New South Wales". The Western Australian Act provides in section 6 that the third party insurance policy to be issued by the State Government Insurance Commission must insure the owner and the driver against all liability for negligence in respect of the death of or bodily injury to any person "caused by or arising out of the use of the vehicle in any part of the Commonwealth". Under the terms of a third party insurance policy in force under the Motor Vehicles Act 1959 of South Australia, the insurer "insures against all liability in respect of the death of, or bodily injury to, any person caused by, or arising out of the use of the vehicle in any part of the Commonwealth". The wording is similar in those two cases.

I seek your indulgence, Mr Deputy President (Hon Mark Nevill), to quote now because my notes are copious and it is better that I read them for the sake of accuracy. The headnote in Fawcett's case was as follows --

> The Third-Party insurance policy was issued to the owner in respect of a Caldwell mechanical loader, being a tractor upon which there has been mounted a bucket or grab which can pick up material from a heap in front of the tractor, travel along rails above the head of the operator to the rear of the tractor and deposit its load there, usually in a truck or some other container, for removal. When being used in this manner, the vehicle moves forward towards the heap and backwards towards the truck, as required. While the loader was being so used, the bucket jammed after its contents had been ejected and the driver operator was injured when the bucket fell on him as he attempted to free it.

In this case, Green's case in 1966, Stevens' case in 1984, and the Western Australian case of Vance *v* Cheynes Beach Whaling Company, it is obvious that the definition of vehicle is all-important. It therefore follows that the Dickinson decision is not a landmark ruling. These rulings have been made before.

Hon J.M. Berinson: I do not think the Dickinson case is a decision on the question of what is a vehicle.

Hon JOHN WILLIAMS: No, but it is one of a series of these decisions reaching back to 1960 where the court was stating that a vehicle so defined did not have to be moving as we understand it, because in the Dickinson case the vehicle was stationary at the time without the driver. Although the Dickinson case is recent, and if one is generous of an emotional nature, these other decisions have been handed down since 1960 -- for instance, a compressor being defined as a vehicle, and therefore the charge being on the MVIT rather than workers' compensation.

Hon J.M. Berinson: But was the driver's action involved? I do not have the case available to me.

Hon JOHN WILLIAMS: I will present the papers to the Leader of the House; I would not expect him to pick it up in debate because my notes are of other opinions, if I can put it that way.

I wish to draw attention to clause 12, in relation to which I have given notice of an amendment. Let us look at existing legal proceedings. There are a large number of cases where actions or third party proceedings have been commenced and maintained on the basis of the legislation as it exists. Clause 12 provides that those actions at present on foot and

which may have been proceeding for some years would be outlawed. Thousands of dollars in legal costs have been incurred in maintaining the proceedings to date and would not be recoverable. Hundreds of thousands of dollars being sought by way of indemnity under the present Act would not be recovered under the proposed amendments. If Parliament intends to limit the extent of the statutory policy cover, it should be understood that Dickinson's case does not alter the law to any significant extent but perhaps reflects a continuation of the development of the law in this area. The important point is that the decision in Dickinson's case is being used to justify amendments which destroy other claims where the facts of the situation may have justified a recovery since at least 1960 and probably since 1943.

Hon J.M. Berinson: But there is a distinction to be drawn in respect of who the claim is by. My information is there is no claim by an individual plaintiff which would be caught by this Bill; they are only claims by one insurance company against another.

Hon JOHN WILLIAMS: I suppose that is the thrust of this argument. I accept the word of the learned Attorney General and Leader of the House that there is no other known claim at this moment, but in relation to clause 12 the point is that one cannot expect the State Government Insurance Commission to really be concerned about this matter. The Insurance Council of Australia is concerned because as far as the SGIC is concerned it is merely transferring the liability from one department to another.

I will not continue my remarks on clause 12 because it would be unfair and I would not risk the wrath of the Chair because it is a Committee matter. It is the retrospectivity which worries me and the amendment that the Opposition has on the Notice Paper would go a long way to obviating my doubts. I do not think it is an obnoxious amendment; it is one that could be looked at and perhaps, with the assistance of the Leader of the House, who is also the Attorney General -- it may be by way of reply in the Committee stage or in his reply today -- we would not have to delay the House in any way by complicated legal arguments going back and forth across the Chamber. I am prepared, if the Attorney General so wishes, to provide him with my notes and then he may be in a better position to advise the House that what I have said today and what is contained in my notes are ill-founded, or not founded on good fact and he may be able to say that there is no need to proceed with the amendment during the Committee stage. What I am seeking to do is to present the case and to ask the learned Attorney General for his advice as to how we should proceed. I am not trying to be obstructive in any way. One can appreciate the magnitude of the decisions that the Government has to make in bringing forward a piece of legislation of this nature.

With those comments, I propose to conclude my speech and if it is the will of the Attorney General that he has my notes before he makes his reply to the second reading debate perhaps he could postpone the debate until a later stage of the sitting. It is for the Attorney General to decide. It is possible that he is so learned now that he will reply in an instant.

Hon J.M. Berinson: I have not become any more learned since yesterday.

Hon JOHN WILLIAMS: I do that with goodwill from this side of the House in the fond hope that this matter can be resolved in a satisfactory manner so that outside agencies and members on this side of the House are satisfied and indeed, the Attorney General will accomplish for the Government what he has set out to accomplish. With those few words and apart from that amendment to which I have referred, I support the Bill.

HON H.W. GAYFER (Central) [3.43 pm]: Because of the politeness and the deference of the learned gentleman and the amateur who gave an expose which I could not understand, even though it came from a layman -- he has learnt the jargon -- and because of what has taken place across the Chamber between both these learned gentlemen I feel hesitant to embark on the speech I intended to make in support of this Bill.

Hon G.E. Masters: But you still will.

Hon H.W. GAYFER: Yes, I still will and I intend to continue with my few mundane words to say that for one reason or another the National Party supports the legislation.

Sitting suspended from 3.44 to 4.00 pm

[Questions taken.]

HON J.M. BERINSON (North Central Metropolitan -- Leader of the House) [4.12 pm]: I thank Hon John Williams and Hon Mick Gayfer for their contributions to this debate. The

speech made by Hon John Williams was detailed and interesting, but on balance I preferred Hon Mick Gayfer's speech, which indicated unqualified support.

The issues raised were important ones, so it is important that they be addressed. Hon John Williams referred to a number of reported cases and, in particular, to the similarity between terminology involved in cases arising in New South Wales and South Australia and the terminology in this legislation. In each case it comes down to the phrase "use of a vehicle". I have not had an opportunity to consider at length the arguments contained in the memorandum made available to me by Hon John Williams. However, I believe that some general observations will cover the point at issue, and I am prepared to acknowledge without checking the respective State Acts that the terminology used in the New South Wales, South Australian, and Western Australian legislation is similar. That does not dispose of the legislative intention in each jurisdiction. I again acknowledge that I am unaware of the legislative intention in other States, but there is certainly no room for doubt as to the intention in the introduction of our own Act. At the risk of being repetitious, I refer to the explanation given to the Parliament when the parent Act was introduced. It was in the following terms --

> The general principle laid down in the Bill is that before a licence can be issued a policy of insurance must be taken out by the owner of every motor vehicle which will cover the legal liability of any person driving the vehicle --

I emphasise the words "driving the vehicle" --

> -- whether lawfully or unlawfully in the event of death or bodily injury occurring to any third person.

It follows from that statement that the Parliament clearly intended that the liability of the Motor Vehicle Insurance Trust was to be limited to the payment of damages for injury or death sustained by persons as a result of the negligent driving of motor vehicles. It is that which has been the basis of local understanding of this legislation. That also explains why, in spite of the various decisions referred to by Hon John Williams arising from the Acts in the other States, Dickinson's case came as a surprise and has led to a flurry of activity; it has led not only to the introduction of this Bill but also to a flurry of activity between insurance companies jumping to take the opportunity to off-load their obligations onto the MVIT. I appreciate the argument against retrospectivity if, as a result of that, individual claimants were to be disadvantaged. On the advice available to me, no individual claimant would be disadvantaged by the passage of the Bill in its present form.

Hon H.W. Gayfer: What is the cut-off date?

Hon J.M. BERINSON: The date of assent to the Bill, but it would cut off cases where judgment had not already been delivered.

Hon H.W. Gayfer: The judgment would have to be delivered before assent?

Hon J.M. BERINSON: That is correct, so any judgment given before assent will not be affected; but in fairness to Hon John Williams, what would be affected are the cases that have been commenced but have not come to trial or judgment.

I emphasise that none of these cases involves claims by individuals based on the Dickinson verdict. What has happened is that individuals have had cases under way against the relevant insurance companies, either on the basis of workers' compensation claims or common law negligence claims under ordinary employer insurance; and, as I understand the situation, insurance companies, which would normally be facing up to those claims in court, have now joined the MVIT as a third party to those claims and have said that although they accept that they have the liability in the first instance, because the injury occurred at work or because of an employer's negligence, nonetheless Dickinson's case indicates that for all of these years they could have been shunting that responsibility off to the MVIT. I might say that premiums have been established on the basis that the prime insurer has in the past always faced up to this liability.

It might help the House if I give a brief indication of some of the sorts of cases where the Dickinson verdict is being used in an attempt to join the MVIT in a way it has not been previously involved. The first example involves three occasions when men have fallen from the top of a stationary truck while attending to the load in some way. In the ordinary course

of events, that has always been regarded as a matter for workers' compensation or employer negligence. The respective insurance companies have now joined the MVIT in an effort to convert it to a MVIT matter rather than one of workers' compensation or common law negligence. Another example is that of an ambulance driver who hurt his back while lifting a patient out of an ambulance. That may be a workers' compensation claim, or if it can be established that there was something wrong with the employer's system of work, it constitutes a basis for a claim in negligence against the employer. However, because an ambulance is obviously a vehicle, the workers' compensation insurer is now turning to the MVIT in an attempt to divert responsibility. The third example is that a man injured his back while he was lifting equipment onto a truck. In another example, a man was carrying a carcase in a freezer truck and dropped it on his foot when he slipped on the icy floor. Another example: A man was lifting a wooden pallet onto the tray of a motor truck; while attempting to place it on another pallet the bottom pallet slipped forward and he was subsequently injured. Another example -- and there are more of these: A man injured his neck while lifting coils of rope from a truck.

This is the sort of situation which has arisen. In no case would the cutting off of the availability of claim against the Motor Vehicle Insurance Trust prejudice the injured person. The injured person's employer has to be insured anyway under the workers' compensation and associated negligence cover provisions. So there is no question in these cases of there being an attack on the rights of any individual claimant; but what we are getting involved in here is a series of disputes between insurance companies and the MVIT.

I put it seriously to Mr Williams that, while I can appreciate his concern on the general principles, we have two important factors which in combination should meet the point of his concern. The first is the clear legislative intention in this State, no matter what the intention was in other States; and the second is that we are not in this Bill, as originally drafted, moving in any way that would prejudice any known claim by an individual who has been injured. On that basis I urge the House when we come to the Committee stage to support the Bill in its original form rather than move to the amendment as listed.

For the moment, I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon Robert Hetherington) in the Chair; Hon J.M. Berinson (Leader of the House) in charge of the Bill.

Clause 1: Short title --

Hon JOHN WILLIAMS: I have listened to the Leader of the House's usual erudite and clear explanation of what is intended by the Bill. I accept his assurance that there are no cases in the pipeline which could be affected by this Bill. I will not move my amendment as his explanation is satisfactory to me; however, I ask him whether, should by chance such case arise, the Government will then bring in its own amending Bill to this, when this becomes enacted, to ensure that a person or persons -- and I am not talking about insurance companies -- are not disadvantaged. It strikes me that an individual, not knowing of this, could have sought legal advice last week and paid to have a claim registered, and it would not yet be known to the authorities.

That is all I am seeking. I accept we are not here to arbitrate between insurance companies who join in such litigation. I will not move the amendment; the explanation of the Leader of the House is most acceptable because it was delivered clearly and concisely. However, if such an anomalous case did turn up, would the Government be prepared to act and intervene to ensure that popular phrase -- that justice is done?

Hon J.M. BERINSON: Before responding directly to the specific question, could I just take some care with some of the terminology that we are using. Hon John Williams prefaced his comments by accepting that no cases were being affected by this legislation. I am sure that he well understood the point I was making, which was that no cases by any individual plaintiff would be detrimentally affected. He and I clearly understand that other cases will be affected but on the whole they involve disputes between insurers. I also take the opportunity

to correct an impression I might have given in my earlier comments that all of the cases quoted followed Dickinson's case. In fact the position was that a number of such cases were listed in anticipation of the Dickinson decision.

As to the specific question about whether some assurance could be given that an individual claimant, at present unknown but coming to light, would have his or her position protected, I am quite happy to go along with that and to say that if there is such a case where a writ has been issued by an individual plaintiff that would be cut off for no other reason than the retrospective effect of this Bill, I would be happy to ensure that that position was remedied.

Hon John Williams: I am obliged to you.

Clause put and passed.

Clauses 2 to 15 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Leader of the House), and passed.

ACTS AMENDMENT (PUBLIC SERVICE) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon J.M. Berinson (Leader of the House), read a first time.

Second Reading

HON J.M. BERINSON (North Central Metropolitan -- Leader of the House) [4.30 pm]: I move --

That the Bill be now read a second time.

This is a most important piece of legislation for the men and women of the Western Australian Public Service. It is the first time during the term of this Government that it has sought to substantially amend the Public Service Act. Its view is that public sector management practice needs to be supported by a contemporary and practical legislative framework. From this base, the Government asks three things of its employees: Excellence in performance, loyalty to the Government of the day, and creativity in management and administration. The Bill seeks to reinforce these concepts and to transmit a clear legislative statement about the required approach to the task of managing the employees and resources of the Western Australian public sector.

This second reading speech also presents an opportunity for the Government to express its high regard for the professional and diligent service provided to it and to the general community by the public employees of Western Australia. Their efforts to develop a sustainable and cost-conscious approach to public administration in Western Australia have underpinned the Government's programme of administrative and functional reform.

Background: In June 1986 the Government released a white paper entitled "Managing Change in the Public Sector". This document was a statement of the Government's views concerning the issues facing public sector management and employment as we move towards the 1990s. It also served to outline the parameters within which a future change was expected to occur. Extensive staff consultation has taken place on proposed initiatives and, in particular, the proposed Senior Executive Service through chief executive officers' conferences, seminars, and consultations with unions directly affected by the proposed initiatives.

This Bill -- the Acts Amendment (Public Service) Bill -- provides the central legislative base to implement key aspects of the white paper. The Bill's provisions can be categorised under four main areas --

(i) The replacement of the Public Service Board with a Public Service Commissioner;

(ii) the adoption of a whole-of-Government approach by the implementation of a Senior Executive Service throughout the public sector;

(iii) the introduction of provisions relating to efficiency and performance of all officers employed subject to the Bill; and

(iv) administrative amendments to the Public Service Act to refine the operation of the Act, which was first introduced in 1979.

The Bill provides for the replacement of the current three-member Public Service Board with a single Public Service Commissioner. The Government endorses this change as recommended by the current Public Service Board members in view of the changes which have taken place in public administration since the Public Service Board was first introduced in 1971. The change to a single Public Service Commissioner will maintain an entity responsible to the Government and Parliament for the efficient management of the Public Service while allowing the assignment of individual functional responsibility for specific initiatives. The transition from board to commission involves no change to or diminution of the basic tasks of merit protection and the promotion of Government efficiency presently required of the Public Service Board.

The Bill provides for the current Chairman of the Public Service Board to become the Public Service Commissioner and to maintain his existing rights and privileges. The current deputy chairman of the board will be appointed chief executive officer of a department responsible for the day-to-day administration of the Senior Executive Service operating pursuant to a delegation of powers issued by the Public Service Commissioner. This move to a single Public Service Commissioner rather than a multiple-member Public Service Board is consistent with the practice adopted in other States such as Tasmania, South Australia, and recently Queensland and the Northern Territory. There have been changes along similar lines in the Australian Public Service.

The second major feature of the Bill is the adoption of the whole-of-Government approach and implementation of a Senior Executive Service for senior management in the public sector. The implementation of the Senior Executive Service will enable management resources to be deployed quickly to meet changing demands and priorities. From the officers' point of view, the Senior Executive Service will further enhance the concept of promotion on merit. It will permit greater development opportunities and allow the officers to undertake new challenges in a wider number of public sector organisations.

The Senior Executive Service will apply to all officers who have a salary above level 8, currently $57 258 per annum, including permanent heads and senior officers who are currently employed in existing Public Service departments. In addition, persons employed in other public sector organisations listed in the schedule to the Bill and who receive a salary in excess of $57 258 per annum will be included.

The Bill provides for all members of the Senior Executive Service to be employed by the Public Service Commissioner, and consequentially the employment provisions in the various Acts outlined in schedule 2 are to be amended to reflect this intent. The list of organisations to be included within the Senior Executive Service is comprehensive but not exhaustive. Organisations which have been excluded include ones principally funded by the Commonwealth, such as universities; organisations which are operating in a competitive commercial environment, like the Rural and Industries Bank; and organisations which are funded by industry, as in the case of the Honey Pool of WA. In addition officers having a direct responsibility to Parliament, such as the Auditor General and the Parliamentary Commissioner for Administrative Investigations and his staff, have been excluded.

The Bill also provides for the Governor, on the recommendation of the commissioner, after consultation with the organisation or department concerned, to exclude from the Senior Executive Service persons or officers who have a salary which would normally qualify them for membership. The Bill also provides for the Governor to include, in a similar manner to that referred to above, other persons and officers. Once the Senior Executive Service is operational and functioning efficiently, consideration may be given to including persons and officers currently classified at level 8 with a current salary from $50 593 per annum to

$57 258 per annum. This Bill seeks to standardise terms and provisions relating to permanent heads by introducing the concept of chief executive officers for the Senior Executive Service in departments and organisations.

Appointments of chief executive officers and senior officers will be made by the Governor on the recommendation of the commissioner and will be to a specified office. Such appointments will be for a term not exceeding five years, and while eligible for reappointment, the opportunity will be available for the person to seek a new challenge or to be deployed to another area requiring that person's particular skills.

The concept of a career service is recognised in that appointment as a permanent officer is possible. There is also recognition of the increasing interchange of personnel at this level between the private and Public Service in that conditions can be negotiated between the appointee and the commissioner in order to attract the best person for the position. The Bill empowers the Governor to transfer a chief executive officer or senior officer on the recommendation of the commissioner. The commissioner is required to consult with the responsible authority or chief executive officer of the relevant department or organisation.

Provisions have been included whereby the Governor, on the recommendation of the commissioner, may deal with inefficiency of chief executive officers and senior officers who participate on the board of management of the relevant organisation. While sanctions are specified, these are envisaged as a last resort and will be supplemented by management systems in order to assist in detecting poor performance early and instituting corrective action to overcome the shortcoming.

Other officers of the Senior Executive Service are provided for in separate provisions of the Bill. These provisions introduce a new concept, as in the first instance officers are appointed by the commissioner to the Senior Executive Service generally and not to a specified office or post. Once appointed to the Senior Executive Service, the commissioner can appoint an officer to a specified office or post for a period not exceeding five years, or deploy the officer to carry out a specified task not associated with a specific office or post.

Appointments to the Senior Executive Service can be made either as a permanent officer, thereby recognising the career service, or on conditions negotiated between the appointee and the commissioner where the person is recruited from outside the Public Service. A person appointed subject to negotiated conditions shall be appointed for a term not exceeding five years but is eligible for reappointment.

The Bill includes specified reference to the commissioner's power to determine classification levels and remuneration for those levels and offices within the Senior Executive Service. However, the commissioner is prohibited from dealing with remuneration, which is within the jurisdiction of the Salaries and Allowances Tribunal. The selection of officers for the Senior Executive Service will be on merit, and specific provision is included defining merit and providing the commissioner with power to issue administrative instructions regulating procedures subject to such consultation as is necessary.

Hon H.W. Gayfer: This commissioner will have more power than the Pope.

Hon J.M. BERINSON: That is a matter for the Committee stage.

The deployment of officers to meet changing community needs and Government priorities is provided for in the Bill through the commissioner's power to transfer Senior Executive Service officers to other functions or offices. However, prior to effecting such transfer the commissioner is required to consult the chief executive officers of the departments or organisations and the officer.

The third major feature of the Bill is the inclusion of a separate provision relating to inefficiency which will apply to all officers, including officers of the Senior Executive Service. This provision is similar to that already described for Senior Officers except that the commissioner is empowered to take action rather than the Governor. All officers will have a right of appeal to the Industrial Relations Commission if disputes arise over issues or performance management.

The fourth area of change concerns largely technical amendments to refine and correct problems in the operation of the Public Service Act, which was first enacted in 1979. The terms "permanent officer" and "temporary officer" are more clearly defined. The power of

delegation vested in the Public Service Commissioner has been altered so that chief executive officers can subdelegate the commissioner's delegated powers. This will be important in the operation of regional centres where access to the chief executive officer is not readily available. In addition, the delegation provisions incorporate reference to the Interpretation Act 1984.

The Public Service Act 1978 introduced contract appointments to the Public Service for the first time. This Bill provides for these provisions to be revised to reflect the original intent and to correct any misunderstanding which may possibly arise as to the status of a particular contract. It places beyond doubt that persons engaged from the private sector for a fixed term have no guarantee of continuing employment. Since 1981 the Public Service Board has been appointing permanent officers to offices for fixed terms. The practice is widespread in senior positions. The Crown Solicitor has now expressed doubt as to the validity of this action, and the Bill corrects the apparent effect. Specific provision is included whereby the commissioner is empowered to make such appointments and a transitional provision is included to validate all past actions. Such term appointments do not affect the officers' status as permanent officers.

The Bill provides for amendment to the provisions included in part IV, discipline, of the Public Service Act, to reflect the inclusion of a Senior Executive Service and to increase monetary penalties to reflect the increase in the Consumer Price Index since the penalties were last adjusted in 1979.

The Bill provides that 13 weeks be inserted in lieu of the three months currently specified for long service leave. While there is no change in basic entitlement, 13 weeks is more consistent with the wording found in other provisions and will assist in ease of recording for day-to-day administration. The Civil Service Association of Western Australia Incorporated has indicated agreement to the proposal. Doubt has been raised as to the validity of recognising prior service with an employer outside the Public Service for long service leave purposes. Accordingly, provision is made in the Bill to validate all actions taken since the Public Service Act was introduced in 1979 and to provide for future occurrences.

Provision is included in the Bill whereby arrangements can be made with the Commonwealth for reciprocal arrangements for the provision of work or services. These provisions were not included in the Public Service Act when it was proclaimed in 1978, but rather were included in regulations. The Public Service Board has since been advised that this regulation is ultra vires. Accordingly, in addition to reinstating the provision, an appropriate provision is proposed to validate past actions.

The Bill empowers the Governor, on the recommendation of the commissioner, to make regulations for the purposes of the Act. This power includes the power to amend the schedule, which is necessary to take into account the abolition of, creation of new, and the alteration to title of, public sector organisations which may occur subsequently. In addition to the foregoing provisions, the Bill proposes the removal of gender specific terminology and the correction of minor grammatical errors.

Item 33 of the schedule relating to the Aboriginal Affairs Planning Authority Act proposes amendment of that Act to correct deficiencies in the provisions and to reflect the current practice whereby the staff of the authority are employed in a Public Service department under and subject to the Public Service Act.

Finally, I place on record the Government's appreciation to the Chairman of the Public Service Board, Mr Frank Campbell; his deputy, Mr Marwood Kingsmill; and their officers for their work in the development and consultative process necessary to bring the Bill to this stage. This Bill contains important initiatives intended to improve the efficiency and effectiveness of management in the wider Public Service as outlined in the Bill.

I commend it to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

ACTS AMENDMENT (LAND ADMINISTRATION) BILL

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon Kay Hallahan (Minister for Community Services), and returned to the Assembly with amendments.

ROAD TRAFFIC AMENDMENT BILL (No 2)

Assembly's Message

Message from the Assembly notifying that it had agreed to amendments Nos 1 and 2 and 4 to 8 made by the Council, and had disagreed to No 3, now considered.

In Committee

The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Graham Edwards (Minister for Sport and Recreation) in charge of the Bill.

Amendment No 3 made by the Council, to which amendment the Assembly had disagreed, was as follows --

No 3.

Page 4, line 10 -- To delete "an authorised person" and substitute the following --

a member of the Police Force

The Assembly's reasons for disagreeing to the Council's amendment were as follows --

(1) The amendment would mean that any member of the Police Force could operate self-testing breath analysing equipment.

(2) This has not been the intention of the State Government as it is the Government's view that the apparatus should be operated by specially trained operators.

(3) The amendment will make proposed sections 68(9) and (10) on page 4 of the Bill meaningless because those provisions depend on the analysis having been carried out by "the authorized person" mentioned in subsection (6).

Hon GRAHAM EDWARDS: I move --

That amendment No 3 made by the Council be not insisted on.

I moved this amendment during the Committee stage of the Bill. However, it was always intended that the apparatus should be operated by a specially trained operator, and the amendment does not clearly indicate that.

Hon G.E. MASTERS: I understand that this amendment concerns clause 8. It is interesting to see the Bill returned to this Chamber and it demonstrates that the Government has backed off from random breath-testing. It never had any intention of allowing it to succeed in this Chamber and the last thing the Government wanted was for that Bill to be passed. It was the most colossal hoax we have seen from this State Government for a long time. This Bill could have been passed, including clause 6, in September this year had the Government wanted that, when the numbers were such that the Government could have carried the day. The Government knew it then and knows it now. The events of last week were also a gigantic hoax.

The Government now has the opportunity to introduce random breath-testing once again without any difficulty at all, it could present the Bill in this Chamber and say it does not accept the Opposition's amendment -- the deletion of clause 6 -- and wants to debate the Bill again. It tried to do that the other day with a different Bill knowing very well that the Opposition would reject it. The Government could test the Legislative Council again at this very moment but it knows that it dare not risk introducing the Bill again in case any members have changed their minds. The Government does not want random breath-testing in this State.

The DEPUTY CHAIRMAN (Hon John Williams): Order! The Leader of the Opposition has strayed over the boundary. We are debating the motion to not insist on amendment No 3. Everything else the Leader of the Opposition is saying is extraneous to that motion.

Hon G.E. MASTERS: I am sorry I strayed, I did not realise I was doing so. We are dealing with the amendment which the Minister incorrectly made to the Bill -- I do not blame him for that, it was obviously an oversight and I certainly did not realise the difficulties that would arise as a result of the amendment. I understand the amendment deals with the breath analysing equipment and the operation of that equipment by a member of the Police Force who has been trained for that purpose.

Hon Graham Edwards: That is the intention.

Hon G.E. MASTERS: The equipment is the best in the world and I understand some of that equipment is in use now.

Hon Graham Edwards: If it is not, it is fairly close to being in operation.

Hon G.E. MASTERS: That equipment has been used in recent days when the police have stopped 28 500 motorists over a period of 10 days. The police have used the powers they now possess to stop those people and request them to use the breath analysing equipment operated by a trained officer. Of the motorists stopped, 1 573 were required to use this equipment. That is not a bad effort from a Police Force which supposedly did not have sufficient power to use this equipment -- it is random breath-testing de facto. Of the 1 573 motorists tested, 273 were charged with drink-related offences and I think 31 may have been found guilty. The equipment used by the trained police officers has been used effectively and widely over that 10-day period. I commend the police for lifting their game; and that is not meant to be a critical comment.

Hon Garry Kelly: It is patronising.

Hon G.E. MASTERS: No, it is not patronising. I did not like the comments made by the Commissioner of Police but I shall not comment on them and nor do I want to. The police have obviously increased their effort and there is no doubt that the comments made in this Chamber and in another place asking the police to adopt a more visual approach, rather than hide around corners and behind bushes, have had a marked effect. I see three times more police cars and officers on the roads now than I did three weeks ago, thanks to the efforts of members in this Chamber. I am sure those officers have the equipment about which we are talking. The equipment is being used widely by the trained police officers to stop tens of thousands of people on the road and it will continue.

Hon Graham Edwards: The equipment is not used to stop the people.

Hon G.E. MASTERS: Perhaps I used the wrong words. The police are using their powers to stop tens of thousands of people on the road and in many cases are using this equipment to test them.

Hon Graham Edwards: You are confusing the argument.

Hon G.E. MASTERS: Is the Minister suggesting that they are not stopping tens of thousands of people?

Hon Graham Edwards: No, I am not. They are not using the equipment, they are using their powers of observation.

Hon G.E. MASTERS: They are using their authority as policemen and traffic officers to stop vehicles on the roads and, if it is necessary, to use the equipment to test those people.

Hon Graham Edwards: You are assuming that that is the case.

The DEPUTY CHAIRMAN: Order! I remind the Leader of the Opposition that we are debating the matter of an authorised person and the Council not insisting on its amendment.

Hon G.E. MASTERS: It is important that these authorised officers or trained policemen use this equipment very carefully. Of course, they use their powers of observation when stopping motorists and they then ask the motorists to breath into the breath analysing equipment to assess whether or not they are under the influence of alcohol. It is a shame that the Government does not have the gumption to bring the legislation into this Chamber again so that it can be properly debated and we can clearly demonstrate the Government's humbug. I accept that the Government is not game to do that; it sees no political advantage in it.

Hon Mark Nevill: We could bring it back tomorrow.

Hon G.E. MASTERS: I challenge the Government to bring the Bill back tomorrow. The

Opposition has no objection to the suggestion that the Legislative Council does not insist on this amendment. It should be clearly understood that the Government has avoided further debate on a very important subject, regardless of the humbug, shouting and raving in recent weeks and it should be condemned for its hypocrisy. They ought to be condemned for not being absolutely truthful and straight down the line and dealing with it in a proper manner. There was not one single thing to stop the Government from reintroducing random breath-testing today if it were dinkum.

Hon GRAHAM EDWARDS: I seek the same opportunity as that given to the Leader of the Opposition when replying so that I may reply to the rather wide-ranging debate into which he entered. I would be delighted to bring into this Chamber a Bill to be debated on the subject of random breath-testing. I am very much aware of the challenge that has been made in that regard. I dare say that a Bill in relation to random breath-testing will be back in this place at some stage.

Hon P.G. Pendal: When politically convenient to the Minister; he is a sham.

The DEPUTY CHAIRMAN (Hon John Williams): Order! The Minister is replying to the speech made by the Leader of the Opposition. Interjections are disorderly and, even at this stage of the sitting, I will take appropriate action if they continue.

Hon GRAHAM EDWARDS: I will not be drawn into replying to interjections. The vote taken on random breath-testing is recorded for everyone to see in *Hansard*, and the public of this State is in a position to judge who has been dinkum on this issue. There will be an opportunity at a later stage to again debate and vote on the question of whether this State will have random breath-testing.

I turn to the intention of the motion that the Council do not insist upon its amendments. It is important that this motion be carried as that will enable the appropriate people to use the new equipment mentioned. I am not sure whether it is being used yet. The member opposite has indicated that it has, and it may be that he has information that I cannot confirm or deny.

The purpose of the amendment is to allow the appropriately trained officer to use that equipment.

Question put and passed; the Council's amendment not insisted on.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

APPROPRIATION (CONSOLIDATED REVENUE FUND) BILL

Consideration of Tabled Paper

Debate resumed from 10 November.

HON MARGARET McALEER (Upper West) [5.05 pm]: I take this opportunity to welcome Hon Barry House to this Chamber and to congratulate him on his thoughtful and well balanced maiden speech. Since giving that speech, he has spoken on other occasions, but that speech set the tone to show that he will make a genuine contribution to this House and perhaps, in time, a significant one.

At the same time, I pay tribute to his predecessor, Hon Vic Ferry, who in the ups and downs of parliamentary life was outstanding for his level of effort, which was consistently maintained throughout the years that he served this Parliament. In the House, he contributed often on many subjects and never failed to speak on matters that were at issue in his electorate. He travelled widely and often, undertaking many representations on behalf of his constituents. As a senior parliamentarian in my time, he was a valuable member of our party room because he united experience and a very sober judgment. He had a distinguished war record, having received the Distinguished Flying Cross. When I first entered this Parliament he had just become Government Whip and in time became Chairman of Committees. I owed a great deal to him for the help and guidance that he gave me during the time that I was a new member, and continually throughout the years. He and I shared a secretary for a number of years, and I can say unequivocally that no-one could have been more unselfish or more considerate than was Vic Ferry in this relationship both with our secretary, Mrs Toomer, and with me.

It is 11 years since this motion to take note of the Budget papers was first moved in this House by Hon Neil McNeill. The motion was a considerable innovation but was moved on the first occasion without great fanfare. The next year Hon Graham MacKinnon, then Leader of the House, took the opportunity when moving the motion for the second time to underline its significance, and it was a significant departure for the Legislative Council because it was an attempt to remedy, or at least ameliorate, the unsatisfactory situation in which the Council found itself vis-a-vis the Budget. Up to that time, as now, the Budget rarely seemed to arrive from the Assembly until the last night of the session and members who wanted to comment on it often found themselves doing so in the small hours of the morning.

That situation had existed for many years, exists now, and was the subject of complaint by Hon Frank Wise, Hon Arthur Watts, and many others. It was only in the last year of the first Court-Country Party coalition Government that this solution to that problem was tried. So this motion, for the first time, gave members of this House an opportunity to have a Budget debate in an unhurried way.

As all members know, the Budget debate is a free-ranging affair, and there is no matter of concern to a member that he or she may not canvass, raise, or comment on, whether in relation to electorate matters, a topic of State or national interest, or a special line of inquiry that the member is following. It is, therefore, a valuable vehicle for members to discuss electorate matters, or any matter other than the legislation going through the House, and different members use it for different purposes. Some people, such as the Leader of the House, have very little use for such free wheeling discussion, but most members take advantage of it. All that aside, the motion provides the Legislative Council with a better opportunity than previously existed to examine the Budget. In that respect I do not think that the motion has been a total success; although it does elicit general speeches on the Budget from the leaders of the various parties, together with speeches on particular sections from shadow Ministers pursuing their portfolios and from some other members who have certain interests and are well equipped to discuss Budget matters.

But even for these members I do not think the debate can be entirely satisfactory. Speeches are made in isolation and no matter how thoughtful, probing, or analytical speeches are, once they are made there is little or no feedback. There is no response, little dialogue and no means of clarifying puzzling figures or little understood methods. As matters stand, the circumstances of the Legislative Council are not suited to an examination of the Budget in detail, even in the way afforded in the Estimates debate in the Legislative Assembly because, in that place, the Treasurer himself sits and so do most of the responsible Ministers. In this place, we have currently the Minister for Budget Management, but that is fortuitous, and the areas of his Treasury financial responsibility -- although undoubtedly they are as important, as he says -- rarely include areas which members seek to probe.

The Legislative Council is heading towards change. It is still struggling to develop a more comprehensive committee system and the change in the electoral system will also change the character of this House. Those changes ought to allow members more time for parliamentary work as opposed to electoral work. It may be that a developed committee system could then find room for a committee along the lines of the Senate Estimates Committee which would provide all Council members with a means of genuine examination of the Budget. The Committee on Committees examined this concept and rejected it in favour of a composite committee of delegated legislation and finance -- feeling that the Council was only equipped to deal in a very limited way with finance. The Standing Committee on Delegated Legislation is in place, but nothing has been set in place yet to deal with finance. This matter requires more consideration.

I make these observations with some diffidence because nobody could be more financially illiterate and because one must have regard for the practicalities such as limited time and the number of members, which will always be limited in the Legislative Council. As a House we perforce neglect one important aspect of Government, which is that of financial management. We should be encouraged and afforded better means to come to grips with that. The backbench members opposite are members of the Government party, but they are not the Government, and together with Opposition members have an equal interest and responsibility to understand and review the Government's performance.

I acknowledge even in the present situation improvements have been made. Earlier this

session I heard Hon Max Evans, who has done a great deal to improve the House's grasp of Government finances, complain for some weeks that the Auditor General's report was not available. On the last day of sitting before the last recess, if one looked down the list of tabled papers one could hardly find one departmental report more recent than 1985-86. One report for 1986-87 was that of the Western Australian Water Authority. This meant that members who spoke in this debate earlier were deprived of material on which to base their speeches in examination of the Budget. The associated Budget papers went some way towards filling the gap, although rather sketchily.

Hon Mick Gayfer illustrated this well in his speech in an examination of the Water Authority, because at that time he had the Water Authority report available to him, and he made very good use of it. We knew before we received the most recent departmental reports of 1986-87 that the Government had been making an effort to modernise and streamline departments. The departments had to develop corporate plans and had been directed to tighten up management and accountability. This became evident once the annual reports for 1986 were available. Through the examination of those reports, I have gained an improved understanding of the working of those departments. There has been a great improvement in the presentation of the finances of Government -- allowing for the fact that I am not an expert, and many members of Parliament are not. Anything that leads to a better understanding of Government finances must be a good thing. One of the features of the new departmental reports is the Auditor General's report. Instead of one single entity, one finds a departmental report with an Auditor General's report attached. While this is an advantage in dealing with each department it does mean that if we want a whole view -- as no doubt Hon Max Evans did -- we will have to look through each departmental report in order to get that whole picture.

Other areas of Government finance -- apart from the departments -- seem to be more and more inaccessible. This point has been made by members of the Opposition. I refer of course to the Government's involvement in commercial enterprises and the channelling of financial transactions through the Western Australian Development Corporation, such as the sale of Government assets or the most recent dealings of the State Government Insurance Commission, where reasons of confidentiality are always advanced so that neither members of Parliament nor members of the public can gain much idea of what is happening to Government finances.

In respect of that sector of Government finances which is involved in commercial enterprise, in the guise of seeking to augment State revenue, which the Government says is in order to lift the weight from the taxpayer, it would not be too fanciful to say the Government is reverting to the old practice of the English kings, by which they made themselves independent of Parliament by having sources of revenue which do not have to be voted to them or accounted for.

When the Government brought down this Budget some time ago, it was not to know that the sky was going to threaten to fall on its head, as it has done in the last few weeks. However, the Government did know that it was operating in difficult national economic circumstances and that it was under pressure from the Commonwealth Government to pare expenditure. At the same time the Government naturally wished to stimulate the State's development to attempt to cushion many, if not most, of our primary industries, which are basic to our economy and which have been suffering from the unfavourable terms of trade and the unfortunate seasonal conditions which have prevailed.

It was interesting to compare the Government's aims as expressed in the Budget papers with those expressed by Hon Graham MacKinnon when he moved a Budget motion many years ago. While in almost every respect the aims of both Governments were the same, the one big difference was that Hon Graham MacKinnon said that the Government sought to cut back recurrent expenditure and put the economy of the State into better shape so that it would be in a better position to lower taxes. I find that this Government has offered many budgetary aims for itself but not one of them has been to reduce taxes and charges for the electorate. In his Budget speech, the Treasurer minimised the difficulties of the current situation, claiming that as a result of economic restraint, the national economy was expected to grow by about three per cent this financial year and so by implication the balance of payment deficit, growing foreign debt and the weakness of the Australian dollar were behind us. It was not

unreasonable to hope at that time that improvement would take place, although the balance of payment deficit and foreign debt are still with us.

However relevant the Budget may have been when it was framed, in spite of the good news now offered by Mr Keating on the national scene, I think no-one really knows what is in store in the months to come or what strains the State Budget will be subject to. It is not hard to agree with an article in *The Australian Financial Review* of 28 October, which reads as follows --

> . . . Australian government at all levels is going to need every financial resource that can be mustered to avoid much more far-reaching disasters.

The State Government needs all the financial acumen and prudence it can muster this year. It is important that the Government keeps the Opposition parties reliably briefed so that they can play their part in scrutinising the role of the Government and thus contribute to the stability of Western Australia.

I would like to take this opportunity to leave the strict matter of the Budget for a moment in order to raise one or two electorate matters which have come to my attention recently. A number of members, particularly Hon Bill Stretch, have raised the matter of roads and the need for better funding for rural roads because Western Australia is finding itself in a time of crisis. I suppose there is no country member on this House who has not received letters from shires urging them to give support to the need for funding for country roads. Some weeks ago I attended a meeting and Mayor Finlayson was there in his capacity as President of the Country Shire Councils Association; he said to the members of Parliament who were there, "You are not speaking vigorously enough; we never hear you asking for more funds." However I do not think there would be anyone within the Government -- either at a ministerial or a departmental level -- who is not conscious of the fact that Western Australia is very much in need of road funds. Despite this, it is my intention to read a letter from the Shire of Mullewa because it expresses the problems which exist, not only in relation to the roads but also in relation to the plight that country shires find themselves in financially not only in relation to the economic downturn but also to the flight of population from the country areas. I found the letter from the Shire of Mullewa all the more interesting because I recently raised the matter of the regionalisation of Local Courts, which is another blow to the Mullewa Shire's economy and well-being. The letter reads as follows --

> In recent times several of this Council's traditional sources of revenue have been severely cut, and with documents such as the Grants Commission recommendations and the Cameron Report of the inquiry into the distribution of federal road grants being acted upon by respective Governments, these cuts are going to become progressively larger with devastating affects on the services we provide, particularly on roads.
>
> It is realized that the adoption and implementation of the Cameron Report is a federal matter, however the State Government does not appear to be taking any positive action to reverse this extremely serious trend towards the disintegration of rural local roads. It is not simply a matter of less available funds, motorists are contributing vast sums of money to governments, it is a change in emphasis towards highways, freeways and the like and away from those areas that produce the country's wealth. Unfortunately these are also the areas which have only small numbers of electors, and collectively seem unable to draw sufficient attention to their plight.
>
> You are of course aware that motorists are paying massive amounts of money to Federal Government through sales tax, fuel levies and customs and excise duty which in 1986/87 totalled in excess of $7,000 million. It would seem however that the State Government also feeds off the motorist with similar disregard for the need for greater funding for roads. It seems the State Government can expect to collect about $160 million from motor vehicle related charges such as vehicle licenses, motor drivers licences, stamp duty on licensing and transfer of vehicles etc., and a further $100 million from fuel levies, however from information available to this Council, only a fraction of this money appears to be channelled towards roadworks.
>
> Of course some of the receipts pay for the administration of the vehicle licensing system and it is considered a general revenue raising area, however it would appear

extremely difficult to justify any claim that funds are not available for roadworks when the motorist makes such a huge contribution towards State and Federal Treasuries.

There appears to be a priorities crisis when the State Budget papers reveal such massive amounts to be spent on capital works of a purely metropolitan recreation nature, and Hillary's Boat Harbour is cited as a glaring example, and at the same time rural local governments are facing the prospect of downgrading their roadworks programme because of the rapidly diminishing funding.

The impact of the projected fund cuts doesn't seem to have received any political reaction, and the Council requests your vigorous support to ensure our road system is not reduced to the construction and maintenance of selected major highways and freeways while the majority of the road system degenerates to a standard reminiscent of pre-motor vehicle days.

The letter was signed by the Shire Clerk at Mullewa.

I have one unrelated matter which I wish to bring to the attention of the House during this debate. In doing so I feel I owe some explanation to Hon Mick Gayfer and Hon Eric Charlton because it concerns the Shire of Tammin which is in their area. On one occasion I was travelling to Merredin with Hon Ernie Bridge. The Shire of Tammin had tried to interest surrounding shires in its difficulties. Somebody up there raised the matter with me and I raised it with Ernie Bridge while we were on the plane together. That is how I came to be involved in the matter.

The Shire of Tammin had corresponded first with the Minister for Police and Emergency Services and then with the Minister for Housing. In the first place it wanted police presence in Tammin. Secondly, and this was the reason for the desire for that police presence, was the difficulties being experienced from a newly arrived Aboriginal population. The Shire of Tammin had long had an Aboriginal population which was well-integrated into the community, but the strangers who were unemployed were the cause of some difficulties. Mr Ernie Bridge kindly made inquiries for me through the Department for Aboriginal Affairs. When I sent his reply to the Shire of Tammin they felt that the advice which he had received was inaccurate and, therefore, unhelpful to their situation. I raise the matter now in the hope that the Ministers concerned will note what is said by the Shire of Tammin and give it further consideration.

This began a long time ago. By way of further explanation I would like to read the original letter which was sent by the shire to the Minister for Police and Emergency Services. It reads as follows --

Dear Mr Hill

Kindly refer to this Council's letter dated the 20th of October 1983, and to your reply dated the 23rd December 1983, concerning a request for a police officer to be stationed in Tammin.

Since this correspondence the situation has deteriorated to the present very alarming state.

There has been a considerable increase in the Aboriginal population in Tammin. Most Homeswest homes are occupied by Aboriginals and the Aboriginal Wheatbelt Cooperation -- funded apparently by Federal and State Governments -- is purchasing private homes and installing Aboriginal families therein. This council and other residents of the town, are of the opinion that the prime reason for this considerable influx is the absence of police presence in town. Other reasons suggested by the more cynical are, there is a hotel, homemaker centre and no employment opportunities.

With this influx has come a truly alarming increase in breaking and entering crimes and vandalism, with no known apprehensions and prosecutions.

Breaking and entering offences of which this Council is aware, and which have occurred recently are --

Tammin Fire Station
Duplex (School Teachers)
Golf Club
Tennis Club
Abattoir
Marine Dealer (Bottles Stolen)
Donnan Park Oval Changerooms
Tammin Pool
Lardi's Store (several times)
Tammin Hotel
Cooinda Centre
Playgroup Centre
Parked Vehicles.

The only three businesses not broken into have resident owners.

The letter then deals with other breaking and enterings in the golf club, and a number of incidents of vandalism. It goes on to say --

> Many other minor offences are committed but not reported due to lack of police success, and to a certain element of intimidation. Aboriginal children are caught doing something wrong and verbally chastised, along comes the parent(s) and threaten the original victim and ensure that the matter is not reported. This is of particular concern to the elderly and those living on their own.
>
> Apart from this, there are regular incidents of dangerous driving and other Traffic Act Offences which are not reported

I would now like to read the letter from Mr Bridge which I sent to the shire council. It is dated 8 September 1987. It was the result of inquiries made by Mr Bridge on behalf of the Tammin Shire and says --

> Dear Margaret
>
> Further to our conversation during the visit to Merredin, on issues relating to the Shire of Tammin . . . I advise that I have now received a report from the Aboriginal Affairs Planning Authority.
>
> The Authority has contacted relevant agencies whose comments are as follows:
>
> Wheatbelt Aboriginal Corporation (WAC)
>
> - WAC has bought two houses in the Tammin township;
> - WAC attributes the increase of the Aboriginal population to:
>
> a) the employment opportunities available to Aboriginal people as a result of traineeships created by WAC and the Department of Employment and Industrial Relations;
>
> b) the departure of the non-Aboriginal community from the area due to limited job opportunities; this has enabled Aboriginal people to obtain rental accommodation;
>
> c) an increase in the Aboriginal birth rate;
>
> - Mr Ken Marston, Co-ordinator of WAC, believes that the unrest is caused by the limited job opportunities available in the area to the non-Aboriginal community. The town is apparently experiencing an economic decline and the relationship between the Aboriginal and non-Aboriginal community is further aggravated by the employment and accommodation opportunities created for Aboriginal people.
>
> Tammin Primary School
>
> The Administrative Clerk at Tammin School advises that:
>
> - School population has decreased and that there has not been a huge increase in the number of Aboriginal students;

It then gave some figures for the primary school population which were 83 in February 1987 and 73 in July 1987, of which 30 were Aboriginal students. It goes on to deal with the Cunderdin Police Station and says --

> Sergeant Winton of the Cunderdin Police Station stated that:
>
> - While there has been an increase in the Aboriginal population in the Shire, there has not been an increase in the workload of the police officers;
> - The shortage of police officers can be attributed to the following factors:
>   . no replacement available when an officer goes on leave;
>   . union policy that requires two or more officers on night patrol;
>   . there are only five officers (one Sergeant, one Traffic Officer, three general Police Officers) to patrol three towns;
>   . the resident Aboriginal community is not generally involved in violation of the law;
>   . problems sometimes occur when visitors of transients are in town.

The rest of the letter deals with matters relating to Moora.

Having despatched this to Tammin in a hopeful frame of mind I received the following reply, and it is this which has prompted me to raise the matter here --

> Dear Mrs McAleer
>
> Thank you for your letter . . . enclosing a copy of a letter from the Minister for Aboriginal Affairs . . . This letter contains several inaccuracies and dubious statements and elicited a rather angry reply from the School Assistant who gave me full permission to use her letter on the subject.
>
> Wheatbelt Aboriginal Corporation (WAC)
>
> The WAC has purchased three houses in the Tammin townsite. The most recent at the very entrance to Donnan Park recreation oval, is a very neat, but very old weatherboard cottage which was purchased for the sum of $27 000. A more modern asbestos home -- with a higher Valuer General valuation -- was purchased privately this year for only $18 000. WAC is paying inflated prices with which other intending buyers will not or cannot compete.

It then refers to statements in Mr Bridge's letter. The first was the statement of the Wheatbelt Aboriginal Corporation which attributed the increase in Aboriginal population to employment opportunities and so on. He stated --

> (a) This statement is indeed open to question!
>
> This Council knows of no special employment opportunities available to aboriginals in Tammin which would induce them to come to the town.

It is the departure of the non-Aboriginal community that has enabled Aboriginal people to obtain rental accommodation. The letter continues --

> (b) This statement is true. But where oh where is the logic in enabling unemployed aboriginals to come to Tammin and remain unemployed on a permanent basis.

Hon H.W. Gayfer: The people in the district are endeavouring to create employment for them. A very responsible group is trying to do that for everybody.

Hon MARGARET McALEER: What about the non-Aboriginal population?

Hon H.W. Gayfer: I understand that they are creating employment for everybody in the Tammin area in an endeavour to keep people in the town so that the houses do not become vacant and are taken over, as you mentioned those three were.

Hon MARGARET McALEER: It continues --

> The last paragraph of page 1 expressing Mr Marston's belief about unrest is just unbelievable. To say that unrest is caused by limited job opportunities available to non-aboriginals and aggravated by employment opportunities created for aboriginals is complete nonsense.

Perhaps Hon Mick Gayfer will comment on that. I pass over the matter of the Tammin Primary School because the school assistant was embarrassed and annoyed by the fact that she was not referred to by her rightful title and because she felt the figures attributed to her could not have been supplied by her in the first instance. I move on to Cunderdin Police Station; the letter states --

> This Council (and I) refuses to believe the statement attributed to Sergeant Winton of the Cunderdin Police Station that: "while there has been an increase in the aboriginal population in the Shire, there has not been an increase in the workload of police officers".
>
> Sergeant Winton has personally told me the opposite, as has Superintendent Primrose of the Northam Police District.
>
> The last paragraph of Page 2 is very misleading. Those members of the aboriginal community who grew up in the town are generally not involved in violation of the law. That is quite different from the statement: "The resident aboriginal community is not generally involved".
>
> Most of the violations are committed by aboriginals who are resident but are comparatively recent arrivals.
>
> For your information I have enclosed the following:
>
> 1. A list of offences known or very strongly suspected to have been caused by aboriginals. These are only the offences which have come to my personal attention and the police undoubtedly know of many others. Bear in mind that this is only a small town of about 300 or less persons.

He goes on to say that he is sending a copy of the letters to the Minister for Police and Emergency Services and Mr Wilson Tuckey, MP. Finally, he states --

> The Federal Government is undoubted providing funds for the WAC (and probably other organizations) to purchase houses for aboriginal accommodation. But whether or not the Federal Government is aware (or cares) that these houses are being purchased in small country towns where employment opportunities are minimal, this Council is not sure.
>
> The Council would feel exactly the same if similar funding was provided for non-aboriginals. Indeed, recent publicity about the recently-formed community Company -- Farmdale Pty Ltd -- has resulted in letters being received from various types of pensioners and unemployed persons who are non-aboriginal and these people have been discouraged from coming to Tammin due to lack of employment and accommodation.

I have dealt with this subject at length and I am sorry if I have wearied the House with it because the situation in Merredin and other towns in the wheat-belt is the same.

Hon E.J. Charlton: I live in the town to which you have referred. I have seen the Minister for Education and the Minister for Aboriginal Affairs today because of the continuing problems to which you have referred. The same corporation has bought three houses in Merredin but it did not allocate any finance for maintenance, that is only to be covered from the rent so if it is necessary to do any major renovations, no money is available. The situation has become progressively worse.

Hon MARGARET McALEER: I agree. The problem is not isolated to Tammin or Merredin. It goes right through the wheat-belt. It has happened in Carnamah and Mullewa. In Mullewa for example, the shire council in particular has worked very hard to get schemes to employ or occupy the time of Aboriginal youth. Again, it is hampered by lack of funding. Only recently Hon Ernie Bridge contacted the council in the hope of finding some way of funding a ranger who will be an activities person for the Aboriginal youth.

Hon E.J. Charlton: Do you agree that if the Federal Government wants to put money in these things it should allocate it through the State system?

Hon MARGARET McALEER: On the one hand money is being spent without much consultation in areas which find it hard to absorb new residents because of lack of employment, and on the other hand there are good schemes to employ people or to organise

them into further activities, which are hampered by lack of funds. I hope that further consideration will be given to trying to coordinate these funds into more useful channels.

Debate adjourned, on motion by Hon Robert Hetherington.

ADJOURNMENT OF THE HOUSE: SPECIAL

HON J.M. BERINSON (North Central Metropolitan -- Leader of the House) [5.47 pm]: I move --

That the House at its rising adjourn until 2.30 pm on Tuesday 15 December.

HON E.J. CHARLTON (Central) [5.48 pm]: Can the Leader of the House give me any information about the likely programme for next week?

HON J.M. BERINSON (North Central Metropolitan -- Leader of the House) [5.49 pm]: The items remaining from the present Orders of the Day are the Local Government Amendment Bill (No 2), the Acts Amendment (Totalisator Agency Board Betting) Bill and the Acts Amendment (Public Service) Bill. So far as I am aware the only major legislation to come -- the Residential Tenancies Bill -- will be introduced in this Chamber on Tuesday. Our programme thereafter will largely depend on how ready members are to proceed with the debate on that Bill. Apart from that, the Appropriations Bills have yet to come to this House, but given the lengthy debate on the Estimates of Expenditure motion, I do not expect that debate to last long. The long and short of it is that it is not up to me. There is some prospect of completing our work next Wednesday and certainly it should be completed by Thursday. The Government has tentatively arranged for the Parliament to re-assemble on 22 December.

Hon E.J. Charlton: Both Houses?

Hon J.M. BERINSON: Yes, in case there is requirement for further exchange of messages and matters of that kind; but that will also become clearer next week.

Hon E.J. Charlton: You are confident that 25 December will be clear?

Question put and passed.

BILLS (2): RETURNED

1. Acts Amendment (Imprisonment and Parole) Bill.
2. Child Welfare Amendment Bill (No 2).

Bills returned from the Assembly with amendments.

ADJOURNMENT OF THE HOUSE: ORDINARY

HON J.M. BERINSON (North Central Metropolitan -- Leader of the House) [5.51 pm]: I move:

That the House do now adjourn.

Firearms: Control

HON GARRY KELLY (South Metropolitan) [5.52 pm]: On 22 and 23 September, in my comments during the Budget debate, I spoke of the need for tightening gun control in this country and suggested the desirability of a national inquiry to deal with the subject of private ownership of firearms and their commercial distribution in this country. The tragic events in Melbourne this week have demonstrated how ridiculously easy it is to acquire high powered firearms. On Wednesday in "A.M." a criminologist made the point that had this unfortunate individual run amok with a knife in all probability no-one would have been killed.

It is ironic that, at the conference of Police Ministers a few days before that tragic happening, the conference baulked at uniform gun control laws; and the uniform laws were rejected on the basis of parochial concern in relation to States' rights and the matter of being dictated to by forces from outside their borders.

I make my position absolutely clear: I think that private ownership of firearms in urban Australia should be prohibited. I cannot conceive of any need or reason why people living in an urban environment need ready access to guns, although I appreciate that not everyone

agrees with that point of view. In order to see what consensus could be developed in a community, an inquiry should be held to give interested groups an opportunity to make submissions about this matter. In particular, the gun lobby should be smoked out and seen for what they are. The vast majority of the Australian community would readily concede that there is no need for the civilian population to be armed, particularly the urban population. I can see a need in rural areas for people to have access to guns, but that access should be well controlled.

Hon E.J. Charlton: Is the member suggesting that the people who have committed these atrocities could not have otherwise got a gun?

Hon GARRY KELLY: Probably not.

Hon E.J. Charlton: Did the person involved own one, and have a licence?

Hon GARRY KELLY: Yes. He got a permit a few weeks previously. I am making the point that there have been a number of massacres around the world involving unhinged people, and because they had ready access to firearms they not only killed themselves, or were killed, but they also took a number of innocent people with them. Unless the community addresses the problem of civilian ownership of firearms, these outbursts of homicidal mania will continue to occur.

There are individuals who, for whatever reason, go off the deep end; if they did not have access to guns, these things would not occur. The community and society generally must address the problem of private ownership of firearms as the civilian community does not need to have access to firearms, particularly in an urban environment.

Question put and passed.

House adjourned at 5.56 pm

QUESTIONS ON NOTICE

GOVERNMENT BUILDINGS: HEATHCOTE HOSPITAL
Land Grant

527. Hon P.G. PENDAL, to the Minister for Community Services representing the Minister for Health:

(1) Is it correct that the land on which Heathcote Hospital is built was originally given to the Government by a family, with the proviso that a hospital be established on that land?

(2) If so, will he explain how the property can subsequently be sold by the present Government?

Hon KAY HALLAHAN replied:

(1) No.

(2) Not applicable.

CHRISTMAS ANTI-CREDIT CAMPAIGN
Government Support

531. Hon N.F. MOORE, to the Minister for Community Services:

(1) Is it correct that the Department for Community Services is supporting the Christmas Anti-Credit Campaign?

(2) If so, how is this support being provided?

Hon KAY HALLAHAN replied:

(1) Yes.

(2) A grant allocated by Poverty Priorities through non-Government of $2 000 for the preparation and distribution of materials warning people on low incomes of the dangers of credit which they cannot afford.

CREDIT SPENDING
Economic Impact

532. Hon N.F. MOORE, to the Minister for Community Services:

In view of the Minister's previous answer, that the Department for Community Services is supporting the Christmas Anti-Credit Campaign, will the Minister advise whether or not her department, or the Government for that matter, has carried out any research into the likely economic impact of a considerable reduction in credit spending over the Christmas period and if so, what were the results of the research?

Hon KAY HALLAHAN replied:

No. It is a campaign initiated by consumers on low incomes.

MITCHELL FREEWAY
Covering: Parliamentary Precinct

535. Hon P.G. PENDAL, to the Leader of the House representing the Minister for Works and Services:

(1) Is any estimate available on the cost of covering the freeway between Malcolm and Hay Streets?

(2) If so, how much would it cost?

(3) Will the Government consider a "trade-off" which would allow high-rise development within the parliamentary precinct in return for a financial contribution from these developments towards the cost of covering the freeway?

(4) Would not a landscaped covered area enhance the city and its environs?

Hon J.M. BERINSON replied:

(1) I am not aware of such.

(2) Not applicable.

(3) No proposal or request has been made which calls for consideration by the Government.

(4) This is a matter of opinion.

HEALTH: AIDS
Notification

536. Hon P.G. PENDAL, to the Minister for Community Services representing the Minister for Health:

(1) Is the Minister aware of the petition, presented to the Legislative Council on 20 October 1987, requesting that medical practitioners be obliged to notify the sexual partners of known AIDS sufferers of the latter group's situation?

(2) If so, has he taken any action as a result of that petition?

(3) Has the possibility of isolating from the community AIDS sufferers who knowingly attempt to infect others with the disease, been considered?

(4) If not, will he investigate the possibility of isolating such offenders, for example, in good conditions, away from the normal prison system?

Hon KAY HALLAHAN replied:

(1) Yes.

(2) Yes. The issue is under consideration by the AIDS Advisory Committee, which has convened an expert group to examine the ethical, medical, and legal complications of this and related issues involving a conflict between confidentiality on the one hand and the well-being of possible contacts on the other.

(3) Yes. Legislative changes relating to such a situation are under consideration.

(4) Not applicable. See (3).

GREYHOUND RACING
Licence Applications

539. Hon G.E. MASTERS, to the Minister for Sport and Recreation representing the Minister for Racing and Gaming:

(1) When applying for a greyhound trainer's licence from the WA Greyhound Racing Association, does the application form request information on whether a person has a criminal record?

(2) If yes, is that record confirmed with the Police Department?

(3) If no, is a check made with the Police Department?

Hon GRAHAM EDWARDS replied:

(1) Yes.

(2)-(3) No. However, the association is currently implementing procedures which will allow it to check criminal records with the Police Department

MOPEDS
Legislative Change

540. Hon G.E. MASTERS, to the Minister for Sport and Recreation representing the Minister for Police and Emergency Services:

Can the Minister advise when section 5 of the Road Traffic Act as amended by the Road Traffic Amendment Bill (No 2) 1987, will be gazetted?

Hon GRAHAM EDWARDS replied:

No. However, following representations from the Automobile Chamber of Commerce, and wishing to assist members of that association, I have agreed to further expedite implementation of the moped legislation by arranging for gazettal at the earliest time. The Automobile Chamber of Commerce has been informed of my decision.

QUESTIONS WITHOUT NOTICE

MOTOR VEHICLE DRIVERS' LICENCES
Date of Birth

486. Hon G.E. MASTERS, to the Leader of the House:

(1) Is he aware of the traffic office requesting a birth date of people going to renew their car licences?

(2) If so, why?

Hon J.M. BERINSON replied:

(1)-(2)

I have no knowledge of that. I hope that reply will not be surprising, in view of the fact that I have no responsibility for the traffic office.

BIRTHS, DEATHS, AND MARRIAGES
Details: Federal Government

487. Hon G.E. MASTERS, to the Attorney General:

Is the State Government giving details of births, deaths and marriages to the Federal Government?

Hon J.M. BERINSON replied:

To my knowledge there is no arrangement in place for the regular transmission of all of that information.

BIRTHS, DEATHS, AND MARRIAGES
Records: Updating

488. Hon G.E. MASTERS, to the Attorney General:

Is the Government compiling a detailed list and updating the records of births, deaths and marriages?

Hon J.M. BERINSON replied:

It is the function of the Registrar General's office to ensure that these records are always up to date.

Hon G.E. Masters: You are saying yes?

Hon J.M. BERINSON: I am saying that work continues in the ordinary course of events.

Hon Fred McKenzie: No change!

BIRTHS, MARRIAGES, AND DEATHS
National Register

489. Hon G.E. MASTERS, to the Attorney General:

Will the State Government cooperate with any moves by the Federal Government to set up a national registration record?

Hon J.M. BERINSON replied:

That is a hypothetical question to which I am unable to respond.

CLERKS OF COURTS
Appointment: Justices of the Peace

490. Hon P.H. LOCKYER, to the Attorney General:

(1) Can the Attorney General inform the House whether it is the intention to appoint all clerks of courts in Western Australia as justices of the peace?

(2) If so, for what reason?

(3) If they are appointed, are they expected to carry out court duties such as sitting on the bench?

Hon J.M. BERINSON replied:

(1)-(3)

On the advice of the Crown Law Department, I have moved to the appointment of all clerks of court as justices of the peace. The intention is that their service on the bench, if at all, should be restricted to exceptional circumstances only. The appointment, however, is to overcome difficulties which have arisen from time to time in the ready availability of justices in some areas for work unrelated to bench duties.

CLERKS OF THE COURT
Bench: Exceptional Circumstances

491. Hon P.H. LOCKYER, to the Attorney General:

(1) What does the Attorney General define as exceptional circumstances for a justice of the peace, such as a clerk of the court, to sit on the bench?

(2) Is it the same circumstance as he would consider appropriate for a member of Parliament who holds a commission as a justice of the peace?

Hon J.M. BERINSON replied:

(1)-(2)

I do not think the two can be equated. More reasons can be advanced against a member of Parliament sitting on the bench than against clerks of courts. The sort of exceptional circumstance I have in mind -- one can only deal in a very general way with examples in this area -- would be where it was important that a hearing should proceed and it was not possible, within a reasonable time, to secure the attendance of two justices apart from the clerk of court.

POLICE: SUMMONSES
Issue

492. Hon P.H. Lockyer, on behalf of Hon A.A. LEWIS, to the Attorney General:

I inquire whether the Attorney General has answered a question which I understand the honourable member placed on notice in which Hon A.A. Lewis asked --

(1) Has the ability been removed from some police stations to issue summonses?

(2) Is it a fact that if one wishes to issue a summons in Kojonup, one has to go to Albany or to Narrogin?

(3) Is it a fact that if one wishes to issue a summons in Boyup Brook, one has to go to Manjimup or to Collie?

(4) If so, does the serving of a summons cost mileage back to Kojonup or Boyup Brook?

(5) If so, who pays for that mileage?

Hon J.M. BERINSON replied:

I did undertake to Mr Lewis yesterday to obtain the answers to those questions. I appreciate Mr Lockyer's raising it on the honourable member's behalf. Although my answers will deal specifically with the particular centres to which Mr Lewis referred, it will be of interest to other members where somewhat similar circumstances apply.

(1) As from 1 January 1988, local court actions may only be initiated at those centres where there are stationed full-time clerks of court or mining registrars. Most centres affected by this change issue an average of less than two processes per week.

(2) No. A resident of Kojonup may obtain the required form of plaint from the police station at that centre and through the post cause the summons to issue at Katanning or any other local court.

(3) For much the same reasons as apply to (2), the answer is no.

(4)-(5)

No. The police officers appointed to Kojonup and Boyup Brook will continue to retain the appointment of bailiff, and no additional costs on service of summonses will be incurred. Generally, police officers are appointed to country centres for a term of three years. This practice has tended towards inexperienced persons assuming the role of clerk of the Local Court; and with the pending introduction of pre-trial conferences into the jurisdiction, it renders the continuing role of police officers inappropriate.

BIRTHS, DEATHS, AND MARRIAGES
Information Supply

493. Hon G.E. MASTERS, to the Attorney General

(1) Would the Minister advise me if the road traffic office is able to obtain information on birth dates from the Registrar of Births, Deaths and Marriages?

(2) If they are able to do so, do they gain that information from his department?

Hon J.M. BERINSON replied:

(1)-(2)

I am not aware of the relationship between the two departments in that respect. If the honourable member puts the question on notice, I will endeavour to have an answer provided.

CREDIT DANGERS
Government Action

494. Hon N.F. MOORE, to the Minister for Community Services:

I refer the Minister to her answers to questions 531 and 532 on today's Notice Paper. Is the Government taking any other action beyond the $2 000 referred to in that question to warn people of the dangers of credit?

Hon KAY HALLAHAN: The project to which the member refers is a non-Government programme for which funding was granted. I am unaware of any other project that has been funded for that purpose.