Legislative Council

Wednesday, 26 November 1980

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

BILLS (8): ASSENT

Message from the Lieutenant-Governor and Administrator received and read notifying assent to the following Bills—

1. Industrial Lands Development Authority Amendment Bill.
2. Skeleton Weed (Eradication Fund) Amendment Bill.
3. Rural Industries Assistance Amendment Bill.
4. Housing Bill.
5. Banana Industry Compensation Trust Fund Amendment Bill.
6. National Companies and Securities Commission (State Provisions) Bill.
7. Foreign Judgments (Reciprocal Enforcement) Amendment Bill.
8. Coal Mine Workers (Pensions) Amendment Bill.

QUESTIONS

Questions were taken at this stage.

NURSES AMENDMENT BILL

Second Reading

Debate resumed from 20 November.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [11.23 a.m.]: I thank members for their contributions to this legislation. The Hon. Howard Olney raised a number of matters when speaking for the Opposition. The first referred to nurses who failed to notify change of address.

The intention of the legislation is quite obvious. That the fine was difficult to implement was taken into account. It is clear that if one does not know the address of a nurse, one does not know where to locate the nurse in order to fine him or her. Therefore, it was decided the fine should be removed.

Mr Olney suggested that, because the $25 fine had been removed, the fine of $200 which is next referred to and which relates to a false declaration in regard to whether one is a registered nurse, could be applied.

The Hon. H. W. Olney: According to section 42 of the Act, that could occur.

The Hon. D. J. WORDSWORTH: I suggest it would be more appropriate to deal with this matter in Committee. I feel the Hon. Howard Olney is being a little pedantic when he says that, because the $25 has been removed, the $200 fine is applicable.

Members will appreciate that, when a provision such as this is deleted from the Act, it is shown as having been deleted so that anyone handling the legislation would be aware a penalty had existed previously, and Parliament had decided to remove it.

The next matter to which the Hon. Howard Olney referred was that of gross negligence. He was good enough to give what amounted to a Queen's Counsel opinion on this very vexed question. The term "gross negligence" or "negligence" involves a very complicated legal interpretation. The Hon. Howard Olney gave us both sides of the story. Having done so and having given us the benefit of Lord Goddard's judgment, perhaps he showed us it was a wise move to delete the word "gross" from the "gross negligence" charge.

I assure the Hon. Howard Olney his comments and those of other members will be conveyed to the Nurses Board in order that it might bear in mind the reasons Parliament saw fit to delete the word "gross" from the "gross negligence" charge. Despite the comments made by the Hon. Howard Olney we, as a Government, believe the charge should be one of negligence rather than of gross negligence.

A former Minister for Health (the Hon. Norman Baxter), in the light of his wide experience in this field, commented on the legislation. He indicated he was not entirely happy with the proposed method of election of the board. He gave his opinion, to which he is entitled, based on his experience. Members will be aware that, rather than our having the Minister choose the members of the board, the union will have a great deal of influence.

The Hon. Norman Baxter listed an amendment to my amendment on the notice paper in order to simplify the situation which can arise when the Minister wishes to go outside the present board to nominate and elect another chairman. I believe the Hon. Norman Baxter's amendment does not cover fully the requirement in the Bill which is not only to allow the Minister to go outside the board to elect a chairman, but also to deal with the manner in which voting for the position of deputy chairman shall take place.

The Hon. N. E. Baxter: That applies in the Bill now.

The Hon. D. J. WORDSWORTH: It would be more appropriate, however, to debate this matter in Committee.

The Hon. Win Piesse made a contribution to the Bill and it is obvious she has had experience in this field. It is interesting to note the emphasis on hospital training in nursing education is changing somewhat and greater weight is being placed on academic training.

As I drove to Parliament House today I was interested to read some slogans which appeared on the back of a car which obviously belonged to a nurse. She had a couple of bumper bar stickers on her car in order to get across her story. One read, "Nurses are an endangered species".

The Hon. Lyla Elliott: With this Government in power they are.

The Hon. D. J. WORDSWORTH: I do not think that sticker referred to the matter to which the Hon. Lyla Elliott is referring. The sticker was related to education, not numbers.

The Hon. H. W. Olney: The unemployed.

The Hon. D. J. WORDSWORTH: The other sticker read, "Nurses must be carefully educated". The word "care" was underlined.

The Hon. D. K. Dans: They are an endangered species.

The Hon. D. J. WORDSWORTH: I believe the context of these bumper stickers had nothing to do with the reduction in the number of nurses. I think the stickers typify a little of what the Hon. Win Piesse said in her speech during the second reading debate.

I had a daughter in hospital for a year and during that time I observed the training of the nurses. I believe there is a difference between the nursing system in Australia and the system in America. In fact, the difference is quite marked.

The Hon. D. K. Dans: Ours is very good.

The Hon. D. J. WORDSWORTH: I have noticed in Australia, particularly with children's nursing, that trainee nurses do the more onerous tasks such as changing bedpans, feeding the children, etc. In the American system where there are only trained sisters, the sisters do not have time to feed the children. Most nurses in the American hospitals are highly trained sisters and the other workers in the hospital are generally cleaners who are usually negroes—I do not say that to denigrate them—and they do not have the same level of interest or duty in feeding the young children as do the nurses.

In America the food is placed in front of the children and if it is not eaten within half an hour, it is taken away. I gained the impression that many children could have died from starvation because they did not receive the care they should have received. Apparently this does not happen in other parts of the world where there are numerous trainee nurses always at hand.

It is obvious we will be having more academically trained nurses in our hospitals and I hope we can cater for some of the problems I have mentioned. The Americans may have overcome their problems now because they have volunteers from the community who come in and feed the children, and they do not receive financial remuneration for their work.

The Hon. W. M. Piesse: However, with no knowledge.

The Hon. D. J. WORDSWORTH: The volunteers just help with such things as feeding; they are only visitors to the hospital.

The Hon. G. C. MacKinnon: Mrs Piesse is probably being a little harsh when she says, "with no knowledge".

The Hon. W. M. Piesse: I do not think so.

The Hon. D. J. WORDSWORTH: I do not think that they would be required to have the knowledge.

The Hon. W. M. Piesse: It matters to the extent that if a patient is suffering with a particular complaint whereby diet is very important, a trained person would recognise a mistake if it were made, but a volunteer would not.

The Hon. D. J. WORDSWORTH: A sister is in charge of particular beds and she is often present, but she does not have the time to actually hand feed the children. The volunteers in the American system do a great job and perhaps such a system could apply in our hospitals. I thank members for their contributions to the debate.

Question put and passed.

Bill read a second time.

In Committee

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

Clause 1 put and passed.

Clause 2: Commencement—

The Hon. G. C. MacKINNON: A comment made by the Minister during the second reading stage caused me to change my mind about one

aspect of the Bill and to make a further comment. I think the time has come when the Government should make some real effort to decide philosophically what it wishes to do about boards in general. The area of the EPA legislation, and boards, seems to be another area in regard to which there is a requirement for philosophical continuity in the Government's attitude to the appointment of a chairman on a board, and associated matters.

With regard to the education of nurses and the predicament of the American system, I had a long talk with Mr Don Leetham who is the Chairman of the Nurses Board. The board, in general, is in favour of tertiary education for nurses. However, in general, I am not. A number of matrons in the community agree with me because nurses traditionally are those people who look after patients, in the sense the Minister did discuss—they look to the patients' care.

When there is a move up the ladder in industry—in terms of expertise—one must be sure to replace those who undertake the more menial tasks. We have done that extremely well in this country. We have registered sisters and now we have enrolled nurses; further down we have nurses' assistants and domestic staff. This system has worked exceedingly well and I am delighted at the introduction of the word "enrolled" before the word "nurses".

In 1969 on my return from the United Kingdom I tried to have the word "enrolled" accepted, but the nursing fraternity is extremely conservative—in the best sense of the word—and has taken a long time to use the term "enrolled nurses".

There is a move for registered sisters to be admitted to tertiary education and then enter into the field of administration. My personal view is we must consider how we are to go about this. A sister does her on-the-job training and if she wants to go on into the administrative field she must be given assistance to attend a specific course which may be available.

However, not every nurse is suitable for top-line administration. I know there is a further argument about that and I am a little afraid that the view of those in favour of the method of tertiary education admittance may be taken as more representative than that of the whole profession. Quite often some people are rather conservative and do not push forward their points of view.

I know there are a great number of very competent people in the nursing profession who, like me, believe that the longer and more laborious system we currently use is the best. Likewise, a number of very worth-while people believe entry into the profession through the tertiary education system is better, and gives nurses a higher standing and grading.

My real answer is that those who wish to enter the profession by the higher learning process should be given a special standing and be appointed administrative personnel. We should also ensure the current method remains extant, so we provide a total gradation of workers throughout the system.

This has happened in other professions. I suppose dentistry would be the classic example. As the dental profession became more and more expert in every sense of the word, of necessity dental therapists and technicians were introduced; they filled the gap left by the old, traditional apprentice dentists. It tends to be forgotten by the younger members of the profession that until comparatively recently dentistry was an apprentice trade. As a matter of fact, I believe two dentists who served their time as apprentices retired only recently. I think lawyers got out of the apprenticeship system a little earlier.

The Hon. H. W. Olney: I served an apprenticeship.

The Hon. G. C. MacKINNON: It is a disappearing concept, which I do not think is a bad thing. It is quite wrong that tradesmen in business should have to train replacement tradesmen, to a large extent at their own expense, while lawyers, dentists, doctors, and many others have replacement personnel trained at Government expense. It is an inequitable situation and it is long past time the matter was examined.

I just wanted to put on record the fact that it is not universally accepted and acclaimed that the tertiary education mode of entering the profession is best. In fact, I think the Minister will find this is the root cause of some of the problems being experienced in hospitals in the USA. Fortunately, that country has a system of voluntary contribution by various people. One of the systems of training we were able to introduce when I was Minister for Health—that of specifically-trained voluntary workers—was borrowed from the USA. Voluntary workers are trained in the rudiments of what to look for. I put that in as an answer to the comment of the Hon. Win Piesse. The contribution of voluntary workers not only in hospitals, but also in many other fields of activity in the USA, would put even our very good record somewhat in the shade.

Nevertheless, there is a danger that in using very high technical expertise as a mode of

entering the profession, the staff we know as registered sisters would tend to move more into the administrative field, rather than into the caring field. Fortunately, we know that by other gradations of nurses and, to some extent, volunteer staff, the caring field will remain well catered for. Members would know I speak with some authority on this subject, as I spent an inordinate amount of time in hospital as a result of my incarceration in a prison camp during the war.

Despite all the modern technological advantages, an underlying thread of care and concern runs throughout our health system. That is why when people trained in this country go overseas, they have no problem whatever in securing employment; members who have daughters who are qualified sisters would be aware of this fact.

I was constrained to make those comments by the answers given by the Minister and his reference to the American system. It should also be placed on record that the idea of tertiary education being an essential to higher levels of nursing is not uniformally agreed to as being a pre-requisite to entry to the nursing profession.

It must always be accepted there should be facilities for tertiary education for those who have proved themselves to be well qualified in the field of administration and or personnel management. Such people should be given the opportunity to take special courses which would provide them with the extraordinary qualifications which are required in some of the problem areas in our bigger hospitals.

The Hon. W. M. PIESSE: The Hon. Graham MacKinnon mentioned registered sisters. Can the Minister inform us whether the legislation will continue to provide for the terminology "registered sister"? It seems to me the whole terminology is to be changed and we will no longer recognise fully trained people as registered sisters.

The matter of the apprenticeship system disappearing in medicine, law, dentistry, and so on in fact is the essence of the whole situation, and is the difference between a professional person and a tradesman. This is another matter which the nursing profession should be carefully examining. It has taken generations for the nursing profession to climb out of the trade area into the professional area, and I see considerable danger in the amendment before the Chamber, in that it may reduce rather than enhance the professional status of nurses.

It is true technical changes are occurring constantly in the nursing field. Again, we are in danger of losing that remarkable atmosphere and skill which has always existed with nurses, in dealings between patients and doctors. Only nurses can fill this area of need, as any doctor will confirm. If we are now to have much more highly qualified nurses who will be divorced from the practical side of nursing, rather than gain something, we will lose something which is of great value. It was lost in America. I do not think we are advancing the cause of nurses by moving towards the American system, and I am sorry to see that we are moving in that direction.

It is true, of course, that some nurses make better administrators than others. It is equally true that some very efficient administrators make the world's worst nurses. The nursing profession ought to take heed of the trend which is overtaking the profession.

The Hon. G. C. MacKINNON: The term "registered sisters" is a term I am always using.

The Hon. W. M. Piesse: It has always been an accepted term.

The Hon. G. C. MacKINNON: I do not think it was a technical term used in the field. They were in fact registered and they were in fact sisters. When I returned in 1969 I thought we should make a distinction so that we would know the difference. I do not use the term in the sense that it appears in the Bill but in the sense that it was a definition I have always used to differentiate.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 9 repealed and substituted—

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

> Page 4, line 8—Delete "five" and substitute the following—
>
> "three";

The Hon. N. E. BAXTER: This amendment, and the following one, are necessary because of the proposal to insert a new paragraph which will read—

> (h) two shall be persons recommended for appointment by the body known as the Hospital Employees Industrial Union, being persons each of whom is an enrolled nurse who is registered with the Board and who is practising in a general hospital associated with a school of nursing for enrolled nurses;

As I said in my second reading speech, these nurses were known as nursing aides and were

appointed during my term as Minister. It was a concession to them to put two nursing aides on the board so that they as a body would have a say. We did not realise this move would be taken out of the Minister's hands, but this is what is happening here as the actual recommendation for appointment will be made by the Hospital Employees' Union. This being so, I do not think the Minister will have much option other than to accept the appointees. The original intention was that the union would recommend two nursing aides and the Minister, in consultation with the director of nursing of a particular hospital, would decide whether they were acceptable. The director of nursing would know whether they were the types of appointees who were capable of working on the Nurses Board. A director of nursing would have a better idea as to their fitness to work on a registration board.

The union could now recommend people on a politically-biased basis and so I believe the Government should take another look at this amendment and leave the Act as it stands so that we have two persons appointed by the Minister and we can leave the word "five" instead of altering it to "three".

The Hon. H. W. OLNEY: The Opposition supports this amendment and the substantive amendments to follow. It has been the practice for some years for two nursing aides—in future to be called enrolled nurses—to be appointed to the Nurses Board. The practice has been for the Minister to consult sometimes—and more recently inevitably—with the Hospital Employees' Union concerning the appointment of the nursing aides. I believe there has been some variation of the practice and on occasions the Minister has sought the recommendations from the directors of nursing in the relevant hospitals and the names are put forward and then submitted to the union. The Minister has then made his own selection.

On occasions in some hospitals the nursing aides have actually voted for persons whose names should be put to the Minister. On other occasions the selection simply has been made by the matron or the director of nursing in question.

The position the Opposition takes is that the nursing profession is very clearly one of a hierarchical structure. We have people who are trained and untrained and, within the trained sphere, we have degrees of training. We will now have enrolled nurses as against registered nurses, and this is quite proper. For some time it has been recognised by the Government that it is also proper for the nursing aides, or enrolled nurses, to have some representation on the board and to have some part in the administration of their profession. It is fair to regard nursing as a single profession and not a conglomeration of separate professions.

When this matter was before the other Chamber the Minister for Health undertook to look at it at the suggestion of the shadow Minister, the member for Melville. Having determined what has been the practice the Minister apparently has agreed to translate the practice into legislation. The proposals the Minister in this place has on the notice paper in regard to this part of the Bill will bring the law into line with the practice which has been observed for some time, a practice which has been observed by successive Ministers and meets with the approval of all branches of the profession and with the particular unions concerned.

To suggest there might be political motivation in the Hospital Employees' Union making an appointment raises the whole question of political motivation in any appointment. The fact of the matter is that the union has, for a long period of years, demonstrated its responsibility in this field, as indeed has the Royal Australian Nursing Federation and the Psychiatric Nurses' Association, and the Government quite rightly has recognised these bodies as responsible and sensible organisations whose interests are essentially equivalent to the interests of their members and whose concern is the welfare of the nursing profession. Therefore, we support this and the following amendments.

The Hon. G. C. MacKINNON: Might I suggest to the Minister that the proper solution to this matter is to refer to the framing of the Act itself and consider the accidents that have happened along the way which have led to the different sort of representation of two different groups of nurses.

In September 1968 the move for an independent Nurses Board was made from a section within the Public Health Department in Murray Street. On 12 September 1968 I introduced the Bill. On page 1069 of *Hansard* it can be seen that I said the administration of the Act was carried out within the then Public Health Department. Further on I said the Bill will grant autonomy to the new board and will enable the board to follow advanced techniques.

About that time nursing aides as they were then known became involved in the situation; it was suggested the federation should take them under its wing. To the regret of virtually everyone in the various organisations the federation did not do so. It was a traditional point in those days that nursing aides were very much only aides; they

emptied the pans and cleaned the bottles, and not much else. Nowadays they are much more highly skilled, but happen to find themselves covered by a different organisation from that by which they should be covered. That is one of the accidents of life. It seems to me that if the Minister considers this part of the Bill very carefully he will see that it states—

> The Board shall comprise . . . a person recommended for appointment by the Council of the Federation . . .

Of course, this council nominee represents the tertiary level school for the education of nurses and is a matter about which I have spoken. The clause further states—

> . . . a person who is registered as a midwifery nurse and who is administering or practising in a hospital associated with a midwifery school of nursing;

The proposed amendment is to include a domiciliary nurse, a general hospital nurse, a pediatric nurse, and a community health nurse in that clause. Whilst having high regard for the ethics of the nursing profession, the federation still caters for the industrial problems of registered sisters. It seems to me there ought to be a further paragraph after paragraph (d) which in part states—

> . . . persons recommended for appointment by the Minister, of whom—

It then goes on to list five persons, but I believe there ought to be a person representing enrolled nurses—a person recommended by the Hospital Employees' Union. To my mind that would be logical.

The part of the clause which reads that five persons are to be recommended by the Minister should be amended so that only four persons are recommended by the Minister. Then an amendment should be made to subparagraph (iv) to provide that instead of two persons each of whom is an enrolled nurse being recommended by the Minister, only one person who is an enrolled nurse is recommended. The Minister will be able to appoint a registered general nurse to represent the nursing administration, one to represent the area of education, and one to represent enrolled nurses. That would then indicate that at least some logical process of thought had been put into the framing of the legislation.

If the Minister is to be allowed to appoint registered sisters in a different category then he ought to be able to appoint only one enrolled nurse. If the federation which covers nursing sisters is to be allowed to recommend a representative of the people for whom it is responsible then it seems logical that the Hospital Employees' Union ought to be able to recommend a person to represent the people for whom it is industrially and ethically responsible. That would seem to be a logical course. The illogicality of the Bill before us is brought out by the proposal in this clause. It seems to me we will meet the ALP requirement that the unions should be able to submit representatives purely and simply by cutting out the Minister's right to do so.

I suggest to the Minister that a way exists by which both sides could be satisfied and that is by rewriting the proposed amendments which relate to the federation's right to nominate. I have no logical objection to the point raised by the Hon. H. W. Olney; nevertheless I agree with the Hon. Norm Baxter that the Minister should not be denied the right to nominate an enrolled nurse as he currently has the right to nominate nurses from the other disciplines.

The Hon. H. W. OLNEY: I will comment on one aspect of the Hon. G. C. MacKinnon's remarks. I happen to have had some personal involvement with the Royal Australian Nursing Federation at the time changes in relation to nursing aides occurred. I assure the Chamber that it was not due to the want of trying that the federation lost its industrial representation of nursing aides. In fact, considerable activity was taking place in the State Industrial Commission at that time.

Indeed, the federation has the right to take as its members the nursing aides, but a concurrent right is enjoyed by the Hospital Employees' Union to have nursing aides as its members. When it came to the crunch, economics won out. Because of the structure of the different wage schedules in the various hospital awards it became economically better for the nursing aides to join the Hospital Employees' Union because they could obtain more money that way. By joining the Hospital Employees' Union they were placed in relativity above nursing assistants who were reasonably well paid. At that time registered nursing sisters were poorly paid in comparison with other disciplines. If they had joined the federation the nursing aides would have been so many rungs below the level of the registered nursing sisters. It was a matter of economics rather than anything else which led to the industrial representation of the nursing aides by the HEU.

The Hon. G. C. MacKinnon: You could well be right, but that does not alter the rest of my argument.

The Hon. H. W. OLNEY: Yes, I accept that. As to the rest of the Hon. Graham MacKinnon's proposal, this is the first time it has been brought to my attention. It was probably just thought of by the Hon. Graham MacKinnon. There does seem to be logic in it, but I cannot say whether the Opposition would support it. Certainly the Opposition understands the concept that each union has the right to recommend people to the board and the Minister has a right to appoint members of the board from each branch of the profession. That does contain some logic, but I am sure the Hospital Employees' Union would like to stick to the proposal of appointing two persons instead of one person, and I think that is the stumbling block.

The Hon. D. J. WORDSWORTH: I thank members for their comments in regard to this clause. I was not aware of how the Minister, in preparing the Bill—and, in particular, this clause—arrived at the conclusion that there was a necessity for two Hospital Employees' Union representatives. I might add that the wording of "recommendations to the Minister" is exactly the same as that which was previously stated.

I do not think we have altered the situation. The industrial organisations have a right to recommend representatives.

The Hon. N. E. Baxter: The clause will change what was in the Act. Have a look at page 4 of the Bill.

The Hon. D. J. WORDSWORTH: We propose to delete the word "five" and substitute the word "three", but the remainder of the wording of paragraph (d) states—

> ...shall be persons recommended for appointment by the Minister ...

We do not intend to take out those words. Paragraph (e) states—

> ...shall be a person recommended for appointment by the body known ...

The Hon. G. C. MacKinnon: The Minister will no longer appoint enrolled persons.

The Hon. D. J. WORDSWORTH: The Minister will appoint someone only after a recommendation has been made to him.

The Hon. G. C. MacKinnon: Not only on his own cognizance.

The Hon. D. J. WORDSWORTH: The reason it should be the employees' industrial union has probably been described by the Hon. Howard Olney; it is a matter of what has evolved in this recent period. That is the reason the Minister has come to the conclusion this would be the best way to handle the matter.

I think perhaps we should debate the clauses of the Bill as they stand, and then not proceed to the third reading, but allow the Minister to comment on the points raised, including whether representation should be split two ways rather than having both representatives nominated to the Minister.

The Hon. N. E. BAXTER: I ask why the Minister has not given us a reasonable explanation for the amendments. They were moved with no explanation at all with regard to the pros and cons of the amendments. We have not been given a reason that the Hospital Employees' Union is to be placed in the position of being able to appoint two members to the Nurses Board. That is a departure from any procedure in the past. The federated council of nurses, or the Minister, had the right to appoint representatives to the board. We are now to depart entirely from the concept in the original Act. The Secretary of the Hospital Employees' Union is to be given the right to appoint two representatives.

At no time have I accepted the concept that the nurses' representatives be appointed by the union. I object very strongly. I think it is wrong that anyone outside should have this right. The Hon. Howard Olney said the union has always acted in a responsible way, but I say it has not. I can go back to the strike of 1975 when the Hospital Employees' Union made unreasonable demands on the Government for increases in wages and salaries.

The Government resisted the attempts of the union at that time. I, as the Minister for Health, and the Minister for Labour and Industry (Mr Grayden) opposed the move and we won out against the Hospital Employees' Union. The members of that union put many people to a tremendous amount of trouble and caused a great deal of additional hard work for some people. Many nurses worked long hours, and relief nurses had to be brought into the Home of Peace to take over from those who were absolutely worn to a frazzle. I had to arrange for relief nurses to give them a spell. That is what the Hospital Employees' Union did at that time.

That is the reason I object strongly to this amendment. I hope members will not agree to it, but will make a stand on what is contained in the Bill unless additional information is made available by the Minister. I believe the Minister should report progress, and obtain better answers from the Minister for Health.

The Hon. D. J. WORDSWORTH: I understand that the union is the only body in a

position to make recommendations. As I have indicated, I am prepared to take the Bill to the end of the Committee stage so that we can examine the other amendments, and then give members an opportunity to ask for additional information. The Minister can then be asked whether the representatives should be selected one from each of the organisations suggested by the Hon. G. C. MacKinnon. I understand the difficulty is in finding an alternative body suitable to make recommendations to the Minister.

The Hon. G. C. MacKINNON: On a point of information, is it not possible under Standing Orders to postpone further consideration of a particular clause and to proceed to the other clauses? There is little logic in the present arrangements. Whilst I disagree with the Hon. Norm Baxter, if we are to allow a nomination to be made from each category within this organisation, the federation ought to be allowed to nominate one. That should not deny the Minister the right to recommend, unilaterally, one of the two representatives. I think that is a compromise.

In the spirit of compromise, is it not possible to postpone further consideration on this particular clause, and proceed to the rest of the Bill?

The Hon. D. J. WORDSWORTH: The point is whether you, Mr Deputy Chairman will allow debate on this section of the clause to be postponed, or whether you will require the full clause to be postponed.

The DEPUTY CHAIRMAN (the Hon. T. Knight): My understanding is it would be necessary to postpone consideration of the total clause.

The Hon. D. J. WORDSWORTH: The clause carries all the amendments, so we are back to where we started. I was looking for some debate on the other amendments, particularly the amendment proposed by the Hon. N. E. Baxter which has nothing to do with how the board is to be formulated other than in relation to the selection of the chairman.

The DEPUTY CHAIRMAN: Unfortunately, it is possible only to postpone debate on the total clause.

The Hon. D. J. WORDSWORTH: Under those conditions it might be better to postpone debate on the whole clause.

Progress

Progress reported and leave given to sit again, on motion by the Hon. D. J. Wordsworth (Minister for Lands).

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. Real Estate and Business Agents Amendment Bill.
2. Country Areas Water Supply Amendment Bill.
3. Local Government Superannuation Bill.

PHARMACY AMENDMENT BILL

Recommittal

Bill recommitted, on motion by the Hon. D. J. Wordsworth (Minister for Lands), for the further consideration of clause 3.

In Committee

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clause 3: Section 36B inserted—

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

> Page 3—Delete the words "his own" in line 9 of paragraph (b) of subsection (4) of proposed new section 36B which subsection was inserted by a previous Committee, and substitute the word "a".

Members will appreciate that the amendment removes two words which were the subject of debate in a previous Committee. It was claimed that if the words "his own" were retained it would be illegal for someone else to lodge an advertisement on behalf of a chemist, instead of by the chemist himself. The amendment removes any doubt. I doubt that the amendment is required, and so does the Minister for Health; but it is made to cover the situation outlined.

The DEPUTY CHAIRMAN (the Hon. R. J. L. Williams): For the assistance of members, I refer them to page 131 of the *Minutes of the Proceedings*, Tuesday, 18 November.

The Hon. J. M. BERINSON: This is the third attempt by the Government to clarify its own Bill. The amendment relates to new section 36B(4) and that provision has some interaction with new section 36B(1). I again put to the Minister for clarification a problem I raised at an earlier stage. From the original discussions on this Bill a problem emerged in respect of the position of manufacturers of "chemists only" products who wished to advertise the availability of their

products at chemists. I understand that the intention of new section 36B(4) is to overcome the potential difficulties which were envisaged.

At an earlier stage I suggested to the Minister that perhaps the problem still exists by virtue of new section 36B(1) as properly understood. On that occasion I put to the Minister that the proper construction of that provision would have the effect of saying that a person shall not in any sign or advertisement cause or permit any reference to be made to the fact that he or any other person provides or offers to provide services relating to the supply of any medicine or drug. So far as I can recall no response has been made to that part of my earlier comments.

I therefore ask the Minister whether he is satisfied that my reading of new section 36B(1) is incorrect; and, if so, what he believes is the correct reading of it. Unless he is in a position to advise that the construction I have placed on new section 36B(1) is incorrect, we are left in a position that neither new section 36B(4) in its original form nor that new section as it is now proposed to be amended overcomes the problem the Bill originally set out to tackle.

The Hon. D. J. WORDSWORTH: I have not set out to amend the provision to which the honourable member refers. I appreciate that perhaps the question raised about new section 36B(1) has some relevance to new section 36B(4), so perhaps I could comment on it. However, I hope I will not add further confusion to the minds of members endeavouring to follow this debate without their having the original Bill and the Bill as amended in front of them.

We amended proposed new subsection (1) so that it is subject to proposed new subsection (3). Mr Berinson read out proposed new subsection (1) and I disagree with the emphasis he placed upon it because he left out the key word "professional". I refer members to the wording of the provision and in particular to the words "dispensing or other professional advice or services relating to the supply of any medicine or drug". The provision refers explicitly to "dispensing or other professional advice or services". Perhaps for the sake of simplicity Mr Berinson omitted the word "professional" and the term "or other services".

The Hon. J. M. Berinson: I did not omit them for simplicity, but because the word "or" seems to put them in the alternative.

The Hon. D. J. WORDSWORTH: It depends on whether we omit the word "professional" because that word is common to both "advice" and "services".

I drew this matter to the attention of the Minister. I understand legal interpretation in the past has always been that it refers to professional services and not just the services provided by the selling of Aspros and things of that nature. That is the matter which has been argued; that is, whether a chemist should advertise his professional services or his professional advice. The Government has gone out of its way to ensure those who wish to sell such items as Aspros may do so. That situation is covered in proposed new subsection (4)(a). Proposed subsection (2) is the one under which one is not allowed to advertise one is a pharmacist.

That is the reason for my amendment to subsection (4). That provides, "Subsection (2) of this section does not apply. . .". We are not relating that to subsections (1) and (2). We considered whether they should both be excluded, but if subsection (1) is excluded, that raises the matter of professional services; and that is not the matter being raised by the Hon. Mr Berinson.

Sitting suspended from 12.31 to 2.30 p.m.

The Hon. J. M. BERINSON: One of the sad things about this Bill is that the Minister's repeated attempts to clarify it tend only to increase the obscurity. I am not at all assisted by his suggestion that the phrase "services relating to the supply of any medicine or drug" in subsection (1) of proposed section 36B should be qualified by the word "professional". It appears to me that anything a pharmacist does in the course of his pharmacy work is done in the course of his profession; so that nothing is altered by qualifying that phrase by the use of the word "professional".

If I could modify the example offered by the Minister in the case of aspirin tablets, let me refer to an example only one step removed from that. I refer to aspirin-codeine compound tablets which come under all sorts of trade names. I suppose Veganin and Codral would be the best known of them. These are headache and pain-relieving tablets, but what distinguishes them from aspirin tablets is that they can be sold only by a chemist. If that is the case any sale of those tablets must be a sale in the course of the profession of a pharmacist.

As a result, if we are concerned, as I believe the Government is, to secure the position of manufacturers or distributors who wish to advertise the availability of this sort of product in pharmacies, then subsection (4) of new section 36B does not overcome the problem which has arisen from subsection (1) of the same new section. The Minister himself has pointed out that

in one of the interim amendments to subsection (1) of proposed new section 36B, the Government adopted a phrase making that provision subject to subsection (3); but the Government has not taken the further step of making it subject to subsection (4). Therefore, I suggest manufacturers, distributors, and others will still be in bother.

The position might be different if the Minister were prepared to suggest the phrase "services relating to the supply of any medicine or drug" could be qualified by the word "dispensing" which appears in subsection (1) of new section 36B. I do not think I would agree with that construction of the clause, but at least if that were the effect of subsection (1), the position would be overcome. As I understand it the Minister is not relying on the phrase being qualified by the word "dispensing", but rather on its being qualified by the word "professional".

For the reasons I have given I believe this still leaves us in the mess we have been in since the introduction of the Bill.

The Hon. D. J. WORDSWORTH: The problem referred to by Mr Berinson has not occurred yet. He is proposing difficulties which I do not believe will occur. The advice we have from Crown Law is that the proposed wording is suitable and covers the position.

Amendment put and passed.

Clause, as further amended, put and passed.

Further Report

Bill again reported, with a further amendment, and the report adopted.

Third Reading

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

GOVERNMENT RAILWAYS AMENDMENT BILL

Second Reading

Debate resumed from 20 November.

THE HON. M. McALEER (Upper West) [2.38 p.m.]: I support the Bill, and I am surprised at the attitude of the Opposition; and particularly its claim that the Government is preventing Westrail from competing with road transport when the whole thrust of the Bill is to begin the process of putting Westrail on a competitive basis by allowing it to carry freight which it is best suited to carry and to charge commercial rates.

I agree that in this day and age railways need to have a link with road transport in the sense that we should be able to have an integrated operation; that, for instance, containers should be able to be off-loaded and carried onward by road when there is no rail by which they can be transported, or that freight may be received, carried by rail, and then delivered by road as one operation. This has been catered for in the Bill so as to allow Westrail to offer a package deal with a total freight operation to its clients.

Taking this into consideration, for members opposite to suggest that Westrail should be able to run a parallel competitive road service—more or less in competition with itself—seems to thwart the whole object of the exercise.

Westrail's primary concern is with railways, and not with transport generally. Historically, during the great railway building period in Western Australia there were no equivalent alternatives to the transport of freight by rail. When it began with the land grant railways at the end of the last century, the only alternative was the horse and buggy and horse-drawn wagons, and, in some cases, camel or donkey-drawn wagons. In the early part of this century, and even in the 1920s, road transport was not sufficiently developed to present a suitable alternative.

We are all aware of and acknowledge the great part railways have played in the development of the rural areas and, in particular, in the development of the wheat belt.

However, modern railway building in Western Australia—the railways built by the iron-ore companies to move the iron ore and the Government railway from Eneabba to Dongara to shift the mineral sands—illustrates very well that railways now are best suited to the carriage of bulk freights, and that they can do this very well indeed in competition with road transport. There is no point in our propping up a system that, as it stands, is no longer suited to the carriage of general goods. There is no point in our branching out into a system of road transport that is already well catered for.

The advances in railway development, and for the greater populations in sparsely populated areas, may change the picture. However, for the present it is really a question of our allowing the railways to fill the role for which they are best suited without hindrance, doing the best for the State rather than just for Westrail.

I support the Bill.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [2.41 p.m.]: I thank members for their contributions to the debate on this Bill

which provides for the Government's introduction of its new transport policy.

Without doubt, some very major steps have been taking place; and the railways have had some of their more arduous responsibilities removed. Although the Opposition has complained about this, it has enabled the railways to become a lot more competitive in its business, with a greater ability for it to be like any other transport business.

Previously the railways have had to meet the subsidies required by the Government; and there has been this counter-balancing where certain goods have been charged an unduly high rate—and I am thinking of beer, and things like that—to subsidise some of the items which various Governments have considered from time to time should be subsidised. I am thinking now of such things as refrigerated traffic.

The policy now being enacted allows for the railways to be more like other transport operators. The railways will be carrying the goods for which they are best suited; and those items which require subsidies will be determined by the Transport Commission. Such goods will be allotted to the form of transport which is most able to carry it. That may not necessarily be the railways. Indeed, very often it is a small commodity that has to be moved, and road transport may be able to carry it in a better manner.

The first move we saw in this matter related to refrigerated traffic. Previously trains were scheduled to visit small country centres two or three times a week to deliver, in some cases, ridiculously small amounts of refrigerated goods—sometimes weighing only 20 kilograms—on a regular basis. By transferring such traffic to road transport, often combined with the mail or other transport services, the railways have been enabled to run fewer trains. Attention has been directed more to the bulkier items for which the railways are admirably suited.

One argument by the Opposition was that in the future Westrail will not be able to supply door-to-door services in the same way as its competitors, the major transport operators. That is not correct. Westrail will be allowed to seek contracts for the transport of goods to the railway and off the railway.

The argument has been advanced that the railways will be able to go into the transport business without using rail at all—

The Hon. F. E. McKenzie: They are in it now in some areas.

The Hon. D. J. WORDSWORTH: In some areas they are in it now. I doubt if that is good policy. In fact, it annoys me when I come up from Albany on a Friday night to see the Westrail trucks carting wool up the highway. That is a regular occurrence.

The Hon. F. E. McKenzie: Why should that annoy you?

The Hon. D. J. WORDSWORTH: Why should we as taxpayers be forced to invest our money in the supply and running of trucks when private enterprise could do it just as well?

The Hon. F. E. McKenzie: If it is a profitable business, why not?

The Hon. D. J. WORDSWORTH: This relates to the question of philosophy. I suppose members could say that the Government should do every single thing in this world.

The Hon. F. E. McKenzie: Fair enough.

The Hon. D. J. WORDSWORTH: Certain fields are well covered by private enterprise. There are some fields in which Governments have to help; but certainly the carting of wool from Williams is not one of them. Every farmer in the world wants to be able to cart his own wool, and he cannot do it.

The Hon. F. E. McKenzie: We were far better off with the full competition in the building industry, for one example.

The Hon. D. J. WORDSWORTH: We have not yet reached the stage that the Government is in the building industry.

The Hon. F. E. McKenzie: I am talking about State Building Supplies.

The Hon. D. J. WORDSWORTH: Westrail will still be able to have contractors, transporters, owner-drivers, or whoever one might like, supplying the transport to and from rail, to enable it to tender and to offer a completely satisfactory service. However, it will not be able to buy aeroplanes because one of its clients might want to move his goods in some form other than a railway wagon.

The Hon. F. E. McKenzie: They do not want to buy aeroplanes. They want to buy only road trucks.

The Hon. D. J. WORDSWORTH: What is the difference? If the goods cannot be carried by road and there is a requirement for a speedy service, what is the difference between buying an aeroplane and a road truck?

The Hon. F. E. McKenzie: You want to put on the railway all the commodities that are likely to

lose, and keep the rest for your private road mates.

The Hon. D. J. WORDSWORTH: Not at all.

The Hon. A. A. Lewis: Absolutely and definitely wrong.

The Hon. D. J. WORDSWORTH: We are endeavouring to leave to rail what can be done well by the railways. No-one is arguing about this. Several pieces of legislation we have put through the House as agreements require that, say, minerals be transported by rail—

The Hon. J. M. Brown: At what price?

The Hon. D. J. WORDSWORTH: Generally speaking, at very competitive prices.

The Hon. J. M. Brown: Compared with what? Grain freight?

The Hon. D. J. WORDSWORTH: Let us consider the grain freights. I will not go into this in great detail; but grain is a fairly difficult item to cart. It is not like iron ore from Koolyanobbing, when it is on the regular basis of the same quantity, day-in, day-out, from year to year. For grain there has to be the use of different types of wagons for varying quantities from different production areas, and so forth.

The Hon. J. M. Brown interjected.

The Hon. H. W. Gayfer: I did not catch that point in your second reading speech, Mr Brown!

The Hon. J. M. Brown interjected.

The Hon. D. J. WORDSWORTH: I hope *Hansard* records that.

There was one matter raised by the Hon. Norman Baxter, on which he agreed with the Hon. Fred McKenzie. That related to the punishment provisions under section 73 of the Act which reads as follows—

> 73. (1) The Commission may appoint, suspend, dismiss, fine, transfer without payment of transfer expenses, or reduce to a lower class or grade, any officer or servant of the Department . . .

It was pointed out that on a number of occasions in the past the chairman of the appeals board had drawn attention to the disparity between the penalties which could be applied for a breach of a by-law relating to the conduct of employees. He pointed out there was a wide gap between the punitive impact of a fine of $20 and the transfer of an employee without the payment of transfer expenses.

This Bill does not impose a fine of $250; it sets a maximum of $250. It has been said that negotiations have not taken place between the union and the commission as to this fine. A number of penalties are dealt with by regulations each of which lay down the maximum fines which may be imposed. I understand the commission and the union can now negotiate the various regulations, which are quite numerous, and members will find that regulations or by-laws apply to each one of these sections in clause 23 to which clause 24 applies.

The Hon. F. E. McKenzie: That is not correct. You have heard only one side of the story. Ask the unions.

The Hon. D. J. WORDSWORTH: The member who has just interjected is here to represent the unions and he has not put up a better proposal.

The Hon. F. E. McKenzie: Only one regulation has been laid down under which a person can be fined. It is contained in the Act.

The Hon. D. J. WORDSWORTH: That is not the regulation. Under section 23 of the Act, regulations can be made.

The Hon. F. E. McKenzie: I have not seen the regulations and I think you should check with the unions before making such a statement.

The Hon. D. J. WORDSWORTH: I suggest the member does also. I am informed by the Minister that section 23 in the Act empowers regulations to be made and the maximum fine which can be imposed is, under this Bill, $250. When the regulations are reviewed, they are subject to consultation between the unions and the commission.

I believe I have covered the points which required clarification. I thank members for their support of the Bill and their contributions to the debate. Undoubtedly the measures will be far-reaching and must be handled with care and diligence. I am sure the Minister and Westrail will deal with these changes carefully and a better transport system will evolve.

Question put and a division taken with the following result—

Ayes 20

Hon. N. E. Baxter	Hon. N. F. Moore
Hon. V. J. Ferry	Hon. Neil Oliver
Hon. H. W. Gayfer	Hon. P. G. Pendal
Hon. T. Knight	Hon. W. M. Piesse
Hon. A. A. Lewis	Hon. R. G. Pike
Hon. P. H. Lockyer	Hon. I. G. Pratt
Hon. G. C. MacKinnon	Hon. P. H. Wells
Hon. G. E. Masters	Hon. R. J. L. Williams
Hon. N. McNeill	Hon. D. J. Wordsworth
Hon. I. G. Medcalf	Hon. Margaret McAleer *(Teller)*

Noes 8

Hon. J. M. Berinson	Hon. R. Hetherington
Hon. J. M. Brown	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. H. W. Olney
Hon. Lyla Elliott	Hon. F. E. McKenzie *(Teller)*

Pair

Aye	No
Hon. W. R. Withers	Hon. Peter Dowding

Question thus passed.

Bill read a second time.

In Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Section 24 amended—

The Hon. F. E. McKENZIE: I and other members spoke at length on this clause during the second reading debate. I asked the Minister to delete the clause from the Bill until such time as consultation had taken place with the various unions concerned in respect of this provision.

During the second reading debate I informed members no consultation had taken place with the unions. There may or may not be merit in the proposition put forward by the Minister in respect of the need to increase the fine to $250. However, let me assure him no consultation has occurred. After the Bill was introduced in another place there were discussions to the effect that the Commissioner for Railways would be prepared to talk to the unions.

I believe until such time as consultations take place in respect of a matter such as this in regard to which a penalty is to be inflicted upon an employee, it is improper for this Parliament to consider including it in legislation.

The proper course should have been adopted before the Bill was introduced in Parliament, because the ability to fine an employee is similar to the provisions contained in an industrial award. If there is disagreement between the parties, the Industrial Commission makes a determination. In this case it is up to the Parliament. Before the Industrial Commission acts as an umpire in a dispute, a notice is served upon the respondent to the effect that certain changes are sought in an award and he then replies.

In this case that has not happened. It may well be that, after consultations with the unions, an agreement will be reached and we will find that the figure is increased with all parties agreeing to a particular figure. If that were the case, we on this side of the Chamber would have no quarrel with this clause.

However, discussions have not taken place between the parties concerned. That is bad because we are asking the employees to agree to a penalty which has been increased by 1 250 per cent. These penalties, as they apply to the public and employees, were increased in December 1960. That is some time ago, but, as far as the public are concerned, it is bad for their penalty to be increased by 500 per cent, and it is bad as far as the employees are concerned for their penalty to be increased by 1 250 per cent.

I ask the Minister again to agree to the deletion of this clause so the exercise I have spoken of may take place. To my knowledge there are no regulations which provide for statutory fines in respect of certain offences concerning employees.

If the Minister disagrees with the latter part of my request, I ask him to report progress and come back to this place when the regulations have been considered. I would like to hear the Minister's comments in regard to the deletion of clause 3 and I will move my amendment if he does not agree to my request.

The Hon. D. J. WORDSWORTH: To appreciate the consequence of this legislation one must have the Act in front of one. Under the Bill section 24 of the Act is amended by subclause (7) which deletes the sum of $20 and substitutes the sum of $250. Therefore, we must look at section 24 (7) which reads—

> Any by-law relating to the conduct of any person employed in or about a railway may impose a penalty not exceeding ten pounds for any breach thereof, and such penalties may be recovered by deducting the same from any salary or emoluments due or to accrue to him: . . . .

That is the matter of by-laws. Section 24 commences as follows—

> In respect to by-laws made under the last preceding section, the following provisions shall apply:— . . .

So, we must refer to the by-laws mentioned in the preceding section. One finds under section 23 of the Act the following—

> (1) Regulating the mode in which, and speed at which, engines and other rolling-stock are to be propelled or moved;
>
> (2) Regulating the use of carriages by passengers, and the number of passengers to be carried in each carriage or compartment; . . . .

(7) Preventing any person affected with any infectious or contagious disease from travelling by railway, except under prescribed conditions; . . . .

(10) Preventing the smoking of tobacco or any other substance, and the committing of nuisances;

The Hon. D. K. Dans: That is only the commercial; get down to the punch line.

The Hon. D. J. WORDSWORTH: There are 29 subsections listed. Mr McKenzie said he thought there was only one which applied to the penalty laid down for employees.

The Hon. F. E. McKenzie: More do?

The Hon. D. J. WORDSWORTH: Yes. It is obvious that some subsections I have read out apply to employees and others to the public. Some apply specifically to employees.

The Hon. F. E. McKenzie: What about the one referring to the driving of engines?

The Hon. D. J. WORDSWORTH: Not many members of the public would be driving engines around the place. There are also regulations applying to the regulating of the receipt, carriage, delivery of, and other dealings with, goods.

The Hon. F. E. McKenzie: I am afraid you are wrong.

The Hon. D. J. WORDSWORTH: I am right. I assure members that there must be a multitude of by-laws under these various sections and the commission and the unions will have a long and lengthy discussion to decide what amounts up to $250 will be applicable to each one.

The Hon. R. HETHERINGTON: I would point out to the Minister that section 23 of the Act states that "from time to time the commission may make by-laws on the following subjects." Some are to do with employees and the railways and some are to do with the running of the railways. Subsection (17) relates to the regulating of the manner, times, and places in and at which tickets of any kind shall be purchased. Subsection (14) relates to preventing the trespass of persons or animals on any railway or any part thereof. In other words there are provisions in this Act for the railways to make by-laws and there are provisions for the maximum penalties that can be laid down in regulations.

For some reason, the penalties which refer to by-laws for people making trespass and people who are not employees of the railways and who come onto the railways properties have been increased. The maximum penalty which can be introduced under the regulations has been increased from $40 to $200.

For some reason, which the Minister has still not explained, it is thought essential that the maximum penalty which hitherto has been $40 should now be $200. For some reason, which the Minister has not explained, it is thought essential that the maximum penalty for employees should go from $20 to $250. I would like to know the reason for this increase for people who are employed by the railways. Why the difference?

In his second reading speech the Minister mentioned that magistrates have said that the $40 fine was not enough. I could understand that the penalty could be increased to $200; that is, it is increased by 500 per cent. However, it does not add up that there should be an increase of 1 250 per cent in the fine which is applicable to employees of the railways.

Of course regulations can be made, but if this Bill becomes an Act the maximum penalty laid down will be increased from $20 to $250 for employees of the railways and that money will be deducted from their wages. The fine will be increased from $40 to $200 for people who are not employed by the railways.

Why was there a difference in the first place, and why should there be a difference now? What is the reason for the commissioner's change in thinking? I still have not heard an explanation from the Minister and until it is explained adequately and the railways unions have accepted the explanation, I will continue to think that the clause is wrong. This seems to be some arbitrary thing straight off the top of the head of the Commissioner for Railways. I ask the Minister, if he can, to explain why in one case the fine is to be increased from $40 to $200 and in another case it is to be increased from $20 to $250. The whole thing seems quite illogical to me. Perhaps there is some special reason for our inserting this provision into the legislation, I ask the Minister for an explanation.

The Hon. D. J. WORDSWORTH: If anything is illogical, it is the Hon. Robert Hetherington's insistence on our continuing *ad infinitum* a percentage difference which applied years ago. I will not say—

The Hon. R. Hetherington: That is because you cannot.

The Hon. J. M. Berinson: Why is it illogical?

The Hon. D. J. WORDSWORTH: The fine is to be $250 for employees, and $200 for others. Unless some member can convince the Government we have arrived at a wrong conclusion, and established a wrong figure, that will remain. Let Mr Hetherington put up an

alternative suggestion. The only thing he can say is that the percentage increase is different.

The Hon. R. HETHERINGTON: It seems to me quite reasonable to accept the explanation the Minister gave—written for him by a Minister in another place—as to why an ordinary member of the public should be fined up to $200. However, I do not see why an employee of Westrail should be fined more than a week's pay based on some arbitrary decision by the commissioner. This needs explanation.

The Hon. D. J. Wordsworth: What was it in 1960?

The Hon. R. HETHERINGTON: It was $20. What was it before that?

The Hon. F. E. McKenzie: It was $10.

The Hon. R. HETHERINGTON: In other words, the last time there was an increase the two penalties went up in unison. So, why change it now? It is all very well for the Minister to accuse me of a lack of logic. Perhaps I could get the Hon. Joe Berinson to explain the meaning of the word "logic", as he explained the meaning of the word "means". In the past, the maximum penalties have increased in proportion to each other, but this time the proportionality has not been maintained. If the Government seeks to change this proportion, it should provide an explanation for the change. I understand that the Minister is not prepared to give me an explanation because he cannot; there is no justification for it. The Minister in another place has not given him an explanation, so all he can do is insult me about my lack of logic and give a completely illogical speech of his own in reply.

If we decide to change the Standing Orders in this place, we are required to give reasons for the change. If I introduce a Bill seeking to change the electoral system, I give reasons for the Bill; this Chamber may not accept my reasons—so far it has not; it has voted against them—but at least I do try to give an explanation for the proposed change.

In this instance it is not incumbent upon me to show why the change should not occur; it is incumbent upon the Minister, if he can, to show why the change should happen, and why there should be such a discrepancy in the increases.

Why was it that once, an employee of Westrail could be affected by regulations which provided a penalty which is half that imposed on the general public, and the Bill now provides a penalty which is more than that imposed on the general public? There must be a reason. I am asking the Minister to give me the reason for the change and if he cannot, I suggest he report progress and ask the Minister in another place if he has a reason for the change. Perhaps that Minister would ask the Commissioner for Railways if he had a reason. Eventually, we might find out the reasons for ourselves.

Perhaps this is some whim of the commissioner. It is not up to me to explain why the change should not be made. I just want to know why I should vote for the change and if in fact there is any reason for the change in proportionality.

The Hon. H. W. Gayfer: If you cannot explain the change, Mr Minister, you will not get 10 out of 10.

The Hon. A. A. LEWIS: I was fascinated to hear Mr Hetherington talk about logic. He referred to the fact that Westrail employees could lose a week's pay.

The Hon. R. Hetherington: Not in front of a court.

The Hon. A. A. LEWIS: Any member of the public could also lose a week's pay; he could be fined $200. So much for Mr Hetherington's logic.

The Hon. R. Hetherington: That fixes the logic, of course.

The Hon. A. A. LEWIS: I am just using Mr Hetherington's own words. This sort of logic really confounds me. It must be a type of academic logic which only Mr Hetherington understands.

The Hon. R. Hetherington: You should set up a special chair simply for the purpose of explaining this to people. It is beyond me.

The Hon. A. A. LEWIS: I agree; it is obvious that since Mr Hetherington has been in this place most of the matters with which he has dealt are beyond him.

The Hon. J. M. Berinson: You are now going to explain the logic of the proposed relativities, are you not? The Minister needs all the help he can get.

The Hon. A. A. LEWIS: I do not think the Minister needs any help at all. It seems to me that members opposite are trying to confuse a very simple issue.

I imagine the union would be right behind this proposal. The very simple principle behind this issue is that Westrail employees should be set on a pedestal higher than that of the general public.

The Hon. F. E. McKenzie: In regard to penalties.

The Hon. A. A. LEWIS: Yes. Surely if a person is an employee, he should be far more trustworthy in regard to that particular concern than is a member of the general public.

The Hon. F. E. McKenzie: The employees already are.

The Hon. A. A. LEWIS: Then why are members opposite arguing about this provision? A business concern has the right to expect loyalty from its employees and Westrail expects such loyalty.

I would like to hear from the Opposition how many times Westrail employees have been charged under this section. There is deathly silence from the Opposition.

The Hon. D. J. Wordsworth: Earlier in the debate he said there were no regulations.

The Hon. A. A. LEWIS: It is a very sensible move because it proves conclusively that the relationship between the unions and Westrail is one of trust. If an employee of Westrail is found to have abused that trust his penalty should be higher than one inflicted on a member of the general public.

The Hon. J. M. Berinson: Are you saying this relationship has arisen only since 1960?

The Hon. H. W. Gayfer: Gilbert and Sullivan wrote something about penalty and crime.

The Hon. J. M. Berinson: What has changed since 1960?

The Hon. A. A. LEWIS: It is interesting that the Hon. Joe Berinson is now assuming that things written in 1960 must be right. Merely because a past Act says something does not mean to say we cannot do something differently now. As the Hon. Bob Hetherington so quietly told us, we should look at the matter before us logically because it involves a trust factor between the employer and employees rather than trust between the employer and members of the public.

We do not have to accept the guidelines set down in 1960. Far be it from me to be critical, but the Hon. Joe Berinson was a member of a Government which believed in casting aside precedent.

The Hon. D. K. Dans: But only with some sort of explanation.

The Hon. A. A. LEWIS: I have just given an explanation and to me it was a very sound and logical one.

The Hon. D. K. DANS: All we are asking is for the Minister to give an explanation so that we know why one penalty was raised from $20 to $250 and one was raised from $40 to $200. We have received no answer from the Minister. From what we heard from the Hon. A. A. Lewis I am convinced he did not know what he was speaking about.

There are two problems confronting the Committee and the first is the lack of information explaining the discrepancy in the penalties to be inflicted on people. The second is that, if I heard the Hon. Fred McKenzie correctly, the unions were not consulted. My own view of this matter is that fines by all disciplinary tribunals are archaic. I remember that in the industry that I used to work in, if one was five minutes late for work one was docked on a 3:1 basis; one could lose three days' pay for being five minutes late. That sort of things leads to confrontation.

One of the duties of parliamentarians is to examine legislation carefully and they must have reasons to back their actions. That is not an extraordinary demand. I believe there is possibly a straightforward explanation for the whole situation. Looking at the notice paper I say we seem to have ample time to obtain an explanation.

The Hon. D. J. Wordsworth: That is half our trouble.

The Hon. D. K. DANS: If we adjourn for even five minutes the Minister could ascertain the reason for the discrepancy in the penalties. We could clarify the position and we would be able to explain to the people our reasons for accepting the penalties. Despite the Hon. Sandy Lewis' very cumbersome and Trojan-like effort when speaking about loyalty and logic, he did not explain why the penalty is to be raised from $20 to $250. It is not unreasonable that we have an explanation.

The Hon. D. J. WORDSWORTH: I have indicated previously that on a number of occasions in the past, chairmen of the appeals board have drawn attention to the disparity between the penalty which can be applied for breaches of the by-law referring to the conduct of employees. I indicated there is a wide gap between the punitive impact of a fine of $20 and, for example, the transfer of an employee without the payment of transfer expenses.

I do not think it is hard to realise the cost of a transfer to an employee whose expenses are not covered. It can be a very difficult and expensive move. It has been indicated that the $20 is obviously quite out of proportion to other penalties.

The Hon. D. K. Dans: We are not disputing that.

The Hon. D. J. WORDSWORTH: The Minister has endeavoured to come up with a figure which is more in keeping with other penalties. He chose $250.

The Hon. D. K. Dans: That is higher than fines imposed in courts of law.

The Hon. D. J. WORDSWORTH: I ask the Leader of the Opposition what he thinks the fine should be.

The Hon. D. K. Dans: Give me a reason for the Minister's choice of $250.

The Hon. D. J. WORDSWORTH: What does the Leader of the Opposition think the penalty is in the Public Service?

The Hon. D. K. Dans: I am not worried about the Public Service; I am talking about the reason this penalty has been increased from $20 to $250 and the other has been increased from $40 to $200.

The Hon. D. J. WORDSWORTH: It has been suggested they are in line with other penalties. I repeat: The Minister had to choose a figure and he chose $250 for a very good reason as I have already said. The maximum penalty used by the Public Service Board for employees of the Government is $250, and what could be fairer than that?

The Hon. I. G. PRATT: The Leader of the Opposition interjected and perhaps unintentionally gave us a clue to the Opposition's attitude. He said that, "If you believe in penalties, which I do not." The Opposition believes there should be no penalties.

The Hon. D. K. Dans: I used the personal pronoun "I".

The Hon. I. G. PRATT: The Leader of the Opposition speaks for the Opposition.

The Hon. D. K. Dans: Be honest.

Several members interjected.

The CHAIRMAN: Order! I call the Hon. I. G. Pratt.

The Hon. I. G. PRATT: The Hon. Des Dans has the title of "Leader of the Opposition" in this place, and we expect him to speak as the Leader of the Opposition in this place.

The Hon. D. K. Dans: I prefaced my remark with the word "I".

The Hon. P. H. Lockyer: You are the Leader of the Opposition.

The Hon. D. K. Dans: Shut up!

The CHAIRMAN: Order!

The Hon. D. K. Dans: When Mr Lockyer has something intelligent to say he should only then speak.

The Hon. I. G. PRATT: We know what the Leader of the Opposition has to say and we will watch to see whether the followers of the Leader of the Opposition follow him. He undeniably said he does not believe in penalties.

The Hon. D. K. Dans: I did not. I gave you reasons for that.

The Hon. I. G. PRATT: Let us understand that is the attitude of the Leader of the Opposition. We are attempting to impose a reasonable penalty which the Minister has told us is in line with other penalties used in similar circumstances in other industries. The penalty is fair and reasonable, but because the Leader of the Opposition does not believe in penalties there is no way in the world he will accept this fair and reasonable penalty.

The Minister has given us a reasonable explanation for this clause.

The Hon. D. K. DANS: One of the things I do not like is my being misquoted by someone. For the benefit of Mr Pratt and the Minister I will repeat that I do not believe in archaic penalties imposed by disciplinary tribunals.

The Hon. A. A. Lewis: You don't believe in disciplinary tribunals either!

The Hon. D. K. DANS: I did not say that—far from it. The point that intrigues me, after hearing a considerable amount of debate on this subject, is that the Minister said in plain English that he just chose a figure. I can only ascertain from that statement that he had a number of options open to him. Perhaps he had a whole range of figures—possibly from one to 1 000 at his disposal—and he just closed his eyes and chose one.

He then qualified his remark by saying that in choosing the figure he used as a guide—I have no way of determining whether this is right, although I do not think the Minister would mislead the Committee—the generally applicable figure for the Civil Service. I will pose a question to the Minister. If he wants to inflict upon employees of the railways a penalty similar to that which generally applies to members of the Civil Service, will he be so gracious as to inflict on employees of Westrail the same conditions of service under which Civil Service employees work? That is the other side of the coin. Two completely different circumstances exist, and I do not believe the yardstick used by the Minister should be used.

My colleague, the Hon. Fred McKenzie, knows a lot more about this industry and the penalties involved. If the Government had discussed this matter with the unions it would have reached a situation acceptable to everyone. The fact remains that the Government intends arbitrarily to impose a penalty upon the Westrail employees.

The Hon. D. J. Wordsworth: That is not the situation; you know that.

The Hon. D. K. DANS: After all the years since the original penalty has been in force the Government intends to increase it by 1 250 per cent and all we have is the explanation from the Minister that he just chose a figure which happened to be the figure applicable to the Civil Service. Again, I press the point that I do not think the explanation given by the Minister on behalf of the responsible Minister in another place is an explanation at all. If his explanation is to be the yardstick, goodness gracious me, it could be used in any number of circumstances! The Government will be able to say that because something happens in one area it will ensure that the same thing happens in another area. If one refers to the recorded debates in this place one knows that attitude or suggestion has been put forward, and has been consistently rejected by this Chamber.

For Mr Pratt's benefit I will give one of the reasons for my opposition to penalties, and that reason relates to an industry in which I worked. I am of the opinion, however, that a situation can exist whereby properly constituted tribunals—not disciplinary tribunals—can deal with breaches of conditions or regulations imposed upon an industry. My attitude in respect of penalties may not be the attitude of people in other industries, but I still hold it.

If we are to accept that because a certain penalty applies to the Civil Service conditions of employment—that is, the $250 penalty—then I suggest through you, Mr Chairman, to the Hon. Fred McKenzie, that the situation constitutes a very excellent argument that the railways unions could put forward when they go before a properly constituted tribunal to seek improvements in working and wage conditions for their members. The advocate before such a tribunal could say that on the record of the upper House for such and such a day a certain reason was given. He could say, "If we are to have imposed upon us a penalty that is the same as that imposed upon others, we should enjoy the same conditions as are enjoyed by others. We ask you to take notice of our claim for similar conditions to apply to our industry." After all, the penalty must fit the crime.

The Hon. A. A. Lewis: Before you sit down can I ask you about what you said concerning our following the 1960 legislation? You argued on one side that we should be following the 1960 legislation and on the other side that we should not follow the Civil Service. It does not sound right to me.

The Hon. D. K. DANS: I do not remember mentioning 1960.

The Hon. A. A. Lewis: You did that by interjection.

The Hon. D. K. DANS: I do not remember doing so, but I will accept that the member has more finely-tuned hearing than I have. Possibly the Hon. Bob Hetherington said that.

The Minister chose a figure simply because it happened to be in the Civil Service regulations, and that was his explanation which I believe is no explanation whatsoever, and when it is related to the people over the road who have to deal with such situations, they will be horrified by it.

The Hon. I. G. PRATT: I understand and appreciate the reasons for the Hon. Des Dans' jumping to his feet and proclaiming loudly that he does not like being misquoted.

The Hon. D. K. Dans: I put it firmly on the record.

The Hon. I. G. PRATT: If I misquoted the Hon. Des Dans, I am very anxious to apologise to him. However, I do not like to be accused of misquoting people if I have not. The Hon. Des Dans said he does not believe in penalties, and that is exactly what I quoted him as saying. If the Hon. Des Dans is able to tell me how I misquoted him I would be pleased to apologise to him.

The Hon. D. K. Dans: I do not want an apology.

The Hon. F. E. McKENZIE: I cannot understand the remarks made by the Minister and the Hon. Sandy Lewis in relation to this matter.

The Minister mentioned comments made by tribunal chairmen. I have spoken to a number of trade union secretaries who have no knowledge of chairmen having said that the penalty ought to be $250.

The Hon. D. J. Wordsworth: I did not say that. Now you are misquoting me.

The Hon. F. E. McKENZIE: I may be.

The Hon. D. J. Wordsworth: I ask you to withdraw that statement.

The Hon. F. E. McKENZIE: I withdraw it. As I remember the words of the Minister, he said the chairmen said there was too large a discrepancy between the $20 fine and another penalty imposed under the Act.

The Hon. D. J. Wordsworth: That is right.

The Hon. F. E. McKENZIE: I will refer to section 77 of the Government Railways Act which provides for certain penalties. The maximum penalty that can be imposed upon an employee is provided by subsection (7) of section 24. An employee may be reduced in rank to a lower grade, dismissed or suspended from employment

in such circumstances that involve a loss of pay, or be required to travel in circumstances which involve the employee in expenses. Several courses of action can be taken by a tribunal. It can regress somebody with that person incurring a loss of pay of, say, $20 a week, and the regression may last for a week, a month, six months, or whatever term is imposed. Now it is proposed to impose a penalty of $250.

I will get back to the argument raised by the Opposition regarding the increase of 1 250 per cent. The Minister gave no valid reason for such an increase. He has not said that since 1960 the CPI has increased 1 250 per cent, or that wages have increased by 1 250 per cent. Had he made that type of statement, there could be some logic in our increasing the penalty to $250.

We have to consider that it will not be the tribunal which will inflict the penalty; it will be the Commissioner for Railways. There will be a right of appeal if an employee considers a penalty to be too heavy. However, the chairman of the appeal board most likely will look at the penalties set out under the Act, and decide that a penalty of $100 was not severe when the maximum was $250.

The Hon. D. J. Wordsworth: That is not correct either, because these penalties have yet to be negotiated with the unions. The penalty may end up at $10 or $15.

The Hon. F. E. McKENZIE: If they are to be negotiated, let them be negotiated before they are inserted in the Act. That should have happened already.

It is obvious we will not get the Minister to delete the clause to allow the proper thing to be done. I advise members opposite they are embarking on a very dangerous exercise in playing around with industrial relations which are the proper province of the Industrial Commission. It would be far better for the parties to get together and determine fair and equitable penalties—which may even be as high as $250—before we sit here as adjudicators hearing only one side of the story.

The Hon. D. J. Wordsworth: You admit your own deficiency when you say you are hearing only one side of the story.

The Hon. F. E. McKENZIE: The Minister is dealing only with the commissioner's side of the story. I ask him to listen to the other side. We will embark on a dangerous area if, without consultation with both parties concerned, we take upon ourselves this provision in the Act. I object to that.

To be as fair as possible, we should look at the history of fines and penalties set out in the Government Railways Act. In December 1960, the penalties were doubled from $10 to $20, from $20 to $40, and so on. It has been remiss of the Commissioner for Railways not to adjust penalties between December 1960 and the present time. We then might not have had this debate. It is quite obvious that with the effluxion of time a fine of $20 has proved to be inadequate. I intend to move an amendment which I believe is quite reasonable. If it is accepted, the Minister will be able to come back next year and increase the penalties again after consultations have taken place with the unions. If it is reasonable to increase general penalties to the public by 500 per cent, let us increase the fines to railway workers by 500 per cent. Let the two parties discuss the matter, and sort out the regulations which do not exist at present. I move an amendment—

> Page 2, line 11—Delete the words "two hundred and fifty dollars" with a view to substituting the words "one hundred dollars".

In view of the reluctance of the Minister to allow the parties to get together, I think that amendment is fair and reasonable. I hope the Committee will agree to it.

Sitting suspended from 3.46 to 4.00 p.m.

The Hon. D. J. WORDSWORTH: I do not propose to speak further on this clause, other than to say that the Government opposes the amendment.

The Hon. R. HETHERINGTON: It is a pity the Government does not accept this amendment, because it could then increase the maximum penalty for railway employees in the same proportion as the maximum penalties proposed in other parts of the Bill. That would give the Government time during the recess to negotiate with the unions.

I know that the unions involved would like this amendment passed. The Government could then negotiate with the unions if it thought that the penalty of $100 was not enough. Perhaps the parties in negotiation could come up with something better.

I hope some of the members sitting on the Government side might see the sense of this proposal and support the amendment moved by the Hon. Fred McKenzie. I live in hope that one day, on a matter as important as this, members opposite will do such a thing. If they do not, the Government is not helping its relationships with the railway unions. By forcing this clause through, the Government is not helping industrial

relations in the field of the railways. I can only deplore the Government's attitude.

Amendment put and a division taken with the following result—

Ayes 10

Hon. N. E. Baxter	Hon. R. Hetherington
Hon. J. M. Berinson	Hon. R. T. Leeson
Hon. J. M. Brown	Hon. H. W. Olney
Hon. D. K. Dans	Hon. W. M. Piesse
Hon. Lyla Elliott	Hon. F. E. McKenzie
	(Teller)

Noes 17

Hon. T. Knight	Hon. P. G. Pendal
Hon. A. A. Lewis	Hon. R. G. Pike
Hon. P. H. Lockyer	Hon. I. G. Pratt
Hon. G. C. MacKinnon	Hon. P. H. Wells
Hon. G. E. Masters	Hon. R. J. L. Williams
Hon. N. McNeill	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. Margaret McAleer
Hon. Neil Oliver	*(Teller)*

Pair

Aye	No
Hon. Peter Dowding	Hon. H. W. Gayfer

Amendment thus negatived.

Clause put and passed.

Clause 4 put and passed.

Clause 5: Section 28A inserted—

The Hon. F. E. McKENZIE: We are opposed to subclause (4) and we ask that it be deleted. If it is deleted, we may have to delete other clauses.

Subclause (4) specifically excludes the commission from providing a road vehicle when other road transport is available. This is a question of philosophy, as has been pointed out many times. Our philosophy is entirely different from that of the Government. However, we are of the opinion that it is unfair not to provide competition on the road, particularly where it will probably be determined that rail is not the proper mode.

If that is the case, and the goods have been carted by rail all this time, at least Westrail ought to be given the opportunity to compete. To exclude Westrail from the possibility of competing on the road is unfair, and it will be disadvantageous in the long run.

In the past we have seen the selling off of public utilities such as State building supplies, which has resulted in increased costs of building materials. A similar situation will prevail if this subclause is allowed. We oppose it for that reason.

The Hon. D. J. WORDSWORTH: We have debated the matter of philosophy. This legislation allows Westrail to use contractors to supply services for the transport of goods to and from the railhead. If Westrail is unable to find a suitable contractor, it may carry the goods itself in its own road trucks; but it has to notify the Commissioner of Transport within 14 days of so doing. The commissioner can decide whether Westrail is being reasonable regarding the non-use of contractors for that purpose.

Clause put and a division taken with the following result—

Ayes 19

Hon. N. E. Baxter	Hon. P. G. Pendal
Hon. T. Knight	Hon. W. M. Piesse
Hon. A. A. Lewis	Hon. R. G. Pike
Hon. P. H. Lockyer	Hon. I. G. Pratt
Hon. G. C. MacKinnon	Hon. P. H. Wells
Hon. G. E. Masters	Hon. R. J. L. Williams
Hon. N. McNeill	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. Margaret McAleer
Hon. Neil Oliver	*(Teller)*

Noes 8

Hon. J. M. Berinson	Hon. R. Hetherington
Hon. J. M. Brown	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. H. W. Olney
Hon. Lyla Elliott	Hon. F. E. McKenzie
	(Teller)

Pair

Aye	No
Hon. H. W. Gayfer	Hon. Peter Dowding

Clause thus passed.

Clauses 6 to 13 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 the Hon. D. J. Wordsworth (Minister for Lands), and passed.

ENVIRONMENTAL PROTECTION AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters (Minister for Conservation and the Environment), read a first time.

Second Reading

THE HON. G. E. MASTERS (West—Minister for Conservation and the Environment) [4.16 p.m.]: I move—

That the Bill be now read a second time.

At the outset may I say that I make no apologies to this House for the stand I have taken prior to the introduction of this Bill. The allegations and accusations made in the media and by members

of this House were based on ill-informed and obviously ill-intentioned speculation.

I would not demean this Parliament by giving credence to any supposed "leaks". By now everybody is aware that these "leaks" were not from any informed source. I now intend to turn to the Bill that is before the House and inform members of the facts.

This Bill deals with changes in the structure and composition of environmental bodies and streamlines the operations of these bodies.

Since 1971 knowledge and understanding of the need for environmental procedures has increased greatly and this Government is now updating the legislation to ensure that the best advice possible is available to it in the most efficient manner.

It is most unfortunate that much of the speculation has centred on the future of the director as an individual.

The Director of the Department of Conservation and Environment will remain an adviser to the Government—as is the case with all departmental heads.

A departmental head, who is a civil servant, advises and takes direction from the Government of the day. The chairman of an independent authority takes no such directions, because that authority has been set up to serve the people of Western Australia.

This Bill, therefore, increases the independence of the Environmental Protection Authority. It has become increasingly difficult for there to be a delineation between the director of the department and the Chairman of the EPA when the same person wears both "hats".

It was physically impossible when the existing legislation was framed for these functions to be separated—however desirable the separation may have been even then.

In 1971 the director of the department was the Government's only adviser on conservation matters. As a matter of interest, the original director of the department, and Chairman of the EPA, was not a public servant—that was Dr Brian O'Brien.

Since then, there has been a progressive expansion of the department and the number of its professional officers—such as the appointment of Dr Graham Chittleborough.

It has become, therefore, a practical proposition for the Government to alter the structure of the EPA to make an even more efficient environmental watchdog for the people of our State.

The three-member Environmental Protection Authority will remain, but all members will now be private individuals. In future, no member of the Environmental Protection Authority will be a public servant.

By this restructuring of the EPA we give it freedom to stand aloof from the routine machinery of government. Similarly, the Conservation and Environment Council will now be chaired by a member to be appointed by the Governor.

To retain the council's membership at its present level of 16, there will be a further person appointed by the Governor. This can afford the Government of the day the opportunity to appoint, if it so wishes, another member of the public.

This Bill provides that the director or his representative shall be entitled to attend meetings of both the EPA and the council, and may speak in a professional and advisory capacity on any matter.

The knowledge and expertise of the Department of Conservation and Environment will, therefore, be available to both the authority and the council.

The director will also therefore be at meetings of the EPA for consultation and for directions to be given by the EPA to him as a result of anything discussed at these meetings.

The Department of Conservation and Environment remains a regular department of the Public Service—responsible to the Minister and serving both the Minister and the EPA.

The EPA will remain an "independent" authority, but will now operate through its own Minister, as other statutory authorities in the State do at present.

I would emphasise that the present powers of the EPA with regard to suspension or "freezing" of certain applications or proposals pending its review are retained within this amending Bill.

The operations of the authority will be streamlined because the authority will now be able to go direct to the responsible officer, according to the schedule attached to the Bill, requesting information and particulars of any applications or proposals.

The responsible officer has to comply with this request and the authority then makes recommendations to its own Minister, who shall communicate the recommendations and reasons to the responsible Minister.

Each of these other Ministers, of course, is in a position to receive advice from his own responsible officer.

If the responsible Minister does not agree with the recommendations of the EPA transmitted to him by the Minister for Conservation and the Environment, then the matter will be resolved by the Governor. It is only the sequence of procedures that is simplified for the sake of greater efficiency.

Presently the sequence is that any Minister can advise, and in fact, must advise, the EPA of any proposed development, project, industry, or other thing which may have a detrimental effect on the environment.

This has been amended to strengthen this section of the Act.

The Bill sets out that the Minister in question shall notify the Minister for Conservation and the Environment, who in turn shall notify the authority; the EPA then shall report to its Minister, who in turn shall communicate the EPA's report to his fellow Minister. All these steps must now take place.

This strengthens the EPA's powers by the fact that its recommendations will be transmitted from one Minister to another Minister.

This procedure will also ensure that at all times the Minister for Conservation and the Environment is kept fully informed of recommendations of the EPA and so can put forward arguments pertaining to environmental protection, either at Cabinet level, or directly to his ministerial colleague.

In the past there have been occasions when the EPA has directly approached another Minister and the Minister for Conservation and the Environment has not been kept informed.

Therefore, the Minister for Conservation and the Environment has been unable to advocate environmental protection if the issue comes before Cabinet.

It has never been intended that the evaluation of information on environmental aspects of any proposed developments be carried out by any body other than the EPA.

In fact, a complete new subsection now makes this an explicit function of the EPA.

I particularly draw attention to the fact that nowhere in this amending Bill is there even a suggestion that the Minister for Conservation and the Environment or any other Minister will direct the EPA or decide what advice is to be given by that authority. The EPA will make up its own mind on what its recommendations will be.

This Bill will enable the Minister for Conservation and the Environment to get advice from varied sources as follows—

a totally independent EPA;
the Conservation and Environment Council;
his own department; and
the public.

I am sure that the member of the general public who worries about various conservation matters will be interested in the streamlined method for consideration of any matter a person may identify as a possible cause of pollution.

This is not a new power, as such, being already contained within section 57 (2) of the Act, but this Government has considered it sufficiently important to justify a clause devoted to this issue alone.

The Bill also provides for additional safeguards for the protection of the individual. Entry and inspection of premises shall not be made without either the permission of the occupier or, for the stated reasons, the authority of a justice of the peace.

It is recognised that emergency situations may arise and in such cases only the approval of a member of the authority is needed.

This Bill will require a complementary amendment to the Metropolitan Regional Town Planning Scheme Act 1959. This will allow for representation on the MRPA to be by a departmental officer, and not a member of the authority.

The other changes to the Act are largely procedural ones which are intended, among other things, to make the Act easier to read and understand. For instance, the types of applications or proposals with regard to mining, land developments, and town planning are now specified in the schedule, rather than in the body of the Act.

An important point in this Bill is the inclusion of a definition of the word "protection". This in relation to the environment now includes the conservation, care, and management of the environment.

The Bill is simply, therefore, an updating of 1971 legislation which takes into account the environmental developments of the past decade.

I commend the Bill to the House.

THE HON. H. W. OLNEY (South Metropolitan) [4.22 p.m.]: I do not think it will come as any surprise to members of this House to learn that the Opposition proposes to vote against this measure, but I should say at the outset that the Bill, like the proverbial curate's egg, is not all

bad. However, the few clauses in the Bill which, in our view, are not objectionable are outweighed by those to which we have objections.

It is pleasing that the responsible Minister who, of course, is a member of this House, has taken the opportunity in introducing the Bill to expand somewhat on the second reading speech made by his colleague who represents him in the other place. This is to be commended and perhaps if the more expanded speech had been delivered in the other House some of the debate which took place there may not have been necessary.

It is unfortunate in our system that, when an important measure is before Parliament and for one reason or another it is introduced in the House in which the responsible Minister does not sit, he cannot in fact perform the role he is best fitted for and that is to introduce the Bill in the House.

The Bill comes here now after having been debated at considerable length in the lower House, which I suggest is the proper place for any important piece of legislation to be debated. It comes to this House, which some like to call a House of Review, and for the first time the Minister responsible for the particular activity has the opportunity to make some input into the debate.

It is the intention of the Opposition not to repeat unduly what has been said elsewhere. I am sure members who are interested in this subject have taken the precaution to read the debates in the other place. One would need only to read one speech made by a member from each side of the other place to read everything that is capable of being said. The fact that it was repeated by members on each side is perhaps a commentary on our particular legislative process.

We do not wish to repeat unduly here what has been said at some length and with some strength elsewhere. However, I intend addressing some comments to the major provisions of the Bill and in the Committee stage I will move a couple of amendments which we feel will improve the Bill, on the assumption, of course, that the Government has the numbers to carry it.

One disappointing feature about the Minister's speech is that, although it was probably twice the length of the speech made elsewhere, it was still light on particulars as to the justification for the major change which is being brought about by this legislation. Of course, I refer to the change in the structure of the EPA itself.

We start off with legislation which was passed in 1971 and which, I would suggest, has stood the test of time. It sets up a structure whereby a three-man Environmental Protection Authority, composed of the director of the department concerned, an environmentalist, and another, is given quite considerable responsibilities in the administration of the Act and the functions the Act requires it to perform.

Running alongside that is a subsidiary or advisory body. We had the Conservation and Environment Council which was chaired by the director and comprised a number of individuals representative of various interests within the Government and the community.

The major proposal in the Bill is to provide that the director no longer be a member of the EPA and no longer be a member of the council and that in future the EPA itself will be constituted of three members. The number remains the same and, of the three members, one is to be a legal practitioner of no less than seven years' standing, one is to be a person experienced in environmental matters—that is, if I can take the words in the Bill, "with a knowledge of and experienced in environmental matters"—and the third presumably is anyone else the Government decides to appoint.

Under the present structure, the EPA has a director—I am not talking about the individual or the particular incumbent of that office at the present time because it is a relatively new position and there have been only two directors—who obviously would be a person of experience and knowledge in environmental matters. So, under the present set-up, at least two such individuals comprise the EPA with a third person who has held that position since 1971 and who is a man of considerable reputation and standing in the community. That man happens to be a legal practitioner who has a wide experience in a great variety of other activities which experience may have qualified him for appointment to that authority. That man is on the authority for more reasons than the mere fact that he is a legal practitioner.

However, this will all change. We are to dispose of the director of the authority and we will insist on only one of the three being a person with knowledge and experience in environmental matters. This legislation will make it compulsory for the authority to have a legal practitioner of no less than seven years' standing. It is perhaps ironical that of all the people who should have to deal with such a measure it is the Minister for Conservation and the Environment—a man who has been most critical of the role played in this House by those members of the legal profession in the Opposition.

I reminded the Minister the other night that he had made some fairly unkind remarks during the third reading stage of the Police Amendment Bill. He had suggested that those members of the legal fraternity were not contributing much and were incapable of making a contribution to the affairs of this Parliament. However, the Government in its wisdom feels that a person who is a legal practitioner, of no less than seven years' standing, ought to be one of the three men on the authority.

In his second reading speech the Minister did not provide any reason for the EPA to be saddled with a lawyer. That was one of the inadequacies of the Minister's speech. It may well be that the experience of Mr P. R. Adams, QC, has convinced the Government that lawyers should be on these bodies. The formula the Government has devised would admit the Hon. Peter Dowding and others who have obviously won the hearts of the Government Ministers in this place. Perhaps that is a good thing.

The interesting fact is that it would not allow the admittance of a person such as the Hon. Joe Berinson whose experience in the legal profession does not span seven years as yet.

The Hon. J. M. Berinson: Are you moving an amendment?

The Hon. H. W. OLNEY: However, all is not lost because as members would know, the Hon. Joe Berinson was formerly a Minister for the Environment in the Australian Government and is therefore most qualified as a person with knowledge on matters of the environment. Perhaps, we may look forward to a man of that calibre being appointed to the EPA after this amendment has been passed.

During the Committee stage an amendment will be moved to the Government's proposal on this particular clause. The amendment the Opposition will put forward will be to the effect that the EPA should comprise three members appointed by the Governor, at least two of whom shall be knowledgeable and experienced in environmental matters. In putting forward this amendment we propose that the limitation of the membership to a member of the legal profession be eliminated and that the requirement that two members who are knowledgeable and experienced in environmental matters be inserted.

In that way, we will restore the status quo to some extent. In the hope that the Government might agree to this amendment, we have made something of a compromise in the proposals that we will put forward. As much as we would like to, we do not propose to eliminate the final three lines of proposed new section 9 (2) which prohibits members of the Public Service being appointed to the EPA. We will be putting forward something of a compromise and we feel that the Government is unnecessarily restricting itself in the way in which it wishes to structure the EPA. The Opposition would favour a more flexible approach.

We hope that our reasonable and compromising attitude will win some favour with the Minister. It is interesting to note that during his second reading speech the Minister referred to the fact that the first Director of the EPA (Dr O'Brien) was not a public servant. Perhaps the Minister can tell us whether the words he is using in the new provision—"who is employed under the Public Service Act 1978"—would have excluded the original director who was not a public servant. I understand Dr O'Brien had some sort of contract with the Government and it will be interesting to know whether he would, in the Government's view, be regarded as a person employed under the Public Service Act. If he is not it would be possible, at a subsequent time, for a director who was not a public servant—as apparently was the case with Dr O'Brien—to be appointed as a member of the EPA. I do not think that is the Government's intention, but it may be a result the Bill will achieve.

We note also that the proposal is to reduce from seven years to four years the term of office for members of the EPA. We support that proposal because seven years is a long term for people to hold this type of office without there being an opportunity for their performance to be reviewed.

The Opposition still takes issue with the Government on the need for these changes. We do not like the changes and if there were a need we would be happy to co-operate with the Government to formulate a structuring of the EPA that met with the requirements of the community and the administration of the Act. However, there has been nothing put forward in the Minister's speech which suggests these changes are needed and that being so, one is at a loss to know the basis upon which the Government seeks the support of the Parliament.

It has been said that the departmental head, who is a civil servant, advises and takes direction from the Government of the day. Of course it has been said that the present director of the department (Mr Porter) in his role as director and head of the department advises and takes directions from the Government of the day.

This is perhaps the clue to the reason for this legislation. The Government has felt that the

director's role as a member of the EPA has given him an independence which it believes the head of the department ought not to have. I guess that is probably the problem the Government has ascertained. In his second reading speech the Minister said that it has become increasingly difficult for there to be a delineation between the director of the department and the Chairman of the EPA when one person wears both hats. The question arises as to whether one puts his best man in as his opener—that is, as a member of the EPA, the body that is responsible—or puts his best man amongst the rabbits where he does as he is told.

The Hon. P. G. Pendal: The EPA staff would not like to be referred to as rabbits.

The Hon. H. W. OLNEY: This appears to be what has been done. I am suggesting I am aware of no member of the public, of this House, or of the other House, who has suggested anything other than that the present director is an outstanding man in his field. That fact has never been challenged and I would suggest that he is the best available environmentalist at the disposal of this Government. However, the proposal is that this man should cease to be chairman of the most powerful and influential body in the field and that he should continue in the role of departmental head advising the Government and taking his directions from the Government.

I had thought that when introducing the Bill the Minister might have had something of a surprise for us by saying that the Government was not going ahead with this proposal that Mr Porter would be the new Chairman of the EPA and someone else will be the director of the department and will take directions from the Government. However, it has been spelt out quite clearly that the present director will remain as director and someone else will become the Chairman of the EPA.

It appears there will be two new members appointed to the EPA because Mr Adams, QC, is about to retire. Under the Bill a lawyer will be appointed and someone else who must not necessarily have any knowledge or experience in environmental matters.

If there had been some particular circumstance or some evidence to show that it is necessary to have a sudden radical change made to the legislation—legislation which has operated since 1971—one would have thought that it would be spelt out in the Minister's speech.

Perhaps it would have been expected in the debates which have already occurred elsewhere that some detailed information would be forthcoming as to why the Government finds it impossible to work under the present set-up; but that has not been the case. The Government has simply stuck to the line that it is streamlining and updating the Act. It is saying this will make the EPA more independent. I note that in his second reading speech at page 9 the Minister put the word "independent" in inverted commas, and I am not sure what that means. Perhaps it could mean "independent, but in a straight-jacket". There seems to be some interpretation of the term "independent" that is appropriate to the EPA which is not ordinarily connoted by the use of that word. So we raise the point that the Government has not explained the need for this change.

The Minister said that when the existing legislation was framed it was physically impossible for the functions of the director and the chairman to be separated. However desirable the separation may have been then, I am not sure why it was physically impossible. I know it has been said elsewhere only one environmentalist was available in 1971, and that was the then director; so they had only one of him and they made him both the director of the department and the Chairman of the EPA. The point I am making is that apparently at that time there was a need to have a person of the status, training, and background of the director of the department as the Chairman of the EPA.

That situation, according to the Government, has changed. We ask: What has changed? What are the factors that make this change desirable? What has happened that requires this radical variation in the structure of the EPA?

I know the Minister has commented that much of the criticism and debate has been centred around the person who holds the office of director and chairman. That is inescapable. I agree it is undesirable and unfortunate that personalities should be brought into this; but the fact of the matter is that the general reputation of the director is that he is a man who is regarded in all quarters as someone of outstanding competence in his field. On the admission of the Minister in his second reading speech, the director of the department will be a person of much less importance than the Chairman of the EPA. So it must be seen that this Bill in a very substantial and significant way downgrades the role of the present incumbent; and that takes a lot of understanding. It requires an explanation that we have not heard yet, but we look forward to hearing it if one is to be made.

I do not wish to dwell further on that aspect of the Bill. We consider the changes made are unnecessary and, in the present context,

undesirable. As I have said, if the Government pursues the matter—which no doubt it will—we will endeavour to have the proposal amended to make it less objectionable than it now is.

I wish to make some other observations on the Bill. Perhaps it would be easiest to deal firstly with the changes proposed to be made by clause 22 which is designed to repeal sections 54, 55, 56, and 57 of the principal Act and to substitute new sections 54, 55, and 56. With one exception the amendments are quite reasonable. They tidy up the legislation to some extent and we have no reason to cavil at the general thrust of the amendments except to this extent: The sections proposed to be repealed deal with circumstances in which various Ministers are required to submit matters to the EPA, which is required to report on them. However, the sections proposed to be repealed contain provisions dealing respectively with the Minister for Lands, the Minister for Mines, and the Minister for Urban Development and Town Planning to the effect that the EPA may at any time after it has furnished its recommendation to the Minister concerned publish in any manner that it considers appropriate the terms of the recommendation.

That authority, power, or right of the EPA to publish recommendations made to Ministers of the Crown has disappeared in the re-enacted provisions contained in clause 22. This, of course, is a matter which drew considerable debate elsewhere; and it is one which I understand was answered in a fashion. I am disappointed the Minister did not see fit in his second reading speech at least to draw attention to the fact that this change is being made.

As I understand the position, it is claimed that the EPA will in fact continue to have the authority to publish reports and recommendations it has made to respective Ministers, under sections 54, 55, and 56 of the present Act. It is claimed that power arises under the existing section 30(4)(m). I do not wish to enter into debate as to the construction of the provision because I have been criticised enough in this place for trying to fathom what Bills really mean and what the courts are likely to say they mean. However, I would point out to the House that the provision which the Government claims enables the EPA to publish its reports and recommendations deals with the general authority of the EPA. It sets out the general powers of the authority, and then subsection (4) says that without limiting the generality of the provisions of this section, the authority may—and then follows a whole host of provisions setting out what the authority is empowered to do. Under paragraph (m) the authority is given power to publish reports and provide information for the purpose of increasing public awareness of the problems and remedies that exist in relation to environmental pollution.

I suggest that is a very much narrower provision than that contained in subsection (3) in each of the sections 54 to 56 of the present Act. However, if, as I understand it may be said, the existing authority under section 30 gives the EPA power to publish its reports in the same way as it has had power to publish them up to date, then I will invite the Government to agree to a further amendment I intend to put to the Committee to restore effectively in specific terms the power of the authority to publish reports and recommendations under proposed new sections 54 and 55.

If this power already exists under another section of the Act, no harm will be done. But if it does not already exist then obviously what is understood to be policy of the Government—that is, to authorise the authority to publish reports—will be facilitated. Such an amendment will be submitted to the Chamber at the appropriate time.

I do not wish to comment unnecessarily on a number of minor matters raised in the Bill, but I do wish to raise a few points to which the Government should have given some consideration in its updating and rewriting of provisions of the Act. These are a few comments made at random after perusal of the legislation. It is an Act with which I was not previously familiar, but after a careful perusal of it a few obvious anomalies seemed to spring to mind.

It will be noted that section 11, which deals with meetings of the authority, is to be amended slightly by the Bill. That provision says that a quorum of a meeting of the authority will be two members. That means a situation could arise where there is a locked vote, and no provision is made in the Bill as to what would happen if only two members are present at a meeting and they cannot agree. The Minister might say the sensible thing to do is to wait until the third member is present. While that might be the sensible thing to do, the circumstances could be such that section 26 of the Act comes into effect, which disqualifies from voting a member of the authority—and indeed a member of the council—who has a direct or indirect pecuniary interest in any matter being dealt with by the authority or the council.

So there is potential for a situation to arise where a member of the authority has a pecuniary interest in a matter and is disqualified from voting—as indeed he should be—and the

remaining two members might not be able to agree. One could also pose the question as to what would happen if two members have an interest in a matter which disqualifies them from voting upon it. In that case we would have only one member left who could not form a quorum anyway.

Of course, I take the point made by the Minister that the authority does not take direction from the Minister; so we have a situation in which there is a real potential for the authority to break down because of the absence of adequate provisions in the legislation to cover this sort of possibility.

I note also that clause 11 of the Bill, which seeks to amend section 17 of the Act, contains a slight oversight. Clause 11 seeks to give effect to the changed composition of the council. The number of members will be changed and there will be a restructuring of the section itself. Subparagraphs (i) to (vi) are to be replaced by paragraphs (a) to (f). However, subsection (4) of section 17 contains reference to "(vi) of this paragraph". This should be changed to "(f)".

The major point about the restructuring of the council is that provision is made for the appointment of an additional member. However, unlike other members of the council who either represent some interest group or have some other qualification, this additional person is to be someone who possesses "such qualifications" or represents "such bodies or persons as the Governor thinks fit". It leaves one wondering exactly what sort of person the Government intends to appoint to replace the Director of the Department of Conservation and Environment, who currently is chairman of the council.

One wonders why the Bill does not provide in terms of "a person to be appointed by the Governor" without going on to indicate that the person is to have some undefined and unknown qualifications or be representative of some unspecified body or group of persons.

I also draw the Minister's attention to the provisions of section 21 of the Act, which relate to the appointment of deputy members of the council. It is interesting to note that deputy members are simply appointed by the Governor. However, it would appear they do not need to have the qualifications of the member whom they represent. Anybody can be appointed as a deputy member. I query whether that is something which could have been attended to at the time the Act was being updated.

All substantive members of the council are required to have some particular qualification or be representative of some particular interest group. For instance, one shall represent persons engaged in secondary industry. However, there is no suggestion in the legislation that the deputy of that person needs to be someone engaged in that industry; a like situation applies with all other members of the council, and their deputies.

For the Minister's information, I draw attention to another minor matter which perhaps could be attended to next time the Bill is before Parliament. Under section 61 of the Act, paragraph (c) of subsection (1) should be a separate subparagraph because it does not make sense as it stands. This is a minor matter which need not be pursued at this stage.

As I have indicated, the Opposition intends to oppose this legislation. It does so because no real justification has been advanced for the major amendments to the legislation. Indeed, the Opposition concedes that amendments to sections 54, 55, 56, and 57 of the Act make sense. Again, however, the Minister has not really indicated to us that the existing sections have caused any great problem. I understand there is potential for problems to occur. I do not know whether any have arisen; it would be interesting to know whether the problems one can imagine might arise by virtue of there being direct contact between the EPA and the Ministers of other departments, bypassing the Minister for Conservation and the Environment, have in fact arisen.

I would have thought that in all probability, most Ministers would know what is going on in their departments. However, I can see there is potential for problems to arise whereby ministerial colleagues of the Minister for Conservation and the Environment might know more about a particular environmental matter than he, because of the ability of the EPA to report directly to other Ministers.

The Opposition supports the concept that communication between departments should be at ministerial level. That is the part of the curate's egg which seems to be okay.

With those few words, I again indicate we oppose the Bill.

THE HON. G. C. MacKINNON (South-West) [5.07 p.m.]: It is my intention to oppose this measure. What the Hon. Howard Olney said was very true. Many of the remarks which have been made about this Bill have been purely repetitious. I will not seek to give the detailed explanation of the Bill provided to us by Mr Olney. Suffice to say that it indicates to me that despite the backhanded swipe of the Minister who, when

introducing the Bill, said that "allegations and accusations made in the media and by members in another place were based on ill-informed and obviously ill-intentioned speculation", the Department of Conservation and Environment has had very little to do with the framing of this measure. That is one of the rumours I have heard, and it is probably true.

There is ample room for amendment to the Act of which the department would be well aware and on which, to my certain knowledge—because I was a party to them—discussions have taken place from time to time. However, it could well be that the department was not fully conversant with the proposed amendments to the legislation.

This is the third major amending Bill to the legislation. The first Bill was brought in when I became the first Minister for Conversation and the Environment in Australia. At that time, we had no other Act on which to base our legislation, so the Bill was very experimental; indeed, it was never proclaimed.

The Act under which we currently work was introduced by the Hon. J. T. Tonkin and, by his own cognizance, it owed a lot of its form to the director of the department, who was by that time employed; I refer to Dr Brian O'Brien. Again, Mr Olney was right when he referred to the difficulty of securing people who were conversant in the field of conservation and the environment. It was my pleasure to be in on the first interview of Dr O'Brien, and to recommend to Cabinet his appointment.

I also know he was firmly of the conviction that the Director of the Department of Conservation and Environment should head both the council and the authority. It is rumoured he had a great deal to do with the framing of this amending legislation. I suggest to the House he would have framed it only under firm direction from the Government. Certainly, it would not be his recommendation that such an amendment should come forward. It therefore follows it is not his amendment. It is certainly not Mr Porter's amendment; therefore it must have been done at Cabinet direction. One is forced back to the inevitable and unfortunate conclusion that the Bill owes virtually all its acceptance to prejudice.

Some members of a parliamentary committee of investigation have told me that it makes sense for the director not to be a party to the independent authorities. If that is so, it is only fair that the Government and its advisers should state that as a matter of political philosophy, and should set about amending virtually every other piece of legislation which bears any similarity whatever to the Environmental Protection Act. I refer to such pieces of legislation as the Noise Abatement Act, the Clean Air Act, and dozens of other Acts, in all of which it was considered a very real necessity that the department be seen to be associated with the independent authority; this principle is clearly enunciated in such legislation.

If there has been a change of heart, let the Government say so, and set about amending the other legislation. This would include the Nurses Act, with which we have just dealt. There has been such inconsistency, it is unbelievable; there must be some reason for it.

The Hon. D. J. Wordsworth: The Nurses Board is not required to appoint Government employees.

The Hon. G. C. MacKINNON: The Minister appoints left, right, and centre to the Nurses Board people who represent specific bodies which have a place in the Government service.

The Hon. D. J. Wordsworth: Not the head of the department, by Statute.

The Hon. G. C. MacKINNON: The head of the Department of Health and Medical Services is chairman of virtually every committee under the department. Indeed, I had numerous occasions to suggest to the then commissioner (Dr Davidson) that he ought not to occupy those positions. However, he claimed otherwise; he said, "If we are asking people voluntarily to work on these organisations, I must be seen to be very active." I have already referred to the Noise Abatement Act and the Clean Air Act. Both of these pieces of legislation specifically nominate the Commissioner of Public Health and Medical Services as chairman, while one or two others provide "or his representative".

Let me assure the Minister for Lands that, at least since 1965, it has been Government policy that wherever possible the head of the department concerned should take an executive position—the chairman's position—on such bodies.

To say it was impossible to have anyone but Dr O'Brien in the position of Chairman of the EPA is, I am sorry to say, utter nonsense. This was done because it was direct Government policy. I know these things and so I find it objectionable to hear the Minister making these statements. I am forced into the unfortunate situation of having to say something although I do not want to. The last person I wish to oppose is the Hon. Gordon Masters, but I can make no apology for my comments because I have been placed in an invidious situation. Members should make no mistake about it—what I am saying is totally true. I am probably the only person ever to be appointed twice to be in charge of this

department. As I have said, I am convinced absolutely that the predominant and underlying reason for this legislation is prejudice, and I am no orphan in holding that view.

The Bill has been the subject of speculation and since I have made statements about it I have been stopped in the street by complete strangers who have congratulated me on the stand I have taken. I said the other night that those who are worried about conservation in this State are no longer solely Labor supporters or left-wing radicals—and I am not saying these radicals are only Labor supporters—but are very centre-of-the-road, concerned individuals. We should make no mistake about that.

I join with the Hon. Howard Olney in saying that the Minister's entire speech has given us absolutely no reason whatsoever for the fundamental change, other than to give one specious theory. The Minister said—

> A departmental head, who is a civil servant, advises and takes direction from the Government of the day. The chairman of an independent authority takes no such directions, because that authority has been set up to serve the people of Western Australia.

I know of no case where the matter has been the subject of serious controversy.

Members should bear in mind that this legislation was the outcome of pressure by the people of Western Australia. It is one of those peculiar pieces of legislation which did not emanate directly from the Government, although the Government agreed with the people's desire. As the Hon. Howard Olney said, there has been no talk about what has happened to make it necessary to change the legislation. I disagree with one of his comments, because the members of the EPA do not just sit there and vote on a matter. If they have a problem they discuss the matter. However, now if they wish to speak to Mr Porter they will have to ask him to attend their meeting. He will no longer be able to call them together when he sees a problem arising. In future, he will have to ring and ask if they would please invite him along. This is a very sad situation.

My objection to this legislation is that it is totally and absolutely unnecessary. I am one of the people who is being excited unnecessarily. I agree there should be some amendments made to the Act, such as those mentioned by the Hon. Howard Olney; in fact, there should be others. It is quite obvious from the one or two matters which the Hon. Howard Olney mentioned that the Bill has not been drawn up by people who use it every day as a tool of their profession. It has been reviewed by a consultant and then submitted to Crown counsel for drafting. That is another totally new departure from the way in which Bills ought to be framed. I do not think it is helping us resolve the problem of the difficulties in establishing a smelter in the Bunbury region; it will only make things worse. I do not see this legislation as in any way making the residents of the East Bunbury area wanting the Borden urea formaldehyde plant set up in their region. It will make them more suspicious. It could well be that their suspicions are ill-founded; nevertheless it will make things more difficult.

Personally, I firmly believe that the urea formaldehyde plant ought to go where it is proposed it should be established and that the smelter ought to be put where it has been suggested it be put. But people are so suspicious now that these amendments will merely foment their suspicions.

The Minister went on to say that the aim of the legislation was to separate the functions of the existing legislation. I have been explaining that the legislation was firm policy. Bills just do not happen. The present legislation was considered at the time. I have mentioned two other pieces of legislation both of which followed precisely the same procedure. As a matter of policy, it was believed that there ought to be a connection between the authority and the department because it gave the Minister the ability to talk to the director, as he would at least once a week under any circumstances.

At times it is quite improper for the Minister to talk to Professor Main or Mr Adams. Although I regard both of them as personal friends, I thought it would be improper for me to ring them and to make inquiries about this legislation. I thought I would embarrass them if I were to do so. I would have expected them to tell me that they would be embarrassed if I had done so. This would be more so in the case of the Minister if those two gentlemen were trying to be independent.

This matter was fully examined at the time and it has been examined since by subsequent Ministers, who I think were Mr Jones, Mr O'Connor, me, and the Hon. Gordon Masters. The EPA has suffered grievously from too frequent a change in Ministers. This is a tragedy. One can overstay one's welcome, but to change Ministers too often is a mistake.

The Hon. J. M. Brown: What about Mr Davies?

The Hon. G. C. MacKINNON: This Bill was introduced by the Tonkin Government and there were two Ministers covering this responsibility in that Government; but I was really thinking only of the Ministers who have held this portfolio since the present Government took office. If we were to include the two Labor Ministers, we realise six changes have been made in nine years.

The Hon. R. J. L. Williams: Not many of them would have known much about it at all.

The Hon. G. C. MacKINNON: A Minister would need to get embroiled for at least a year and to talk with the people involved before he could understand.

I mentioned that the Bill was the philosophy of a person who had been consulted and I think it is sad that the Government saw fit to use this man. I used him to look at matters involving the Metropolitan Water Board, an area from which he was removed and in which he had no subjective interest. I do not think Dr O'Brien was a wise choice in this case.

The Minister made several suggestions in his speech to the effect that the amendments would strengthen the Act. He did not indicate at any time what weaknesses there are. I am in the unfortunate and invidious position of having to rely on rumour. I suggest that the authority has seen fit, as is its proper role based on previous decisions, to make an announcement in regard to system 6. I also suggest there has been an undue amount of lobbying with regard to certain aspects of system 6, as it is a very big and complex system and one with which members of the House would undoubtedly have made themselves familiar.

System 6 entails most of the area utilised for public recreation adjacent to the metropolitan area; it extends from the Blackwood River right up to the Moore River. One of the problems which may be faced is that the authority wishes to utilise the very section that the Hon. Howard Olney mentioned, and it may wish to publish a report because it feels itself bound to do so. It feels it is in a position where it has no alternative but to make a certain report.

There are rumours around the city to the effect that there is a controversy between the Government, the department, and the authority with regard to the future of the land involved with system 6. I understand it is the last system to be clarified and one which has received the most detailed study by committee. I believe certain people are pressing for all committee work to be set aside and for nothing to be done with certain land in case it should be required for other purposes. With no information coming from the Government, one can only hazard a guess and suggest that the rumours have some basis. I have never struck a Bill about which there has been more rumours. There have been so many rumours in fact that the Minister, when introducing the Bill, mentioned the ill-informed speculation in the Press and elsewhere about the Bill. Because of much of the speculation I think there was a certain amount of backing off by the Government, although we will never know, at least for a few more years; but that is the impression I have.

The Minister said the Bill would strengthen the EPA because its recommendations will be transmitted from one Minster to another. Why? It happens to be my good fortune to have employed both directors (Dr O'Brien and Mr Porter) subject to committee inquiries being made. I know the transparent honesty of Mr Porter. Can the Minister give us an example of how Mr Porter has been in any way underhand? The implication is that he has been. It is all very well for the Minister to say he does not know of any occasion when Mr Porter has been underhand, but if he does not, why should he make this change?

The Minister said that the Minister for Conservation and the Environment is kept fully informed. Again, I wonder whether the Minister could give us an example of a time when he has not been kept fully informed. If he can do so I am a bad judge of character. Mr Porter is not the sort of person who would not keep a Minister informed.

We had a case like this when Dr Chittleborough was in trouble with the inquiry in relation to Cockburn Sound. That inquiry related to a joint study by industry representatives and Government departments. The then Department of Industrial Development came into the inquiry as did the Department of Conservation and Environment and others. I was present at a public hearing in Fremantle when all the research up to that time was explained by Dr Chittleborough.

Certain industry representatives spoke of the difficulties involved, and excited little comment. Some time later Dr Chittleborough made the same pronouncements at the University of Western Australia and ended up in all sorts of trouble. All he had done was say what he had said three or four months earlier. It was agreed that those pronouncements should be made at a given time and Dr Chittleborough had no option but to make them. Under his agreement he was required to make those remarks. However, the proof of a pudding is in its eating, and he was re-engaged in Western Australia. He is a very capable and reliable man, but if one cares to refer to the Press

reports put out at that time, one finds he was not referred to in glowing terms. As a person who knew Dr Chittleborough extremely well I was not happy about that situation.

Nowhere in this Bill is a mention made of the Minister for Conservation and the Environment directing the EPA or deciding upon what advice should be given by the EPA. Why should that situation change? It has not been said that a change in Government policy has come about. There used to be a belief that one person ought to know what was going on within the authority, and that was the director of the department. It was the belief that he ought to be able to say, "This is what the Government was thinking about, but now it has changed its mind. It has a totally different philosophy." I think that this Bill would be an appropriate means of explaining that belief.

The purpose of this Bill is to enable the Minister for Conservation and the Environment to obtain advice from various sources, but I wonder whether the Minister could tell me when he has not been able to obtain advice from various sources, because I can think of not one occasion. I mentioned that the general public has always regarded the EPA legislation as very much their piece of legislation. It upsets me personally that for years I have been going to the people of this State and saying, "Look, you have a totally independent authority in the EPA. It happens to have on it two members of high standing. It has the departmental view by way of Mr Colin Porter who is an honest man." Of course, before Mr Porter we had Dr O'Brien who was an equally honest man. I have continued by saying, "On that authority are two of the most independent fellows in Western Australia who cannot stand higher—they wear halos—in my estimation. They are Phil Adams and Professor Main." Professor Main would be without peer in the knowledge of bushcraft and the environment generally. He would rank in the scientific field as high as Mr Harry Butler would rank in the non-scientific field. I have said to people, "This is your authority." Naturally people were upset when the Government without an explanation put its finger on the authority, and that is understandable! Again I would like to hear whether the Minister can give us some reason for the proposed change to the provisions relating to the entry into premises. Is it just to satisfy someone?

The Hon. G. E. Masters: I will tell you why the change is proposed.

The Hon. G. C. MacKINNON: The provisions relating to inspectors of potatoes are sufficient. We have allowed them to go into premises without search warrants. Possibly Mr Pike will get on to his—

The Hon. R. G. Pike: Qangos.

The Hon. G. C. MacKINNON: Yes, qangos. Why has there been a change in the Government's political philosophy? Will we provide this change for all inspectors? Health inspectors can go at night into a person's bedroom and look under that person's bed.

I marked a number of clauses in the Bill to which I wish to refer, but as Mr Olney has said, one should not repeat oneself over and over again and one should not repeat the words of other people. No doubt exists in my mind that aspects of the parent Act need amending; it is advisable to keep all Acts up to date. Of course, some clauses are desirable, but I am concerned that the authority feels that it has not only a right, but also an obligation, to publish its reports. That is tremendously important because after discussion of these matters I know that members of the authority feel they have not only a right, but also an obligation to do so. They feel that the EPA is the watchdog for the community whether or not it has an overbearing department. We can have overbearing Governments and overbearing departments, although I do not think we have ever had either. However, when we have a Bill similar to this I become suspicious. The authority has the obligation to publish its reports and without doubt I am sure it has made that point to the Minister. This has nothing whatsoever to do with Mr Porter; it is believed to be the view of Professor Main and Mr Adams.

I will refer to one final point. I like to consider the purposes of legislation as though I were in Opposition and, perhaps, with a possibility of getting into Government. I think that if I were a member of the Opposition and a Labor Government were to bring down legislation to set up an authority as good as the EPA and remove from the department its director and put on the authority three individuals, I would be deeply concerned. I doubt very much whether we would bring out of retirement Mr Chamberlain to act as the chairman and I doubt whether the present Government would put a Labor supporter on the authority. However, if I were in Opposition and a Labor Government put such a proposition; and a person such as Mr Adams was to retire in the next year and we were to finish up with someone like Professor Main and two staunch Labor supporters, I would oppose the proposition.

I suggest that every other member on those grounds would oppose such a proposition. In this instance I will oppose the proposition.

The Hon. R. J. L. Williams: What if the appointees are apolitical? What if an appointee were Harry Butler? There have been rumours about that.

The Hon. G. C. MacKINNON: There have been rumours about Brian O'Brien. All we have lived with during the discussion about this legislation are the rumours. I suppose I am suspect because I have access to many of these people. One does not need to go to the Department of Conservation and Environment to obtain information. I have never known a Bill to be talked about so much among officers of various departments as this Bill. Every department it touches is concerned about it. I will accept the Minister's word—he has assured me of this before and I am sure he will assure me again—that he believes it is not a matter of prejudice that this Bill has been introduced. I am sure he believes it is not a matter of prejudice. However, he must feel very lonely because nobody else believes it is not a matter of prejudice. I have found not one person involved in this matter—maybe some people here have convinced themselves that prejudice is not involved—who does not believe what I have said. I was sad because of this; the department is near and dear to me.

Many such departments overseas have become all-embracing. They involve matters such as road construction, public health, drainage, sewerage, land fill, clean air, and noise abatement. Such bodies become all-embracing.

After discussions it was decided in this State that the Department of Conservation and Environment should be small, but influential and expert, and it has been kept that way. I believe the public have come to accept it as the people's watchdog in regard to environmental matters. For that reason we have not been plagued by conservation groups to an extent to which people in other parts of the world have been plagued. I am concerned about the Minister's effort to do what he sees fit in good faith, because it will work contrary to his expectations as is so often the case.

It is for those reasons—after many sleepless hours of worry, because I regard the Minister as a good friend of mine—I oppose the Bill.

THE HON. R. HETHERINGTON (East Metropolitan) [5.41 p.m.]: I, too, intend to oppose the Bill. I wonder whether anybody other than the Minister will rise to support the Bill. Seldom have I heard a better or more considered speech than the one made by the Hon. Graham MacKinnon. I listened to it carefully and with great interest. In fact, because of his speech I will have less to say. He elucidated many of the fears that I have about this Bill. At the outset I will say that the Minister in his second reading speech made some reference to remarks made in this House, and I made some of those remarks during an adjournment debate. I take back nothing that I said.

The Hon. G. E. Masters: I thought you were about to apologise.

The Hon. R. HETHERINGTON: In a system which claims to be a parliamentary democracy when matters of great concern and controversy are aired, rumours run wild, and a decision is made by Cabinet, it is time it was realised that the proper place for a statement to be made is in this House by the responsible Minister not, as in this case, by the Deputy Premier, to the Press. I would like the use of ministerial statements to increase in this House so that when matters are at issue and Ministers have information for the House they will come to the House rather than first go to the Press. A Minister rather than a Press secretary is the best person to make announcements. In this case it would have been better had the Minister told us, at least, after all his tracking and filling about what was to happen to the EPA legislation that Cabinet had made up its mind and intended to introduce legislation. He could have given us a broad outline of it so that we could put all the rumours to rest.

I can support the Hon. Graham MacKinnon in his remarks about the genesis of environmental legislation in this State because I did have the privilege to read a thesis by one of my students on the introduction of environmental legislation into this State. In fact, it came in response to a great deal of pressure and great deal of activity by interested people.

If this Bill were being introduced afresh from the beginning, I might be less worried about it because it is a Bill which, *de novo*, we might accept. But, it is a Bill which is amending the Environmental Protection Authority legislation after the EPA has been in operation for some time. The point about the EPA, and about the director of the department (Mr Porter), is that the EPA has been working well and the director, as chairman, has been respected and trusted. So, when there is a respected and trusted body, and legislation is introduced to change the composition of that body, people ask for a reason. It may be that when appointments are made to the newly-constituted EPA some of our suspicions and fears will disappear. It could be that will be the case, but I have no certainty of that and I will definitely wait to see about it.

The system is working well and the only reason offered for the change is that there needs to be a

change, and also the suggestion that the director was placed on the authority for one reason by the present Minister, whereas the Hon. Graham MacKinnon suggested it was a matter of deliberate policy. I must say when I heard the exposition from the Hon. Graham MacKinnon regarding the reason the director was first put on the EPA, I found his argument very persuasive although I must say had I listened to this argument some years ago I may have been suspicious it was an attempt by the Government to dominate the EPA because one could accept that argument when the authority was first constituted.

The EPA has worked well. Had the present director reached the age of retirement and it was then decided the EPA would be reconstituted, I would feel happier about it. Then, perhaps, the arguments adduced may have had greater strength. But, as it is, when something is working well there is a fear—and I have a great fear—that the change will make it worse. It will not necessarily be better. If something is working well, leave well alone. If the Government wants to change the composition of the authority, perhaps its motives are not as pure as it claims.

There are a couple of matters I want to mention in general and, certainly, for once I want to join with the Hon. Graham MacKinnon and the Hon. Howard Olney in everything they said. I think theirs were two of the best speeches I have heard since I have been in this place. I think the Government should be impressed by them, even if it is not.

The Minister mentioned advice being obtained from various places. As a result of what has been said by the Minister and after looking at the nature of the changes, it seems to me we may be getting into the situation where the EPA ceases to have teeth and influence, and becomes one advisory body among many. One wonders whether it is the intention of the Government in practice to downgrade the EPA so that it will become just an advisory body the recommendations of which can be ignored. Certainly, the great strength of a body such as the EPA—as is the case of the Ombudsman or any body that has power to report—is its power to report and embarrass the Government that set it up.

In dealing with this I can recall a strong member in the Hon. Kim Beazley telling me how he established the Schools Commission. He gave the members of that commission the brief to set out all the things that needed to be done, whether or not they embarrassed him, because he wanted to know what they were and he wanted them to be known publicly. Certainly that is what needs to be done as far as the environment is concerned. Governments should not be protected and should not want to be protected.

Another provision in the Bill which concerns me is that the EPA will make recommendations to the Minister, who will talk to another Minister. There will be no publication of the report. If the Ministers disagree then the matter will go to the Governor. That sounds all very nice and very impartial, and we have a new Governor who has made a couple of speeches which set out very properly the role of the Governor. But, we all know—you know Mr President, and I know—that in fact the Governor will not make decisions. Matters which will go to the Governor will go to Cabinet, and this means they will go, for all practical purposes at least for the next year or so, to the Premier. I suggest the real decision will be made by the Premier and this is, in fact, what many people are worried about. The EPA will make decisions, and the Minister will put them before a colleague. Perhaps it will be the Minister for Mines—and it is mining, and especially bauxite mining, that people are worried about in particular as far as the environment is concerned. If the two Ministers disagree, the Premier will decide between them, and he believes in development at any cost. That is the real fear of the people. In fact, when one looks at the Bill one realises that is precisely what can happen.

If, of course, the Government does appoint strong, capable, and able people to the EPA, people who are prepared to bite the hand that feeds them, or to kick their masters in the teeth—and this is necessary in the liberal democracy; after all, it is one of the main arguments for academic freedom at universities that people paid by the Government must at the same time be prepared to criticise the people who pay them because they are there as independent people—the EPA should be independent in this sense. EPA freedom should be a very important freedom because it is through this freedom that deficiencies of Governments, or mistakes of Governments, quite often can be brought to light.

One of the problems in our present-day society, with the growth of Executive power, is the need to provide new checks on and balances to the Executive. An interesting comment to hear from the Hon. Graham MacKinnon was that when he is on the back bench he is not informed—as indeed is none of us. The only people who are informed really are the Ministers, backed by the expertise of the Public Service.

We need people who are not members of Parliament and who are expert in their various

fields to raise problems and publicise them. Then, of course, quite often Parliament can take up the question. Public opinion and the Press can take up the question. We can get a free and healthy discussion, as we should get in a democracy. This applies particularly at times when, with the technology we have today, we are able to destroy whole areas of forests, and destroy them ruthlessly and quickly. It has been done less quickly as a result of farming at various places in this country, and I am thinking particularly of the Wimmera in Victoria where marginal land has been reduced to desert because sufficient account was not taken of the need to protect the environment. In our fragile environment in Western Australia, where settlement borders on desert areas, we must be very careful that the native flora survives. We must watch very jealously if something looks as though it will destroy our environment. I think this is a very real concern.

From what has been said I am convinced that this Bill, in its context, is not a good one. We must not always listen only to the second reading speech; we must read the Bill in the context of the time and in the context of the developments at the time. Because I have done this, I join with the Hon. Howard Olney and the Hon. Graham MacKinnon in opposing the Bill.

THE HON. I. G. PRATT (Lower West) [5.57 p.m.]: I am speaking to this Bill not with the feeling there is any great need to support the Minister, although I do support him. He has given us a very good second reading speech, one on which the Hon. Howard Olney has found himself able to comment most favourably.

A speaker from the Opposition remarked that it was probable no Government members would speak in support of the Bill. For that reason I have been prompted to rise and say a few words because the proposition was put by the Opposition as though something was improper in the fact that there may not be a great number of Government speakers. I have listened very carefully to the words of those who have spoken already. The province I represent is one in which the environment is of prime interest. We have sand dunes on the shores of the Indian Ocean, which my province borders, the forest area of the Darling Range, and the wetlands in between. We have listened to what has been said by other members and we have learnt that those who have spoken so far believe in environmental protection, and believe it is a good idea. We have learnt that a large number of people have been involved in the setting up of our department. In fact, a large number of people have been involved in everything concerning environmental protection. We have also been told that many rumours were spread before the Bill came to Parliament.

We have learnt that Mr Porter is a good man, particularly as far as his environmental capacity is concerned. We have also learnt that some members have a degree of insecurity about the future, and there is speculation about that future. That is human nature, so we have heard nothing new.

We have learnt that possibly in the situation of a deadlock of views, a decision has to be made. The decision will be made by the elected Government; and, in the long run, the elected Government will take the responsibility for any decision that has to be made. There is nothing new in that. In my view, that is what Government is all about.

Sitting suspended from 6.01 to 7.30 p.m.

The Hon. I. G. PRATT: Prior to the tea suspension I was making the point that one of the matters which has been brought out in contributions by other speakers is the fact that, in the long run, when the decision has to be made, the people who must take the responsibility for it will be the members of the elected Government and, as I recollect, I believe I said that is as it should be.

The Hon. Graham MacKinnon raised another reservation when he referred to the possibility of political appointments. It is a fact of life that political appointments are made. Perhaps it is very bad and should not occur. The member made the point that political appointments and political patronage should not be tolerated and I could not disagree with him. That is a personal opinion, however, and I do not believe it bears in any way on this legislation.

If one looks at the core of the Bill which is the change in the position of the Chairman of the EPA, two matters are significant in that the Bill takes the EPA to a position in which it is not subjected either directly or indirectly to pressure from the department or the Minister. It is very hard to mount an argument against that situation and frankly, I do not think one has been mounted.

The other point which is significant is that the Bill returns the director to his rightful position when his interests and efforts are concentrated on the duties of the running of his department and of his advising the Minister.

Surely if a man is placed in this position of responsibility, these are his prime objectives. Therefore, the Bill ensures he will carry out his prime responsibilities. It separates the two

matters and I am sure it will lead to very efficient operation of the authority and the department.

I do not really think there is anything further to be said. The change proposed in the Bill is desirable and it is one which, given the opportunity to function properly, will prove to be effective and very worth while. I look forward to the Bill being passed and the provisions contained in it being put into operation.

THE HON. P. G. PENDAL (South-East Metropolitan) [7.34 p.m.]: In rising to support the Bill I want to say at the outset it surprises me to hear any member of Parliament and, in particular, those people who so far have opposed this Bill, talk as though the EPA or any other Government agency or body for that matter, ought to be sacrosanct.

The Hon. R. Hetherington: Nobody said that.

The Hon. P. G. PENDAL: That is implicit in what has been said by a number of Opposition members or a number of opponents of the Bill.

The fact is the EPA ought not to be sacrosanct. Indeed, no Government body set up by an elected Government or by an elected Parliament ought to be sacrosanct. In other words, such bodies ought never to be beyond the reach of a Minister of the Crown who himself is nothing more nor less than a representative of an elected Government and, to boot, a respresentative of an elected Parliament. The philosophy behind that is wrong.

The whole democratic basis upon which we act is threatened if any person suggests the EPA or any other Government department or agency must be sacrosanct and is, therefore, beyond the reach of some direction of whatever kind that might be.

The Hon. R. Hetherington: It is a pity the member does not have more sense and listen to what other people say.

The Hon. P. G. PENDAL: Any member of the Western Australian community is entitled to believe, as a result of some of the publicity which has emanated not only from conservation groups, but also from the Opposition, that Mr Colin Porter is to be thrown out on the street—that Mr Colin Porter is to be removed from all activities associated with environmental controls in Western Australia. I would go even so far as to say that a great many Western Australians are under that misunderstanding at the moment.

Certainly it is clear from correspondence I, as a member of Parliament, have received from constituents that many of them are under the misunderstanding that Mr Colin Porter is to be removed entirely from any responsibility for environmental management. That indicates the sort of publicity which has been generated by the Opposition without its making any effort to delineate between the two tasks that man has been asked to undertake so far.

The Hon. D. K. Dans: The daily Press had plenty to say without any assistance from the Opposition.

The Hon. P. G. PENDAL: If the present Government wanted to destroy the independence of the EPA there are a couple of simpler methods by which it could do so. For example, I suggest if the Government wanted to destroy the independence of the EPA it could have moved, by legislative measures, to get rid of Professor Main and Mr Phil Adams, QC, both of whom were appointed by the Tonkin Labor Government after the proclamation of the original Act.

Having said that, I ask members: What is the track record of the present Government? Both of those men were left in the positions to which they were appointed. There was no suggestion on the part of this Government that Professor Main or Mr Adams, QC, because they had been appointed by a Labor Government, were somehow little political flunkies who would not make independent and professional decisions as members of the EPA. That is conveniently forgotten by the Opposition.

Both of those men have remained at their posts for one reason only; that is, they have been able to serve in an impartial way and presumably they have been able to offer advice to the Government of the day—advice that, to my knowledge, has in no way embarrassed the Government of the day.

Therefore, the independence of the EPA is simply not an issue at this point. So far throughout the entire public debate that has taken place in the last few weeks the ALP opposition has been but a token one and the reason for that is—

The Hon. D. K. Dans: That is only your opinion.

The Hon. P. G. PENDAL: Certainly that is my opinion. The reason the ALP has offered token opposition only is that there is nothing to oppose.

The Hon. D. K. Dans: It would have been a much different Bill had there not been public comment upon it.

The Hon. P. G. PENDAL: All sorts of public fears were expressed in the weeks leading up to the introduction of this legislation into the Parliament. The Minister was put under intense pressure to answer what, at that point, he could not answer. He was asked to divulge to the

Parliament matters which had not been decided. As my colleague, the Hon. Phil Lockyer, says, it was disgraceful. It was downright ludicrous to suggest, as one member of the Opposition has suggested, that the Minister for Conservation and the Environment was somehow evading the issue by not answering questions in this House on what the Government proposed. There was a simple reason that he did not say what the Government proposed and that was at that stage the Government had not decided what changes it intended to make. It did that quite properly and, what is more, I suspect that it caught the Opposition off guard.

The Hon. D. K. Dans: After he changed the Bill.

The Hon. P. G. PENDAL: During what I would regard as a thoughtful contribution to the debate earlier this evening by the Hon. Howard Olney, a remark was made by him which I regarded as being rather curious. It was that the legislation introduced now by the Government was an effort to downgrade the Director of the Department of Conservation and Environment and make him subordinate to the Chairman of the EPA. That was a curious comment to make.

The Hon. H. W. Olney: Subordinate to the Minister.

The Hon. P. G. PENDAL: The Hon. Howard Olney interjected to the effect that the director would be subordinate to the Minister. I ask the Parliament what is wrong with such a person being subordinate to the Minister? The Minister is part of the electoral process. Apart from members of Parliament, no other people can claim that.

The Hon. D. K. Dans: What did you say? I did not hear what you said. What kind of process?

Several members interjected.

The PRESIDENT: Order! I recommend to members that, if they want to hear what the member is saying, they cease their interjections and then everybody will be able to hear him.

The Hon. D. K. Dans: He has lost his place!

The Hon. P. G. PENDAL: I referred to a point raised in the debate and the Hon. Howard Olney indicated by way of interjection that it was somehow rather despicable that a public body should be answerable to, or under the control of, a Minister of the Crown. In answer to the member's interjection I say that I do not personally believe it is despicable. The people of Western Australia elect members to this Parliament and obviously every three years those members are accountable to the people. That is a far greater degree of scrutiny than that to which any other public servant in this State is subjected.

As for the point raised by the Hon. Howard Olney that the activities of the present Government are designed to "downgrade" the position of the director of the department so that he then becomes subordinate either to the Chairman of the EPA or to the Minister for Conservation and the Environment, I would wager that, had this Government come into Parliament with legislation to reverse that situation—that is, to downgrade the Chairman of the EPA so that he would then become subordinate to the Director of the Department of Conservation and Environment—we would have heard similar howls. Therefore, the howling that is going on is no more nor less than simply howling for the sake of howling.

No matter what this Government proposed it would be subjected to opposition of a mindless kind simply for the sake of opposition.

A reasonably important principle is at stake in this legislation. Indeed, it could be applied right across the board in relation to any activities of the Government and that is that no man ought to sit in judgment of his own actions. That is partly what is at stake in this Bill, where we seek a separation of powers between the Chairman of the EPA on the one hand, and the Director of the Department of Conservation and Environment on the other hand.

The situation is not as some of the conservation groups and members of the Opposition have said. It is not in any way an indictment by this Government of the activities of the director or the chairman (Mr Colin Porter). I have no reason to believe that.

I am one of the few people here who has had the privilege of working with Mr Porter. I could not fault his professional competence and I could not fault anything that that man brought to bear on his job. His competence is not in question, it is a question of separating two roles which, in my view, should not have been brought together in the first place.

The Hon. H. W. Olney: That is your opinion.

The Hon. P. G. PENDAL: That is the comment of the Hon. Howard Olney and of course it is the same as the Leader of the Opposition said to me a few minutes ago. That is my opinion. That is the reason for my election to this place, to give my opinion. I do not go along with their sort of argument.

A few moments ago Mr Hetherington said in order to help our democratic processes to endure what we needed was more, not fewer, checks and

balances against the power of the Executive. Presumably, he was referring to the three gentlemen who sit on the front bench and who are part of the Executive. For once, I agree with Mr Hetherington and that is precisely what is in mind with this legislation. To support the separation of the two roles of director of the department on one hand and the chairman of the EPA on the other hand is in itself a new check and a new balance against one man holding the two roles and therefore combining the power that both roles give him.

The Hon. R. Hetherington: Theoretical separation does not mean it is an effective check. You are being too academic.

The Hon. D. J. Wordsworth: Look who is talking.

Several members interjected.

The PRESIDENT: Order!

The Hon. P. G. PENDAL: I am simply attempting to make the point that any measure which is designed to make public bodies more accountable to the Parliament is a good thing and this is inherent in the legislation which has been brought into the House. It is no more or no less than that.

A couple of weeks ago an amending Bill was introduced into this Parliament to amend the Transport Act. Somewhere in that legislation a particular clause made it clear that the Commissioner for Transport and indeed the administration of the Transport Act and other matters were powers that were conferred under that Act and that they ought to be under the general control of the Minister.

If I have any criticism it is that the present Minister has not gone far enough inasmuch as he has not attempted to bring the EPA under his control. I conclude on the point with which I commenced, and that is that members in this place have been elected by the people of Western Australia. We are held accountable every three years and there is no reason in the world that any public servant or outside person who may occupy the role of Chairman of the EPA ought not to be accountable. I support the legislation.

THE HON. M. McALEER (Upper West) [7.50 p.m.]: I support the Bill and I think the amendments it seeks to make to the Act are justified in the light of experience. While I do not suppose it will make the Act perfect or that we will not want to review it from time to time to make further improvements, I do believe these amendments, coming at the end of a nine-year period, are satisfactory in the present circumstances.

I cannot see that just because it is claimed, and quite justly, that the present Act was the expression of public interest and concern that it should become fossilised or remain forever unchanged like a fly in amber.

On the contrary, as the Hon. Graham MacKinnon has pointed out, public interest and support for environmental legislation has broadened and deepened over the years. It stands to reason that legislation should seek to express this greater involvement.

I have listened to all the speeches with interest and I think the Hon. Howard Olney would have more correctly stated that he felt the legislation was like the curate's egg, "good in parts", because he seemed to agree with so many important points in it.

But I rise specifically to comment on the speech of the Hon. Graham MacKinnon. I am sorry that official duties have taken him out of the Chamber at the moment. Back in 1971, when the Hon. Graham MacKinnon was speaking to the then Bill—the present Act—he said in effect that this was a new type of legislation; it did not appear to be perfect but it would have to be allowed to work in order to see how it could be improved.

He went on to say that it seemed strange that sufficient attention was not given to the spelling out of the responsibilities of the Minister for the whole "cumbersome" set-up. Furthermore, he went on to say that he found it strange that so much weight was given to the role of bureaucrats as opposed to the ordinary members of the public.

He attributed much of the efforts towards environmental protection to various people, including industrialists. In the light of these remarks, it seems strange that he should so vehemently oppose this particular Bill which sets out to improve the Act in the light of nine years' experience and on those points to which he drew attention many years ago.

The Hon. Graham MacKinnon said that he believed the department had little or nothing to do with the review and the drafting of the present Bill and that it was the departmental people who had the day-to-day experience with it. He said also that he believed that Dr Brian O'Brien had acted as a consultant to the Minister. If this is so then he certainly had plenty of day-to-day experience in the working of the Act which on the Hon. Graham MacKinnon's say-so, we know he was instrumental in drafting in the first place.

Mr MacKinnon said that it was not appropriate to consult with Dr O'Brien because he had a subjective interest in the Bill and the Act. I do not really see how one can have it both ways. The

people in the department also would have a subjective interest in that sense and at least if Dr O'Brien was the consultant, he had the benefit of having distanced himself from the hurly-burly of daily environmental battles, as well as having experienced them in the past.

I do not think it was fair to Dr O'Brien to make this attack on his possible involvement. I do not think the Hon. Graham MacKinnon was quite fair to himself in this instance because he has always been equally pleased with his choices of Dr O'Brien and Mr Porter as directors. I think also that the Hon. Graham MacKinnon has not been fair to the Government and the Minister because his experience as a former Minister gives spurious weight to the various rumours he has repeated to the House tonight.

The suggestion which the Hon. Bob Hetherington was so quick to pick up that the Government hoped—or perhaps people feared that the Government would—to be able to suppress the EPA's advice, is an example in point.

Yet in 1971 for instance, the Hon. Graham MacKinnon argued strongly that the Government should not only be free to accept or reject the EPA's advice, but also should be able to use it selectively.

The Hon. Graham MacKinnon made the further point that in 1971 there was literally no-one else but Dr O'Brien in the State of Western Australia who was an experienced conservationist and who was able to preside over the drafting of the Bill and all the environmental affairs in Western Australia.

The position has changed over the last nine years. We even have a Chair of Environmental Studies in Western Australia at Murdoch University. The State has a number of people who have distinguished themselves in this field, so there is no need to fear that we cannot have two or three environmentalists on the EPA. I do not say they will be more distinguished or more environmentally aware than Colin Porter, but certainly they will be adequate.

I do support the procedural changes envisaged by this Bill which ensure that the Minister is not bypassed—even if inadvertently—by the EPA when dealing with other Ministers. The Bill ensures also that the EPA will work through its very own Minister and this is not disputed by the Opposition.

I further support the separation of the chairman of the three bodies: the EPA, the department, and the advisory council. What may have seemed necessary at first now appears slightly absurd and that is for the one man to chair a council which gives advice to the authority of which he is chairman and which gives directions to a department of which he is the head.

No matter how distinguished his record and no matter how honest he is, the result must be that the whole set-up is a one-man band. Whatever Mr MacKinnon may say, it is very difficult to see how any outside viewpoints could influence such a tight circle. Even more, I think it must be something of an embarrassment to the director himself to find himself acting in so many capacities. The permanent head of a department weilds far-reaching influence over many years and I believe that Mr Porter or any director in the future will not mind this separation of powers and will find it totally satisfactory in the long run. I support the Bill.

THE HON. NEIL OLIVER (West) [7.57 p.m.]: It is very interesting to me that the Opposition opposes this legislation. I presume it is purely to create headlines. There may be some misunderstanding amongst the people of Western Australia so the Opposition has decided to debate this Bill to a great extent.

Several members interjected.

The PRESIDENT: Order! Will the honourable member direct his remarks to the Chair and ignore the interjections.

The Hon. NEIL OLIVER: Opposition members have chosen this Bill as an opportunity to gain a political advantage. It has attempted to gain political advantage by using the environment and I find this very difficult to comprehend because the environment is something with which all of us are continually concerned. The Bill could almost be called a misnomer because when it was introduced by a Liberal Government in 1970 it was called the Physical Environment Protection Bill and when it was introduced in 1971 it was called the Environmental Protection Bill. The environment is not necessarily regarded as just the landscape.

"Environment" to me means the environment of a family, the environment of an education system, our health environment, and the environment of our employment; and I could go on *ad infinitum* to explain what it means. However, I am quite pleased with the manner in which the Minister introduced the Bill, and I support his actions. He went on to explain the publicity that has been associated with the Bill.

The Hon. H. W. Olney: He said the leaks were not true, so how could they be leaks?

The Hon. NEIL OLIVER: I will not bother to answer that question. However, the

Environmental Protection Council has so many members that some leaks must occur. Even the Labor Party leaks things to the Liberal Party; that is a part of politics, and something I could not understand until I came to this place. It is not unusual for the Opposition to take advantage of leaks. I suppose if the Government were in Opposition—and I hope it never is—it would do the same thing.

The PRESIDENT: Order! I ask members to cease their audible conversations because it is difficult enough for the *Hansard* reporter to hear what the member is saying, and it is certainly almost impossible for me to hear him.

The Hon. NEIL OLIVER: Thank you, Sir. The method of government under which our State operates is such that a Minister is responsible to the Parliament and to the electorate. Therefore, I cannot hold with the proposition that we should have an authority, commission, or board which is not responsible to the Minister handling the portfolio concerned.

The Hon. H. W. Olney: The Minister said the EPA is independent.

The Hon. NEIL OLIVER: I find it unusual that it should be proposed that the EPA should have *carte blanche* to be able to do what it wants to do willy-nilly, without its being responsible to the Minister.

The Hon. H. W. Olney: Are you opposing the Bill?

The Hon. NEIL OLIVER: I say that because the Minister is responsible to Parliament and, through us, is responsible to the electorate. That is the very basis upon which a Government operates in a Westminster system.

However, I would like to make a few comments on the Bill because it affects my electorate which is very much concerned with the environment. I am of the opinion that the role of the EPA and its decision-making process will not be impaired or even jeopardised to an extent which will be detrimental to the preservation of the environment. The Town Planning Board, with which the Opposition agrees, has a responsibility to advise the Minister for Urban Development and Town Planning. Therefore, I cannot see any reason that the EPA should not advise the Minister for Conservation and the Environment. It is a very simple situation. There is no reason that all these projected ideas of the Opposition concerning leaks to the Press, etc., should become involved in this issue.

The Environmental Protection Council has a membership of 14 people, and it would be totally impossible to endeavour to control leaks from those people. Therefore any comments about leaks to the Press or the inability of the Government to conceal facts concerns a totally different situation and has nothing whatsoever to do with the Bill; and the arguments put forward by the Opposition are absolute garbage. I have hesitated to use that word before, but I use it now.

The point I would like to make—and it was made by the Hon. Graham MacKinnon—concerns system 6, which is the last of the environmental studies in Western Australia. We have gone through all the other systems from 1 to 5, and I think we have now finished with system 6. If any member knows of a system 7, I would like to hear of it because I am not aware of such a system.

The Hon. A. A. Lewis: Ask the Minister. Probably he would be able to reply more easily to that than to some of the other questions.

The Hon. NEIL OLIVER: The Minister may well be aware of another system.

The way in which the EPA has gone about developing the systems approach to the environment of our State is very interesting. It has progressed around Western Australia and covered all areas; and now it has concluded system 6 which involves the area in which the greatest concentration of the population of Western Australia is in residence.

I am somewhat sceptical as to why system 6 should be introduced at this stage, after the EPA has already examined the whole State. I am somewhat disturbed about this matter, and the Minister has not explained to me why we need this new legislation. I would imagine he would be somewhat disturbed that the whole of systems 1 to 5 have been examined and now we are presented with system 6.

Let me give members an example relating to system 6. Can members imagine an area which has been subject to the hills study of 1975, the hills study of 1978, and the hills study of 1978, revised? These studies were implemented by the MRPA, of which the Chairman of the EPA is a member. The main aim of the studies was to protect the environment.

The protection of the environment in the particular area to which I refer involved the roads being restricted to reduce visual impact. So that macadam roads would not be detrimental to the eye, they were restricted; and under that restriction the plots were called battle-axe plots. That having been done, the next proposal was that no tree over 1 500 millimetres in diameter could be removed. The next proposal was that any houses to be erected in the area should not be

subject to the normal processes of the building and health surveyors' departments of the shire, town, or city but subject to the full councils. May I emphasise this was to protect the environment.

The Hon. G. C. MacKinnon: Where is all this in the Bill?

The Hon. NEIL OLIVER: I will come to that.

After all those criteria were applied to development in the area, the mode of fencing was examined. Let me point out that this area we are trying to protect is something like a buffer zone, similar to the Hampstead Heath development. This type of planning is what we are looking for in Western Australia, with all its wildflowers. After all those criteria had been put forward one would have imagined all aspects of the environment had been covered. But no, it went further than that.

Point of Order

The Hon. A. A. LEWIS: Mr President, could the member stick to the Bill instead of drifting off to the MRPA, because some of us are fairly concerned with the contents of the Bill rather than with the MRPA?

The PRESIDENT: There is no point of order. Would the honourable member please speak up and tie his remarks to the Bill because it has occurred to me once or twice that perhaps he is straying slightly.

Debate Resumed

The Hon. NEIL OLIVER: Thank you, Sir. It was not my intention to stray from the Bill, and I will come to the point. The EPA having included all those factors for the protection of the environment—having said trees could not be removed, roads must be reduced to cut visual pollution and having specified a certain type of dividing fence—imposed further conditions upon the people in the area. This is a special rural zone, and I repeat that it had already been subjected to the hills study of 1975, the hills study of 1978, and the hills study of 1978 revised. Having complied with all those conditions, people went ahead and purchased the allotments, and placed pine post-and-rail fencing upon them. However, would you believe, Sir, that although each individual lot of two hectares was fenced in that manner, the developers proceeded to bound each 1.2-hectare allotment by a six-foot asbestos fence on the escarpment of the Darling Range.

The Hon. H. W. Olney: What has that to do with the Bill?

The PRESIDENT: Order! It occurs to me now that the honourable member is straying from the contents of the Bill and I recommend that if he wishes to proceed he should stick to the Bill.

The Hon. NEIL OLIVER: My apologies, Mr President, but I wanted to quote that example of how the EPA is supposed to be concerned for the environment. I will not continue that matter further.

Any member who is concerned about the environment will speak up. All of us—individually, our families, and generations to come—are concerned with the environment.

I believe this Bill is a misnomer. The original Bill introduced by the Liberal Government was concerned for the environment. The Act introduced in 1971 was all-encompassing. However, the environment goes much further than that.

I conclude my remarks by congratulating the Minister on his introduction of the Bill.

The Hon. D. K. Dans: It will be interesting to hear the Minister reply to your remarks tonight! I will listen with bated breath.

The Hon. NEIL OLIVER: The Leader of the Opposition should hold his breath.

The Hon. P. G. Pendal: For about 10 minutes!

The Hon. NEIL OLIVER: I believe this legislation represents a great advance in our practical concern for the environment, and demonstrates that the Minister is responsible not only to Parliament, but also to the electors.

THE HON. W. M. PIESSE (Lower Central) [8.17 p.m.]: I also wish to speak briefly in support of the Bill; however, my remarks may be along lines somewhat different from those of members who have already spoken in the debate. This legislation does not concern only a few electorates; it affects every electorate in this place and in the other place. Therefore, we all need to be conversant with what is contained in the amending Bill.

At heart, we are all environmentalists. However, we are not all good administrators. The same situation applies, of course, to the people who have been appointed to the Environmental Protection Authority and the Environmental Protection Council. They have had to play two roles, one as people who are qualified and knowledgeable environmentalists and another as administrators. This has proved to be a difficult task.

Hopefully, by separating certain categories of responsibility, the legislation will iron out these difficulties. I look forward to great improvements

in the operation of the Environmental Protection Authority as a result of this legislation.

It seems to me that whenever we discuss matters to do with the protection of our environment, we split into two factions. On the one side, we have what might be termed radical hysteria, while on the other side righteous indignation is expressed. Fairly good reasons exist for this division. On the one hand, we have part of the population which is concerned about things they see happening in the environment; they believe permanent destruction is being done to areas of our State, and feel completely powerless to do anything about it; no matter where they turn and what statements they make, they feel completely frustrated.

On the other hand, we have people—many of them landowners—who have become equally frustrated because of what they see as the imposition of some officers of the EPA.

I give members an example of this by relating what occurred in my electorate a year or so ago. A landowner in my electorate has a small swamp area, which has been classified as a nature reserve, in the middle of his property. It is not visited by anyone; it is surrounded by his own land, which he farms. On one occasion he was riding around his property in his utility, rounding up some sheep; he had a gun in his utility.

As he rode near the swamp, a gentleman came out of the nature reserve, approached him, and said, "Do you have authority to be here?" The farmer replied, "I think I have" following which the gentleman from the swamp asked, "Do you have a gun in your utility?" When he was told that, in fact, that was the case, the gentleman from the swamp, who was an EPA officer, said, "Do you know you are not allowed to be here and not allowed to carry a gun? Do you know there is native fauna in this reserve and you are not allowed to bring a gun into this area? In fact, I could issue you with a heavy summons."

The landowner turned to the officer in utter amazement and said, "Do you have permission to come onto my property? This happens to be my property and I do not know you or what you are talking about!" These people were both conservationists at heart, but there was a great deal of misunderstanding and ill-feeling on that occasion. The same situation has arisen in many other areas.

I am pleased the Bill seeks to amend section 68 of the Bill. In order that members are well aware of the proposed amendment to section 68, I will read the relevant passage as follows—

> (b) by inserting after subsection (2) the following subsections—
>
> " (3) No person shall enter any premises under subsection (1) of this section unless—
>
> (a) the occupier has consented to the entry;

That is only common courtesy. It is a great pity the 1971 legislation did not recognise that such a proposition should have been included in the Act. Many of our problems would never have arisen had that been the case.

The amendment to section 68 continues—

> (b) a Justice of the Peace has issued a warrant under subsection (4) of this section; or
>
> (c) subsection (5) of this section applies.

Subsection (5) provides that when a member of the authority believes that irreparable damage may be done to an area, and when he cannot locate the owner of the property to obtain his permission, he may enter the property without the consent of the occupier and without a warrant from a justice of the peace.

The PRESIDENT: Order! I will not tolerate these long, audible conversations which are going on around the Chamber. If members want to hold meetings, I recommend they hold them in the rooms provided for that purpose. In the meantime, please allow the members who wish to make contributions to make them in silence.

The Hon. W. M. PIESSE: Thank you, Mr President. I do not wish to delay the House any longer; I think most matters have been covered. I congratulate the Minister for his having introduced the Bill, and on the explanation contained in his second reading speech, and I support the legislation.

THE HON. T. KNIGHT (South) [8.24 p.m.]: I also support the Bill, and I congratulate the Minister on his presentation and explanation of the Bill. I consider the points he made gave a wider interpretation and view of the situation than does the existing legislation and I believe the Bill will be in the interests of conservationists and people who wish to protect our environment. This legislation had to be updated.

I wish to draw attention to some remarks made by the Minister in his second reading speech which are the major points in the 19-page document he delivered. I will make a few quotes which will explain the situation very clearly to the public of this State; they will know the type of protection the Government is affording them and

will also know that the moves we are making in regard to the EPA are in their interests. I will follow through these quotes and bind them together in a nutshell in a clear and concise manner.

On page 3 of his second reading speech, the Minister made the following statement—

> The Director of the Department of Conservation and Environment will remain an adviser to the Government—as is the case with all departmental heads... This Bill, therefore,. increases the independence of the Environmental Protection Authority... In 1971 the director of the department was the Government's only adviser on conservation matters... It has become, therefore, a practical proposition for the Government to alter the structure of the EPA to make an even more efficient environmental watchdog for the people of our State... In future, no member of the Environmental Protection Authority will be a public servant.

This gives a straightforward idea of the concept of the Bill. I agree wholeheartedly that in too many cases, departmental heads and public servants run matters of public interest in Western Australia. I applaud the Minister for this provision, which will allow the people in the community to make the decision, instead of the power remaining in the hands of departmental heads. When we consider legislation, time and time again we wonder whether it is the legislation of the Government, or of the Public Service. The Environmental Protection Authority was run by a public servant and the Government is moving to hand the authority back to the people, to obtain the people's views.

As I mentioned, I will tie these quotes together into one small knot. Nineteen pages are not needed to explain to the people of Western Australia what the Bill is all about. The public have been questioning the Minister's intentions in regard to this legislation. In my view, he has been unjustly criticised both inside and outside Parliament, and within the Public Service.

I have received letters from constituents asking me not to support the legislation. As far as I am concerned, we make the decisions. We on this side have considered this legislation and believe the Minister has put forward a strong and solid proposal which needs our support. As I said, I intend to give him mine.

The Hon. Neil Oliver: I have had more telephone calls for the proposal than against it.

The Hon. T. KNIGHT: We always find on an issue such as this that we get emotive statements and feeling; some people believe the legislation will damage everything they have worked for, and will take away their heritage. It is our job in this place to protect the interests of the people of the State, and I plan to look after them.

The Minister went on to say—

> The EPA remains an "independent" authority, but will now operate through its own Minister, as other statutory authorities in the State do at present.

All these points are very pertinent to the legislation, and to the running of this State. The Minister continued—

> This procedure will also ensure that at all times the Minister for Conservation and the Environment is kept fully informed of recommendations of the EPA and so can put forward arguments pertaining to environmental protection, either at Cabinet level, or directly to his ministerial colleague.

Some people say this should not be so. One can wonder only why we should have a Government, when everything must come through at departmental and Public Service level. To me, that is unforgiveable of a Government; we should be making the decisions and the rules. Admittedly, all Governments and Ministers take advice from their public servants. However, a Government is elected to govern, based on the policy put to the people at the previous election. On this occasion we must be the ones to put forward and implement that policy.

The Minister drew particular attention to the fact that nowhere in the amending Bill is there even a suggestion that the Minister for Conservation and the Environment, or any other Minister, will direct the EPA, or decide what advice will be given by that authority.

The Minister indicated that the EPA will make up its own mind on what its recommendations will be. In conclusion I would like to refer to the Minister's comments when he said that the Bill would enable the Minister for Conservation and the Environment to be advised by a variety of sources. In my opinion this is very important. He mentioned a totally independent EPA, the Conservation and Environment Council, its own department, and the public. He continued—

> I am sure that the member of the general public who worries about various conservation matters will be interested in the streamlined method for consideration of any matter a person may identify as a possible cause of pollution.

I have received many letters from my constituents and in particular from a group which said it had voted for me at the last election—which is a matter of conjecture, as one never knows for whom people vote. These people said that if I voted for this Bill I would not gain their support again. That is a risk I am prepared to take. In my answer to them I said their emotive feelings drawn out by the speculation and conjecture in the Press had no bearing on the Bill or what was in fact not before Parliament at the time. I indicated that when I received the Minister's draft and got a background to the Bill, I would make my decision and would vote in the best interests of the people I represent. Therefore, in doing this, I give the Bill my full support.

THE HON. G. E. MASTERS (West—Minister for Conservation and the Environment) [8.31 p.m.]: I thank members for their contributions, although I am very sorry that Opposition members have not agreed to support the Bill. I say that seriously because they seemed to have great difficulty in conjuring up an argument. They seemed to emphasise one point and I thought they could have supported most of the Bill.

The Hon. Graham MacKinnon said I must be a very lonely man standing here with no support; but I have plenty of friends tonight. I am not lonely, but I am hurt when I find that members like Mr Dans are opposed to the Bill. I am heartened by the fact that at least one person in this House apart from me recognises the great importance of the Bill. He is appropriately dressed for the occasion, and I refer to the Hon. Mick Gayfer.

The Opposition seems to find something sinister in the Bill. There is nothing sinister in it. The Hon. Phillip Pendal made a fair comment when he said quite rightly that whatever we had placed in the Bill and however we had changed the Act, the Opposition would oppose it.

The Hon. H. W. Olney: We are here to help you.

The Hon. G. E. MASTERS: I appreciate the remarks of the Hon. Howard Olney who has made most of the running for the Opposition and I will endeavour to answer the questions he has raised.

The changes to the Environmental Protection Act obviously had to come at some stage or another. The Opposition spokesman for the environment in another place is present tonight and is listening to the debate. At one stage of his contribution he said that the Environmental Protection Act had worked fairly well over the past nine years. I agree with him; but surely after nine years it is deserving of some sort of change. We have done this. The Hon. Margaret McAleer used an expression I had not heard before; she said there cannot be a fly in the amber. That is very environmental in its connotation.

The main amendment is designed to increase public participation on the EPA. On this subject we must be reminded that the Opposition and other people seem to be very strongly opposed to the Bill's provision for public participation on the EPA. I thought they would have said, "Well done. It is good to see more public participation and public involvement." But no, they want only two out of three public members on the EPA. They say it is a bad move which will weaken the authority. I would have said that, as the EPA is a watchdog for the public on conservation issues, the more public participation the better. Public members of the EPA stand aside from the Government and the department. They can give advice free from our directon.

I would say that the EPA's job is very definitely to advise the Government and it is a complete fabrication to say it has never had the opportunity to advise the Government. It should do so in a free and proper way and it has done this over a long time. For the work it has done over the nine years the EPA has been operating I place on record the appreciation of Governments. The two chairmen (Dr O'Brien and Mr Colin Porter) have operated very well. The other two members of the EPA (Professor Bert Maine and Mr Philip Adams, QC) have done and will continue to do a good job. I have not finished with them yet, and I am looking to more work from them. I make that clear to them.

The Hon. Phillip Pendal mentioned that had the situation been different and the Opposition had been in Government, its attitude would be different. If the EPA had had three members of the public as members and we had tried to remove one of them and place a Government man on the authority instead, Opposition members would have said, "Rotten, foul, this must not be done!" The Opposition is opposing the Bill for the sake of opposing it.

The Hon. H. W. Olney: If it had been working okay you should not want to make a change.

The Hon. G. E. MASTERS: The EPA had been working fairly well; that was said by the Opposition spokesman in another place. However, that does not mean it could not be improved and so this is the purpose of the exercise. We believe it can be improved by its having three members of the public on it.

I have been asked why we are making this change. It is because we believe it would be better to have three members of the public rather than two. When a person is working under two very important hats—that is, as Chairman of the EPA and as director of the department, bearing in mind that the director on many occasions must attend Government committee meetings and other committee meetings—he might be part of a decision made by a certain committee and he might then go to the EPA and take part in another discussion after which a decision might be made to disagree with the previous decision. As director of the department he is part of one decision and as chairman of the authority he is part of another decision. Even worse, in that situation he has then to be the spokesman for the EPA. I think it is fair enough to have as chairman a man or woman who is not part of the Government and who is not making decisions which may clash.

The Hon. R. Hetherington: Has he complained?

The Hon. G. E. MASTERS: No; I am sure he would not, no more than Dr O'Brien would have complained. I am sorry if the Hon. Robert Hetherington cannot follow my line of argument.

The Hon. Neil Oliver: This was foreshadowed when the Bill was introduced in 1971.

The Hon. G. E. MASTERS: There was a need to look at the whole situation and this is what we did. The comment was made that there should be two members on the EPA representing the environment and conservation. At present there is one such person plus the director of the department, who need not be, but in most cases would be, a very skilled and experienced environmentalist.

If we look at the record it may well be that we find Dr O'Brien came as a space scientist and Mr Colin Porter came as a mechanical engineer, yet they both became very good and skilled environmentalists.

The point was raised about the need for a legal practitioner to be on the EPA. I queried this in the early stages and discussed it with the people involved. Mr Phil Adams, QC, has done a tremendous job because of his knowledge of the law, of the intricacies of legislation, of big and small land agreements, and so forth. It could certainly be that two environmentalists or even one would not have that wide knowledge. Members should bear in mind that the best committee would comprise one person. If we go to two or three we are doing as well as we can. All the argument against its having a legal practitioner can be ignored if we consider past experience, as Mr Adams has invariably been essential in the consideration of many problems.

The Hon. Howard Olney raised a question about the term of a chairman, and the Bill proposes a term of four years. He would be entitled to such remuneration as was decided. He would not be under a Government or ministerial contract as was Dr O'Brien. He would not be a public servant as is Mr Porter.

It was stated that the best man was to be taken from the most important job on the authority. I do not know whether Mr Porter is the best, second best, or third best man; but it is important to have a good man in charge of the department because he has to organise work programmes and he is in charge of experienced research scientists. One such man was mentioned tonight; that is, Dr Chittleborough. He has been placed in charge of the marine research section in my department because he was considered to be the best man for the job.

The Hon. G. C. MacKinnon: Who made the criticism?

The Hon. G. E. MASTERS: I did not mention the Hon. Graham MacKinnon.

The Hon. G. C. MacKinnon: It came from one person.

The Hon. G. E. MASTERS: I will not get involved with the honourable member; he knows the Government made a very wise choice in placing Dr Chittleborough in charge of this important job. What I am pointing out is that the director of the department has to deal with very qualified people and so he has to be a good type. There needs to be an evaluation of the material brought forward. There are many technical programmes that must be managed and directed, and all this is the job of the director of the department.

The Hon. Howard Olney referred to the new member of the conservation council. Incidentally, he could be anyone; he could be a public servant, but I intentionally left the position open in order that I might have the opportunity to bring in someone from the public arena. I am a strong advocate of this sort of thing. I thought it fair enough to leave it open so that we could pick the best man without any political bias being involved.

The Hon. H. W. Olney: You seem to be going a long way about saying nothing.

The Hon. G. E. MASTERS: We resolved that the president of the council should not be also the Chairman of the EPA and so we decided on this

avenue to tackle the problem. There is no suggestion that the new person would be the president of the conservation council. I have a list of the deputies of the conservation council which I can supply to the Hon. Howard Olney.

The Hon. H. W. Olney: They don't have the qualifications that the person for whom they deputise must have.

The Hon. G. E. MASTERS: The member will be very surprised; he will be thrilled to bits.

The Hon. H. W. Olney: I am waiting for you to come to Mr Oliver's comments!

The Hon. G. E. MASTERS: Give me time; I have to answer the questions raised in order to get the record straight and so that we have no trouble during the Committee stage.

The Hon. Graham MacKinnon said there was prejudice in the drafting of the Bill; he said there was prejudice on the part of one of the persons involved. That is not true and I am resentful of that remark; it was not necessary. I am disappointed it was made. I had a committee of my own party which did a very good job. It did a great deal of work in considering the changes necessary and in coming forward with advice. It was ably chaired by the member for Vasse.

That was mentioned by Mr Barry Blaikie, MLA, in another place, who has done a great job. For his involvement I would like to express my appreciation to him and have it recorded in *Hansard*. There was still talk about system 6. I think the Hon. Graham MacKinnon and then the Hon. Neil Oliver spoke about it. System 6 is the same as any other system and it will be completed and placed in the "Green Book" for the public's consumption. The public will have an input and then the EPA will deal with it and put it into the "Red Book". That has been the policy and we will follow it in this situation.

The Hon. A. A. Lewis: Will it be just the same?

The Hon. G. E. MASTERS: It has to be. It will be put up for public input and then will go to the EPA which will consider it again and give it to the Government.

The Hon. G. C. MacKinnon: Can you assure us that the rumours are not true?

The Hon. G. E. MASTERS: Yes. Is the honourable member saying the Government is trying to suppress system 6?

The Hon. G. C. MacKinnon: What about the rumours concerning the reasons for the changes?

The Hon. G. E. MASTERS: The rumours are not true.

The Hon. G. C. MacKinnon: They have been passed by many people.

The Hon. G. E. MASTERS: It is recorded in *Hansard* that the Government states the rumours are not true.

The Hon. A. A. Lewis: Will Cabinet accept the system in total like the others?

The Hon. G. E. MASTERS: The Hon. A. A. Lewis knows very well that system 6 will probably take six months to reach Cabinet.

The Hon. A. A. Lewis: You said the same would apply as with the others.

The Hon. G. E. MASTERS: I cannot forecast what Cabinet will do.

Several members interjected.

The PRESIDENT: Order! I ask the members who interjected not to interject again. I ask the Minister not to carry on a conversation across the Chamber and to direct his comments to the Chair.

The Hon. G. E. MASTERS: The Hon. Win Piesse made a comment which was fairly close to some feelings I have about this matter. She spoke about the right of entry of inspectors. The Hon. Graham MacKinnon said in this House only an hour or two ago that we brought in this type of provision and that he was against it. In many cases wildlife inspectors and other inspectors have been able to enter private property and carry out an inspection without a warrant. I remind the Hon. Graham MacKinnon that about two or three months after I entered this House the Hon. Bill Withers and I crossed the floor when such a situation was debated. I have always strongly disliked the idea of inspectors being able to enter premises without good cause or without a warrant. I have had included in the Environmental Protection Act a provision to restrict such entry by inspectors. The Hon. Graham MacKinnon led me into bad habits in regard to my crossing the floor.

To sum up the situation, let me say the Government does not support development at all costs, and that is the point which I emphasise. It is certainly not true that the Government supports development at all costs. If we examine development projects in this State we will find the Government has carefully considered the projects to ensure environmental issues are well and truly catered for. Admittedly some people in the community would stop development at any cost, and we all know who they are and from where they operate. But I do not think many people take them seriously.

The Environmental Protection Authority will be a public group. I would think that is something for which the public are calling—more public input. All through this Bill it is stated the Minister "shall refer" and that the EPA "may" take certain action. The Bill does not purport to direct the EPA to do certain things, but directs the Minister to take certain action. The director of the department is entitled to attend all meetings of the EPA which will mean there will be a working together—a liaison and understanding between the director and the EPA. No cutting off will occur, and that is an important thing which seems to have been overlooked.

The Hon. Win Piesse made the point that we are all concerned about the environment. At least 95 per cent of our concern in relation to such matters is directed towards our preservation of the environment. There would not be one person here who believes in development at all costs. Companies are aware of the situation and certainly members on both sides of this House are very aware of the issues involved. We must have a balance between the human and the natural environment, and to attain that is a responsibility which we as members of this Parliament have. I would say this Bill will result in our most certainly having an improved Act and the best Environmental Protection Authority in Australia. I thank members for their support.

Question put and a division taken with the following result—

Ayes 18

Hon. N. E. Baxter	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pendal
Hon. H. W. Gayfer	Hon. W. M. Piesse
Hon. T. Knight	Hon. R. G. Pike
Hon. A. A. Lewis	Hon. I. G. Pratt
Hon. G. E. Masters	Hon. P. H. Wells
Hon. N. McNeill	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. Margaret McAleer *(Teller)*

Noes 8

Hon. J. M. Berinson	Hon. R. T. Leeson
Hon. J. M. Brown	Hon. G. C. MacKinnon
Hon. D. K. Dans	Hon. H. W. Olney
Hon. R. Hetherington	Hon. F. E. McKenzie *(Teller)*

Pairs

Ayes	Noes
Hon. P. H. Lockyer	Hon. Peter Dowding
Hon. R. J. L. Williams	Hon. Lyla Elliott

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. G. E. Masters (Minister for Conservation and the Environment) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 9 repealed and substituted—

The Hon. H. W. OLNEY: I move an amendment—

> Page 3—Delete the passage commencing with the passage ", of whom—" in line 7 to and including the passage "matters," in line 14 and substitute the following—
>
> > "of whom at least two shall be persons with a knowledge of and experienced in environmental matters,".

The amendment I have moved is slightly different from the one which has been circulated. However, in the typed copy that went to most members the words "of whom" were omitted from the commencement of the amendment. The effect of this amendment will make proposed section 9(2) read—

> The Authority shall consist of 3 members appointed by the Governor, of whom at least two shall be persons with a knowledge of and experienced in environmental matters,

Then the clause will go on to state—

> . . . but no Council member or person who is employed under the Public Service Act 1978 shall be eligible for appointment.

The effect of the proposed amendment will be substantial and would retain the status quo as far as the authority is concerned. It would ensure that two of the personnel are people with the knowledge and experience in environmental matters that is necessary and is of course the state of affairs at the moment because we have the director plus one other person with those qualifications. As I indicated during the second reading debate that for the purpose of this proposed amendment the Opposition compromised somewhat by retaining the exclusion of public servants. We did that not out of conviction but out of a desire to try to put forward a proposal which we feel will render this part of the Bill better than was the proposal put forward by the Government.

The amendment has two main thrusts. One is to ensure that there will be two environmentally aware people on the EPA and thus the present situation will be maintained. The other thrust is to eliminate the proposed provision which has crept into this Bill and relates to the requirement for the appointment of a legal practitioner of not less than seven years' standing. The Minister in his second reading speech made no mention of the

change sought to be made which would require the appointment of a lawyer to the EPA.

Upon a perusal of the second reading speech one can see no indication that that change will be made. However, the Minister in his reply to the second reading debate indicated the reasons for such an appointment. I must say they were far from convincing, and if indeed there were any real reason for such a change then that reason ought to have been expressed when the Bill was introduced.

Much has been made of the fact that Mr Adams, QC, has done a sterling job as as a member of the EPA. I must confess I have had no personal contact with the EPA members or, in particular, Mr Adams, in regard to matters that would enable me to make an assessment for myself. I accept the assessment of people more knowledgeable than I am in regard to this matter and I accept that Mr Adams has made a significant and substantial contribution to the authority. I am not surprised that this is so. I know of Mr Adams from his work in other fields. It seems that he is a man of many parts and actions. He was one of the original founders of a tax avoidance industry in Australia and he wrote a text book on that subject many years ago before it was a fashionable field of practice. He is a man who has chaired important committee inquiries. I recall that in about 1969 or 1970 he chaired a committee of inquiry into the then Licensing Act and that he was the originator of the present Liquor Act.

He is a man of wide experience and great capacity. It is probably an accident that he happened also to be a lawyer of great standing. But, this does not mean that because we happened to be looking for a man of that capacity to be appointed to the EPA some years ago, we should insert into the Act nine years later, a requirement that on every occasion a lawyer of seven years' standing must be appointed as a member of the EPA.

It is all very well to say that in the deliberations of the EPA a Queen's Counsel such as Mr Adams has been invaluable. I do not doubt the advice and assistance he has given has been invaluable to the EPA. But that does not mean to say that lawyers appointed to the EPA in the future will have the same sort of professional background as Mr Adams has. The qualifications set out in the Bill are that he must be a legal practitioner of not less than seven years' standing. He may be a workers' compensation lawyer, a company man, a tax man, or a man experienced in family law. It does not matter much as long as he has seven years' standing which, of course, is one year less than that required for appointment to the Supreme Court bench. There is no guarantee that the legal practitioner will be any good, and certainly no guarantee that the person obtained will replace the skills displayed by Mr Adams. If any other authority, business, or company wants expert legal advice it goes to an expert legal adviser experienced in that particular field. One does not look around for somebody in the shop, as it were, who can give a quick free opinion off the cuff there and then.

No convincing reason has been given by the Minister to indicate that the workings of the EPA necessarily will be improved by a lawyer of seven years' standing. It is interesting to note that despite some unkind comments some of us have had to live with in this place, this Government apparently has a high regard for members of the legal profession. I cannot imagine why. I know there is another Bill somewhere in the Parliament requiring a lawyer to be on the dental board, or on the chiropractors' board. In fact, there seems to be more work available for lawyers on boards than there is on the terrace. Perhaps that is the reason the Government is looking after our profession so well. Those who cannot get a job on a board or a brief on the terrace have had to come to Parliament to make a living!

I urge the Committee to accept this amendment which effectively will maintain the status quo and eliminate what I suggest is an unnecessary restriction on the Government by requiring that one of the members of the EPA be a legal practitioner.

The Hon. G. C. MacKINNON: In the spirit of review, this seems to be an eminently sensible amendment. It is my intention to support it, unless I hear very cogent argument from the Minister as to why it should not be supported.

To some extent my heart bleeds for the Minister. For many years I have tried to find people to appoint to boards. Only a week ago I was discussing this matter with the ex-Federal Minister for Administrative Services (the Rt. Hon. Senator R. G. Withers). He was telling me how he wrote to various people and irrespective of to whom he wrote he got exactly the same list of names. I can recall writing to the president of our policy-making committee and he sent me one name. My most satisfactory respondent was the Hon. Ray Young.

It is not easy to find people to appoint to boards. Indeed, it is extremely difficult. The Hon. Howard Olney mentioned lawyers, a great number of whom are on boards which look for learned gentlemen to take up those positions.

I can recall setting up the Chiropractors Registration Board and I think I went through a dozen people before I found one who had the time to do the work.

The Hon. D. J. Wordsworth: The shortage of time is the limiting factor. They are not interested in the $46 per half day.

The Hon. G. C. MacKINNON: I have been to a Government function tonight and I met fellows who are on boards. In the face of the Hon. R. G. Pike's committee, they are even less enthusiastic. The reason lawyers are sought for boards is that they are trained in listening to evidence, as is the Hon. Howard Olney.

I will come to the crux of the problem, and I would like to hear an opinion from the Minister. Incidentally, it is difficult to follow the debates which took place in 1970-71 because the speaker at the time (Mr Toms) died and there was a by-election. In 1971 the Hon. J. T. Tonkin introduced the original Bill and he gave great credit to the director (Dr Brian O'Brien), who was appointed before the Act was proclaimed on which Mr Tonkin said that Dr O'Brien had taken an active part in advising the Government on the Bill.

It is my understanding that this gentleman had a great deal to do with the drafting of this Bill. He does not draft the legislation as we receive it here, he explains it to the Parliamentary Draftsman. I have not heard any credit given to him for doing that work, as I understand is his due. I admit I was away at an official function which I attended in my capacity as State president of the scouts, but I have not yet heard that he may have changed what I know to be a fairly deep-seated philosophical belief of him.

The Bill which was passed in 1971 was what it ought to have been. I do not know what changed his mind unless it was a very firm instruction from the Minister. I think that should be made clear, for a variety of reasons, otherwise it does make him, as a consultant, look as though he changes his mind when the wind changes. I think that ought to be clarified, if, indeed, it needs clarification. If he has seen the light and suddenly decided the director should not be the proper source through which Government views are conveyed to the EPA, and he genuinely has had a change of heart, that is fair enough. There is no offence, and there is nothing wrong with that.

If the Government has changed its mind we look forward to amendments being made to many other Acts. It is odd. Reference has been made to my speech on this matter, but I wonder how many people analysed the present Premier's speech which appears at page 1944 of *Hansard* of 1971. I wonder how many people have checked that speech to see whether on that occasion the Premier foreshadowed any possible trouble, or even the remotest possibility of trouble in having the director on the Environmental Protection Authority.

That brings me back to the point from which I find it difficult to escape. I have heard nothing that will release me from the view that the matter is one of prejudice against Mr Porter. He has acted in accordance with the Act. He has done nothing wrong because the Minister, and everybody else, has assured us that nothing of that sort has happened. We take the Minister's word for that. It seems to me we come back to the very regrettable situation that the Government must indeed be prejudiced.

One member is to be a lawyer, and the other two members ought to be, as the Hon. Howard Olney has said, people with knowledge of and experience in environmental matters. We can no longer claim these people are not available because there is a great interest in the environment. In a sense, some people become a little over-influential but there must be some middle-of-the-road sensible people who could be chosen. I am sure the Minister will be looking for someone like that.

I hope the Minister can answer the various questions I have raised on this point. I did not hear the whole of his speech in reply, but from inquiries I have made I understand he did little but reiterate his second reading speech, and was parsimonious in his explanation.

The Hon. G. E. MASTERS: In reply to the last comment by the Hon. Graham MacKinnon, I think I went into some detail on the question.

The Hon. G. C. MacKinnon: I missed some of your speech.

The Hon. G. E. MASTERS: Questions were raised and answered during the second reading. The Act has been in operation since 1971—a period of nine years—and surely during that time we must have learnt a few lessons and recognised there might be some omissions.

I am sorry the last speaker used the word "prejudiced" again tonight because it was unnecessary and untrue. I believe—and most members believe—that if it is possible to have increased public participation it will be to the benefit of the public. That applies certainly in an area as sensitive as environmental protection. If the public is seen to be involved more, they will feel involved more, and they will receive greater benefit from that participation.

Of course, I am opposing the amendment. The Bill states that at least one of the three members of the EPA will be experienced in environmental matters. We are talking about experience, with the help of someone from the legal profession whose help, over the last nine years, has been absolutely invaluable. In the light of experience, it was quite obvious it would be a good thing to include a legal practitioner as one of the three members of the EPA.

We have a third member, and he or she could quite easily be a person with great experience in environmental matters. However, that is not necessary. It is quite often an advantage for someone with experience in a particular capacity—he could be a space scientist or a mechanical engineer—to be brought in to take part in the activities of the EPA. Such a person would soon become part of the scene.

Apart from that, bearing in mind that we have three members, we seem to have lost sight of the fact that there will be a fourth person in attendance. That fourth person will be able to speak; he will be able to make comments; he will be able to advise; but he will not be able to vote. That person will be the director. Surely he is an experienced person in environmental matters; and he would be in attendance.

On page 10 of the Bill, clause 19 reads—

> (4) Notice of meetings of committees of the Council shall be given to the Department, and the Director or his representative shall be entitled to attend any meeting and to take part in the consideration and discussion of any matter before a meeting, but he shall not vote on any matter.

Surely that is an extra environmental input into the EPA. I would have thought, in the light of that, it would be fair enough to say that so the other position should be left open for someone considered adequate. There are a few such people around.

The Hon. A. A. LEWIS: The most horrifying comment made by the Minister was, "Of course, I am opposing the amendment." Such a statement indicates a closed mind to reasoned debate on the amendment.

It appears that the Minister has his little set of words in front of him, and the words do not quite balance with what he said in his second reading speech, as follows—

> The three-member Environmental Protection Authority will remain, but all members will now be private individuals.

If we look at the Bill, we see that the Minister slaps in a lawyer. I think it was Henry Ford who said, "You can buy professional advice." If I happened to be a cynic, I would think that the Crown Law Department, in drafting Bills such as this one, is trying to find promotional opportunities for lawyers of seven years' standing, because there is no other valid reason for there being a legal practitioner on the EPA.

The Minister has gone to great lengths this evening to point out that the EPA should be independent. The Minister quoted clause 19 on page 10 of the Bill; and I will not repeat all the garbage he went through.

The Hon. G. E. Masters: It is not garbage. It is in the Bill.

The Hon. A. A. LEWIS: The Minister mentioned that the director could give advice, but he could not vote—so that is an independent authority. Why then is it not possible for a legal gentleman to go in and give advice, and then disappear? As the Hon. Howard Olney points out,is the Government trying to do the job on the cheap and so obtain one legal eagle's opinion? I am sure the Minister will agree that legal eagles do not always agree.

What we want is an independent authority, all the members of which are dedicated conservationists. That is the prime thing.

In his second reading speech, the Minister said something about a lawyer being needed so that mining agreements and such like could be comprehended by the authority.

The Hon. G. E. Masters: I did not say "mining".

The Hon. A. A. LEWIS: The Minister disagrees that he said that?

The Hon. G. E. Masters: I said "project agreements". I did not say "mining".

The Hon. A. A. LEWIS: Other projects may be putting roads through, or building fences with pine logs.

The Hon. H. W. Olney: Asbestos fences.

The Hon. A. A. LEWIS: The Minister said a lawyer was needed. If that is right, there would probably be the need for an accountant to understand the value to the State. Will we have an amendment in the next year to put an accountant of seven years' standing on the board because an accountant understands the financial details of projects and would know whether they were to the advantage or the disadvantage of the State?

The Minister's argument is full of holes. His attitude is steadfastly against the amendment. I

know I am wasting my time by standing here; but I am horrified that somebody from my side of politics should bring forward such a clause and say that individuals are allowed to go on the EPA, and then start designating who the individuals are, and what sort of people they should be.

The Government wants to fill the EPA with legal expertise. The Government and the Minister should be big enough to accept this amendment. We all wish conservationists to be on the EPA. We wish the EPA to be independent. When the Minister continues with his "Of course, I am opposed to the amendment" attitude, we have severe doubts whether he is really genuine in wanting to make the EPA an independent authority. I hope the Minister understands that.

I supported the second reading for a purpose. There are some matters towards the end of the Bill with which I disagree, and I will comment on further clauses. In relation to this clause, I cannot understand, for the life of me, why the Minister wishes to insist on a legal practitioner. He has given no explanation, either in the Chamber or in private, for the necessity to have one. The explanations he has given in this place have not been valid. The Minister realises they are not valid; and he should accept the amendment.

Amendment put and a division taken with the following result—

Ayes 11

Hon. N. E. Baxter	Hon. A. A. Lewis
Hon. J. M. Berinson	Hon. G. C. MacKinnon
Hon. J. M. Brown	Hon. Neil Oliver
Hon. D. K. Dans	Hon. H. W Olney
Hon. R. Hetherington	Hon. F. E. McKenzie
Hon. R. T. Leeson	*(Teller)*

Noes 14

Hon. G. W. Gayfer	Hon. W. M. Piesse
Hon. T. Knight	Hon. R. G. Pike
Hon. G. E. Masters	Hon. I. G. Pratt
Hon. N. McNeill	Hon. P. H. Wells
Hon. I. G. Medcalf	Hon. W. R. Withers
Hon. N. F. Moore	Hon. D. J. Wordsworth
Hon. P. G. Pendal	Hon. Margaret McAleer
	(Teller)

Pairs

Ayes	Noes
Hon. Peter Dowding	Hon. P. H. Lockyer
Hon. Lyla Elliott	Hon. R. J. L. Williams

Amendment thus negatived.

The Hon. H. W. OLNEY: There is one further point I wish to raise in relation to this clause. I touched on this in my second reading speech. It relates to the final passage in proposed new subsection (2) that reads—

> but no Council member or person who is employed under the Public Service Act 1978 shall be eligible for appointment.

Of course, that relates to appointment as a member of the EPA. In his second reading speech, the Minister said that the original director had not been a public servant, but had been employed under some contractual arrangement.

Section 14 of the Act, relating to the appointment of the director, is in the following terms—

> 14. (1) The Director may be appointed—
> (a) by the Governor for a term not exceeding seven years, or
> (b) under and subject to the Public Service Act, 1904.

It appears from that section that the director need not necessarily be a public servant. In terms of the amendment, he need not be a person employed under the Public Service Act, as indeed the original director was not.

I suggest that the amendment has closed the door to a public servant like Mr Porter, but it has not closed the door on the possibility of a future director, who is appointed under section 14(1)(a) by the Governor under a contract not exceeding seven years, and not under the Public Service Act, from being appointed not only to the authority, but also, if the Minister so desires, as the chairman of the authority.

Can the Minister say whether that is his understanding? If my understanding is correct, it raises a doubt as to the real reason for the amendment which could exclude the appointment of a particular director who happens to be a public servant, and leaves the door open to a future appointee as director, as has been the case in the past.

If members look at section 14 they will see it is quite clear a director who is appointed by the Government for a term not exceeding seven years—that is, one who is not a public servant—is indeed not a public servant. If that were not the case, why are there certain provisions which enable him to be a permanent head of a department? That in itself would not make him a public servant under the Public Service Act.

I raise this question in the hope the Minister can explain the position and indicate what I have suggested is the case is in fact his understanding.

The Hon. G. E. MASTERS: Firstly let me say the amendments to the Bill are certainly not aimed at one particular person. As I understand the situation, it is intended a person from the public sector would be a member of the EPA and he would not be a public servant. That is the intention and the aim, Section 14 of the Act says that a director may be appointed by the Governor

for a term not exceeding seven years. He may or may not be a public servant. He could be a public servant or he could be appointed under a private contract.

The Hon. H. W. Olney: What if he is under a private contract?

The Hon. G. E. MASTERS: He is not a public servant; but the intention is that, as far as possible, we should have representatives from the public sector.

The Hon. H. W. Olney: What will happen if you get a terrible Labor Government which uses that power to have as a director, a person who is not a public servant?

The Hon. G. E. MASTERS: If the Government of the day wanted to do that, it could change the law anyway.

The Hon. G. C. MacKINNON: I should like to point out this Act was passed through the Chamber when a Labor Government had a resounding majority. The Minister is fully aware the possibility of a Labor Government having a similar majority in this Chamber is remote indeed.

The Hon. R. G. Pike: Whose side are you on?

The Hon. G. C. MacKINNON: At the present time I am against the Bill. I hope the member has got that into his thick skull! The Government of the day supported all the provisions in the Act, amendments to which we are dealing with now. Therefore, the way in which the question was answered was totally unfair.

The Hon. R. G. PIKE: I rise to make an interesting point here that, in discussion of the Bill, we should have consistency of argument. The member who has just resumed his seat argued quite recently in this Chamber about the fairness of the opportunity for members to be elected here. He has totally reversed his stance for an *ad hoc* reason and made an unfortunate remark about what is an eminently fair situation. He should be consistent, which he certainly is not.

Clause put and passed.

Clauses 5 to 21 put and passed.

Clause 22: Sections 54 to 57 repealed and replaced—

The Hon. H. W. OLNEY: The effect of this clause is to repeal four sections and replace them with three others. I move an amendment—

Page 14—Insert after line 19 the following—

> "57. The Authority may at any time after it has furnished to the Minister for Conservation and the Environment a report under subsection (2) of section 55 or a report and recommendations thereon under subsection (2) of section 56 to publish in any manner which it considers appropriate the terms of any such report or recommendations.".

Members who have taken the trouble to look at the parent Act will find in section 54 a series of provisions which set out the responsibilities and powers of the authority, when certain circumstances arise in relation to the affairs of the Minister for Lands. I do not need to go into them, but the net result of a reference under that section would be for the authority to consider matters which are submitted to it and consult with the Minister for Lands and furnish him with its recommendations.

Sections 55 and 56 of the parent Act have similar provisions relating to matters under the administration of the Minister for Lands and the Minister for Urban Development and Town Planning.

In identical words, except for the designations of the Ministers, in each of those three sections, subsection (3) appears reading as follows—

> The Authority may at any time after it has furnished its recommendations to the Minister for Lands under subsection (2) of this section publish in any manner which it considers appropriate, the terms of those recommendations.

I read from section 54. The amending legislation has the effect of virtually consolidating sections 54, 55, and 56 into a single section. I do not need to explain how that is done, because the Minister referred to it in his second reading speech. The procedure to be followed in the future will be slightly different in that it involves the participation of the Minister for Conservation and the Environment. As we have said, we accept it as being appropriate that these matters should be channelled through him.

However, in the course of the amendments, subsection (3) has disappeared. This gave the authority the power, after it had furnished its recommendations to the Ministers concerned, to publish in any manner which it considered appropriate the terms of those recommendations.

The thrust of my amendment is to include as a new, separate section—I suggest this be included as section 57 to fill the vacancy, because it fits conveniently into the scheme of the Act—a provision which restores to the authority the power to publish its recommendations after they have been submitted under either section 55 (2) or section 56 (2) of the amendment.

I anticipated the response of the Minister on this point in the second reading debate, because the Minister in the other place—I assume he was right—indicated this power exists already under section 30(4)(m). If this is so, I assume the Minister would not object to the amendment we propose, because proposed new section 57 will simply say the same things, perhaps in more particular words and in a more appropriate place in the Act, as section 30(4)(m) says already in more general and somewhat more oblique terms.

Either the position is that section 30 covers the situation envisaged by my amendment or it does not. If it covers the situation there is no harm in my amendment and in fact I would suggest it is very sensible, because it spells out in that part of the Act where the relevant sections are, a specific power which one would expect to find there and which one always found there in the past.

If, on the other hand, the Minister is wrong and section 30(4)(m) does not cover the situation, the question arises as to why the power of the authority to publish its reports and recommendations has been taken away from it. This is not a matter which has been canvassed in the second reading debate. I can only assume the Minister believes the authority retains the power to publish its recommendations in the same way as it did before.

Therefore, I urge the Minister to accept this amendment in case at some later stage a learned judge—it might be the lawyer on the EPA—says to the authority, "No, that provision in section 30 is not enough to enable you to publish those reports under sections 55 and 56." If that occurs proposed new section 57 would enable the reports required to be published by the authority to be published.

I commend the amendment to the Committee.

The Hon. G. E. MASTERS: I am afraid I will have to oppose the amendment. It does not appear to be necessary, as the member seemed to suggest I pointed out to him. I ask members to look at section 30. I know that perhaps it is a matter of interpretation, but the best advice I was able to obtain from the Crown Law Department and another lawyer was to the effect that subsection (4)(m) of that section does all the things the EPA would need it to do. I am aware this provision has been read out previously, but it says—

> Publish reports and provide information for the purpose of increasing public awareness of the problems and remedies which exist in relation to environmental pollution.

Under the powers of the authority in section 30(1) the following provision appears—

> The authority has all such powers, rights, and privileges as may be reasonably necessary to enable it to carry out its duties and functions.

That is a clear indication of the powers of the authority.

The functions of the authority are spelt out in section 29 and the duties in section 28. The member does not need to insert this new section, because the position is spelt out clearly in the appropriate place; that is, under the powers of the authority. The authority is not subject to the Minister in regard to its powers or functions. The provision says clearly the EPA is able to publish such documents as it may wish. In other words, it is a decision it makes; it is not a direction.

The amendment moved by the member is not necessary, because it would simply be a duplication of the position and we oppose it.

The Hon. H. W. OLNEY: I am reassured by the Minister's comment that this amendment is unnecessary. My reassurance is somewhat fortified because he said his view is based upon the best legal advice available from the Crown Law Department. It is interesting to note that in 1971 section 30 was introduced—as it is in its present form—and the equivalent of that section appears three times in the Act. It appears in sections 54, 55, and 56. Apparently, in 1971 the legal advice must have been given to make sure that there was the power of publication and it was put into the legislation so that there would be no argument. That is what I am asking the Chamber to agree to. We come back to the position where there is a general power and someone has included it in the legislation so that there will be no doubt.

The Hon. G. E. MASTERS: I wish to advise the honourable member that sections 54, 55, 56, and 57 have all been completely revamped and the situation is not completely the same as it was in the past.

The Hon. R. HETHERINGTON: Having listened to the Hon. Howard Olney, I am quite amazed that the Minister refuses to accept this amendment. He has said that what is written in the amendment is desirable and he is claiming that it is in the legislation already. Of course people in the Crown Law Department have been known to be wrong and the Minister himself is not infallible, and he would be the first to agree. Therefore, I cannot understand the reason he cannot allay these fears and accept the amendment. It is a simple thing to do and, as a

result, everyone would be happy. The Minister would be happy because he thinks it is in the legislation and indeed we would be sure it was in the Bill. However, I am not entirely convinced by what the Minister has said and perhaps he could convince me by the simple act of accepting the amendment.

Amendment put and negatived.

Question put and passed.

Clause 23 put and passed.

Clause 24: Section 68 amended—

The Hon. G. C. MacKINNON: I rise on a point of explanation because I have just corrected my speech and I wish to qualify what I have said. I said that an inspector of the Potato Marketing Board could go onto any property without a warrant. A similar power is provided under the Health Act. The Minister has pointed out that he crossed the floor to ensure that people must just obtain a warrant. Whilst there must be a warrant, we can go back to the matter of an ordinary individual who happens to be a member of the authority and because he has the okay, it is all right for him to enter a property. Surely that does not square with the initial reasons the Minister crossed the floor.

I wonder whether the Minister would explain how he relates a member of the authority to a justice of the peace or someone else with the power to issue a warrant.

The Hon. G. E. MASTERS: First of all, being a landowner, I have always had the feeling that I would not like people to come onto my property without just cause and without much more power than a policeman. I have always stuck to that opinion because whatever the position may be it does not make it right as far as I am concerned.

However, we are talking about a situation where there may be some sort of emergency such as a broken sewerage pipe which causes pollution. Perhaps in such a case it is not possible to contact the landowner and therefore someone must make a decision very quickly. Admittedly, a member of the EPA would be an ordinary member of the public, but of course he would be a member of the highest calibre. In an emergency situation a member of the authority could go onto the property, but that person would have to justify his actions and if no justification could be made, action could be taken against him.

The Hon. G. C. MacKINNON: With the matter of a broken sewerage pipe, the Metropolitan Water Board would take action, and therefore there would be no need for the EPA people to be involved. It is obvious that there is some suspicion with regard to the powers of authorities and the like, otherwise the Government would not have agreed to the committee being chaired by the Hon. Bob Pike.

I agree that property is very important and I think that in much of our legislation we have not considered the value of property. It is necessary to have such powers with regard to the Health Act, but the Minister has not convinced me that the powers are necessary under this Act. If the Minister mentions an oil spill, then there is special provision for that occurrence and similarly there is a provision under the Clean Air Act if there is trouble of that type. It seems to me that the Bill is so ill-drafted in many areas that this is a part in regard to which again we have taken fright and have not been prepared to go the whole way.

People who have been appointed to this authority should not be given a special dispensation because they have not been examined in the way a justice of the peace has. I am sorry, but the explanation of the Minister does not satisfy me.

The Hon. I. G. PRATT: I ask the Minister whether the example he stated could in fact apply to a septic sewerage system on a property close to the river or a stream where the health requirement is such that a pump and a sump would be required to pump the effluent away from the property. In such a case the Metropolitan Water Board would not be involved; it would be a private matter for the owner of the property. Is that the sort of situation to which the Minister is referring?

The Hon. G. E. MASTERS: That is a fair comment by the Hon. Ian Pratt and it is an instance which would be regarded as an emergency. If pollution were caused to the river then that would mean the EPA would be involved and some action would have to be taken. It is most likely that if it were holiday time and the owner could not be contacted, a member of the EPA would be available to make a decision.

This would be an emergency situation, but it would still have to be justified.

The Hon. H. W. OLNEY: This is a matter which has arisen from the Minister's comments to the Hon. Ian Pratt and his earlier comments. I understand that when a member of the authority gives permission for an entry to be made on a property in circumstances which involve an emergency the member of the authority is in some way accountable later on to justify his actions.

I query whether this is in fact the case because there is certainly nothing in the Bill which suggests that this is so. Indeed, I query whether it

is appropriate and whether it should be so. It seems to me from the comments made by the Minister that it may lead members of the authority to believe that they have to answer to some other authority or other colleagues on the EPA if they should in fact give this consent under subclause (5) of the Bill. I wonder whether the Minister can comment on that?

The Hon. G. E. MASTERS: We are talking about an emergency and the actions which must be justified. I think the landowner would be able to take action if the behaviour of the EPA was not considered justified. However, we are looking at a situation under which pollution is caused, in say, a river area or perhaps in the Yunderup development where houses are close to the river and a septic system is in operation. If the owner cannot be contacted and obvious pollution occurs to the river then some sort of action would have to be taken.

The Hon. H. W. OLNEY: I hope the landowner who punches the inspector on his nose whilst trying to keep him off his property because he thinks the inspector is there for a frivolous reason can call the Minister as a witness in his defence!

I suspect the courts would not take a view similar to that of the inspector and a member of the EPA even if such persons had indicated that it was an emergency.

The Hon. G. C. MacKinnon: Is he protected at all for providing that permission?

The Hon. H. W. OLNEY: One would have thought so. A member of the EPA is probably protected under some provision of the Act which protects members in the exercise of their functions.

The Hon. G. E. MASTERS: With the Bill we have before us and under the Act, he will be doing his job and if in fact an attack were made on his person, I am sure that he could take the necessary action. I think the Opposition is being frivolous.

The Hon. G. C. MacKINNON: Mr Olney has raised an interesting point. If the member of the EPA who signs a warrant for someone to enter a property is protected, then I take it a justice of the peace is protected if the inspector enters a property in the function of his business. A justice of the peace would not sign a warrant if he did not think it were necessary. It is obvious the Minister will have his Bill passed and it would be wise to ensure that the members of the EPA are in fact protected.

The Hon. G. E. MASTERS: Section 87 says—

> A person who is or has been—
>
> (a) an Authority member or a Council member, or a deputy of such a member;
>
> (b) an officer, employee, servant or agent of the Authority, the Department or the Council;
>
> (c) a delegate of the Authority,
>
> is not personally liable for any act of the Authority, the Department or the Council or of the member, deputy member, officer, employee, agent or servant acting as such.

I think that would indemnify the person.

Clause put and passed.

Clauses 25 and 26 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

THE HON. G. E. MASTERS (West—Minister for Conservation and the Environment) [10.01 p.m.]: I move—

That the Bill be now read a third time.

THE HON. G. C. MacKINNON (South-West) [10.02 p.m.]: Tonight I have opposed this measure because I simply do not consider the amendments in it will necessarily assist my lot in my electorate, the lot of the Hon. June Craig, the lot of Mr John Sibson, or, indeed, the lot of any other member.

Nevertheless, I want to place on record this statement: I do not think the EPA will do as good a job in the future as it has done in the past from an administrative and purely political point of view. I think from the point of view of Government management of the State it is a retrograde political step. Although I do not believe the introduction of this Bill was politically wise and I think its introduction is a retrograde step, nevertheless I want those people who do, and perhaps some of those who only may, believe in me in my electorate to be able to read that I consider their interests in respect of the protection of the environment will be as closely safeguarded in the future as they have been in the past. I do not believe this Bill involves anything other than prejudice about one man, and I do not think that one person is deserving of that prejudice. I happen to like the man, and I happen to admire him.

Anyone who reads this debate and considers it in order to obtain guidance with regard to the establishment of the Worsley alumina works in the area adjacent to my home, or with regard to the establishment of either of the smelters which

may or may not be erected, or with regard to the establishment of the urea-formaldehyde plant, should be able to rest assured that the department will be working in his interests, and reports will be honestly and properly prepared. I have said nothing tonight that would give any indication to the contrary. My comments have been about the political wisdom of the action taken.

I believe the department will continue to operate with the efficacy it has shown in the past, and that people can continue to rely on it, because I believe in the department. However misguided anyone may have been in taking the actions that have been taken, they will not be misguided in the appointments to be made. I believe the State will be searched to find people of integrity to do the job which is required of them.

THE HON. G. E. MASTERS (West—Minister for Conservation and the Environment) [10.06 p.m.]: Once again I really must refute the remarks made by the Hon. Graham MacKinnon—

The Hon. G. C. MacKinnon: You do not think they will do a good job?

The Hon. G. E. MASTERS: Let me finish, because Mr MacKinnon knows exactly what I am going to say. I refute the suggestion that any prejudice has occurred in the formulation of this Bill. Most certainly that is not the case and I want to go on record as saying so. I resent that sort of accusation being made in this place when in fact the Government has put forward this Bill in all honesty and sincerity, and we think it clearly will be of benefit to the State because it will involve greater public participation, which I support fully. I go on record as saying absolutely that the remarks made by the Hon. Graham MacKinnon in respect of prejudice are incorrect.

Further I would like to say that members are not misguided. They know exactly what this Bill is about and have studied it carefully. They have had every opportunity to consider it. The use of Dr Brian O'Brien as a consultant has been of great value, because he has a great knowledge of environmental matters in this State. I again express appreciation to him for the work he has done.

Question put and passed.

Bill read a third time and passed.

INDUSTRY (ADVANCES) AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [10.08 p.m.]: I move—

That the Bill be now read a second time.

This Bill provides for the amendment of the Industry (Advances) Act 1947-1961 and the repeal of the Assistance to Decentralised Industry Act 1974 in an endeavour to—

(a) remove the existing uncertainties as to which industries qualify for Government assistance;
(b) strengthen the guidelines for assistance;
(c) encourage the banking sector to assist the Government in developing new industries and in expanding existing industries, particularly small business;
(d) reduce administration procedures; and,
(e) provide a wider range of financial incentives to industry.

For some time it has been apparent that assistance to industry by way of the existing Industry (Advances) Act 1947 has required review.

Moreover, the guidelines for assistance under that Act have become complicated and in some instances confusing to applicants. These guidelines have now been reviewed and updated.

In addition, the Assistance to Decentralised Industry Act 1974, which provides for assistance to industries in regional areas by way of pay-roll tax, freight concessions, and interest subsidies, tends to discriminate against those businesses which are not required to meet pay-roll tax as the Act limits the amount of monetary assistance to the amount of pay-roll tax actually paid by the firm.

Administration of the Industry (Advances) Act has become time-consuming. The current procedure requires applications for industrial assistance to be made to the Department of Industrial Development and Commerce which, based on its investigations, makes a recommendation to its Minister who in turn makes a recommendation to the Treasurer.

In practice, the Minister's recommendation is referred to Treasury which in turn makes its own investigation and the Under Treasurer then makes

a recommendation to the Treasurer for the issue or not of a Government guarantee.

The Bill will remove these shortcomings and provide a wider range of financial incentives to industry.

The main feature of the Bill is the amendment of the Industry (Advances) Act, to incorporate—

(a) a new definition of "industry";
(b) provision for the Treasurer to delegate to the Minister for Industrial Development and Commerce authority to approve the issue of guarantees up to a specified limit; and
(c) new incentives to manufacturing, processing, and specified service industries by way of—
  (i) a capital establishment assistance scheme;
  (ii) regional industry assistance scheme; and
  (iii) a residual indemnity scheme for small businesses.

An outline on each of these features follows.

The Bill defines "industry" as any organisation which—

converts any raw materials into a different marketable form; or

by the addition of expertise and/or conversion of material, adds value to a product; or

provides specialised services and maintenance or repair facilities as direct support for resource-based production—not being actual resources production derived from mining, farming, or pastoral activities.

It includes also reference to the provision of tourist accommodation facilities in a decentralised location.

For many years guaranteed assistance has been provided to this type of industry under Cabinet policy when the Minister for Tourism recommends such assistance to the Treasurer, and it is intended this assistance will continue.

It may be noted that the new definition excludes reference to mining which was included in the original Act. It has been Government policy for many years not to provide financial assistance under this Act to mining activities and therefore it is considered appropriate to eliminate any reference to mining in the amended Act.

It is anticipated that the new definition of "industry" will remove the existing uncertainties as to which industries are eligible for Government assistance.

The Bill also provides for the delegation of his functions and powers by the Treasurer to the Minister, Under Treasurer, or any specified officer of Treasury. The reason for the proposed delegation to include the Under Treasurer or any specified officer of the Treasury is purely for the purpose of administrative functions and is primarily to relieve the Treasurer of the burden of signing numerous documents and to speed up procedures.

It is intended under this provision that the Minister for Industrial Development and Commerce will have the authority to approve the issue of the guarantees up to a limit of $100 000 to any one firm and an overall limit of $1 million in any one year.

In addition it is intended to provide for the Minister to have authority to approve assistance provided under the capital establishment and regional assistance grant schemes as well as the residual indemnity scheme.

The above delegation should streamline the processing of applications and overcome the present dual investigation of applications by both the Department of Industrial Development and Commerce and the Treasury.

As mentioned previously, the Bill provides for a new range of incentives to industry by way of capital establishment and regional assistance grants and a residual indemnity assistance scheme.

I shall now mention the main features of each of these schemes.

Capital establishment assistance scheme: Under this scheme, grants in the form of convertible loans will be available to approved new industry to assist with the capital costs of establishing the operation in Western Australia.

Paid as a lump sum before commencement of operations to a new project, this form of assistance can be considered as a contribution to capital costs and as such is unlikely to attract income tax.

It is proposed that capital establishment loans be based on—

(a) up to 15 per cent or a maximum of $200 000 of capital requirement of land, buildings, plant and equipment for a pioneer or non-competing industry establishing in a regional area; and
(b) up to 10 per cent or a maximum of $200 000 of capital requirement as defined above for pioneer or non-competing industry establishing in the metropolitan area.

The variation in percentages here is designed as an added incentive for industry to consider establishment in a regional area.

To protect the Government's position and ensure that the loan is expended in accordance with the agreement, assistance under this heading will be provided as an interest-free loan with the capital sum owing reducible by 20 per cent for each year of operation; that is, the loan is progressively converted to a grant on condition that the project continues.

Successful applicants will be required to give the Treasurer security to secure the balance of the loan outstanding from time to time.

Convertible loans will be transferable to a new owner only on the understanding that the objectives of the original company which attracted the convertible loan are fully met by the owner.

Regional industry assistance scheme: Under this scheme grants up to a maximum of $60 000 will be available to established industries in regional centres conforming to the new amended definition of an "industry". Grants will be considered where the applicant—

is not in competition with a similar venture in the region; and

is expanding the operations; or,

is diversifying to meet the needs of the region in which it is located; and,

the project is considered to be in the best interests of the State.

This form of assistance will be substituted for interest, pay-roll tax and freight subsidies currently provided under the provisions of the Assistance to Decentralized Industry Act. Existing agreements under that Act will continue at the approved level until they are extinguished.

It is intended assistance will be either by—

(i) annual instalments over three years which will be subject to annual review; in these cases the captial grants will be subject to a maximum benefit for each organisation of $20 000 in each financial year; or,

(ii) the amount of assistance assessed as above may be paid by a lump-sum capital grant calculated to present-day values;

(iii) where the grant is for the purpose of funding land, buildings, or plant and equipment for diversification, it will be calculated to be 15 per cent of the total investment, subject to a maximum prescribed amount of $60 000.

Residual indemnity scheme: Under this scheme residual indemnity assistance will be available for those small businesses employing up to 20 "full-time" employees, other than the proprietor and his dependents, and is engaged in the manufacturing, processing, or servicing industries.

This scheme is designed to support businesses that approach their banks for assistance, but are refused aid due to a lack of total asset backing. The Government will guarantee to qualifying applicants the balance of the loan which will not be met by the bank.

The main features of the scheme will be as follows—

(i) an approved lender is required to advance funds on a term loan to the borrower on approved terms and conditions, particularly in relation to interest rates and securities;

(ii) the lender administers the term loan in the normal manner and only in the event of all prudent action for recovery having been taken to the satisfaction of the Treasurer will the State pay out the indemnity;

(iii) the scheme maintains the existing client-bank relationship and the banks see advantage in improving this relationship; there are no fears that a flood of applications will embarrass their liquidity as the criteria to be established to qualify will ensure that only genuine applications are processed;

(iv) potential borrowers must meet the following criteria—

(a) they are unable to meet collateral requirements for borrowings from other sources;

(b) in remote areas prescribed by the Minister the loan guarantee will be no greater than 40 per cent of the total loan value and in all other areas 30 per cent of the total loan value;

(c) the maximum residual guarantee not to exceed $50 000 in remote areas and $30 000 elsewhere;

(d) as a rule-of-thumb guide, net equity investment in each enterprise so assisted must be equal to the amount of the guarantee requested;

(e) they should presently employ several persons apart from the proprietor and his dependents;

(f) the funds to be applied to expansion of a developed business or working capital to enable expansion;

(g) future viability must be established by submission of satisfactory cash flow statements and other required documentation.

(v) the lender must be satisfied that the borrower has the capacity to repay the total loan and the reason for the lender not assisting to the full 100 per cent of the loan is related only to the level of security available;

(vi) repayments on the loan must be applied towards extinguishing that part of the loan which is subject to the Treasurer's indemnity before the lender's secured loan is reduced—in other words, the State is last in, first out;

(vii) security for the residual indemnity to be in the form of an agreement between the applicant, the lender, and the Minister whereby it is understood that the State's liability is to be secured by charges immediately behind those held by the bank. It may be noted that whilst the initial level of security will be low, the reduction in principal over the life of the loan would reduce the State's exposure to potential loss;

(viii) preference is to be given to those industries which can demonstrate that funds will lead to direct employment of additional labour or, in the case of high technology, assistance to the ultimate benefit of the State;

(ix) total funding under this scheme will be up to $1 million in total loans guaranteed by the State at any one time.

The residual indemnity scheme has the support of the banking sector and the advantage to the Government lies in the fact that the applicant's banker will be responsible for the initial assessment of the application.

It is, of course, intended that the existing practice of guaranteeing term loans under the Industry (Advances) Act 1947, will continue.

With regard to the processing of applications in respect of all financial assistance programmes previously outlined, a review committee will be established comprising a chairman, appointed by the Minister for a period of three years; the Director, Department of Industrial Development and Commerce or his nominee; the Under Treasurer, or his nominee; a member representing industry, appointed by the Minister for a period of two years; and, a member representing the banking industry in Western Australia, again appointed by the Minister for a period of two years. The function of this committee will be to review recommendations in respect of all applications received.

It is considered the committee will provide additional expertise and experience in assessing the merits of each proposal.

In conclusion, it is emphasised that the Bill as a whole has been designed to improve and increase the range of financial assistance programmes available to industry, particularly small businesses.

As such, it is hoped the Bill will lead to positive results in the development of industrial enterprise and the creation of more employment opportunities.

I commend the Bill to the House.

THE HON. J. M. BERINSON (North-East Metropolitan) [10.21 p.m.]: In a time when mammoth projects are attracting so much attention in this State, it is important not to lose sight of the role of small-scale businesses, and especially of regionally based small-scale businesses. It is by now trite, but still true, to say that while they do not have the glamour of the major developments now proposed in this State, small businesses today, as always in the past, collectively provide the large-scale opportunities for employment for the residents of Western Australia.

It is in that context that the Opposition supports this Bill. Given that the legislation adopts almost verbatim such large tracts of our small business policy presented during the last State election, there is hardly any reason we should oppose the Bill; however, we do support it.

We accept the views the Minister expressed in his second reading speech relating to the desirability of certain administrative changes. We also accept those parts of the Bill which extend the possibilities for assistance beyond their previous limits.

This Bill comes to the Legislative Council, fresh off the press from another place where it was subject to very extensive debate earlier today. In another place, a number of amendments were moved. It is regrettable that the Government showed itself to be so inflexible towards the proposals put forward by the Opposition in respect of amendments which were designed simply to reinforce the advantages which the Bill itself offers.

I give members just one example: It is the view of the Opposition that it is not desirable to remove—as this Bill seeks to do—the possibilities of assistance to small-scale mining ventures. Such

a provision was included in the original Act. The reference to "mining companies" is now to be deleted and the only reason we have in support of such a move is the fact that, as a matter of practice, the Government has never provided assistance to that sort of industry under this legislation. So far as I can see, that is no justification for the change.

Again drawing a contrast between the glamour projects and the "rest"—so to speak—it remains true that a great deal of work on mining and resource development is still being undertaken by small-scale entrepreneurs and developers, and there is no reason in principle that the way should not be left open to provide assistance to them. That was the aim of one of the amendments moved by the Opposition in another place. However, it was rejected for no good reason that I can discern. Other amendments of similarly limited scope, and not at all flying in the face of the principle of the Bill, were also rejected.

Given the attitude of the Government as demonstrated earlier today in the other place, there does not seem to be a great deal of point in again moving identical amendments in this House. Perhaps with one or two exceptions we will refrain from doing so.

In summary, then, the Opposition supports the Bill in both its major respects; that is, in respect of its administrative amendments and its amendments related to the scale and scope of available assistance. We accept that the changes are desirable. We believe the Bill could have been improved with a little more flexibility on the part of the Government and, with only the slightest encouragement from members on the other side, the Opposition will be delighted to move in the Council the amendments which in another place in a negative fashion were rather sadly disposed of by the Government.

In general, though, our position is one of support for the Bill. We believe it is certainly in line with the policies which the Labor Party has been developing consistently in recent years.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [10.26 p.m.]: I am gratified by the attitude displayed by the Opposition when it supported this Bill. It is very good that part of the Labor Party policy—which I regret I did not read—put forward at the last State election coincided with that of the Liberal Party.

The Hon. P. G. Pendal: It must have been a mistake.

The Hon. I. G. MEDCALF: The Bill in fact is in line with Liberal Party policy. However, it is good to think we have a bipartisan policy in relation to the development and encouragement of small and medium-sized businesses. The term "small businesses" must be used in relation to other factors; "small businesses" are companies which are growing into bigger businesses, and many large businesses might have been small businesses to start with.

The PRESIDENT: Order! I again suggest to members that this habit they have adopted of recent times of carrying on quite audible conversations at the back of the Chair and in the Chamber is not to be tolerated. If members persist in doing so, their permission to sit at the back of the Chamber will be revoked, and members in the Chamber will be otherwise suitably dealt with.

The Hon. I. G. MEDCALF: When we talk of "small businesses" we must appreciate that some of those businesses have actual cash outlays which are not really so small; they involve the expenditure of sizable sums of money and in fact, many people would not refer to them as "small businesses" at all. They are classed as "small businesses" purely in a relative sense, in comparison with, say, the larger companies which operate in other fields.

The task which this Government readily accepts is to assist and aid small businesses. Small businesses which are successful become the major businesses of the country. In Australia and in other countries there are many such examples of bodies which are now major companies, but which started off not so long ago as backyard industries of no great significance and gradually developed to their present stage. I am sure members can think of many and there is no point in my expatiating on that aspect.

I am sorry the member thought the Government to be inflexible on the proposals made in another place. I have noted those proposals and it is true the Government opposed the particular amendment on the subject of mining. I remind the honourable member that mining as such is outside the scope of the Act only when it deals with the activity of exploration, digging, or extraction in its elemental sense. The processing of minerals comes under the Act.

Indeed, only a few weeks ago I happened to be in Meekatharra and on the outskirts of the town visited a mine which was being developed by local people. They were putting in a crushing plant and had received assistance by way of Government guarantee which had enabled them to put in the very expensive equipment which they needed in order to establish their mining venture.

The Hon. A. A. Lewis: Is it a fact that in bringing in this Bill the Minister is foreshadowing the fact that when the Mining Bill becomes an Act such assistance would be too expensive?

The Hon. I. G. MEDCALF: I am not foreshadowing anything. I am merely saying that mining in the sense of the processing and crushing of ore is covered under this legislation. The reference in the Bill to mining relates only to the extraction-type of mining; that is, the extraction of the ore from the ground. Generally that is dealt with in other ways. It has been traditional that mining be not assisted as a form of industry; that is, mining in the elemental sense. Any assistance is given entirely separately through the Minister for Mines or perhaps by private enterprise.

A number of other amendments were made in the other place, but, as the honourable member did not refer to them, I shall not. I thank the Opposition for its support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. T. Knight) in the Chair; the Hon. I. G. Medcalf (Leader of the House) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 2 repealed and substituted—

The Hon. J. M. BERINSON: I move an amendment—

> Page 3, lines 9 to 15—Delete the passage "(c) the provision of specialised services and maintenance or repair facilities as direct support for resource-based production (not being actual resources production derived from mining, farming or pastoral activities);" and substitute the following:
>
> "(c) the extraction or recovery of natural resources by mining; or
>
> (d) the provision of specialised services that enhance economic development in Western Australia,"

The amendment is in line with the comments I made during the second reading debate. I point out in the first place that it is the intention of the amendment to retain the provisions of existing paragraph (c) of the definition of the word "industry" in relation to the provision of specialised services, maintenance, and repair facilities. The substantive effect of the amendment would be to retain in the Act the possibility of assistance for the extraction or recovery of natural resources by mining. As I indicated a few moments ago, this would do more than retain the provisions of the parent Act which has always left it open for this sort of assistance to be provided. In our opinion there is no justification for the deletion of the provision at this stage.

It would hardly be necessary to refer members to the important role of mining in the history of this State nor, I would think, to the important part within that role of small-scale mining and small-scale resource development enterprises. It is conceded that the Minister is quite right in saying that the parent Act has not been used as a matter of administrative discretion to give assistance in this particular field. In the opinion of the Opposition, that is no reason to exclude the possibility of it in a particular and deserving case.

It is a fact of history that even before the parent Act was introduced it was clearly the intention and a well-established principle of the State Government to provide assistance of the sort which we are now seeking to preserve in this Bill. The Mining Development Act which dates back to the early 1900s—I think 1906—provided that as long ago as those early days assistance could be provided by the Government to the mining industry for resource development. Of course, the provisions of that Act are by now anachronistic. I think the maximum assistance was £1 000, which would not go far today.

The Act is an interesting and instructive example of the acceptance in principle from the earliest days of this State that mining is an area of activity deserving of our support. That is not as a result of any philanthropic attitude, but as a result of a recognition of the role which mining has played in the development and prosperity of this State. As important as the major developments are—and I would be the last to deny the importance of large-scale development in this State—we should not underrate the continuing potential role of more modest resource development efforts in Western Australia.

The sole purpose of my amendment is to give some statutory recognition to that fact. It does not bind the Government to change its past administrative practice, although I believe it ought to be more open to the possibility of changing that past administrative practice than it apparently intends to be. In short, this is a matter which will open the way to the provision of assistance without its binding a Government to its provision in any particular form or in any particular area. I urge the Committee to recognise that this is a responsible extension of the functions and purposes of this Bill. I urge members to support the amendment on that basis.

The DEPUTY CHAIRMAN (the Hon. T. Knight): I ask the member to provide a signed copy of the amendment in accordance with Standing Order No. 191. Has the member circulated a copy?

The Hon. J. M. Berinson: It has not been possible to circulate a copy, but I do have a signed copy of the amendment.

The Hon. J. M. BROWN: I support my colleague in his proposed amendment to the Bill which would provide for a new definition of "industry". A definition of "industry" appears on page 3 of the Bill and it is the most important element of the Bill.

In his reply, the Attorney General mentioned how this proposition was canvassed in another place and he gave an explanation of why it is proposed to delete the reference to the mining industry.

The existing legislation empowers the Treasurer to render assistance to the mining, manufacturing, and processing industries. However, as the existing definition of "industry" includes businesses of an agricultural and horticultural nature, we must question the assistance of $29 658 to the EMU Experimental and Research Farm in 1974-75 and of $175 000 to Forrest Farms. Both businesses appeared to be involved in some form of agricultural activity. I am grateful to my colleague in another place who has given me this information at such short notice.

The people in the goldfields would be very concerned that the mining industry is to be excluded from receiving assistance under this legislation. I have a responsibility to my constituents to make it perfectly clear to the Government that we do not accept this proposition. We will remember the $500 000 loaned to the North Kalgurli operation to set up a crushing mill in Kalgoorlie. I have figures which indicate the Government granted a loan of $4 million to Mount Isa Mines three years ago. It loaned $1 million to Metal Exploration two years ago, and, as I said, it loaned $500 000 to North Kalgurli Mines two years ago. While we were concerned about these loans and concerned that they would not help with the crushing of ore for prospectors, we certainly did not believe the Government would give consideration to the abolition of this form of assistance to the mining industry.

The Hon. N. F. Moore: Assistance is provided for treatment, but not for mining; therefore a custom plant would be eligible.

The Hon. J. M. BROWN: When the Hon. Norman Moore rises to his feet he will have an opportunity to say what he wants.

The Hon. N. F. Moore: I was trying to be helpful.

The Hon. J. M. BROWN: Many cases of direct assistance to the industry during the last five years can be listed. Without giving this matter the due consideration and time it deserves, I indicate that the fact that the assistance which will be taken away will not be beneficial to the industry upon which we have been so dependent for a long time. I support my colleague, the Hon. J. M. Berinson, in the proposition that is embodied in his amendment and I trust consideration will be given to this problem which has been in existence from the time the principal Act was first introduced.

The Hon. N. F. MOORE: I want to correct one misconception that the previous speaker has. The loan of $500 000 made to North Kalgurli Mines was for the erection of a custom mill to process ores provided by prospectors. My assessment of this legislation is that this type of assistance is still provided. As the Attorney General pointed out, the assistance is available for processing, but the provisions specifically exclude mining operations. North Kalgurli Mines operates a custom mill, as the Hon. J. M. Brown well knows, and that mill certainly comes within the terms of the legislation, and North Kalgurli Mines is certainly eligible for assistance. The Hon. J. M. Berinson spoke about small-scale mining and excluded large-scale mining from his comments. Of course, when one talks about large-scale mining one must talk about the provision of millions of dollars of assistance which are probably not needed anyway. Small-scale mining relates predominantly to goldmining. Not many other types of minerals are involved. In the actual extraction phase assistance is given in a way because goldminers do not pay tax on the proceeds of their activities. In a way, that is Government assistance.

In addition, the State Government subsidises very heavily the cost of State Batteries, and that certainly represents a subsidy or assistance to goldminers. If an operation such as the Ingleston Mine at Meekatharra, becomes big enough to have its own plant, assistance is available under this programme. I do not believe any great problem is caused by that. I was a little concerned when the deletion of the word "mining" was raised. The situation provided for in this Bill will be quite adequate for the needs of small and even big miners when one takes into account the operations of North Kalgurli Mines at Kalgoorlie.

The Hon. I. G. MEDCALF: I am grateful to the Hon. Norm Moore for adding to the comments I made and for bringing to my recollection the name of that mine at Meekatharra—the Ingleston Mine—which receives Government financial assistance by way of a subsidy or a guarantee. Certainly, it received financial assistance to enable it to build a crushing plant which will crush not only the mine's own ore, but also ore provided by other prospectors, and thereby supplement the crushing facilities which already exist in that area.

The Hon. J. M. Brown referred to the assistance given to the other mills with which he is familiar. Of course, that assistance will continue; I make that point quite clear to him. The Government has no intention to reduce that assistance in any way. I also make it quite clear in answer to his comment that nothing will be taken away; the assistance which is presently available will continue. Financial assistance for extractive mining has not been granted for many years; certainly, I have not been informed of any such assistance.

The Hon. J. M. Brown: What about your second reading speech?

The Hon. I. G. MEDCALF: Of course, assistance is not given for digging, extracting, and exploring in regard to minerals, as those activities are covered by the ordinary meaning of the term "mining". We do not propose to take anything away. The fact is that previously not one provision existed for those operations, so we will simply take out of the Act something which is an anachronism because we do not extend assistance to ordinary mining activities. I think the situation has been sufficiently explained.

One serious objection to the amendment moved by the Hon. J. M. Berinson is that it does not relate to resource-based industries. The second part of his amendment is for the provision of assistance to projects which enhance economic development in Western Australia, but that has nothing at all to do with resource-based industries. That could relate to tertiary industries or many types of other industries which at present we do not intend to include in the Act. The definition appearing in the Bill provides for direct support to resource-based developments, and that is an important reason for our not supporting the amendment. I therefore ask members not to accept the amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 5 to 8 put and passed.

Clause 9: Section 7A inserted—

The Hon. R. HETHERINGTON: I draw the Attorney General's attention to the bottom of page 10 of the Bill where the words "*The Guarantee Scheme*" are used. From my reading of this section I would say three conditions must be complied with in toto. I have gathered from what I have heard of some debate on this matter that some people think this interpretation is not correct. I would like to know what the Attorney General thinks about it before I consider moving an amendment.

The Hon. I. G. MEDCALF: From my reading of the clause, the three conditions are applicable. I ask members to refer to the clause.

The Hon. R. HETHERINGTON: The Attorney General and I are in agreement so we can start from an agreed position, in which case I move an amendment—

> Page 11, line 4—Insert after the word "assistance" the passage:
>
> "(or notwithstanding the likelihood of such competition where a guarantee is justified in the circumstances)".

I moved the amendment because it seems to me that the clause as it stands is too restrictive. A situation could result whereby there might be in a country town two firms which are in competition with each other, but which together do not satisfy the total market and room exists for a third firm to enter the area. However, under this clause, if it were enacted, that third firm would not be in a position to obtain assistance from the Government; but, if we considered such a situation, we might see that assistance was justified.

I understand what the Government is aiming to do, and that it has proposed this clause to cover the norm. There might be cases when the norm will not apply and room is available for one or two more firms to enter an area. Possibly the produce is one that has an export market and room is available for another firm to develop and to increase competition for that market. I am not claiming that such a situation necessarily would apply, but I think it is possible. I argue it would be sensible for the Government to accept the proposed saving proviso for this subclause so that the intention is quite clear that one, two, or three firms may apply for assistance in special circumstances which justify the use of the proviso; otherwise, if firms are in competition, assistance cannot be provided to an additional firm. I hope the Attorney General will accept this amendment in the spirit in which it was put forward.

It is thought it will improve the Bill. We believe it is a desirable amendment which does not force

the Government to do anything and will not bind the Government to certain actions; it will give an extra bit of flexibility which may at times be required. We consider it would be in the interest of this State and in the interest of small business people in this State. I commend the amendment to the Chamber.

The Hon. J. M. BROWN: In supporting the Hon. Bob Hetherington I would like to point out to him that in Kellerberrin there are two silo manufacturers.

The Hon. H. W. Gayfer: What about Walkers Pty. Limited which operates at Merredin?

The Hon. J. M. BROWN: I was pointing out that there are two very good silo manufacturers at Kellerberrin, although previously there were three until Walkers established its business at Merredin. The Hon. Mick Gayfer pointed out that Walkers manufactures excellent silos at Merredin. It has received nation-wide acclaim for the triple discs it manufactures.

Similarly, the Coles company in Kellerberrin is trading in bulk handling equipment. It would be very easy for businessmen to maintain and extend their businesses in country areas if there were some guarantee of assistance. But, if they are excluded from receiving assistance, they will be at a disadvantage.

These businesses are manufacturing in the country, and they probably take business from the metropolitan area. There is only one silo manufacturer in Merredin—Walkers—and it would deliver more silos than any other company in the State. If that company wishes to move or expand its business it is restricted in the type of finance available.

The proposed amendment will remove the restriction. I know that the firm—Walkers—is thinking of moving to the Wagin area, where some trouble has been experienced in obtaining land. I am not aware of anyone else in competition in that town, but the provisions of this Bill could impose a restriction on that company.

It was pointed out that in certain industries the provision of financial assistance would be in conflict with established firms. I refer to the hotel industry, which has received assistance from the Government in the past. A hotel at Collie received assistance, and there is more than one hotel in that town. The Commercial Hotel at Northampton received assistance to the extent of $35 000. It was said that assistance was granted to businesses not in competition with other businesses. However, at Carnarvon a transport co-operative borrowed $60 000, and I imagine that firm would be in competition with other transport firms. There is good reason for the amendment to be considered.

The Hon. I. G. MEDCALF: Whilst one could have sympathy with the propositions which have been put forward by the Hon. R. Hetherington and the Hon. J. M. Brown, and whilst one can realise that in individual cases there may well be the situation to which they referred, there is a real problem attached to this. The real problem is that an advantage will be given in the form of a Government guarantee to a business which certainly will compete with, and possibly imperil, a business already established in that area and, evidently, functioning satisfactorily because it is able to continue. It would create a tremendous amount of enmity. I am sure that the Hon. J. M. Brown would appreciate this side of the argument, which is the other side of the coin. Enmity would be created, and a person already established would ask what right the Government had to help set up the opposition and to give that opposition a financial advantage. That is the real problem, and it is one which has occurred on previous occasions when a business has been set up in a town.

There is the example of the State hotels. They were not financed under this Act, but under the Act covering State trading concerns. State hotels could have created enmity in towns where other hotels already were established. That is only one illustration of the problem which arises when the Government provides help to a person or a group in an industry, and when it does not provide help to others in the same industry. This Bill states that a guarantee can be given provided the other party has received Government assistance. If the other party has already received some form of Government assistance, what has been suggested will be possible. This is the old idea of our trying to be fair, and for that reason the Government could not accept the amendment.

The Hon. J. M. BROWN: I do not accept the proposition of the hotels put forward by the Leader of the House, because the State hotels were the only ones operating in the towns. I think the State hotels at Wongan Hills, Kwolyin, and Bruce Rock were the last to go. They were monopolies in those towns.

The Hon. I. G. Medcalf: I was talking about hotels in competition with others. That was only an illustration.

The Hon. J. M. BROWN: I left the Wongan Hills Hotel out when I commented because it already has received financial assistance. The Leader of the House said that funds will be made

available if someone else in opposition has received funds in the past. Under the proposal now before us people will not receive assistance if they are in opposition to a business of a similar nature.

If a person making silos wants to go into another field, and diversify, will he receive assistance in that instance?

The Hon. I. G. MEDCALF: Of course, if it is a new type of activity then it would be legitimate.

The Hon. J. M. Brown: And still carry on his existing business?

The Hon. I. G. MEDCALF: If that person expands into a different area not already covered, I believe he would come within the provisions of this Bill. We are not talking about a complete newcomer to the scene. It could be someone prepared to expand his business in another area.

Amendment put and negatived.

Clause put and passed.

Clause 10 put and passed.

Title—

The Hon. R. HETHERINGTON: Although I am disappointed, naturally, that the Leader of the House did not accept our amendment, this Bill does have the support of the Opposition. We feel it is a good Bill and, in general terms, we support it.

The Hon. D. K. Dans: It could have been made better with the inclusion of the amendment.

The Hon. R. HETHERINGTON: That is so.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Leader of the House), and passed.

ROAD TRAFFIC AMENDMENT BILL (No. 2)

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife), read a first time.

Second Reading

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [11.10 p.m.]: I move—

That the Bill be now read a second time.

The Bill seeks to amend the Road Traffic Act 1974-1979, to remove anomalies which have surfaced since the repeal of the Road Maintenance (Contribution) Act and the introduction of the fuel levy on 1 July 1979, and to give effect to suggestions made by members of Parliament, courts, officers of the Crown Law Department, Main Roads Department, Transport Commission, and Road Traffic Authority. All these proposals have been considered and recommended by the Road Traffic Authority.

Nine sections of the Act are involved in the proposed amendments and will be referred to in the order in which they are contained in the Bill rather than in their order of importance.

The principal Act provides that a representative of the Country Town Councils' Association shall be a member of the Road Traffic Authority. As from 7 August 1979, the association changed its title to "Country Urban Councils' Association" thus creating an anomaly in the Act. The proposed amendment will rectify this anomaly.

The majority of the proposed amendments to section 19 are to remove anomalies which have arisen as a consequence of the repeal of the Road Maintenance (Contribution) Act and the introduction of the fuel levy on 1 July 1979.

Before dealing with the amendments in detail, it is desirable firstly to outline the anomalies that are present in the existing legislation.

All commercial goods vehicles with a load capacity over 8.13 tonnes, with the exception of those used solely for transporting livestock, were previously subject to road maintenance charges. As partial compensation, these vehicles were allowed a 50 per cent rebate on vehicle licence fees.

With the repeal of the road maintenance charge, full licence fees were reinstated. At the same time, diesel-engined vehicles up to 5 865 kg tare weight in the case of a rigid truck, and prime movers up to 3 060 kg tare, as partial compensation for the owners having to pay the 3c per litre fuel levy on distillate, were granted a 50 per cent rebate on their licence fees.

In the case of the rigid truck, the limit of 5 865 kg tare was judged to correspond most closely with a load capacity of 8.13 tonnes. Similarly, the tare of 3 060 kg was determined in the case of the prime mover.

Subsequently, it became apparent that there are a number of diesel-engined vehicles the load capacity of which is less than 8.13 tonnes and which were not subject therefore to the road maintenance charge, yet tare weight of which is

greater than the 5 865 kg limit for the 50 per cent concession.

Up to 300 vehicles are estimated to be affected in this way, and as it was the intention that vehicles which did not fall into the old road-maintenance category should enjoy the benefit of the diesel-vehicle concession, it is now felt that the concession should be extended to these vehicles.

The proposed amendment will allow owners of diesel-engined rigid trucks and prime mover semi-trailer combinations with up to 8.13 tonnes load capacity, to qualify for the 50 per cent rebate in licence fees.

The amendment will provide also that where an anomaly has occurred arising from the repeal of the Road Maintenance (Contribution) Act and the introduction of the fuel levy, the owners of such diesel-engined vehicles will not be disadvantaged. The concession licence applicable to these vehicles will be granted with effect from 1 July 1979. Under the Road Maintenance (Contribution) Act, vehicles used for carrying livestock were exempt from the payment of road maintenance charges. This advantage was lost with the abolition of the road maintenance charge and the introduction of a fuel levy. To compensate, the Road Traffic Act was amended to provide a concessional licence of $10 per annum to vehicles used solely for the carrying of livestock provided they exceeded 1 524 kg tare weight.

Since the introduction of the concessions, the following problems have arisen—

> Many owners of livestock vehicles have objected to the fact that they are not permitted to carry other goods, particularly on return journeys. Public carriers, whose traffic is of a mixed nature even though livestock represents the major part of it, are unable to take advantage of the concession.
>
> Many wish to take advantage for a limited period of the year. In an effort to meet some of these criticisms, approval was given for the concession to be granted on a retrospective basis.

However, it has been found that this is open to abuse; and there has been an escalation in the numbers claiming the concession which, of course, leads to a reduction in funds available to the Main Roads Trust Account for expenditure on roads.

The amendment proposes that the existing concession be replaced by a 50 per cent concession on the appropriate vehicle licence fee for the stock vehicle. This will bring it into line with the concession for farmers' vehicles. In order to cater for vehicle owners who transport live-stock on an occasional basis, the exact duration of which cannot be known in advance, it is proposed that on receipt of an application, a permit may be issued for the carriage of other goods. The fee for the issue of such a permit will be $10.

It is proposed also that administrative arrangements will be made whereby farmers will be able to obtain this permit under the same arrangements as other permits are issued by the Transport Commission. It will not, however, affect licensing requirements in terms of the Transport Act 1966.

As a means of identification and control, it is proposed that all vehicles in receipt of the livestock carriers concession should—

> be issued by the Road Traffic Authority with clearly identifiable stock plates—6ST; and
>
> have obtained a permit when backloading goods other than stock.

As it is currently worded, the Act leaves the livestock concession open to forms of livestock never intended. For example, owners of stock transporters used for carriage of racehorses have taken advantage of the concession, whereas such owners did not previously have the benefit of a concession licence.

The proposed amendment includes, for the purposes of live-stock concession, a definition of the term "stock" to include only cattle, pigs, sheep, goats, and such other forms of livestock as may be specified from time to time. One and two-horse trailers would not be affected as they are too light to qualify for the concession already granted.

The licence fee concession to *bona fide* kangaroo hunters, prospectors, sandalwood pullers, and beekeepers was originally 50 per cent of the normal fee; but it was reduced to $10 to conform with the livestock carriers concession. To ensure that all categories are treated in the same way, the amendment proposes that these groups be required to pay 50 per cent of the licence fee.

Under the Act, a farmer is entitled to a licence concession of 50 per cent in respect of one vehicle provided its tare weight exceeds 1 524 kg. As the Act now reads, in the case of an articulated vehicle the concession can be granted to the prime mover, but not to the semi-trailer which completes the combination. The prime mover is of no practical value without its semi-trailer. The amendment proposes that the farmers' concession be extended to include, in the case of a prime mover, one semi-trailer where the two form a combination.

It is proposed also that the concession be limited to vehicles the load carrying capacity of which does not exceed 14 tonnes. This is necessary because of the introduction of the land freight transport policy, which is designed to remove constraints on freight transport and at the same time eliminate what may be regarded as unfair forms of competition. The intention of the farmers' concession is that it should apply to a farm vehicle used for normal farm purposes. A small but increasing number of farmers are using heavier trucks commercially; and in so doing the farmers are effectively competing with commercial road hauliers.

It is not believed that the farmers' concessional licence should be used in this way and it is accordingly proposed that the Act be amended so as to limit the farmers' concession to vehicles the load capacity of which does not exceed 14 tonnes. This is the normal load capacity of a two-axle rigid truck and has been adopted as representing the cut-off point between a typical farm truck and a heavier commercial haulage vehicle.

Currently, the issue of dealer's plates for use on unlicensed vehicles outside the prescribed purposes must be approved by the Minister. To avoid unnecessary delay and inconvenience, when permission is urgently sought outside the prescribed purposes, the proposed amendment provides for delegation of the power to sanction to the Road Traffic Authority. The use of an unlicensed vehicle is authorised under the Act provided a permit is in force, number plates as issued are attached, and conditions imposed are complied with. These permits are issued by the authority for a period of 12 months in respect of a specific purpose only.

Recently vehicles have been found to be operating contrary to the conditions of such permits, and it was discovered that there is no power to cancel the permit when breaches occur. The proposed amendment will provide the authority with this power.

When a motor driver's licence is issued certain conditions or limitations—for example, the holder to wear suitable aids, or specific appliances to be fitted to the motor vehicle—may be endorsed thereon. However, this applies only to an application for a licence; and the Bill proposes to amend the Act to allow conditions and limitations to be endorsed on a licence which is already in force.

The Act defines a "pensioner" and provides for a reduction of $4 for the issue or renewal of a driver's licence to such persons. As from 1 November 1979, the Commonwealth Government extended entitlement to the pensioner health benefit card to recipients of supporting parents' benefits; and the State Government promised similar concessions. The amendment will encompass these persons within the definition of a "pensioner".

Further to the amendment to allow conditions and limitations to be endorsed on a driver's licence which is already in force, it is necessary that the Road Traffic Authority have the power to cancel or suspend the operation of such a licence if the holder fails to comply with the conditions so endorsed. The proposed amendment will give the authority the same power that exists already in respect of an applicant for a licence.

The Act provides that a person who is required to supply a sample of breath or blood for analysis may at his option have both tests. Under present legislation the breath or blood sample must be taken within a maximum of four hours after the event which gave rise to the requirement, and when a person demands both tests at widely-spaced intervals an anomaly can occur in the results obtained.

The amendment will eliminate the option of both tests, but will permit a defendant to choose either breath or blood analysis. In certain circumstances, a person can be required to submit a sample of blood for analysis; and the sample is to be taken by a medical practitioner.

Instances have occurred when the medical practitioner has not been available within the time permitted—four hours—or distance prescribed—40 kilometres—or has refused to take the blood sample. As a result, charges have been dismissed because of the difficulty in producing material evidence to prove the unavailability of the medical practitioner. The proposed amendment will remove the necessity to prove the unavailability of the medical practitioner and counter the situation where a person refuses to nominate a medical practitioner. In the prescribed circumstances the patrolman will be entitled to nominate a medical practitioner to carry out the test.

It is an offence under the Act to forge or fraudulently alter any licence, number plate, or registration label for any vehicle or animal; but similar provisions do not apply to the forging or fraudulent altering of a motor driver's licence. An amendment now proposed seeks to rectify the situation.

The Act provides that the Governor may make regulations empowering an authority therein named to erect traffic signs, control signals, and similar devices. The regulations of the Road

Traffic Code name the Commissioner of Main Roads as the authority empowered by the Act. A further regulation—subregulation (2) of regulation 301 of the road traffic code—provides that the Commissioner of Main Roads may authorise the council of any municipality to erect, establish, display, alter, or take down traffic signs or control signals of types or classes specified in the authorisation. The Assistant Crown Counsel has expressed an opinion that the latter regulation provides for the Commissioner of Main Roads to delegate powers to councils that the Governor has conferred on the commissioner alone. There is a risk that the regulation is *ultra vires*. Since 1975, traffic signs have been erected by a number of councils under the delegation of the Commissioner of Main Roads and the validity of these signs is now in doubt. The proposed amendment will validate the current practice, and give retrospective effect to the date the Road Traffic Act came into operation.

I commend the Bill to the House.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [11.24 p.m.]: The Opposition agrees with this Bill. We have examined it very carefully, and it has been debated fully in another place. The amendments to the Road Traffic Act are both necessary and desirable.

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

WORKERS' COMPENSATION SUPPLEMENTATION FUND BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife), read a first time.

Second Reading

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [11.26 p.m.]: I move—

That the Bill be now read a second time.

The purpose of the Bill is to create a supplementation fund from which employers who are liable to pay compensation to employees may be assisted in instances where the employers' insurer is unable to reimburse the employer. The necessity for a fund of this nature was brought to attention by the placing in liquidation earlier this year of Palmdale Insurance Limited and its subsidiary, Associated General Contractors.

This brought about a situation where employers insured with Palmdale or its subsidiary are required under the provisions of the Workers' Compensation Act to continue compensation payments to injured employees. Such a requirement is causing hardship to many employers, and some could be forced into bankruptcy if they do not receive assistance, and this in turn will mean that their injured employees may no longer be paid the compensation to which they are entitled.

The fund will be managed by the Workers' Compensation Board; and outstanding claims will be handled by the State Government Insurance Office, which will be reimbursed by the fund.

Provision is made also for the establishment of an insurers' advisory committee to advise the Workers' Compensation Board and the State Government Insurance Office in the performance or their functions under this Bill. The committee will comprise three members appointed by the Minister from a panel of names submitted by the insurers.

Several other States in Australia have already enacted legislation to provide financial help to employers who find themselves in a similar position.

I commend the Bill to the House.

THE HON. H. W. OLNEY (South Metropolitan) [11.28 p.m.]: The Opposition supports this Bill. I would like to make a few comments and observations, both on the Bill itself and on the circumstances that gave rise to such legislation.

In his fairly brief speech, the Minister has told us very little about the functions of the supplementation fund to be established. It is worth while that some comments should be made about the Bill itself; and I propose doing so in a few moments.

The Minister's second reading speech is orientated essentially towards the plight of employers who find the insurer to whom they have paid their premiums has gone into liquidation or otherwise cannot indemnify the employer under the policy.

In a practical sense in recent years in matters associated with the insurer which has been mentioned and other insurers, my main concern has been to attend to the interests of the injured workers who, because of the inability of insurers to meet their liabilities, have either gone without their compensation or have experienced delays in receiving it. I point out to the House in line with that, the Workers' Compensation Act is designed to provide compensation to injured workers. That is the primary object of the legislation and it must be the primary policy of this particular Bill.

One of the frailties of our present workers' compensation legislation is that it is so dependent upon the private insurance industry for its function. I know the SGIO is a major insurer in the field of workers' compensation and it does an extremely good job. I am afraid the experience I have had over 20 years in the field does not lead me to make the same comment about the private insurance industry.

Approximately 40 years ago the compulsory insurance of motor vehicle owners against third party risks was presenting problems and it was handled by the establishment of the MVIT which has operated in an extremely efficient and satisfactory manner. A number of people believe that workers' compensation, or insurance by employers against workers' compensation liability, ought to be handled in a manner similar to that by which third party motor vehicle insurance is handled. In those circumstances, the problems which have arisen with insurers going into liquidation would not arise.

Many other benefits are associated with such a scheme, but they do not need to be canvassed here. We will have an opportunity to do that during the next session of Parliament.

Section 27 of the Workers' Compensation Act provides for the establishment of what is known as the Workers' Compensation Board Fund. Out of this fund a number of different liabilities are paid. In accordance with the Act one of the liabilities is to pay compensation to workers whose employer has not effected insurance against liability, as provided in the Act, and who has not paid compensation within 30 days of an award being made.

This fund is commonly referred to as the "uninsured workers' fund", but it is really an "uninsured employers' fund". Over the years a number of claims have been made by workers who have obtained an award of compensation, but have not been able to obtain payment against the fund. There has always been a problem in doing so in the past; but perhaps it will not be the same in the future. If one were trying to get a claim against the uninsured workers' fund the general feeling was the chairman of the board believed he was paying the money out of his own pocket and it was always difficult to obtain orders for dispersals out of the fund in the case of workers who were not insured.

In the case of insurance companies which have gone into liquidation, or for some other reason are unable to pay compensation under the policies they have written, claims have been made to the uninsured workers' fund.

Of course, the criterion set out in section 27 cannot be met when in fact the employer has effected a policy with an insurer who is unable to pay, because the criterion that an employer has not effected insurance as set out in section 1(b) is not met, and hence the need to do something about providing a fund out of which moneys may be paid to workers entitled to compensation when employers have effected insurance, but the insurer is unable to pay.

We support this move which I trust will only be of a temporary and interim character, pending the introduction sooner or later of a comprehensive and enlightened scheme of workers' compensation which hopefully will take the form of insurance similar to the MVIT set-up.

Having said that, and having indicated our support of the Bill, I would like to raise with the Minister what I see as being some inadequacies in the Act itself. It is very difficult to do so effectively under the present circumstances, because of the need to sit down and look carefully at the relevant sections.

The particular sections about which I am most concerned are sections 19 following through to sections 22 and 23. The thrust of those sections, in general terms, is that if a worker obtains a judgment or award of compensation against an employer and the employer has taken out a workers' compensation policy with an insurer, but the insurer is either dissolved or unable to indemnify the employer under the policy, then the person who has obtained that award for compensation may, if the insurer has already been dissolved, make the claim directly against the SGIO or, if the insurer has not been dissolved, make the claim against the insurer.

Similarly when a person has a claim—as distinct from an award for compensation, which by definition has not been the subject of an award, so he has not substantiated the claim—for which the employer is liable and if the employer is covered by a policy and the insurer has been dissolved or is unable to pay, a similar situation will apply. The claim could be made against the SGIO if the insurer has been dissolved or against the insurer if it has not been dissolved.

The machinery in the Act provides further that when such a claim as referred to has been made against the liquidator of an insurer, the insurer or its liquidator is required to forward the claim to the SGIO.

What will happen under the Act is the SGIO will pay the claim and will be reimbursed out of the fund which is being set up under the legislation which, of course, will be funded by

levies on premiums paid on workers' compensation policies.

The deficiency I see in the Bill is that it is not clear what role the SGIO will play in cases where there is no award of compensation, but rather a mere claim. I suggest the Bill needs to be tightened up in this respect. In the ordinary course of events the employer is the person primarily liable for payment of compensation and he would have the conduct of proceedings before the Workers' Compensation Board if liability is disputed, but in practice that is not so, because under every insurance policy written, the insurer has the right to stand in the employer's place to defend the proceedings.

It is not clear whether, in the case of an insurer which has not yet been dissolved, the liquidator will defend the proceedings or whether it is intended the SGIO should stand in the place of an insurer and have the ordinary rights of an insurer in either defending or negotiating the settlement of claims.

The Bill seems to be quite silent on this point. It places on the SGIO an obligation to pay claims which are the subject of an award and in respect of claims which are not the subject of an award—that is, a claim which has been made, but which has not been finalised—all the Bill says is, if a claim is made under clause (1) or (2) of clause 19 and is lodged with the SGIO under subclause (3), the SGIO shall pay the claim for such amount as is necessary to satisfy it.

A claim under clause 19(2) is one which is yet to be the subject of an award; but the SGIO is required to pay the amount necessary to satisfy that claim.

I raise this point as a matter of concern as to whether the SGIO, by virtue of that provision, will have the authority to negotiate the claim and come to some sort of agreement. This is left in the air and it is perhaps something the Minister could have his colleague in the other place look at and an amendment could be introduced at an appropriate time.

For the time being, however, hopefully the Bill will provide a remedy to the immediate problem and that is the situation faced by people who have insured with the particular insurer mentioned and in respect of which the employer finds, in most cases, awards of compensation have been made already, which means that for the most part the provisions of clause 19(1) will be used in the initial stages in the operation of the legislation.

It is hoped other insurers will not go to the wall, but when one talks to people in the field of workers' compensation, one finds they all seem to be crying doom because of changes which have been made in the workers' compensation law in recent years. It has ceased to be as profitable a venture as it used to be and I say with no embarrassment that I wholeheartedly support any move that takes the profit motive out of what is essentially a social service payment.

We look forward to the day when workers' compensation will not involve the entrepreneural element which is involved with the present system of providing for the insurer. However, we may have to wait until next year for that to happen.

THE HON. NEIL OLIVER (West) [11.46 p.m.]: I am somewhat concerned about this Bill and the manner in which it has been presented. I would like to draw attention to clause 3 (3) which refers to a self-insurer. The self-insurer means the employer which the Government exempts from the operation of section 13 of the Act. When I turn to clause 16 of the Bill I find it states as follows—

> (1) A self-insurer shall pay to the Board—
>
> (a) in the case of an employer who becomes a self-insurer before or on the appointed date, within one month from the appointed date; or
>
> (b) in the case of an employer who becomes a self-insurer after the appointed date, within one month after he becomes a self-insurer,
>
> and thereafter once in each succeeding period of 12 months an amount assessed by the Board on the advice of the Committee.

Clause 28 states as follows—

> (1) The Committee shall consists of 3 members appointed under subsection (2).

It quite astounds me that a person who may be a self-insurer under the legislation is subject to the decision of a committee appointed by the Minister. I cannot accept that and I will have to disagree with the legislation and oppose it. Unfortunately, I have not had time to prepare an amendment to the legislation.

The Hon. D. K. Dans: You should have.

The Hon. NEIL OLIVER: The honourable member has enough time on his hands to do such things.

I am concerned about this legislation. It concerns me that the legislation has been weighted in one direction and I trust the debate will be adjourned. I take exception to the fact that despite the definition of a self-insurer, a committee—as stated in clause 26—which is appointed by the Minister can make a decision

with regard to a self-insurer. I cannot support the legislation.

THE HON. N. E. BAXTER (Central) [11.50 p.m.]: I, like the Hon. Neil Oliver, have a few queries on this legislation. I would like to refer to the funds of the board and the clause which says the board may pay out of the fund the amount of any cost or fees payable under this Act to the liquidator or insurer, or any expenses and costs incurred by the SGIO in settlement of claims under this Act.

The people who are to provide these funds are the people who take out a policy on their employees. These people will have to pay the liquidator's expenses for a company which goes to the wall. Is an employer who is paying the premium expected to pay the liquidator's costs for a company which has gone to the wall? This legislation states that the costs or fees under this Act have to be paid. That is clear enough and if an insurance company is under liquidation then the liquidation expenses will come out of the pockets of the people who are taking out workers' compensation policies. That is the one per cent extra surcharge they have to pay. It happens to be a one-sided argument and it is all very well for the Hon. Howard Olney and his associates to just look at the side of the employees. The employers pay the premiums and have to pay for the compensation.

The employers have to pay that levy from the time the insurance policy is taken out. They have to pay this extra insurance against the insurer going broke. The employers are the people who will bear the brunt of this. It may not be a great amount but we do not know what it will be.

I notice also that this one per cent surcharge will commence from the date this Act is proclaimed. Therefore a person who has taken out a workers' compensation insurance policy in September will have to start paying out this 1 per cent additional premium from the date this Act is proclaimed. That may be on 1 December and he will have to pay from that date rather than the commencement date of the policy.

It is all very well for the Opposition to say this Bill has been to another place, but some of us have a little more to do than study every Bill which comes to this place.

The Hon. D. K. Dans: That is my job and I study every Bill.

The Hon. N. E. BAXTER: It is all very well for the Hon. Des Dans to say that because he has many members to help him study the Bills. He has more members to help him to do this than we have.

To bounce this Bill on us in the last few days of the session is a little on the tough side especially with a Bill of this nature.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [11.55 p.m.]: The Opposition supports this Bill because as I said, it is necessary and desirable. I cannot take seriously the comments of the Hon. Neil Oliver and the Hon. Norm Baxter. Both members are part of the coalition Government and this Bill has been in the Assembly for some time. My party—the whole nine members—has had an opportunity to study this Bill in detail. I do not agree with the statement that the Bill has been bounced on us.

The Hon. Howard Olney outlined very clearly the reasons for the Opposition's support of the Bill. However, I wish to re-emphasise a few points.

The Hon. Neil Oliver: The fact that you support this Bill makes me even more concerned.

The Hon. D. K. DANS: The fact is that Palmdale Insurance Limited went broke.

The Hon. Neil Oliver: That is so.

The Hon. D. K. DANS: Perhaps the member would like to rise to his feet later and tell us why and how.

The Hon. Neil Oliver: I talked about the self-insurer.

The PRESIDENT: Order! The honourable member will cease those running commentaries whilst the member is speaking.

The Hon. D. K. DANS: If members recall, they received a publication from the Insurance Council only recently. On page 9 of the publication there is a report of the collapse of the Palmdale Insurance company. This was a major collapse and the industry decided not to accept voluntarily, Palmdale's liabilities. On some occasions when insurance companies have collapsed the Insurance Council has picked up the tab. However, this was a major collapse and it left a great number of employers in Australia without any insurance at all. Under such circumstances, because the particular employers were left without insurance, outstanding insurance claims had to be paid by the companies involved. Some of these companies are very small and unless they receive some relief they will go broke.

Millions of dollars are involved and if members read the Insurance Council's report they will find that all States in Australia with the exception of Queensland—

The Hon. Neil Oliver: Do not direct your remarks to me.

The Hon. D. K. DANS: I preface my remarks on all occasions with "Mr President" because I understand that is parliamentary procedure. I have a great affection for the Hon. Neil Oliver but I am not saying, "Mr Oliver".

I wish to re-emphasise the fact that there is a 1 per cent levy imposed and if the Hon. Neil Oliver reads the Workers' Compensation Act he will find that nothing can be paid out of that amount. If the member reads the Workers' Compensation Act he will note the Bill is designed to cater for the problems experienced by a number of employers in Australia.

The problems of a number of employers in Australia will be insurmountable and they will go to the wall because they will have to continue paying out this sum of money because they have no insurance company to pay it and countless employees now receiving compensation payments will be left high and dry. I am not here as a propagandist for the insurers but at least they have been given some kind of insurance with the impost of the 1 per cent levy. I do not think there would be any employer who would complain about this. Under the present economic situation they are quite prepared to pay the 1 per cent levy to get their colleagues off the hook.

That is fair enough. If Mr Oliver has some problems with self-insurers—and I think he has already made a speech—certainly I will listen to what he has to say in the Committee stage. Whether I agree with what he says is another thing.

When dealing with a Bill like this we must be well aware of the disaster of the Palmdale Insurance Ltd collapse. I venture to say—and perhaps I have a different view of the economic conditions under which we are living than have some people—that for a variety of reasons more collapses will occur, and not only in respect of companies involved in workers' compensation, but also in respect of companies involved in a whole host of other undertakings.

I commend the Bill to the House and hope it is proclaimed as soon as possible.

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [12.01 a.m.]: I thank members of the Opposition for their support of the measure. Perhaps I can allay the fears of members on my side of the House. I appreciate the comments of Mr Olney; we all recognise he has a considerable knowledge in the field of workers' compensation, and he demonstrated that. He raised one or two queries which, frankly, I am not able to answer sufficiently to satisfy him, but if he agrees, I will be quite happy to undertake to pass his remarks on to the responsible Minister and to obtain an answer and, if possible, some action.

The Bill seeks to protect both the employees and the employers. Mr Baxter raised a point that the 1 per cent levy on employers is unfair. I understand he said the insurer should pay.

The Hon. N. E. Baxter: This is in respect of liquidation.

The Hon. G. E. MASTERS: Yes. We must face the fact that if any sort of levy or cost is paid by either an insurer or an employer, eventually, it comes out of the pocket of the person who takes out the insurance. If a company pays it, it simply puts up its charges a little. The 1 per cent levy will simply provide a fund which will be used to protect an employer. I suggest most of us at one time or another have been in a situation of employing a number of people. What really happens is that if a person in a small business in that situation is caught because an insurance company goes broke and a major claim is involved, then that small business cannot survive.

If the member is saying other costs are involved which the employer has to pay, again I would say that one way or another the people taking out the insurance will be charged, even if it is by way of an additional premium. Insurance companies raise funds from the policies they let out, and if a company goes to the wall—

The Hon. N. E. Baxter: I am talking about the surcharge in respect of a company which is in liquidation.

The Hon. G. E. MASTERS: I would appreciate it if Mr Baxter would mention this matter in the Committee stage because obviously I have not understood him fully.

Mr Oliver spoke about the self-insured and suggested they were not represented on the committee of three insurers. I do not really follow that argument. I would have thought the committee of insurers put forward by the companies and supported by the Minister would make a fair and proper assessment and would be about the best committee we could expect. Therefore, I would not agree with his comments in that respect.

I thank members for their support and hope we can sort out one or two of the problems in the Committee stage.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Interpretation—

The Hon. NEIL OLIVER: I am disappointed that Mr Dans did not appreciate the arguments I put forward. A self-insurer is a person who decides to go outside the document Mr Dans was holding in his hand—the gray document used by insurance brokers of Australia.

The Hon. H. W. Olney: The Insurers Council of Australia.

The Hon. D. K. Dans: You probably had one on your desk, as I did.

The Hon. NEIL OLIVER: Yes, I did.

The Hon. H. W. Olney: But you didn't read it.

The Hon. NEIL OLIVER: A self-insurer is a person who lodges a bond that enables him to claim an exemption under the compensation Act. I am not in disagreement with Mr Dans because I am anxious that this Bill pass through this Chamber tonight for the very reasons he expounded, and for no purpose would I oppose it on those grounds. I oppose it on the grounds that a self-insurer who is prepared to put his money where his mouth is should have some form of representation. I do not know how self-insurers could be grouped together. Perhaps they would come under the Confederation of Western Australian Industry, although I am reluctant to use that method because I will not receive support from the Opposition.

If a person is prepared to put his money where his mouth is, then he should have representation on the committee. That is the only reason I oppose the Bill.

The Hon. H. W. OLNEY: The Hon. Neil Oliver seems to be under the impression that any employer who marches up with a bond can become a self-insurer under the Workers' Compensation Act. That is not the case. In fact I know of only two self-insurers in Western Australia; they are Bunnings Limited and Alcoa of Australia. Probably there are others, but they are all companies of considerable substance which have been able to satisfy the Minister—

The Hon. Neil Oliver: Is the State Government of Western Australia included?

The Hon. H. W. OLNEY: The State Government insures through the SGIO. The private companies to which I have referred have satisfied the Minister that they have the substance to be able to carry the liability they may be required to incur in respect of an injured worker, and they are exempted from the insurance provisions of the Workers' Compensation Act.

Employers' insurance under the Workers' Compensation Act is fundamental to the scheme, in the same way that insurance is fundamental to any system concerning the recovery of damages for a person injured as a result of the use of a motor vehicle. Owners of motor vehicles, ordinary employers, and people faced with the potential of having to pay out large sums of money are too unreliable to be able to give the community any confidence that they will be able to meet their liabilities. So insurance is necessary.

Any insurance involves a group of people contracting in advance an amount of money to form a pool out of which claims are met. We have something like 53 workers' compensation insurers, each collecting money from various employers just as the Motor Vehicle Insurance Trust in order to provide claim funds collects money from all people who register motor vehicles. It is fairly obvious that the larger the pool, and the more money contributed to it, the more viable is the fund.

Only a few self-insurers exist in Western Australia. Under this Bill the liability of self-insurers to contribute to this new supplementation fund will be an additional cost upon self-insurers because they will have to pay 1 per cent of the premium they would pay if they were insurers. There is a very good reason for this.

The Hon. Neil Oliver: I will not disagree with you.

The Hon. H. W. OLNEY: I will not reply to Mr Oliver, so he can save his breath. One week a person might be a self-insurer, and the next week if an insurance company goes broke, even though he has contributed to the company for X number of years he could be left without cover; so it is good sense that they should be under the same liability to contribute to the supplementation fund.

The fact of the matter is that it is appropriate that self-insurers should contribute in the same way that any other employer contributes to this fund. The complaint of Mr Oliver is that self-insurers are not represented on the advisory committee. I do not know if he has looked at clause 27.

The DEPUTY CHAIRMAN (the Hon. R. J. L. Williams): I appreciate the honourable member's efforts, but he must leave that to a later stage.

The Hon. H. W. OLNEY: I will continue that aspect later.

Clause put and passed.

Clauses 4 to 9 put and passed.

Clause 10: Payments out of Fund—

The Hon. N. E. BAXTER: The Minister misunderstood my intention when I dealt with this matter. I referred him to the wording of the clause. If an insurance company goes broke and a liquidator is appointed the liquidation costs will come out of the pockets of the employers who are paying workers' compensation premiums. If any other company goes broke it must pay its liquidation costs out of its own assets. Is any other group of people required to pay 1 per cent or 0.75 per cent of liquidation costs of a company that goes broke?

An insurance company must be supported by people who pay workers' compensation premiums, whereas another company can go broke and have its liquidation costs paid out of residual assets. In this case it appears an additional contribution or surcharge may be required in respect of insurance premiums if an insurance company goes broke.

The Hon. R. G. PIKE: I put the proposition to the Hon. N. E. Baxter that he needs to take an overview of what this Bill sets out to do. I could be incorrect in what I say, but I do not think so. The Bill sets out to establish a workers' compensation supplementation fund.

The Hon. N. E. Baxter: I know that.

The Hon. R. G. PIKE: The result of that fund will be that when any insurance company goes broke, the fund will make good the deficit. I put to the honourable member that if and when an insurance company goes broke, the assets will be realised and an amount in the dollar paid. In fact, this fund—because it will make up the amount of the deficit—will pay the amount of that deficit whether it is directly as a consequence of this provision, or as a consequence of the distribution of the assets. It really adds up to six and six making 12 in each case. That is what the Bill is all about.

The Hon. H. W. OLNEY: I do not think Mr Baxter has looked far enough for the solution to his problem. What he complains about is that out of the fund to be established is to be paid the amount of any costs or fees payable under this Act to the liquidator of an insurance company and the fees incurred by the SGIO in the settlement of claims under the Act. To understand this provision, one would need to look for the actual costs to be paid to the liquidator. Clause 21(1) provides that the SGIO shall (a) pay to that liquidator—

(i) such amount as is necessary to enable that liquidator to satisfy that claim; and

(ii) such amount additional to the amount referred to in subparagraph (i) as is agreed between the SGIO and that liquidator for payment of the costs of that liquidator in satisfying that claim;

So, it is only the cost the liquidator incurs in satisfying the claim for which the liquidator is indemnified under this supplementation fund which is paid.

In other words, what this Act is doing is making provision for the costs involved in the management and payment of claims that come within the ambit of this legislation to be paid out of the fund. It is fairly obvious to anyone who has any idea how this would work that the costs of the liquidator would be very small indeed. We are not talking about the fees paid to a liquidator for the winding up of a company, but about the extra costs the liquidator incurs by reason of the requirement that he must satisfy a claim under this Act.

The Hon. N. E. BAXTER: I would like to believe that Mr Olney was right, but I do not think he is. Clause 10 provides that the board may pay out of the fund the amount of any costs or fees to the liquidator of an insurer and such other costs and expenses as are incurred by the SGIO. That is an entirely different proposition from what is contained in clause 21 which refers to the payment of claims against insurers.

The Hon. H. W. Olney: The liquidator is the insurer.

The Hon. N. E. BAXTER: Mr Olney did not explain the matter at all; they are two different propositions. I thought the Minister was supposed to answer questions in debate. So far, I have been given answers by Mr Pike and Mr Olney.

The Hon. G. E. MASTERS: I thank Mr Baxter for his compliment. I believe what Mr Pike and Mr Olney said is true.

The Hon. W. M. Piesse: You mean you hope that it is true.

The Hon. R. G. Pike: And we agree with you.

The Hon. G. E. MASTERS: The plain fact is that it is intended the claim should be satisfied and the costs involved in the satisfaction of that claim shall be drawn from the fund.

The Hon. N. E. Baxter: What about the fees?

The Hon. G. E. MASTERS: They would form part of the claim. What we are doing is protectng the employer and the employee by satisfying a

claim which needs to be satisfied. That is what the fund is all about. If there are additional costs over and above the company's realisable assets, they will be met from the fund. That is the purpose of the fund.

Clause put and passed.

Clauses 11 to 15 put and passed.

Clause 16: Self-insurers to pay surcharge—

The Hon. NEIL OLIVER: Clause 16 reads as follows—

> 16. (1) A self-insurer shall pay to the Board—
>
> (a) in the case of an employer who becomes a self-insurer . . .

His performance is assessed by the board, on the advice of the committee. Subclause (2) states—

> (2) The amount assessed by the Board under subsection (1) shall be an amount equal to the amount of the surcharge that would have been payable by the self-insurer under this Act in relation to an employer's policy had he been an employer who was not a self-insurer.

I am saying that the self-insurer will pay the surcharge.

The Hon. H. W. Olney: Of course he will.

The Hon. NEIL OLIVER: Mr Olney has said he will not, and I disagree with him.

The Hon. H. W. OLNEY: Of course the self-insurer will pay the surcharge; I thought I had explained earlier that that was the situation. It is only right that a self-insurer should bear the same costs and burdens as those who use insurance companies.

The Hon. Neil Oliver: And rightly so.

The Hon. H. W. OLNEY: The problem the member has is that he does not like the concept of a self-insurer being assessed to pay a surcharge, and that such assessment will be carried out by the board on the advice of the committee.

The Hon. Neil Oliver: On which he is not represented.

The Hon. H. W. OLNEY: And rightly so. Subclause (2) provides for what the committee must assess. It must assess the insurance premium the employer would have paid had he been insured. What would a self-insurer know about that? One would need to go to the insurance industry to establish a figure on which to assess the premium; one would not ask the self-insurer. That is why the committee which advises the board is made up of representatives of the insurance industry. They are the people who are able to give advice in the implementation of this subclause.

The Hon. R. G. Pike: In any case, he is not punitively dealt with; he is paying only the same amount as an ordinary employer who is insured would pay.

The Hon. H. W. OLNEY: Exactly. If we wanted to know how much premium Bunning Bros. should pay, we would not go to Alcoa to find out because it would not know; we would go to the insurance industry. We are dealing with the Workers' Compensation Board, which is advised by the committee. The board is chaired by a person with the status of a District Court judge and comprises a representative of the Confederation of Western Australian Industry and a representative of the Trades and Labor Council. They are advised by three members of the insurance industry, and I would suggest that is a fair enough representation of expertise to protect the one or two self-insurers who might come within the ambit of this clause.

Clause put and passed.

Clauses 17 to 27 put and passed.

Clause 28: Members of Committee—

The Hon. NEIL OLIVER: Although I disagree with the argument put forward by the Hon. Howard Olney relating to the need of a self-insurer to be represented on the board, the fact that he has convinced other members of the Committee means that I have no hope of succeeding in my opposition to this clause.

Clause put and passed.

Clauses 29 to 40 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 the Hon. G. E. Masters (Minister for Fisheries and Wildlife), and passed.

NURSES AMENDMENT BILL

In Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clause 4: Section 9 repealed and substituted—

The DEPUTY CHAIRMAN: Progress was reported on the clause after the Minister had moved the following amendment—

Page 4, line 8—Delete "five" and substitute the following—

"three";

The Hon. D. J. WORDSWORTH: The Committee asked me to seek information from the Minister for Health as to why he was agreeable that the union should make recommendations as to nominees to the board whereas in the original Act it was the Minister's prerogative to make the recommendations. The Minister informed me that he is only legalising what in fact has taken place over a number of years under previous Ministers for Health.

In the original Act there are 17 members of the board and when one runs down that list it strikes one as being rather odd that in the first case, in paragraph (a), two persons are appointed on the recommendation of the Minister, one of whom is nominated by the Minister to be chairman.

Paragraph (b) concerns the Director of Mental Health Services, and he is a statutory recommendation. Paragraph (c) concerns two persons who are medical practitioners appointed on the recommendation of the AMA. So the Minister does not influence their appointment. Paragraph (d) concerns a person who is registered as a general nurse appointed on the recommendation of the Minister. Paragraph (e) concerns a person who is a specialist in general education appointed by the Nurses Board, so the Minister does not influence that appointment.

Paragraph (f) concerns a person who is a matron and once again it is a person appointed on the recommendation of the council. Paragraph (g) concerns a person registered as a general nurse and again recommended by the council, and so again the Minister does not influence this appointment. Paragraph (h) concerns two persons who are registered as general nurses appointed by the council, so the Minister has no influence here. Paragraph (i) concerns two persons registered as general nurses recommended by the federation representing the community health services, and once again the Minister has no influence. Paragraphs (j), (k) and (l) concern a midwifery nurse, a mental health nurse, and two nursing aides, and the Minister previously recommended the nursing aides, although for the last few years it has been the practice that the union recommends these people.

So it can be seen that other than those last two, each of the organisations made recommendations. I am informed by the Minister for Health that previous Ministers accepted the recommendations of the union, and in this particular case he was only making lawful what was an accepted practice. Under the Act the Minister is able to influence the appointment of three people, plus the two nursing aides. One can argue he has an influence in the appointment of five members, but the proposal in the Bill is not very much different.

In the Bill the Minister does influence the appointment of the three appointees as outlined in paragraph (d) of this section. He can also influence the appointment of the person appointed under paragraph (j). There is a change in numbers because paragraph (i) has been removed. Paragraph (j) concerns a person who shall be appointed by the Minister and is a medical practitioner who shall represent the department. In other words, under the new Bill the Minister shall directly influence five members as against three or three plus two depending on how one wishes to look at the last two recommendations to be made. It was felt by a previous Minister—the Hon. Graham MacKinnon—that the council should nominate one of those two and the union should nominate the other. When one looks at the number of recommendations made by the federation we see it recommended seven members under the Act and nine members in this Bill, so in no way have they lost ground. I believe the proposition should be satisfactory to all members.

The Hon. N. E. BAXTER: I cannot accept what the Minister has said for the simple reason that the Minister for Health produced a Bill in which clause 4 dealing with proposed section 9 (1)(d) deals with the appointment of two persons. In the principal Act, the situation was that two nursing aides were appointed by the Minister, but under the new proposal the Minister will not have any say in their appointment.

The Hon. D. J. Wordsworth: No.

The Hon. N. E. BAXTER: We are not talking about anything other than the appointment of two enrolled nurses. That is what the amendment is dealing with. We are proposing to delete the word "five" and substitute the word "three". Proposed section 9(1)(d)(iv) provides for the Minister to appoint two enrolled nurses and that is in line with the present Act. What made the Minister change his mind to allow the union to appoint these two members? I have indicated before that it was an *ad hoc* arrangement and the final decision as to the appointment of the nursing aides was made by the Minister after consultation with a director of nursing. There was nothing wrong with that arrangement and no reason has been given to explain the change.

Since 1976 there has been only one case of a re-appointment, so there could not have been too much deviation from the arrangement made for the Minister to make the appointments of the nursing aides. The Bill had provision for their appointment in the same manner as in the Act, but suddenly we have this change. I cannot agree with it. I urge the Committee not to accept the amendment.

The Hon. H. W. OLNEY: Today we have spent many hours discussing an Act which was set up in 1971 and which, in the fullness of time, it has been decided should be changed because events have overtaken the original structure of the legislation. Mr Baxter is saying that an arrangement which was made in 1976 has worked well and we should not change it. The fact of the matter is that an informal arrangement made some time ago for the appointment of nursing aides has worked properly and so the Minister is giving legislative form to that arrangement.

The Minister is legalising something to the satisfaction of the Nursing Board, the nursing aides, and most other people. I thank the Minister for Lands for having confirmed this in his most recent comments. I had suggested this was the case in both my second reading speech and in my earlier Committee remarks. I am glad the Minister has been able to confirm that I was correct.

At the time the Hon. Graham MacKinnon made his suggestion it did seem very logical and attractive, but when we look properly at what he suggested I think the logic and attraction disappear. He suggested that of the two nursing aides or enrolled nurses, one should be recommended by the HEU and one by the Minister.

He was suggesting the proposed amendment should be to delete the word "five" and substitute the word "four" with the fourth person to be recommended being an enrolled nurse. If we refer to other people whom the Minister may recommend we will see in the first place the person referred to is a registered general nurse to represent the general nursing administration; the second is a general nurse to represent the community nursing administration within the department; and the third is a registered mental health nurse to represent education within a hospital associated with a mental health school of nursing. If the proposed amendment were carried the only representatives would be members of the departmental hierarchy. Of course, they do not represent nursing aides. It is entirely appropriate that nursing aides or enrolled nurses should be placed in the same position as the persons in other branches of the nursing profession—the registered general nurses, the midwifery nurses, and the psychiatric nurses. For those reasons I again indicate the Opposition's wholehearted support of the amendment.

The Hon. N. E. BAXTER: I disagree with the statements made by Mr Olney. The amendment will not legalise what has occurred previously. If we legalise what happened before, appointments would still be made by the Minister and not by the Hospital Employees' Union because the amendment takes out of the hands of the Minister the recommendation of the representative and gives it to the Hospital Employees' Union. If one refers to the provisions in the Act one will see the Minister has the right to recommend six persons. Under the legislation which I have in my hand—I received it from another place—the Minister has the authority to appoint six members to the board. The amendment will decrease that number by two so the Minister will be left with the power to appoint only four people to the board.

The situation which existed in 1976 is proposed by the Bill which came to this Chamber from another place. The Minister would be able to appoint the two enrolled nurses belonging to the Hospital Employees' Union. I do not think the Committee should agree to the amendment. We should turn down the Opposition's request.

Amendment put and passed.

The Hon. D. J. WORDSWORTH: I move the following amendments—

> Page 4, line 28 to line 33—Delete subparagraph (iv);
>
> Page 5, line 11—Insert, before the word "and", the following—
>
> > "(h) two shall be persons recommended for appointment by the body known as the Hospital Employees Industrial Union, being persons each of whom is an enrolled nurse who is registered with the Board and who is practising in a general hospital associated with a school of nursing for enrolled nurses;"

Amendments put and passed.

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

> Page 5—Delete all the words in lines 17 to 19 and substitute the following—
>
> > "together, where the person appointed as chairman is not selected from amongst those members, with the person who is, pursuant to subsection (2) of this section, selected by the Minister and

recommended for appointment as chairman";

The Hon. N. E. BAXTER: I hope the Committee will not agree to the amendment. I would prefer the much simpler proposed amendment which is on the notice paper under my name.

If one wanted to travel from the Parliament to the Zoo one would possibly go along Mount Street, St George's Terrace, Mounts Bay Road, Riverside Drive, the Causeway, and Canning Highway, and turn right into Mill Point Road. However, I am sure one would prefer to take the freeway and go straight to the Zoo.

The Hon. H. W. Olney: Instead of going to the Zoo one has only to stay here!

The Hon. N. E. BAXTER: This amendment is going a long way to cover a short distance. It is too complicated for anyone to understand. It would take anyone 10 minutes to arrive at what it really means. I hope the Committee will oppose this amendment in favour of my simpler amendment which I will move if this amendment is defeated. In it I have included simple wording instead of the complicated wording that is proposed. I do not know what the Parliamentary Draftsman was thinking of when he drafted this amendment. He must have tried to use as many words as he could. It is desired to appoint either one of those members as chairman or somebody from outside the board, and if somebody from outside the board is appointed provision is made for that person to be included on the board. My simple amendment would do that as would the amendment before us, but it has a conglomeration of words.

The Hon. D. J. WORDSWORTH: I would like to think it was as easy to go to the Zoo as was suggested by Mr Baxter.

The Hon. H. W. Gayfer: He walks across the water!

The Hon. D. J. WORDSWORTH: We have a need to do four things. I think it is understood that the wording is rather difficult to follow, but we have no short-cuts and the proposed amendment endeavours to cover the four things we want to do. We want to give the Minister the power to make the selection in regard to a chairman and that his selection be made an order of the board so that the Governor's power becomes exercisable. The next is to require the Minister to have regard to any of the recommendations of the rest of the board and not to appoint a chairman on its behalf.

We want to emphasise the different bases of election applicable to the position of deputy chairman. All these objectives are achieved by the proposal. The only thing Mr Baxter's amendment says—I know it sounds very simple—is that the Minister shall select a person whether or not he is from amongst those members whom he may appoint to hold office as chairman of the board. Anyone who has read the Act would know that the Minister does not appoint members; the Governor appoints them. The Act is quite simple and explicit. I am afraid Mr Baxter's amendment is not applicable to the legislation.

The Hon. H. W. OLNEY: As I indicated in my remarks to the second reading, the Opposition supports the amendments which the Government initiated with respect to the appointment of the chairman of the board. There may be some merit in what Mr Baxter has said about the circumloquacious way of expressing the concept, but I think the problem is that the draftsman has had to take a Bill in a certain form and try to fit amendments into it.

Perhaps if he were starting afresh he would have done it another way, and perhaps avoided some of the extra lines to be added by the amendment. There may also be something in what the Hon. A. A. Lewis said earlier tonight; that is, that officers of the Crown Law Department are putting things into Acts to make extra work for themselves. We have had an extra job for lawyers provided by way of the EPA legislation and we will need more draftsmen to draft longer amendments to this legislation. Perhaps in view of the unemployment situation the draftsmen are fairly wise in maintaining their high productivity. However, the amendment proposed by Mr Baxter is not acceptable to the Opposition for the reason that it ignores one feature of the Government's amendment, and that is, that the Minister will have regard, albeit, without being bound, to the recommendation of the board when the chairman is appointed.

I understand this is what the board wants. It wants at least to be able to whisper in the Minister's ear in regard to appointments and, perhaps, do more than whisper by saying officially that it wants Mr X to be the chairman of the board. The Minister will make his decision as to the appointment of Mr X and Mr X can be a person from within the board or outside the board. The board wanted to have some say in who should be the chairman, and the Minister wanted to keep the final say; everyone seems to be happy with the arrangement which is covered by the amendment, and, therefore, we will support it.

The Hon. N. E. BAXTER: In putting on the notice paper my proposed amendment to the amendment I thought I might encourage the

Government to look at its amendments so that simpler words could be used. I really could not care less about the situation, and it is not my fault that people will be confused by what the amendment means.

The Hon. D. J. WORDSWORTH: I take exception to the remarks made by Mr Baxter. He knows Mr MacKinnon has drawn my attention to the difficult wording. We have had the Crown Law Department spend considerable time studying this matter. We realised this was the only way in which to cover the situation. The member put on the notice paper a proposed amendment which endeavoured to fit the bill. It is quite obvious that his amendment would not fit the bill.

Amendment put and passed.

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

> Page 5, line 20—Delete "The Board may" and substitute the following—
>
> > "The Minister, having regard to but without being bound by any recommendation made by the members of the Board appointed pursuant to paragraphs (a) to (j) of subsection (1) of this section, may select a person, whether or not from amongst those members, who shall hold office as chairman of the Board, and if that person is not selected from amongst those members may recommend him for appointment as a member of the Board in that office, but the Board may itself elect and".

The Hon. N. E. BAXTER: I respectfully point out that the amendments to this clause do not provide for a paragraph (i). I think when (j) is referred to it should be (i).

The DEPUTY CHAIRMAN (the Hon R. J. L. Williams): I inform honourable members that the draftsman explicitily asked that the letter "i" be removed from the Bill. The reason was that it was thought it looks like a small figure "one". That is why the letter "i" does not appear. The matter has been taken care of.

The Hon. N. E. BAXTER: May I say it is rather strange for the draftsman to make that decision because if one looks at the principal Act, one finds the designation "(i)" is included.

The DEPUTY CHAIRMAN (the Hon. R. J. L. Williams): I can only report that is the policy of the draftsman. He asked the Committee to comply with that request to avoid confusion.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 5 to 11 put and passed.

Clause 12: Section 30B amended—

The Hon. H. W. OLNEY: I rise briefly on a minor matter. I may have been unclear in my original statement during the second reading, and led the Minister to believe I was saying something which I did not intend to say.

In his second reading speech, the Minister said—

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

That seems to involve a complete negation of what the amendment seeks to do. The amendment seeks to make it not an offence for a person to fail to notify the board of a change of address. The draftsman has sought to do this by eliminating the provision of a fine for the non-notification of a change of address. But the obligation to notify a change of address is still there and by virtue of section 42 of the Act, it is provided that a person who fails to comply with this Act is guilty of an offence, and the penalty will be $200.

I agree the amendment is only minor, but the inconsistency in the Minister's speech has drawn this matter to the attention of the Committee. It seems the legislative intent has misfired, and it may be more appropriate to delete the section from the Act, and have a regulation which requires a change of address to be notified.

The Hon. D. J. WORDSWORTH: I have noted what the member has said. I believe the board will be well aware that a penalty applied previously, because it will be repealed.

While there is a general penalty of up to $100, if no other penalty is stated, I believe the board will use its good sense and note that Parliament chose to remove the penalty.

Clause put and passed.

Clauses 13 to 19 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

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

DENTAL AMENDMENT BILL

Receipt and First Reading

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

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [1.09 a.m.]: I move—

> That the House at its rising adjourn until 11.30 a.m. today (Thursday).

Question put and passed.

House adjourned at 1.10 a.m. (Thursday).

QUESTION ON NOTICE

HEALTH: ALCOHOL

Alcoholic Rehabilitation Funds

498. The Hon. LYLA ELLIOTT, to the Minister representing the Treasurer:

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

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

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

(3) If not, why not?

The Hon. I. G. MEDCALF replied:

(1) The following grants were made to voluntary bodies mainly associated with the treatment of inebriates and drug dependants—

	1970-71 to 1973-74 $	1974-75 to 1979-80 $
Consolidated Revenue Fund Appropriation		
Miscellaneous Services Division	66 000	29 000
Community Welfare Division	2 000	27 928
Public Health Division	—	362 828
	68 000	419 756

(2) Yes.

(3) Not applicable.

QUESTIONS WITHOUT NOTICE

COURTS

Imprisonment of Mothers of Young Children

150. The Hon. J. M. BERINSON, to the Attorney General:

(1) Has the Attorney General's attention been drawn to recent cases where mothers of very young children have been imprisoned for non-payment of fines without being given the opportunity to make suitable arrangements for the care of their children?

(2) What administrative instructions cover this situation?

(3) What action, if any, has been taken by the Attorney General to overcome the problems which recently have come to notice?

The Hon. I. G. MEDCALF replied:

(1) to (3) I understand that my office received notice of this question, but I have not yet had the opportunity to find out the details of the administrative instruction.

In answer to the other part of the question, I agree the Hon. Joe Berinson has raised two matters with me in relation to this type of situation. I have looked into them on each occasion and have satisfied myself that arrangements were made to look after the children.

COURTS: PETTY SESSIONS

Confessional Statements

151. The Hon. J. M. BERINSON, to the Attorney General:

On 4 November the Attorney General undertook to refer to the Minister for Police and Traffic a proposal that there should be referred to the Law Reform Commission the question of making available to accused persons in petty sessions their own confessional statements.

On the basis of that reference—

(1) Has any decision been made on the proposal?

(2) If not, when might this be anticipated?

The Hon. I. G. MEDCALF replied:

(1) and (2) I undertook to refer the matter to the Minister for Police and Traffic. I did so, and I am awaiting his response.