Legislative Council

Tuesday, the 10th October, 1978

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS

Questions were taken at this stage.

BILLS (4): INTRODUCTION AND FIRST READING

1. Legal Aid Commission Act Amendment Bill (No. 2).
2. Evidence Act Amendment Bill (No. 2).

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

3. Reserve and Road Closure Bill.
4. Reserves Act and the Reserves and Road Closure Act Amendment Bill.

Bills introduced, on motions by the Hon. D. J. Wordsworth (Minister for Lands), and read a first time.

ACTS AMENDMENT (SUPREME COURT AND DISTRICT COURT) BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [4.52 p.m.]: I move—

That the Bill be now read a second time.

This Bill is introduced purely as a precautionary measure.

During a recent hearing in the Full Court, the question was raised as to whether a magistrate was validly appointed when acting as referee of the Small Claims Tribunal because at the time of that appointment he was not "entitled to practise" as a legal practitioner.

Although that point was not argued at the hearing, legislation has been introduced to this Parliament to validate the magistrate's appointment to the tribunal.

The qualifications of Supreme Court and District Court judges are not expressed in the same terms as those used in the Small Claims Tribunals Act.

However, it is thought prudent, to prevent any remotely similar technicalities being raised, to change the wording of the former two Acts in relation to the qualifications required for appointments to the judiciary.

The new qualifications in the Bill do not differ materially in the sense that for persons to be eligible for appointment as judges of either court they must have not less than eight years' standing and practice. As I have said, the purpose of the Bill is purely precautionary and I commend it to the House.

Debate adjourned, on motion by the Hon. D. K. Dans (Leader of the Opposition).

PUBLIC SERVICE BILL

In Committee

Resumed from the 5th October. The Deputy Chairman of Committees (the Hon. T. Knight) in the Chair; the Hon. G. C. MacKinnon (Leader of the House) in charge of the Bill.

Clause 36: Promotions Appeal Board—

The DEPUTY CHAIRMAN: Progress was reported on the clause after the Leader of the House had moved the following amendment—

Page 20—Delete all words in lines 3 to 21 and substitute the following passage—

(c) an officer nominated by the relevant union unless—

(i) the appellant is not a member, or if there is more than one appellant all the appellants are not members, of that union;

(ii) there is no relevant union; or

(iii) there is a relevant union and it fails to nominate an officer at the latest fourteen clear days before the date of hearing,

in which case the Promotions Appeal Board shall include,

(iv) if there is only one appellant, an officer nominated by the appellant; or

(v) if there is more than one appellant, an officer nominated unanimously by all the appellants, or in default of an agreement thereon an officer selected by the Chairman of the Promotions Appeal Board from officers nominated respectively by the appellants,

and each nomination under this subsection shall be in writing duly signed on behalf of the Public Service Board or the relevant union or by the appellant or appellants, as the case requires, and delivered to the Secretary to the Promotions Appeal Board.

The Hon. R. F. CLAUGHTON: The amendment arose because of a debate which took place in another place. It was raised there by ALP members who pointed out that there was an employer representative, an employee representative, and an independent chairman. That is the system which is operating now and which has operated in the past. The representatives were appointed by the employees' organisation and the employers' organisation. However, it was pointed out also by ALP members that there are situations which this arrangement does not cover; that is, when a person appealing for a position is not a member of a relevant union, or the union has failed to nominate a representative. We contend that negligence on the part of the union in failing to nominate someone should not disadvantage the appellant.

However, the amendment before us has slightly changed the basis of the argument. During the third reading debate in another place, the Leader of the Opposition stated quite clearly our position in relation to the appeal board. Consequently the Government has had time in which to study his remarks. We support subparagraphs (ii) and (iii) of the proposed amendment because they cover the objections raised in another place. However, in situations where a relevant union is involved, then its representative should be appointed to the appeal board.

Perhaps I should make it clear that probably the most biased person who could be appointed to the appeal board would be one nominated by the appellant himself.

Quite obviously the appellant will not nominate anyone who will be opposed to him; whereas the person nominated by the relevant union will be relatively impartial, because in his approach to appeals he has to be seen to be impartial to his members, and not to be supporting one member against another. Normally the same few persons are nominated to that position. It serves the best interests in arriving at just decisions on appeals to have the person nominated by the relevant union to be on the tribunal, because he is the experienced person to deal with the matter. In these cases the person is appealing against the recommended applicant who would naturally be supported by the board, since the board initially had agreed to his appointment.

The appellant in these cases is best served by experienced people whom the relevant union is able to provide; and that is the way in which this matter should be judged.

We oppose paragraph (c)(i) of the amendment. In cases where none of these people are members of the union, it may appear that there is no need for the union to be involved, but for the reasons that I have outlined it is sensible for appellants to have available to them an experienced person on the tribunal. This is in accordance with the principle in which these tribunals should be constituted. Generally there is a representative of the employers' organisation, a representative of the employees' organisation, and an independent chairman.

Mr Deputy Chairman (the Hon. T. Knight), when you take this amendment through the Committee stage it will be appreciated if you will take it paragraph by paragraph.

The Hon. G. C. MacKinnon: Why do you not move for paragraph (c)(i) in the amendment to be deleted?

The Hon. R. F. CLAUGHTON: That is one way of achieving my objective. I propose to move that subparagraph (i) be deleted.

The Hon. G. C. MacKINNON: I am quite sure that on procedural matters the Deputy Chairman will advise the honourable member of the correct course. It might be as well for the Committee to agree to the amendment I have put forward, and then for Mr Claughton to move an amendment on the amendment.

The DEPUTY CHAIRMAN (the Hon. T. Knight): There is no problem to move an amendment on the amendment.

The Hon. G. C. MacKINNON: Whatever happens, I hope the amendment will remain as it is. I have an obligation to ensure that these things are proceeded with in a proper manner. From the point of view of the Public Service Board and the administration of the Act, what Mr Claughton has suggested would be quite desirable; and it would make things simple and easy.

Of course, we have to have cognisance of the fact that there are some people with certificates of exemption who do not want to belong to a union or to be represented by a union. Although Mr Claughton has said that the most biased person who can be appointed to a tribunal is a direct representative of the appellant, I have my doubts. I think the most biased person is a union representative acting for an appellant who does not want to be a member of the union. This is a "no win" situation. We believe in the granting of certificates of exemption, but the party to which Mr Claughton belongs does not, in the main, believe in this.

The Hon. R. F. Claughton: That is not correct. We support exemption on conscientious grounds.

The Hon. G. C. MacKINNON: The party to which the honourable member belongs does not support exemptions on as wide a ground as we do.

To cope with the various ramifications of this matter is very difficult; and to devise a scheme whereby each category has a right to nominate the employees' representative is a most difficult administrative problem. The Public Service Board experienced great difficulty in giving instructions to the Parliamentary Counsel, and when the board did give those instructions the Parliamentary Counsel found it most difficult to devise the required provision. This was the best he could do.

In all the circumstances, the provision in the amendment I have moved is the best we can put forward. It goes a long way to satisfying the requirements voiced by the Leader of the Opposition in another place. I hope the Committee will agree to the amendment.

The Hon. J. C. TOZER: I want to comment on the amendment moved by the Minister, and also on the remarks of Mr Claughton. It is quite encouraging to hear the ALP's advocacy of representation for non-unionists. At least it shows there is an understanding of the need of the people who do not want to be members of a union. I think it goes back to the matters that were introduced by Mrs Piesse in discussing the previous clause. She spoke of civil servants or rather people employed by the Government who were, in fact, members of the Association of Professional Engineers of Australia; but not necessarily members of the CSA.

It seems that under subparagraph (iv) an opportunity is presented for an engineer appellant to nominate an engineer to be the third member of the tribunal; of course, he has to be an "officer," and therefore in the Public Service and governed by the Act. In fact, the third member of the board could be an engineer and thus have an understanding of what an engineer is appealing against, and what the substance of the engineer's appeal is.

For that reason I believe what has been introduced by the amendment before us is a most desirable addition. It is designed to meet the requirements of people, such as members of the Association of Professional Engineers of Australia.

In this clause as in the preceding clause, there is a clear recognition of the absolute dominance of the CSA in respect of representing the employees, the members of the association. I am talking about the people working under the Public Service Act, and under the provisions of the Bill when it becomes an Act.

Mrs Piesse was quite upset, when we were last debating this Bill in Committee, about the concept of compulsory unionism. I think this is an objection which probably all members on our side of the Chamber have.

The Hon. D. W. Cooley: Anti-unionism.

The Hon. J. C. TOZER: Nothing to do with anti-unionism. It is a matter of compulsory unionism. Several factors are worthy of note. Nowhere in the Bill can I find any clause that states that people who work under the Public Service Act have to be members of the Civil Service Association. However, what we do find in clause 35 of the Bill, which Mrs Piesse has talked about, and also what we find in clause 36 which we are now considering and to which the Leader of the House has moved an amendment, is a clear implication that the Bill recognises that the CSA is the body with which the Public Service Board will deal.

In discussing the Bill in Committee, the Leader of the House referred to the concept of a single industry union. Naturally this is a concept that appeals to me, because at one time I spent a couple of hours in this Chamber advocating a single industry union for the iron ore industry in the Pilbara.

I think I am right in saying that one of the main reasons that the CSA can be such an effective voice in representing all the staff employed under the Public Service Act is its moderation, and principally because of the all-embracing nature of the body itself. It covers all types of vocations, and it answers to many and diverse groups. In turn it has to represent them individually and as a body, in the matters put to the Public Service Board.

It is not an easy matter for the executive of the CSA to go tearing off on some hair-brained sectional interest, when the advocacy of that sectional interest may be in conflict with the other components of this broadly based body, the CSA. Clearly, that executive must represent what is best for the whole of the diverse groups, at the same time that it is representing any particular member or any component group within the main body.

I do not support compulsory unionism at all, but I suggest that the Public Service Board has a vested interest in maintaining the strength of the Civil Service Association. I think this helps to keep away from the scene what I might describe as the "predatory" unions. I think of the Municipal Officers Association, a group which

has made inroads into the State Energy Commission.

The Hon. R. Thompson interjected.

The Hon. J. C. TOZER: This body also has its greedy eyes on members of the Civil Service. Among these "predatory" unions we find the Federated Clerks' Union which I think has the reputation of being a very moderate and responsible union, but it would make the job of the Public Service Board more difficult. Some members of the Civil Service Association actually work in the powerhouses and man pumps. I suppose the next thing we would find is the Federated Engine Drivers and Firemen's Union wanting to be part of this deal. I am sure the Public Service Board does not wish to have to deal with that union.

I think that we might reasonably describe it as an "unholy alliance" between the Public Service Board and the Civil Service Association, always having in mind that the Public Service Board is an instrument of the Government.

This unholy alliance is not completely healthy because of its connotation of compulsory unionism, but it is vastly superior to the alternative where we had multifarious unions with which the Public Service Board had to deal. The risk would be too great if we did not have this strong and all-powerful Civil Service Association with which to deal.

I will come back to where I commenced. In clause 35 we noted the implied acceptance of compulsory unionism, but at least we gave those people carrying a certificate of exemption the right of appeal. Now in clause 36 we recognise bodies other than the CSA—or should I say, employees other than members of the CSA—and we provided that such employees would have the right to nominate the third member of the Promotions Appeal Board under certain circumstances.

Let us consider then the Association of Professional Engineers of Australia. I should mention that most of the Western Australian members of this association are concentrated in the Main Roads Department, the State Energy Commission, and Westrail. For that reason they are not even a consideration in the Bill before us tonight, but some APEA members are employees of the Public Works Department. By the way, the APEA is registered as a respondent in the Commonwealth Arbitration Court and it presents claims for its members in that particular court.

My last comment is to repeat something I said earlier in the Committee debate. During the whole history of the Public Service in Western Australia, as far as I can ascertain, only one engineer has ever appealed to the board. It is not easy to see that many people will be involved directly in nominating a third member to the Promotions Appeal Board.

The Hon. W. M. PIESSE: As far as it goes, I support this amendment. However, I would like to refer to one or two of Mr Tozer's comments. In closing his speech he said that only one engineer had ever appealed, and this points out that we do not need to have all this accent on the necessity for an employee to be a member of a union in order to lodge an appeal, because the provision will not upset the whole world—maybe only one person. Do we care all that much about one person?

The Hon. G. C. MacKinnon: Yes.

The Hon. W. M. PIESSE: We should look carefully at this matter. I am mystified as to the reason for the inclusion of subclauses (3) and (4) of clause 35, because I do not think the Civil Service Association would have been very upset if these subclauses had been omitted. Members of the association would still be recognised, and employees who were not members and who were employed in those areas would still have a right to appeal against promotions if they felt such promotions were unjust. I am still very upset about the fact that this provision was included.

I am not an anti-unionist. In the past unions have achieved a great many benefits for their members; they have done good work. However, I am against writing into the legislation that a person, for whatever reason, must become a member of a union. That is the principle I am strongly against.

The Hon. R. HETHERINGTON: I wish to oppose the insertion of paragraph (c) subparagraph (i). I do not see where compulsory unionism is included in this paragraph at all. I am a little amused about Mr Tozer's comment of an unholy alliance between the Public Service Board and the Civil Service Association. I do not find it an unholy alliance; I find it a simple understandable arrangement. Of course, any employer would prefer to deal with one union, and he would be quite happy if only one union covered a particular industry. This makes it easier for the employer and the union to get together, and so it seems to be a common-sense arrangement rather than an unholy alliance.

It seems to me that in subparagraph (i) we are falling over too far backwards to ensure that justice appears to be done. Let us consider a case where there are five appellants and one appellant is not a member of a union, although I do not

suppose such a case is ever likely to arise. However, if it did arise, the whole procedure would have to be followed. All the appellants would have to agree unanimously to appoint somebody to represent them, and it seems to me in such circumstances it would be a good thing for the union to appoint the person to the board.

I presume that the Leader of the House is not suggesting a member of the union would be unduly biased against a non-union member, or perhaps he does think so. I suppose he could be, but it is unlikely.

The Hon. G. C. MacKinnon: I would not like to see, for instance, the appointment of a person like Mr Cooley.

The Hon. R. F. Claughton: Mr Cooley is a very fair man.

The Hon. G. C. MacKinnon: He does not sound so from his comments here.

The Hon. R. F. Claughton: His record shows that he is a very fair man.

The Hon. G. C. MacKinnon: I know that is his record, and that is why I am surprised at some of his utterances.

The Hon. R. HETHERINGTON: Mr Cooley is a very fair man, and I would be quite happy to see him appointed to any tribunal.

The Hon. G. C. MacKinnon: He gives the impression here of being one-sided.

The Hon. R. HETHERINGTON: We should not rely too much on impressions; perhaps I might tell the Leader of the House the impression he makes on me sometimes. However, this would not be relevant to the amendment.

Mr Claughton has put forward a very good suggestion. It is better to appoint a person with experience to this tribunal, and in this way appellants would not have to go around looking for representatives. The union representative would have the expertise necessary, and mostly the appellants would be members of a union. It is highly desirable that members of the Civil Service belong to the Civil Service Association. I agree with the member who said he did not believe in compulsory unionism; that is, I believe we should not legislate for it. However, I do believe in a closed shop concept. All the members working in one shop could belong to the one union and in that way we could have strong negotiations between the union and the employer.

The DEPUTY CHAIRMAN (The Hon. T. Knight): I refer the honourable member to the amendment. I notice that he is reading these words from the notice paper. Those words have not yet been added. It is proposed to move to delete subparagraph (i).

The Hon. R. HETHERINGTON: If that is so, I have no argument with that amendment. However, no other speaker seemed to be referring to that.

The Hon. R. F. CLAUGHTON: I believe the Government has got itself into a position it never intended to be in, in regard to subparagraph (i) of paragraph (c). As I indicated earlier, we are opposing this subparagraph, and if members will think about this matter, they will understand the reasons for our opposition.

We are considering the type of case where a number of people appeal against a recommended appointment, and we must remember the recommendation would have been made by the Public Service Board, and possibly by the Government. The provision in subparagraph (i) will mean that the appellants are in a worse position than they were under the existing legislation. We are saying to them that if five different people appeal against a recommended appointment, the five people will have the right to nominate one person to represent them all on the board. Obviously it could happen that such a person would be biased towards one of the appellants. The question of exemption is only one aspect of the argument. How can such a situation be fair? There could be five nominations for the third position on the board.

The Hon. J. C. Tozer: Does not subparagraph (v) deal with that?

The Hon. R. F. CLAUGHTON: The chairman will pick out one person. I am not talking about subparagraph (v). In a case where there are five appellants, the chairman will choose one person to represent them, and four appellants could be disadvantaged.

The Hon. J. C. Tozer: That is the best thing the Government could do.

The Hon. R. F. CLAUGHTON: I am not saying that is the best thing the Government can do. The five appellants could nominate only one person to the board.

The Hon. G. E. Masters: It could be possible, but it would be an extreme case.

The Hon. R. F. CLAUGHTON: The Leader of the House will tell us that we are arguing about a small number of cases. The chairman picks a name out of a hat.

The Hon. G. E. Masters: It does not say he picks a name out of a hat; it says that he selects a person.

The Hon. R. F. CLAUGHTON: Yes, he picks one person. He can pick that person's name out of a box or use a pin. Let us say that the person he selects is the person representing appellant B. That representative will then be biased towards appellant B, otherwise appellant B would not have nominated him in the first place; in other words, the four remaining appellants would be further disadvantaged.

All the appellants would be in a better position if we adhered to the general principle that there is an employers' organisation representative and an employees' organisation representative. In this way the appellants' representative would be a person most experienced in this field. He would know the things to look for to assist the appellants in putting forward their cases. In the case of an inexperienced representative, he would not be in the same position as an employees' organisation representative. He would not have the experience in dealing with such cases, and he would be far more biased towards the person he is representing than would a person from the employees' organisation.

We should uphold the general principle and say that the employees' representative is the nominated representative. Some provision would have to be made for the employees where their positions are not covered by a relevant union, or where the relevant union has failed to make an appointment to the board because it is not interested or for some other reason.

The Hon. G. W. Berry: What do you mean by saying that such a representative would be more biased?

The Hon. R. F. CLAUGHTON: Let us say that the honourable member is after a particular job in the Public Service but someone else is granted the appointment. Perhaps Mr Berry wants to appeal against the appointment because of superior efficiency. However, in this particular case there is no union covering the job, so he has to find someone he knows will be favourably disposed towards him for appointment to the Promotions Appeal Board. Certainly the honourable member would not ask somebody biased against him to represent him; he would seek as his representative a person who he knows will support him.

Let us then consider the situation where, say, Mr McNeill and Mr Cooley also wish to appeal against the appointment. In these circumstances the appellants would want different representatives. Mr Cooley would not believe that the nominee supported him. If the nominee supported Mr Cooley, it would be unlikely he would support Mr McNeill. I am suggesting that the bias would be far greater in that situation than if the representative of the employees' organisation was the person selected to sit on the board.

The Hon. W. M. Piesse: Supposing the appellant was a member of the union and the other people were not members, would there be any bias then?

The Hon. R. F. CLAUGHTON: I will have to return to an example I gave earlier. The employees' representative is a person who has to satisfy the needs of all members. It may well be that—

The Hon. W. M. Piesse: All members of what?

The Hon. R. F. CLAUGHTON: All members of the association, or whatever the union is. That means the representative cannot afford to behave in a biased manner. Members should remember that the bulk of these cases deals with people who are members of the association. If the person who is appointed is not a member at the time of his appointment, he may well become a member after his appointment.

There would be a stronger requirement on the representative to act impartially if my amendment is accepted than there would be if nomination to the appeal board was a one-off job. Then the representative would not have to worry about what would happen in the future as far as his position on the appeal board was concerned.

Generally the people nominated by the union to the board perform their task well, because experienced people are needed for that task. A nominee from the association is likely to be a more impartial person than is conceivable in any other situation. Members should remember that even in cases of exemption, a person who has received an exemption may change his mind later on.

The representative of the officers on the appeal board has to act impartially at all times, because he does not know what the future holds for him. He cannot afford to be biased, because he cannot run away from his job. There will be far more impartiality from that sort of person than any other who may come to be on the appeal board by chance.

I move—

> That the amendment be amended by deleting subparagraph (i).

The Hon. G. C. MacKINNON: I hope members will not agree to this. So far as the Public Service administration is concerned, they would be quite happy with what the Hon. Roy

Claughton has proposed. That would be easier administratively. There is one point—

The Hon. R. F. Claughton: You mean the Public Service Board?

The Hon. G. C. MacKINNON: Yes.

The Hon. R. F. Claughton: You said the association.

The Hon. G. C. MacKINNON: The association would probably agree as well.

There is background to this matter that members should keep in mind. Where there is an industry organisation in existence, the members of it are very fortunate, and they cling to it like glue. Those Civil Service and Public Service organisations which are in that fortunate position are always very grateful. In Western Australian, that happens to be the case. The Commonwealth does not find itself in that situation. I have been told that the administration of the Commonwealth Public Service is a nightmare, because it involves more than 100 different unions.

Unfortunately Mr Hetherington unwittingly misled the House. If there are several appellants and any one of them is a member of the union, then the representative will be a union member. The proposed subparagraph reads—

> (i) the appellant is not a member, or if there is more than one appellant all the appellants are not members, of that union

The Hon. Win Piesse is arguing an entirely different matter. She is arguing on clause 35, which we dealt with last week. I accept her argument. I repeat that this is a "trade-off". We are better off having the one union. Despite all the conflicting requirements, the situation is that the union nominates the employee representative in most and in the usual circumstances.

Let us get this in perspective, because we are bending over backwards to satisfy the needs of the individual. There are less than 14 000 employees in the Public Service. Not all of them are civil servants. Between 1 500 and 2 000 jobs a year are advertised. There are between 75 and 100 appeals. In the filling of those 75 to 100 positions more time, trouble, and heartbreak are spent than in relation to the other 1 500 to 2 000 positions. Nevertheless, that is a good thing. That is why the situation is being protected with this type of clause. It is intended as an escape valve. Any member of the Public Service can appeal, and he will know he has the right to have his appeal heard. Although it is difficult administratively to resolve all of the conflicting interests in an appeal situation, nevertheless the Public Service Board and the Parliamentary Counsel have done the best they could. I hope that members leave the clause as it stands.

If there are two non-unionists involved, or five non-unionists involved, they all have a choice, and one of their selections becomes the representative. If there are one or two unionists among the five, the union selects the representative. In 99 cases out of 100 everyone would be perfectly happy with that arrangement.

One of the reasons for this is that the Civil Service Association has a crackerjack credit union, and virtually everybody is a member of it. One would have to be a dyed-in-the-wool anti-unionist with deep convictions not to be a member. Members obtain good conditions from the credit union. It is similar to the Teachers' Union. The members belong to it because everything is deducted at source.

The Hon. H. W. Gayfer: You reckon it is the perks which cause people to join unions? I would not be surprised.

The Hon. G. C. MacKINNON: This is not the time to discuss that. I do not want to be involved in a debate on unionism. I am not certain, now that modern legislation has caught up with the needs of people, that unions are necessary today. Certainly these types of benefits assist unions considerably. The CSA has a good, solid credit union which is administered in an excellent fashion. This sort of thing must attract membership to the union. I am sure all members have friends in the Public Service, and we would be begging the questions not to admit that these things have an influence on the membership.

I am sure 99 people out of 100 would be perfectly satisfied with the CSA representative. They would know that he would look after their interests. He would be sensitive to their needs. One reason why the representative would be sensitive to their needs would be that the appellants may become members of the representative's union.

In relation to this matter, we are straining over a gnat. We are trying to bend over backwards. I think we ought to accept the situation. Members should vote "No" to the amendment on the amendment, and then vote "Yes" to the amendment.

The Hon. J. C. TOZER: The Leader of the House mentioned figures under 100. In the Committee debate last week I said that there were 85 appellants last year in relation to 71 positions. The maximum number in relation to which there could have been two appellants was 14. It is

unlikely that there would be that number, because there may have been three or four appellants in one instance. There were eight appeals upheld.

We are faced with two propositions: one put forward by the Leader of the House referred to the non-unionist who would have the right to nominate his own member of the appeal board rather than being represented on the board by a union nominee who may not be in sympathy with his appointment. Members must not forget that it is almost certain the non-unionist appellant would be appealing against a recommended officer who was a unionist.

The second proposition is the one advanced by Mr Claughton—the almost impossible situation of none of the appellants being members of the union. Mr Claughton believes that when all the appellants make their nominations, the man who is fortunate enough to have his nominee selected will have an unfair advantage.

I suggest that, as the Leader of the House has said, it is almost impossible for that situation to arise. Secondly, it should be recalled that there would be two other people sitting on the Promotions Appeal Board, along with the nominee of the appellants.

The Hon. R. HETHERINGTON: I support Mr Claughton's amendment. We have the situation that a person who is not a member of the union will obtain an advantage. If there is only one appellant, he can appoint somebody he thinks will be on his side. If there is a number of union members involved, the union appoints somebody—

The Hon. W. M. Piesse: But you just said—

The Hon. G. E. Masters: That is a fair sort of comment to make.

The Hon. J. C. Tozer: Why wouldn't he be friendly disposed?

The Hon. R. HETHERINGTON: Just let me finish. I wish to defend the Government against statements—I am not sure they heard them properly—that suggest the clause which gives the union the right to appoint somebody is similar to writing compulsory unionism into the Act. Of course that is not so, as the Leader of the House would be the first to recognise. There is a difference between compelling people to do something and recognising, in a Bill, an established fact. The established fact here is that there are a Public Service Board and a Civil Service Association. The association includes the majority of people in the Western Australian Public Service. The association is a long-established, responsible body. Its members have had great experience.

Under this amendment, if appellants are members of the union, the union is not in a position just to obtain advantages for each individual member of the union. A union which did that would not last very long at all. A union is there to protect the salaries and working conditions of people in the service—of its members—but, by doing this for its members, it is doing it for everybody else.

The moment a union lets in a bad principle in order to obtain a special advantage for one of its members, it is letting down all of its members. For that reason, I believe a representative of a union is the best person to be appointed, even if none of the appellants are members of the union. In that situation, the appellants are not looking for someone who might do favours for them. In that case somebody is appointed from a body, the interests of which are to look after the conditions in the service as a whole, as the purpose of the Public Service Board is to look after the conditions in the service as a whole. They do not always agree on the ideals, and they have to negotiate and arbitrate. This is very proper. It gives us a better Public Service.

If the union appoints a member to the appeal board, we will have a body which is known, established, responsible, and whose interests are the interests of the Public Service as a whole. Appellants are not then scrambling around looking for somebody who might favour them, even if that person is only one member of a board of three members.

For that reason, I oppose the Minister's amendment, and suggest the Minister might think again and accept the view that it might be better for everybody if the union appoints a member to the board.

The Hon. D. W. COOLEY: Mr Claughton's argument is irrefutable. The Government, while it has gone a long way in regard to this matter, is upholding a very bad principle. It was reflected in the interjection when it was said, "Fancy having Mr Cooley on the board".

If we carry that situation to its logical conclusion and we find a representative of the Confederation of Western Australian Industry is appointed to the Industrial Commission, do we say that man shall not hear cases in regard to people who are not members of the Confederation of Western Australian Industry? The Liberal Party has appointed a long-standing friend to the Licensing Court. He was a member of the AHA. Do we say if the Licensing Court is hearing a case in regard to an AHA member, that man should be removed from the board on that occasion?

That principle is not correct and such a situation should not apply.

A union representative is not appointed to the board every week. One union representative is likely to be a member of the board on a permanent basis. To carry Mr Claughton's argument further, in that situation we could have two people who are not members of the union making an application. At least those two people would be looked at with an unbiased view, because it is London to a gooseberry that those persons would not be known to the union representative on the board. But what would be the situation under this clause if two people came before the board, both of whom are non-union members, and lodged an appeal? One of those people might appoint his best friend to the board. This is quite likely. That best friend could be selected unwittingly by the chairman of the board. What hope is there of justice being done in respect of the other appellant if he is making a determination in regard to his best friend?

Under the circumstances it would be better to have a representative of a union on the board. They are not irresponsible people. In fact, the CSA would not appoint a person to the board if he showed irresponsible characteristics.

The Government ought to stand by a long-standing principle in respect of this matter. I know of no other situation where a member of a board is excluded because he has an association with another person or group; but we will have that situation if we agree to the Minister's amendment.

Amendment on the amendment put and a division taken with the following result—

Ayes 8

Hon. R. F. Claughton	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. F. E. McKenzie
Hon. Lyla Elliott	Hon. Grace Vaughan
Hon. R. Hetherington	Hon. D. W. Cooley

(Teller)

Noes 18

Hon. N. E. Baxter	Hon. I. G. Medcalf
Hon. G. W. Berry	Hon. N. F. Moore
Hon. V. J. Ferry	Hon. O. N. B. Oliver
Hon. H. W. Gayfer	Hon. W. M. Piesse
Hon. A. A. Lewis	Hon. R. G. Pike
Hon. G. C. MacKinnon	Hon. I. G. Pratt
Hon. M. McAleer	Hon. J. C. Tozer
Hon. T. McNeil	Hon. D. J. Wordsworth
Hon. N. McNeill	Hon. G. E. Masters

(Teller)

Pair

Aye	No
Hon. R. H. C. Stubbs	Hon. R. J. L. Williams

Amendment on the amendment thus negatived.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 37 put and passed.

Clause 38: Procedure—

The Hon. W. M. PIESSE: I refer members to the wording of subclause (2). The clause does not say that the reason for the decision shall be imparted to the appellant. I hope that it would be, but that is not the case at the moment. In other words, the Promotions Appeal Board makes a decision, and if the appellant is rejected no reason is given. I am not suggesting the reason should be made public; but the reason should be given to the appellant in order that he knows why he has been rejected.

The Hon. G. C. MacKINNON: The Promotions Appeal Board has given reasons very rarely. It gives its decision. The CSA has always argued in favour of reasons being given. Of course, this tends to tie down the board far more rigidly. I can think of circumstances under which the board would not like to give a reason.

The Hon. W. M. Piesse: But surely the appellant himself has a right to know.

The Hon. G. C. MacKINNON: I suppose the honourable member is talking about appeals in camera.

The Hon. H. W. Gayfer: That is right.

The Hon. G. C. MacKINNON: This has never been done and it would be highly undesirable. At the moment the Promotions Appeal Board has discretionary power. If it wishes to give a reason it may do so, but it is not mandatory that it should do so. It would be highly undesirable to make it mandatory.

The CSA has always argued that it ought to be mandatory, because it makes the whole procedure more rigid. I hope everyone agrees it ought to be discretionary and such flexibility should be given.

Clause put and passed.

Clause 39: Jurisdiction—

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

> Page 21, line 16—Insert before the word "The" the subclause designation "(1)" with a view to adding a new subclause (2) as follows—
>
> (2) Notwithstanding the above where a member disagrees with the majority he may, if he elects, give reasons for his disagreement and they shall be published as dissenting reasons in the Public Service Notices.

The Minister has said the board may give reasons if it so chooses; but there is no necessity for it to be required to give reasons. Clause 39 covers the

case where the decision of members is not unanimous. We are asking that in such a situation those with the minority view may publish the reasons for holding that view.

I know the Minister has said the board should not give reasons; but it is a long-established practice in the education field. Appeals in that area involve a much higher salary level than those in the Public Service.

Sitting suspended from 6.00 p.m. to 7.30 p.m.

The Hon. R. F. CLAUGHTON: The level at which appellants in the Public Service cut out is $18 483, but in the teaching profession, where appointments of headmasters can be appealed against, the figure is $23 116. That is the information passed to me, and I do not intend to extend the argument. The point is there is a significant difference in the level, based on salary, which is the determining factor for appeals.

The other striking difference is that in the teaching profession the results of appeals are published, and I am not aware of any serious objections to that process. Why is it held that the Public Service is somewhat different, and that there may be personal reasons that an appellant might want to remain unknown in the Public Service, but not in the teaching profession? That seems to me to be quite unbelievable.

I think it is far more important that personal characteristics be taken into consideration in the teaching service where people are dealing with young children. The reasons given by the Minister for not agreeing to this proposal—that the reasons for a decision should be published—seems to me to be quite unsoundly based. The reasons equally apply to the teaching profession where there is no argument that the publication of appeals should not continue.

My amendment does not propose that all appeals should be published, but only those appeals where there is a dissenting reason. This is something of a compromise, if one likes, in that the Government has said it does not want to publish the reasons and the association has looked at the matter realistically and said that at least where dissenting reasons are given let them be published. There seems to be good reason that there should be someone dissenting from the majority on the tribunal hearing.

The Hon. H. W. Gayfer: The publication of the reasons could be detrimental to the person concerned.

The Hon. J. C. Tozer: Quite embarrassing, too.

The Hon R. F. CLAUGHTON: I have just made that argument. If it can be embarrassing in the Public Service, why could it not be embarrassing in the teaching profession? Roughly the same number of people are involved. The publication of dissents is well accepted in the teaching services, and I think the teaching profession would be quite strongly opposed to the discontinuance of that system. It does not create a problem in the teaching service, and I do not see how it will create a problem in the Public Service. I do not think the idea that there may be some personal reasons is sufficient. It is the employees' organisation which is most strongly in favour of this move. One would think that if there were sound reasons based on personal matters that this should not happen, the employees' organisation would be attempting to protect its members. That organisation believes that greater protection is given to its members by allowing the reasons to be published.

That is the substance of my argument, and I hope members of the Committee will support my amendment.

The Hon. G. C. MacKINNON: I suppose it is symptomatic of the whole system that this clause which deals with so few people should attract such tremendous attention. Then, it is one of those checks and balances so dearly loved by the Hon. Bob Hetherington, and we should not cavil at the time spent on it. Nevertheless, I hope members will not accept the amendment.

For some considerable time it has been the policy of the association that there be a statutory obligation on the Promotions Appeal Board to give reasons for its decisions in each case which it hears. Existing legislation, and the Bill now before us, allow the Promotions Appeal Board discretion in this matter, and the Public Service Board is of the opinion that this situation should continue.

From time to time the Promotions Appeal Board does, in fact, give reasons for its decisions where they may be of general application to a particular class of appeal. That is understandable; principles are laid down. Clause 38 provides that a record has to be kept so that it can be perused by anybody. A person considering an appeal is able to look back over the records of previous appeals, and see what the Promotions Appeal Board has thought of similar situations. A person in that position would then know whether or not he was wasting his time in making an appeal. However, past experience of the Promotions Appeal Board has demonstrated that it is unnecessary and sometimes undesirable—bearing in mind that the Promotions Appeal Board is dealing with the merits of a particular individual—to issue its reasons in all cases.

It may well be that one member of the Promotions Appeal Board is impressed by the fact that some evidence given some time in the past has given him real occasion to believe that an appellant drinks too much. Should that be put on the man's record? It could be argued, in justice, that it should. However, it might just be an idea, but it may be enough to decide that he should reject the appeal for that reason. He may be more aware of the situation than the other two members of the board. It may be that all members of the Promotions Appeal Board consider that one person just is not good enough in some aspect. Should that be placed in the record and condemn the man forever? I think not. My personal view is that we ought to be kinder than that.

I agree with the idea of the Promotions Appeal Board, and I do not think we ought to make the members of that board list their reasons, nor should we make any one individual member list his reasons if he shows dissent. We, as members of Parliament, have to show our reasons. We are probably the only group of people in the State who have to be known for every opinion we hold. Those opinions can be read in *Hansard*. That is one of the peculiarities of this job, and it is a good thing for us.

It is highly undesirable that members of the Promotions Appeal Board who are discussing individuals—not a great number—should comment on an enthusiastic fellow who wants to get on; or perhaps in a worse case, a very ordinary individual who feels he has been misjudged and badly handled, and who appeals. Are we to condemn that man by having it published in the notices, and picked up elsewhere, just precisely why he is not acceptable? My personal view is that we do not do that sort of thing. It is just too harsh so I hope the Committee will reject the amendment.

The Hon. R. F. CLAUGHTON: The Leader of the House cannot tell me that all these situations do not arise in dealings with the teaching profession.

The Hon. G. C. MacKinnon: We are not dealing with teachers.

The Hon. R. F. CLAUGHTON: It is a comparison, because roughly the same number of individuals is involved. Is the Leader of the House not saying there are teachers who drink?

The Hon. G. C. MacKinnon: We are dealing with a whole range of skills in the Public Service. Teachers are involved in one skill.

The Hon. R. F. CLAUGHTON: There is a whole range of different people involved in teaching.

The Hon. G. C. MacKinnon: But only one skill.

The Hon. R. F. CLAUGHTON: Even if there is a wider range of skills, is the Leader of the House claiming there are no members in the teaching profession where drink might be a problem, and that some person is not aggrieved by a decision of the appeal board for that reason, and then finds that the results of the board's findings are published and show why he does not come out so well? It applies. I believe the Leader of the House has given an extremely weak argument for not allowing this process to be established in the Public Service. It is something the employees of the association would very much like to see included in the legislation in order that justification is given for decisions which are reached.

Quite apart from decisions dealing with a general class of appointments, personal decisions are equally important to members of the service. Individuals seek information and are able to see what the tribunal considers important. The reasons of the Leader of the House are not strong. He has not shown why reasons should not be published.

The Hon. R. HETHERINGTON: It seems to me it is in the public interest that the amendment be accepted. It is one thing to say we must be careful of the feelings of an appellant, but it is important that, as we so often say, justice is not only done but is seen to be done and that the reasons given are publicly defensible reasons. The proposed new subclause of Mr Claughton does not provide that the person who disagrees has to publish the reason for his disagreement with the majority of the board; it says he may if he elects to do so.

The Hon. G. C. MacKinnon: He may do so if he wishes now; so may the whole board.

The Hon. R. HETHERINGTON: Then the Minister should not be objecting to this amendment.

The Hon. G. C. MacKinnon: It makes it obligatory.

The Hon. R. HETHERINGTON: It does not. It simply says that if a member disagrees with the majority he may, if he elects, give reasons. That being the case, I am sure the Minister will not object to the amendment.

The Hon. G. C. MacKinnon: I am being perfectly reasonable. I cannot understand why you are not being equally reasonable.

The Hon. R. HETHERINGTON: I can only go on what I read in the amendment, and I do not see what the Minister is objecting to. It seems to me to be a perfectly good amendment. I can see we might be in more substantial disagreement in respect of the next proposed amendment—which I will certainly defend, too. However, it seems to me that where there is an appeal we must be able publicly to defend it so that people may have no doubt that justice is done. I am sure the Civil Service Association has not lightly requested this provision, and it is the members of that association who are likely to suffer the embarrassment the Minister speaks of. It seems to me that here we are protecting the public interest to the possible detriment, although not necessarily so, of a private interest, and I cannot see the objection to that.

The Hon. N. E. BAXTER: I cannot see that the amendment serves any good purpose at all. If the majority of the members of the board make a decision, whether it be in favour of the appellant or of the person promoted, I cannot see it would do any good at all to publish the decision of the third member. If the appellant did not get the job it would not do him any good; and on the other hand it would not do the promoted person any good if the appellant's case were successful. The only justification for the amendment that I can see is that the person who lost the case could say to his mates, "One of the members was in my corner" to justify himself. What good would that do when the decision is made by a majority?

The Hon. R. F. CLAUGHTON: The argument I advanced previously applies also to the argument raised by Mr Baxter. The system works perfectly well in the teaching service and I can see no reason at all that it should not work equally well in the Public Service. I have on the notice paper a further amendment dealing with the decisions of the board in general. This amendment simply allows the dissenting member to publish his reasons for dissenting, if he so wishes.

Amendment put and negatived.

Clause put and passed.

Clauses 40 and 41 put and passed.

Clause 42: Full enquiry and decision is final—

The Hon. R. F. CLAUGHTON: In the light of the decision earlier made by the Committee I do not propose to proceed with my first amendment on the notice paper. I move an amendment—

> Page 22, after line 25—Add after subclause (2) the following new subclause to stand as subclause (3)—
>
> (3) The decision and reasons for decision of the Promotions Appeal Board shall be in writing and shall be published in the Public Service Notices.

The arguments I presented in respect of the previous amendment are valid in respect of this amendment, and I regret very much that the Government is being obdurate in respect of accepting any amendments to this legislation. That simply reflects the things I spoke of in the second reading debate; this is a measure that could do with a whole lot more consideration. This is the third day in a row on which it has been about the only item discussed in this Chamber, and although we have talked a lot we have made no progress at all in respect of achieving any reasonable changes to the Bill.

The Hon. G. C. MacKINNON: If members read clause 38(2) they will find that the Promotions Appeal Board shall keep a record of its proceedings and decisions which shall be available for future reference. The only difference between that and Mr Claughton's amendment is that the amendment includes the word "reasons". We have already argued that matter, and I think we reached a sensible conclusion. I oppose the amendment.

The Hon. D. W. COOLEY: I had some misgivings in respect of the previous amendment in so far as it related to the disclosing of personal matters associated with an appellant. I have had some experience as an advocate before the Government Employees' Promotions Appeal Board, and at that time I understood the only matters that would be entertained by the board were efficiency and seniority, and one based one's argument upon them. I doubt very much indeed that, as the Minister indicated, a person's drinking habits could be brought into a decision.

The Hon. G E. Masters: That was only an example.

The Hon. D. W. COOLEY: Yes, but I doubt whether the board would resort to that.

However, I do have some worry about the amendment. Mr Baxter asked how much good would come from publicising the reasons for a decision. Most of us here would know sufficient about law to realise that case history is most important when presenting matters before a tribunal. If an advocate does not have case history to support his case, he is very much at a loss. Clause 38(2) states that the board shall keep a record of proceedings and decisions. I hope the Minister is listening to me. In my short experience before the appeal board—I was involved in four

cases in all, and I lost three and was successful in one; and I understand it is regarded as a record to have a victory rate of 25 per cent—in no case in which I was involved did the magistrate give reasons for his decision. On three occasions he said, "The appeal is dismissed", and on the other occasion he said, "The appeal is upheld." That is all he said.

As I understand clause 38(2), if a future appellant wishes to look up the record, all he will find is, "The appeal is dismissed", or "The appeal is upheld." Will reasons be recorded so that they will be available for future appellants to peruse?

The Hon. G. C. MacKINNON: The first question I ask is what gave Mr Cooley the idea that I was not paying attention to him?

The Hon. D. W. Cooley: I did not say you were not listening; I said I hoped you were.

The Hon. G. C. MacKINNON: That implies I was not listening, and there is absolutely no need for that because I was paying complete attention to the debate.

As an example, if the board decided that on the evidence offered an appellant had given nothing but mediocre service, should that be written into the record? I say it should not be. Whether or not the example given by Mr Cooley was listed and written up is something I do not know. Really, the Promotions Appeal Board will be simply writing its records in order to establish a body of case law so that people who are contemplating an appeal may peruse the files to see what the board thought in a particular case.

When we come to the reason for a person being dropped, that is a personal matter which has nothing to do with the general application of appeals. He could have been dropped because he was not prompt, did not perform well, or for some other reason. Future appellants will be looking for guidelines.

We are simply rehashing arguments now. Mr Claughton spoke of an awful lot of amendments not being accepted, but when one goes through the amendments one finds that many of them should not have been proceeded with once others were defeated. In this case all members opposite are saying is that reasons should be listed, and the arguments are the same in respect of this amendment and the previous one. It is a personal matter, and it has nothing to do with the reason that appeals are accepted or rejected. I oppose the amendment.

The Hon. R. F. CLAUGHTON: It is not necessary for the Minister to attempt to mislead members.

The Hon. G. C. MacKinnon: Did I do that?

The Hon. R. F. CLAUGHTON: The Minister has said this amendment is the same as the previous one, but it is not.

The Hon. G. C. MacKinnon: It is remarkably similar.

The Hon. R. F. CLAUGHTON: As far as all the other amendments that have been debated are concerned, when the first amendment has been lost any consequential proposed amendments have not been proceeded with. The Minister is well aware of that. We have not been repetitious.

The Hon. G. C. MacKinnon: The argument is repetitious in this case.

The Hon. R. F. CLAUGHTON: There are differences between the two amendments, and that is the reason for proceeding with this one. The Minister was also misleading in respect of his reference to clause 38. That provision does not require the board to give reasons and to publish them in the Public Service notices. That is what my amendment seeks; namely, that the reasons should be given and should be published in the Public Service notices. There is a big difference between clause 38 and my amendment.

If people want to see what influenced the board in its decision, the best way is to publish the reasons, but at the moment all we get is, "Yes, we agree" or, "No, we do not." No reasons are given. The ambitious public servant is interested in what the Public Service Board regards as important.

Amendment put and negatived.

Clause put and passed.

Clauses 43 to 51 put and passed.

Clause 52: Conviction for an indictable offence—

The Hon. R. F. CLAUGHTON: From a quick examination of the Act, this clause is a rewrite of existing sections in that it combines section 50 and parts of section 77. The Government was criticised through the media—I think in an editorial in *The West Australian*—for not taking the opportunity to tidy up this provision which relates to secrecy in the Public Service. Section 77 (h) of the Public Service Act states as follows—

> The Governor, on the recommendation of the Commissioner, may make such regulations . . .
>
> (h) for prohibiting the disclosure or communication by officers, to any person, of government business or information on government affairs, and public comment by officers;

This is a very important aspect of government and it would be a very difficult question for the Public Service itself. A case not long ago concerned an employee of the State Housing Commission (Mr Cortis) who was accused of passing confidential information to the member for Balcatta (Mr B. T. Burke). Members can see the wording of the paragraph to which I have just referred is extremely broad and would create great difficulties for the public servant in interpreting just what was permitted to be made available to people contacting them and asking for information, particularly after the case concerning Mr Cortis.

When the decision of the first court was appealed against, the judge made the following comments—

> I recognise the question to be one of very real importance and it is a question which so far as my researches extend falls to be answered without the assistance of authority. I would answer it in the way contended for by the Crown, that is to say that the duty placed upon the appellant not to disclose was, when expressed in positive terms, a duty to "keep secret" within the meaning of s. 81 of the Criminal Code and it is a duty laid upon a public servant by reg. 40 of the Public Service Regulations with reference to "all documents that have been supplied to him or seen by him in the course of his official duty as an officer or otherwise" and it is laid upon him without regard to the nature of the contents of the document and without regard to the particular circumstances under which the facts came to his knowledge or the document came into his possession.
>
> But having so held I should, I think, add that the question appears to me to be one of such importance as to call for the attention of the legislature either to confirm and to put beyond doubt the position as I have expressed it in these reasons or to qualify it as it might think fit.

"Legislature" means us. We have been asked to deliberate on this matter but it seems to me it is going to have very little consideration at all. In fact, if I had not stood to debate this clause I believe it would have been passed on the call. I refer members of the Committee to the wording of clause 52, where they will see the matter is not being dealt with at all; it is being "prescribed".

One of the things I have said before is that we should see these regulations in this Chamber before the Bill completes its passage. It could easily be done by postponing the third reading until the next session. We have already seen there is no urgency for this legislation. We could proceed past the Committee stage and the Public Service Board would have the required instructions it needed in order to draw up all the regulations and administrative instructions. These could then be brought back to this Chamber for examination.

This extremely important question simply is not going to be debated. On the two occasions I met Mr Cortis he intimated to me he was not guilty of passing on confidential information. I had no reason to doubt his sincerity; he was not trying to win any points from me. The matter is not well handled in the existing Act and it does not look as though the situation will be improved by this Bill.

The Hon. G. C. MacKINNON: I am really at a bit of a loss to understand Mr Claughton. Section 50 of the Public Service Act states as follows—

> If an officer is, on an indictment, convicted of any offence, he shall be deemed to have forfeited his office, and shall thereupon cease to perform his duties or receive his salary.

The Hon. N. E. Baxter: That is a very heavy penalty.

The Hon. G. C. MacKINNON: It is the heaviest a person can get; he is sacked. We should bear in mind that an indictable offence is one of the more serious offences which can be tried before a jury. The offences range from assault to murder which, of course, is just another form of assault. Section 50 continues—

> If such officer does not apply as aforesaid for such certificate of discharge, or if he applies, and it appears from the report that such officer has been guilty of fraud, dishonourable conduct, or extravagance, such officer may be dismissed from the Public Service, or reduced to a lower division, class, or grade therein, or fined, reprimanded, or otherwise punished by order of the Governor.

Clause 52 of the Bill states as follows—

> Notwithstanding the provisions of The Criminal Code, where an officer during his period of service is convicted, on indictment or otherwise, of an indictable offence, or is convicted of such other offence that is prescribed in regulations or that is one of a class of offences so prescribed, in addition to any action or penalty ordered by a court in respect of the offence, the Board may impose any one or more of the penalties referred to in subsection (2) of section 44 . . .

Clause 44 provides that the officer may be reprimanded, transferred to another office, transferred to another department, required to resign, or dismissed. So, it has been softened quite considerably.

I take it Mr Claughton is objecting to the fact that some of these infringements regarding secrecy can be specified in regulations. I take it he is worried about members of Parliament persuading officers of the Public Service to divulge secrets they should not divulge and the officers then copping it in the neck. I am not in favour of that; I think the member responsible should cop it in the neck. However, the law states that the officer is responsible, and should be reprimanded. Regulations in fact are placed on the Table of the Chamber and are available for study by members.

In line with modern conditions of service, clause 52 very distinctly softens the existing provision. I believe it to be reasonable and I hope the Chamber agrees with me.

The Hon R. F. CLAUGHTON: I have studied the matters put forward by the Minister. Among the penalties provided in clause 44 are resignation or dismissal, which are precisely those contained in section 50 of the Act. The difference is that in the Bill, the board takes the action, where it is the Governor in the existing legislation.

The Hon. G. C. MacKinnon: He does not have too much option under the Act.

The Hon. R. F. CLAUGHTON: He has an option under section 50 (1) (a).

The Hon. G. C MacKinnon: But not too much option; this is a lot easier.

The Hon. R. F. CLAUGHTON: There is about the same option. The main difference is that it is done by the board instead of on the recommendation of the Government. The position is that public servants do not know where the confidentiality and secrecy requirements begin and end.

In the case I referred to one of the appeal grounds was as follows—

> The other grounds of appeal attack the directions given by the learned trial Judge upon the charge that the appellant "communicated" the facts "by causing copies of the said document to be delivered" to the person named in the indictment.

As far as I know, that case was based on circumstantial evidence; there was no question that the person accused made copies. The difference lies with the question of whether he was responsible for having the copies passed on.

The other important fact is that the information was readily available within the commission, and so any number of persons could have been responsible for passing it on. Here was something that potentially large numbers of people were aware of and any one of them could have made whatever use of the information he desired. In this case one particular person was picked out. Many people would say he was picked out because at one time he had stood as a Labor candidate.

The Hon. G. C. MacKinnon: Say that outrageous statement again.

The Hon. R. F. CLAUGHTON: Many people feel he was picked out because he had stood as a Labor candidate.

The Hon. G. C. MacKinnon: No-one would be that unjust.

The Hon. R. F. CLAUGHTON: I know the Leader of the House is saying that with a semi-smile.

The Hon. G. C. MacKinnon: He connived with a member of Parliament to break a trust.

The Hon. R. F. CLAUGHTON: The case was based on circumstantial evidence.

The Hon. G. C. MacKinnon: Are you retrying the case?

The Hon. R. F. CLAUGHTON: I am trying to draw conclusions from that case which are related to this Bill, because the trial judge indicated it was a matter that the Legislature should deal with.

The question raised in the appeal was to what extent is something secret when the information is obviously available to a fair number of people. That was not disputed in the case. I bring this matter up because of the remarks made by the judge that much more should have been made of this. I am not opposing the clause.

The Hon. R HETHERINGTON: This is one of the things the Leader of the House referred to as trivial in his second reading speech. I am glad this clause is softer than the section in the parent Act. However, I know this is one of the areas that should be investigated; I refer, of course, to the whole area of secrecy and the duties of public servants. I believe it is even worth having some sort of public inquiry before regulations are framed. In a modern community it seems we should work out just how far a public servant can comment and on what he can comment.

I do not know how the regulations will be framed and I presume the new regulations will be better. I am expecting this because, as the Leader of the House has said, attitudes do change. Certainly this is a matter I have discussed for

many years with my former colleagues and in tutorials with my students, without arriving at an answer. It is not an easy question and it is one on which we need good minds to consider it. I am not saying the Public Service Board is incapable of considering it, but I think we need people outside the service to discuss the matter. Therefore, although I welcome the softening of this provision, I believe it is one of the areas that should have been investigated before the Bill was introduced.

Although I might be accused of looking at things beyond the Bill, we should look at the role and structure of the Public Service in a modern society which claims to be democratic. I hope this is done at some time and I think the Government would gain a little merit if it did this.

The Hon. G. C. MacKINNON: The matter raised by the Opposition members is one that has received a considerable amount of discussion over a long period of time and is still under discussion. Let us transpose this problem of a public servant, of how much he can disclose and say in criticism, of the Public Service, into a private enterprise situation.

Consider a shop assistant at Boans who says to someone wanting to buy a suit, "You should not buy one here; you should go to Aherns where you will get a better bargain." That assistant should be sacked. If the assistant says, "Boans bought this item in the Eastern States at a sale and could sell it for 25 per cent less and still make a profit", that is information the assistant should not divulge.

If a public servant divulged similar information, or information in the example raised by Mr Claughton, he should be sacked. At the same time I would refer members to what Mr Hetherington said when he mentioned he had been considering this question for a long time without finding an answer.

Running through the arguments of the Opposition, I seem to see a thread indicating that regulations are not legislation, when in fact they are.

The Hon. R. F. Claughton: That is the opposite to what I have said.

The Hon. G. C. MacKINNON: I am sorry, but the member could not have been speaking very clearly, because I did not understand him to be agreeing with what I have said. However, I do hear it said so often that regulations should be legislated for; that they should be in an Act. Regulations are legislated for just as surely as if they were in an Act. It worries me when I hear arguments to the contrary.

The Hon. R. F. CLAUGHTON: To clarify the matter, we quite clearly understand regulations and administrative instructions to be law. We believe this clause is an example of why we should delay proceedings and not pass the Bill until next year so that the Public Service Board will have the opportunity to present the regulations and administrative instructions to Parliament and we can further debate the matter.

The Hon. R. HETHERINGTON: It seems to me the Leader of the House has used a bad analogy by talking about someone in private enterprise and comparing his situation with that of a public servant. I believe the Leader of the House oversimplified a very complex situation. Because of the complexity of the matter, I would like to see further discussion take place. If I thought members of the Public Service Board were going to treat the matter with the same simplicity I would be very seriously perturbed.

Clause put and passed.

Clauses 53 and 54 put and passed.

Clause 55: Restriction on communications by members of Parliament—

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

> Page 28, line 23—Delete the word "for" and substitute the word "to".

The Hon. N. E. BAXTER: Although I agree with this provision, I am wondering what penalty is handed down if a member of Parliament does interview or communicate with the board. Is the person whom the member of Parliament interviews or approaches in reference to a position automatically excluded from the position? Is there any penalty on the member of Parliament? I cannot find a similar provision in the existing Act. I would like to know just what penalty might exist.

I believe also this provision appears in the wrong part of the Bill. It is in the miscellaneous section and I believe it should be in that portion dealing with appointments; it should be included probably after clause 34. I would like an answer from the Leader of the House on these two matters.

The Hon. G. C. MacKINNON: I had intended to ask Mr Baxter as an ex-Chairman of Committees of noteworthy standing to explain that. If he looks at page 140 of *Acts, etc., Relating to Parliament* he will find extracts from the Criminal Code. Any member who infringes is tried under those provisions.

The Hon. N. E. Baxter: What about the point concerning its position in the Act? It is in the wrong place.

The Hon. G. C. MacKINNON: I do not set myself up against the Parliamentary Counsel. They believe it ought to be there, and I am prepared to accept their word for it. I will ensure that the information is passed on to the Parliamentary Counsel so that when the Act is examined at some time, it can be decided whether the provision ought to be replaced.

The Hon. R. HETHERINGTON: A thought has occurred to me. What would happen if one of my former students applied for a job and quoted me as a referee because I happened to be his lecturer at the time? Would this be communication? It would not have occurred to me that I could not do that, and I am wondering whether this is covered in the clause. What is communication and what is not communication?

The Hon. G. C. MacKINNON: In this case communication refers to direct communication with the people who are on the board. All of us have had people say to us, "I do not like asking you, but would you please see if you can help?" I have always said that I will not, but it is not easy for some members in certain positions to do that, particularly if they represent seats which are difficult. I would welcome this kind of clause. Many people have asked to use my name as a referee. I was asked this morning and I agreed. I do not regard that as communication. I have given my name quite freely to people I know.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 56 to 58 put and passed.

Clause 59: Long Service Leave, Recreation Leave, and Public Service Holidays—

The Hon. R. F. CLAUGHTON: I have on the notice paper an amendment which would make persons under the age of 18 years eligible to start to accrue long service leave from the day on which they start work with the Public Service. Most people would consider this a reasonable proposition. Up to date, this has not applied and anyone who starts work at the age of 15 years in the Public Service does not have those years counted for the purposes of long service leave.

The clause is extremely discriminatory against females, because the bulk of those who commence work with the Public Service before they reach the age of 18 years are females who commence work as clerks, keyboard operators, and so on. If they follow tradition and marry in their early 20s then they are not able to gain the benefits of accrued long service leave and consequently suffer a penalty simply because they are females and want to get married and establish a family. This is an unjust situation and I hope members will not agree to perpetuate it.

The reason given for making long service leave commence to accrue at the age of 18 years is that young people have hardly had time to start life as an adult before they are off on leave and then they do not know what to do with it. That is a wrong attitude to adopt. Many young people are not satisfied in their work and want a change merely because they want to see something of the world, and they should be able to do so at an early age. If they have fulfilled the requirements of service for seven or 10 years as the case may be they can then go off on their travels for three months and see some of the world. This would be of great benefit to them and to the Public Service itself, because they would return to their work more experienced as a result of their trip.

Primarily I intend to move the amendment because the clause is particularly discriminatory against female employees, and if they are able to obtain the benefit of the years they have worked before they turn 18 it would be a marvellous bonus to them in the setting up of a home and the establishment of a family at an age when they would be most prepared to marry. I therefore move an amendment—

> Page 29, lines 30 and 31—Delete the words "but not including service prior to his attaining the age of eighteen years."

The Hon. G. C. MacKINNON: I am interested in the honourable member's talk about discrimination and I am wondering whether we might not do something about the provisions which discriminate against the sexes. For example, it was obligatory for female employees to retire on marriage, and, in compensation, they were given an allowance. Nowadays it is no longer obligatory for them to retire, but they still get the allowance. The men do not get it, nor do they have to retire. Either the men ought to get the allowance or, better still, it should be cut out for women. The honourable member is keen on this point of discrimination and I will suggest that the female marriage allowance be stopped.

The Hon. R. F. Claughton: I am sure it was in someone's mind before you rose to speak about it.

The Hon. G. C. MacKINNON: What the honourable member is proposing is to change the conditions for long service leave, whereas the Bill preserves the existing situation with the exception that all temporary service, after a person attains the age of 18 years, is counted together with

permanent service in calculating long service leave entitlements.

The amendments to this clause seek to allow the accrual of long service leave prior to the age of 18 years and to put temporary officers on the same basis as permanent officers; that is, three months' long service leave after seven years' service instead of the present 10 years' service in the case of temporary officers.

The Hon. R. F. Claughton: I think you are on the next amendment.

The Hon. G. C. MacKINNON: I am. I do not think we ought to agree to the amendment. The present conditions are good and we do not want to place public servants in a position where they will be criticised even more for having an even easier life. We should leave the situation as it is.

The Hon. GRACE VAUGHAN: I am not going to dwell on the discriminatory aspect concerning females. The provision is discriminatory against young people—those who choose or are forced to leave school before they complete the requirements for tertiary education. Some of them spend their evenings at technical college or studying at home in order that they might gain the matriculation necessary for them to obtain tertiary education, which is now almost a need and not just a wish in order to progress on the promotion ladder in the Public Service. These people have lost the prestige of having continued at school and have elected to enter the Public Service. Surely they are then not to be discriminated against because of their willingness to accept a smaller salary with less likelihood of promotion in the near future. This is what will occur, because they will then have to work for 10 years before they are eligible for leave.

The Minister can say, "Tut, tut, tut" but the person who has been privileged to stay on at school is mostly of parents in the higher socio-economic strata. Those on the lower socio-economic strata are the ones who cannot afford to let their children stay at school, and they are the children who are doubly punished. First of all, they must leave school and go into the hard, cruel world to earn a living, and the Public Service is no less part of that hard, cruel world than any other form of employment.

A person of 15 years of age has a hard row to hoe. He sees the levels of the hierarchy above him and wonders how he will climb the ladder. Why should he first of all be punished—I wish the Minister would stop shaking his head. He is interrupting my train of thought. I will look at you, Mr Deputy Chairman (the Hon. T. Knight) instead.

We all have an understanding of the needs of children and we all know they are the future citizens and some are the future public servants of the State and they are most important. If we are to have a Public Service which is admired and respected we must have the best people in it. A person should not be penalised because he starts work at 15 years of age, and we all know how hard it is for a person to get a job at all.

Many of those 15-year-olds will study at night school and then go on to obtain a university education by studying part time. We know that there are generous provisions in the Public Service which help people to do this. Nevertheless, under the Bill the 15-year-olds who leave school will suffer for the rest of their lives, because they started, as it were, behind the eight-ball. If they were permitted to accrue long service leave from the time they started work this would be of benefit to them and to the whole society. It would give people of 15 years of age an incentive to leave school and commence work in the Public Service.

I believe there is far too much ritual associated with children staying at school. Quite often a child is better off by entering the working world and resuming his education at a later date if he so desires. It is a wrong attitude to say that a child must stay at school and go on to university. Quite often in this respect it is the children from the high socio-economic strata who suffer most because their parents force them through to a higher level of education when, in fact, they would be better suited to leave school and follow a trade as they are very clever with their hands.

This is another example of how a person who is not going on to higher education is immediately regarded with less prestige in society, and I think some compensation should be given to him. One way this could be achieved would be by providing the person with three months' long service leave after seven years' service.

I cannot see that the Minister's answer to the Hon. Roy Claughton is satisfactory. He is saying the Bill continues what already obtains, but it obtains only because a 15-year-old is not seen as a permanent employee until he is 18. I believe that is the situation. It is not set out that long service leave will not accrue if one is under 18, but that is the inference from the fact that a 15-year-old who is taken on is temporary until he is 18.

That in itself is ridiculous, because some people of 15 are as bright or reliable as those of 18. The 18-year-olds do not have to wait three years before they are made permanent members of the Public Service. I hope the Minister has a better

rationale for his action, because I cannot see that the mere fact that it has operated before makes the brave new Bill we were waiting for. This is the brave new Bill which is cutting back on a lot of excesses in the way of words and is aiming for a brighter, better, and more efficient Public Service. This is a means by which we could have a much brighter and better Public Service—by starting off with a real measure of appreciation of the 15-year-olds who are coming into the Public Service and doing a jolly good job.

The Hon. G. C. MacKINNON: There are two or three matters I think I should correct. Mr Claughton said that more females than males enter the Public Service at a young age. That is not right. He is just guessing. He has no statistics to prove it one way or the other.

The Hon. R. F. Claughton: You have no statistics to disprove it.

The Hon. G. C. MacKINNON: It is an absolute rarity today for a boy of 15 to go into the Public Service. That is another misconception.

The Hon. Grace Vaughan: That proves what Mr Claughton said.

The Hon. G. C. MacKINNON: Another wrong statement is that one has to wait until one is 18 to become permanent. If one goes in at 17 one starts on six months' probation and becomes permanent at 17½. All these erroneous statements were made in speeches lasting five minutes. The last time the Hon. Grace Vaughan got to her feet she told us under the Liberal Government no-one under 20 got a job. Now she wants to cry on our shoulder about all the 15-year-olds who are getting jobs in the Public Service and are being denied this desperately needed recuperative leave at the age of 22—they are going to be burnt out after seven years, at the age of 22.

The Hon. Grace Vaughan: I did not suggest that.

The Hon. G. C. MacKINNON: The honourable member wanted the whole lot counted in for long service leave so that at 22 they could go on long service leave because they were burnt-out soldiers. When we have those kinds of inaccuracies in about two minutes of speaking, it will be understood that we cannot accept them.

The Hon. D. W. COOLEY: In all my industrial life I have sought the answer to the question: Why is a 15 to 18-years-old person in the Civil Service not entitled to accrue long service leave entitlement as everybody else is? Nobody has been able to give me an answer to that. I have asked the Civil Service Association and top public servants. Here am I in the Parliament of the land and we have a top public servant advising the Minister, but we have not yet been able to get the answer to that question. All we have is the kind of thing the Minister usually throws around—about young people being burnt out at 22. The only answer we have been given tonight is, "We do not think we ought to agree to it."

Where is the rationale? Surely we ought to be able to find it out tonight. This is a principle in relation to long service leave which applies everywhere else. A boy or girl who starts in private industry at 15 is entitled to accrue long service leave from the time he or she starts. Furthermore, in Government employment under wages awards they are entitled to accrue long service leave from the time they start. Why is it that in the Public Service young people are not able to accrue long service leave from the time they start?

The Minister says very few people start in the Public Service at 15 years of age. For that very reason we should alter this condition. If they are now starting at 16 and 17, they are approaching adult life. Why should they not be entitled to the same conditions as everybody else? The Government agrees to the principle that long service leave should be given to public servants after seven years' service, and it is not right to say people are taking it because they are burnt out. Seven years is a very long time in industry these days, with the pressures people have to suffer. Seven years seems to be a much longer period in 1978 than it was in 1958 or 1948, because of the pressures which are put on people in this day and age.

The Hon. V. J. Ferry: How do you work that out?

The Hon. D. W. COOLEY: One does not work these things out. They happen, and everyone knows the pressures are greater today than they were.

The Hon. V. J. Ferry: There are shorter working hours.

The Hon. D. W. COOLEY: We know the people who work hard for their living suffer a lot of pressure.

The Hon. Neil McNeill: As one who was in the Public Service at the time you are talking about, I do not think I agree with you.

The Hon. D. W. COOLEY: Generally speaking, I think the pressures are greater today. Let us look at the situation we were talking about the other day in relation to the brilliant people and the plodders. A brilliant lad who starts in the Public Service at 17 has to wait a year before he begins to accrue long service leave, while a

plodder who starts in the Public Service at 18 begins to accrue long service leave immediately. He waits seven years for his leave and the brilliant lad has to wait eight years. Where is the justice in that?

It is a very bad principle and one which should be rectified, and we should be given tonight a rational answer in respect of the reason that these young people are not entitled to accrue long service leave from the time they start in employment.

The Hon. G. C. MacKINNON: At least Mr Cooley spoke to the Bill. When he referred to the conditions he spoke about something he knows something about; and he was spot on. I can give him a lead as to the reason that civil servants do not have the same conditions in respect of long service leave; that is, their conditions in many other ways are a jolly sight better. It is like picking one aspect which is not good and saying we should bring that up to other standards.

We must look at the whole picture. The conditions of public servants might be a little worse in one respect, but overall they are quite good. This Bill is not designed to change the industrial conditions which exist at the present time, and there is no intention of changing the long service leave conditions.

The question the honourable member asked is a valid one, and the answer is that we must look at the total conditions of those who work in the Public Service. In one respect they might not be quite as good as the conditions in private industry, but in other respects the conditions are better. Most people I have struck in unions have said, "I wish we had the conditions the Public Service has." Public servants might say they wish they had the conditions that other people have in private industry.

Long service leave is not always the greatest thing to have. Many young men with families have gone on long service leave and at the end of a month they have run out of money to buy paint for the house, because it is so expensive to go on long service leave. They have commitments but they have to go on holidays. It is not always the great thing people imagine it is.

We must look at the conditions overall. We cannot look at one set of conditions out of context with the others. There is no intention to do that in this Bill.

The Hon. D. W. COOLEY: I agree that some people do not appreciate long service leave when they get it, and that they take other jobs. But that is not the question. I cannot see the reason for having good conditions in one area and bad conditions in another. I must say it is a wrong premise.

The Hon. G. C. MacKinnon: Should we bring them back to the same conditions as industry?

The Hon. D. W. COOLEY: I do not see why a boy of 17 should have something different from a boy of 18. The question has still not been answered to my mind.

The Hon. W. M. PIESSE: I find this amendment to be a load of rubbish. If we were talking about long, loyal, continuous service and long service leave after 21 years, for instance, I could go along with it and agree that perhaps long service leave should begin accruing from the age of 15 or 16.

I think the Hon. Grace Vaughan answered her own question when she said at 15 a boy is still a boy, and is not an adult; and at 15 a boy is still being cared for in most instances. There are some exceptions but the general rule is that a boy of 15 is indeed a boy and is not properly settled into his position.

I am wondering, after all the discussion that has taken place, what is the real aim of getting a position in the Public Service. Is it to spend seven years there and get long service leave?

Mr Cooley spoke about the times being hard now in comparison with the 1940s. The times were not so easy in the 1940s. When I started my nursing training we worked 12 hours a day for 10s. a week, and there was no talk of getting long service leave after seven years. One had hardly got dug in in seven years. I cannot imagine anyone who starts in a position at 15 years of age expecting to cover the whole field and wanting to go off on a holiday for three months after serving only seven years. I think this is just a load of old rubbish.

The Hon. R. F. CLAUGHTON: I am not sure what to say after that speech. It seemed to be assumed that when an employee has completed seven years' service and is entitled to long service leave, that is the end of his service. I would assume the intention is that people continue in the Public Service after three, four, five, and six entitlements to long service leave.

The Hon. W. M. Piesse: It is hardly long service after seven years though, is it?

The Hon. R. F. CLAUGHTON: The effects of not taking leave are cumulative and one does not notice them at, say, seven years. When a person works for 15 years without taking long service leave, he thinks he is stupid for not taking it earlier, because the value of long service leave is the recreational aspect.

This provision did not exist before 1948; prior to that point, long service leave accumulated from the day one was appointed to the Public Service. It is not clear why it was changed in 1948. I was interested to hear the Minister say the Government was gradually improving conditions. There has not been a great deal of change since 1948, which was a long time ago. That sort of "gradualism" would last for centuries!

There is no clear reason for one thing being in the Bill while another is not. The Bill contains provisions relating to long service and recreation leave but not for sick leave, leave without pay, and a number of other industrial matters. There does not seem to be any logic applied to these matters. We are told the requirement for women to resign on marriage has been removed but we really do not know, because this is one of the things which is contained in the regulations. Section 77(1) of the Act states—

> for prescribing the terms upon which the services of a female officer may be terminated upon her marriage;

As I say, we do not know whether these things in fact have been removed. The whole Act has been repealed. All these conditions about sick leave and matters relating to training are in the Act and not in the Bill; they have been removed. We do not really know what is going to be included in the regulations or administrative instructions.

The Government has given us no rhyme or reason for including these provisions in the Bill, and leaving other matters to be decided by regulation or administrative instruction for reasons of "flexibility". Why could not this have been one of those things left for administrative instruction for easy flexibility? If we decide next year or the year after to reduce the qualifying age to 17 years, let us hope one of these flexible arrangements can be instituted so that the matter does not have to come back to this Chamber.

Amendment put and negatived.

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

> Page 29—Delete subclause (2) and substitute the following—
>
> (2) Where an officer has continuous service in both a temporary and permanent capacity, the date on which he shall first become entitled to long service leave shall be the date on which he would have become entitled if the whole of his service had been permanent.

Two standards are applied when assessing long service leave entitlement, one for temporary officers and another for permanent officers. A permanent officer becomes eligible for long service leave after seven years' service, while a temporary officer must work for 10 years before receiving that entitlement. No reason has been advanced in support of this situation.

If a temporary officer becomes permanent after, say, five years he becomes entitled to long service leave in something more than seven years but less than 10 years' service.

My amendment would remove this discrimination. Once a temporary officer has been approved for permanent appointment, he should then be entitled to the same sorts of privileges as the person who has enjoyed permanent status from the time of his appointment. If two officers commence work on the same day and one is permanent while the other is temporary, and the temporary officer is awarded permanent status after three or four years, we believe he should become eligible for long service leave on the same day as the person who enjoyed permanent status from the day he was first employed—in other words, after seven years.

The Minister has not accepted one of my amendments. The member for Maylands made the same complaint when the Bill was passing through another place. This is the last opportunity the Minister will have. If he is able to advance some sensible objection to my amendment, we might concede his point. However, there does not appear to be any sensible, logical reason to continue this form of discrimination.

The Hon. G. C. MacKINNON: It is an indication of how thoroughly this Bill has been vetted and discussed that the only amendments to be accepted are those which were discussed in the lower House, agreed to, and accepted. I can think of only one temporary officer whom we are trying to make permanent, a female who will not accept permanancy because she is of a different nationality and will not relinquish her foreign nationality.

We want some encouragement to make people become permanent and the only forms of encouragement are long service and sick leave benefits. Some temporary officers need to take an examination before they can become permanent. It has always been the case that temporary officers do not enjoy precisely the same conditions applying to permanent officers and I believe it should remain that way.

The Hon. R. F. CLAUGHTON: The Minister is saying temporary officers must wait 10 years

for long service leave, and that is an incentive for them to join the permanent staff. If the Minister were really genuine in plugging the incentive aspect, he would agree to my amendment. If I had asked the Minister to stand and argue in support of my amendment, he could not have done better than he did a few moments ago.

Amendment put and negatived.

Clause put and passed.

Clause 60: Regulations—

The Hon. GRACE VAUGHAN: I would like to know what is to happen about the regulations. Are we going to add to the existing regulations, or are we going to have a new set of regulations? It worries me that we have such trivial regulations laid on the Table of the Chamber. Any member who is doing his job and perusing these regulations will find many come before Parliament unnecessarily. If the idea of the administrative instruction is to relieve the regulation-perusal and to have only those regulations which are important coming before Parliament, I would support the idea.

Members all know of the famous regulation 11(3)(b) which prescribed that a responsible officer shall rule a red line under the last signature, etc. That is a ridiculous thing for members of Parliament to be required to peruse and approve. If the administrative instructions will save members from that sort of ridiculous overseeing, at least that is something in their favour.

The Hon. G. C. MacKINNON: Mr Hetherington really should take Mrs Vaughan out and have a serious talk to her. Yes, a new Bill demands new regulations, because the existing regulations would not be regulations made under the new Act. This Bill will not be proclaimed until the administrative instructions and regulations are drawn up. Full consultation with the CSA will take place on the administrative instructions and regulations before the Bill will be proclaimed.

The Hon. R. Hetherington: You have promised to let me move an amendment to have a discussion on it.

The Hon. G. C. MacKINNON: They will be laid on the Table of the Chamber and members will have a chance to read them.

Clause put and passed.

Clauses 61 to 66 put and passed.

Title put and passed.

Bill reported with amendments.

ACTS AMENDMENT (PUBLIC SERVICE) BILL

Second Reading

Debate resumed from the 20th September.

THE HON. R. F. CLAUGHTON (North Metropolitan) [9.16 p.m.]: This Bill is supplementary to the Bill we have just been dealing with, as the arbitration provisions contained in the existing Acts have been written into the new Public Service Bill.

In supporting this Bill, I draw the attention of members to the reference in clause 18(b)(ii) on page 6, which reads as follows—

> the holder of an office included in the Special Division of the Public Service under the Public Service Act, 1978;

One of the points made in the debate on the previous Bill was in relation to flexibility. The question whether there would be the same divisions in the Public Service arose. The Premier, in another place, said that that might be the case, or it might be something different. If Government members have in mind that it might be something different, it seems they have already made the decision in this Bill. They continue to refer to the divisions as they existed.

With that small comment, I support the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

STANDING ORDERS COMMITTEE

Consideration of Report (No. 2)

Report of Standing Orders Committee now considered.

THE HON. G. C. MacKINNON (South-West—Leader of the House) [9.21 p.m.]: I move—

> That the President be invited to take the Chair in Committee.

Question put and passed.

In Committee

The President (the Hon. Clive Griffiths) in the Chair.

The Hon. V. J. FERRY: The Standing Orders Committee has met on a number of occasions. At a previous sitting of this Chamber we effected

amendments to the Standing Orders. The Standing Orders Committee now recommends five further amendments to the Standing Orders and commends these amendments to the Chamber. The recommendations are printed on the schedule before the members.

These amendments are, in the main, designed to clarify the existing Standing Orders. There has been some ambiguity in the terminology of some of the Standing Orders. In an endeavour to tidy these matters up, the Standing Orders Committee has come forward with these recommendations.

Standing Order No. 247: Fixing day for Second Reading—

The Hon. V. J. FERRY: The recommendation is as follows—

> To insert after the word "moved" in line 3 of the proviso, the words "and the introductory speech only may be given".

This is to clarify the situation regarding the second reading speech that could be given after receipt of a Bill from the Legislative Assembly. I move—

> That the recommendation be agreed to.

Question put and passed; the recommendation agreed to.

Standing Order No. 269: Day fixed for Third Reading—

The Hon. V. J. FERRY: I now move to recommendation No. 2, which deals with Standing Order No. 269. The recommendation is as follows—

> To add after the words "immediately be moved" in the last line the words "and the Bill be read a third time".

The existing Standing Order does not say that the Bill be read a third time. It says that it may be moved. It does not say that it shall or may be read a third time. This clarifies the Standing Order. I move—

> That the recommendation be agreed to.

Question put and passed; the recommendation agreed to.

Standing Order No. 280: How disposed of—

The Hon. V. J. FERRY: Recommendation No. 3 deals with Standing Order No. 280. This is a simple amendment—

> To delete the paragraph designation "(e)" in the penultimate line.

This will make the Standing Order read more correctly in English terms. I move—

> That the recommendation be agreed to.

Question put and passed; the recommendation agreed to.

Standing Order No. 286: Message to be sent if and when final agreement reached—

The Hon. V. J. FERRY: Recommendation No. 4 deals with Standing Order No. 286. This is again to clarify the situation. The recommendation is as follows—

> To delete the words "agreed to" in line 3, and substitute the word "determined".

This means that the new Standing Order, including the amendment, will read as follows—

> If and when the requirements of the Assembly have been finally determined, a Message shall be sent informing the Assembly thereof.

In other words, instead of saying that this Chamber finally agrees to something, it shall be obligatory upon this Chamber to advise the Assembly of the determination of this Chamber, whatever that determination may be. I move—

> That the recommendation be agreed to.

Question put and passed; the recommendation agreed to.

Standing Order No. 290: Further proceedings—

The Hon. V. J. FERRY: The final recommendation, dealing with Standing Order No. 290, is as follows—

> To delete the passage "Unless the Bill be laid aside, a Message" in the third last line, and substitute the words "A Message".

The last sentence will now read—

> A Message shall be sent to the Assembly to such effect as the Council has determined.

This is a consequential amendment to the one we have just dealt with. I move—

> That the recommendation be agreed to.

Question put and passed; the recommendation agreed to.

The PRESIDENT: I have to report that the Committee has considered the recommendations of the Standing Orders Committee and has agreed to same without amendment.

[The President resumed the Chair].

Report

THE HON. V. J. FERRY (South-West) [9.27 p.m.]: I move—

> That the report be adopted.

Question put and passed; the report adopted.

BETTING CONTROL ACT AMENDMENT BILL

Second Reading

Debate resumed from the 21st September.

THE HON. R. T. LEESON (South-East) [9.28 p.m.]: Members will probably remember that in 1974 the Government initiated a Royal Commission into gambling in general in Western Australia. As is the case with most Royal Commissions and Committees of Inquiry, the proceedings of this particular Royal Commission involved a fairly costly and lengthy process. It took evidence from places in most parts of Western Australia. A large amount of evidence was given in the metropolitan area.

As with most Royal Commissions, unfortunately there has not been very much action taken on its recommendations. However, this Bill before members arises from one recommendation by the Royal Commission so far as the legalising of the calling of the card and the settling of bets at Tattersalls Club were concerned.

In looking at the Bill, I was somewhat interested because I have had a little to do with this particular—I am not sure what term to use—enterprise in my locality.

There are some matters in the Bill which are not clear. The first matter to which I wish to refer is contained in clause 3 which refers to the "calling of the card". Mention is made of the premises situated in the City of Perth known as the Tattersalls Club. To my knowledge there are only two Tattersalls Clubs in Western Australia. One is situated in Perth and the other in the goldfields. Some members may be aware and others may not be aware that the calling of the card and settling of bets have been taking place at both these places for many years. Those members who attend the goldfields annual racing round and go to the Tattersalls Club would see the Calcutta sweep drawn and the subsequent calling of the card.

I was interested in the inclusion of the goldfields Tattersalls Club in the provisions contained in the Bill. The matter was raised in another place and the Minister gave an answer which I could not understand. I do not know whether the Minister really understands what this small Bill does. I should like to ask some questions about it; but, of course, the Minister concerned is not in this House and I do not know whether I should pursue the matter. The Minister was not very clear in his answers elsewhere and I do not know whether I would obtain much more satisfaction from him.

The Hon. J. C. Tozer: Why do you not try?

The Hon. R. T. LEESON: This Bill might interest people in the Kimberley area in particular. I do not know what happens up there, but probably the calling of the card takes place during the race rounds in the winter time. I attended one meeting, I think it was at Derby or Broome, but I did not go to the function which was held before the meeting so I do not know whether the calling of the card takes place up there.

The Hon. H. W. Gayfer: What is this business of calling the card?

The Hon. R. T. LEESON: I intended asking the Minister in charge of the Bill to outline the process of the calling of the card.

The Hon. G. C. MacKinnon: Why do you not do it for all of us in your examination of the Bill on behalf of the Opposition?

The Hon. H. W. Gayfer: You are putting him in a spot.

The Hon. R. T. LEESON: Another matter which concerned me was that no mention was made of the Calcutta sweep. Anybody knows the calling of the card goes hand in glove with a Calcutta sweep. For that reason the Bill is a little vague as to exactly what it intends to do.

The calling of the card is the framing of the betting market around a Calcutta sweep which is drawn prior to a major race meeting. I understand in the metropolitan area the calling of the card is carried out generally on events such as the Melbourne Cup or Perth Cup. In the goldfields the calling of the card is run on the major events in the racing carnival.

The calling of the card is rather detailed and complex. In the Calcutta sweep, horses are bought for a certain figure. It is similar to laying a bet. The total prize money is divided according to the total amount for which the horses are sold in a bidding fashion. The bookmakers then call the card and frame the market according to the amount bid for each horse in the particular Calcutta sweep.

The Hon. G. C. MacKinnon: That determines the odds.

The Hon. R. T. LEESON: It determines the odds to some degree.

The Bill itself relates only to calling the card when a Calcutta sweep is run on a particular race, which is normally a major race. I do not know whether it has been interpreted that a card may be called on any race meeting on a Friday night prior to a Saturday meeting at Ascot, or whether

it is intended that it should be done before a feature event on the racing calendar only.

I understood bets could be laid at some of these establishments on the night before the race meeting if owners or other interested parties were prepared to bet; but as far as this Bill is concerned I do not believe it covers that particular aspect.

The Hon. N. E. Baxter: It covers events specified by notice published in the *Government Gazette*.

The Hon. R. T. LEESON: I agree with the honourable member. I do not know whether that is exactly what was intended; but it looks as if that is all we will get, and we will have to be prepared to accept it.

I should like to return to the Bill. Clause 3 (a), proposed new subsection (1a) reads in part as follows—

> (1a) At the premises situate in the City of Perth and known as "Tattersalls Club", and at such other premises as may be prescribed, subject to the Board after consultation with the Commissioner being satisfied that adequate provision is made and maintained for the supervision of the proceedings and that all bets there made are brought to account the Board may, by notice published in the *Gazette* authorise—
>
> (a) the settlement of bets; and
> (b) the practice known as "the calling of the card", . . .

The settlement of bets has been taking place at the Tattersalls Club for as many years as it has been standing. I cannot see anything wrong with that. I imagine the people who have asked for these provisions know what they want. They are probably satisfied with the measures contained in the Bill. It is refreshing to see some of the findings of the Royal Commission being implemented in this small Bill.

We on this side of the House support the Bill.

THE HON. G. C. MacKINNON (South-West—Leader of the House) [9.38 p.m.]: I thank honourable members for their support of the Bill. I am glad it is understood so clearly by everybody, and that no questions have been asked and there is nothing for me to explain.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Section 5 amended—

The Hon. H. W. GAYFER: I was interested in the speech made by the Hon. R. Leeson. I thought he directed a few questions to the Minister. The honourable member did not know whether this clause applied to all race meetings. I expected to receive in the Minister's reply an answer to the questions asked by the Hon. R. Leeson. We did not receive that information. The Minister made a very short speech. I should like to know whether the provision applies generally or if in fact the calling of the card—a matter which is virtually new to some of us—could be explained in more detail. Most of us are familiar with Calcutta sweeps. They are run at most sports meetings. However, the calling of the card is a term with which I am not familiar and I wondered whether the Minister could provide a little more information in reply to the questions asked by the Hon. R. Leeson.

The Hon. G. C. MacKINNON: The practice which is known as the "calling of the card" is not defined in any other way. It is permitted at the Tattersalls Club. No limits are put on it and every red-blooded Australian knows the meaning of the "calling of the card"; therefore, it is pointless for me to explain it. It can be done at the Tattersalls Club and that is the be-all and end-all of the matter.

Clause put and passed.

Clauses 4 to 10 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 9.43 p.m.

QUESTIONS ON NOTICE

HEALTH

Handicapped Persons

342. The Hon. LYLA ELLIOTT, to the Attorney General:

(1) Has he received a copy of the report of the Committee on the Rights of Persons with Handicaps set up by the South Australian Government last year?

(2) Will the Government establish a similar committee in this State to consider matters of law and policy adversely affecting persons with handicaps of a physical or mental nature and to recommend legislative changes in the laws in accordance with the United Nations Declaration on the Rights of Disabled Persons and of Mentally Retarded Persons?

(3) If not, why not?

The Hon. I. G. MEDCALF replied:

(1) No. A paper for information and discussion of the subject has been received by me.

(2) The Government of Western Australia has co-operated with the South Australian committee and provided it with details of legislation in this State which already makes provision for handicapped persons. This legislation covers a number of subject areas. In addition, the Law Reform Commission of W.A. has been given a current project on the criminal process and persons suffering from mental disorder.

This State also has a Council for Special Education with a continuing responsibility for the education of handicapped children. The reports of this council on children suffering from cerebral palsy and education of the deaf have also been provided to the SA committee.

(3) Answered by (2).

ENERGY

Tidal Power

344. The Hon. F. E. McKENZIE, to the Attorney General representing the Minister for Fuel and Energy:

In arriving at the estimated cost of 3 to 4.5 cents per kilowatt-hour for tidal power as reported in *The West Australian* on the 30th April, 1976, could the Minister supply details on—

(a) what interest rate;

(b) what inflation rate; and

(c) what operating life of the project; was adopted by the State Energy Commission?

The Hon. I. G. MEDCALF replied:

The cost of 3 to 4.5c/kWh for tidal power reported in *The West Australian* on 30th April 1976 was taken from the estimates made by a team of consultants in their study of the costs of constructing a tidal power dam at Secure Bay.

These costs are discounted weighted average costs based on—

(a) Interest rates in the range 10 per cent-12 per cent, repaid over 10 years.

(b) Constant 1976 dollars.

(c) A 30 year operating life.

It must be stressed that these costs are based on the financial charges associated with the main tidal dam only. For example, they do not include costs associated with the pumped storage scheme needed to achieve energy retiming to ensure a firm output.

Tidal power for Western Australia has been studied extensively and it is a complex subject which can give a wide variety of answers.

In any event the practicability of generating electricity from tidal power in the Kimberleys would largely depend on sufficient usage at or near the source; presently the minimum feasible quantity to be generated could only be used around the metropolitan area which would add the cost of over 2 500 kilometres of transmission lines and the consequent loss of energy to the cost of electricity supplied.

PATERSON'S CURSE

Biological Control

345. The Hon. M. McALEER, to the Minister for Lands representing the Minister for Agriculture:

(1) Could the Minister advise—

(a) whether a method of biological control of Paterson's curse has been developed; and

(b) if so, whether it is thought to be effective?

(2) If the answer to both parts of question (1) is "Yes" when is it likely to be released?

The Hon. D. J. WORDSWORTH replied:

(1) (a) CSIRO has found and tested insects which are selective to Paterson's curse.

(b) Their effectiveness cannot be determined until they are released in field situations.

(2) Paterson's curse is regarded as a valuable plant to the honey industry in some areas of Australia. Because of the possible effect of biological control of Paterson's curse on the honey industry a release of the insects has been deferred.

HOSPITALS

Nurses: Travelling Allowance

346. The Hon. LYLA ELLIOTT, to the Minister for Lands representing the Minister for Health:

(1) What transport arrangements are entered into by his Department with nurses working in the following areas—

(a) Extended Care;

(b) School Health; and

(c) Community Health?

(2) Is it a fact that earlier this year the travelling allowance to those nurses who use their private vehicles in carrying out their duties was restricted to 15.2 cents per kilometre for the first 8 000 kilometres, and only 10.8 cents per kilometre thereafter?

(3) If not, what is the travelling allowance for nurses who use their private vehicles in carrying out their duties?

The Hon. D. J. WORDSWORTH replied:

(1) (a) Extended Care Nurses. All nurses use their own private vehicle and are paid mileage in accordance with the Public Service Motor Vehicle Allowances Award. A Government Extended Care van is used at Esperance Hospital by a nurse.

(b) School Health Nurses. All nurses use their own vehicle and are paid mileage in accordance with the Public Service Motor Vehicle Allowances Award.

(c) Community Health Nurses. With the exception of two nurses who use their own private vehicle and are paid mileage in accordance with the Public Service Motor Vehicle Allowances Award, all other nurses have a Government car available for their use.

(2) No.

(3) All nurses who use their own private vehicle are paid in accordance with the Public Service Motor Vehicle Allowances Award with no restrictions. This allowance varies with the size of the vehicle and the area in which the vehicle is used. In addition, if the total distance travelled in any one year is over 8 000 kilometres, a smaller rate is paid. These conditions have applied for many years and are varied from time to time to allow for inflation and cost increases.

STOCK: SHEEP

Lice Infestation

347. The Hon. H. W. GAYFER, to the Minister for Lands representing the Minister for Agriculture:

(1) How many properties are under quarantine owing to the presence of lice infestation in sheep?

(2) Is the matter of re-implementation of compulsory sheep dipping being considered?

(3) If not, why not?

The Hon. D. J. WORDSWORTH replied:

(1) 748.

(2) and (3) No. It has been decided however to allow in certain circumstances the movement of freshly shorn and dipped sheep, under permit, for open sale.

PROBATE DUTY

Department Responsible: Cost

348. The Hon. M. McALEER, to the Leader of the House representing the Treasurer:

Would the Minister advise the annual cost of administering the department responsible for the collection of death duties?

The Hon. G. C. MacKINNON replied:

The State Taxation Department is responsible for the collection of probate duties and the Probate Duties Division of that department is specifically concerned with its assessment and collection. The cost of collecting the duties in 1977-78 was $274 867.

SESQUICENTENNIAL CELEBRATIONS

Aborigines: Recognition

349. The Hon. LYLA ELLIOTT, to the Leader of the House:

In view of his statement that the Aboriginal leader Yagan was not important enough to warrant recognition in the 150th Anniversary Celebrations, will he advise what plans the Government has to recognise the fact that Western Australia was inhabited by a race of proud independent Aboriginal people before the arrival of the Europeans?

The Hon. G. C. MacKINNON replied:

The Government has not forgotten that Western Australia was inhabited by the Aboriginal race before European settlement in 1829. Next year is the 150th anniversary of that settlement and everyone is invited to participate, whatever race, colour or creed.

There is no specific project for the Aboriginal race, or for the other races which have taken part in the success of the settlement of Western Australia.

QUESTION WITHOUT NOTICE

SESQUICENTENNIAL CELEBRATIONS

Aborigines: Recognition

The Hon. H. W. GAYFER, to the Leader of the House:

My question emanates from the reply given by the Leader of the House to the last question on notice. Were the Aboriginals the first residents of Australia and if not where did they come from?

The Hon. G. C. MacKINNON replied:

I am not in a position to answer because I would be relying on my memory and guesswork. I was not around at the time.