

tempt on the part of the Premier or the Minister for Housing to explain that fact or to give any details. The Minister for Housing made some mention of the matter but got completely off the beam by showing that he did not know the first thing about the proposition. He put over some cock and bull story about 400 tons of cement that was made available to industrial users because the Government took 400 tons for its own use, when actually the Government took thousands of tons but gave the industrial users 400 tons more than it took from the pool. While we are on the subject I might as well complete this because the Auditor General says that this requires a special appropriation from Parliament. The Government has entirely disregarded that.

Hon. A. R. G. Hawke: The Ministers will have to pay for it out of their own pockets.

Hon. J. T. TONKIN: Continuing to quote from the report—

The cost of the imported cement released (including charges paid by the Government Stores) was £74,321 3s. 9d. for which the accounts show that £39,561 6s. 6d. was charged to industrial users. The difference, £34,759 17s. 3d. was charged by the Public Works Department in 1950-51 against the Loan Fund Item No. 23, Goldfields Water Supply, under the Departmental authority — "Raising Wall of Mundaring Weir."

Against the loan fund item! A gift to industrial users charged to loan! The Auditor General says this in conclusion—

The charge for this Loan Item has not been passed by the Audit Office. It is considered that the amount of £34,759 17s. 3d., being the difference between the cost of the imported cement released and the prices charged to the industrial users, should have been met from a specific expenditure item created for the purpose and to be submitted to Parliament for appropriation.

But no notice is taken of that by the Government; that is only the Auditor General's opinion; the officer of Parliament! That can be disregarded! There is no attempt by the Premier or the Minister for Housing to deal with the matter adequately or to give any explanation. That and a number of matters require explanation by the Government, and pretty thorough explanation, too. It is the Auditor General's duty to call the attention of Parliament to these matters, and any Government that disregards his opinion does so at its peril. But of course it is nothing new for this administration, if it can use its numbers, to carry on regardless of what anybody else thinks, whether it be the Auditor General or any other person. I believe the motion should be carried.

Question put and a division taken with the following result:—

| | |
|------------------|----|
| Ayes | 17 |
| Noes | 22 |
| Majority against | 5 |

Ayes.

| | |
|---------------|---------------|
| Mr. Brady | Mr. McCulloch |
| Mr. Graham | Mr. Moir |
| Mr. Guthrie | Mr. Rodoreda |
| Mr. Hawke | Mr. Sewell |
| Mr. J. Hegney | Mr. Sleeman |
| Mr. W. Hegney | Mr. Styants |
| Mr. Hoar | Mr. Tonkin |
| Mr. Lawrence | Mr. May |
| Mr. Marshall | |

(Teller.)

Noes.

| | |
|----------------|----------------|
| Mr. Abbott | Mr. Nalder |
| Mr. Ackland | Mr. Nimmo |
| Mr. Brand | Mr. Oldfield |
| Mr. Butcher | Mr. Owen |
| Mr. Doney | Mr. Perkins |
| Mr. Grayden | Mr. Read |
| Mr. Hearman | Mr. Thorn |
| Mr. Hill | Mr. Totterdell |
| Mr. Hutchinson | Mr. Watts |
| Mr. Manning | Mr. Wild |
| Mr. McLarty | Mr. Cornell |

(Teller.)

Pairs.

| | |
|--------------|------------------------|
| Ayes. | Noes. |
| Mr. Nulsen | Mr. Mann |
| Mr. Needham | Mr. Yates |
| Mr. Kelly | Mr. Griffith |
| Mr. Coverley | Mr. Bovell |
| Mr. Panton | Dame F. Cardell-Oliver |

Question thus negatived; the motion defeated.

House adjourned at 11.36 p.m.

Legislative Council

Thursday, 15th November, 1951.

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The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

BILL—LIBRARY BOARD OF WESTERN AUSTRALIA.

Recommittal.

On motion by Hon. J. G. Hislop, Bill recommitted for the further consideration of Clauses 3 and 5.

In Committee.

Hon. J. A. Dimmitt in the Chair; the Minister for Transport in charge of the Bill.

Clause 3—Shortening provisions. Interpretation:

Hon. J. G. HISLOP: Last night we were discussing the meaning of "participating body." I believe the difficulty can be overcome simply by putting (i) in front of the words "a local authority," removing the word "and" and then putting (ii) before the words "an approved body." That would mean that there would be two classes that could be participating bodies, and I think that is the real intent. Therefore I move an amendment—

That before the word "a" in line 2 of the definition of "participating body" the figure "(i)" be inserted.

The MINISTER FOR TRANSPORT: The Crown Law authorities maintain that the original drafting is correct, although I have no intention of opposing the amendment. I think the suggestion will make it clear, but a comma or a semicolon after the word "authority" would make it read better.

Amendment put and passed.

On motions by Hon. J. G. Hislop, clause further amended by inserting in the definition of "participating body" a semi-colon after the word "authority" in line 2; the figure "(ii)" before the word "and" in line 3; and by striking out the word "and" in line 3.

Clause, as further amended, put and passed.

Clause 5—The board:

On motions by Hon. J. G. Hislop, clause further amended by striking out the word "eleven" in Subclause (2) and inserting the word "thirteen" in lieu; by striking out the word "eleven" in Subclause (3) (a) and inserting the word "thirteen" in lieu; and by striking out the word "seven" in Subclause (3) (b) and inserting the word "ten" in lieu.

Hon. G. FRASER: I am not very happy about Subclause (10), which we attempted to amend last night.

The CHAIRMAN: We did amend it.

Hon. G. FRASER: Yes, and I do not think it reads very well. At least I am not happy about it. I do not like the word "fixed" in line 6. It does not appeal to me at all. I move an amendment—

That in line 6 of Subclause (10) after the word "determined" where it appears the second time, a comma be inserted.

Hon. L. A. LOGAN: I think if we stopped at the word "determined" where it first appears in line 6 of the subclause, we would be on the right track. It deals with the first meeting of the board to be

called by the Minister, and gives the person nominated by the Minister authority to act as chairman of that first meeting. Thereafter meetings of the board shall be held as "determined." That is all we want.

Hon. G. FRASER: The chairman may not be elected at the first meeting of the board or the board at the first meeting may not determine that further meetings will be held.

Amendment put and passed.

Hon. G. FRASER: I move an amendment—

That in line 6 of Subclause (10) the word "fixed", inserted by a previous Committee, be struck out and the word "convened" inserted in lieu.

Amendment put and passed.

The MINISTER FOR TRANSPORT: I move an amendment—

That in line 3 of Subclause (11) the word "that" be struck out.

The subclause was amended to provide for a vice-chairman as well as a chairman and the word "that" is now redundant.

Amendment put and passed; the clause, as further amended, agreed to.

Bill again reported with further amendments.

BILL—LAW REFORM (COMMON EMPLOYMENT).

Assembly's Message.

Message from the Assembly received and read notifying that it had agreed to the Council's amendment, subject to a further amendment.

BILL—GOVERNMENT RAILWAYS ACT AMENDMENT.

Second Reading.

THE MINISTER FOR RAILWAYS (Hon. C. H. Simpson—Midland) [4.55] in moving the second reading said: Section 89 of the Act provides that any deputation in which a member of Parliament takes part, or at which he is present, shall interview the Minister and not the Commission. This prohibition, at times, has proved to be inconvenient and the purpose of the Bill is to provide that a member of Parliament may attend on a deputation to the Commission, if, firstly, he is present in his capacity as a member of a municipal council or a road board, or, secondly, if the Minister has approved of his being on the deputation.

The inconvenience that this restriction can cause was the subject of a letter in April this year from the Fremantle City Council, which pointed out that it debarred the Mayor (Hon. Sir Frank Gibson) and Hon. E. M. Davies from participation in deputations to the Commission on matters affecting the City of Fremantle, of which these gentlemen pos-

sessed knowledge that would be invaluable to the deputations in their discussions with the Commission. The Fremantle City Council went on to say that while it appreciated the necessity for such a provision in the Act, members of Parliament, who were also local government representatives, should be permitted to attend on deputations to the Commission.

This suggestion has been earnestly considered by the Railways Commission and by Cabinet, with the result that it has been adopted and embodied in the Bill, together with a provision that in cases where a member of Parliament desires to attend a deputation to the Commission in a capacity other than as a member of a local authority, the approval of the Minister must be sought. The prohibition against members' attending deputations to the Commission was inserted in the Act in 1902, for the express purpose, as then stated, of removing the administration as much as possible from political influence.

The then Premier (Hon. Sir Walter James) stated that, as the Railway Department possessed a political head, that is, the Minister for Railways, he was the channel through which all political communication should pass and through which all political influence, if any, should be exerted. The Premier suggested that members were often included on deputations because it was thought that their names or presence might exert more influence than the deputation would possess otherwise. The Premier's own words were that the clause would "keep the Commissioner entirely free from that political influence which is sure to be exerted when a member heads a deputation."

Later he said—

You cannot anywhere have a system of State railway administration which will altogether do away with political influence, but you can have a system which will give you a man who will be free from political influence to do the ordinary traffic work. We must have political influence to some extent, but there are certain things which must be done outside politics and certain matters which must be controlled inside Parliament. Parliament has no right to get hold of a Commissioner and say, "You shall not start a train at a certain time," but Parliament has a right to say, "You shall not charge an extortionate rate." The question of policy involved in rates must rest with Parliament, but the question of management should rest entirely with the independent Commissioner.

A similar situation arose in Victoria in 1898, when the Parliament of that State agreed that its members should not take part in deputations to the Railways administration. No less a political personage than Alfred Deakin stated that he hoped the

Minister for Railways would use his influence to prevent members from taking part in such deputations.

I would emphasise—and I am sure that members will agree with me—that while the Commission has no option but to refuse to accept a member of Parliament as a member of a deputation, this prohibition in the Act has never been construed by the Commission to prevent any member from personally interviewing the Commission on any subject. Members frequently discuss with one or other of the Commissioners matters of general interest or problems affecting their constituents. The Commissioners have advised me that they are only too pleased to facilitate these interviews, which they believe to be helpful and advantageous.

It is only when a member takes part on, or is present at, a deputation that the Commission enforces the embargo that is mandatory under the Act. The majority of members are well aware of this restriction and it is not often that the Commission is forced to inform a member that he cannot remain at the discussions. The Commissioners have, at my request, given the matter mature consideration. They feel that the occasion might arise when the presence of a member at a deputation might be an embarrassment to them, the Minister or the Government, and they consider that it would be advisable in the interests of railway management not to permit unrestricted approach by members on deputations to the Commission.

The Government has also given the matter full consideration and agrees with the Commission that while, in the majority of instances, there would not be the least objection to members' acting on deputations, there might be occasions when it would be advisable that they should not be present. This question was brought to my notice particularly by Mr. Davies, and I agree with him that in the circumstances of the approach by the Fremantle Municipal Council to the Commission, it would have been only common sense for Mr. Davies to have been included on the deputation. After discussing the matter with the Commission and with Cabinet, I may point out that it is an understood rule that, while members may approach heads of departments, they do not do so as members of deputations. When a member introduces a deputation, it is always understood that he should approach the Minister.

I have found in actual practice that there are some occasions when it is convenient and advisable for deputations on small matters to go before one or other of the members of the Commission, because by so doing a good deal of my time is saved; and on occasions the matters in question are such that a single Commissioner can give the necessary information. So it is proposed to amend the Act to

provide that where a member of Parliament is a member of a local authority he can, without reference to anyone at all, approach the Commissioner as a member of a deputation; but if, in any other capacity, he wishes to interview the Commission, it will be necessary for him to see the Minister. I think what I have said explains the purpose of this simple Bill, and I trust the House will accept it. I move—

That the Bill be now read a second time.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—EASTERN GOLDFIELDS TRANSPORT BOARD ACT AMENDMENT.

Second Reading.

THE MINISTER FOR TRANSPORT (Hon. C. H. Simpson—Midland) [5.5] in moving the second reading said: You will recollect, Mr. President, the events that have led to the introduction of this Bill and which culminated in a request made to me on the 6th July this year by a deputation representative of the Eastern Goldfields Transport Board. The deputation, which was introduced by Mr. H. H. Styants, M.L.A., comprised the chairman, Mr. G. Jennings; the secretary, Mr. A. G. Tie; and the other six members of the board, these members being the mayors and town clerks of Kalgoorlie and Boulder and the chairman and secretary of the Kalgoorlie Road Board.

Supporting the deputation, in addition to Mr. Styants, were yourself and the other Legislative Council members for the North-East and South-East Provinces, as well as the parliamentary representatives for Boulder, Hannans and Eyre. The object of the deputation was to obtain some form of assistance from the Government to enable the board to continue its functions. The board commenced operations on the 1st January, 1947, as a result of the passing of the principal Act which authorised the board to take over, construct, maintain and work tramways within the Kalgoorlie and Boulder municipal districts and the Kalgoorlie road district, and to construct, maintain and work all other forms of road transport.

The tramway system on the Eastern Goldfields was operated for very many years by the Kalgoorlie Electric Tramways Ltd., a company incorporated in England. The agreements entered into by that company with the local authorities on the Eastern Goldfields stipulated that after 35 years the system would be handed over to the local authorities. Due mainly to the incidence of war and by mutual agree-

ment, this term of 35 years was extended from time to time, the 31st December, 1946, being finally arranged as the date for the transfer.

To permit the local authorities to take control of the tramways and to form a board, as desired by the local authorities, it was necessary to submit legislation to Parliament in the form of the principal Act. The deputation that met me in July emphasised the value to the Goldfields of the transport board and stated that the local authorities were most anxious to continue controlling the services. They explained that the board had done everything in its power to make ends meet but that unless some form of assistance was obtained, it would appear that the board would have to cease activities after the end of September next. Every effort had been made to interest private capital. Tenders were called in Kalgoorlie, Perth and the Eastern States, and direct approaches were made to the more prominent bus companies in this State. The only result was an inquiry from Sydney for details, which were supplied, but which elicited no further interest.

I, therefore, arranged that the general manager of the Government Tramways, Mr. J. H. Napier, visit Kalgoorlie to investigate the condition of the transport services and to recommend in what manner he considered the board could be assisted to maintain these services. As a result of Mr. Napier's visit, the Government decided to loan to the board, free of cost, seven Government tramway buses which would be reconditioned by the Government, at an estimated cost of £3,500. No charge in regard to these vehicles would be made to the board, apart from its being expected to meet the interest on the cost of reconditioning.

In addition, the Government proposed that it meet half the annual operating loss of the service on condition that the combined local authorities also bore half. I might add that this method of assisting the board has been thoroughly investigated, and has been approved by the Under Treasurer and the Assistant Under Treasurer. The Eastern Goldfields Transport Board and the local authorities concerned have unanimously agreed to the Government's proposals which will permit the board to eliminate the use of trams and to concentrate on road bus services.

Although under the principal Act any net profits of the Eastern Goldfields Transport Board are paid in equal shares to the local authorities and would form part of their ordinary income, there is no provision permitting them to subsidise the board in the event of financial loss. The Bill is introduced to permit of these payments by the local authorities, and it provides also that such payments will not be regarded as loans, but as straight out contributions towards the administration of the services.

The Eastern Goldfields Transport Board is constituted with six members, and a chairman appointed by the Governor. The chairman shall not be a member of either the Kalgoorlie or Boulder municipal councils or the Kalgoorlie Road Board. Members of the board are elected as follows:—

- One by the ratepayers of the municipality of Kalgoorlie;
- one by the ratepayers of the municipality of Boulder;
- one by the ratepayers of the Kalgoorlie road district;
- one by the council of the municipality of Kalgoorlie;
- one by the council of the municipality of Boulder; and
- one by the Kalgoorlie Road Board.

The board is therefore a public authority formed to provide transport facilities in its district. The Bill, which is quite simple, really allows the local authorities concerned to contribute a share towards any loss that may arise. It is by no means certain that there will be a loss but, with the present trend of rising costs, it is a possibility; and the municipal councils were anxious to have the necessary authority under this measure to contribute their share. They were quite willing to accept the arrangement, but pointed out that under the Municipal Corporations Act they had no power to assume responsibility for any losses, so the object of the Bill is to give them that power. The measure affects the municipalities only, because the Road Districts Act does contain such a provision. The road board concerned did not, therefore, need to apply to have this particular power.

Of the seven buses being reconditioned, I think two are in process of delivery, and the remaining five are to be completed within six months from the date of the making of the arrangement. I understand the people of Kalgoorlie are quite happy about this. The buses, which are old petrol buses, and hardly suitable for tramway requirements, will, because of the lesser running they will be called upon to do on the Goldfields, be quite suitable for the work there, and so are acceptable to the transport authority at Kalgoorlie. I move—

That the Bill be now read a second time.

On motion by Hon. E. M. Heenan, debate adjourned.

BILL—ROAD CLOSURE (WANNEROO).

Second Reading—Defeated.

Debate resumed from the 31st October.

THE MINISTER FOR TRANSPORT
(Hon. C. H. Simpson—Midland) [5.14]:
This is a private member's Bill, introduced by Mr. Baxter, and it deals with the clos-

ure of a road in the Wanneroo district. I am rather sorry that the hon. member has brought the Bill forward because it does involve a principle of administration. In these cases where a Minister has to take action, he always does so after careful inquiry into local conditions, and on the advice of his responsible officers. Whilst I will not say that Ministers are immune from making mistakes, they take action only after careful consideration of all the factors involved and with a desire to do justice to all parties concerned.

But I think that if the principle were accepted generally that any action of a Minister could be overridden by Parliament, it would make the task of Ministers very difficult. It would not only reflect on the Minister concerned, but also on a very fine body of officers who are always present to advise the Minister and to indicate what, in their opinion, is the right course to be taken, having regard to the circumstances of the case and the general continuity of the department's policy.

In this instance, the Minister for Lands has advised, both as member for the district and as the Minister concerned, that this road should not be closed. He supported this view by referring to the opinions of the Surveyor General and his staff and the secretary of the Local Government Department, who has made a personal inspection of the road. The facts are these: In 1947 the Wanneroo Road Board advised the department of its intention to resume land to make a new road providing for a deviation of Carra-burra-rd. and requested that a survey be made. Protests were received from two of the landowners affected by the proposed deviation, and it was decided that the Assistant Surveyor General should personally inspect the area. This was done and he recommended that the board's request be granted.

The matter then developed into an argument between the landholders who wanted the road and those who were affected by the resumption. The department's investigations revealed that where the proposed road was to be surveyed a track had been in use for over 40 years and that the original holder of the land had leased parcels of the area to various gardeners to whom, later, he had sold the land. It was alleged that each gardener had the right-of-way over the other areas.

Unfortunately, when titles were granted, provision was made on only two of them for the necessary easements, with the result that trouble occurred over the use of the right-of-way. With the completion of the survey the roadway was declared. A change in the personnel of the road board then took place and a request was made by the new board to have the road closed. When this became known, members of the local progress association, by

way of deputation, protested to the Minister for Lands against the closure of the road.

Hon. N. E. Baxter: Who were the former road board members?

The MINISTER FOR TRANSPORT: At the request of the board, the Minister for Lands, in company with departmental officers, visited the area and met members of the board and the gardeners concerned. In the course of the inspection and questioning with regard to the rights of each gardener, it was found that with the establishment of the road, the easement rights of two of the owners had been affected. It was therefore agreed, before any decision was made, that investigations would be made into these rights. Inquiries confirmed the opinion that when the new road was gazetted the easement rights were cancelled, and if the road were now closed there would be no means of re-establishing these rights.

Hon. N. E. Baxter: They have been offered to them.

The MINISTER FOR TRANSPORT: The survey branch of the department was satisfied that the new road was in a much better position than the old road running along the top of the ridge, but was quite prepared to consider any reasonable deviation to avoid taking up any of the better class garden land owned by one of the protesting gardeners. Over the past three years the department has done everything possible to overcome the differences between the gardeners concerned, but because of the uncompromising attitude of one or two of the men it has not been possible to reach a settlement.

There is one possible solution of the problem, and that is for the owners concerned to give each other easement rights providing for a right-of-way across each block. Even this solution has its limitations and could not be regarded as entirely satisfactory. The passing of the Bill would meet with the approval of perhaps two or three of the men concerned, but would be equally viewed with disfavour by the remainder. It is not a matter of general public interest and it should be rejected.

I am informed that the statements by Mr. Baxter and Mr. Logan to the effect that six members of the old board were defeated at the following election is not correct. My advice is that three members, Messrs. Pearsall, Leach and Gibbs, were so disgusted over the matter that they refused to stand for re-election. It is interesting to note that at the following election one of these ex-members decided to oppose the new chairman and defeated him. The Acting Surveyor General, Mr. Paine, has advised a meeting of the board and the settlers that the road Mr. Baxter wants closed is properly situated and that people could not be expected to travel up around the face of a sandhill when there were such good levels below.

Hon. N. E. Baxter: I have never seen a sandhill.

The MINISTER FOR TRANSPORT: I might say that one of the protesting Yugoslavs, one Dhimitri, in an arrogant effort to make things as awkward as possible, built sheds in the centre of the new survey.

Hon. N. E. Baxter: That is entirely wrong.

The MINISTER FOR TRANSPORT: That is my information.

Hon. N. E. Baxter: That information is wrong.

The MINISTER FOR TRANSPORT: The Minister for Lands has asked me to assure the House that, as member for the district, he has given the matter every consideration and that had there been any possibility of settling the dispute, he would have seen that it was done. He states that his expert officers have assured him that the new survey is the correct one. This opinion is shared by the secretary of the Local Government Department, and after inspecting the area the Minister finds that he himself can come to no other conclusion. In view of those assurances from the Minister himself, I oppose the Bill.

HON. N. E. BAXTER (Central—in reply) [5.20]: In his remarks the Minister said he was sorry that the Bill had been brought forward. I, too, regret greatly that I was forced to do so. It is not my desire to bring Bills before the House to embarrass any Minister, either in this House or in another place. When a matter such as this is raised, it is not merely because of one particular matter but also to avoid similar incidents happening in the future. Therefore, it is not for any Minister to regret the introduction of the Bill.

The fact has been overlooked by the Minister, that if the road is left where it is, it will create a precedent to be cited to any other Minister for Lands who comes into office. He would be in the position of having to approve the action of any two parties who might desire to put a road through another person's property for their own convenience and to give them access to a public road. In future, people would be in a position to say to the Minister, "Here is a case in point where the Minister for Lands granted this concession. Therefore, how can you refuse us?"

I would not like to be in the position of the Minister for Lands who was faced with that problem. The Minister for Transport also said that the Bill involved the question of administration and that careful attention had been given to the matter by responsible officers. I have here a letter, addressed to the Wanneroo Road Board, from Mr. Smith, the Under Secretary for Lands, dated the 17th February, 1948. I

would like members to note that this road was gazetted on the 2nd December, 1949, almost two years later. The letter reads—

With reference to your communication of the 19th December last, I have to advise you that your Board cannot resume land for road purposes. This has to be done by the Lands Department under the Road Districts Act.

2. Before proceeding with your request further information is required.

3. The Department, in 1936, at the request of your Board and after consultation with the Chairman and Secretary, and Mr. Gibbs, surveyed a road known as No. 9720, which runs along the eastern boundaries of Lots 2 and 4 and across Lot 5, and at the time was considered to serve the needs of the settlers requiring road access.

4. The Department has received protests from the Market Gardeners' Association and the Solicitors acting for V. E. Dhimitri and Joseph Susac against the Board's proposed action.

5. Will you kindly advise me why the road surveyed in 1936 will not meet the requirements of the district, and why it is now considered essential to sever the land held by the gardeners over which it is proposed to construct the road?

The reply from the Wanneroo Road Board, dated the 8th March, 1948, reads as follows:—

I acknowledge your letter of the 17th ultimo, re the Carraburra Road, and note your comments.

In reply thereto, I have to inform you that the Board decided on a deviation of existing road No. 9720—

I interpolate here to point out to members that it is suggested by the board that this is a deviation of road No. 9720. Under Section 150 of the Road Districts Act, once the survey of a road deviation is gazetted, the original road, which in this case would have been road No. 9720, is automatically cancelled. But that did not happen with road No. 9720. It was not surveyed and gazetted as a deviation of the existing road, but as an entirely new road. Therefore, the information contained in the letter from the Wanneroo Road Board was entirely false. I continue the letter from where I left off—

—to permit owners of subdivisional Lots 2, 4 and 5 of Swan Locations 758 and 3286 and Pt. Perthshire Location 113, easier access to and from their holding for the purpose of transport of produce, etc.

Hon. L. A. Logan: Only to and from their holdings.

Hon. N. E. BAXTER: Yes, I would like members to note that—"to and from their holdings". I would also ask members to study the diagram I circulated amongst

them. From that it will be seen that every owner of land in that area had access to and from his holding at any time prior to the survey and gazetting of this road. Mr. Trajanavich on lot 3 had access across the stock route to the main Yanchep-rd. So that rules one out. The main Carraburra-rd. ran through the property of Mr. Susac, one of the protesting parties. Mr. Dhimitri had access to road No. 9720. Mr. Tomich, one of the parties who applied for this road, also had access from his holding to the original road. Mr. Spacich, on lot 5, had the original road running right through his property. So I fail to see—and I think members will agree with me—that there is not one of those men who did not have access to and from his property. There again it appeared that the road board tried to mislead the Lands Department.

Hon. E. H. Gray: What about the secretary of the Local Government Department?

Hon. N. E. BAXTER: I will refer to him later. Continuing with the letter—

The existing survey is partly in heavy sand country, and one section of approximately 30 chains takes in a particularly heavy and sandy hill—

This was referred to by Sir Charles Latham during the second reading of the Bill. I would also point out that there is particularly heavy sand on lot 2, through which the new road has been surveyed and the grade on the original road was one in 16, which is not particularly steep.

Hon. Sir Charles Latham: It is pretty steep if it is one in 16.

Hon. N. E. BAXTER: I doubt whether it is one in 16; the hon. member has seen it.

Hon. Sir Charles Latham: You quoted the figures.

Hon. N. E. BAXTER: Yes, but I doubt their authenticity. Continuing to quote—

—over which a constructed road would be a difficult proposition, and maintenance a heavy and frequently recurring item.

Enclosed you will find copies of letters from three of the five landowners involved in the resumption, who have indicated their willingness to give free of charge the necessary strip of land one chain wide across their land for the purpose of providing the alternative road . . .

I will not read any more because the rest of the letter is superfluous. These owners who offered to give a strip of land did not have any land taken from them and they knew that beforehand.

I am going to refer now to the Local Government Department file. We will see what the Secretary for Local Government, Mr. G. S. Lindsay, had to say about this matter when he acted as administrator

of the board's affairs. In a report, dated the 18th May, 1949, to the Minister for Local Government, almost seven months before the road was gazetted, he said, with regard to Carraburra-rd.—

It was stated that the decision of the board to put a road through the centre of a property of one, Dhimitri, was unwarranted. No definite reason could be advanced by the board as to why they desired a road through this property, other than that it would be more economical to construct than the existing route. Mr. Henry William Gibbs, in evidence, stated that he gave some of the land for the original survey which was not intended to go around the blocks but was intended to follow the course now desired by the road board—

There is no evidence that Mr. Henry William Gibbs had raised any protest when the original survey, No. 9720 was made. Yet he comes out at this juncture and states that he gave the land for the purpose of putting the road right through. Why did not Mr. Henry William Gibbs lodge his protest when the original survey was made? Are we to believe that Mr. Henry William Gibbs forgot that he had given it, or was he endeavouring to do something now at this juncture? To continue the extract—

—and that when Dhimitri was going to buy the land he was informed that a carriage way should be made for the man behind; but when the title was being prepared, this was overlooked.

That proves that what Mr. Henry William Gibbs said was absolutely farcical. The report goes on—

The existing survey and the new survey were inspected and I am firmly of the opinion that with the existing modern transport coupled with modern road-making equipment, the construction of the original survey presents no difficulties and the cutting up of a garden area for the survey of another road within a chain or two of an already existing road, is unwarranted. All present owners in the subdivision, excepting one, have direct access to the original roadway. The other remaining person can have easy access provided from the main Yanchep-rd. over the stock route reserve—

That means of access has been used ever since he went on the land years ago, and yet he never made any protest. To continue—

—and correct representation by the local authority should result in the required survey.

In other words, the intention was to cut through two persons' properties just for the convenience of two others, despite the

fact that this man had access within 200 yards of the main Yanchep-rd. Yet we have such a stupid proposition put up! To continue the report—

Despite assertions of the intentions of the owner prior to subdivision, I arrived at the conclusion that the plan finally agreed to by the Town Planning Board was understood by all parties and that the only provision made by the owner of the land (Mr. A. Gibbs) was for a right of carriage way over lot 1, as shown on the tracing attached, coloured blue.

That is the carriage way running from the centre of Mr. Susac's block to point "A" on the plan and then down to the eastern point on Mr. Trajanavich's block on lot 3. That was the route used all the time before the road went through. I think this man wants the world, not merely a road. To continue—

The proposed new survey would take in this; together with other land as shown coloured red on tracing attached (Attachmen "C").

The original plan as approved by the Town Planning Board, together with notation on town planning card, and attached information from the Lands Department records, make it quite clear to me that the original survey was finally and conclusively agreed upon by all parties.

Mention has been made of inter-communication within the subdivision, but this surely cannot be expected of a local authority. Rather should it be a matter for the people concerned themselves, and in view of present relations between the various parties, it is not likely that this will eventuate.

The matter would have been much simplified if, Mr. Trajanavich and Mr. Spacich had been a bit more reasonable about the whole proposition. It was their unreasonableness and the attitude of the Minister for Lands when I and also Sir Charles Latham approached him, that occasioned the presentation of the Bill to the House. I can assure members on that point.

Turning now to the diagram that I placed before members when I moved the second reading of the Bill, I will give some idea of what was offered to the two men concerned. There is a dotted line shown between lots 1, 2 and 3 going from east to West. It runs from a point east through to Mr. Trajanavich's property along the original survey No. 9720 in Mr. Susac's property. Mr. Susac offered to give the other two men a right-of-way from the point, where the new road had been put, in and on to the old road, straight down east and west of the old road. That would enable them to have a shorter route than if they went right round.

This offer was made by Mr. Susac at a meeting of the road board when efforts were made to bring the matter to a head, but the other two men adopted the attitude that they would accept nothing but the new road. They wanted the whole hog. Was that fair? I certainly maintain they were not fair, and I think members will agree with me in that respect. The Minister in his reply referred to careful inquiries by responsible officers. I am afraid the inquiries prosecuted by those responsible officers were not as careful as they might have been. Mr. Smith and the Minister for Lands had access to the Local Government file. Protests were made by the newly elected road board, as well as by Sir Charles Latham and myself.

I am afraid the officials did not take the trouble to go into the matter properly. I would not have the slightest compunction in overriding the Minister in this respect. The Minister for Lands also informed the Minister for Transport—I do not blame the Minister in this House regarding the position because he obtains his information from his ministerial colleagues—that the track had been used for years. The fact that a track had been used for years does not say that it should be regarded as a surveyed road. Persons have used tracks all over the State and, because they have done that prior to subdivisions being made they should not have the right to use them as roads subsequently.

The Minister also referred to easements and I have explained that. I have told the House what these two men were prepared to do in that direction. The Minister also mentioned the uncompromising attitude of two of the owners concerned. I take it that had reference to Messrs Trajanivich and Spacich. The other two men, Messrs. Susac and Dhimitri, have been reasonable and were prepared to give access to the others to and from their properties. The Minister also said that this was not a matter of general interest. It may not be in this particular instance, but it creates a precedent which affects the general interests of all concerned.

With regard to the Land and Surveys file, which I will next deal with, the Minister told the House that the surveyors had agreed that the new survey was the proper one. The authorities were a long time in waking up to that. For a period of 12 or 14 years the road had been used by agreement with all the owners, before it was recognised that the road was in the wrong place. If the road were taken through the swampy land instead of along the higher ridge, half the material put into the road would have sunk in no time and the materials would have had to be replaced time and again.

I shall quote from a letter from Mr. Kavanagh, O.C. Roads and Reserves, to the Under Secretary for Lands, under date the 13th February, 1948, in which he said—

In the year 1936, a road was surveyed at the request of the board, as shown coloured brown on the facing. The surveyor who made the survey (Mr. Cleave) took a lot of care in marking this road. This road was then required more for the convenience of a Mr. Gibbs than for the public. He consulted Mr. Gibbs, and the chairman and secretary of the board, and reported that these people expressed satisfaction with the survey.

Now, after all these years, apparently these people are entirely dissatisfied with the survey. I wonder if they know their own minds. It appears to me that they do not. I could read reams from the file, but I do not want to weary the House. Here is a letter from Mr. Harry Paine, Assistant Surveyor General, which will help to throw some light on the matter. It is addressed to the Under Secretary for Lands and reads—

I have made an inspection and interviewed several of the people interested in this road.

The existing survey, as coloured brown upon the sketch, is all right as a road but does not supply the needs of these settlers.

What does he mean by that, when they all had access from the road to their holdings?

Hon. L. Craig: I should think he meant what he said, would not you?

Hon. N. E. BAXTER: It is hard to realise from the evidence I have taken from the other file. He continues—

They work in collaboration with each other in carting to and from the city, and the main trouble is that Trajanavich on lot 3 Tomich on lot 4 and Spacich on lot 5 cannot communicate save by a roundabout route.

Have members ever heard anything like that? They cannot communicate except by a roundabout route! I would ask anybody who has been a member of a road board whether he has ever been guilty on a road board of agreeing to put a road through land so that landowners could communicate with one another by the shortest route. I do not think anyone here who has been a road board member would admit that. The letter goes on—

There is no doubt these men bought their land on the understanding that a road suitable to their interests would be provided. This a small com-

munity, settled upon a swamp area, and inter-communication is essential to them.

Such inter-communication may be essential where men want to help one another on their small properties. All over the State there are people who desire to assist one another, but they do not ask for roads to be surveyed through other people's properties for that purpose. They ask for permission to make a track through such properties, and that is what is done.

There is no doubt, from the evidence, why this road was put through. It was for the simple reason of enabling these people to visit one another and cart one another's produce. I told the House on the second reading that all these people receive a concession from the road board in connection with their truck licenses to cart their produce, and under that concession they are not allowed to cart one another's produce.

I could go on for weeks reading the evidence contained in these files. If members had read them, they would know that this is one of the most stupid things a board ever did. However, I will not weary the House any further. Members have heard enough evidence to decide this issue for themselves, and I trust that the Bill will be agreed to.

Question put and a division taken with the following result:—

| | |
|------------------|----|
| Ayes | 7 |
| Noes | 16 |
| Majority against | 9 |

Ayes.

| | |
|-------------------|------------------|
| Hon. N. E. Baxter | Hon. A. L. Loton |
| Hon. E. M. Heenan | Hon. H. L. Roche |
| Hon. A. R. Jones | Hon. G. Fraser |
| Hon. L. A. Logan | (Teller.) |

Noes.

| | |
|-----------------------|-----------------------|
| Hon. L. Craig | Hon. Sir Chas. Latham |
| Hon. E. M. Davies | Hon. J. Murray |
| Hon. J. A. Dimmitt | Hon. H. S. W. Parker |
| Hon. R. M. Forrest | Hon. C. H. Simpson |
| Hon. Sir Frank Gibson | Hon. J. M. Thomson |
| Hon. E. H. Gray | Hon. H. K. Watson |
| Hon. H. Hearn | Hon. F. R. Welsh |
| Hon. J. G. Hislop | Hon. C. H. Henning |
| | (Teller.) |

Question thus negatived.

Bill defeated.

House adjourned at 5.52 p.m.

Legislative Assembly

Thursday, 15th November, 1951.

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The SPEAKER took the Chair at 3.30 p.m., and read prayers.

QUESTIONS.

NORTH-WEST.

As to Slipway at Shark Bay.

Mr. BUTCHER asked the Minister for Works:

(1) Has the erection of a slipway been promised at Shark Bay?

(2) If so, what progress, if any, has been made?