Western Australian coast: I continue to quote from the same news release—

> "Of course Sir Charles won't do this because the advice given to me by the Transport Minister, Mr O'Connor, was that the W.A. railways were already making a profit on the carriage of containers on their section of the Trans-Australian Railway," he said.

As far as I can see, a subsidy is being requested from the Australian taxpayers so that it may be granted to Associated Steamships Pty. Ltd. Incidentally, speaking on behalf of the waterside workers, I would like to see the interstate freight carried by ships, but if it can be carted more economically by rail to the advantage of the community generally, that is how it should be carted. Continuing to quote—

> Each of the Ministers, including Mr O'Connor, had said that his State's portion of the railways was operating profitably so far as this type of traffic was concerned.

However, there was no Press comment. I thank the House for its indulgence, and I thank you, Mr Speaker, for allowing me to speak for a little over my time.

Debate adjourned, on motion by Mr Cowan.

JURIES ACT AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

House adjourned at 11.06 p.m.

Legislative Council

Wednesday, the 15th October, 1975

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 4.30 p.m., and read prayers.

BILLS (4): ASSENT

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

1. State Housing Death Benefit Scheme Act Amendment Bill.
2. Mineral Sands (Western Titanium) Agreement Bill.
3. Mineral Sands (Allied Eneabba) Agreement Bill.
4. Motor Vehicle (Third Party Insurance) Act Amendment Bill (No. 2).

QUESTION ON NOTICE

TOWN PLANNING

Scarborough: Pizza Hut

The Hon. R. F. CLAUGHTON, to the Minister for Justice representing the Minister for Town Planning:

(1) Has the Minister upheld an appeal to erect a Pizza Hut on lots 9 and 10, corner of Scarborough Beach Road and Liege Street?

(2) (a) Was the existing building on the site used as a Liberal Party committee room for the 1974 State Elections;

(b) did the building also carry a 24 foot by 8 foot election sign for the Liberal Party candidate for Scarborough; and

(c) if so, were these circumstances influential in the upholding of the appeal by the Minister?

The Hon. N. McNEILL replied:

(1) Yes.

(2) (a) and (b) It is understood from a nearby resident that the site was used as suggested by the Hon. Member and that Labor Party signs were also erected on this site.

(c) No. I understand the Liberal candidate (now member) was opposed to the project. A strong influence in the Minister's decision was the traffic study which was carried out and professional officers' recommendations to uphold the appeal.

BILLS (2): RECEIPT AND FIRST READING

1. Government Railways Act Amendment Bill (No. 2).

   Bill received from the Assembly; and, on motion by the Hon. N. E. Baxter (Minister for Health), read a first time.

2. Acts Amendment (Western Australian Meat Commission) Bill.

   Bill received from the Assembly; and, on motion by the Hon. N. McNeill (Minister for Justice), read a first time.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Third Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [4.40 p.m.]: I move—

That the Bill be now read a third time.

I should comment on a query that was raised in particular by Mr Dellar, and to some extent by Mr Claughton. I refer more particularly and explicitly to Mr Dellar's query as to why a provision has been included in the amending Bill for the purpose of dealing with vehicles and animals.

I have had some inquiries made, and the information that has been conveyed to me is that it should be borne in mind that the purpose of control in this instance is related to obstruction. I think it will be appreciated that wandering animals or moving vehicles are really outside these controls, and they do not constitute an obstruction in these terms.

There are other laws controlling wandering or trespassing animals, which permit such animals to be impounded. However, neither a wandering animal nor a moving vehicle constitutes in these circumstances an obstruction. Needless to say an animal which is tethered or secured in a public place can be an obstruction in exactly the same manner as a vehicle which is parked unlawfully and left for any period of time. As is known there are by-laws dealing with obstruction.

I wish to explain as explicitly as I can that there should be an extension of the existing by-law making power to enable the cost of removal, and in the case of animals particularly the cost of feed and the attendant management, to be recouped, bearing in mind that particular reference was made to a shortfall in the costs as a consequence of sale, etc., in meeting the costs incurred in dealing with the problem.

I hope this explains the situation that a difference exists mainly in relation to whether the animals are wandering or tethered. Clearly in the case of an animal being tethered, that would constitute an obstruction, but this is not applicable in the case of a wandering animal.

That covers the situation. It relates to the obstruction caused by a tethered or secured animal, or by a stationary or parked vehicle. In these terms both constitute an obstruction, and therefore logically and validly both types of cases can be dealt with in the one provision. Question put and passed.

Bill read a third time and passed.

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Honorary Minister), and returned to the Assembly with an amendment.

CONSTITUTION ACTS AMENDMENT BILL (No. 2)

Recommittal

Bill recommitted, on motion by the Hon. N. McNeill (Minister for Justice), for the further consideration of clause 4.

In Committee

The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. N. McNeill (Minister for Justice) in charge of the Bill.

Clause 4: Section 8B repealed and re-enacted—

The Hon. N. McNEILL: It will be recalled that during the second reading debate, and more particularly during the Committee stage, a query was raised by Mr Claughton. It was a query as to whether the provisions of the Bill adequately catered for a particular situation which he explained. No doubt, members will recall the discussion that took place and the difficulty I experienced in endeavouring to understand the particular points Mr Claughton was making.

To recapitulate the situation briefly, the commentary by Mr Claughton indicated that when the new metropolitan provinces are the subject of a redistribution and there is a redrawing of electoral boundaries, there is a possibility a new province will be created. He said there is a possibility—I emphasise it is only a possibility—that in the redistribution a new province could comprise more than 50 per cent of the electors of more than one existing province represented by existing members.

I am sure members will recall there is a specific provision which has been inserted deliberately in the Bill in order to safeguard and cater for the situation of continuing members who are due to retire in 1980, under which they are able to establish a claim of having a prior right to a particular new province in which there are 50 per cent or more of the electors of an existing province.

I considered the point raised by Mr Claughton was of sufficient validity to require deeper research. It is clear to me that the point he raised has some substance, bearing in mind that rather than refer to 50 per cent or more of the electors he made particular reference to the possibility—and he instanced his own case—of a province which is presently constituted of four electoral districts might comprise five electoral districts. He said this could result in there being a greater number of electors, and an opportunity would be provided to members to establish a prior claim under the 50 per cent rule. That being the case, and because of the possibility that such a situation could occur, it became obvious that some provision would have to be made for it. Otherwise, there would be some difficulty in implementing the provisions of the Bill when it becomes law.

I have placed an amendment on the notice paper which I am sure has been the subject of some study by members of the Committee. It will provide for the situation which has been outlined. Where two members may be able to establish a prior claim as a consequence of the certification given by the Chief Electoral Officer, as to the

50 per cent rule, the amendment sets out that the prior claim would be exercised by the member who has the greatest number of electors comprising his previous province. The Bill will retain the provision for the 50 per cent rule in all other instances. A member will be able to apply for or nominate for more than one new province, any one of which could be a province for which he was making application under the 50 per cent rule.

Recognising the necessity to make some provision for the circumstances which could arise, I examined alternatives and in my view the present proposal seems to be a fair method of arriving at a solution. I hope my proposal will be found to be satisfactory, bearing in mind that the first requirement is to make provision for such a remote possibility and, secondly, to maintain a sufficient degree of fairness in respect of those members who may be placed in the position mentioned, and who wish to exercise a prior right in terms of the 50 per cent provision set out in clause 4. It is my intention to move the first amendment appearing in my name and, if it is agreed, the following amendments will be consequential. I move—

> Page 4, line 13—Add after the passage "subsection (5)" the passage "and subsection (6)".

The Hon. R. F. CLAUGHTON: The amendment sought to be made to the Bill affects only five metropolitan members, of which I am one. I have examined the proposals and as far as I can see they satisfy the point I raised with the Minister. I support the move.

The Hon. CLIVE GRIFFITHS: In supporting the proposed amendment I think Mr Claughton should be commended for drawing attention to the obvious anomaly in the Bill. Certainly, it was a shortcoming.

I think it would be quite fair for me to point out that during the course of debate members opposite devoted a major part of their opposition to stressing that the Legislative Council ought to be discontinued. I think the Bill now provides us with an example which indicates the very necessity for retaining this House of review.

If this Bill had not been debated in a second Chamber the anomaly, which we are about to amend, would not have been discovered. Members who have been here for some time are aware that situations such as this occur on numerous occasions. As a result of information brought forward during the course of debate in this Chamber it has been found necessary to amend certain Bills. Instead of using their time to denigrate the efforts of this Chamber, members of the Opposition should now feel quite pleased.

The Hon. D. K. Dans: Did you say that members of the Opposition should feel quite pleased now?

The Hon. CLIVE GRIFFITHS: Yes; pleased with the fact that this Chamber has done one of the things it purports to do and has provided an opportunity for a review of legislation. That does not mean members opposite have to like the legislation because it is apparent that nothing we do will have that result. The fact of the matter is that if we had not had a second Chamber—

The Hon. R. Thompson: We would not have needed this legislation.

The Hon. N. E. Baxter: That is not correct, either.

The Hon. CLIVE GRIFFITHS: If we had not had a House of review the anomaly would have passed through and would not have been discovered until the purport of the Bill had been put into practice. I suggest the debate in this Chamber provided an opportunity for Mr Claughton to discover there was an area within the legislation which needed to be tidied up. I am not saying that in discovering the problem he should now like the contents of the Bill. I simply raise the point that this House of review is of major importance in ensuring that legislation leaves this Parliament in a satisfactory form.

The Hon. D. K. Dans: It proves that you like what he discovered.

The Hon. CLIVE GRIFFITHS: No it does not, because personally it does not affect me. However, in the interests of ensuring that legislation leaving this Parliament has the least possible number of anomalies, Mr Claughton's suggestion has obviously played a part. So I simply rose to say that if ever an example were needed, this amendment provides it.

The Hon. R. THOMPSON: To say the least, the Hon. Clive Griffiths is amusing. Had there been no Legislative Council, there would have been no part of the Bill dealing with it.

The Hon. N. McNeill: There would have been a Bill.

The Hon. R. THOMPSON: Yes, but there would have been no reference to the Legislative Council.

The Hon. Clive Griffiths: That is not the point.

The Hon. A. A. Lewis: Obviously he is missing the point again.

The Hon. R. THOMPSON: The only thing the Hon. Clive Griffiths has proved to me is that Government members should not vote blindly for Government legislation. It has been proved that any legislation can have faults, and therefore the Government should review it.

The Hon. Clive Griffiths: We did review it.

The Hon. R. THOMPSON: Government members should do a little homework, and not leave it to the Opposition all the time. We do not believe in reviewing legislation.

The Hon. Clive Griffiths: I will tell you what—you spend a fair bit of time telling us what we should do with it.

The Hon. R. THOMPSON: Of course we do, because we do our homework. The honourable member has proved one point, and one point only, that Government members should not vote blindly for Government legislation.

The Hon. N. E. Baxter: Did not the Opposition do it when you were in Government?

The Hon. D. K. Dans: Never!

The Hon. T. O. PERRY: I support the amendment, but I would like to support also Mr Clive Griffiths' remark. Mr Thompson has a very short memory, and for a Leader of the Opposition, a shocking memory. How many times in the life of the Tonkin Government was legislation amended by the Government in this Chamber without any assistance from the Opposition?

The Hon. R. Thompson: And with assistance lots of times.

The Hon. T. O. PERRY: It was amended at least 15 to 18 times during the three years of the Tonkin Government.

The Hon. R. Thompson: That is right. We agree with that; there is nothing wrong in it.

The Hon. T. O. PERRY: I think I would be understating the facts to say that the Tonkin Government used this Chamber as a House of Review about 15 times. I am fed up with members of the Labor Party saying that members of Parliament are overpaid and not worth their money.

The Hon. D. K. Dans: And underfed!

The Hon. T. O. PERRY: It is shocking for the Leader of the Opposition to say that the Legislative Council has lost its role as a House of Review, it is costing the State thousands of dollars, and it could be replaced with a $5 rubber stamp. Do not put a price tag on me, inside the Chamber or outside. I have done over half a million miles carrying out my work over the past 10 years.

The Hon. R. Thompson: I did not accuse you.

The Hon. T. O. PERRY: The Australian Labor Party made a submission to the tribunal for a salary well in excess of that suggested by any other party.

The CHAIRMAN: We are getting away from the amendment.

The Hon. T. O. PERRY: If the Leader of the Opposition did not oppose the submission, he supported it. I am asking him: Did he oppose the Labor Party submission to the tribunal for the fixation of our salaries?

The CHAIRMAN: The honourable member is getting away from the debate on the amendment.

The Hon. T. O. PERRY: It has been proved that this is a House of Review. To say it is not functioning as a House of Review, and that its members are not worth what they are paid, is nothing but two-faced hypocrisy.

The Hon. R. F. CLAUGHTON: It is unfortunate that Mr Clive Griffiths spoke in the way he did. Had I been a member in another place, I would have examined the Bill for errors of drafting in a similar fashion. We do not always find them, of course. We must accept our job responsibly, and I would have felt I had fallen down in my duty had I not made this examination. It makes little difference whether this was discovered by a member of the Legislative Assembly or a member of the Legislative Council. The fact is that the anomaly was pointed out, and the Government has done something about it.

The Hon. I. G. MEDCALF: I would like to ask a question. I appreciate the Minister made the point that we are dealing with a very unlikely event. It may be that in a redistribution, two members of the Legislative Council are entitled to claim the one seat because each of them has over 50 per cent of their old electors on the roll of the new electorate. Mr Claughton's point was well made, and the Minister has accepted it as a valid one. It is a most unlikely situation, but quite rightly, the Minister has moved to rectify it. My question relates to an even more unlikely event—reaching almost to the stage of A. P. Herbert's *Misleading Cases*—that the two members each have the same number of old electors in the new electorate. What would the position then be? That would be a most remarkable situation, but we are dealing with an unlikely event to start with. I hope the Minister will say that a ballot will resolve the matter.

The Hon. D. K. DANS: I believe we should commend Mr Claughton for the manner in which he brought this obvious discrepancy in the legislation before the Chamber. It is good to remind ourselves that Mr Claughton is always very sincere in his approach to any question.

The Hon. Clive Griffiths: Generally pretty brief, too!

The Hon. D. K. DANS: We all have our view on certain things, but any member who reads Mr Claughton's speeches in *Hansard* will agree that he makes a detailed study of any subject he speaks about. Of course, on this occasion he has been vindicated. It should not become a talking point as to what this Chamber does or does not do. It is well known that the Labor Party does not support the continuance of this Chamber.

One thing that disturbs me is that Mr Perry—for whom I have a great regard—appeared to say that the Labor Party put in a submission to the salaries tribunal hearing for a figure well in excess of that

of any other political party. I understood the tribunal was to be a private affair with no verbatim reporting. His comments suggest to me that the submissions have been floating around private circles. If this is the case, I can see no further use for a tribunal of that nature.

The Hon. R. THOMPSON: I ask for your indulgence for a moment, Mr Chairman, to answer Mr Perry. Mr Perry called me a hypocrite if I supported the submissions made to the tribunal by the Labor Party. I want him and all members to understand that I left on a trip overseas two days after Parliament rose, and I had no part in the submissions made to the tribunal. I have not seen them, and I do not know what they contain.

The Hon. T. O. Perry: This is the 1974 submission put forward by the Labor Party.

The Hon. R. THOMPSON: I did not make any submission.

The CHAIRMAN: Order! I think we have gone far enough with this matter.

The Hon. N. McNEILL: The subject matter has become a little widened in the course of the discussion, and to an extent that one cannot always anticipate. I think the comments that have been made are not without significance and are, in fact, appreciated. However, the discussion went a little further than that. In support of Mr Clive Griffiths' remarks, Mr Perry said that during the life of the Tonkin Government, on many occasions the Government itself amended legislation in this Chamber; in other words, it used this place as a House of Review.

The Hon. R. Thompson: It did not amend its own legislation as much as the then Opposition amended it.

The Hon. N. McNEILL: What has not been said, Mr Chairman—and this is something of which you will be well aware—is that on a great many occasions the then Opposition likewise made suggestions and observations, and secured amendments with the consent, and sometimes without the—

The Hon. R. Thompson: And annihilated many Bills.

The Hon. N. McNEILL: Not at all, if I can just interject on myself. The Leader of the Opposition would have us believe that the legislation was spoilt. I can remember one particular case—and I am sure I could find a great many more if I had the time—when the Leader of the House thanked a member of the Opposition for the examination he had made of the Bill and his suggested amendments. I can recall specifically two Ministers doing this.

The Hon. R. Thompson: I do not think I ever did it.

The Hon. N. McNEILL: During the term of office of the Tonkin Government, the Opposition played a very prominent and active role in reviewing Government legislation and often with the support of Government members. I state again that there are many instances of legislation being amended to its considerable improvement.

The Hon. R. Thompson: And ruination!

The Hon. N. McNEILL: And in their more objective moments, some Government members of that time accepted that the amendments improved the legislation.

The Honorary Minister raised the question of the situation going almost to the ridiculous. He said that in the case of an equal number of electors, he hoped I would give an assurance that a decision would be made by ballot. I must admit that at the present time I am not satisfied completely that the Bill provides for a ballot in that circumstance. As the responsible Minister I believe in those circumstances a ballot would be the proper way in which to deal with the situation. In my view there could be no fairer way.

In view of the support the amendment has received I hope the Committee will continue to support the proposals.

The Hon. GRACE VAUGHAN: Seeing that Mr Claughton has made this observation I think it is rather unfortunate that the opportunity should have been taken by other members to bring up these matters which are not really relevant, particularly as Mr Claughton made this objective observation and conveyed it to the Minister.

The Labor Party's attitude is that we should have a unicameral system of Parliament. There may be more people than 51 in the Lower House; it is not a matter where the people are physically accommodated; it is rather a matter that they should be people of quality. Surely somebody in the Lower House with a sense of observation and objectivity would have been able to uncover this anomaly. It seems to speak volumes when one considers what members have said about the Labor Party when in office having to amend its own legislation in this House. Surely this is a reflection on the competence and the observation of the members of the then Opposition in the Lower House; particularly when it was necessary for them to wait for the legislation to get to this Chamber before the anomalies were discovered by the members of the Labor Party.

Amendment put and passed.

The clause was further amended on motions by the Hon. N. McNeill as follows—

Page 4, line 34—Add after subsection (4) a new subsection as follows—

(5) Subject to subsection (6) of this section, where more than one

such member has applied to sit for the same new Metropolitan Electoral Province and, but for this subsection, more than one such member would be entitled, pursuant to paragraph (a) of subsection (4) of this section, to be declared the member to sit and vote for that new Metropolitan Electoral Province, the member to be declared to so sit and vote shall be the member sitting and voting for the old Metropolitan Electoral Province which contained, on the thirtieth day of September, nineteen hundred and seventy-five the greatest number, as compared with any other old Metropolitan Electoral Province, of electors who would have been contained within that new Metropolitan Electoral Province if it had existed on that day. .

Page 4, line 34—Add after the passage "subsection (4)" the passage "or (5)".

Page 5, lines 18 and 19—Delete the passage "or subsection (5)" and substitute the passage ", (5) or (6)".

Page 5, line 28—Delete the passage "or (5)" and substitute the passage ", (5) or (6)".

Page 6, line 35—Delete the passage "(5) or (7)" and substitute the passage ", (5), (6) or (8)".

Clause, as amended, put and passed.

Bill again reported, with amendments.

METROPOLITAN REGION TOWN PLANNING SCHEME ACT AMENDMENT BILL

Second Reading

Debate resumed from the 10th September.

THE HON. R. F. CLAUGHTON (North Metropolitan) [5.23 p.m.]: There are several provisions in this Bill; the first is procedural; the second the validation of planning schemes and amendments—which is similar to that contained in the Town Planning and Development Act Amendment Bill; the third concerns agreements with land owners under improvement plans, and the fourth relates to public representations on planning schemes and amendments.

The objections that were raised by Mr Dellar and myself to the amendments contained in the Town Planning and Development Act Amendment Bill are relevant in this case on the question of validation; and I think it would be better if these were debated in the Committee stage of the Bill.

There are some objections to the provisions in the schedule which also would be better raised in the Committee stage.

The attempt of the Minister to allow a greater say for all points of view in planning schemes is a worthy one, but I believe the manner by which he is attempting to achieve this is not practical. As I have said, however, I will discuss these aspects later in the Committee stage.

We support the second reading of the Bill.

THE HON. LYLA ELLIOTT (North-East Metropolitan) [5.25 p.m.]: I did not intend to speak to this Bill, but this afternoon Mr Cooley and I were approached by one of our constituents by the name of Mr A. C. Uren of 60 Wyatt Road, Bayswater.

At the moment Mr Uren has a case before the Ombudsman in which he is complaining that an illegal act has been committed by the Minister for Town Planning in that while objections were being received in accordance with section 31 of the Act the Minister signed a plastic overlay of a proposed amendment to an alignment relating to the Beechboro-Gosnells Highway, and that this has created misunderstanding in the minds of the people in the area and has resulted in an injustice being done to those people.

The PRESIDENT: Is this in relation to a scheme which was laid on the Table of the House?

The Hon. LYLA ELLIOTT: Yes, Mr President.

The PRESIDENT: The gentleman concerned wrote to me and I referred him to his member of Parliament. If the honourable member wishes to debate this I think she might do so by objecting to the document which has been tabled. What she is saying does not pertain to the Bill.

The Hon. LYLA ELLIOTT: That is how I intended to deal with the matter. What concerns me is that the proposed amendment contained in Bill No. 64 which is before the House at the moment may in some way validate an invalid act of the Minister. Before the Bill is passed by this House I would like an assurance from the Minister handling the legislation that this will not be the case.

If the House will bear with me for a moment I would like to read a letter by Mr Uren in connection with this problem.

The PRESIDENT: I do not want to prevent the honourable member necessarily doing this, but this is a tabled document relating to a town planning scheme, and the method of doing this is to move to disallow the town planning scheme. However if the honourable member wishes to read the letter I have no objection.

The Hon. LYLA ELLIOTT: I understand what you are saying Mr President and, as I have said, that is how I intended to deal with the matter. Clause 5

of the Bill before us deals with an amendment to section 33 of the Act and it states—

> 33A. The Scheme and any amendment to the Scheme and any act or thing done pursuant to the Scheme or any amendment to the Scheme shall not be regarded as invalid by reason only of one or more of the following reasons, namely—

It then sets out the three reasons.

What concerns me is that if we pass this Bill without querying Mr Uren's complaint we may find that he no longer has a leg to stand on legally because Parliament will have validated the act done by the Minister.

I would like now to quote from a letter written by Mr Uren and ask that before the second reading is put and passed the Minister undertake to check this matter and advise us that our fears are unfounded. Mr Uren's letter states—

> Section 31 of the Scheme Act is significant in its preservation of "rights of objection" to the public and to property owners.
>
> Therefore it was most appropriate that the Hon. Minister for Town Planning approved 1974 Amending Map 13.4 pursuant to the provisions of Section 31 of the Scheme Act. Such approval was given on the 31st July 1974 according to the certificate pasted on the cover of the pad of amending Maps. Notices of the proposed amendments and inviting objections appeared in the *Gazettes* of 2nd, 9th and 16th August 1974.
>
> But why was it necessary to cover Map 13.4 with a false and misleading Overlay?
>
> It is evident that the Minister approved this Overlay system because it is part of the copies of the Scheme which were submitted to the public for inspection.

The Hon. N. E. Baxter: Has not Mr Uren discovered his error after having checked the maps? If you have received a letter similar to the one he wrote me you will find that to be so.

The Hon. LYLA ELLIOTT: Mr Uren had a look at the map in the Chamber today and still insists it is incorrect.

The Hon. I. G. Medcalf: Could you repeat that last paragraph you quoted?

The Hon. LYLA ELLIOTT: Yes. It reads—

> It is evident that the Minister approved this Overlay system because it is part of the copies of the Scheme which were submitted to the public for inspection.

Is that the paragraph the honourable member wished to hear?

The Hon. I. G. Medcalf: It is rather difficult to hear the honourable member from my position and I do not have a copy of that letter.

The Hon. LYLA ELLIOTT: I will provide the honourable member with a copy of it. I continue to quote—

> Mr D. J. Drake, of the Town Planning Department, explained to me that the Overlay system was a new innovation designed to facilitate the public's ready recognition of the multiple proposed amendments. I must agree with Mr Drake, except in the case of the Beechboro-Gosnells Highway Scheme, which is not at all indexed and referenced.
>
> It may be noted that the Beechboro Gosnells Highway Scheme amendment is, by far, the biggest single amendment contained in the 1974 Omnibus Amendments Scheme, and affects many property owners.
>
> If the Gazette No. 63 of Friday 23rd August, 1974, page 3149, is checked it will be discovered that the identical amendment to that particular Highway Scheme appears as a Clause 15 Amendment to the Metropolitan Region Scheme. If the Statutory Plan by means of which this appears to be effected is checked it will be found to be dated 15th August, 1974. If the date of the Authority's related resolution is checked it will be found to be 12th December, 1973.
>
> Sub-clause 3 of Clause 15 requires Notice of such Plan to be published in the Gazette as soon as practicable after the Plan has been certified by the Minister. It may be noted that it was so certified and published as above; thus more than 8 (eight) months after the resolution, but just one week after the identical amendment was opened to the public for inspection and objection pursuant to the provisions of Section 31 of the Scheme Act. What is the Hon. Minister for Town Planning up to? Or is the whole exercise a mistake? If it is a mistake it could easily be corrected and property owners' and the public's rights of objection preserved.
>
> Again the question arises as to why the Authority passed a further resolution on either the 10th or 17th July 1974 to amend the Beechboro Gosnells Highway Scheme by means of Omnibus Amending Map 13.4 pursuant to the provisions of Section 31 of the Scheme Act, and at the same time resolved to cover that particular Map 13.4 with a false and misleading Overlay? I have requested to see the related resolution, but without success.
>
> Does not the hurried enactment of the Clause 15 identical amendment immediately upon the lodgment of the first objections to Map 13.4 reveal some questionable and insincere activity by both the Authority and the Hon. Minister?

Another interesting question arises. It is this: Does the Clause 15 resolution and Plan over-rule the later resolution related to Map 13.4? Map 13.4 has not yet completed its legislative course pursuant to Section 31 of the Scheme Act. Why was the Clause 15 exercise necessary? Map 13.4 was directed into the "pipeline" ahead of the Clause 15 Plan; or was it directed into a "bypass"? That is, was the Clause 15 Plan directed into a "bypass Line"?

The objection period for Map 13.4, as Gazetted, appeared to be open until 4th November 1974. But the Clause 15 Plan as published on 23rd August 1974 appears to have been intended to dismiss any objections which could have been received during the objection period. This action could qualify as a breach of Section 31 of the Scheme Act; also a breach of Section 29A of the Scheme Act, which requires "(2) A member shall at all times act honestly in exercising any function."

To offer the right to object on one hand, and at the same time take alternative action to block any objection which may be forthcoming on the other, is not "honest" is it? Why has it received Ministerial approval? Will it receive His Excellency's approval? Will it be allowed by the Parliament of Western Australia?

I hope the Minister will have this matter checked before the second reading of the Bill is passed. Unfortunately it is possible for legislation to be passed without members being fully aware of what is involved.

If, in fact, the Bill seeks to validate an act by the Minister which at the time was illegal or invalid, we should have another look at it, because I would like to be assured by the Minister that an injustice will not be done to the people involved.

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [5.35 p.m.]: I believe the point raised by Mr Claughton is better left for consideration in Committee and in regard to the point raised by Miss Elliott I regret that I do not have a copy of the letter she quoted to the House, so I cannot really appreciate the point she was making.

I draw attention to the fact that this Bill deals only with the question of whether a notice has been inserted in the Press for the appropriate period during which objections may be lodged. It does not deal with many other aspects of town planning such as the framing of regulations and the compilation of a map, and whether they are correct or false or misleading. A person could still have his rights even though a misleading or false plan is used. This measure would not affect that right in the slightest degree.

Obviously, if the Minister, or the Metropolitan Region Town Planning Authority used a false plan or overlay, or in any way misdirected the citizens, either the Minister would have to answer for that in Parliament or the authority would have to answer for it through the courts in some other way. So I do not believe that that aspect would really be relevant to this Bill. However if there is anything amiss in connection with the period in which objections can be lodged I would most certainly like to have a look at the letter, because it would only be by a close study of the letter that I would know whether it refers to the objection period.

Miss Elliott did refer to the objection period once or twice whilst she was speaking and, in fairness to Mr Uren, I point out that he lodged objections to this scheme and those objections have been catalogued and appear in the book which I have before me here. This book, in fact, is a report on the objections which have been lodged. Mr Uren lodged three objections in relation to the Beechboro-Gosnells controlled access highway and other matters, and those objections have been dealt with.

This Bill deals only with objections that have not been dealt with, because a person might not have had an opportunity to object, as a result of the amendment not being advertised for the prescribed period. However, as I have said, Mr Uren's objections have been lodged and have been duly heard. For that reason I do not believe we should delay the second reading of the Bill.

In fairness to the honourable member who is attempting to represent in Parliament a person who believes, rightly or wrongly, he has a legitimate complaint, I am prepared to give an assurance that I will have this matter referred to the Minister for Town Planning so that further consideration can be given to it. I am also prepared to give an undertaking that I will obtain an answer from the Minister before we proceed past the Committee stage.

Question put and passed.

Bill read a second time.

In Committee

Deputy Chairman of Committees (the Hon. Clive Griffiths) in the Chair; the Hon. I. G. Medcalf (Honorary Minister) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 33A added—

The Hon. I. G. MEDCALF: I move an amendment—

Page 3, clause 5—Delete and substitute a new clause as follows—

Section 33A added.

5. The principal Act is amended by adding after section 33 a section as follows—

Validation.

33A. (1) The Scheme, or any amendment to the Scheme made before the

coming into operation of the Metropolitan Regional Town Planning Scheme Act Amendment Act, 1975 or any act or thing done pursuant to the Scheme or such an amendment to the Scheme shall not be regarded as invalid by reason only of one or more of the following reasons, namely—

(a) that, in the notice of the Scheme or that amendment to the Scheme, as the case may be, the period prescribed for the making of objections was less than the proper period;

(b) that the Authority did not accept for consideration an objection to the Scheme or that amendment to the Scheme, as the case may be, being an objection that was made within the proper period but was not made within the period prescribed for the making of objections in the notice of the Scheme or that amendment;

(c) that a form for making objections to the Scheme or any amendment to the Scheme was not prescribed.

(2) In this section—

"notice", in relation to the Scheme or an amendment to the Scheme, means the notice published pursuant to paragraph (c) of section thirty-one of this Act in respect of the Scheme or that amendment, as the case may be;

"proper period", in relation to the Scheme or an amendment to the Scheme, means the period of three months from the date the notice of the Scheme or that amendment, as the case may be, was first published in the *Gazette*. .

I would like to explain the object of the amendment. During the course of the discussion on the Bill we dealt with last week it was found there were certain anomalies in the wording, and the reason for this amendment is to correct the wording to make it more intelligible and put it into a form which is more readily understandable. In other words, the amendment really represents an improved version of clause 5 as it appears in the Bill.

We are not really making any substantial amendment, but are merely tidying up clause 5 and putting it into more understandable language. It is to make it quite clear that a scheme will not be declared invalid merely because the notice of advertising was less than the prescribed period, or merely because the authority did not accept an objection which was submitted within the prescribed period, but was not made within the period prescribed in the notice of the scheme; that is, the insufficient period. Finally, a scheme will not be declared invalid merely because a prescribed form was not used.

The object of the amendment is to ensure that the metropolitan region town planning scheme and its major amendments are not declared invalid merely as a result of formalities or a lack of formalities.

It will be recalled that last week we had a fairly lengthy discussion on the town planning Bill concerning what may be regarded as a similar point. I do not regard the point as being in any way identical to local town planning schemes. We are now dealing with the metropolitan region town planning scheme—which is the overall scheme for the metropolitan area—and the amendments to it. Three months' notice must be given of all major amendments. This is a tremendously important matter. If we could not afford to have our local authority town planning schemes knocked out, how much less can we afford to have our overall metropolitan region town planning scheme knocked out on a technicality? It is of great moment, and it is for that reason I ask the Committee to support the amendment.

I bear in mind the comments made by Miss Elliott. They will not be overlooked, but will be dealt with in accordance with the undertaking I have given. However, at this stage I think we should proceed to give general consideration to the subject. I know Mr Claughton wishes to speak.

The Hon. R. F. CLAUGHTON: I am in the same position as the Minister. I have not had an opportunity to study the material Miss Elliott has presented and I am uncertain how it affects the matter

with which we are now dealing. I hope the Minister will postpone further consideration of this clause until we have an opportunity to study the matters raised by Miss Elliott.

I would also agree with the Minister that the matters dealt with in this amendment are quite different from the category of matters dealt with under the town planning Act. I would have been prepared to accept the Minister's amendment until I heard Miss Elliott speak. I hope the Minister will postpone the clause.

The Hon. I. G. MEDCALF: Mr Claughton raised a question during his second reading speech and I hoped he would proceed with that point at this stage, because it had nothing to do with the material raised by Miss Elliott. He was referring to the deferment of a few days and I hoped he would pursue that argument now. If he does not wish to pursue that subject, I would be quite prepared to postpone the clause in order that we might study the points raised by Miss Elliott.

The Hon. R. F. CLAUGHTON: I can only submit the arguments I submitted on the other Bill; that is, that if the date of advertisement had been included in the objection period, this Parliament should validate any acts which had failed for that reason. I was not going to argue along that line, but Miss Elliott raised the matter of Mr Uren's letter just before it was necessary for me to rise to my feet and I had not had an opportunity to study the letter.

The Hon. I. G. Medcalf: I take it you are agreeing that there is a difference between the two Bills?

The Hon. R. F. CLAUGHTON: Yes. As I understand it, matters would be laid before Parliament and there is a three months' advertising period. The process is considerably different from that applying to town planning schemes or other proposals under the town planning Act. I accept that this amendment would cover that situation and also that paragraphs (a) to (c) in the amendment relate only to that error in the advertising period. With that understanding I am prepared to support that proposal by the Minister, but would like an opportunity to study the point raised by Miss Elliott.

The Hon. I. G. MEDCALF: I move—

That further consideration of the clause be postponed.

Motion put and passed.

Clauses 6 to 9 put and passed.

Clause 10: Second Schedule added—

The Hon. R. F. CLAUGHTON: In this clause the Government is attempting to replace the system under which persons may lodge objections to a scheme with one under which persons may make submissions containing either objections or approval of a scheme. As I said in the second reading debate, the objectives of the Government are worthy, but I question whether this is a practical way to achieve them. I suggest that the method being adopted with the West Coast Road study is far better and can be achieved under the existing provisions of the Act.

Premises have been established in the metropolitan area to enable people to examine proposals, and a number of avenues have been opened up in order to enable the public to express a point of view.

What will be the system under the Bill? Let us consider, for example, the Kwinana Freeway extension scheme. Those persons who object would lodge their objections, and those persons who see nothing wrong with it would very likely not do anything. Once the closing date for submissions had passed, consideration would be given to the objections. Notices would then be sent to all the people who have made submissions, and they then have a right to reply to those notices. However, those who did not make a submission would not have a second chance. We are making a distinction. Any objection which is upheld may in fact seriously affect many people who did not make a submission in the first place, but they could do nothing about it. That does not seem to be a sensible way to go about inviting public participation or removing controversy about planning proposals.

The Hon. I. G. Medcalf: What do you mean by "in the first place"?

The Hon. R. F. CLAUGHTON: The scheme is advertised and a period is provided during which submissions may be made.

The Hon. I. G. Medcalf: That is the end of the right.

The Hon. R. F. CLAUGHTON: No it is not under the schedule, because all those who made a submission are advised of the decision.

The Hon. I. G. Medcalf: Where does the second chance come in?

The Hon. R. F. CLAUGHTON: At that point. Why is the Minister writing to the people? Is it just to let them know? They have then an opportunity to make objections to the changes upheld.

The Hon. I. G. Medcalf: I am referring only to the three-month period.

The Hon. R. F. CLAUGHTON: We are dealing with the schedule.

The Hon. I. G. Medcalf: A report is made on the objections. Are you talking about a further objection period?

The Hon. R. F. CLAUGHTON: No. It is the period in which the persons who made submissions can forward a further point of view.

The Hon. I. G. Medcalf: It is the same period as the objection period.

The Hon. R. F. CLAUGHTON: It is not the same period. The amendment to section 31 (c) says that a notice will be sent to all persons who desire to make submissions on any provisions of the scheme to let them know their submissions can be made in writing on the prescribed form. The amendment to section 31 (d) deletes the term "Objections to" and substitutes the words "Submissions on". The new paragraph (f) of section 31 goes on to say the authority will consider all submissions and where they contain an objection the authority will not dismiss it until the person making the submission or his agent has been given an opportunity to be heard. Perhaps I was slightly wrong. This is before the objection is upheld but there must be an intention to uphold it.

Subparagraph (ii) of paragraph (f) of section 31 says—

> (ii) The Authority shall not uphold an objection to the Scheme until it has given every person who has duly lodged a submission supporting the provision to which the objection relates, or his agent, the opportunity of being heard . . .

That is where they get their second chance. Those who were not concerned, because they approved of the planning scheme, but who may be affected by any objections which are upheld do not get a chance to have a second say. I think that is the first instance where these proposals fall down.

Who are the people most likely to make submissions? They are those who are active. In proposals affecting business or any locality, one would expect the Chamber of Commerce, on behalf of its members, or all the members of the chamber to lodge a submission so that if any changes are made or any objection is likely to be upheld they will be advised of it. But because of general lack of awareness of these proposals, which do not normally affect their daily lives, the ordinary householders will not normally make a submission unless someone comes along the street or a local progress group starts stirring in the community.

The conservation groups, the environmentalists, and the business organisations are likely to be aware of any proposals and to make submissions, while the ordinary householder may not do so. So in a way we are discriminating in this provision by giving some sections of affected persons a chance to have a second bite at the cherry and by not providing for the rest of the people who will perhaps be most affected by changes in the scheme as it was originally advertised.

Sitting suspended from 6.06 to 7.30 p.m.

The Hon. R. F. CLAUGHTON: Before the tea suspension I was attempting to show some deficiencies as I see them in the amendments to section 31 of the Act, contained in the schedule to the Bill. The process at present is that submissions may be made. If the submissions contain objections those objections cannot be upheld until all those who made submissions are notified and given an opportunity to be heard. I indicated it would be the more aware groups in the community that would be likely to make submissions; whereas the average householder would not be likely to make a submission if he was not affected by the initial proposal. So if an objection was upheld that could affect that ordinary householder he would not be aware of it or advised in the same manner as those who make submissions and who are given a further opportunity to be heard.

Subparagraph (iii) of the amendment to section 31(f) says that where a submission is made by a group of persons the group shall appoint one person to represent the group and only he shall be heard under the provisions of the previous two subparagraphs. The wording of this provision is similar to that contained in the Act, but the effect is different.

Take for example the Chamber of Commerce. It could make a protective submission on behalf of its members, and if an objection made by some other person is to be discussed it would be given the opportunity to present its views. There could be one member of the chamber whose views differ from the majority, but because he is a member of a group he will not be entitled to make representations on his own behalf because only one person may represent the group. I do not think that is a desirable feature. It means that in future groups will not make a collective submission to the authority, but will make sure that each and every one of their members has the opportunity to be heard.

The Hon. I. G. Medcalf: There is nothing wrong with that.

The Hon. R. F. CLAUGHTON: No; I am merely pointing out that will be the effect of the provision. I do not think the provision has any value at all, and in some cases it could be to the disadvantage of a person who may not have seen the value of making an individual submission rather than allowing himself to be represented by a spokesman for the group to which he belongs.

The less aware groups in the community will not be advantaged by this provision. It could be a case of a local shopkeeper who allows his interest to be represented by a local business organisation.

In my opinion the wishes of the authority could be achieved by framing the provision in a permissive way so that groups may elect a person to represent them, rather than saying they shall appoint a representative.

As the provision stands it will encourage submissions from a much wider section of the community. To say that not only those who wish to make objections but also everyone who wishes to make a submission will be heard will encourage people who may not be directly affected to make submissions in order to ensure they have an opportunity to be heard twice. We are encouraging not only those who wish to lodge objections, but also anyone else who is interested to make a submission.

Though this might appear to be a desirable method of encouraging public participation, I do not believe it will really achieve that end. Perhaps the amendment has arisen from the debates on the extension to the Kwinana Freeway; perhaps the authority felt that the objectors had an unbalanced say because those who approved were not given the opportunity to make a submission.

I suggest the method that is being used in connection with the West Coast Highway proposal is a far better method because it ensures that all points of view have an opportunity to be expressed; and the submissions may be made before the plans are drawn. Much of the controversy arises because the public feel that all the decisions are made and designs are drawn before they get an opportunity to comment. I believe the objective the Minister is honestly trying to achieve would be better achieved if the public were invited to comment at the initial planning stage.

The Hon. I. G. MEDCALF: The point made by Mr Claughton that the method proposed in respect of the West Coast Highway should be adopted has a lot of merit. However, perhaps the point he may not have stressed sufficiently is that often there are many ways of achieving ends, and it is often an advantage to use different methods for different situations.

There is nothing worse than being constrained by the wording of a Statute and being unable to go beyond that Statute to solve some public or social problem. In the instance of the West Coast Highway, I understand—and I may stand to be corrected here—that three different sets of major proposals have been bandied about. Clearly each plan affects a large number of people in a slightly different area, and in such a situation I would agree it is undoubtedly the best method to use; that is, to tackle it with an *ad hoc* committee of people connected with the environment and planning who listen to the submissions of different groups and take the time to go into the matter very carefully.

While I applaud that as a desirable method, I do not think it necessarily means we should adopt it on all occasions. When we come to matters of town planning which often are not very contentious—some are contentious but many are not—and some do not involve the whole of the metropolitan area but are confined to a small portion of it—I believe we must have some method of getting certainty in planning. There is no more divisive matter in the community than the subject of town planning.

I know there are many divisive matters, but this is one of the major ones. I refer to the construction of major highways and freeways, projects which vitally concern landowners, residents, and citizens adjacent to the proposed route. But there must be a time when a decision must be made; there must be a cut-off date. Whilst one can have all the inquiries in the world and involve people with differing points of view, one must reach the stage of making a decision and this is why the Government believes a definite, concise method should be laid down in the Statute for all to see, without fear or favour. Therefore we must have a defined period during which submissions can be lodged and we must have a cut-off date when submissions no longer will be accepted. The submissions will then be considered and a report made to the Minister.

The method laid down in this legislation is very fair. We are proposing some amendments in the hope that the system will become even fairer. Mr Claughton mentioned the case of the West Coast Highway; one can always start off a scheme with one of these inquiries; it is not necessary to have a starting point laid down. This was done in the case of the West Coast Highway without any Statute. However, once we go into a statutory situation, a time must be specified. The notice appears in the *Government Gazette* and everybody knows he has three months in which to lodge a submission.

I should like to comment on the question of procedure because I was not quite clear as to the point being made by Mr Claughton earlier today. The procedure laid down in the Bill is that the plan and the scheme are advertised in the *Government Gazette* and three months are allowed for submissions to be made: at the end of that period, the submissions are considered and a report is made to the Minister.

If the authority recommends major modifications, the Minister has the right to require the authority to readvertise. Further submissions then may be received on terms laid down by the Minister. In other words, people can have the opportunity to make a further submission.

The Hon. R. F. Claughton: Are you saying the Minister is required to readvertise?

The Hon. I. G. MEDCALF: I am saying that the Minister may direct the authority to publish such a notice when major modifications are proposed which he deems appropriate should be made public. I am referring to section 31 (1) which lays down what will occur after modifications

have been advanced. Section 31 (h) states—

> Before presenting the Scheme to the Governor for his consideration, if the Minister is of opinion that any modification made to the Scheme by the Authority is of such a substantial nature as to warrant such action, he may direct the Authority to again deposit the Scheme as so modified, or that portion of the Scheme which is so modified, for public inspection at such time and at such places as he directs.

I believe it was the second advertising period to which Mr Claughton was referring. There is a further opportunity for people to make submissions, as is laid down in our amendment to paragraph (k).

When submissions are made, the authority must give anyone the right to be heard, whether he supports the scheme or lodges a submission opposing the scheme. All comments are then considered. Thus there is an opportunity for every objection to be supported by argument before the authority. It is not as if anyone will have the last say. It really could not be a fairer method to adopt.

Mr Claughton said it did not seem quite right that a group should be required to nominate one spokesman to represent it. I think to answer the point himself, he went on to make it clear that if the members of the group wished, they could all appear as individuals. For instance, if the Chamber of Commerce were making a submission as a group, it would appoint a spokesman to appear on its behalf. That is all right as long as its submission is the same; but if individual members of the Chamber of Commerce are desirous of putting forward a different submission, they may do so as individuals. A group should be represented by a single spokesman in the interests of unnecessary repetition.

Mr Claughton was not unduly critical of this provision, but thought perhaps it could be better expressed; perhaps it could be. However, the legislation will not prevent anybody from lodging an individual submission. Perhaps members of a group which is making a submission are affected personally; in that event, they may make a submission that they oppose the scheme because there is a lamp post in front of their residence, or anything of that nature.

The Hon. R. F. CLAUGHTON: I do not believe the Honorary Minister has answered all my queries satisfactorily. The legislation lays down that where a submission is made by a group of persons, the group shall appoint one person to represent it. There appears to be no flexibility about that; a person "shall" be appointed to represent the group.

The Hon. I. G. Medcalf: That is fairly reasonable if all members of the group are of the one mind.

The Hon. R. F. CLAUGHTON: But that condition would prevent individual members of the group from making submissions on their own behalf, would it not?

The Hon. I. G. Medcalf: There would be no need for an individual member of the group to make exactly the same submission as the group submission.

The Hon. R. F. CLAUGHTON: That is correct; but let us clarify that point. The Minister agrees the legislation lays down that individuals would not be able to be heard individually in that event.

The Hon. I. G. Medcalf: That is right.

The Hon. R. F. CLAUGHTON: Suppose one member of the group made a submission on his own behalf on an unrelated matter. It would seem to me that that person would be precluded from doing so by this condition.

The Hon. I. G. Medcalf: No; that is a different submission altogether.

The Hon. R. F. CLAUGHTON: The legislation does not lay that down clearly. Paragraph (f) states that a group shall appoint a representative to speak on its behalf. Therefore individual members cannot speak as individuals.

The Hon. I. G. Medcalf: That is only where a submission is made by the whole group; it does not refer to a series of submissions by individuals. This is covered in another part of the legislation, where it lays down that any person can lodge a submission.

The Hon. R. F. CLAUGHTON: Let us take the case of an individual member of a group who may be away due to sickness or for some other reason when the group deliberates on the contents of its submission, to be made as a group to the MRPA. If the Minister were serious about this matter, he would agree that this situation could quite readily arise. If that person did not take part in the formulating discussions he would not know what was going on; he may not even agree to the submission, but because he was a member of the group he could not be heard before the authority.

The Hon. I. G. Medcalf: There is a three-month period during which submissions will be received.

The Hon. R. F. CLAUGHTON: The group as an organisation would ensure its submission was in before the expiry of the three months.

The Hon. I. G. Medcalf: That is all right; the group makes a submission.

The Hon. R. F. CLAUGHTON: I can see that the Honorary Minister agrees with me, but does not wish to concede the point. We are talking about the metropolitan region town planning scheme. Section 31 of the Act commences by referring to the whole Act. This legislation was promulgated back in 1960 and since then a number of modifications have been

introduced. It was about that which the Honorary Minister was talking in relation to section 31 (8) relating to modifications.

Changes arising from objections are not advertised. At the end of the period allowed for advertising, a hearing takes place and a decision is made. Under the proposal before us submissions will be made, and only submissions which contain objections will be dealt with. However, all those who have made submissions are entitled to receive a notice to be heard.

The difference is that under the existing provisions of the Act only persons who have lodged objections have a right to be heard in relation to these objections or proposed changes. In this respect the Bill alters the existing provision slightly to enable all persons to make submissions, but that does not mean all persons will have made submissions relating to changes arising from objections. The provision is to be broadened slightly, but not to the extent that a change to the advertising of a plan will disadvantage anyone.

Dealing with groups, reference was made to the Chamber of Commerce. The initial submission might be one of approval of a plan, but when the objections are heard the majority of the group may approve, but there could be some individuals who would not approve. Under the proposal before us they will not have a right to be heard as individuals.

We are still applying limitations to the rights of a person to make a submission on how he thinks changes arising from objections will affect him. I am questioning the provision in the clause, because it will increase slightly the number of people who would be able to make submissions. I suggest it will enable groups such as the conservationists, the business people, the land developers, and the real estate agents to make protective submissions. When changes arise from objections they will have the opportuniy to be heard, but the ordinary individual who saw nothing wrong in the original plan to raise an objection will not bother to make a submission. So, we are not catering for the mass of the people.

I shall not vote against the clause which contains the schedule, but I wish to offer these comments to the Government. I believe the sort of action that has been taken in respect of West Coast Highway—I understand three different routes were involved—requires clarification. The area which the committee concerned can study extends from the coast to the freeway, and that is a wider area than the Cottesloe-Swanbourne area. It affects the transport routes of the northern corridor, and not just the Cottesloe-Swanbourne area.

The Metropolitan Region Planning Authority can make changes that are not judged to be substantial, without the matter being brought before Parliament for decision. The way in which we can best involve the people is to involve them before the plans are drawn up so as to give them an opportunity to put forward their ideas. From that the planning processes should start. We could then say, "These are the ideas we have arrived at from what you have put forward." By that means we could build up community agreement with the processes.

In the provision in the Bill there is room for a wide variety of action, until we reach the final stage. That is where the difficulty arises. People are not involved in the initial stages, and that is where the possibility of controversy could arise. If we involve the people from the beginning of the planning processes we are likely to find that any objections they may have are overcome, before the matter becomes a major confrontation such as we experienced in respect of the extension of Kwinana Freeway.

I refer again to the rights of individuals, who are members of groups, to be heard as individuals. That is not clear in the provision in the Bill, and I would ask the Minister to clarify the position.

The Hon. I. G. MEDCALF: I am gratified that the honourable member has indicated his general support of the measure. I cannot find myself in agreement with him on the subject of the groups. It seems to me that if a person does not wish to become a member of a group he does not have to; and there is no definition of "group".

If as a resident in a street I find myself holding views which are different from the views held by other residents in the street and they put in objections, then I am entitled to put in my own objection. Everyone has a right to make an objection, and he does not have to be a member of a group. Even if one is a member of an environmental group one can put in an objection as a private citizen.

Individuals would not be bound by the submission of a group which they feel does not represent them, no matter how formal that group might be. In the case of the Chamber of Commerce or an industrial union of workers each member can put in a submission if he desires.

The provision in clause 10 refers to a submission by a group, and that means one submission by one group. There could be a number of groups each putting in its own submission. Surely if we have one group submission it is logical to appoint a spokesman for that group; otherwise we could have 50 individual members all wanting to be heard, and the time involved would be more than 50 times greater than the time involved with one spokesman putting forward a submission for the group. There is nothing to stop

any group—whether it be an environmental, professional, trade union, or business group—from putting in its own submission. The Act gives that right, and there is no doubt about that.

I believe I was on the same wave length as the honourable member in referring to the second submissions. There is opportunity to present a second submission if there is a modification of the original scheme, before it is presented to the Government. This does not only refer to a scheme, but also to a major amendment to the scheme. There have been three major amendments which have gone through the processes.

I asked the Minister to advise me on this point, because I was not sure of the number of major amendments. The original scheme had effect from the 30th October, 1963; and since then three substantial amendments have become effective under section 33(1). The Armadale corridor scheme was effective from the 1st November, 1968; the Whitfords scheme became effective from the 9th August, 1973; and the Kwinana Freeway extension scheme became effective from the 24th April, 1975. We are aware that the Kwinana Freeway extension scheme is the subject of further inquiry.

Two further major amendments have been put forward, and one has been referred to by Miss Elliott. That is the omnibus amendment relating, among other things, to the Gosnells-Beechboro Highway; and the other is the Cockburn amendment. Both of these have gone through the procedures laid down in the Act. In all that time there have been only three major amendments to the plan which have the force of law.

The first and second opportunities to make submissions could have applied if the Minister considered there was a major modification. I hope I have cleared up the position to the satisfaction of Mr Claughton. As he has indicated support of the proposals in the Bill it is not necessary for me to say any more.

The Hon. R. F. CLAUGHTON: I am not asking about the major amendments to the scheme. If there is a substantial amendment then all the processes will have to be gone through. In the proposal that has been laid on the Table of the Chamber, if as a result of objections minor changes are made then the three-month period for advertising does not apply. That only applies in respect of substantial modifications; and as the Minister has just pointed out there have only been three such modifications since the Act was proclaimed.

The Hon. I. G. Medcalf: A period of three months has taken place in regard to Cockburn. That is going on now.

The Hon. R. F. CLAUGHTON: Those are substantial modifications.

The Hon. I. G. Medcalf: Substantial amendments; not modifications.

The Hon. R. F. CLAUGHTON: The terminology of the Act is "if the Minister is of opinion that any modification made to the scheme . . . is of such a substantial nature," so it is a substantial modification.

The Hon. I. G. Medcalf: Subsection (1) of section 33 refers to amendments.

The Hon. R. F. CLAUGHTON: But that has not arisen from a substantial modification.

The Hon. I. G. Medcalf: No, that is an amendment to the metropolitan region scheme.

The Hon. R. F. CLAUGHTON: But the changes were made as a result of objections.

The Hon. I. G. Medcalf: No, not as a result of objections. These are new amendments which have been put forward.

The Hon. R. F. CLAUGHTON: We agree on that point, but what about when there is a substantial modification—

The Hon. I. G. Medcalf: A substantial amendment.

The Hon. R. F. CLAUGHTON: Well, a substantial amendment. Where there is a substantial amendment a period of three months will be allowed for objections to be made. As a result of the provisions of the Act those objections will be heard. There will be no further advertising.

The Hon. I. G. Medcalf: After a recommendation for a modification there can be a further period of advertising.

The Hon. R. F. CLAUGHTON: But only if it is of a substantial nature. Minor changes will not be advertised. The Minister and I both agree that a major amendment will be advertised and that a minor amendment will not be advertised. Surely, some persons will get a second bite of the cherry as a result of the provisions contained in the amendment. The objections which I raised all apply.

I am sorry that the Minister has not seen fit to give better consideration to what I have said. The Minister said that the case of one submission has been provided for. In answer, I point out that any member of a group, presenting a submission, could be prevented from having his own individual submission heard because the provision states that only one representative will be allowed. The position can be made quite clear for him to be heard on his own submission.

The Hon. I. G. Medcalf: The words are already there.

The Hon. R. F. CLAUGHTON: They are not there; words which are already there cannot be added. The provision states that where a submission is made by a group of persons the group shall appoint one person to represent the group

and only he shall be heard. The only words which it is necessary to add are "on that submission" to make the position quite clear that an individual has a right to be heard on an individual submission, or as a representative of a group. The situation is not clear in the wording of the paragraph.

It is of no importance to me whether or not the Minister agrees with what I have said. It is my role to offer a point of view when I see something wrong. If the Minister chooses not to do anything about it that is up to him.

A clause has already been postponed so the passage of the Bill will not be delayed. If it is found, as a result of a study, that there is an adequate explanation I will accept it. However, the Minister might find there is some substance in what I have said.

The Hon. I. G. MEDCALF: I have no desire to delay the passage of the Bill but I find it rather tiresome to hear the member continually putting up this one argument. I cannot see any validity in his argument and if I could I would agree, or try to do something about it.

It is quite clear that where a submission is made by a group they appoint a spokesman. That is pretty obvious to me. However, the Act makes it quite clear that any person may object and lodge a submission.

The Hon. R. F. Claughton: We do not disagree on that. I said that one person can make a submission.

The Hon. I. G. MEDCALF: Then I do not know what the honourable member is worrying about. A group submission can be made, and each member of the group can also make a submission on his own behalf. The provision is already in the Act and I do not think it needs any modification.

As the honourable member said the matter was of no importance to him I certainly do not propose to delay the Committee any further. If the honourable member wishes to have the last word he may do so; I have said my last word on the matter.

The Hon. R. F. CLAUGHTON: It is an odd situation where we find that the Minister and I agree all along the line. However, the Minister refuses to acknowledge that there is any substance in what I have said. He even refuses to postpone the clause of the Bill.

It may well be there is some substance in what the Minister has said. If there is, I will not complain because I consider the Minister has taken his job seriously.

The point I am making is that a group will be able to make only one joint submission. Any group which feels strongly about a proposal in a region scheme is not likely to put in a group submission, but is more likely to put in submissions from each individual member of the group. A group of people is more likely to be aware of what to do, but an ordinary person in the community will be disadvantaged. He is likely to put in a submission as part of a group and then not be able to put in a submission as an individual.

I think the Minister could have been a little more tolerant in his approach but if any problems arise they will be the fault of the Government. The Government has chosen to stick with the provision but I do not believe it will do much for the people. We could adopt the attitude of letting the matter go because it will not really change things at all. However, if the Government is really serious about this matter it should want to ensure that the Act will do what is desired.

Clause put and passed.

Progress.

Progress reported and leave given to sit again, on motion by the Hon. I. G. Medcalf (Honorary Minister).

WORKERS' COMPENSATION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th October.

THE HON. D. W. COOLEY (North-East Metropolitan) [8.28 p.m.]: I do not want to disturb the tranquillity of the House tonight but, of course, this measure is another Bill which is an outright attack on the work force of Western Australia. On those grounds alone I, along with my colleagues, oppose it.

I oppose the Bill at the risk of being faulted by some members on the front bench opposite, and by Mr Masters, because of my association with the trade union movement. But certain things have to be done and they will be done despite the fact that some people try to associate one with things one is not associated with.

The Hon. G. C. MacKinnon: I thought you were associated with the Trades and Labor Council.

The Hon. D. W. COOLEY: I thought I was, too.

The Hon. G. C. MacKinnon: Why say you are not?

The Hon. D. W. COOLEY: The Minister indicated that; I did not say I was not.

The Hon. G. C. MacKinnon: Yes you did.

The Hon. D. W. COOLEY: No I did not.

The Hon. G. C. MacKinnon: You had better have a look at *Hansard*.

The Hon. D. W. COOLEY: The reason for the amendment is very clear. This great House of Review apparently made a mistake, in the eyes of the present Government, in respect of workers' compensation when an amendment to the Act came before this House in 1973.

The mistake was discovered because a worker by the name of Kezich was engaged in employment in the North-West on a contract for something like 60 hours per week. He was injured on his job and an application was made under the provisions of the Workers' Compensation Act of 1973, for his full pay based on the 60 hours he was working.

I do not think it was a question of overtime; it was a question of a contract of labour in respect of 60 hours' work. In this State the Workers' Compensation Board upheld the submission that Mr Kezich should be entitled to that payment in accordance with the Act. An appeal was taken to the Supreme Court of Western Australia which reversed the decision of the Workers' Compensation Board. Finally the matter was referred to the High Court of Australia which upheld the decision of the Workers' Compensation Board that Kezich was entitled to be paid for the 60 hours a week which he had contracted to work.

The Hon. W. R. Withers: You say it was a contract of labour?

The Hon. D. W. COOLEY: It was a contract of labour; it was not overtime.

The Hon. W. R. Withers: It is strange to hear you agree to a 60-hour week.

The Hon. D. W. COOLEY: I am not agreeing to it. Many employees in the electorate of the honourable member work in excess of 40 hours a week. He knows that full well, and I do not hear him advocating that these people should not support him. I have not heard him criticising them for working 60 hours a week.

This legislation came about because the workers were advantaged by a court decision, and the rules had to be changed, despite the fact that this legislation passed the Lower House, came here, was referred to a Select Committee which came down with a recommendation, and the recommendation was put into effect.

The Hon. G. C. MacKinnon: The decision of the Select Committee was clear in the minds of its members—absolutely clear.

The Hon. D. W. COOLEY: I am glad to hear the Minister say that.

The Hon. G. C. MacKinnon: The court had to decide on the words, and not on intention.

The Hon. D. W. COOLEY: Only the other night the Minister said that the courts of the land were the arbiters in respect of workers' conditions. However, this legislation went to the highest court in our land and it ruled in favour of Kezich.

The Hon. G. C. MacKinnon: It ruled on the words used.

The Hon. D. W. COOLEY: The Government then turned around and said that there must be a change in the rules. It is like playing a game of football, and when one team is a mile in front, the other team decides that the rules must be changed to its advantage.

The Hon. G. C. MacKinnon: That is the basest of misquotations.

The Hon. D. W. COOLEY: The Minister was chairman of the committee; is he admitting that he made a mistake?

The Hon. G. C. MacKinnon: No mistake whatever, and it was absolutely clear in the minds of committee members what was meant.

The Hon. D. W. COOLEY: Does not the Minister agree that the High Court of Australia should be the determining force? His leader very often refers matters to the High Court of Australia, particularly when the State Government does not agree with the Federal Government.

The Hon. G. C. MacKinnon: The court ruled on the words used and not the intention.

The Hon. D. K. Dans: That is not quite correct. I have read the decision.

The PRESIDENT: The honourable member should ignore the interjections. The Minister will be able to reply at a later date.

The Hon. D. W. COOLEY: Kezich did not work overtime—he was working regular hours in accordance with the Act.

The Hon. G. C. MacKinnon: I will be extremely interested to hear Mr Dans when he speaks on this. He will explain it to you, I hope, because he is a very honest fellow.

The Hon. D. W. COOLEY: The Minister's reference to premiums in respect of Kezich is quite ludicrous. The Workers' Compensation Board's decision—upheld by the High Court—said that Kezich was entitled to something like $170 a week, whereas the Supreme Court decision was that he was entitled to about $97 a week. It is the rare exception rather than the rule where workers are contracted to work regular overtime. I do not think the present case was decided on the basis of regular overtime, but it was stated that the employee had contracted to work longer hours than prescribed in the award.

The Hon. G. C. MacKinnon: The employers were very generous and very fair.

The Hon. D. W. COOLEY: I will come to the employers at a later stage. We have reached the point where this House of Review is reviewing its own legislation. It seems to me one gets the feeling that the attitude of members in another place generally is in support of the trade union movement. However, here the situation is altogether different—it seems that the unions must be bashed down or something done to disadvantage the workers.

The Hon. G. C. MacKinnon: That is only because of your outrageous attitude.

The Hon. D. W. COOLEY: Government members here, and the Minister in particular, get some fiendish delight from seeing working people disadvantaged.

The Hon. G. E. Masters: That is rubbish!

The Hon. D. W. COOLEY: It is not rubbish. The honourable member would support scabbing, and he has said it in the House.

The Hon. G. C. MacKinnon: You are scabbing.

The Hon. D. W. COOLEY: If that is not attacking the work force—

The Hon. G. C. MacKinnon: You are scabbing right now because you should have let Mr Dans handle this debate.

The Hon. D. W. COOLEY: The honourable member stated it publicly too. The Minister who sits alongside the Minister who is interjecting stated publicly what he would do in respect of scabbing.

The Hon. G. C. MacKinnon: Mr Dans was on the Select Committee.

The Hon. D. K. Dans: Give me time.

The Hon. G. E. Masters: Don't you consider that your attitude to the House has anything to do with it?

The PRESIDENT: Order!

The Hon. G. C. MacKinnon: You are scabbing on Mr Dans.

The Hon. D. W. COOLEY: That is an unfair tactic. As I said the other night, when the Minister commences to fall behind, he resorts to insults.

The Hon. G. C. MacKinnon: That is a reasonably fair insult. Mr Dans knows more about it than you do.

The Hon. G. E. Masters: Don't you think you become insulting at times?

The PRESIDENT: I suggest to the honourable member that he should disregard the Minister's interjections and get on with his speech.

The Hon. D. W. COOLEY: I am trying to do that, Sir. The High Court of Australia is the highest in the land, unless one wishes to appeal to the old Privy Council for a decision.

The Hon. G. C. MacKinnon: I have news for you—this is the highest court in the land.

The Hon. D. W. COOLEY: If that is the case, I cannot for the life of me understand why members of this House, having passed the legislation, knowing of the determination of the highest court in the country, come here now with a measure which endeavours to take out some of the conditions they put into the Act. Remember that it was not on the Government's initiative that the amending legislation came before the Parliament of the State; it was brought here on the initiative of the Tonkin Government.

The Hon. R. Thompson: The progressive Tonkin Government!

The Hon. G. C. MacKinnon: That reactionary crowd!

The Hon. D. W. COOLEY: The members in the House at that time decided to set up a Select Committee. The Select Committee brought down a recommendation, and surely to goodness that recommendation should be accepted by members of this Chamber and by the Government generally. The legislation could have had no greater review than it has had. This provision could have been subjected to no more thorough examination than it has had—by this House, the Select Committee, and finally the High Court of Australia after it had been through the various jurisdictions. Surely once a decision has been made, it should be accepted.

Let us for a moment assume that there is something wrong for injured workers to have overtime included in the interpretation of "weekly earnings" in the Act. Depending on their own attitude, some people may see justice in that point of view, and I am sure all members opposite would see some justice in it because it would reduce the conditions of working people generally. That has always been the role of conservative parties, and conservative Governments have never introduced legislation to benefit working people.

The Hon. G. C. MacKinnon: Rubbish!

The Hon. D. W. COOLEY: For 23 years a conserative Government was in power in Canberra, and it did not pass one piece of industrial legislation to benefit the work force.

The Hon. N. McNeill: I tell you what, it was better for the work force than the last three years have been.

The Hon. G. C. MacKinnon: People would rather have jobs than the unemployment your crowd has inflicted on us.

The Hon. D. K. Dans: They might have an opportunity soon.

The Hon. D. W. COOLEY: We only have to go back to consider the industrial arbitration legislation of 1963, then the basic wage was taken away from the people, and in 1974 the Government introduced the Fuel, Energy and Power Resources Act Amendment Bill.

The PRESIDENT: The remarks of the honourable member have no relationship whatever to the Bill.

The Hon. D. W. COOLEY: I am trying to point out, Sir, that they do have some relationship. This Bill will have the effect of pulling down the conditions of the workers.

The PRESIDENT: They have no relevance.

The Hon. G. E. Masters: We hear it from you every week.

The Hon. D. W. COOLEY: The honourable member would not hear it every week if his Government did not introduce such regressive legislation.

The Hon. G. C. MacKinnon: There is nothing regressive about this.

The Hon. D. W. COOLEY: If members can see the justice in removing overtime from the interpretation of "weekly earnings", where is the justice in taking away allowances?

The Hon. G. C. MacKinnon: Wait until Mr Dans speaks. He will explain it; he was on the committee.

The Hon. D. W. COOLEY: I am referring to district allowances and—

The Hon. G. C. MacKinnon: Mr Dans was on the Committee.

The PRESIDENT: Order! The Minister is interjecting far too much.

The Hon. G. C. MacKinnon: I am sorry, Sir.

The Hon. D. W. COOLEY: Let us consider a shift penalty for argument's sake. Such a loading is not a penalty for hours actually worked, but it is a loading for a number of associated matters when a person is employed on shift work on a continual basis. These people provide a service to the public. We would not have lights burning in this place tonight if we did not have people in the power houses keeping the generators going. Buses and trains run at all hours, and workers must keep them running. These people put up with a great deal of family inconvenience to do this work. They do not have weekends off, as a large number of the work force do. When other people are enjoying public holidays, shift workers are driving buses, working in power houses, and in many other places. So the shift penalty is not for the actual time worked; a number of other factors are involved.

Year in and year out these people work odd hours and they are paid a certain rate for it. If they meet with an accident, out of the blue, if this measure is passed, they will find that their rate is reduced by the amount of penalty that they usually earn because of the inconveniences they put up with. If there is justice in taking away their overtime payments when they are on compensation—and the Minister may be right about this in some circumstances—where is the justice in reducing their compensation by the amount of the allowances they are usually paid? There is no justice associated with it at all.

If a worker who is paid a margin over and above his ordinary rates of pay in a particular establishment meets with an accident his rate is not reduced. Under this Bill he will receive the same rate when he is off on compensation as he would if he were working. A large number of other people in the community do not have their rates reduced because of accidents that have occurred during the course of their employment, and usually these people are in far better circumstances than those whom this Bill will attack.

The people on low incomes are the ones hardest hit in respect of a reduction of their rate. Usually they are committed to a certain standard in keeping with their earnings. Workers on shift penalties become involved in hire-purchase arrangements and they often have other commitments. They live up to what they earn, and I can assure members that anyone on less than $150 a week—especially if he has a wife and family—does not put much in the bank these days.

The Hon. N. McNeill: You can blame your own Federal Government for that.

The Hon. D. W. COOLEY: I do not think so.

The Hon. G. C. MacKinnon: Of course you can. The inflation rate is directly attributable to them.

The Hon. D. W. COOLEY: When a man is injured at work and his shift allowance is lost to him, the landlord does not say to him, "I will reduce your rent this week by so many dollars because you have had an accident." The person who has a mortgage over his property does not have his repayments reduced because he is injured. Basic food items, clothing, and everything else have to be paid for at the same rate. It is completely unjust for a Government which claims to have the interests of the workers at heart to treat them in this way.

The Hon. R. Thompson: Shabby!

The Hon. G. C. MacKinnon: Shabby? By God, it was a most generous arrangement. I am hoping to hear Mr Dans start on this.

The Hon. D. W. COOLEY: I would like to read from an unnumbered page in the policy speech of the Liberal Party—

> We will stand by our policy that every man has a right to 52 weeks' take home pay and 52 weeks' industrial peace every year.

With the passage of this Bill he will not have that.

Let us consider the question of the district allowance. In case members are not aware what a district allowance is, I would point out that a worker is paid this allowance for the inconvenience he might have to put up with in remote areas. I daresay the factors which are taken into account when fixing the allowance include the cost of the goods he has to buy and, as a consequence, this is loaded onto his pay.

We have an example of a railway worker who is working in Coolgardie. He is a

married man and receives a district allowance of $9.87 per week.

The Hon. G. C. MacKinnon: You are going to embarrass Mr Dans because he will recall that I said during the hearing that district allowances should be specifically excluded, and both and he and Mr Logan agreed.

The Hon. D. W. COOLEY: The Minister will have an opportunity to explain the position to Mr Dans when he replies. When referring to weekly earnings the Bill gives the meaning of this and then says—

> but excluding in each case referred to in paragraphs (a) and (b) of this clause—
>
> (c) overtime, being any payment for the hours in excess of the number of hours stated in the industrial award or industrial agreement as ordinary hours which constitute a week's work; and
>
> (d) any bonus or incentive (except over award payment), shift allowance, week-end or public holiday penalty allowance, district allowance, industry allowance, meal allowance, living allowance, clothing allowance, travelling allowance, or other allowance,

The words "or other allowance" include the lot. Not one thing has been missed out. Anything that might not be named in the schedule is covered by the words "or other allowance".

Let us return to the railway worker who is working in Coolgardie. He meets with an accident and is off work for six or seven months and his pay is reduced by $9.87. He has not the wherewithal to leave the district; he must continue to live in the district and try to do so in the same manner as he did while he was employed. When $9.87 a week is taken from his pay packet it does not give him very much to live on.

This is getting back, almost, to the conditions that obtained in the Act in 1973; though I will admit it is not quite as bad as that.

Let us consider the industrial allowances paid. There is a person who is working as an attendant at the Railway Institute and his wage over and above the minimum wage which is something like $80.80—is $9.20, which is not affected. He gets an industrial allowance of 75c and a loading of $2.75 making a total figure of $12.70. This Bill will take away from that person on a low income an amount of $3.50, because that happens to be the industrial allowance. It is unjust that this will be done by a Government which purports to have at heart the interests of the working people of Western Australia.

There is a more serious aspect to this Bill, and I hope the Minister will not take the Committee stage of the Bill tonight, because I would like him to have full regard for this matter. It might in some respects be more serious in respect of workers' interests than those aspects I have mentioned, because proposed new clause 2 (a) in clause 2 of the Bill states—

> 2. For the purposes of this Act "weekly earnings" means—
>
> (a) where the work performed by the worker in the employment in which the injury occurs is subject to an industrial award or industrial agreement or, if it is not so subject, where a relevant industrial award or industrial agreement pertaining to that type of work can be fairly applied, the total wages, salary, or other remuneration payable, at the time of the injury, for a week's work in such employment, under the industrial award or industrial agreement;

It has been common workers' compensation law that the payment is made at the time of the incapacity—that is under the first schedule payments. I believe that by the wording of this new clause which appears in paragraphs (a) and (b) in the first schedule—unless my interpretation is wrong, and I have a verbal legal opinion to support this—if a worker is injured today and he receives payment under the first schedule of the Act he will be paid his weekly rate applicable at the time of the injury. It has been workers' compensation law for many that the rate payable is that applicable at the time of the incapacity.

Let us consider the case of a person who suffered a back injury three years ago and has been continually treated for it. Let us say that he was on $90 a week at that time and perhaps his wages increased to $130. He then has a recurrence of that back injury and he is incapacitated as a result of it. In such a case I suggest that the wording of this clause would deny such a person the current rate that is payable at this time.

Under the old provisions, and for many years past, the payment has been made at the time of the incapacity, and the weekly payments, whatever they were, were an ongoing thing. Once they were related to a percentage of the basic wage and if the percentage of the basic wage was X in 1973 and it was a higher amount in 1975 he would get the higher amount.

I hope this provision was not included intentionally by the Government. It makes one wonder why the people responsible for drafting the Bill would include such a provision. There is no doubt it is because of the campaign which has been conducted against the worker ever since he has been under the 1973 provisions of the Workers' Compensation Act.

The Hon. G. C. MacKinnon: That is the sort of filthy comment I would expect from you.

The Hon. D. W. COOLEY: I have been associated with the Employers Federation for far too long and I know what I am talking about.

The Hon. G. C. MacKinnon: You were given three months to put up any suggestions through the proper channel.

The Hon. D. W. COOLEY: That is not true.

The Hon. G. C. MacKinnon: It is absolutely true.

The Hon. D. W. COOLEY: I hope the House does not allow that provision in the Bill to go through. If the provision is not amended by the Government it is my intention to move an amendment along these lines when the Committee stage is taken; and I hope the Committee stage of the Bill will not be taken tonight.

There have been statements made by employers and Ministers—although I do not say it has been made by the Minister who is handling this Bill—that workers are spending a greater time on workers' compensation since they received this full payment.

That may be so, but the reason for that is that their payments were so low and niggardly in days gone by that they were forced back to work before they had fully recovered from their incapacity; they were forced back because of their financial commitments. It is disgraceful that the Government should accede to the wishes of rapacious employers and insurance companies.

The Hon. G. C. MacKinnon: Class hatred again.

The Hon. N. McNeill: You talk about others saying things like that about the trade union movement.

The Hon. D. W. COOLEY: The Government is dancing to the tune of its master puppeteers, the Employers Federation and the wealthy insurance companies.

The Hon. G. E. Masters: You know what they say about people who live in glass houses—they should not throw stones.

The Hon. D. W. COOLEY: Mr Masters should not say anything like that, particularly after his outburst the other night which I considered to be quite disgraceful. Whatever I may have said in this connection I certainly do not tell filthy lies as did the honourable member the other night.

The Hon. G. C. MacKinnon: You lay on this class hatred in large lumps.

The PRESIDENT: I regard the words used by Mr Cooley as being unparliamentary in the extreme—I refer to the words "filthy lies"—and I ask that they be withdrawn.

The Hon. D. W. COOLEY: I withdraw them at your request, Mr President, but they were certainly lies that were told in respect of my position.

Points of Order

The Hon. G. C. MacKINNON: On a point of order, Mr President, I think we must insist on a more complete withdrawal than that. As you have said the expression "filthy lies" is unparliamentary and you have asked the honourable member to withdraw.

The PRESIDENT: Mr Cooley has been asked to withdraw the reference to filthy lies so would he please do so.

The Hon. D. W. COOLEY: I know the Standing Order in respect of this, Mr President, and I have great reluctance in withdrawing things which I know to be truthful.

The PRESIDENT: Order! The withdrawal must be unqualified.

The Hon. D. W. COOLEY: I withdraw in respect of this matter but I must say that those who can least afford to do so talk about people living in glass houses not throwing stones.

The Hon. G. C. MacKINNON: Mr Cooley's withdrawal has been followed by a qualification. Your order, Mr President, was quite unequivocal and there is a point of order because I believe the honourable member has not withdrawn without qualification.

The PRESIDENT: The Minister has taken a point or order and the honourable member must withdraw without qualification.

The Hon. D. W. COOLEY: I withdraw without qualification, but it is easy to see that the Minister is well behind in his argument.

The Hon. G. C. MacKINNON: I again take the point of order, Mr President, because here we have a further qualification. I merely ask that the honourable member abide by the Standing Order.

The PRESIDENT: I am obliged to agree. If one honourable member asks another to withdraw words which he considers to be offensive, the withdrawal must be made and not followed by a further statement of qualification.

The Hon. R. THOMPSON: Mr President—

The PRESIDENT: Is the Leader of the Opposition rising on a point of order?

The Hon. R. THOMPSON: Yes, Mr President. My understanding of the matter is that you said the words used by Mr Cooley were unparliamentary and you asked him to withdraw them, and Mr Cooley said "I withdraw". To be completely fair that is my understanding of the position.

The PRESIDENT: There is no point of order. I asked Mr Cooley to withdraw his reference to filthy lies; and he withdrew them. He then qualified his remark by saying they were lies. The Minister then asked for a withdrawal of the remark. Mr

Cooley withdrew it and qualified his withdrawal. I then said the withdrawal must be made without qualification. Mr Cooley said he withdrew without qualification and then went on again to qualify it. The Minister objected to this and I asked Mr Cooley again to withdraw without qualification. He was about to do so when Mr Thompson raised what I consider to be no point of order.

The Hon. D. W. COOLEY: I did withdraw without qualification and I then went on to say that it could be seen the Minister was behind in his argument.

The PRESIDENT: At this stage the honourable member is in a position to carry on with his speech.

Debate Resumed

The Hon. D. W. COOLEY: The Minister referred to the consultations that have taken place with the trade union movement and the trade union movement has had to make submissions in respect of this matter.

I would like to read from an article of Wednesday the 10th September, 1975; and this is relevant, because reference was made to the fact that this was holding legislation pending the Government holding an inquiry into all aspects of workers' compensation. The article mentions the range of the inquiry which was to include—

> Whether the Act was functioning in the best interests of workers and employers.
>
> The premiums and benefits paid.
>
> The relationship of the Act to other social service legislation.
>
> Whether the Act should cover rehabilitation and whether industrial diseases should be covered in separate legislation.
>
> Whether any transitional amendments were necessary and whether other legislation should be repealed or amended as a result.

The article continues—

> Mr Grayden said the terms of reference were in line with the views of the WA Employers' Federation; the Confederation of WA Industries, and the Chambers of Mines, Manufactures and Commerce.

There is no reference that I can see in the article to the Trades and Labor Council of Western Australia. Nor is there any other reference to any industrial organisation that might have an interest in such an inquiry. The Minister for Labour and Industry has said in my company that he has been misquoted in respect of that. I would accept his statement if it were to be made in this House; that is, that he had been misquoted with regard to consulting with the Employers Federation and the Chamber of Mines. However, I have not seen any retraction of that statement by the Minister in the Press. In fact, the proposals to amend the Act were under discussion for some time and we protested to the Minister about that. We were given a copy of the Bill that is before the House tonight, and, as a deputation, we approached the Minister to protest against it. The Minister promised us that the second reading of the Bill would not be brought on until the following Thursday and that Parliament would be advised of the outcome of his considerations.

According to the people I spoke to today in the Trades and Labor Council, there has been no communication with that council since that time.

The Hon. G. C. MacKinnon: You have a representative on the Minister's advisory committee.

The Hon. D. W. COOLEY: That is true, but to the best of my knowledge this Bill has not been before the advisory committee, although that might not be altogether factual.

The Hon. G. C. MacKinnon: My understanding is that it has been before the committee.

The Hon. D. W. COOLEY: The inferences to be drawn from this newspaper article do not seem to indicate that there has been much consultation with the Trades and Labor Council.

The Hon. G. C. MacKinnon: But you have a representative on the Minister's advisory committee.

The Hon. D. W. COOLEY: I know that. I know the Minister's advisory committee exists, but what I am saying is that to the best of my knowledge the advisory committee has not met to consider these amendments. The only point I am making is that it was proposed to the Minister that paragraph (d) of the second schedule should be watered down in respect of the problems that are met.

I am submitting similar arguments tonight, but to date the Minister has not indicated to the Trades and Labor Council whether any amendment is to be made to the Bill.

The Hon. G. C. MacKinnon: You are talking of the Minister for Labour and Industry?

The Hon. D. W. COOLEY: Yes. I will say this about the Minister for Labour and Industry—that he is more appreciative of the problems of working people than many members of this House, and I am not referring only to Ministers in this place.

Point of Order

The Hon. G. C. MacKINNON: On a point of order, Mr President, I would like to ask whether this sort of reflection on the members of this House is acceptable. To my mind this has been going on far too long. The members of this House have a great deal of consideration for

workers and their families, and it seems to be quite unfair for Mr Cooley to make such reflections.

The PRESIDENT: I think the honourable member should address his remarks to the Bill without making references to other members of the Chamber, or expressing an opinion about them.

The Hon. D. W. COOLEY: Opinions have been expressed about me in this Chamber and no points of order or other steps have been taken.

The Hon. G. E. Masters: Who expressed those opinions?

The Hon. D. W. COOLEY: I am not talking about the honourable member; I am talking about the Minister for Education who sometimes expresses such opinion in respect of questions that come before this House.

I do not want to go back to the dying hours of the 1974 session, or the dying hours of the March session to recount some of the statements made about me in this Chamber by the Minister for Education in regard to certain behaviour and the way he believed our leader should take a leaf out of Mr Wise's book and admonish me. If some members do not want to be admonished for some of the things they have said in this Chamber—

The Hon. G. C. MacKinnon: What are you talking about?

The Hon. D. W. COOLEY: I am talking about what the Minister has said in this Chamber.

The Hon. G. C. MacKinnon: Why don't you talk through the President?

The Hon. D. W. COOLEY: I wish the Minister would do that, too.

The Hon. G. C. MacKinnon: Address the President.

The Hon. D. W. COOLEY: The Minister is speaking to me and I am speaking to him.

The PRESIDENT: Order!

The Hon. D. W. COOLEY: The Minister for Education—

The PRESIDENT: Order, please! It seems it has become necessary for me to shout to maintain order. When order is called for the polite thing for a member to do is to come to order. Will you, Mr Cooley, please address your remarks to the Bill and leave personalities out of it?

The Hon. D. W. COOLEY: I will not be browbeaten by the Minister.

The PRESIDENT: Order, please! Will you please address your remarks to the Bill and leave personalities out of it?

Debate Resumed

The Hon. D. W. COOLEY: I will not say much more in regard to the Bill. I can only repeat that some consideration should be given to the question I raised in regard to the payment of compensation at the time of injury as against payment at the time of incapacity. That question should be considered very seriously before we go into Committee, because if it is not agreed to it will further damage the interests of the people who are subject to industrial accidents.

I can only repeat what I said at the beginning; namely, that the legislation is reactionary. It is in line with the regressive legislation introduced in another place and in this place over many years by conservative Governments. Whilst the present Government did not initiate the present legislation in this place in 1973, it did give it its imprimatur, and because there has been a decision given in favour of the working people the Government has broken its faith with the work force by introducing this legislation. That faith has been broken because of pressure brought upon it by those who have a vested interest in seeing the work force subjugated.

After all is said and done we are not talking about a worker on $167 a week, as was the case with Kezich; we are dealing with workers who are on $100 or $110 a week who have families to keep. Those workers cannot afford to have their wages reduced when they are off work or sick. It is not always a worker's fault that he is absent from work as a result of industrial sickness, or an accident. It is sometimes the fault of his workmates, or negligence on the part of his employer.

However if a worker does suffer injury whilst at work he will be subjected to a reduction in wages by the passing of this Bill. The measure is quite vicious in its context, particularly as it relates to the allowances that are paid to workers who have these payments built into their wages paid to them week after week. If these allowances are taken from them whilst they are on compensation it could mean a difference of $20 or $25 a week. I am speaking now mainly in regard to the loadings a worker receives for shift penalties.

There may be some justification for the Bill if the Government intends to go back in time to say, "Yes, originally it was not really meant to include overtime in the payment of workers' compensation; it was meant only to include the 44 hours a week that is worked by a worker under an award." If that is the position, perhaps there is some justification for that, but there is no justice in denying workers the payment of their industrial allowance; their shift penalties and their district allowances in particular. I admit that there are two or three issues in respect of some allowances which justify their being taken out. That applies particularly to the travelling allowance. Possibly workers should not be paid an industry travelling allowance in addition to that provided in

the Workers' Compensation Act, but workers should at least be entitled to the same standards they enjoyed prior to the accident they suffered on the job.

On those grounds I oppose the legislation.

THE HON. D. K. DANS (South Metropolitan) [9.09 p.m.]: I oppose this legislation. At the outset let me put the Minister for Education at ease—I am fully aware of what the Select Committee recommended.

The Hon. G. C. MacKinnon: And intended.

The Hon. D. K. DANS: I did not say that. I am fully aware of what we wanted in the previous Bill and I am fully aware of how the final draft of that Bill shaped up after we had the expert assistance of one of the Parliamentary Draftsmen.

I think what has happened is that a continuous campaign has been conducted by some of the insurance companies in the main over the burden of workers' compensation, and other sections of the community have joined in this tirade. Let me remind the House that when the Select Committee had concluded its deliberations —and it was a very good Select Committee—it brought down a unanimous report.

The Hon. J. C. Tozer: "Even though I do say it myself".

The Hon. D. K. DANS: Yes, even though I do say it myself; it was a unanimous report, and members will know the reason for my saying that in a minute. Even the Minister for Education will agree with that statement when he gets up to speak.

The Hon. G. C. MacKinnon: It was very generous.

The Hon. D. K. DANS: It was a practical report. We called evidence from all sections of the community engaged in the business of workers' compensation. We called upon members of individual trade unions, private individuals, and, indeed, two members of Parliament; one from the Liberal Party and one from the Labor Party. They sought to give evidence before the Select Committee and we heard evidence from them.

We also heard from a representative of the Employers Federation, and a representative from the then Chamber of Manufactures—Mr Boylan and Mr Fllear respectively. We heard from Mr McNulty, and we had some written submissions, I think, from some members of the general public

The Select Committee decided to base its decisions on the evidence placed before it. When I say "decided" I do not think any committee should be able to make a decision on anything apart from the evidence that is placed before it. One of the most important witnesses who appeared before that Select Committee was a person who was brought over to this State from the Eastern States by the insurance companies so that he could give evidence. I can recall his name very well. It was Mr Trigg. He was questioned very closely on premiums and how they would affect the insurers. He assured us that it would be no problem provided some amendments were made. If perhaps I transgress and the Minister for Education is not happy with what I am saying, perhaps he will correct me. Mr Trigg said that provided some leeway was given to the Premiums Committee to adjust premiums from time to time there would be no problem. Of course, that was the answer I expected him to give. I did not expect him to say, "No, we do not want any increase in workers' compensation premiums", because, after all is said and done, it is a business undertaking and the insurance companies assess the amount of premiums that will be paid.

Before the Kezich case came up—and it is that case that has brought about this Bill—insurance companies by and large suffered a number of reverses as a result of a natural calamity throughout Australia. Indeed, one large insurance company—or at least its London counterpart—is now owned by the Arabs.

I am aware of the problems insurance companies have faced and are still facing, but I consider that all their problems have not been caused as a result of their involvement in workers' compensation. Indeed it is up to insurance companies—particularly private insurers—to opt out of workers' compensation if they so desire. That is their right. The members of the Select Committee agreed to such a move. We said to them that this particular proposition we were putting before them would not cause them any problems when we made the necessary amendments—and do not forget, Mr President, that this was a very exhaustive inquiry and we recommended not only amendments to the quantum, but also amendments that would take care of some of the events that are now happening. All of the representatives of the insurance companies that appeared before this Select Committee agreed to this.

In order that we might see what effect the full makeup pay would have, at my insistence we called Mr Boylan who gave us some figures about the particular areas of the Government where the makeup wage was then in operation. However, by and large all the people who came before the committee were reasonable in their approach.

The Hon. G. C. MacKinnon: Very reasonable. That is why I get upset when people talk about the employers and the attitude that Mr Cooley takes.

The Hon. D. K. DANS: We have now reached a very difficult point which is most unfair. The committee said that the weekly wage would include certain things

and over-award payments, but not overtime.

The Hon. G. C. MacKinnon: Nor site allowances and such.

The Hon. D. K. DANS: I do not wish to weary the House by dotting every "i" and crossing every "t".

This is the stage we have reached, and perhaps when Mr MacKinnon said it was a play on words, he was right. However, let us remember that if the decision of the High Court had gone the other way—

The Hon. G. C. MacKinnon: We would have amended the Bill.

The Hon. D. K. DANS: —this Bill would not be here today.

The Hon. G. C. MacKinnon: We would have amended the Bill.

The Hon. D. K. DANS: I am not here to doubt the Minister, but it would be reasonable to suggest that the Bill would not be in the Chamber today in those circumstances. Reference has been made to the Kezich case, but it seems strange to me that the only people to be disadvantaged are those on the job. Mr Grayden, the Minister for Labour and Industry, by way of Press releases, and the Minister here, in his second reading speech, said there would be a comprehensive inquiry.

The Hon. G. C. MacKinnon: We recommended that, didn't we?

The Hon. D. K. DANS: What will happen if after that inquiry the commission agrees with what the High Court said? Are we then to have another Bill reversing the provisions of the Bill before us now?

One of the things which disturbs me is the fact that the people discriminated against are those down on the job, because these conditions applying could quite easily have remained until the inquiry was completed. I suggest that no matter what the inquiry decides, it will not change the provisions of the Bill before the House now.

Let us look at what really happened. We are dealing with a situation in the Australian work force, and I want the Chamber to understand fully that when I refer to the Australian work force I mean all people who work, not the people of the Keir Hardie era with hobnailed boots and cloth caps.

The Hon. H. W. Gayfer: That includes members of this House.

The Hon. D. K. DANS: Even farmers! All people who work depend to a large degree on the actual wages they receive. The Kezich case gave rise to this kind of steamhammer legislation to crack a peanut. As I understand the position today, irrespective of the High Court decision, the insurers are not paying compensation on overtime. Is that correct?

The Hon. G. C. MacKinnon: You are making the speech and you have no right to invite me to interject.

The Hon. D. K. DANS: In the area in which I am interested we get our wages, and I will come to that in a moment because it is not unrelated to this.

The Hon. G. C. MacKinnon: I have heard the honourable member on that.

The Hon. D. K. DANS: It is not unrelated. Kezich was employed—and this is the basis of my opposition—on a 60-hour week. I heard Mr Withers ask, by way of interjection, whether I would agree to more than 40 hours a week.

The Hon. W. R. Withers: I did not say that.

The Hon. D. K. DANS: I wish to point out that I was the architect of an agreement to provide for an 84-hour week. There are some other things attached to it, too.

The Hon. G. C. MacKinnon: I'll say there are, including 26 weeks' holiday a year.

The Hon. W. R. Withers: I said that it was unusual to see Mr Cooley supporting a 60-hour week for contracted labour. That is a bit different.

The Hon. D. K. DANS: Despite our moralising, one of the problems we face in our complex economy today is that since we have gained a 40-hour week, we all have to work 80 hours and we have also become two-income families to bolster up the myth that we are an affluent society. This is where the trouble lies. I am dealing with a person who contracts to work 60 hours a week. I am not talking about the person who works overtime on some days and not on others; nor am I talking about a person who says he will work for 60 hours, and then when he arrives on the job he decides he wants to work only 40 hours, and who in those circumstances could be fired because he undertook to work the 60 hours. If a man contracts to work 60 hours a week, my interpretation is that that becomes his normal hours of work; and that is exactly what the High Court decided.

I would not agree with Mr MacKinnon that the court decided on words. Courts do not do that. They use words in their judgments. Surely it is not suggested that we have a group of judges, particularly in the High Court, who simply read something without considering the consequences. We could take a matter down to the local scribe at the corner shop if that is all we wanted. To suggest that, would mean that the people who constitute our legal system in Australia have no idea of what goes on in the community, but of course they know very well what goes on.

In the first instance the Workers' Compensation Board in this State knew very well what was going on in that particular area, and if I understood the Minister correctly, he said that the insurers are still not taking into account the normal overtime.

The Hon. G. C. MacKinnon: I did not say that. You said it.

The Hon. D. K. DANS: I am saying it again. The employers generally know very well what the decision meant. Let us look at the waterfront industry.

The Hon. G. C. MacKinnon: Why?

The Hon. D. K. DANS: Because I like to, and that is as good a reason as any.

The PRESIDENT: You must relate your remarks to the contents of the Bill.

The Hon. D. K. DANS: I would not dare introduce any material not connected with the Bill, although I have listened to plenty tonight by interjection.

The Waterside Workers' Federation works under compensation Acts, and, in some cases, its members come under the State Act. However, because of an extension of hours and a reduction in the work force to meet the demands of a modern transport system which involves them at times in working in excess of those hours generally recognised in the industry, they work so many hours for, say, $200 a week, which is not a magnificant sum in this day and age. However, when they get hurt, no-one will suggest to them that they get taken off that money and put on the basic wage or the average weekly earnings, because it is accepted by the employers in that industry that this is the wage the man is normally entitled to.

Let us consider my own industry, the maritime industry. We referred to 84 hours a week. When we take into account the 52 Saturdays, the 52 Sundays, the four weeks' annual leave, and so on, and work it all out, as I did with an official of a shipping company the other day, we are not far in front and we find that the 26 weeks' holiday is illusory. However, the whole agreement is worked out to meet the demands of industry, to keep shipping moving, and to gain some advantage out of the quick turnaround situation which now exists with modern sea transport.

Here again, without any recourse to courts, but as a result of amicable discussions an aggregate wage situation was worked out which did not involve overtime as overtime, but as being by way of a salary. No-one suddenly said that the wage prescribed by the navigation Act for seamen is for X number of days in the month and that is what the workers will be paid when on compensation. They do not do that. One can consider a whole host of other industries where this same situation exists and where, by agreements, the problem has been resolved.

However, because of some problems which have arisen, particularly in some of the insurance companies, for a variety of reasons, panic ensues and suddenly, like manna from heaven, this decision is made which does not relate in any way to the overtime situation.

Perhaps one could be critical of the way that labour has been attracted to the north-west. Rather than pay a wage for a job of work done based on a 40-hour week, in order to attract labour to that area of the State the companies have guaranteed a number of hours a week in excess of 40. What was originally a privilege has now become the norm. There is nothing wrong with this; it is the normal process of life. That is the kind of thing the High Court upheld.

Without its actually being stated in the Bill, another seed has been sown because it has been said that some people are spending more time on compensation than they should. One can concede that from time to time some people may do this. It would be a very sweeping statement to say—and I am sure Mr Cooley would agree with me—that it just does not happen. However, into this aspect intrudes one other factor; that is, the members of the medical profession.

We must remember that no man remains on compensation any longer than his medical practitioner says he must. If the insurer is not satisfied with the medical practitioner, then a medical referee can be consulted. I do not know whether any member here has ever tried to argue with a doctor concerning whether or not a man is fit. I have.

I can recall the occasion when a certain person was passed as being fit to go to sea, and I considered he was not. I had the temerity to relate my findings to the then Commonwealth Director of Health (Major General Refshauge) who sent me a short reply of about four foolscap pages, and the last two proved beyond a shadow of doubt that I was the idiot and that doctors just could not make a mistake. However, subsequent events proved me correct, although I did not communicate this to Major General Refshauge.

The Hon. G. C. MacKinnon: Major General Sir William Refshauge.

The Hon. D. K. DANS: I do not know whether he was a Sir then. The point I make is that no worker remains on compensation, malingers, or swings the lead—if that is the term members want to use—except with the concurrence of his doctor. We all know that the medical profession is quite specific in relation to compensation.

All this Bill does is reduce the wage and in the case of Kezich his wage would be reduced from $167.50 to some $91.40. Let us relate that to the current value of wages. Do not let us argue who caused the inflation. We must deal with the real problem. Many instances were submitted to the Select Committee and I know of many myself involving human suffering, torment, and psychosomatic problems as a result of the fact that some people could not measure up to their commitments under their reduced earning power.

We all know there is current legislation in connection with compensation. Debate is taking place on Federal legislation. But sooner or later we will have to recognise one simple fact. The Minister for Education knows this. It has been said that by and large the public are paying for compensation. If a worker becomes a charge on the community because of undergoing the traumatic experience of losing his earning capacity, one way or another we all pay. That is a fact of life.

The Hon. G. C. MacKinnon: The nation pays.

The Hon. D. J. Wordsworth: Primary producers cannot pass the costs on.

The Hon. D. K. DANS: Of course there are areas where the costs cannot be passed on. It is one of the results of an unplanned economy.

From time to time we are told here, "Let the market place operate." Another aspect of this matter which disturbs me is that from time to time, whether on the question of long service leave entitlements or anything else, we are told, "Let the courts decide." We have let the courts decide: then, like the boy who owns the only football in the street and who is not getting as much of the play as the other boys in the street, and takes it home, we have a similar situation in regard to this legislation.

The Minister says, "We will hold an inquiry and after that everything will be all right; but before that inquiry takes place, let us slip this in on poor old Joe Blow, the man on the job, and he will carry the penalty; but whatever that inquiry decides, we will not change the legislation which is before us today." So after making a thorough investigation and reaching a unanimous decision, the Select Committee is now going to see a great deal of its work destroyed because of a changing situation and because of a decision of the High Court which does not specifically relate to overtime but relates to ordinary wages. That is what the decision was based on. We will see that destroyed because the decision was not liked and because the insurance companies in many areas are in financial strife which is not related to workers' compensation. Premiums are becoming higher but we were assured this would not be a problem. Now we are being asked, "Who will carry the burden?"

The Hon. D. J. Wordsworth: Did they indicate to you what it would cost?

The Hon. D. K. DANS: I think the Minister would be able to tell members that. I was rather astounded because the insurance people could not get into the act quickly enough.

The Hon. D. J. Wordsworth: To tell you what it was going to cost?

The Hon. D. K. DANS: To tell me what it was going to cost and how we could handle it provided we could make adjustments to the Premium Committee. All those matters were conceded.

The Hon. D. J. Wordsworth: And they told you it would go up by so much?

The Hon. D. K. DANS: No, they did not. I would not expect the insurers to have a crystal ball and be able to tell us by how much workers' compensation premiums would go up, any more than I would expect Mr Wordsworth to have a crystal ball and be able to tell us by how much the wages of members of Parliament would go up or by how much the price of beef would drop. The honourable member could not tell me. After all, this is the market place operating. We have been told, "Let the market place decide." But now members of the Government want to walk all around the water bed and press it up at one end, and it rolls back on them. Because of this legislation, in some areas—not all areas—some working people will be placed in a situation where they will be worse off in view of money values today.

The Hon. J. Heitman: How many, would you think?

The Hon. D. K. DANS: I would not like to try to estimate it.

The Hon. J. Heitman: Very few, I would think.

The Hon. D. K. DANS: How many are "very few"? I would not be able to say how many are "very few" or "a lot". I just do not know. But let me say a number of workers work in the very same way that Kezich did, and it is of no use trying to deny that fact. Keznick and other people are told, "I want you to work for me for X dollars, but you will work for 60 hours a week." Mr Clive Griffiths knows of this. That is what the wharfie at the terminal is told, is it not?

The Hon. J. Heitman: I would not even guess.

The Hon. D. K. DANS: The honourable member should stay friendly with the wharfies because they load the produce of the farm, the forest, and the mine for shipping overseas.

The Hon. J. Heitman: Have you ever been a waterside worker?

The Hon. D. K. DANS: No, I have not, and I have no desire to be a waterside worker. It is a very difficult job. When one looks at the statistics for injuries, one finds that the waterfront has probably the highest injury rate in the whole Australian industrial situation because of the nature of the work. I am sure Mr Heitman has worked with bags and slung things on ropes and knows this is an area where the rate of serious injury is very high. But that is part of the industry. We may get the rate down somewhat.

The Hon. J. Heitman: Are they on overtime rates?

The Hon. D. K. DANS: No. They get X dollars for a certain amount of work performed. In many areas there has been a fair amount of stretch and pull to accommodate different facets of industry. Perhaps at one stage it was all very well to say we would stick by a 40-hour week from Monday to Friday, but in a rapidly expanding industrial situation, as we have today, with different modes of transport, we shuffle things around a bit.

The Hon. G. C. MacKinnon: You have repaired the damage. You can sit down now.

The Hon. D. K. DANS: I will conclude without the assistance of the Minister for Education. I think this is retrograde legislation. Whatever is contained in the report of the committee, the legislation will never be changed. It is panic legislation to provide some form of relief for a dying industry—namely, the insurance industry. It is dying not only in Australia but all over the world. It is panic legislation, supposedly to hold a situation, which will never be repealed. I am not very happy with the so-called inquiry because if this is the type of legislation which is to be brought forth prior to an inquiry, I just do not know what we will be discussing after the inquiry.

Let me make myself quite clear. When we are dealing with the work force—whether on the farm, the wharf, at the Metropolitan Water Board, or up north—we can never turn the clock back. One way or another, the ground which has been taken away in that particular area will have to be recovered. I do not think it enhances the reputation of the Government or of the people who have induced the Government to introduce this legislation simply because they did not get the right decision from the High Court, to run back to Parliament, particularly when time after time we are told to go along to the courts to get our decisions, and Parliament will abide by them. Perhaps some of us would be naive enough to believe that and to tell people that is what they should do.

We had a situation where the Workers' Compensation Board in all its wisdom said, "That is the sum of money which should be paid." Some people were not happy with that result, so the matter was taken to the Supreme Court of Western Australia in an endeavour to have the decision reversed. The matter was then taken to the High Court of Australia, which reversed the decision of the Supreme Court and upheld the contentions of the people who were very near to the core of the matter—the Workers' Compensation Board. There were no strikes or threats. The people did what this Chamber has told them to do time and time again: they went along to the court and when they got a decision they found it turned to ashes in their mouths because a Bill was rushed into this place and they are right back where they started.

We are in a terrible fix. If in the future the people who contract to work 60 and 70 hours a week were to say, "From here on in, it is 40 hours for us, despite what you might say about unemployment", I suggest that in a great number of very important areas in this State industry would grind to a halt, with disastrous results for all of us.

I will refer to one of the matters Mr Cooley raised which he hoped the Government would look at: the action based on the Kezich case. I am not arguing the matter of overtime, which was decided by the Select Committee. I hope the Government will have another look at this matter because it certainly does not engender any confidence in the people who are told by all of us that they should uphold the laws of this country and observe law and order, and that if they want matters resolved they should take them to the courts of the land for decision. When they do that, the Government says, "Because the court did not give the right decision we are going to change the legislation."

If that is the kind of thing the Government can do with this Bill, in the very turbulent times we are living in, I suppose the same thing can be done in a whole host of areas. If that is the kind of action and attitude that is going to be taken to overcome the problems confronting us, what good is there in our saying to the people, "Try to do the right thing and use the legal processes"? They will say, "What are you trying to give us? Those fellows down on the job who use the muscle are the ones who get the cream, and we who use the legal channels and the proper methods are the ones who get the ashes." I suggest the Government think very deeply about that.

THE HON. D. J. WORDSWORTH (South) [9.44 p.m.]: This House, through a Select Committee, made many very generous changes to the Workers' Compensation Act. Mr Cooley says that under the proposed amendment workers' compensation in this State will return to the situation of the pre-1973 days. I think he must admit that will not be so.

The Hon. D. W. Cooley: I did not say quite that. I said it is getting to be like the pre-1973 days.

The Hon. D. J. WORDSWORTH: Indeed, this House set in motion vast and far-reaching changes in respect of the Workers' Compensation Act. It is rather amazing that the changes were far greater than those envisaged by the Federal Government in its workers' compensation legislation; and I think that is saying something.

The Hon. D. K. Dans: Not really; you have not read the compensation Bill.

The Hon. D. J. WORDSWORTH: The Federal Government has been probably the most far-sighted—if that is the right term to use—and the most generous in respect of changing the conditions for the worker in Australia today. Here we find that this House, which is said to be staid and conservative—and we are even told that we are union bashers—through a Select Committee introduced these very generous changes in workers' compensation.

The Hon. R. Thompson: Be sure of what you are saying. It was not through a Select Committee. A Bill was introduced by the Tonkin Government, and it was referred to a Select Committee by this Chamber. That Select Committee agreed to nearly everything in the legislation.

The Hon. G. C. MacKinnon: Except for 50 per cent of the Bill which was unworkable.

The Hon. R. Thompson: Every benefit in the Bill was agreed to.

The PRESIDENT: The honourable Mr Wordsworth.

The Hon. D. J. WORDSWORTH: Thank you, Sir. We have heard that the Select Committee changed considerably the Bill that was presented by the Tonkin Government: I think the generosity of that committee is sufficiently indicated by the cost that the changes it made forced upon the employing community. I even asked Mr Dans whether he had any indication of what the cost would be; and one would assume from his remarks that no indication was given.

The Hon. D. W. Cooley: In 1971 in respect of the building trade it cost 75c per worker per week to go onto full makeup pay on compensation.

The Hon. D. J. WORDSWORTH: Can Mr Cooley inform us what the cost is today?

The Hon. D. W. Cooley: Having regard to inflation, it might be $1.50 or $2.

The Hon. D. J. WORDSWORTH: It costs near enough to $7. That is an indication of the reform we have seen.

I agree that we cannot go back on what we have already done regarding the payments to workers, but the interesting thing is that the amendment before the House merely tries to straighten up the situation in regard to what is paid by the companies, and what is being charged to the employer. As has been pointed out, the case that went before the High Court actually proved that the Act is more generous than it was thought to be. However, we have not yet seen the reflection of the High Court decision in the payments to insurance companies.

I wonder what the cost will be if workers' compensation is to be worked out in accordance with that decision.

The Hon. D. W. Cooley: You would think the Government would work it out before it introduced such a Bill. It has the experts.

The Hon. D. J. WORDSWORTH: I could not agree more; and that is exactly what happened on the last occasion.

The Hon. D. W. Cooley: Why haven't we got it before us now?

The Hon. D. J. WORDSWORTH: On the previous occasion the cost could not be worked out. This is one of the frightening things about workers' compensation; it seems it is necessary to ascertain the cost in retrospect. It is only after the payments are made that one can ascertain the cost.

An interesting point in respect of workers' compensation premiums—and all employers would realise this—is that the employer gives an estimate of his wages at the beginning of the year, but he does not pay the adjusted premium until the end of the year. When the previous amendments were made to the Workers' Compensation Act the insurance companies wrote to employers and warned them that premiums would rise and would be adjusted after a set time. I do not think any employer believed the increase would be as great as that which has arisen, and it points out how hard hit the employers have been. Some employers have quoted for jobs and others have manufactured and sold articles before knowing the cost of workers' compensation.

I had a shearing contractor come to me only last week. We were negotiating the cost of shearing for the coming season. He told me that before the previous amendment was made he was paying about $700 a year workers' compensation premium, and that he had just received a bill for a little under $4 000. He said that he had not built in that cost in his contracts. That poor man has literally lost any profit he made in that year.

The Hon. D. W. Cooley: How many workers did he cover?

The Hon. D. J. WORDSWORTH: I will be honest; I am not sure. I think he had one eight stand and a couple of four stands; he is not a very large contractor. He was making good money as a shearer and decided to make a little more by becoming a contractor. The increased cost of workers' compensation premiums literally took away his profit, and he may as well have remained on the floor. That is very hard on a person such as that.

However, I think the increase is a great deal harder on primary producers and others who have no hope of passing on increased costs. Sure, that shearing contractor will not be caught in the coming season; he will increase his price. But I wonder what will happen to those employers who are exporting and who have their prices set on a foreign market. I think farmers are a group which will be hit very seriously by this increase.

The Hon. R. Thompson: You sound as if you would be a keen supporter of the Commonwealth compensation scheme.

The Hon. D. J. WORDSWORTH: I probably would be. I have to admit I received a letter from a group of farmers in Kojonup after the last amendments to the Workers' Compensation Act. They said they were amazed that the upper House, which was controlled by the Liberal and Country Parties, should allow such legislation to pass. I told them I did not know why they should be amazed at that. I said to them, "What makes you think the Opposition—as we were then—would be representing the employers, because if you look around you will find most of the members of the Liberal and Country Parties in this place are not employers but wage earners. Some may have been employers at one stage, but very few now are employers." I think the sympathies of this Chamber lie with the wage earner.

I think when Mr Cooley says that we in this place are union bashers and that we do not give the workers a fair deal, he is completely incorrect.

The Hon. R. F. Claughton: Will you support Mr Cooley's amendment?

The Hon. D. J. WORDSWORTH: I think this House looks after the worker very well indeed.

The Hon. D. W. Cooley: Tell me when you have ever initiated anything to benefit the workers.

The Hon. D. J. WORDSWORTH: I would say that we initiated this situation in respect of workers' compensation.

The Hon. D. W. Cooley: You did not.

The Hon. D. J. WORDSWORTH: We were presented with a ridiculous Bill which no Parliament would pass; it was put up as something this Chamber would throw out.

The Hon. G. C. MacKinnon: The original Workers' Compensation Act was written in this House long before I got here; and it was far and away more dominated by Liberals then than it is today.

The Hon. D. W. Cooley: Yes, 10 per cent of the basic wage.

The Hon. D. J. WORDSWORTH: The work done by the Select Committee added many benefits for workers, and this Chamber can be very proud of what it did in that respect.

I think there is a need at this stage for us to stop and see where we are going. We are not in actual fact taking a backward step by clarifying the decision of the High Court ruling because the rates have never been paid. I believe it is our right to clarify the situation that was envisaged by the Select Committee. Therefore, I support the Bill.

THE HON. G. C. MacKINNON (South-West—Minister for Education) [9.56 p.m.]: Mr President, the other day I was standing behind your illustrous Chair—

The Hon. R. F. Claughton: You are not going to make any personal remarks?

The Hon. G. C. MacKINNON: —no—and I heard a discussion in respect of a Bill which was being handled by the Honorary Minister (the Hon. I. G. Medcalf). The Bill was to ratify some acts that were considered to be improper and *ultra vires* the law.

The Hon. R. Thompson: Actions, not acts.

The Hon. G. C. MacKINNON: Yes, that is so. That is not an unusual situation. I believe the members participating in the debate were the Hon. R. F. Claughton, the Hon. S. J. Dellar, and the Hon. I. G. Medcalf; and I believe the Leader of the Opposition entered into it once or twice, but I may be wrong about that. Perhaps he entered into the debate by way of interjection.

As the debate was ensuing I was thinking that the situation was not unusual and that some time in the following week I would be debating exactly the same sort of subject: the clarification of a matter, the purport of which has been changed because of a legal decision. That is what we are doing; it is as simple as that.

The Hon. R. Thompson: The other Bill to which you refer was validating something that was done outside the law; in the case of this Bill, it was within the law.

The Hon. G. C. MacKINNON: It is as simple as this: it is the clarification of a situation. There is no doubt that the Select Committee decided that compensation ought to be on the basis of the wages determined by the award conditions across the State. I remember saying at the time that it would not matter if a worker were employed in Welshpool or in Port Hedland; he would receive the same amount. Special allowances and other extras would not be included. Incidentally, that was an offer made by industry, quite contrary to the prevailing thought of the Australian Labor Party in Canberra which wants to pay 85 per cent.

The Hon. D. W. Cooley: Don't go on with that; they will pay 85 per cent to sick people, too.

The Hon. G. C. MacKINNON: I have no hesitation in saying that the Hon. Les Logan, the Hon. Des Dans, and myself could have been knocked over with a feather when that offer was made.

The Hon. R. Thompson: That was what the Bill provided.

The Hon. G. C. MacKINNON: The industry accepted that on the basis that we reported back to this House.

The Hon. D. J. Wordsworth: Industry had no idea what it would cost.

The Hon. G. C. MacKINNON: Not really. By interjection Mr Wordsworth was asked whether he would accept the Commonwealth Government's offer of its compensation scheme. The honourable member would want his head read if he did not accept it. However, if ever a confidence trick was being perpetrated on the ordinary workers, surely it was the proposed compensation legislation of the Commonwealth Government, for which the workers in industry would have to pay. At the present moment workers' compensation is paid for by the employer.

The Hon. R. Thompson: What is the reason for the insurance companies becoming mad about this question?

The Hon. G. C. MacKINNON: Because they are in this line of business. What would the honourable member expect them to do? By the same token the insurance companies have a great deal of support from the ordinary workers. My position in respect of this legislation is probably unique. I was chairman of the committee of inquiry which comprised Mr Logan and Mr Dans. Being a Liberal Party member I am in a position to take an across-the-board view, because I live in Bunbury and have friends who are trade unionists. In fact, they vote Liberal, and they are subject to workers' compensation.

I have other friends who are employers. Furthermore, I have one son who is a worker and another who is an employer. So, my situation in this regard is quite unique. My views are not clouded by the class hatred attitude adopted by some people in respect of this measure. I am fair and unbiased in my attitude, and I must look at both sides of the picture.

The Hon. R. F. Claughton: That is this evening's funny story!

The Hon. G. C. MacKINNON: I think workers' compensation has been very fair to the bulk of the workers. In his comments Mr Wordsworth dealt with the absolute nitty gritty of the matter, and he pointed out that the fee has risen from 75c in 1971 to $7 at the present time. It is an alarming increase.

The case of Mr Kezich was brought up in the discussions on the Bill. It was pointed out that in the bulk of the situations in which that sort of worker operated, the courts had included workers' compensation in the award. Of course, one of the factors which influenced the 100 per cent award payment was that a tremendous number of industries had accepted the need to include in their awards total compensation payments.

Mr Dans has said—and I have no reason to doubt his comments—that Mr Kezich and one other worker had been paid under the conditions laid down by the Supreme Court. I have never found Mr Dans to be anything but truthful in his remarks. If he is right, then what is wrong with the Bill? It merely clarifies the situation.

Apparently there has been some argument before the courts as to what the provision in the legislation means. In my experience as a member of this House, it has been necessary in case after case for us to say, "We have not expressed the provision fairly, and neither has the Parliamentary Counsel, so we will have to rewrite it." Unfortunately, the judges do not take cognisance of intentions, and we have been reminded of that over the years.

I have referred to the advantages that I have in discussing this Bill. There is one other advantage I have, with regard to the measure before us; it is so clear and so eminently fair that I have absolutely no reason to indulge in personalities. In fact, I have been guilty of painting the lily and the comments of Mr Wordsworth in this debate. I therefore suggest that a vote on the second reading be taken.

Question put and a division called for.

Division Called Off

The Hon. R. THOMPSON: I request that the division be called off.

The PRESIDENT: There being no dissentient voice, the division is called off. I shall put the question again.

Debate Resumed

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. G. C. MacKinnon (Minister for Education) in charge of the Bill.

Clause 1 put and passed.

Clause 2: First Schedule amended—

The Hon. D. W. COOLEY: A very important principle is contained in the clause. It relates to the manner in which payments are to be made, and that is to be found in paragraphs (a) and (b) of clause 2 of the first schedule. It refers to the industrial agreement pertaining to the type of work that can be fairly applied, and to the wages, salary, or other remuneration payable at the time of the injury, prescribed for a week's work in the employment in which the injury occurs under an industrial award or industrial agreement.

The principle relates to the payment at the time of the injury, or payment at the time of the incapacity. On my interpretation of the provision if payment is made at the time of the injury, then it will remain static.

The Hon. G. C. MacKINNON: I have had some inquiries made, and I understand that if a person is due for his annual holidays, but for some reason he cannot take them until March, 1976, then if his salary today is $100 a week but his salary in March, 1976, will be $120 a week,

he will be paid at $120 a week when he takes his holidays in March next.

I understand exactly the same situation applies in regard to injury. If the accident occurred now and the wages of the worker are $100 a week, but the injury does not show up until next March when his wages will be $120 a week, then when he is off on workers' compensation next March he will be paid at the rate of $120 a week.

That is my understanding of the industrial law. If the President of the Trades and Labor Council thinks there may be some doubt, I am prepared to check on the situation.

Progress

Progress reported and leave given to sit again, on motion by the Hon. G. C. MacKinnon (*Minister for Education*).

House adjourned at 10.10 p.m.

Legislative Assembly

Wednesday, the 15th October, 1975

The SPEAKER (Mr Hutchinson) took the Chair at 2.15 p.m., and read prayers.

STUDENT GUILDS

Membership: Petition

MR GRAYDEN (South Perth—Minister for Labour and Industry) [2.17 p.m.]: Mr Speaker, I have a petition to present from the students of the Western Australian Institute of Technology, and it reads as follows—

> To the Honourable Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled. We the undersigned students of the Western Australian Institute of Technology in the State of Western Australia do herewith pray that Her Majesty's Government of Western Australia will remove the obligation on all students at Tertiary Institutions to belong to Student Guilds and that any future membership of Tertiary Student Associations be only on a voluntary basis.
>
> Your petitioners therefore humbly pray that your Honourable House will give this matter earnest consideration and your petitioners as in duty bound will ever pray.

The petition contains 2 097 signatures and I certify that it is in accordance with the Standing Orders of this House.

The SPEAKER: I direct that the petition be brought to the Table of the House.

The petition was tabled (see paper No. 477.)

QUESTIONS (27) ON NOTICE.

1. TRAFFIC

Charges, and Drunken Driving Convictions

Mr BATEMAN, to the Minister for Traffic:

Since the Road Traffic Authority took over traffic control in the metropolitan area—

(a) how many drivers have been apprehended;

(b) what were the numbers charged;

(c) what were the numbers convicted for drunken driving offences;

(d) what was the total overtime paid?

Mr O'Neil (for Mr O'CONNOR) replied:

(a) 61 660.

(b) 38 465.

(c) 941.

(d) $240 009.

2. CANNING VALE SCHOOL

Closure

Mr BATEMAN, to the Minister representing the Minister for Education:

(1) Is it a fact the Canning Vale Primary School will close this school year?

(2) If "No" will the Minister advise when the school is expected to close?

Mr GRAYDEN replied:

(1) No.

(2) A firm date is not yet known. The school will continue to operate for as long as possible.

3. QUESTIONS

Excessive Cost

Mr A. R. TONKIN, to the Premier:

(1) How has the sum of $1 200 per day for answering questions been arrived at?

(2) Will he table the computations made?

(3) Which members are asking questions so that they can complete a thesis for the degree of Doctorate of Philosophy, or are passing information on to candidates for such a degree?

(4) Could he particularise as to the cost of answers such as—

(a) "No";

(b) "See answer to question 4";

(c) "Police reports are considered confidential"?

(5) What research by officers is needed when a Minister refuses to disclose information?