Legislative Council

Wednesday, the 18th October, 1978

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

QUESTIONS

Questions were taken at this stage.

ALCOA'S WAGERUP ALUMINA REFINERY

Government's Approval: Ministerial Statement

THE HON. G. C. MacKINNON (South West—Leader of the House) [4.45 p.m.]: I seek leave of the House to make a statement on behalf of the Premier, and to table some papers in this House.

Leave granted.

The Hon. G. C. MacKINNON: The Government has given the go-ahead for the $200 million first stage of the alumina refinery to be built at Wagerup by Alcoa of Australia Limited.

The Government has accepted the recommendations of the Environmental Protection Authority.

At the conclusion of this statement I will table the following documents—

(1) Wagerup Alumina Project Environmental Review and Management Programme, dated September, 1978.

(2) Report and Recommendations of the Environmental Protection Authority of the Wagerup Alumina Refinery proposal of Alcoa of Australia Limited, September, 1978, bulletin No. 50.

(3) Bauxite Mining in the Darling Range, Western Australia, a report to the Environmental Protection Authority by its technical advisory group, dated August, 1978.

Approval for the Wagerup project to proceed has been given subject to conditions recommended by the EPA and accepted by Alcoa.

The Government accepts EPA's assessment that, under these conditions, the new refinery can operate economically for a minimum of 30 years without risk to forestry, water resources, or conservation and recreation.

The first stage of the project will provide direct work for almost 700 people at the peak of construction.

It will have a significant multiplier effect in allied and service industries, and will have a big beneficial impact on public facilities like railways, the Bunbury Port, and housing.

The initial permanent work force will be 250 people, rising progressively to 1 000 as the refinery grows to its approved size.

Commonwealth Fully Informed:

The State, by arrangement with the Commonwealth, has had the responsibility for detailed environmental assessment of the project.

It has fully informed the Federal Government on this question and has advised them that it is satisfied the project should proceed.

The Minister for Conservation and the Environment (Mr O'Connor) has flown to Canberra so that the Federal Minister for the Environment (Mr Groom) could receive a final personal briefing.

Our environmental conditions and approval to proceed are supported by the Commonwealth on the assurance that the Western Australian Government will ensure Alcoa's compliance with any agreement made with that company and the conditions imposed by the EPA.

Significant Test:

The process of arriving at the decision has been a significant and satisfying test of the environmental assessment required for major projects.

In compliance with the terms of its agreement with the Government Alcoa submitted a draft environmental review and management programme last May for approval by the State.

The document was subjected to intensive official assessments by the EPA, supported by a technical advisory group.

The draft ERMP was available for public review and comment for eight weeks.

The EPA considered 186 submissions received from individuals and organisations in response to Government advertisements calling for comment. Of these, 63 were major submissions.

The EPA recommended that the draft ERMP not be accepted by the Government in the form in which it was submitted.

Alcoa then submitted amendments to its ERMP in line with the EPA's recommendations and these were accepted.

Conditions of Development:

The conditions under which Alcoa will operate are as follows—

Alcoa is authorised at this stage to develop the Wagerup refinery to a production level of 2 million tonnes a year.

Further development of the Wagerup refinery, or Alcoa's two other refineries at Kwinana and Pinjarra, will be subject to State Government approval following the same kind of environmental assessment as has been applied to Wagerup.

Alcoa's mining plans will be subject to agreement between the company and the State—with proper regard for commercial viability and the requirements of forest management, conservation, water supplies, and recreation.

Provision has been made for a process of arbitration in the event of disagreement. This is in line with other major development agreements.

Research:

The State Government will establish a body to co-ordinate all research associated with land use in the Darling Range.

It will be known as the "Darling Range Study Group", and will have—

A full-time chairman reporting directly to Cabinet via the Premier.

A chief research scientist to advise on research priorities, monitor specific projects, and co-ordinate all relevant research.

Land use analysts to examine existing land uses, develop alternate strategies, and undertake analysis of policy options.

As part of the research work to be done, there will be a major new initiative in dieback research. The Government has been assured of Alcoa's matching support and co-operation.

It is important for the public to appreciate that the procedures leading to the Government's approval of the Wagerup projects are part of a constant process of Government and company co-operation in the sound environmental management of the development.

It is one of the strengths of the State's approach to environmental assessment that we do not stop short at assessment of the initial impact.

The State recognises that there is a need not only for exhaustive initial assessment but also for a continuing environmental management programme.

The importance of this can be appreciated from the fact that mining is expected to continue in the safe western zone of the Darling Range well into the next century.

It is of importance also that the State and company have agreed that mining will not take place in the eastern lower rainfall zone of Alcoa's mining lease until research shows that it can be done without significantly increasing the salinity of present or future public water supplies.

Going ahead:

Now that the required assessment has been thoroughly and properly completed, and approval given, I am sure the whole State will look forward to this important project going ahead as quickly as possible.

It will bring great employment opportunities and economic and social benefits to the south-west and to the State as a whole, without threat to the environment.

We intend to play our part in seeing that this job proceeds as quickly and effectively as possible.

I table a copy of this statement, together with the documents to which I have already referred.

The papers were tabled (see paper No. 366).

MARINE NAVIGATIONAL AIDS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 17th October.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [4.52 p.m.]: The Opposition supports this Bill; it seems to be a reasonable suggestion that fishing boats should be asked to pay a fee—I think the figure nominated in the Minister's second reading speech was $20 a year—in order that navigation lights used by fishing boats being maintained by the Harbour and Light Department can continue to be maintained. No doubt, in the future, those navigational aids can be improved.

The only thing which concerns me is the flat rate of $20, which represents something like 39c a week. As I understand the present situation, the owner of a licensed fishing boat pays for his licence, for instance, in Fremantle for which he receives certain facilities. In addition, a licence may be issued in Geraldton or somewhere else. One would assume that part of the licence fee paid would be for the installation and maintenance of modern navigational aids used outside of the particular recognised harbours. Probably I will be asking some questions on this matter during the very short Committee stage.

While this Bill appears to tack on to the end of the Act a provision relating to the imposition of a flat fee of $20, I must assume that $20 is not the total amount which goes towards the maintenance of these modern navigational aids. Having said those few words, perhaps I will just have to wait until the Bill goes into Committee to obtain the right kind of answers.

The Hon. J. C. Tozer: Is the $20 fee provided for in the Bill?

The Hon. D. K. DANS: It is in the Minister's second reading speech, where he states—

> The fee will be prescribed by way of regulation and in the first instance it is expected to be struck at a flat rate of $20 per year.

The Opposition supports the Bill.

THE HON. R. F. CLAUGHTON (North Metropolitan) [4.54 p.m.]: The striking of a flat fee of $20 a year amounts to a new charge. I refer members to a comment made by the Premier before he brought down his Budget on the 31st August, in which he claimed the Budget would impose no new tax. I feel that statement was a little dishonest in the light of this legislation. However, we are not complaining about the matter; I rise only to draw members' attention to the comments made by the Premier.

I assume that the sums expected to be raised by this new charge appear in the Budget, and provision is made for spending that additional income. If that is the case, the Premier should be more careful in the statements he makes. When the public read a headline to the effect that there will be no new taxes, they take it no new taxes or charges will be imposed as a result of the State Budget. Although this new fee is to be levied as a result of legislation introduced subsequent to the Budget, I believe a close examination of the Budget papers would reveal these charges already have been provided for. Perhaps the Minister in charge of the Bill can comment on this matter.

However, the Budget papers are not sufficiently detailed to permit us to determine whether increased funding is provided for from this source. On page 16 of the Estimates of Revenue under the heading "Harbour and Light" we are informed that conservancy dues are expected to net $2.154 million in the 1978-79 financial year, which represents a substantial increase over the actual receipts for the previous year of $1 872 353; jetty receipts for this year are estimated at $1.258 million, pilotage at $1.273 million, boat registration fees at $290 000, and "other" at $223 000. We cannot determine from those figures what provision has been made for increased collections from this source.

Representations were made to me some time ago by several people who used a small boat facility; they complained about the fee they were required to pay to use that facility and said that a lower fee applied, say, at Fremantle where the facilities were so much better.

The Hon. D. J. Wordsworth: To whom were they paying it?

The Hon. R. F. CLAUGHTON: In this case, I believe they were paying it to the proprietors of the private marina at Two Rocks which, of course, is a different situation. I am sure this sort of problem is likely to occur again, since this new charge is to be levied to raise funds to provide further facilities for boat owners.

Perhaps the Minister can advise us whether, in fact, an estimate was made of the collections which would result from the imposition of this new fee, and whether it was provided for in the Budget papers.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [4.59 p.m.]: I thank the Opposition for its support of this Bill. It will be difficult to debate this Bill in isolation from the Shipping and Pilotage Act Amendment Bill which is to follow.

The Hon. R. F. Claughton: I realise the last matter I raised should have been on the next Bill; however, I did not want to speak twice.

The Hon. D. J. WORDSWORTH: I believe it is better to have a cognate debate. The Leader of the Opposition mentioned that some boat owners already pay conservancy dues. Probably, they are not paying those dues for the lights, but for the facilities they enjoy.

The Hon. D. K. Dans: I understand that; that was the point I was making.

The Hon. D. J. WORDSWORTH: It is confined to three ports; yet the boats are going out from those ports and from others. They do require a more sophisticated navigational system than they had before. In the past we had a rather poor record in regard to the loss of fishing vessels in Western Australia. I do not know whether that can be put down to the fact that the navigational aids are designed primarily for shipping rather than for fishing vessels.

Slowly we have been installing one or two navigational aids here and there. It is hoped that the small charge to be imposed will bring about the development of a navigational system which will be worth while. I do not know, but I would

think it would be reflected in the insurance premiums that apply to fishing vessels.

I thank members for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Section 3A added—

The Hon. D. K. DANS: Perhaps at this stage I can pursue the question I raised earlier. Proposed new section 3A (1) states—

> Subject to subsection (2) of this section, there are payable to the Department in respect of every fishing boat fees at such rates as are prescribed in respect of the provision of marine navigational aids outside any port under the control of a Port Authority and the approaches to that port.

Then the proposed new section makes mention of regulations for prescribing the fees payable.

I am not sure of this, but when the licence fee on a fishing vessel is paid—no doubt there are other fees, such as survey fees—some part of that fee, which goes to the Harbour and Light Department, should be extracted to provide navigational aids. I take the point made by Mr Claughton; whilst this measure looks innocuous enough, the whole of the new fee of $20 will go towards the maintenance of the existing navigational aids and the provision of new ones.

Can the Minister tell me how much of the fees previously paid by fishing vessels as the licence fee go towards the provision of these aids, and to what extent the other $20 will be so used? It seems to me that we need more navigational aids. In these days fishing vessels use radar and other highly sophisticated equipment. I do not think that is the reason there are more fatalities resulting from the use of these boats, because we now have many more fishing vessels operating For that reason we need the finance to provide additional navigational aids. To what extent will the $20 finance the navigational aids and subsidise the fees already being paid?

The Hon. D. J. WORDSWORTH: I have not the accounts of the Harbour and Light Department with me. Even if I did I do not think they would indicate where the current fees go. I would hazard a guess and say that the fees paid to the Harbour and Light Department have not met the cost of the services the department provides. That is one of the difficulties.

Indeed, the Public Accounts Committee of another place has looked into the accounts of the Harbour and Light Department, and it subsequently recommended that the fees be reviewed. That is the reason the legislation is before us. That committee found that the charges were of little relevance to the facilities provided.

The provision set out in proposed new section 3A (1) indicates the money will not be spent on the lights and other navigational aids supplied for the port; the money will be used for different aids, and a separate account will be kept of them.

The Hon. D. K. DANS: The Minister has raised the question of the Public Accounts Committee making a certain recommendation. I must make this point for the record: the proposition of the Public Accounts Committee could have been included in the second reading speech of the Minister, because that would have removed any doubts. The recommendation of the committee confirms my view that we were falling far short in collecting revenue from a profitable industry, so as to provide the necessary aids.

More importantly, the inquiry by the Public Accounts Committee would let the Parliament know that it was serving a purpose; in other words, as a result of these investigations it had unearthed the fact that the fishing industry had not been doing badly at public expense.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

SHIPPING AND PILOTAGE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 17th October.

The Hon. D. K. DANS (South Metropolitan—Leader of the Opposition) [5.09 p.m.]: The Opposition supports this Bill, but again I have some queries to raise. The first part of the Bill refers exclusively to fishing vessels. It indicates that these vessels should be making some contributions towards establishing and maintaining navigational facilities provided specifically for their safety and convenience. That seems to fit the prescription of the Bill we have just debated.

I draw attention to the second reading speech of the Minister in which he said—

> It is reasonable for the industry to contribute towards the cost of harbour and mooring facilities provided for its exclusive use.

The Bill then mentions the fishing boat harbour and mooring pens, and deals with the yacht clubs and private marinas. Of course, that makes the very point that people are getting into the habit of dropping moorings in places where they should not.

It seems to me that the Bill trails off into a grey area.

The Hon. D. J. Wordsworth: Are you referring to the Bill or the speech?

The Hon. D. K. DANS: The Bill. The speech makes no reference to that, so the area cannot be grey or any other colour. The Bill keeps away from fishing boats, and provides for certain things in respect of other types of vessels.

One question which I shall raise in the Committee stage relates to the provision of moorings involving pleasure craft. I am referring to the pleasure craft which require substantial moorings, and not the small one which could be anchored safely and taken up on ramps.

The second part of the Bill relating to the fishing boat harbour or mooring control area is long overdue, and I commend the inclusion of that part.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [5.12 p.m.]: I thank the Opposition for its support of the Bill. Like members opposite, I have to admit it is difficult to ascertain the area in which the two Bills merge. I know a problem was experienced in the drawing up of the legislation. The Crown Law Department looked into it, and this was the way in which it prepared the legislation. I am sure the legislation is in order.

I have passed around the Chamber an amendment to correct a typographical error in the Bill, and this can be understood readily. I shall deal with it in the Committee stage.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 to 6 put and passed.

Clause 7: Section 9A added—

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

> Page 3, line 33—Delete the words "boat harbour" and substitute the words "mooring control area".

The Hon. D. K. DANS: I should like the Minister to explain the definition of "mooring control area". I should like to know also how such an area would be arrived at. I can see the need for the amendment; but a mooring control area could be anywhere.

I should like to look also at the question of how a mooring control area would affect privately owned craft, because it is a very important issue to private boat owners. If, in fact, the designation of mooring control areas will affect private boat owners, in addition to licensed fishing boats, it is a matter of great concern.

The Hon. D. J. WORDSWORTH: I refer members to the wording of the definition of "mooring control area" on page 3 of the Bill.

The Hon. D. K. Dans: I read that; but it is as clear as mud.

The Hon. G. C. MacKinnon: I thought an old seafaring man like you would follow it.

The Hon. D. K. Dans: No; this is on the river.

The Hon. D. J. WORDSWORTH: The areas will be declared in certain cases only. The Harbour and Light Department will be responsible for declaring these areas and that department can pass on its authority to other organisations such as the Rottnest Island Board. The situation will be the same as that which exists in ports where a harbour master has various obligations and controls shipping in the same way as the Harbour and Light Department will declare these areas.

The Hon. D. K. DANS: I should like to mention two points. The Minister has tried to explain the matter. When he mentioned Rottnest Island I immediately started to think about the matter. Mr Masters and Miss Elliott know about Rottnest Island. People pay for moorings there and all kinds of arguments are caused by people tying up at other people's moorings. Sometimes scuffles take place. How does one arrive at a mooring control area? That is my first point.

The second point is: will the mooring control areas cover private craft as well, because it is in this area that the Bill is unclear? I am not blaming the Minister. A great deal of legislation is introduced from time to time which is not clear. I suggest that the mooring control areas include private craft and we are dealing with a certain type of private craft which requires a regular

mooring. A number of people for various reasons over the years have moored their craft in certain sections of the river, alone and unimpeded. I am not talking about people who drop moorings everywhere. I am talking about the owners of private craft who will suddenly come under the authority of someone who will say, "Twenty boats have moored down near the Oyster Beds Restaurant in Fremantle for the last 40 or 50 years. They are not attracting any fees." It will be suggested that area should be declared a mooring control area and fees will be levied on the owners of those boats.

I refer members to the wording of proposed new section 9A(1)(a). It is in this area that the Bill is not clear. I am not saying I am opposed to it; but a number of people in the area I represent own boats and a number of people who are not in my electorate own boats. They will be affected by this legislation.

In passing I should like to say that the private boat owner is treated very badly in respect of facilities and services provided as a result of the dues collected from him. I would go so far as to suggest that if a Government had the intestinal fortitude to say, "We will up the fees, but we will provide more facilities for you," it would be welcomed by the people who own boats.

I know where the amending Bill starts, but I am trying to find out where it ends. The Minister has mentioned Rottnest Island; therefore, that suggests the Bill will cover private craft. We are supporting the Bill; but I have to receive the information I require.

The Hon. G. E. MASTERS: I am particularly concerned also in regard to the matter about which the Hon. Des Dans spoke. I am at a loss to know exactly how mooring control areas will be defined. I should like to talk specifically about Rottnest Island which has been mentioned. As far as mooring control areas are concerned where say, the Rottnest Island Board controls a certain area, does it mean it controls craft on permanent moorings, or does it mean it controls all craft in that particular area whether they be on permanent moorings or at anchor? Will these craft be able to be moved around? Will the entry of craft be restricted? I do not know what is meant by mooring control areas and whether a body such as the Rottnest Island Board will control them or whether there will be any control at all.

The Hon. D. J. WORDSWORTH: We should read this in the correct context.

The Hon. D. K. Dans: I have tried that.

The Hon. D. J. WORDSWORTH: Section 12 of the principal Act reads as follows—

> 12. The Governor may make regulations for any purpose necessary or convenient for the administration of this Act and in particular, but without limiting the generality of the foregoing—
>
> (a) relating to special precautions and measures to be taken in relation to the movement, berthing, loading and unloading of vessels carrying flammable liquids;
>
> (b) prescribing tide signals and other signals to be used in ports;
>
> (c) imposing penalties not exceeding two hundred dollars or imprisonment for three months for offences against the regulations.

This should be read in conjunction with clause 10, proposed new paragraph (bb) which reads as follows—

> . . . relating to the provision within a mooring control area of mooring sites and the hire, sale or free allocation thereof to the owners of boats, to the registration of mooring sites and of all or any of the boats using the same, to the supervision of mooring sites and to the maintenance and use thereof by the owners or users of boats, . . .

That will apply to all boats. In other words, a fee may be charged for any boat.

I do not believe there is a designation setting out when one should have a registered mooring. Whether one is a fisherman or the owner of a private boat, one is using a mooring. In the previously prescribed areas which were, of course, within the control of port authorities—for example, Esperance—the moorings or the mooring sites were controlled by the authority. The authority surveys the moorings and inspects them to ensure they are in the correct position. The authority may even lay the moorings. The moorings have to be surveyed.

This procedure has been in operation for some time. In Esperance a small fee is paid for a mooring. That applies to fishing boats and private craft. There is no difference in the fee charged for different types of boats.

The Hon. D. K. DANS: In all fairness to the Minister, members know this is not a political Bill. In view of the last explanation given by the Minister, it would be far better if we found out the real meaning of this Bill before it is passed through the Committee stage. With all due respect to the Minister, I believe he is in the same situation as I; that is, he is not clear about the

true situation. The answers he has given are well known to me and to other people in this Chamber. To cite an example, the Rottnest Island Board has the right to allocate moorings.

The Hon. D. J. Wordsworth: Has it at present?

The Hon. D. K. DANS: The board has that right at present, and it has had that right for many years.

The Hon. G. E. Masters: It has assumed a right.

The Hon. D. K. DANS: The honourable member may be correct. In addition, the board gives the right to one of its employees to contract for the laying of the moorings. There is no argument about that. One cannot put one's mooring where one thinks it should be put. One has to put it where the board tells one to put it. The board has assumed further power now. When one sells one's boat, one sells one's mooring also. The board is a power unto itself.

The same situation is in existence as far as the Fremantle Port Authority is concerned. It has that right not only in regard to the small craft under its control, but also in regard to the anchoring of ships as distinct from mooring of ships. If one goes to the Fremantle Fishing Boat Harbour one finds the same situation prevails. Of course, moorings must be surveyed. Certain parts of the area controlled by the Swan River Yacht Club are surveyed in order to be used as pen space and another area is surveyed for mooring purposes. A mooring is available at a fee. The mooring must be laid and inspected.

There are areas in the river where people are mooring their craft now and they have done so for many years. They probably took over the mooring from their fathers. This Bill refers to fishing boats and it then seems to trail off. I do not believe it is deliberate.

When this Bill is proclaimed it will cause a number of problems if, in fact, we have not examined it and do not know the full implications of it. I am not against the intentions of the Bill; but I should like to know the exact position as far as this area is concerned. In line 25, on page 3 of the Bill, fishing boat harbour fees are referred to. These fees are mentioned up to line 30 and then the Bill goes on to talk about mooring control areas. It jumps from one area to another without explanation. On page 4 the following words appear—

> (2) The regulations may provide that fishing boats or boats of a specified class, or of specified classes, are exempt from the payment of the fees referred to in subsection (1) of this section.

All the way down the page it is talking about matters in relation to fishing boat harbours or mooring control areas.

It is only at this stage of the Bill that the mooring control area comes into it. I think the Chamber is entitled to have more information, and I respectfully ask the Minister whether he could obtain that information. The progress of the Bill will certainly not be impeded by me or any member of the Opposition, as far as I know, but I think we should have the appropriate explanation. If the Minister has been giving it to me, perhaps I am not understanding it, but the Bill is very unclear.

The Hon. D. J. WORDSWORTH: This is an amending Bill, and the clauses in an amending Bill do not follow on one after the other, because they amend different sections of the parent Act.

Let us look at the situation which prevailed previously. The Act applied to ports only, but we are now adding mooring control areas and designating a new circumstance of mooring control areas. The situation in relation to mooring control areas will be the same as that relating to ports. I mentioned what happened at the Port of Esperance. I believe the same thing happens in various areas under the control of the Fremantle Port Authority with—

The Hon. D. K. Dans: Yacht clubs and marinas.

The Hon. D. J. WORDSWORTH: —yacht clubs and marinas, which I think might come under the Port of Perth, which in turn comes under the Harbour and Light Department. The Bill creates the same situation in those areas as applies in the areas under the control of port authorities. There is nothing very complicated about it. The Bill sets up outside the port authority areas new areas where mooring can be controlled. I believe what will happen is fairly well described. As regards Rottnest—

The Hon. D. K. Dans: It is working there, and has been for years.

The Hon. D. J. WORDSWORTH: Mr Masters does not think it has been working very well for years. He is very unhappy about it. He has been trying to moor a boat at Rottnest for a long time.

The Hon. D. K. Dans: With some success.

THE Hon. D. J. WORDSWORTH: I am not sure how much success he has had. I think he would be better off in a calmer spot, anyway.

It is clear what will take place. Certain areas will be declared. We have given one example; that is, Rottnest, where I understand the board will have a permanent employee supervising the

moorings around the island, some of which will be permanent and some of which will be available for those who want to ride at anchor overnight.

The Hon. G. E. MASTERS: I am still not clear about that point. The Minister was talking about controlled mooring, and the next moment he talked about permanent moorings. We have been discussing controlled mooring areas, where a control board, or whatever it is, can take control of the area. We have not been discussing permanent moorings.

I want to know how much control there will be in these areas. Perhaps we could talk about particular areas such as Thompson's Bay, Geordie Bay, and Longreach. If the whole area is to be classed as a controlled mooring area, the Rottnest Island Board will control the total area—every craft in it and the anchorages as well as the permanent moorings. Are we talking about permanent moorings in these areas or the mooring itself? There is a big difference.

The Hon. D. J. WORDSWORTH: I believe not all the designated area will be allocated to fixed moorings. Part of the area will be available for boats to ride at anchor but it will still be under the control of the authority. As regards Rottnest, I understand the board will appoint a permanent employee who will have the use of a boat; not only will he iron out the difficulties with people poaching on one another's moorings but he will also have some control over the area where boats will be able to ride at anchor.

The Hon. D. K. DANS: The Minister has told me some of the things I was trying to find out. In fact he has confirmed a point of view I had not thought of. I take Mr Masters' point that perhaps the Rottnest Island Board assumed certain powers years ago and allocated moorings to certain people. They are fixed moorings.

Another point I was going to raise throws some doubts on the legality of the action of the Rottnest Island Board in allocating moorings. We will go through this step by step. Scuffles have taken place over the years, and the constabulary and the Rottnest Island Board have been careful to stay out of them. They are part of the scene at Rottnest.

It seems to me Rottnest will be one of the first areas to be proclaimed a controlled mooring area. The Minister said the board will have a mooring inspector supervising the area. On occasions it will be like a very busy traffic intersection in a big city, where the police switch off the traffic lights and the traffic sorts itself out with a policeman on a corner. People will have to be turned away. If that is what the Bill means, I do not think there is anything wrong with it, but I would like to know for certain. The Bill is obscure. With due respect to the Minister, he has changed direction.

Let us put Rottnest aside. We then have various other areas. The Minister is now saying the Bill will give the Harbour and Light Department the right to control moorings along the whole length of the Swan River, if it deems it necessary. Fees are charged for regular moorings. The Bill will also give the department the right to tell a boat owner to pull up his anchor and move on, if in the opinion of the inspector there are too many boats in the area. In some circumstances one would have to agree with that—if, for instance, someone were to anchor his boat in the middle of the skiing area on the Canning River. I think the Harbour and Light Department already has the power to do that in designated skiing areas.

The point I make is the Bill trails off to nothing, even reading it with the parent Act. It does not specify what the Minister says it purports to specify. There are moorings in fishing boat harbours. The Act speaks of vessels tying up to other people's moorings. I understand that, but then we have a grey area.

If the Bill is designed to give the Harbour and Light Department power not only to control the waters in the port authority area but also to tell people where to moor their boats on permanent moorings and, in certain circumstances, not to moor their boats at all, we have a tiger by the tail. People understand things if they are presented in the correct manner. I definitely do not understand the Bill at that point. If anyone were to ask me tomorrow what the Bill really means, I could not answer.

The Hon. D. J. WORDSWORTH: I think on his trips to Rottnest the Leader of the Opposition has found out more than I know.

The Hon. D. K. Dans: Leave Rottnest out of it.

The Hon. D. J. WORDSWORTH: I have not had the benefit of that information. He said the Rottnest Island Board has used these powers, but it is not known whether they were legally used.

The Hon D. K. Dans: No-one is arguing about that.

The Hon J. C. Tozer: The board has the power to make by-laws, and it does so.

The Hon. D. K. Dans: Effectively.

The Hon. D. J. WORDSWORTH: The question was raised whether the power applies at sea. Let us not look to the future. Where does a boat from England moor now?

The Hon. D. K. Dans: It all depends where it arrives, for a start.

The Hon. D. J. WORDSWORTH: If it arrives off Fremantle, where will it moor?

The Hon. D. K. Dans: I will answer you when I get to my feet again.

The Hon. D. J. WORDSWORTH: The problem is already being experienced. There are not enough suitable places for mooring boats. I believe the Bill will solve many of the problems. It does not state specifically what percentage of a given area will be designated. I do not believe it is possible to do that. The Bill gives the required powers, and their use will result in a better position than we have now.

The Hon G. E. MASTERS: The Minister has cleared up one point as far as I am concerned. We are not talking about permanent moorings; we are talking about the total mooring areas. I suppose we have concentrated too much on Rottnest, but it is a perfect example. We could speak of Bunbury, Mandurah, Rockingham, or any other place. Controlled mooring areas could be progressively created on the Swan and Canning Rivers, for example, and the Harbour and Light Department inspectors could go up and down the rivers telling people, "You can't moor here." I assumed we were talking about permanent moorings, but it now seems that controlled mooring areas can be proclaimed anywhere.

Taking again Rottnest as an example, we could say all the bays around Rottnest are mooring control areas, and then we could issue the officer in charge with a boat and he would go around all the bays organising boats and perhaps levying a charge and telling boat owners where to moor their boats. For a start, it would be a bad PR exercise. As the Minister explained the Bill, that is exactly what could happen.

Rockingham is another fast developing area, and the same situation could occur there. It could also occur in the Canning and Swan Rivers. We could reach the stage where control is so complete anyone dropping anchor in a river could be told to move on. I would not think that would be acceptable to anyone. The Minister has made it clear that is what could happen as the Bill stands.

The Hon. D. J. WORDSWORTH: Perhaps that could happen; nevertheless, it does not happen in ports today even though port authorities have these powers. Those authorities obviously do not go to this extreme. We are providing that this power may be given to authorities other than port authorities—such as the Rottnest Island Board.

The Hon. D. K. DANS: I am not making myself understood. I have said the Opposition supports the Bill, and I see no reason to change my mind. I am trying to ascertain the extent to which this Bill trails off. The Minister asked what would happen if I arrived here from England in a boat. If I arrived at the Port of Fremantle, whether in a yacht or a launch, the vessel would be boarded by quarantine and customs officers. If the vessel was cleared by them, I would be directed to an area to tie up the boat. Bearing in mind the drug problem, if my vessel was a yacht the customs officers would then dismantle it piece by piece and put it back together again. There is no problem there.

The Hon. D. J. Wordsworth: The point is the difficulty they would have in finding somewhere for you to moor.

The Hon. D. K. DANS: I am coming to that. When I commenced to talk about this I was referring to fixed moorings which are put in place by port authorities. We understand they have the right under this measure to move boats around and to say where moorings shall be situated. There is no argument with that.

Then we come to the Rottnest Island Board. Rightly or wrongly, it has devised a scheme under its own by-laws to enable people to moor their boats at fixed moorings.

At first we referred to fishing boats, and then we moved into this grey area. I want to know what are the other craft or classes of boats which will be included in this category. A specific answer from the Minister would satisfy me in that respect.

Now the Minister has told us that a mooring control area will be something more than that. I can imagine the difficulty an inspector would experience at Rottnest in trying to organise the situation when 5 000 or 6 000 boats descend upon the island. He would be running around saying, "Drop your anchor here; no, pull it up and move over there."

It is quite obvious that "mooring control area" means a lot more than I thought at first. If it refers only to fixed moorings, we could designate the type of craft to be allowed in the area. However, if it means the area could be designated anyway, and any boat mooring in the area—I presume we are not arguing about the definition of "moored" and "anchored"—

The Hon. R. F. Claughton: Is that a factor?

The Hon. D. K. DANS: Not really, but the mooring to which one anchors must also be controlled.

The Hon. R. F. Claughton: If you have an anchor down, are you moored; or is it something different?

The Hon. D. K. DANS: The Minister has said the boat would be moored if it is in a mooring control area; and the owner could be directed by an inspector to move the boat. The Bill does not specify there must be an inspector, but one could assume that an inspector would have to operate at Rottnest Island and on the river. One could also assume an inspector would have to operate at Rockingham, at Garden Island, and at Warnbro Sound.

The Minister has not yet given an answer that satisfies me in respect of the first question I asked. I am sure there is an answer and if the Minister gives it, that will be the end of the matter.

The Hon. D. J. WORDSWORTH: I am endeavouring to get to the problem, because there is no sense in adjourning the debate unless I know exactly where we stand. We have to proclaim these designated areas.

The Hon. D. K. Dans: That is not difficult.

The Hon. D. J. WORDSWORTH: The difficulty lies in the fact that in some areas a port authority might have the power, and we might want to give that power to some other authority.

The Hon. D. K. Dans: The port authority already does this.

The Hon. D. J. WORDSWORTH: That is right, but we want to be able to take the power from the port authority and give it to, say, the Rottnest Island Board.

The Hon. D. K. Dans: Would you like to try to take something away from a port authority?

The Hon. D. J. WORDSWORTH: This is one of the complications of the legislation. The measure gives powers which must be proclaimed by the Governor, and he could revoke some designated areas if need be. We admit disorder exists at present in many places, and we admit it is doubtful whether, for example, the Rottnest Island Board has power to do what it is doing at present. The Bill will remove that doubt.

I believe nothing but good can come from the measure and I see nothing suspicious in it. Mr Dans referred to a great many boats descending upon Rottnest; all I can say is that the situation will be a darned sight better with a mooring inspector than without one. At least the inspector will have some powers under this Bill whereas at present he has none. Obviously a certain amount of control must be exercised in respect of moorings. The moorings must be situated in such a fashion that boats of different sizes will not collide when the wind changes. It is a complicated matter, and the situation will be a lot better under this Bill. It is better to have some control than none at all.

The Hon. D. K. DANS: I am becoming frustrated, and I do not think I will rise many more times. If the Minister would answer, "Yes, we are going to proclaim mooring control areas and they will apply to all pleasure craft" I would be happy. If he cannot answer in that manner, then he may say, "Yes, 'mooring control area' means what we have been talking about and will apply not only to fishing boats but also to craft above a certain size or a certain depth." The provision in the Bill which we are discussing at present is open ended, and I am seeking specific answers from the Minister. He has already said that we are not talking about fixed moorings, as we are in the amendment.

A "mooring control area" could be any area that is so designated. Within such an area fishing boats or boats of a specific class—which could mean up to a certain length or tonnage—may be exempt from the provisions of the Bill. That means that some classes of boat will not be exempt. What kind of boats are we talking about? Are we referring to the 14-foot runabouts? What limits will apply, and will they refer to length, depth, or tonnage?

I reiterate that we support the Bill, but we are simply seeking information. I cannot sit down and let the measure pass through the Committee stage without knowing what it means.

Mr Wordsworth has not given me any valid explanation, although he has told me that "mooring control area" includes moorings of any kind and not just fixed moorings, and that is not stated in the Bill. I simply want him to say what kind of craft this provision will apply to, and where it will be applied. If the provision will be applied to areas under the control of the port authority or the Harbour and Light Department in respect of the Swan, Canning, and other rivers, then the Bill gives sweeping powers to those authorities. This could seriously hamper people in their enjoyment of the sport of boating.

I do not mind additional charges being imposed, provided some benefits flow from them, such as ramps from which people may launch their boats. If the Minister says, "Yes, it does apply to private boats and there will be controlled mooring areas although I cannot tell you where" or, "Yes, it will apply to boats anchored as against boats which are moored, and it will apply to all classes and sizes of craft", then I will have

the information I require. At the moment it is an open-ended situation.

Sitting suspended from 6.00 to 7.30 p.m.

The Hon. D. J. WORDSWORTH: Perhaps I can make the speech for the Independent member who wanted to speak before the tea suspension. He produced the *Concise Oxford Dictionary* and wanted to explain the difference between "at anchor" and "at mooring". If we read this as such, it will probably clear the air a little. We are referring to fixed moorings, and not to boats at anchor.

The Hon. D. K. Dans: You are saying that unequivocally—

The Hon. D. J. WORDSWORTH: Yes.

The Hon. Neil McNeill: That is what Mr Dans wanted.

The Hon. D. K. Dans: That is right.

The Hon. D. J. WORDSWORTH: I am told that under section 16 of the Marine Act yacht clubs are given specific rights for their members to moor in a designated area. The people at Rottnest Island do not belong to a club, and at the moment they cannot have the same rights. One of the main effects of the Bill is to put them in the same category as the members of a yacht club. In other words, the Rottnest Island Board will give exclusive permission to moor yachts there. I am told that other yachts will be able to sail amongst them. I was partly right in relation to "anchoring"—that people cannot go in and anchor there. We have designated an area where the moorings will be. Only those people who have a mooring can moor their boats on those moorings. They can give permission to someone else to moor at their mooring.

The Hon. Lyla Elliott: What about the pens on the Rottnest jetty?

The Hon. D. J. WORDSWORTH: Please!

The Hon. Lyla Elliott: It refers to "pens", does it not?

The Hon. D. J. WORDSWORTH: There will be fairly restricted areas which will be allocated for this purpose. There will be other places available for those who wish to anchor. There will be, I presume, quite an open fight over that. It will be "first in, first served". There will be no fee charged for those yachts at anchor. The fees will apply only to those at moorings.

The Hon. Lyla Elliott: I am serious about the pens.

The Hon. D. J. WORDSWORTH: I will return to the pens later on. In relation to the class of boat, it does not matter if a person wishes to have a dinghy at his mooring. "Classes of boat" refers to other portions of the Bill. It does not refer to this. One clause has to be read in conjunction with the others. They all refer back to the parent Act.

Thompson's Bay used to be part of the Fremantle Port Authority area. When the Harbour and Light Department obtained a bigger vessel which could go further out to sea, that area was excised from the Fremantle Port Authority area and given to the Harbour and Light Department. That department gave permission to the Rottnest Island Board to take over those activities. I think that answer Mr Dans' question, and it will clear the air.

The Hon. LYLA ELLIOTT: What about the pens on the jetty? I do not think the Minister took my question seriously. It was a serious question. Subparagraph (ii) of proposed section 9A(1)(a) refers to "mooring pens within the fishing boat harbour" which is to be changed to "mooring control area".

The Hon. D. J. Wordsworth: No, it is not.

The DEPUTY CHAIRMAN (The Hon. D. W. Cooley): The amendment is to delete the words "boat harbour" in line 33, and substitute the words "mooring control area".

The Hon. LYLA ELLIOTT: And "mooring control area" goes in there, does it not?

The Hon. D. J. Wordsworth: Yes.

The Hon. LYLA ELLIOTT: What is the Minister telling me?

The Hon. D. J. Wordsworth: A pen is not a mooring area.

The Hon. LYLA ELLIOTT: I am not talking about the mooring area. I am talking about the mooring pens. What is the Minister's definition of a pen? At Rottnest Island there are pens on the jetty. Is the Minister talking about these areas, or is he talking about the mooring spots out in the bay?

The Hon. D. J. Wordsworth: We have been debating the definition of "mooring control area".

The Hon. LYLA ELLIOTT: Can the Minister define "mooring pen" for me? Does "pen" include the allocation of space on a jetty? That is how it is referred to by the Rottnest Island Board. If one wishes to take a space on the jetty, there are pens on the jetty. Does the Minister's definition of "mooring pen" under subparagraph (ii) include pens on a jetty?

The Hon. D. J. WORDSWORTH: Yes, pens can be included, but they are not part of the mooring area. We have been arguing about "mooring control area". The board always had

control over the pens, and it will continue to have control over the pens. It can ensure that other boats do not go into the pens.

The Hon. R. F. CLAUGHTON: I have some thousands of boat owners in my electorate who can be pretty vociferous. I would like to clear up everything possible at this time. I think I understand what is involved here. There will be areas designated as "mooring control areas" and outside of them—

The Hon. D. J. Wordsworth: They are similar to a yacht club area.

The Hon. R. F. CLAUGHTON: —there is no control. It seems clear that Rottnest Island will be one of the areas designated.

The Hon. D. J. Wordsworth: Very small areas of Rottnest Island, yes.

The Hon. R. F. CLAUGHTON: Could the Minister advise what other localities the department has in mind to be designated?

The Hon. D. J. Wordsworth: No, I am afraid I cannot. The main problem is to overcome the Rottnest Island difficulty. The Rottnest Island Board requested the Government to introduce this legislation.

The Hon. R. F. CLAUGHTON: Does that mean there are no other specific areas in mind at the moment?

The Hon. D. J. WORDSWORTH: I do not know of any. Whether other organisations will use the Act and request the same facility, I do not know. At this stage, the Bill is designed to overcome the problem at Rottnest Island. If this is successful, I do not know whether there will be other requests.

The Hon. D. K. DANS: I think the Minister has now answered the question I asked earlier this afternoon. Mr Masters touched on this thorny problem earlier. What this Bill sets out to do, notwithstanding what Mr Tozer says, is to make legal what the Rottnest Island Board has been doing illegally for a number of years. Do not let us get into the rights and wrongs of the matter. That is what it is doing.

The board has always had control through the Fremantle Port Authority over vessels using the jetties on Rottnest Island, including the pens. The control of Rottnest Island passed out of the control of the Fremantle Port Authority into the control of the Harbour and Light Department. The department is now going to designate those particular areas as "mooring control areas". It will solve the problem of a boat entering the bay, and being in the way of another boat so that one boat hits another boat. I fully support that proposition.

The Bill will also provide more control down the river, where people sail into a designated mooring area controlled by a yacht club, or into the fishing boat harbour which is controlled by the Fremantle Port Authority. Those organisations will have the same rights to stop a boat anchoring in a designated mooring area. They experience exactly the same kinds of problems.

I think the Minister has answered my questions to the best of his ability. I do not know if there are going to be any more controlled mooring areas designated. As I said in previous debate in this session, once these matters crop up, anything is possible. I am satisfied with the answers that have been given to me.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 8 to 10 put and passed.

Title put and passed.

Bill reported with an amendment.

LOCAL GOVERNMENT ACT AMENDMENT BILL
(No. 3)

Third Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [7.43 p.m.]: I move—

That the Bill be now read a third time.

THE HON. R. F. CLAUGHTON (North Metropolitan) [7.44 p.m.]: I have just a few words to say on the third reading. I accused the Minister in charge of the Bill during the Committee stage of being perverse and of having an abysmal lack of knowledge of the Bill. I think that was an unfair remark for me to make. I would like to say that that was not really true. He, in fact, had excellent mastery of the Bill. I was seeking clarification during that discussion. The Minister could justly have accused me of those faults.

I would also like to say that the change of Ministers in this portfolio has made a difference. Up to this point, practically every Bill in the local government area has had some fault or other. I felt the Minister in charge at the time was quite incompetent in the job. I hope the change marks a significant improvement in the quality of the drafting of the legislation coming before us.

While the drafting of the Bill was well done, we on this side were complaining justifiably of the purposelessness of the debate. I would also mention the fact that although the Press is present in the Press gallery in this Chamber, based on what emanates from the gallery its members might just as well be absent. The Press does not do its job for the public in reporting matters which take place in this Chamber.

The Hon. J. C. Tozer: Hear, hear!

The Hon. R. F. CLAUGHTON: I have made that criticism before, and I make it again. I think the public should be made more aware of what takes place here.

I believe that there were matters in the Bill which were opposed quite rightly. None of those things were changed, and we are opposed to the Bill as a whole, for those reasons.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [7.47 p.m.]: I appreciate the comments made by Mr Claughton.

I think that perhaps the standard of debate should be based on adopting a slightly more moderate attitude in some of these areas. We should debate issues as much as we like, and leave personalities out of it. I think that would be an improvement to the debates in the Chamber.

In respect of the particular matter which concerned the member to a great extent, in relation to pensioners, to ensure that my interpretation was correct I contacted one of the officers of the Local Government Department who had played a part in the preparation of the Bill; that is, the work preliminary to drafting. He assured me that it was the intention that the pensioner who received a rebate should not be required to pay any penalty in relation to any part of the rate. He also informed me that this could not occur because, before the pensioner could obtain the rebate, he had to pay the 75 per cent. I think that disposes of Mr Claughton's question.

Question put and passed.

Bill read a third time and passed.

ROAD TRAFFIC ACT AMENDMENT BILL

Second Reading

Debate resumed from the 12th October.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [7.49 p.m.]: The Opposition supports this Bill in principle. However, as with the previous Bill, the Opposition has some reservations on some of the details until they are explained more fully to this Chamber.

As the Minister said in his second reading speech, the Bill seeks to amend the Road Traffic Act, 1974-1977. This amending Bill is before Parliament to remove anomalies indicated by decisions of courts, and to give effect to suggestions made by members of Parliament and various other people including the Ombudsman, and some of the local authorities.

We will be seeking clarification from the Minister of certain clauses of the Bill. In particular we seek clarification of those clauses dealing with ministers of religion. I am aware that in another place some of these matters were canvassed.

The question of mopeds, as I have heard them described, or motorised push bikes, is another matter of concern. The questions of uniformity in respect of licences issued to motorcyclists, probation, refunds of licence fees, infringement notices, and the streamlining of court procedures are all matters which concern us.

We agree with the principle and the spirit of the Bill. As I have said previously, this House is a House of Review. I would expect that the Minister handling the Bill would be able to answer those queries; and the search for information would be directed towards him during the Committee stage of this Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. D. W. Cooley) in the Chair; the Hon. G. C. MacKinnon (Leader of the House) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 5 amended—

The Hon. D. K. DANS: After reading some of the speeches which were made in another place, these queries may seem to be only minor matters. I notice that the Minister, in introducing the Bill, said that certain changes would be made in the verbiage at page 3, line 20, which reads as follows—

> "stock" includes horses, mares, fillies, foals, geldings, colts, camels, bulls, bullocks, cows, heifers, steers, calves, asses, mules, sheep, lambs, goats and swine; ; and

It seems strange to me that the word "horses" is not preceded by the word "stallions". Mr Deputy Chairman, I would ask: Is this going to be

changed, or does in fact the word "horse" mean "stallion"?

The Hon. G. C. MacKinnon: I wonder if the Leader of the Opposition would explain to me why he thinks that "horse" ought to mean "stallion".

The Hon. D. K. DANS: There was an undertaking given that this was to be amended so that it would include the word "stallions". I ask the Minister whether a horse is a stallion. Perhaps the Minister could tell me that. Is this clause going to be redrafted to include the word "stallions"?

The Hon. G. C. MacKINNON: This was discussed. It was decided there was no need in law for that to be done.

The Hon. D. K. Dans: That is answering my question. In other words, a horse does mean a stallion?

The Hon. G. C. MacKINNON: The horse is the entire animal.

Clause put and passed.

Clauses 4 to 6 put and passed.

Clause 7: Section 42 amended—

The Hon. D. K. DANS: I do not want to be accused of nit-picking, but although it has been said that the maximum speed of a moped, or motorised bicycle, is something like 60 kilometres an hour—

The Hon. G. C. MacKinnon: That would be going downhill with the wind behind you.

The Hon. D. K. DANS: I do not know about that. That is what I want to know. The definition of "moped" does not say anything about the moped going downhill, so one can assume that the 60 kilometres an hour refers to the speed on flat country. If the moped was on a hill with the wind behind it, it could probably go much faster. I am quite serious about this.

The Hon. G. C. MacKinnon: I was not. I was joking.

The Hon. D. K. DANS: People have been maimed and killed as a result of their being thrown out of motor vehicles which were travelling no faster than five kilometres an hour. It is common knowledge that most accidents occur at slow speeds and within 35 kilometres of the victim's home.

It seems strange to me that simply because only a motorised bicycle is involved the licensing age is to be dropped from 17 to 16. Perhaps that does not mean a great deal; but it is not a good enough argument to say that, because the moped is a pedal bike which can under some circumstances have an engine started and do 60 kilometres an hour, we should make this provision. We all know that people can tune the machines so that they will go faster. We must be fairly consistent. If a person is able to obtain a licence at 16 and go on the roads—the same laws will apply to him on the roads on a 30-kilometres-an-hour machine as on a 100-kilometres-an-hour machine—with a moped, why should the same law not apply to the drivers of other vehicles? Alternatively, a licence should not be issued to anyone who is under the age of 16.

We cannot split straws in connection with the definition of a moped. Incidentally, I would remind members that 60 kilometres an hour is the speed limit for all vehicles in the built-up areas of the city.

The Hon. G. W. Berry: Too fast.

The Hon. D. K. DANS: I agree with the interjection. It is very fast. We are simply saying that, because the vehicle involved is a motorised cycle, this is sufficient reason to drop the licensing age from 17 to 16.

I am not a great believer in age limits, but an arbitrary figure has been set. I suppose that if a person is a lunatic at 16 years he will still be a lunatic at 96 years. I would like to know why the Government accepted this proposition; it must have been recommended by somebody. A 16-year-old will be in charge of a motorised machine and he will be quite capable of killing himself at less than 60 kilometres an hour. He will be quite capable of inflicting serious injury on somebody else.

The Hon. G. C. MacKINNON: We used to have a great number of mopeds back in the 1950s when we were a poorer country and before we became affluent.

The Hon. D. K. Dans: I must have missed the bus!

The Hon. G. C. MacKINNON: There are many of them in New Zealand, especially in Christchurch where the area is fairly flat. Mr Berry interjected with regard to speed, but in general a moped is slower than a pushbike.

The Hon. D. K. Dans: That is if the moped is pedalled.

The Hon. G. C. MacKINNON: No, the speed attained on a pushbike by a good rider would, without doubt, be faster than the speed of a moped. The moped is considerably heavier and the motor drives a wheel through rubber friction. It is not uncommon to see a pushbike, travelling behind a car, doing a much faster speed than 60 kilometres an hour.

The Hon. Grace Vaughan: It would depend on the distance travelled.

The Hon. G. C. MacKINNON: Of course it would. If members observe the flat roads in South Perth where an increasing number of young people are riding pushbikes they will see them riding at average speeds far in excess of the speed of the moped.

In answer to the comment regarding accidental deaths, many children are killed on tricycles. I think statistics show that some of the worst accidents occur at speeds below 15 miles an hour, a lot less than 60 kilometres an hour.

Pushbikes operate in the traffic at pretty reasonable speeds and perhaps mopeds could be a little safer, because the riders are not pushing hard on the pedals.

I have been in places where this sort of conveyance is extremely popular and where there is no age limit at which people can use a moped. Nevertheless, I am in the hands of the Committee. I think Mr Dans is being a little ultra conservative, but I am not surprised at that. I suggest to him that a moped has a motor strapped under the seat which usually drives the back tyre, by friction, and this reduces the speed.

The Hon. D. K. Dans: They used to go under another name once.

The Hon. G. C. MacKINNON: They used to be called autocycles. I ask Mr Dans not to be so ultra conservative in this case, and to be a little venturesome and accept that people of 16 years of age should be able to obtain a licence.

The Hon. D. K. DANS: Most debates proceed from some rational point. I must say that in this place that does not usually occur, and we have come to accept it. I have just heard from the Minister a number of things in answer to my query. He talked about Christchurch in New Zealand, and I was told that a pushbike could be pedalled faster than a moped. Also, somehow or other, I am ultra conservative.

None of that information had anything to do with the question of issuing a licence to persons of 16 years of age for this type of motorised vehicle. Let us start at the point that I am conservative. I do not know that there is a conservative level at which one can obtain a driver's licence, but I am not applying that criterion to this particular argument. I am being cautious, because people are sounding off all the time about saving life and limb on the roads. I know it is a fruitless argument, because whether a person lives or dies on the road is largely his own responsibility.

The fact remains this Bill contains an inaccuracy. If, as the Minister claims, a pushbike can be ridden faster than a moped, perhaps push cyclists should be licensed. I believe it is difficult for motor-paced cyclists to sustain a speed of 60 kilometres an hour over a long distance.

The Hon. G. C. MacKinnon: You must be joking; they maintain that kind of speed from Beverley to Perth.

The Hon. D. K. DANS: I want to know what criterion was used to reduce the age from 17 to 16 years. I would not be worried if the licensing age was reduced to 16 years.

The Hon. G. C. MacKinnon: Or even 15 years.

The Hon. D. K. DANS: No, 16 years. I am conservative, again. I cannot see any sense in selecting one vehicle for the reduction of the driver's licence age from 17 to 16 years.

The Hon. G. C. MacKINNON: The Government originally decided to classify mopeds in the same group as pushbikes; in other words, no licensing requirement at all. The rationale behind the decision to set the age at 16 years was the possibility of injury to other people.

At present the Road Traffic Act requires that applicants for drivers' licences shall have attained a minimum age of 17 years. In the case of mopeds consideration was given to removing the requirement for a licence for those vehicles. After due consideration—and, incidentally, it is fairly standard in other parts of the world for no licence to be required—it was decided, because of the possibility of injury to other persons, that the requirement to license mopeds should be retained, and that riders of mopeds should continue to illustrate their ability to control their machines and be tested on their knowledge of the road rules. The amendment proposes that the present age of 17 years required for a motor driver's licence should, in the case of mopeds only, be reduced to 16 years. The rationale was not on the basis of a reduction, but on the basis of having a licence at all.

The Hon. I. G. PRATT: I express my disappointment at the fact that the age limit has been set at 16 years and not 15 years. I believe the age of 15 years would have been of great benefit to the young people in our community at a time when they are having considerable difficulty in obtaining employment—particularly apprenticeships.

Youngsters are now called upon to travel considerable distances to obtain employment and it could be of some advantage for them to have their own transport. I feel that if the age had been reduced to 15 years that would have made it

easier for some youngsters to travel to jobs in awkward places. Perhaps it could be said that if a youngster has to travel five miles or so he can ride a pushbike.

The Hon. D. K. Dans: He would get there quicker, if one believed the Minister.

The Hon. G. C. MacKinnon: I did not say that; I said they could go faster.

The Hon. I. G. PRATT: A moped could be safer, particularly in the wintertime, when the rider could concentrate on driving rather than having to think about pedalling.

If the age of 16 years proves to present no great difficulties in the next 12 months, perhaps the Government would give consideration to lowering the age to 15 years.

The Hon. G. C. MacKINNON: I take the point raised by Mr Pratt, and I endorse what he said. Let us accept that 16 years is the age at which a person can ride a moped. If the conservatism of Mr Dans is proved to be correct, I do not see anything wrong with putting the age back to 17 years. If the more adventurous outlook of Mr Pratt proves to be correct, I see nothing wrong with reducing the age to 15 years—perhaps even lower than that—in 12 months' time. I suggest this is a worth-while move in all the circumstances, and I hope the Committee will agree to the amendment.

The Hon. R. HETHERINGTON: I want to join those whom the Minister referred to as being conservative. In one part of this Bill we talk about restricting probationary drivers to motorcycles of 250 ccs. Apparently that is in order to keep the speed down.

It seems to be somewhat fallacious thinking that because people who ride motorcycles tend to go too fast, and to put themselves in danger, the riders of mopeds do not do this. I have noticed that when cyclists—and I know that my own children have done this—get into a dangerous situation they get onto the footpath.

However, motorised cycles will be on the road in traffic and they will not have the pick-up to get out of danger. It seems to me that if we put a 16-year-old on a moped we are putting him at risk. The kind of traffic and the kind of roads we have in Perth encourage people to go too fast, and many do. Members who have driven behind motor scooters will realise they must be careful and keep close watch to ensure that they do not run into the scooters.

I think the rider of a moped would be more at risk. If mature people should be riding motorcycles, then mature people should be riding mopeds in Perth traffic.

I am not sure of the position in New Zealand, but I am worried about our situation. I am not particularly anxious to lower the age from 17 to 16 years, and I do not see why we should. I think the rider of a moped is at a different kind of risk, but is still at a very real risk in modern city traffic. It is the city traffic I am worried about; it may be quite safe in country towns.

The Hon. G. E. MASTERS: I think this is a common-sense move and Mr Hetherington underestimates the youngsters of today. It seems to me they are quick in their reaction and would ride a motorised bicycle just as well as they would ride a pushbike. It would be ideal training for them if they intend to ride motorbikes at a later stage. I can see no problems at all there.

Certainly there is the problem of a cycle running up onto the pavement but these young people would do the same if the situation demanded it; they would be breaking the law, but they would get out of trouble in that way.

The casualty rate of bicycle riders in this State is indeed low. Between 1960 and 1977 a total of 121 bicycle riders were killed, and although that is too many it represents quite a low yearly average. In some years one person was killed, in another seven, in another four, and in another three were killed. I can see no more danger in riding mopeds than in riding bicycles, and I think this is a sensible move to make.

The Hon. D. K. DANS: I will not rise again, because I do not look like receiving an answer. I will desert my ultra conservatism.

Mr Masters advanced an excellent argument for lowering the driving age to 16 years, generally; because if one considers that a 16-year-old adolescent may ride a moped, it is logical to say he is quite capable of controlling a small motorcycle with which, in the 12-month period of probation, one of his companions could run over him. I am not arguing the merits or demerits of the machine; I simply cannot understand the attitude of the Government.

Here we have a machine which can do 60 kilometres an hour and can be ridden by a person of 16 years. On the other hand we have a machine which may be ridden only when a person is 17 years of age; and bear in mind that during the period of probation the rider is limited in respect of speed, anyway. I am not against people obtaining licences at the age of 16 because, as Mr Masters said, at that age adolescents are intelligent and their reflexes are good.

Mr Pratt raised a good point. I do not know whether it would help to solve the unemployment problem, but if it does his proposition is to be commended.

Clause put and passed.

Clauses 8 to 10 put and passed.

Clause 11: Section 52 amended—

The Hon. R. HETHERINGTON: I am worried about the imprecise wording used in some Bills. I wonder what a "fair proportion" is. Does it mean a portion of so much a month? I do not see why the wording cannot be more precise, particularly as "fair" has two meanings: firstly in the sense of being just, and secondly in the colloquial sense of a fair amount, which means "a good amount". Do we mean a just proportion, or do we mean a fair proportion in the sense that the person would receive back a fair bit, whatever that may mean?

I know this is a minor point and I suppose it does not particularly matter in this clause, but I do not see why we cannot have more precision in language. Although nobody will suffer any grave injustice—no doubt he will receive a fair proportion—I think the language could be better used.

The Hon. G. C. MacKINNON: In this context "fair proportion" means "proportionately, taking into account all the circumstances". The Road Traffic Act provides for the refund of a fair proportion of a vehicle licence fee in circumstances which, in the opinion of the authority, render it just and convenient that a refund should be made. These are matters of judgment by people placed in a position of authority to make such judgments. We must accept they have the ability to be fair.

No similar powers were contained in the Act to provide for a refund in respect of a driver's licence when the currency of a licence was restricted to one year and the fee was fairly low. When I first got my licence it cost me five shillings, and it was considered the cost of making a refund in those days would be in excess of the value of the refund.

Now the fee is $7 a year and the currency of the licence may be three years, so there is some justification for making provision for refunds. A refund may not be justified where a probationary licence is cancelled in the first year. Rather than making an exception and refusing a refund in the case of probationary drivers, this matter has been dealt with in clause 9 of the Bill which states that the currency of a probationary licence is restricted to one year.

In all the circumstances it is reasonable that, when we are talking in terms of $21, provision should be made for proportionate refunds, and the meaning of "fair" in the clause is "proportionate". I understand it is normally used this way in a legal sense.

Clause put and passed.

Clause 12: Section 59 amended—

The Hon. R. HETHERINGTON: I have a more substantive objection to this clause. What worries me is that here we have a sort of carrot in that a person is allowed to choose to be tried summarily for a lesser offence, and he is likely to receive a lesser penalty. This provision is fair enough if the court where he elects to be tried decides he should not elect to be tried in that court and sends him up to be tried by a jury. However, I do not think it is in accordance with natural justice that a person who has taken advantage of a provision which allows him to be tried summarily, and has been tried summarily and found guilty, is then sent to another court for sentencing. After all, if the person had thought that was likely to happen he might have hired a better lawyer and gone to trial by jury.

It seems to me this is allowing an alleged offender to be led into accepting one procedure under the law but finding that he finishes up with an amended procedure over which he has no control.

I considered objecting also to the fact that if he elects to be tried summarily the court may change his mind for him and send him for indictment. However, I now think that is all right and I can see no reason that it should not be the case. Once that is done it should be done then once and for all; in other words, either he is tried summarily or the court has the option of saying he will not be tried summarily but will be sent to be tried before a jury. That is where it should stop.

Perhaps my thinking is wrong, and I would be glad to hear the Minister's explanation. Proposed new subsection (1a) commencing at the bottom of page 7 perturbs me a little, and I wonder whether it should be deleted.

The Hon. G. C. MacKINNON: This amendment was suggested in a judgment delivered by the Court of Criminal Appeal, and is included for that reason. For a complete understanding of it, we must discuss clauses 12 and 13 together. Section 59, which is amended by clause 12, deals with the offence of dangerous driving causing death or grievous bodily harm and provides that the person charged may elect to be dealt with summarily and thus receive a lesser penalty than he would receive if he were convicted

on indictment. That was the subject of comment in the judgment to which I have referred.

In relation to this Mr Hetherington said there was something of a carrot syndrome. Quite frankly, without a shadow of doubt this is so in respect of some aspects of the Road Traffic Act. It is a great pity this is necessary. If everybody used common sense on the road there would be no need for rules and no need for so many funerals. The fact remains that does not happen, and it is necessary to introduce this sort of provision out of sheer necessity, otherwise the courts would be clogged.

It is difficult to arrive at a situation in which we achieve what Mr Hetherington calls "natural justice". So we have to bring about a situation in which we keep the courts reasonably clear and yet provide something that approaches justice. We need to have a system which makes people think it is better to behave with a little more sense on the road.

This matter was considered by the Attorney General in consultation with Crown Counsel and the Crown Prosecutor, because it is a serious matter as Mr Hetherington has indicated. This would allow a court of summary jurisdiction to refer a case to a higher court where it considers the matter should be dealt with by indictment.

The Hon. R. Hetherington: I am not objecting to that.

The Hon. G. C. MacKINNON: No, because some people are dodging what ought to be their just deserts. Where the court is of the opinion that the penalty is inadequate on conviction by a court of summary jurisdiction, the court may commit a person for sentence.

The Hon. R. Hetherington: That is the bit I do not like.

The Hon. G. C. MacKINNON: The court is there in order to keep a balance, and this provision would be used only occasionally. We often hear people saying, "I only did this, and that fellow did that, and he received a much lighter penalty." That is unfair; to quote Mr Hetherington's own words, it is not natural justice. One can sympathise with people caught in those sort of circumstances; this is an endeavour to overcome that situation, and it seems to me to be fair enough.

As well as providing for a lesser offence of causing bodily harm, the penalties proposed for the offence of causing bodily harm fall between the penalties provided under section 59 of the Act for the offence of dangerous driving causing death or grievous bodily harm, and the penalties provided under section 60 of the Act for the offence of reckless driving. Like virtually all other methods where we try to impose penalties on people who behave foolishly or recklessly to the danger of other people, this does not quite reach perfection. Nevertheless, under all the circumstances it is better than what was in the parent Act and I suggest it is worth a try.

The Hon. R. HETHERINGTON: I sympathise with everything the Leader of the House has said; I understand what he is saying and what he is trying to do. However, I remain unconvinced about this particular aspect of the legislation. It seems to me that by using the carrot provision, the Government has a club behind its back and every now and again it brings it out and uses it on a person.

I accept what the Leader of the House said about keeping the courts unclogged. However, a person who thought he might get away with it and receive only a certain penalty probably would be prepared to run that risk. Had he known he could be charged on indictment, he may have taken different steps, or hired a better lawyer or done certain things which would have given him a better chance of being acquitted. It seems that a person almost is being lured into adopting one course of action and then a totally unexpected sentence comes down on him. This is less than perfect, and I would be glad if the Leader of the House would take the matter back to his colleague, and perhaps ask the Attorney General to have another look at it.

The Hon. G. C. MacKINNON: I am aware the Attorney General is quite concerned about this problem, and I appreciate the honourable member's understanding. Without any reference at all, I can assure him it will be kept carefully under review.

Clause put and passed.

Clauses 13 to 15 put and passed.

Clause 16: Section 102 amended—

The Hon. R. HETHERINGTON: The part of this clause which causes me concern is to be found between lines 32 and 38 of page 11 of the Bill. If a person has been served a traffic infringement notice and has done nothing about it—has not paid it, or said he wants to appear before a court—he will be deemed to have elected to pay the prescribed penalty, and the authority will notify him of the conviction.

I believe this should be the other way around; he should be brought before a court. We should not deem anything. I know the Bill then goes on and allows all sorts of procedures by which a person can get out of his predicament.

The Hon. I. G. Medcalf: Very devious procedures, too. It is quite difficult in the interests of protecting the innocent party; there are all sorts of ways of being exonerated.

The Hon. R. HETHERINGTON: I would rather have less of the exoneration clause, get rid of this bit, and make it mandatory that if a person does nothing he goes before a court.

The Hon. I. G. Medcalf: That would require a lot of manpower and effort. The tendency now is that most people prefer infringement notices, to pay the fine, and to be done with it.

The Hon. R. HETHERINGTON: I am not objecting to the infringement notice being served; I agree with everything the Bill is doing, up to this point. An infringement notice is a sensible way of dealing with offences which are not terribly important; it may have the effect of slowing people down. I do not object to the suggestion that if a person does not want to pay the fine on an infringement notice he can elect to appear before a court. That should be his right, and the Bill allows that as his right. However, I do think the person who has not done anything should not be convicted through his lack of action.

The Hon. G. C. MacKinnon: For the sake of those who might read your remarks very quickly perhaps you should modify your choice of words to, "has not taken any action with regard to his infringement notice".

The Hon. R. HETHERINGTON: I accept the correction of the Leader of the House. There are many reasons people do not take action in respect of these things. Sometimes they think if they look away for long enough the whole problem will disappear. A constituent recently approached me for assistance on this very point. He had been convicted of an offence, and had not paid his fine. He thought it would all go away if he ignored it for long enough. Suddenly he found he was about to go to gaol and he approached me to stop that happening. It was not very difficult; people are not unreasonable in cases like this.

The Hon. I. G. Medcalf: The real problem is that to bring him before a court we must arrest him, because if he has ignored the infringement notice the chances are he will ignore the summons.

The Hon. R. HETHERINGTON: If that is the case and he is convicted he will probably ignore the fact he is convicted and will ignore the fine. We must arrest him sooner or later. I would rather he be arrested sooner and brought before the court than after he is convicted.

The Hon. I. G. Medcalf: You would be arresting many more people that way.

The Hon. R. HETHERINGTON: That may be the price we must pay for better justice. I can see why it is being done but I do not appreciate what is being done, and I would prefer this part of clause 16 to be removed from the legislation. My proposal perhaps would mean we would need a lot more courts.

The Hon. I. G. Medcalf: And more policemen.

The Hon. R. HETHERINGTON: I believe we should have more policemen, anyway.

The Hon. I. G. Medcalf: It is better to use the police on real police business than running around after people who ignore infringement notices.

The Hon. R. HETHERINGTON: That is one of the problems. However, I do not believe this is a good principle to adopt, and I remain unconvinced.

The Hon. I. G. Medcalf: It is a practical expedient.

The Hon. R. HETHERINGTON: Sometimes, practical expedients would be better not adopted. I do not expect anything will be done about it; I am simply voicing my concern. The time may come when the Government decides to amend this part of the legislation in the parent Act, depending on how it works.

The Hon. G. C. MacKINNON: We are arguing in a sense that the individual at all costs must be protected against the machinations of the law. We have nearly reached the stage where the community must be protected at almost all costs from the stupidities of some individuals. However, people who are served with infringement notices have a whole host of options open to them. In fact, they have three choices. They can elect to pay the modified penalty, which is what most of us do. They can elect to have the alleged offence determined by a court, by serving notice on the prescribed form.

The third choice is to do nothing at all in the hope that their misdeeds will be overlooked. However, if a person does nothing—he does not pay the modified penalty or does not elect to be dealt with by the court—he will be deemed to have elected to pay the prescribed penalty. This is what Mr Hetherington objects to. He is arguing for the sake of purity of natural justice or British justice—

The Hon. R. Hetherington: The due processes of law.

The Hon. G. C. MacKINNON: —that the whole community should be put to this sort of expense. I wonder whether we could recruit enough people to do the sort of detailed chasing up which Mr Hetherington's proposal in its

entirety would involve. I suggest we would not get them. Through sheer practicalities we are forced to the situation and it is not all that bad, because the sort of person who is going to let the matter rest, hoping it will go away and hoping that tomorrow will not come, is always with us. I feel the community has some right to be protected from over-expenditure and the silliness of these individuals.

The Hon. R. HETHERINGTON: I see the rationale behind the Minister's thinking, but what concerns me and what I think should concern others is that I can remember one night, when dealing with another Bill, I agreed to an amendment moved by the Government which the Hon. Neil McNeill felt I should have queried, because the rule of law was perhaps being eroded. We have to be careful that we are all watching to see that sort of thing does not occur. We must make sure the practical expediency does not overrule the continued process and the rule of law. This is what makes us different from authoritarian regimes.

The Hon. I. G. Medcalf: This has taken months to devise.

The Hon. R. HETHERINGTON: I think, too, there will be people like the civil liberties groups who will watch the operation of this Bill with great care, as they should do. I still have reservations although I can see why the Government is doing this.

The Hon. G. C. MacKinnon: The reservation is shared.

Clause put and passed.

Clause 17: Section 103 amended—

The Hon. R. HETHERINGTON: At the bottom of the page the following passage can be seen—

> the further period of disqualification to which he becomes subject shall be cumulative upon any earlier period of disqualification to which he is or becomes subject or upon any period for which the operation of his driver's licence is or may be suspended.

I am not objecting to the principle of this but I am wondering if this leaves the courts any discretion to decide that at some times there may be special circumstances where periods of disqualification may be served concurrently. There may be times when a person can be disqualified for so long that he becomes desperate.

The Hon. G. C. MacKINNON: This clause leaves the courts without discretion, which does not mean there is no discretion. The discretion has to be applied through the Attorney General or the Minister for Justice, as the case may be, and one can ask for the Queen's mercy. This is exercised without as much trouble as a lot of people would imagine. It has been found necessary to impress upon the courts the seriousness with which these sorts of infringements are viewed.

The Hon. R. HETHERINGTON: It seems to me we are going a little too far, but I did read the Minister's reasons and I accept them. If there is a way in which a case is justified and discretion can be exercised, I will be prepared to wait and see how the Act operates.

Clause put and passed.

Clause 18: Section 106 amended—

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

> Page 21, lines 1 to 6—Delete the clause and substitute the following—
>
> > Section 106 of the principal Act is amended by deleting the passage "or the Criminal Code, 1913." in the last two lines and substituting the passage "The Criminal Code or the Offenders Probation and Parole Act, 1963, and, except where the penalty is a term of imprisonment, notwithstanding any provision of the Child Welfare Act, 1947.".

Section 106 of the Road Traffic Act provides that where a minimum penalty is provided for, that penalty shall be irreducible in mitigation notwithstanding any provisions of the Justices Act or the Criminal Code.

The minimum penalties are for the more serious offences where it is considered the monetary deterrent should not be less than the benefit derived from a breach of the law.

Generally magistrates recognise what is understood to be the clear intention of Parliament, but there have been a number of cases where provisions of the Offenders Probation and Parole Act have been invoked to impose penalties less than the minimum provided by the Statute.

Honourable members will recall the examples given in the second reading speech and in the newspaper. For example, a person was charged on two counts of unauthorised use of a motor vehicle in connection with two charges of breaking and entering. The penalties for unauthorised use of a motor vehicle are—

> For a first offence, a fine of not less than $200 or more than $1 000 or imprisonment

for not less than one month or more than twelve months; and

for a second or subsequent offence, imprisonment for not less than three months or more than two years.

Under section 74 there is also a general power of disqualification where driving a motor vehicle is an element of the offence or a motor vehicle was used in the commission of an offence.

In the case referred to, the person was the holder of a probationary driver's licence and on conviction would have incurred nine demerit points on each charge if he was not suspensed by the court.

Pleas of guilty were entered but instead of a term of imprisonment or a fine being imposed, he was placed on probation for a period of three years under the provisions of the Offenders Probation and Parole Act. Notwithstanding the seriousness of these charges, the offender received no monetary penalty, was not disqualified by the court, and demerit points were not recorded against him.

The same problem exists with juvenile offenders who are able to escape suspension for offences imposing mandatory suspensions and they are not debited with points.

The proposed amendment will not interfere with the prerogative of the courts to consider circumstances in mitigation when imposing penalties but it will remove any doubt that, where minimum penalties are provided in the case of more serious charges, the offenders will be dealt with in accordance with the penalties set by Parliament.

The provisions of the Offenders Probation and Parole Act and the Child Welfare Act will be excluded from the operation of the Road Traffic Act in the same way as the Justices Act and the Criminal Code are now excluded.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 19: Section 111 amended—

The Hon. D. K. DANS: This clause intrigues me as, unless I am reading the wrong section of the parent Act, section 111 deals with regulations, and in dealing with regulations it deals with penalties. Clause 19 adds a new regulation prohibiting stock on roads. It would seem the penalties for this are very severe indeed. On many occasions stock can get onto roads unbeknown to the owner and through no fault of the owner. Under this clause I cannot see that the owner could get out of paying the maximum penalty laid down by the local authorities or the Road Traffic Authority if they felt inclined to impose it.

The Hon. G. C. MacKINNON: Regulation 1702(1) of the Road Traffic Code requires that the owner or the person for the time being in charge of an animal shall not allow it to—

stray into or along a road;

be unattended on a road; or

obstruct any portion of a road.

A charge under this regulation has been dismissed on the grounds that the Road Traffic Act did not give the authority to make this regulation. While there are provisions in the Police Act and the Local Government Act to deal with this type of offence, it is considered to be an offence of a minor nature which should properly be dealt with under the Road Traffic Code.

The Hon. D. K. Dans: You are bumping up the penalties in this Act.

The Hon. G. C. MacKINNON: It is proposed to amend section 111 of the Road Traffic Act to empower the making of regulations dealing with unattended animals on roads. This is considered to be in the wrong Act. This clause has been included as it is not desired to change the other Acts. The penalties can range a fair deal.

The Hon. D. K. Dans: From $10 to $1 000.

The Hon. G. C. MacKINNON: If it is a minor offence $10 will be the fine.

The Hon. D. K. Dans: The maximum is $3 000.

The Hon. G. C. MacKINNON: The courts will not necessarily impose that fine.

The Hon. H. W. GAYFER: I am never happy about the tightening up of impositions involved with any legislation introduced covering stock. There is no doubt that in the Minister's second reading speech he said that under the Road Traffic Act regulations the owner or the person for the time being in charge of an animal shall not allow it to stray into or along a road.

It is virtually impossible to shift a mob of sheep on a road without one straying onto the road, but it seems that all these things have to be tightened up. We have been doing so for years. Soon we will not be able to shift a sheep across the road in a country area. At one stage it was suggested there should be a sign 300 yards in front of the leading stock, and another sign 300 yards behind the tail end of the stock. Imagine the front sheep pushing a sign along the road, and the back sheep dragging another sign behind it! The situation is getting so darned crazy. Forty three per cent of the wealth of this State comes from the country area, but we are tightening up regulations at

every turn we take. It was said that the maximum penalty of $3 000 was only a minor thing.

The Hon. G. C. MacKinnon: The maximum penalty for overloading is to be $3 000; the maximum penalty for this offence is $200.

The Hon. H. W. GAYFER: A fine of $200 for a sheep that gets out of line and runs in front of a car!

The Hon. G. C. MacKinnon: The maximum penalty for that is, "Not guilty"!

The Hon. H. W. GAYFER: I am very pleased to hear that. It seems to me we are getting out of step with the very thing we are supposed to be doing; that is, getting on with the job. We are reaching the stage where we will not be able to do anything.

Clause 19 concerns overloading, and there is a penalty of $3 000. The Minister said that a small number of people in the industry were deliberately overloading their vehicles to make a quick profit. I defy the Leader of the House, or anybody else, to regulate a load of wheat that goes into a truck. Those people do not overload in order to make a quick profit. They overload purely and simply because a load could be right on one day, but it could be wrong the next day. Anybody in the wheat game knows that.

Every member of Parliament who represents a country area is aware of the problems we face in this country, especially when inspectors from the Weights and Measures Branch are around. Overloading is not intentional; it is not to make a quick profit. It arises purely and simply because it is very hard to regulate a load on a truck.

An inspector will be able to stop a truck—as he could previously—and he will be able to order that the load be transferred or offloaded. I can imagine the Hon. David Wordsworth being told that he has to offload his load from his truck. A person who does not want to offload can take his truck to the nearest police station. The reason for offloading the load is the damage that is likely to be caused to the road, but a person will be able to take that truck to the nearest police station still with the overload. These things are getting crazy.

We are aware that some interstate hauliers would sooner overload their trucks and pay a fine than have to go back for a second load. However, what the Government will do in the middle of the harvest, when there are at least 12 000 trucks on the roads and it is almost impossible to measure a load, is to make things more difficult for the farmers. People do not like to be made culpable by inspectors, who can be unco-operative to say the least—particularly on a hot day.

There are two provisions I do not like. It is set out in the Road Traffic Act and the Local Government Act that stock shall not stray onto roads without a person, for the time being, being in charge of those animals. We are becoming bureaucratic. We are including a lot of nonsense in our legislation which will be impossible to police. These regulations make it impossible for people to get on with their jobs. With the restrictions on stock straying and overloading, it is becoming almost impossible to move out of one's gate. Possibly the reason for the restrictions is that we cannot get out onto the roads where we are likely to cause damage, or to cause accidents. I sometimes wonder where we are going with all this

The Hon. G. C. MacKINNON: I appreciate the points raised by Mr Gayfer, but in framing this measure the Government has endeavoured to do precisely the opposite of what the member said.

The Hon. H. W. Gayfer: I know; even Mr Dans took you the wrong way earlier.

The Hon. G. C. MacKINNON: It has been mentioned by many members, including Mr Gayfer, that there are difficulties. For instance, in my province in the south-west of this State we are not worried about grain, but about timber. It is possible to offload timber without much trouble. The offloading has to be done in a safe place, and that is why the provision is included on a sensible basis. It was included as a result of a request.

We are not trying to make things more difficult, but we are trying to improve the situation. I appreciate that all these things have an effect. Nevertheless, roads are built to a certain standard and overloaded vehicles hammer the daylights out of those roads. Because of arguments put forward by road hauliers themselves, by members of Parliament on their behalf, and by people like Mr Gayfer, the Government has endeavoured to improve the situation. Whether, in fact, the situation will improve remains to be seen.

We have to bear in mind that if action is taken the case will usually be heard by a magistrate in the country. Hopefully, magistrates in the country will have an understanding of the situation and that is why in the situation mentioned by Mr Gayfer I reckon that any magistrate would return a verdict of "Not guilty".

This matter has been brought in as a result of a request to streamline the situation and make it easier and better for people in the country. For that reason I hope we will give it a try.

The Hon. N. E. BAXTER: Like Mr Gayfer, I wonder where we are going in this matter of straying stock. A section of the Local Government Act deals with cattle trespass and provides for a penalty of $200. We will now include in the Road Traffic Act a provision to regulate or prohibit stock on roads. An entirely different interpretation will be used compared with that in the Local Government Act. The Local Government Act includes an interpretation, and refers to stock as being cattle. In the proposed amendment before us we have an interpretation of "stock", which means exactly the same. Is there no uniformity at all in drafting these matters?

The Minister said it was intended to amend the Road Traffic Act to empower the making of regulations dealing with straying and unattended animals on roads. Well, the clause in the Bill is quite different. Why are there two definitions for stock and cattle?

The Hon. G. C. MacKINNON: In some of these situations members like Mr Baxter get a little naughty, I think. I am quite sure he has not forgotten the reason the definition is listed as "cattle". He was here when we amended the Act and expanded the definition.

The original definition in the old Road Board Act was "cattle", because cattle in those days were the only animals big enough to cause any damage. We argued in this House and we expanded the definition of "cattle" to include sheep, pigs, goats, and many other animals. That is historical.

We have written a fresh definition this time so we have called it "stock" which is more sensible. If the member looks back in *Hansard* he will find that in the case of the Local Government Act we expanded the definition of "cattle". The member was here when it was done.

That is an historical accident. I think "stock" is the better term because it is all-embracing. When one hits a sheep while travelling at 60 miles or 100 kilometres an hour, it can be fairly dangerous.

The Hon. H. W. Gayfer: For the sheep, yes.

The Hon. G. C. MacKINNON: If one is driving a truck it might be dangerous for the sheep but it would be fairly dangerous for the person on a moped. If one is driving a Mercedes Benz one has no need to worry. There was not a great deal of danger in hitting a sheep when one was driving a horse and sulky, but there was danger in hitting a wild cow or a bull. That is the historical answer to the Hon. Norman Baxter.

The Hon. N. E. Baxter: It is not a very good one.

The Hon. G. C. MacKINNON: It is an answer, whether or not it is good. It is an historical accident, nothing more or less.

The Hon. W. M. PIESSE: I am very disturbed about this clause. I can well understand there may be need for it in the metropolitan area with pet animals, play farms, and that kind of thing. There may be need for some regulation to keep stock off the road in those areas. But prohibiting stock on roads is very alarming to me, and more so because it will be done by regulation. I hope I will be here to see the regulation which is tabled, because down in my part of the country it is a very serious matter.

Perhaps the time is coming when we cannot even move stock on the roads. The situation is becoming too ridiculous for words. It may be that stock gets on the road by accident. It is always possible that a tree will fall over a fence or onto a road, or a motorist may drive through somebody's fence—this frequently happens, and the motorist never leaves a note to say who did it—and the stock can be out on the road in next to no time.

What will the regulation be? What kind of authoritarian will deal with this matter? It is rather a critical matter where I come from.

I would like to see some protection or redress given to the owner who has to move stock on roads, be it from one paddock to another or one property to another. I personally have had experience of this kind with lethal motorists, if I can put it that way, where the law says one must precede and follow the stock with a red flag, inform people, and put up signs at stock crossings so that everyone knows what is going on. But in spite of that I have witnessed motorists driving at 60 miles an hour where stock are on the road.

Where are the regulations to protect the owner in these situations? That is something we are not even considering. I agree the prohibition may be necessary in the metropolitan area, but here we have another Bill written to cover the whole of the State and, I believe, written without sufficient consideration of the effect it may well have on people in country areas.

The Hon. G. C. MacKINNON: I am surprised the honourable member is so concerned about it. I am quite sure that she understands the situation and that if she stops to think about it she will appreciate the regulation has to be drawn up and has to lie on the Table of the House. It has to be drawn up in such a way that it will stand the test any piece of legislation has to stand—an examination not only here but also before the courts. Legislation is drawn up for the protection of all people.

I am as sure as I stand here that the regulation will not include stock which are attended. One or two comments have been made that it will include people droving stock. It will not.

The Hon. H. W. Gayfer: You said in your second reading speech that the owner or the person for the time being in charge of an animal shall not allow it to stray onto or along a road.

The Hon. G. C. MacKINNON: That is right. If it is attended by the owner and being taken along the road, it is not being allowed to stray. Those words refer to a person who carelessly allows stock to get out on a road.

I repeat that to start with the regulation has to stand the test of the Legislative Review and Advisory Committee, for which all members of this Chamber voted and the personnel of which most members of this Chamber know. Most members have read the committee's first report and accepted it as being quite good. That is the second test it has to stand, the first being examination when it reaches here. I expect that the moment the Minister for Lands stands up in this Chamber and says, "Mr President, I desire to lay the following papers on the Table of the House—regulations under the Road Traffic Act", half a dozen members will want to have a look at them.

The Hon. H. W. Gayfer: It will get in under their guard.

The Hon. G. C. MacKINNON: That will be the fault of members. Members are here in the Chamber during the tabling of papers, or they can see it in *Hansard*. That is actually the second test, and I move the other one down to number three. The first thing is the regulation must be drawn up by the department, which does not consist of fang-toothed ogres but of perfectly reasonable people who frame regulations and understand the situation. The second step is that the regulation is laid on the Table of the House and everyone has a right to look at it. The third protection is that the regulation must be examined by the Legislative Review and Advisory Committee; and the fourth protection is that it must be sustainable before a court—not only in the ordinary kind of case which may be brought by or against a farmer but sustainable also in the comments of the magistrate. A couple of times tonight I have said that adverse comments from the bench led to the Government changing a particular action.

It is not as though this is anything new. It is an existing provision in two other Acts. It has been suggested it would be better placed in this Act, and I think everyone accepts that.

Perhaps one other member in this Chamber over the last 20-odd years has done as much driving in the country as I have done, or more than I have done. In that time I have come very close to having only two accidents through straying stock. One was in the south-west at a place where I thought I was entitled to be surprised. It was just this side of Mandurah, of all places, and a big steer had got out. The other was between Roebourne and Wickham and I should have known better, because anyone who travels after dusk on that road wants his head read. On that occasion we had been held up by a series of mishaps. So it is not altogether a common occurrence we are talking about.

Nevertheless, as in most things, we need protection. Those are the automatic protections. It is not the kind of arbitrary, authoritative action the Hon. Win Piesse suggests it is, because as with any other legislation two-way protection is built into it—protection for everybody concerned, not just the person who owns the stock but also the family driving along the road. I think that is fair and proper and I suggest members ought to leave the provision in the Bill and take very good care they have a look at the regulations when they are placed on the Table of the House.

The Hon. N. E. BAXTER: I do not accept the Minister's explanation of the definition of stock and cattle.

The Hon. G. C. MacKinnon: It is not my definition. It is the definition in the Bill.

The Hon. N. E. BAXTER: I know. There are two different definitions in two pieces of legislation. That does not overcome the argument. But if the Government wants to leave it in a mess, it can do so.

I refer to the provision relating to regulating or prohibiting stock on roads. It mentions attended and unattended stock, yet in his second reading speech the Minister said it referred to stock straying onto or along a road, unattended on a road, or obstructing any portion of a road. What is the situation?

If we are to introduce regulations stating that stock must not obstruct any portion of a road, in a case where a farmer is driving a flock of sheep along a road how does he avoid obstructing the traffic on the road? Anyone who comes across a flock of sheep while driving along a country road must drive carefully behind them and wait until they divide so that he can get through. According to the Minister's second reading speech, that flock of sheep is obstructing the road. This should have been made much clearer in the Bill. It should have referred to regulating straying or unattended

stock, not prohibiting stock on roads. Lord knows what we will have in the regulations. We will have to go through the trauma again when the regulations come before the Chamber. I do not think it is good enough. This kind of provision should be properly investigated and properly phrased in the first place.

The Hon. H. W. GAYFER: The Minister said he was surprised at the Hon. Win Piesse raising certain objections when all the protection in the world would be provided in relation to the regulations.

The Hon. G. C. MacKinnon: That is not quite what I said. I said I was surprised she used the word "authoritarian".

The Hon. H. W. GAYFER: I researched what was said in another place and I noticed a certain member raised the issue in that Chamber but the Minister did not mention it in reply to the second reading debate. The clause was put and carried without any dissension. Therefore it is not surprising that it comes up again in this place. We are extremely concerned about it.

The Leader of the House said that only stock which stray are unattended. I agree with Mr Baxter: a flock of sheep may be perfectly well attended but it can still obstruct a road. One sheep can stray from a flock of sheep which is attended on the side of the road. As a matter of fact, "stray" is the word used for a sheep which leaves the flock. That is common parlance. I believe we have a problem in this matter.

I believe it is the thin edge of the wedge. I do not know what is likely to happen, but you can bet your life, Sir, that now we will have police watching us, and regulations will be drawn up and committees appointed to see how we can safely move sheep down the road in a tradition which is as old as Europeans are in Australia. It is a way of life.

The debate on this clause has taken three courses. First of all Mr Baxter referred to the definition of "stock". Then the matter concerning the movement of sheep was raised. The clause also has a provision dealing with overloading of trucks. I will not quarrel with the definition of "stock" or the biblical terms from which it derives, or the unicorns or other matters mentioned in respect of it. However, I am far from satisfied with the provision dealing with stock; and I am certainly not satisfied with the provision dealing with transferring loads, under which farmers may be pulled up and told to offload.

I believe we are taking this a little far. I know the intention, but we are getting to the stage where it is not worth living in the country. We want to get on with our work, but every time we look around there is another regulation. The way it is going, I do not know how we will be able to teach our children to farm. We just do not know whether we can get out of our front gates to carry on with our jobs.

The Minister may say there are regulations and members of Parliament will look after us. My godfather! He said he had received representations from members such as myself regarding the overloading of vehicles. I have never said anything like that to him in my life. The Minister might have brought it up in respect of getting some logs off trucks in the south, but I have not raised it. If I load a truck I want to get from A to B, and I do not want to have to shovel wheat off the truck into bags. If I have no bags, where do I put the wheat? The policeman will say because the load is damaging the road the truck must be taken to the police station, and so the farmer will lose his truck. This is reaching the height of stupidity.

We are trying to come out against the big boys, but in my opinion we will hurt the little people who just want to get on with their jobs.

The Hon. G. C. MacKINNON: There is no doubt that somewhere or other we must have regulations concerning the weight of vehicles on the road. All members would agree with that; so we are faced with the problem of how to do it. It must be done for the simple reason that our roads generally are built to withstand an axle load of 18 000 lb. We are able to distribute the load of trucks by using a greater number of axles and tyres, and tyres of a larger size to spread the weight. So we use bigger and more efficient trucks. Nevertheless, in order to maintain our roads it is necessary to impose limits on the loads carried on trucks. This is necessary to ensure that the roads last for the period of the wheat season, for the benefit of Mr Gayfer.

The Hon. H. W. Gayfer: The report says wheat carting to 10 tonnes does not do as much damage as was thought.

The Hon. G. C. MacKINNON: We cannot legislate purely for wheat trucks; we must legislate for all trucks. It is appreciated difficulties arise. For the first 10 years of my parliamentary life when Collie and the whole of the south-west were included in my electorate I dealt with overloading of timber trucks more than with any other single item.

The Hon. H. W. Gayfer: Why did you use the term "doing it for a quick profit"?

The Hon. G. C. MacKINNON: To my certain knowledge a reasonable percentage of those people who overloaded did so to make a quick profit. Wheat carters might not have done it but there is no doubt it was done in other industries, because a quick profit can be made in overloading if one can get away with it. It is becoming more difficult to do so.

The provisions regarding this matter are based on the representations made by many members. We are endeavouring to ease the situation. If it is found the legislation does not ease the situation to the extent we hope it will, something will be done about the matter.

Turning to the question of stock, this provision cannot be the thin edge of the wedge, because this is the third Act in which the provisions have been included. Strangely enough, the circumstances described by a couple of members have become so rare that the problem has become more acute. Four weeks ago, travelling between Bunbury and Mandurah out by the Rose place at the back of Harvey, I came across Peter Rose droving a mob of sheep. He had with him two fellows on horses, a couple of dogs, and a fellow in a utility. For about half to three-quarters of a mile vehicles moving in both directions slowly edged their way through the sheep with complete understanding and no tooting of horns.

The Hon. H. W. Gayfer: That happens all the time.

The Hon. G. C. MacKINNON: Mr Gayfer is the only member of this Chamber who would travel on country roads more than I do and he must know it simply does not happen all the time, because the bulk of stock is carted in trucks. Farmers have not the time to drove stock. Peter Rose happens to have properties on each side of the road and he was moving his sheep over a comparatively short distance. Even the number of people, who have properties on both sides of the road with signs warning drivers to watch out for stock, is becoming smaller.

The Hon. R. G. Pike: There are quite a few in the dairying areas.

The Hon. G. C. MacKINNON: Sure, but there are signs and if one travels the road regularly one knows almost precisely when the stock will be moved. The point is it was an everyday occurrence in my youth and people were aware of it and took care. It is now infinitely less common and that makes the situation all the more dangerous not only to drivers but to the person moving the stock and the stock itself. Therefore, something must be done about the matter.

This is not done to act against the careful farmer; it is done to safeguard against careless farmers. We are faced with the serious problem of the proliferation of hobby farmers—weekend farmers who do not depend on their farms for their livelihood. This is a problem to which the Government must give its attention in order to protect other people.

The Hon. W. M. Piesse: Does not the local authority have that jurisdiction?

The Hon. G. C. MacKINNON: They have asked to be relieved of it, and the Government properly must take note of such requests. Local governments and all sorts of people asked that the provision be included in this Act, and the Government accepts it is reasonable to do so.

The Hon. N. E. Baxter: Who in local government requested it?

The Hon. G. C. MacKINNON: I am not the Minister for Local Government, so I do not know. This Act is the proper place to include such a provision, and I suggest the Committee should accept it.

The Hon. I. G. PRATT: I never cease to be amazed at the reaction of country people when reference is made to stock straying on roads. I come from a farming family; most of my family are either actively engaged or have been engaged in farming, and the same applies to my wife's family. I find some difficulty discussing this matter with them. It appears they have the idea that because they are farmers their stock have a God-given right to be anywhere at any given time. That is the reaction we get whenever mention is made of straying stock. One has only to say "straying stock" and one gets that reaction.

I believe most farmers are extremely careful about their stock because the stock is valuable. In addition, being people who deal with animals, farmers have a feeling for their stock and so care for them. However, some farmers do not and are careless; they let their side down. The Leader of the House mentioned a couple of near accidents he had experienced with straying stock.

I had a serious experience several years ago when I was first married and had a wife and a young baby who, fortunately, were not with me at the time. I had just managed to purchase the first reasonable car I could afford, and I had no spare money for insurance. I was driving along a road in the rain just after dark when a cow crossed the road from my left in front of the car. I swerved to the right to try to avoid the animal but was not able completely to avoid it, with the result that the front and passenger sides of the car were severely damaged. The windscreen was broken

and the window pillar on the passenger side was pushed back. The car was severely damaged. So was the cow. Had my wife and child been in the car they could have suffered serious injury.

On a road in my electorate there lives a farmer who does not repair his fences, and so his animals are often on the road. Until recently the shire ranger was often out there impounding animals. The farmer would not pay the fines, and the shire was faced with the situation of having to sell him up to get the money—something it was reluctant to do. Several accidents have occurred on this stretch of road. A speed limit of 90 kilometres an hour applies to the road, and cars travel along it at that limit. Some travel faster, and a few travel slower. However, motorists have a right to travel along that road at 90 kilometres an hour, but they are faced with the possibility of a cow straying onto the road in front of them, causing them to swerve and perhaps hit another vehicle travelling towards them at the same speed.

I will comment on Mr Baxter's interjection about kangaroos in a moment. I know of another case where a horse raced across the road. Members know how flighty horses can be when they are disturbed. They just go; they do not look. In that case, the gentleman driving his car on the road, where he was entitled to be, swerved and hit a tree. He did not sustain any injury to himself or damage to the car, but the potential was there for it to be done.

Dealing with kangaroos, I can say that they do not belong to anyone. If a person is driving in an area in which he knows kangaroos are prevalent, he should expect that they will be on the road and he should take care. In an area where there are not any kangaroos, he will not be looking for kangaroos.

One expects animals to be taken care of by their legitimate owners.

One expects that fences will be maintained. If they are not maintained, something should be done about that.

When we are considering this matter, we should not consider whether there is an emotional feeling that the Government should not become involved with straying stock. This relates to the lives of people.

The Hon. W. M. Piesse: The RTA should not have the responsibility for straying stock where the local authority already has that responsibility.

The Hon. I. G. PRATT: The important point is: Who is responsible for control of traffic on the road?

The Hon. W. M. Piesse: Traffic, but not straying stock.

The Hon. I. G. PRATT: Do we suggest that the RTA should not be responsible for animals straying, even when people in cars are killed? I am afraid I cannot accept that.

If a person is involved in an accident on a country road which results in his death, he is just as dead as someone who is involved in an accident and killed on the road in or near the metropolitan area. We need to think about the fact that it is people's lives we are dealing with, not the convenience of the very small number of farmers who do not bother to care for their stock. There should be provision in the case of cyclones which knock down trees over fences, or lightning strikes which might do the same. There will not be any great difficulties over that. People should have difficulties where, through carelessness, their animals are allowed to wander on the roads at will.

The Hon. N. E. BAXTER: The Minister supported his own case when he said he had only hit about two sheep in 20 years.

The Hon. G. C. MacKinnon: Who said that?

The Hon. N. E. BAXTER: The Leader of the House said that.

The Hon. G. C. MacKinnon: What rubbish! I did nothing of the sort.

The Hon. N. E. BAXTER: He said something very close to that.

The Hon. G. C. MacKinnon: I did not say that at all. You do not even listen.

The Hon. N. E. BAXTER: That is what I heard the Minister say from here.

The Hon. G. C. MacKinnon: People hear me right down the other end of the corridor!

The Hon. N. E. BAXTER: How often does the RTA prevent a person's car hitting cattle? The RTA is only called in afterwards.

The Hon. G. C. MacKinnon: Let us get back to what you were accusing me of saying.

The Hon. N. E. BAXTER: The RTA does not prevent an accident happening which involves straying cattle. There is a provision in relation to straying animals in the Local Government Act.

I hit a kangaroo tonight coming back from Beverley. How could the RTA prevent that? I have not hit one since 1952, when I hit two in one week. It is 26 years since I hit one, and I hit one tonight. What is the RTA going to do about it? Will it stop a kangaroo from running onto the road? Of course, it will not. That is so much eyewash.

I move an amendment—

Page 21, lines 9 to 12—Delete subparagraph (i) of paragraph (a).

The Hon. G. C. MacKINNON: I hope that the Committee will reject this amendment. It does not make one skerrick of difference to anything. It is still an offence to allow stock to stray. The person liable is the farmer. The penalty is precisely the same under the Bill as it is now.

A number of local authorities have requested that this clause be included in the Bill. This seems to be the proper place to include this provision. To take it out would be a total waste of time, because it already exists in the Local Government Act.

The farmer is liable. That is the law.

The Hon. N. E. Baxter: He is liable under this, too, so there is no difference.

The Hon. G. C. MacKINNON: The provision ought to be contained in this Bill. It is the proper legislation as it deals with offences on the roads. As a Legislature, let us be consistent and let us be tidy. Let us leave it here where it ought to be.

The Hon. M. McALEER: I agree wholeheartedly with the general comments made by the Hon. Ian Pratt as far as the RTA is concerned. In my experience of my own area, the RTA has policed the straying stock on the road. It has not done it in any particularly harsh way. It has notified the local farmers that their stock have been found. They have been given the chance to remove them. If there is a need for the RTA to have authority to do this, I cannot see anything against this provision.

Amendment put and negatived.

Clause put and passed.

Clauses 20 to 23 put and passed.

Title put and passed.

Bill reported with an amendment.

LEGAL AID COMMISSION ACT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from the 12th October.

THE HON. GRACE VAUGHAN (South-East Metropolitan) [9.56 p.m.]: Now that the previous Bill has finally been resolved, I wish to say that the Opposition supports this Bill to amend the Legal Aid Commission Act.

I would like to refresh the minds of members about the second reading speech by the Attorney General. This Bill is mainly concerned with clearing up some of the problems that have arisen since the setting up of this legal aid service.

I must admit the service is turning out much better than I thought it would. I have been watching it closely. My spies in the social welfare field have been telling me about its progress. I congratulate the Attorney General. I know that he was very concerned that it be a good substitute for the other two services that it replaced.

The first aspect that is important is the matter of setting a scale of fees for the private practitioners who, through the commission, assist the people who are eligible. This scale of fees will replace the lump sum, which proved to be a clumsy way of doing things. The lump sum was not conducive to the proper use of the fund, because in some cases a lump sum was being paid for a few minutes' work, and in other cases the private practitioner had to work extremely hard for the same amount.

The clause which deals with reciprocity is welcome. It means that there will be a reciprocal arrangement between the legal assistance schemes in other States, rather than the informal arrangement that has existed.

The Opposition is pleased to note that the relationship between the solicitor and the client is being emphasised. It will include the commission as the instructing agent.

The next matter with which I wish to deal is the signing of documents by the practitioner in his own right, rather than signing his own initials on behalf of the director. That was a clumsy way of doing things. The director will now be authorised to appoint a staff member, who is a practitioner, to do the signing.

In relation to proposed new section 63A, I direct the attention of the Attorney General to this delicate situation. The practitioner is to supply any information that he or she obtains in regard to the assisted person. When I first read that, I thought it would mean that if the case was transferred from one practitioner to another, there would be no loss of information; that is, that the whole business would not have to be gone through again in the matter of garnering information from the assisted person.

This occurs in private practice outside the legal assistance scheme and it is very irritating. A client goes to a particular lawyer and tells his story at great length. The next time he goes to the law firm, he finds he is allotted Mr Smith, because Mr Brown is on another case, is ill, has left the State, or has left the law firm. As a result, the client has to repeat his story all over again.

That is bad enough, but it is even worse in the case of a practitioner who is given a commission to look after an assisted person and who then takes away all the material he has gathered from the assisted person. This would be irritating, time-consuming, and costly.

I thought this provision was intended to ensure that the transfer could be made more effectively without the loss of information; but it appears from the Minister's second reading speech that it is a matter of determining whether the person being assisted is, in fact, eligible. It seems this may be restrictive, because the lawyer who is observing the ethics of his profession would surely need to warn the assisted person that he should not reveal matters which would make him ineligible for assistance. If the lawyer did not do that, I would say it is a breach of confidentiality that the information disclosed to the private practitioner appointed to help the assisted person should be passed on. If the practitioner learns something through his questioning in regard to the matter on which the person is to be assisted, and he then goes to the commission and says, "He really has more money than he said he had in the beginning", that is a breach of confidentiality.

If we are looking at the matter of principle, perhaps that person ought to be informed on, as it were; but it seems to me it might put the solicitor in an invidious position. I should like the Attorney General to put my mind at rest in regard to this matter and assure me it will not be a case of the solicitor informing on the assisted person without the person knowing he will be put in that position.

The last clause in the Bill is a sensible one. Secrecy will not apply if it is a matter of finding out whether the assisted person has, in fact, committed an offence under the Act. This amendment is proposed so that secrecy will not extend to the person being questioned about an offence which he has committed and is not in connection with a matter which comes within the spirit of the legal assistance scheme.

With the small reservation I have mentioned in regard to clause 11, we support the Bill.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [10.04 p.m.]: I appreciate the support given to the Bill by the Hon. Grace Vaughan on behalf of the Opposition. As indicated by the honourable member, the Bill is intended to overcome some of the administrative problems which have become apparent during the last few months.

In regard to the matter raised by the honourable member, there is a requirement that any person who applies for legal aid under the original Act should sign a statutory declaration; but this is rarely done and, in fact, applications for legal aid have been completed in a rather informal manner so as to assist the person to obtain legal aid as quickly as possible.

However, it has been found that this very informality produces a situation where the Legal Aid Commission itself cannot obtain all the facts it needs about a person's eligibility. There are situations where it may need to question the practitioner and obtain information from him in order to determine questions which arise. It may be a review committee reviewing the person's case, or it may be the commission itself. Nothing is laid down specifically as to exactly the type of information asked for and the honourable member has raised the point quite rightly.

All I can do is give an assurance the commission does not desire to interfere in any way with the substantive conduct of the case by the practitioner except to see the matter is kept on the rails. Therefore, it is desirable the commission should have some kind of supervisory power to ask the practitioner to give information about the performance of his services so that the commission and the review committee know exactly how he is going about his task. It may be the practitioner is performing his duties in a more long-winded manner than is needed. It may be his work can be short circuited. There are any number of situations in which it is only right the commission should have some kind of power to seek information without the matter being a closed book. At the moment the commission does not have that right.

It is desirable the commission should have the power to be able to supervise the performance of the services of the practitioner to ensure he carries out his duties properly. But as the commission has indicated quite clearly, it has no desire to take over the role of the practitioner or to interfere in the proper conduct of a case. However, it does require to know what is happening from time to time. A delay might occur in a case, or any number of situations might arise where the commission requires information.

On the question of the transfer of files from one practitioner to another, the manner in which the Legal Aid Commission carries out its work must be borne in mind. A total of four practitioners are located in an area of immediate accessibility to the public in premises in St. George's Terrace. Two of these practitioners are employed by the commission as members of the staff and the other two are members of the legal profession who voluntarily come along and give their services free of charge.

These four practitioners see members of the public who come in during the day. A total of 50 or 60 people may want legal advice every day. These people come in to be interviewed and a decision is made as to the basic requirement of each client. A decision is made as to whether the person needs legal aid and what sort of means he is in possession of; and other matters of that nature are considered. Having discussed the person's case in general terms, and having determined his needs, the person will be passed on to someone else.

It may be the impression is created among some of the clients of the commission that they are going through the process twice, because they have a preliminary interview to ascertain their problem, and they are then passed on to someone else. Some people think they need legal aid when they do not need it, and other people do not think they need legal aid but they do need it, as the Hon. Grace Vaughan knows as a result of her social work. It is important that applicants be screened in this manner.

At the moment the commission is not able to cope with the number of people who appear daily. The commission hopes to increase the number of lawyers conducting the screening interviews so that all people requiring assistance may be attended to in the one day and it will not be necessary to ask them to return the following day. A little duplication is involved and some people may obtain the impression that they go through the process twice.

The honourable member referred to the transfer of clients from one practitioner to another when the case has been started. I do not know how many situations such as this would arise. I imagine there would not be very many. Usually once an assignment has been made to one practitioner, it stays with him. It would not be transferred to another practitioner unless something untoward occurred, such as the practitioner going away or not seeing eye to eye with the client, or the client wanting to be seen by someone else.

The teething problems experienced by the commission are being worked out. It still has problems, but it is determined to make a success of its operations.

I thank members opposite for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Attorney General), and transmitted to the Assembly.

CONSUMER AFFAIRS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 12th October.

THE HON. D. W. COOLEY (North-East Metropolitan) [10.12 p.m.]: The Opposition has no hesitation in supporting this Bill. It will establish a consumer products safety committee which will have the necessary powers to ban the sale of products which are apparently or actually unsafe.

The principle contained in the Bill is in complete conformity with the policy of the ALP in this matter, which is as follows—

> take comprehensive and co-ordinated action, in conjunction with the States where possible, to prohibit the supply and provide for the notification and recall of hazardous products;

The Minister has explained this Bill complies with uniform provisions throughout the Commonwealth, for obvious reasons. We wholeheartedly support it.

The two other amendments contained in the Bill relate simply to the role of the deputy commissioner and the appointment of the chairman of the council, because the present Act contains some anomalies in that regard.

We support the Bill.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 to 6 put and passed.

Clause 7: Part IIIA added—

The Hon. G. C. MacKINNON: I would like to explain briefly the amendments on the notice paper. They were agreed to in another place when the member for Cottesloe (Mr Hassell) brought them up. Following his request, further consideration has been given to providing a right of appeal to people affected by an order to

prohibit the sale of goods because of their dangerous nature. As the Bill currently stands, the Minister has the prerogative to issue an order and there is no appeal to any other source—for example, a court of law.

The Government has therefore agreed to authorise the Commissioner for Consumer Affairs to act on the recommendations of the Consumer Products Safety Committee and issue orders at his level. Any person aggrieved by the issue of such an order will then be able to lodge an objection with the Minister, who is empowered to dismiss or uphold the objection, when he may revoke or amend the order in such manner as he considers necessary to meet the objection.

Another amendment proposed will require an authorised person under this part of the Act, before entering premises for the purpose of carrying out an investigation, to obtain a warrant from a magistrate or Justice of the Peace to do so. This should afford some protection to a trader, as the magistrate or Justice of the Peace will require to be satisfied that the entry is sought in good faith for a proper purpose of investigation and that the person has a document, signed by the Commissioner for Consumer Affairs, certifying that he is authorised to carry out an investigation.

I move an amendment—

Page 7, lines 31 and 36—Delete the word "Minister" and substitute the word "Commissioner" in each case.

Amendment put and passed.

The clause was further amended, on motions by the Hon. G. C. MacKinnon, as follows—

Page 11, lines 4, 9, 25, 28, 36 and 42—Delete the word "Minister" and substitute the word "Commissioner" in each case.

Page 12, lines 5, 20 and 26—Delete the word "Minister" and substitute the word "Commissioner" in each case.

Page 13, lines 14 and 36—Delete the word "Minister" and substitute the word "Commissioner" in each case.

Page 14, line 14—Delete the word "Minister" and substitute the word "Commissioner".

Page 14—Insert after subsection (6) the following new subsections to stand as subsections (7) to (9)—

(7) Any person may make an objection to the Minister against an order made under this section.

(8) Any objection—

(a) shall be made within fourteen days after the publication in the *Government Gazette* of the order or, where the objection arises as a result of an amendment of the order, within fourteen days after the publication in the *Government Gazette* of the notice by which the amendment was made;

(b) shall be made in writing and shall set out in full the nature of the objection and the grounds on which it is made.

(9) The Minister may, after considering the objection,—

(a) dismiss the objection; or

(b) uphold the objection and, by notice published in the *Government Gazette*, revoke the order or amend the order in such manner as he considers necessary to meet the objection.

Page 18, line 12—Delete the word "the" where it first occurs.

Page 19—Insert after subsection (2) the following new subsection to stand as subsection (3)—

(3) Where a person authorized pursuant to subsection (1) of this section proposes to enter any place pursuant to subsection (2) of this section, he shall, before entering the place,—

(a) obtain a warrant to do so from a Magistrate or Justice of the Peace which warrant the Magistrate or Justice of the Peace is authorized to issue upon being satisfied that the entry is sought in good faith for the purpose of carrying out any investigation under this Part;

(b) display to the person, if any, affording him entry, a document signed by the Commissioner and certifying that he is authorized to carry out investigations for the purpose of this Part.

Clause, as amended, put and passed.

Clauses 8 and 9 put and passed.

Title put and passed.

Bill reported with amendments.

House adjourned at 10.23 p.m.

QUESTIONS ON NOTICE

LAND RESUMPTION

Belmont

367. The Hon. F. E. McKENZIE, to the Attorney General representing the Minister for Urban Development and Town Planning:

(1) Is it the intention of the Metropolitan Region Planning Authority or the Main Roads Department to eventually acquire all residential properties between the Sandringham Hotel and the Belmont Bowling Club?

(2) If so, have all owners been notified?

(3) For what purpose are these properties required, and when is resumption likely?

The Hon. I. G. MEDCALF replied:

(1) Yes.

(2) The reservations were implemented in 1963 when the metropolitan region scheme was approved by Parliament and the majority of owners would be aware of the reservations through clause 42 certificates or development application. Also the MRPA has purchased several properties.

(3) For river foreshore recreation and conservation and future upgrading of Great Eastern Highway. No date has been set for resumption.

LOCAL GOVERNMENT

Collie and Wongan-Ballidu Shires

368. The Hon. W. M. Piesse (for the Hon. N. E. BAXTER), to the Leader of the House:

During the current financial year—

(1) (a) Is the Shire of Collie liable for or has paid a total of $3 000 to the Public Works Department for rates; and

(b) if so, would the Minister please supply details of how the total amount is arrived at?

(2) (a) Has the Shire of Wongan-Ballidu paid a total amount of $4 500 to the Public Works Department for rates; and

(b) if so, would the Minister please supply details of how the total amount is arrived at?

The Hon. G. C. MacKINNON replied:

(1) (a) Yes.

(b) The total liability of the Shire of Collie for water and sewerage charges is as follows—

Arrears $2 062.05; Water Service Charges $984.60; Sewerage Service Charges $739.20; Second Service fees $60.00.

Total $3 845.85.

Payments during the current financial year to the 17th October have totalled $3 300.71.

(2) (a) No. $4 199.88 was paid on the 6th October including charges for water consumed.

(b) The Shire of Wongan-Ballidu accepts responsibility for sewerage and water supply charges for a number of residences in addition to properties used for its own purposes.

QUESTIONS WITHOUT NOTICE

CLOSE OF SESSION: SECOND PART

Target Date

1. The Hon. D. K. DANS, to the Leader of the House:

Further to a question I asked the week before last, does the Leader of the House have any further information as to the likely date that Parliament will rise? I am asking him this question for the reasons I listed earlier as there seems to be a great deal of uncertainty about it. Usually at this stage of the session there is at least some clear indication of the week during which the House is likely to adjourn.

The Hon. G. C. MacKINNON replied:

I am sorry I cannot give the Leader of the Opposition any further information on this question. By next week we will know for certain our legislative programme and, hopefully, I will then be able to give a firmer answer to him.

"HANSARD"

Delay in Production

2. The Hon. R. F. CLAUGHTON, to the Leader of the House:

> Last week I asked a question regarding the production of *Hansard* because we did not receive our copies until late on the Thursday afternoon. I note there has been a delay also this week; in fact, the book has only just arrived here. I now ask the Leader of the House whether he can advise the cause of the delay, and whether or not the situation is likely to improve?

The Hon. G. C. MacKINNON replied:

> I understand there has been a little trouble at the Government Printing Office. Last week it was in relation to overtime, and from what I have been able to discover this week a machine breakdown was the cause of the delay. I will try to find out more about this matter and I will let the honourable member have this information at a later stage of today's sitting.