

and the State Housing Commission, and then there will be no reference whatever, as there is at present, to these three separate Acts. As the law stands now, the agreements between the State Housing Commission and the road boards and municipal corporations are too mandatory. That is the reason for asking Parliament to amend the Act. At present the road boards or municipal corporations must place the whole of the revenue from the particular ward in which the Housing Commission is building in a fund to repay the money loaned by the State Housing Commission. It has been proved by many road boards and municipal corporations in Western Australia that this is much too severe. Therefore, it is proposed to make the position easier for the local governing bodies.

Having an agreement between the two parties approved by the Minister for Local Government should afford sufficient protection and no road board or municipal corporation would give its rights away without reference to the Minister. One case may be cited, that of the Mosman Park Road Board. In that district the State Housing Commission has built a large number of houses, totalling in the vicinity of 400. That particular board has had great difficulty in providing the necessary services for the houses which the Commission erected there. As a result the rates payable by the residents of that locality have been increased considerably, mainly because there have been such inroads into the money available from rates that there has been no finance left to enable the board to carry on.

Hon. H. Hearn called attention to the state of the House.

The PRESIDENT: There is now a quorum present. The Minister may proceed.

The MINISTER FOR TRANSPORT: The result has been that the rates had to be increased to enable the board to repay the loan made available by the State Housing Commission. The position under the Act as it now stands, is that if a rate is, say, 9d. or 1s. in the pound, practically all that money must be paid over to the Housing Commission. The object of the amending legislation is to enable the Commission to enter into an agreement with the road board or the municipal council, under the terms of which it will be necessary for only 4d., 5d., or 6d., as the case may be, to be paid over to meet the liability under the loan. Again, it must be remembered that any agreement so made must be approved by the Minister for Local Government.

The point was raised in another place that it should have been possible to deal with the situation by amending the principal Act, instead of dealing with three other Acts. In this regard the Crown Law Department advises that if we were to make

mandatory agreements we would have to amend all three Acts. Consequently, in a few months' time, if what was done were found to be unsatisfactory, it would be necessary to adopt the same procedure again and amend these three Acts. In the circumstances, the Bill has been introduced to repeal, among other things, the relevant sections of the three Acts concerned and all that is sought to be done is to provide an easy means of arriving at an agreement with the local authorities in a similar manner by means of a simple agreement that has to receive the approval of the Minister. I trust the Bill will be acceptable to members. I move—

That the Bill be now read a second time.

On motion by Hon. L. A. Logan, debate adjourned.

House adjourned at 5.39 p.m.

Legislative Assembly.

Thursday, 26th October, 1950.

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

QUESTIONS.

SUPERANNUATION.

As to Payments to Part-time Government Employees.

Mr. McCULLOCH asked the Premier:

(1) Will he give consideration to the relaxing of the State Superannuation Act which would permit retired workers who are compelled through economic reasons to take part-time employment with a State instrumentality, to receive their superannuation benefit payments without reduction?

(2) Is it a fact that retired workers in receipt of superannuation payments from the State, may take any class of employment, excluding that with the State Government, and that no reduction is made to the superannuation payments?

The PREMIER replied:

(1) Pensioners re-employed by the State continue to receive the portion of pension payable from the fund, for which they themselves have subscribed, during the whole period of re-employment. They do not receive the portion payable by the State, except for 28 days in each 12-monthly period, or for one term of 28 days where the period of employment is continuous for more than 12 months.

This restriction is the same as under the Commonwealth Superannuation Scheme. The State provides three-fifths or more of each pension, and it is considered that the Government should not pay pension concurrently with salary.

(2) There is no restriction on earnings from outside employment by a person who is in receipt of a pension on attaining the retiring age.

A person receiving a pension on account of invalidity is permitted to receive, by way of pension and salary combined, an amount equivalent to the basic wage or two-thirds of his former salary, whichever is the greater. The excess is deducted from his pension.

RAILWAYS.

As to Diesel Passenger Traffic.

Mr. PERKINS asked the Minister representing the Minister for Railways:

How many passengers were carried by—

(a) small diesel (two-car) rail car;

(b) large diesel (three-car) rail car, during the last week for which the data is available, from Perth to destinations 50 miles distant and beyond, per scheduled trip on each specified route?

The MINISTER FOR EDUCATION replied:

(a) This information is not recorded.

(b) Average No. of paying passengers—Perth to Albany, 35; Perth to Pingrup, 49; Perth to Ongerup, 30; Perth to Mukinbudin, 23; Perth to Merredin (direct), 32; Perth to Merredin (via Dowerin), 27; Perth to Northam, 17; Perth to Mullewa, 38.

MIDLAND RAILWAY CO.

As to Road Service License Fees.

Hon. F. J. S. WISE asked the Minister representing the Minister for Transport:

(1) Will he give examples of the license fees payable by the Midland Railway Company to the Transport Board compared with those charged any other interest concerned in the transport of goods from Perth to Shark Bay?

(2) If there is any difference, what is the reason for it, bearing in mind that there is no other transport available to Shark Bay, either by land, sea or air?

(3) How do the license fees payable by the Midland Railway Company to the Transport Board compare with those charged by the Transport Board for the carriage of sawn timber, logs, petroleum products and deliveries by city firms outside the 20-mile exemption radius from the General Post Office?

The MINISTER FOR EDUCATION replied:

(1) Midland Railway Company operating between Perth and Geraldton pays a license fee of £4 16s. 4d. per annum for a van licensed to carry 5 tons 14 cwt. 3 qrs.

Northern Supply Company operating between Perth and Shark Bay have been granted a license at 1s. 6d. per power-load-weight which will approximate £16 16s. for a five-ton vehicle.

(2) The State Transport Co-ordination Act requires consideration of existing services. The Midland Railway Company's service is not competitive with, but complementary to, its own rail service and provides transport for goods which have hitherto been regarded as legitimate rail traffic but which can be more efficiently carried by road. On the other hand, the new service of the Northern Supply Company from Perth to Shark Bay duplicates existing transport services.

(3) Although the class of loading catered for by the Midland Railway Company is in no way comparable with the other items mentioned, fees are assessed, according to the power-load-weight of vehicles, as follows:—

Midland Railway Company—4d. per p.l.w.

Sawn Timber—2s. per p.l.w.; logs—1s. per p.l.w.

Petroleum Products—Varying according to distance up to 4s. per p.l.w.

Delivery by city firms (beyond 20 mile radius)—1s. 6d. per p.l.w.

FIRE BRIGADES.

As to Boulder and Kalgoorlie Staffs.

Mr. OLIVER asked the Chief Secretary:

Is it the intention of the Government to reduce the number of firemen employed at fire stations in the Boulder and Kalgoorlie area?

The CHIEF SECRETARY replied:
No.

ROADS.

As to Commonwealth Aid Funds.

Mr. NALDER asked the Minister for Works:

(1) What was the amount of Federal Aid Roads grant money allocated to W.A. for the years ending the 30th June, 1947, 1948, 1949, 1950?

(2) What amount remained unexpended during each of those years?

The MINISTER replied:

(1) The 30th June, 1947—£893,400. The 30th June, 1948—£1,098,758. The 30th June, 1949—£1,326,311. The 30th June, 1950—£1,699,567.

(2) The 30th June, 1947—£1,087,679. The 30th June, 1948—£1,073,582. The 30th June, 1949—£1,170,887. The 30th June, 1950—£1,373,894.

EDUCATION.

(a) As to Northam High School, Cycle Rack.

Hon. A. R. G. HAWKE asked the Minister for Works:

What is the present position regarding the suggested construction at the Northam High School of a cycle shed and a cycle rack?

The MINISTER replied:

The Government does not provide cycle sheds and cycle racks to schools. Consequently, no action has been taken in this matter.

(b) As to Northam State School Grounds.

Hon. A. R. G. HAWKE asked the Minister for Education:

What is the present position regarding suggested improvements to the school grounds at the Northam State School?

The MINISTER replied:

An estimate is held by the Education Department for this work, which will be commenced when Northam's turn is reached on the priority list for ground improvements.

DRY-CLEANING FACTORY.

As to Erection in Residential Area.

Mr. W. HEGNEY (without notice) asked the Chief Secretary:

Is he aware that a dry-cleaning factory is being erected at the corner of The Boulevard and Scarborough-road, Mt. Hawthorn,

adjacent to a residential area? If not, will he make inquiries into the matter with a view to ascertaining whether the erection of such factory should be prevented in the interests of the health of a number of people residing in the locality and the property values of such residents?

The CHIEF SECRETARY replied:

I am not aware of the circumstances mentioned by the hon. member, but if he will give me the paper from which he has quoted, I will have the necessary inquiries made, and will inform him.

NATIVE AFFAIRS.

As to Occupation of Alvan House.

Mr. GRAHAM (without notice) asked the Chief Secretary:

Is he able to advise when the native girls will take up residence at Alvan House, Mt. Lawley?

The CHIEF SECRETARY replied:
Not with any exactitude.

NORTH-WEST.

(a) As to Dumped Building Materials.

Hon. A. A. M. COVERLEY (without notice) asked the Chief Secretary:

Is he aware that many tons of building materials were carted from Derby and dumped on the old post office site at Fitzroy Crossing some considerable time ago, and are now a prey to white ants?

The CHIEF SECRETARY replied:

I am not aware of it, but if the hon. member will see me shortly and give me the details, I will be pleased to make inquiries and inform him.

(b) As to Schoolmaster's Transport.

Mr. RODOREDA (without notice) asked the Minister for Education:

(1) Who met the cost of the passage by air from Roebourne to Geraldton and return to Roebourne of a relieving schoolmaster within a day of his arrival at Roebourne? It is alleged that this schoolmaster had a leading part in a theatrical entertainment in connection with the Geraldton centenary celebrations.

(2) Is it a fact that this arrangement was authorised by the Minister in spite of the children at Roebourne having already lost considerable schooling by reason of the illness of their regular schoolmaster?

The MINISTER replied:

My recollections of the matter are that representations were made to me that the carrying out of a substantial item of the centenary celebrations would be impossible without the services of the person in question, as no substitute was available. If the teacher had had reasonable notice of transfer, he would not have left Geraldton

before the entertainment took place, but he was ordered away at almost a moment's notice. It was considered reasonable by the Director and myself to permit his return for the day or so required. The extra fare was presumably paid by the centenary celebration committee, although I have no actual knowledge of this.

PRICES.

As to Suggested Reversion to Commonwealth Control.

Mr. W. HEGNEY (without notice) asked the Attorney General:

Is it a fact that at the last conference of Prices Ministers in Hobart it was suggested that an approach be made to the Commonwealth Government for it to take over the control of price-fixing again?

The ATTORNEY GENERAL replied:
No.

BILL—MILK ACT AMENDMENT.

Introduced by the Minister for Lands and read a first time.

BILL — ACTS AMENDMENT (ALLOWANCES AND SALARIES ADJUSTMENT)

Read a third time and transmitted to the Council.

BILL — WOOD DISTILLATION AND CHARCOAL IRON AND STEEL INDUSTRY ACT AMENDMENT.

Report of Committee adopted.

BILL—LOAN, £14,366,000.

Second Reading.

THE PREMIER (Hon. D. R. McLarty—Murray) [4.43] in moving the second reading said: This Bill is to provide the necessary authority to raise, by way of loan, sufficient money to meet the proposed capital expenditure on public works as set out in detail in the Loan Estimates and is required to be passed by both Houses before the Estimates are dealt with. The Estimates provide for the expenditure of £16,798,276 and although this Bill is for only £14,366,000 it will be sufficient, when added to the unexpended balance of previous authorisations, to cover the estimated expenditure of the year and, in addition, there will, where necessary, be sufficient for the works to be carried on for a further six months by which time Parliament will have the opportunity to again consider the position.

The schedule to the Bill shows the individual amounts requiring authority and a comparison of the schedule with the amount reveals that in many cases they are similar, and where disparity exists it will be found that there is a fairly large

unspent balance from previous authorisations. The net public debt at the 30th June, 1950, stood at £109,479,162, an increase of £5,853,241 over the corresponding debt last year, but owing to the accelerated rate of increase in population the debt per head advanced by only £2 0s. 2d., the amount per head now being £196 11s. Debt to the face value of £1,040,923 was redeemed during the year, including £275,907 on overseas securities, and a sum of approximately £1,200,000 will be available in the sinking fund for use during the current year. Further satisfactory conversions were effected during last year and the average rate of interest on the total debt is now £3 2s. 5d. per cent. against £3 3s. 3d. per cent. a year ago. I move—

That the Bill be now read a second time.

On motion by Hon. F. J. S. Wise, debate adjourned.

BILL—BUILDINGS (DECLARATION OF STANDARDS).

On motion by Mr. Graham, Order discharged.

BILL — SUPERANNUATION, SICK, DEATH, INSURANCE, GUARANTEE AND ENDOWMENT (LOCAL GOVERNING BODIES' EMPLOYEES) FUNDS ACT AMENDMENT.

Second Reading.

Debate resumed from the 17th October.

HON. A. R. G. HAWKE (Northam) [4.48]: This Bill proposes to give the Governor power of proclamation to bring under the provisions of the principal Act groups of employees associated more or less with local government activities. The Minister told us this Bill had been introduced mainly because it was the desire of certain local governing bodies in the country to have the employees of local water boards covered by the Act. The amendment in the Bill does not refer to water boards at all, but is of a general nature to enable other groups to be brought in as occasion justifies such action without the necessity for the Government's introducing amending Bills. I support the second reading. I ask the Minister, however, whether he has given any consideration in recent weeks to the position of certain road board secretaries in Western Australia, who are excluded from the benefits of the principal Act because of the fact that they were beyond a certain age when that measure came into operation.

There are not many road board secretaries so affected, but those who are excluded from the benefits of the Act for the reason I have indicated are left in the position that they have no legal rights whatever with regard to superannuation

payments. They have no binding legal rights under the Road Districts Act, although it is within the discretion of any road board that has employed a secretary for a great number of years, to pay a gratuity on the basis of his years of office. That does not give a secretary in that position any legal rights as to receiving compensation. Thus, this small group of road board secretaries is left in the position of having no rights under the Superannuation Act, which covers our local governing authorities, nor have those people any legal rights in connection with gratuities that are payable to employees of local governing authorities. They are completely subject to the discretion of those bodies.

I understand that at least one of these secretaries has had correspondence with the Minister so that the latter is well informed as to the position of these road board employees. I would be very pleased if the Minister could make information available to members today to indicate the intentions of himself and the policy of the Government in connection with these unfortunate individuals. As I remarked, it is true that there is only a small number of them. However, they have rendered very efficient and loyal service over a great many years to the local authorities concerned, and they consider they should be given some measure of protection either under the provisions of the superannuation Act or by way of an amendment which they think could be made to the Road Districts Act.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Hill in the Chair; the Minister for Local Government in charge of the Bill.

Clause 1—Short title:

THE MINISTER FOR LOCAL GOVERNMENT: Although possibly I could have replied to the member for Northam a few minutes ago, it strikes me that now this is the only possible opportunity I will have to do so. I agree with him that the road board secretaries he referred to—I presume there may be some town clerks in a similar position—are excluded on account of age from participation in these superannuation rights and, further, they are without any legal claim upon the local authorities concerned in respect of gratuities. That constitutes a situation that should be inquired into. As the member for Northam indicated, I have had some correspondence with regard to this matter, but it was restricted, so far as my memory goes, to one road board secretary. I believe there are a few others in a like position. The matter is being borne officially in mind, but it is not possible at the moment to deal with their position by way of an amendment to the Bill.

Clause put and passed.

Clauses 2 to 4, Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—TRAFFIC ACT AMENDMENT.

In Committee.

Resumed from the 12th October. Mr. Hill in the Chair; the Minister for Local Government in charge of the Bill.

The CHAIRMAN: Progress was reported after Clause 6 had been agreed to.

Clause 7—Section 32 amended:

Hon. F. J. S. WISE: The clause deals with the deletion of the word "motor" from Section 32 of the principal Act. That section is very lengthy and refers to offences under the traffic law which come within the category of drunken driving, and to the person who is under the influence of drink or drugs to such an extent as to be incapable of properly controlling a vehicle. It is proposed to strike out the word "motor" from the section so that if a person should be in charge of a vehicle, which would include push bikes, propelled invalid chairs or it might be a hobby-horse or a scooter, and be under the influence of liquor at the time, he would come within the prescribed influence of this portion of the Act and be subject to its penalties.

There is a peculiar anomaly in the Traffic Act as between the section with which this amendment deals and the following section. Section 32 relates to all offences associated with drink. Section 33 deals with all sorts of traffic offences in connection with the driving of a motor vehicle, including speeding, erratic driving, etc. For a first offence in connection with the section we are amending, the magistrate can take away a driver's license for only three months. That is the limit. In the subsequent section a magistrate is given power to disqualify a person from holding a license for any period he thinks fit, though the offence may be quite a minor one compared with that of drunken driving. I would say that drunken driving is the most serious of all offences that could be committed by those in control of motor vehicles. Yet because the law is so specific on the point, the magistrate cannot take away an offender's license for longer than three months in the case of a first offence.

It may be recalled that Magistrate Rodriguez suspended a driver's license for six months in connection with a drunken driving charge. The matter was taken to the Supreme Court and the magistrate was proved to be wrong, and it was held that he could not, in the case of a first offence, suspend a person's license for longer than three months. Yet for all the other offences set out in the Traffic Act the period can

be any that the magistrate thinks fit. I would like the Minister to look into that matter because there is a need for removing the anomaly to which I have referred.

I am wondering why there are any penalties in this clause at all when I remember what the Attorney General did in recent months in handing back a license to a killer, to a person who has killed people while she was driving a motor vehicle and was under the influence of drink. That woman had her license taken from her for life.

The Premier: Is it a fact that she was under the influence of liquor? I do not think that is correct.

Hon. F. J. S. WISE: I am glad the Premier asked that question because I went to a lot of trouble to study the court minutes on the file for the tabling of which I asked. The evidence clearly showed that the injury to the head which this woman sustained was such that she could not be examined for other injuries or conditions. It showed, however, that she smelt strongly of liquor.

Mr. Marshall: There was not much doubt about it.

Hon. F. J. S. WISE: She had a head injury and was not examined, and could not be because of her physical condition due to the injury.

The Premier: There was no proof that she was under the influence of liquor.

Hon. F. J. S. WISE: There is more than passing proof in the attitude of the judge in the matter. As part of the sentence he imposed he took away this driver's license for life because of the manslaughter charge. If the minutes of the court proceedings and the depositions had been read by the Premier, concerning the speed of the car, its position after the accident, and the evidence of a constable and others in regard to her smelling strongly of liquor, together with subsequent happenings, he would have no doubt about the matter whatever.

I take very strong exception, in the interests of the community, to the subsequent action of the Minister and the Government. I expected an interjection that the Government did nothing about it and that it was left to the Minister, because I have reason to believe that these papers did not go either to Cabinet or to Executive Council. I am not going to cavil very much about that, because it is well known to those who have been in administrative offices, that, firstly under letters patent of the Governor, from which he derives his full authority, and secondly under instructions to the Governor, in the case of the remission of a sentence, the recommendation may go direct from the Minister to the Governor, as it did in this instance.

But this was a capital charge originally—a charge of manslaughter—and part of the sentence was the removal of the driver's license for life. Why? Because the learned judge in assessing the evidence, and in addition because of previous history, decided that this woman was not a fit and proper person to hold a driver's license. And what did the magistrate say? In the court in Perth, the magistrate expressed concern at the woman having appeared in the courts on previous occasions on similar offences.

The Attorney General: There was no question of drunkenness previously.

Hon. F. J. S. WISE: There was.

The Attorney General: No!

Hon. F. J. S. WISE: Yes, there was.

The Attorney General: There was not!

Hon. F. J. S. WISE: I am reading the magistrate's words and in a moment I will tell the Attorney General of another case he pretends to know nothing about. I will repeat what the magistrate said. He expressed his concern at the woman having appeared in the courts on previous occasions on similar offences. What is the use of the Attorney General saying that she had not? In addition to this, while her suspension existed, the same woman was in a fatal accident concerning which the Minister, in his statement to the Press, said the police had no record. This woman was in a car—it is a bit obscure whether she was the driver—in which her own daughter was killed at Kellerberrin, and that happened on the 22nd September, 1948, after the judge had taken away her driver's license for life. The Attorney General said that he had no knowledge of such an occurrence and the police had no record of it, but I have a record of it.

The inquest was held on the 28th February, 1949. Here we have a case which makes Section 32 of the Act an absolute farce. There was a letter from a firm of solicitors, and on that letter alone, if we are to believe the Minister, without any inquiry of the trial judge the Minister prepared a document for the Governor's endorsement and got away with it. Obviously the Government knew nothing about it. Under the instructions to the Governor, which are written in the case of a capital charge, a specific charge is given. It is provided that the Governor shall not pardon or reprieve any offender without first receiving, in the case of a capital offence, the advice of the Executive Council. Was not this manslaughter a capital case? While the other sections and paragraphs in the instructions to the Governor may not apply in regard to the remission of part of a sentence, they do apply in regard to a capital charge. So there was an absolute dereliction of duty and interference unwarranted in the extreme in this instance.

Under this Bill we propose to give to the Commissioner of Police the right to refuse a license or to cancel a license. Under the present law he has not the right to refuse one. But the Minister took it upon himself to restore a license by waiving part of a sentence imposed by a judge and permitting this woman to be free to apply for a driver's license once more. I consider that intoxicated persons in charge of motor vehicles should be treated with the utmost severity of the law.

The Premier: I think so, too; but in the past certain prosecutions have not been gone on with. That is a fact.

Hon. F. J. S. WISE: I can tell the Premier about some, if he wishes.

The Premier: Which I have had no part in stopping.

Hon. F. J. S. WISE: None whatever! But one of the Premier's Ministers did.

The Premier: Not to my knowledge.

Hon. F. J. S. WISE: I believe that.

The Attorney General: And not to my knowledge, either.

Hon. F. J. S. WISE: It was before the Attorney General's time. I am not charging him with any of those offences; but I am charging him with this one, in connection with which he was very culpable. There was a very obvious thing to be done when this matter was being discussed, even if only a magistrate had been concerned, and that was to refer the papers to him for his opinion; but this was a matter of a Supreme Court criminal offence and certainly it should have been referred to the trial judge. Then there would have been no further pardon or waiving of that part of the sentence effecting the removal of the driver's license for life. Had that not been done it is reasonable to suppose that the imprisonment would have been for years instead of months. The most important part of the sentence was waived by the Minister in direct communication with the Governor. One can be assured that the rest of the Government knew nothing about it, because the file clearly shows that, arising out of a simple, short letter from a firm of solicitors, the Minister sent a communication, in his own handwriting, to the Governor.

Whether or not the Minister acted precipitately—he says he does not know the lady and I believe him—he certainly acted in a very foolish manner when he ran the risk of permitting a license to be given back to a person who had been charged under the section we are now seeking to amend. There should be no possibility of a person, who had killed another, having his license restored if, as part of a court sentence, his license was to be permanently suspended. But what happened in this instance? Within a few months of

the license being restored, a car was travelling in Railway-road, Subiaco, in an erratic manner.

The Attorney General: A few years!

Hon. F. J. S. WISE: No. Within a few months of the Minister taking action and the license being restored, the same lady was on a charge of drunken driving, and her license was suspended for three months because the magistrate could do nothing else.

The Minister for Local Government: Her first offence?

Hon. F. J. S. WISE: Yes, because she had a free pardon. That was what happened, although she had, so Mr. Bateman said, appeared in court on previous occasions on similar offences.

The Attorney General: She had never been charged with the offence of drunkenness.

Hon. F. J. S. WISE: Mr. Bateman, R.M., said that the woman had appeared in the courts on previous occasions for similar offences.

The Attorney General: That is incorrect. I have a list of the offences.

Mr. Marshall: The court records must show them.

The Attorney General: They do.

Hon. F. J. S. WISE: The Minister has not a record of all the offences.

The Attorney General: I have.

Hon. F. J. S. WISE: He has not a record of the Kellerberrin episode.

The Attorney General: There was no offence then; no-one was charged.

Hon. F. J. S. WISE: The Minister could find out a lot about this case at Kellerberrin. Since his attention was first drawn to the matter by me he appears to have scrutinised some papers, but not all. I would ask him to look at the case of Dargle in connection with the death of Doris Smith, of 8 Burt-street, Cottesloe, which occurred at Kellerberrin, the woman dying on the 30th September, 1948. The same person was involved there. She was the only other passenger in the car, and it is still not known—because it was not probed—who was driving the car.

Mr. Fox: Did the woman who was killed have a license?

Hon. F. J. S. WISE: Yes. I am concerned that on one of the most serious and dangerous charges under our traffic laws a sentence can be brushed aside in this way. I regret that the Minister still appears to be obstinate and attempts to justify his action when all the papers are on the file—and one of them is a letter from a firm of solicitors which appeared to

convince the Minister without other inquiry, because he immediately made his decision and took action. The amendment will mean that any vehicle will be affected, no matter how it is being used, or by what person, and that is quite proper, I think. If a person is drunk and in charge of a vehicle he is liable to the full penalty under the section.

The Minister for Local Government: You would allow that to be proper even in regard to the minor vehicles you have mentioned?

Hon. F. J. S. WISE: Yes, I think it is a proper amendment, but we must read it in conjunction with the amendment to Section 24 which hands to the Commissioner of Police a great responsibility. Although the Bill appears to be a simple one, it has a far-reaching effect. I hope the Government will realise the absolute necessity of avoiding the possibility of a recurrence of what has happened in recent months. The Bill, fortunately, will give the Commissioner of Police the right to refuse a license. I hope that no ministerial action will ever again be taken to restore a license that has been suspended or cancelled.

The ATTORNEY GENERAL: A good deal has been said on this matter and I would like to make some comments although they will not have great reference to the terms of the Bill. So far as I am concerned, in connection with this unfortunate woman, the application for some consideration to be given to her position came to me through the Under Secretary with his minute, which did not refer to any previous convictions. As the Leader of the Opposition knows, the facts set out in the application were that since the conviction the woman had married an ex-prisoner-of-war who, owing to his condition of health, was not permitted to drive a car. Because of his condition he had to attend hospital on a number of occasions, and it was extremely difficult for him to do so without the use of a car. In addition, the woman's son had to receive medical treatment, and it was necessary that he be transported for that attention.

Attached to the application was a medical certificate by Dr. McKenzie who, for many years, had been a police surgeon. His certificate stated that so far as Mrs. Dargie's condition was concerned, she was a fit and proper person to hold a license. His certificate also contained the statement that she was a teetotaler. The accident for which she had been tried and sentenced to prison occurred in Mount's Bay-road, and the evidence showed that she was travelling at a speed of something like 50 miles per hour; had failed to take a corner; had struck a post, and the passenger in her car had received fatal injuries. Also, evidence given by a bus driver

who was driving at the time, was that there was a misty drizzle, and it was difficult to see.

Hon. J. T. Tonkin: Before you took action in this case, did you refer the matter to the trial judge?

The ATTORNEY GENERAL: No, I did not. There was no evidence which, in my opinion, would warrant a conviction of drunkenness on that occasion.

Hon. F. J. S. Wise: There could not be, because of her injuries.

The ATTORNEY GENERAL: There were injuries; the Leader of the Opposition is correct there. The evidence was briefly that one police constable said he noticed some smell of liquor.

Hon. F. J. S. Wise: His words were that she smelt strongly of liquor.

The ATTORNEY GENERAL: On the other hand, the doctor who examined her said she did not smell in any way of liquor. Another witness who arrived immediately on the scene, stated most emphatically that there was no sign of liquor or of drunkenness.

Mr. Kelly: Was a blood test taken?

The ATTORNEY GENERAL: No. There was undoubted evidence of excessive speed, and I think it was on that ground that she was convicted. As members are aware, it is the duty, and not an easy one, of the Attorney General to consider matters that are not before the trial judge at the time of his coming to a decision, and, if the circumstances are such that, in the opinion of the Attorney General some clemency by the Crown should be shown, he should give it; and that is what I did on this occasion.

Hon. F. J. S. Wise: Would you regard the first charge—manslaughter—made against her as a capital offence?

The ATTORNEY GENERAL: No, not strictly speaking. A capital charge relates to the penalty, but still it is a serious charge.

Hon. F. J. S. Wise: It is a bit serious for the person who is dead.

The ATTORNEY GENERAL: Yes, very serious. The actual recommendation made by me was not that this woman should have her license restored.

Hon. F. J. S. Wise: Your words were that the cancellation of license should be waived.

The ATTORNEY GENERAL: So that she could apply for a license and, if necessary, be refused. The only way that this woman was able to have her present position reviewed, to see whether she warranted the re-issue of a license, was by doing what I did.

Hon. F. J. S. Wise: No, it was to leave it alone or refer it to the trial judge.

The ATTORNEY GENERAL: No, he could not re-hear it.

Hon. F. J. S. Wise: But he might tell you what he thought of it.

The ATTORNEY GENERAL: He could have done that.

Hon. F. J. S. Wise: What about referring it to him now? I would be satisfied if he said that she could have it.

The ATTORNEY GENERAL: As the Leader of the Opposition is well aware, that would leave it open for an inquiry to be made by a magistrate as to whether her license should or should not be given. That is what was done, and that is what was in my mind at the time.

Hon. F. J. S. Wise: Do you know how easy it is to get a driver's license?

The ATTORNEY GENERAL: It is very difficult, as the Leader of the Opposition very well knows. The police are most careful.

Hon. F. J. S. Wise: I cannot believe that when you see the types of people that obtain them.

The ATTORNEY GENERAL: The police are most careful in the issue of licenses. If a license is refused, there is an appeal to a magistrate where proper inquiry can be made into the conditions. That was my object in doing what I did. It was merely to permit a proper inquiry by a police magistrate into the situation to see whether re-issue was warranted. I think the Leader of the Opposition would agree that, when circumstances are varied and conditions have changed, any person should have an opportunity to have his or her situation reconsidered. This Government is not the only Government, nor am I the only Attorney General, to have returned licenses to people convicted of drunkenness. The Minister for Justice in the hon. member's own Government did it on more than one occasion.

Hon. F. J. S. Wise: How many capital charges were there?

The ATTORNEY GENERAL: The number of occasions where clemency was shown during the period from the 1st January, 1945, to the 31st March, 1947, was 169. That is the number of occasions where penalties and imprisonment were remitted.

Hon. A. H. Panton: Life sentences?

The ATTORNEY GENERAL: No, not life sentences.

Hon. F. J. S. Wise: How many of those were drunken driving charges?

The ATTORNEY GENERAL: There were some.

Hon. F. J. S. Wise: How many?

The ATTORNEY GENERAL: I think on two occasions. During the regime of this Government, from the 1st April, 1947, to the 17th October this year, exactly 37 remissions were given.

Hon. A. R. G. Hawke: None of them might have been justified.

The ATTORNEY GENERAL: From that, members can see that I do not lightly interfere with the decisions of the courts.

Hon. F. J. S. Wise: You did this time.

The ATTORNEY GENERAL: I did on this occasion. I agree with the Leader of the Opposition that the decision of a judge should be seriously regarded, and the clemency that is vested in the Crown should be exercised with the greatest care and used only where the circumstances of the case warrant it. There has been some comment on another accident. There was no record of that accident on the file or on the papers put before me.

Mr. Kelly: Is not a record kept of accidents of that nature?

The ATTORNEY GENERAL: There was no record on the file submitted to me, nor was there a record of any conviction. As far as my memory serves me, the convictions referred to were for minor traffic offences and parking offences, and the most severe penalty was that of £5 for exceeding the speed limit. One penalty was for failing to report an accident.

Hon. F. J. S. Wise: That would be enough.

The ATTORNEY GENERAL: That carried a penalty of 10s.

Hon. A. H. Panton: She must have had a winning way.

The ATTORNEY GENERAL: Not at all. I consider that I acted in the ordinary course of my duties, after having received the assistance of my departmental head, and I acted in a way that any ordinary man would have acted in the circumstances.

Hon. F. J. S. WISE: I do not want to pursue this subject any further, and I certainly do not want to pursue the Minister, but I would draw his attention to the simple fact of how easy it would be, after his action, for this person to get a driver's license. She had been charged under the name of Mary Eleanor Dargie on this last occasion, but that was not her name when she was charged with manslaughter. It would be easy for her to apply for a driver's license and get it forthwith.

The Attorney General: The police were notified of the facts.

The Minister for Education: A notification to them was on the file, asking the Commissioner to use his discretion, or words to that effect.

Hon. F. J. S. WISE: The greatest precaution should be taken in future to render it impossible for any Minister of any Government, to do such a thing again. Since this was originally a capital charge of manslaughter, the course taken was not the proper one. It should have been a matter for the Governor in Executive Council rather than a direct communication from the Minister to the Governor.

Clause put and passed.

Clause 8—Section 47 amended:

Mr. BRADY: I oppose this clause. It is a most dangerous amendment, because I consider that a width of 7ft. 6in. for vehicles is too great. The majority of roads in Western Australia are 16ft. or 18ft. wide, and if we had two vehicles passing each other, both 8ft. in width, then anything could happen. Many streets are only 10ft. wide, and if this amendment is agreed to, dangerous situations could develop. During the war, a number of vehicles up to 8ft. wide were permitted on the road; but as soon as they become worn out the Traffic Department should refuse any further licenses for them. I think there should be a proviso to get us over the difficulty, and I intend to move an amendment which will have the effect, in special cases, of permitting certain vehicles to go to 8ft. There are many bridges around the metropolitan area and in the country which are only 10ft. or 12ft. wide, and it is impossible for two vehicles each 8ft. wide to pass there.

The Minister for Local Government: It would be impossible for them to pass if they were each 7ft. 6in. wide.

Mr. BRADY: That is so, but if this clause is passed it will aggravate the position. Thousands of people in my electorate, riding bicycles to and from work, are in danger of losing their lives or having accidents as a result of these wide vehicles being on the road. I am therefore opposed to this amendment.

The Minister for Lands: Would you suggest they should not ride four abreast?

Mr. BRADY: I am not going to suggest that at all.

The Minister for Lands: They ought not to take up more than eight feet.

Mr. BRADY: The important part of this subsection is the latter portion. If the Traffic Department licenses a vehicle with an 8 ft. width the loads will soon exceed that width and before long we will be asked to extend it to 9 ft. I think we have gone to the limit in allowing 7 ft. 6 in. My amendment will allow the Traffic Department to use its discretion.

The MINISTER FOR LOCAL GOVERNMENT: It might be advisable at this stage to give the history of this matter as from 1939 up to the present time. The error which we need to correct is one that was perpetrated quite inadvertently by, I think, Alex. McCallum. This permitted a width exceeding 7 ft. 6 in. which was completely ultra vires the Act, but has nevertheless been the rule since 1939. So what the hon. member is fearful is going to happen in the future has been happening for the past 11 years, and since we have permitted people to adopt that width I think it is only just that we should do the right thing now.

Hon. A. H. Panton: Did you say that was done in 1939?

The MINISTER FOR LOCAL GOVERNMENT: Yes.

Hon. A. H. Panton: Mr. Millington was Minister then.

The MINISTER FOR LOCAL GOVERNMENT: The information was given to me by the member for Murchison. The Crown Law officers then could not have been wide awake to have permitted this infringement of the law since 1939, and it does say something for the close scrutiny of the present Solicitor General and his associates in disclosing the error. It would seem that the first thing I need to do is to amend Clause 8 of the Bill, which I think is desired, by moving that after the word "Act" the words "is hereby repealed" be added, or I might move to delete all words after the word "Act" in the third line, with the object of adding other words.

The CHAIRMAN: Is the Minister moving in that direction?

The MINISTER FOR LOCAL GOVERNMENT: I am merely giving an illustration by way of explanation. For the further solace of members, and particularly the member for Guildford-Midland, I would say that Mr. Leach of the Main Roads Department is looking after this, and I think that will indicate that the position is being carefully watched.

Mr. BRADY: The information given by the Minister has only aggravated the position and I am more strongly opposed than ever to his proposal. Evidently the Minister intends to delete the specified width of 8ft. and give the department an open go.

The Minister for Local Government: You have not read the provisions of the proposed new clause on the notice paper.

Mr. BRADY: It would be better to defeat the amendment and leave matters as they stand at present.

The MINISTER FOR LOCAL GOVERNMENT: To leave matters as they stand at present would be absurd. The only provision in the Act is for a width limit of 7ft.

6in. Regulation 38a provides that no vehicle having a greater overall width including the load of 7ft. 6in. shall be licensed.

Mr. Marshall: That was promulgated back in 1925 or 1926.

The MINISTER FOR LOCAL GOVERNMENT: That might easily be so. It goes to show that that width was acceptable over the intervening years. In 1939 a proviso was added that, under special circumstances and with the permission of the Minister, a vehicle having a greater overall width than 7ft. 6in. might be licensed. That is where the department started to contravene the Act that should have guided it.

Mr. Styants: And the width of 8ft. became the common practice.

The MINISTER FOR LOCAL GOVERNMENT: There had been an implied recognition by the Government of the new width. In 1946 the provision for a width of 7ft. 6in. was deleted and 8ft. was inserted, so that at present the regulation provides that a vehicle with a greater overall width including the load than 8ft. may, with the approval of the Minister, be licensed. That, however, is ultra vires the Act. It has now been agreed that there is no power resident in the Act authorising the making of a regulation that would permit of the Minister approving of a width exceeding 7ft. 6in. The Bill, by providing for an 8ft. width, would permit of the licensing of a vehicle with a width in excess of 8ft.

The hon. member seems to think there are no vehicles on the road wider than 8ft. That is not correct. Various permits have been granted since 1939. In August, 1949, the City of Perth was permitted to license and operate a street sweeping machine having an overall width of 8ft. 10in. That might be regarded as an infringement of the Act, and in a sense it was, but it was in keeping with the practice since 1939. That machine is taken into the streets at night time and consequently does not come into contact with any substantial flow of traffic. A permit was granted in September of the same year for a hay-baler with an overall width of 9ft. 3in., but this was subject to the baler being moved in daylight only and a red flag being displayed on the machine. With the march of progress we cannot do other than permit these machines to be moved over the roads as necessary to reach their destinations.

In October, 1945, a flour mill received permission to take a vehicle to the East Perth railway yard. That vehicle had a width of 8ft. 9in. In general, when such vehicles reach their destination, they are kept there and do their work on the spot. In another instance the width was 14ft. 2in., but I repeat we have to grant permission in such cases in order not to discourage progress.

Hon. A. R. G. Hawke: Those vehicles would not be running on the road regularly.

The MINISTER FOR LOCAL GOVERNMENT: No.

The Minister for Education: They would travel on the road only once or twice and that would be the end of it. They get to the place of operation and stay there.

Hon. A. H. Panton: Would they get a special permit for that trip?

The MINISTER FOR LOCAL GOVERNMENT: Yes. There is always an arrangement with the police and other people to have someone going ahead of them and someone alongside.

Mr. Styants: Is it a permit for a special trip or a general permit?

The MINISTER FOR LOCAL GOVERNMENT: It is not a general permit but just for that trip. The matter is closely policed and cannot be overlooked. If we were to close down on this sort of thing there would be chaos everywhere.

Mr. MARSHALL: This Act became law about 1925 or 1926 and a regulation was made which limited the overall width of a vehicle, including the load, to 7ft. 6in. Until this Bill was presented I had no knowledge that an Order-in-Council had been made. When that Order-in-Council was made, it became law and was gazetted and extended the width of the vehicle, including its load, to 8ft., which was ultra vires the Act. Our Parliamentary Draftsman should have seen the situation then and repealed the regulation. The regulation is still in existence, so far as I know, unless the Minister has had it repealed.

The Minister for Local Government: It will be set aside. It is ultra vires and must be regarded as such.

Mr. MARSHALL: No Order-in-Council made by the Government can supersede a declaration of Parliament. The regulation is the law and not the Order-in-Council. I do not care what action any Government has taken since the regulation was made; 7ft. 6in. is still the law.

The Minister for Local Government: I know.

Mr. MARSHALL: And all vehicles which exceed that width are on the road illegally. The Order-in-Council will have no effect until the regulation is repealed. I do not like the idea of the width being extended, but I am given to understand that to get bodies for omnibuses now, if a width of under 8ft. is sought, is difficult; and I do not want to embarrass the Government's efforts to obtain bodies which it urgently needs. Neither do I like extending the width because I know some roads, particularly in country districts, which are very narrow. I would not mind so much if we had solid roads.

The MINISTER FOR LOCAL GOVERNMENT: It must be recognised that the owners of buses are not at fault in this

matter. The fault is that of successive Governments from 1939, or whatever the year was, up to the present. It would ill become us to say that what we caused to come into being in the past has become an infringement of the law. It is technically, but actually it is not.

Mr. Marshall: Is it not!

The MINISTER FOR LOCAL GOVERNMENT: I mean morally it is not. I am not saying with which Government the fault lies. It is not the fault of this Government or the previous one or the one before that.

Hon. A. H. Panton: A lot further back!

The MINISTER FOR LOCAL GOVERNMENT: I think we will leave it at that. In these days 8 ft. is a reasonable width. There is a tendency to widen roads.

Mr. Marshall: That was done to deal with the position due to congested traffic.

The MINISTER FOR LOCAL GOVERNMENT: The Motor Vehicle Trust Committee has recognised 8 ft. as being a suitable width throughout Australia. What can we do in face of that? That is the body which guides us in matters in this kind. I must insist on the clause.

Clause put and passed.

Clause 9—agreed to.

New clause:

The MINISTER FOR LOCAL GOVERNMENT: I move—

That a new clause be inserted as follows:—

"8. The principal Act is amended by adding after section forty-six the following section:—

46A. No vehicle having a greater overall width, including the load, than eight feet, shall be licensed or driven on any road.

Provided that, with the permission of the Minister given on the recommendation of the Commissioner of Police, and under such special circumstances and conditions as may be set out in the permit, a vehicle having a greater overall width, including the load, than eight feet may be licensed and driven on any road.

And where, prior to the commencement of the Traffic Act Amendment Act, 1950, a permit has been given by the Minister authorising or purporting to authorise the licensing and driving on any road of a vehicle exceeding seven feet six inches in width, including the load, the authority so given or purporting to have been so given, is hereby ratified and validated."

Mr. MARSHALL: I want to make sure that the proviso will not be exceeded, but that permits will issue only for special cases as enunciated by the Minister. This provision could be interpreted so that a vehicle exceeding 8ft., could be constantly on the road during congested times. We must ensure that no vehicle is constantly used under a permit issued in accordance with this proviso.

The MINISTER FOR EDUCATION: The member for Murchison and I began this controversy when the Minister for Local Government was absent through sickness, and I was mainly responsible for the amending clause now before us. I could subscribe to the views of the member for Murchison were it not for the employment of a street sweeper which has to be on the road each night after midnight, and in consequence cannot be given a daily permit. I suggested to the Parliamentary Draftsman that in order to make sure that proper consideration was given by the traffic authorities, when issuing permits, the Minister should not give his permission except on the recommendation of the Commissioner of Police; and that will be found in the clause. I think that is a sufficient safeguard to cover the case put forward by the member for Murchison, with which I substantially agree.

Mr. STYANTS: I am afraid that history might repeat itself. I have the same misgivings in connection with this as the member for Murchison has. The provision in the Act is for a maximum width of 7ft. 6in. By an Order-in-Council that width has been increased to 8ft. Now we are told by the Minister that 8ft. has been recognised as a special circumstance.

Progress reported.

House adjourned at 6.13 p.m.

There is no need for me to debate this matter again.