Legislative Council

Thursday, 2 October 1980

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS

Questions were taken at this stage.

AGRICULTURE AND RELATED RESOURCES PROTECTION AMENDMENT BILL

Second Reading

Debate resumed from 1 October.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [2.54 p.m.]: I would like to reply to the queries raised about this measure. The Hon. J. M. Brown felt there was some confusion about the matching funds which had been provided by the Government, and he referred to an answer given in another place. I believe that if the honourable member reads the original Act he will be in a better position to understand the figures presented. Section 65 of the parent Act goes into some detail, and I would like to quote a small portion of this section which states—

> All rates recovered under section 60 or 61 shall be paid to the credit of an account to be kept in the Treasury and called the Declared Plants and Animals Control Fund.

Then in paragraph (b) of subsection (2) the Act reads—

> (b) In each financial year to which this subsection applies there shall be appropriated from the Consolidated Revenue Fund, without authority other than that of this subsection, and paid into the Control Fund a sum approved by the Treasurer as being the sum that will, when added to the rates recovered by the Commissioner in that year under section 60, be sufficient to enable the Protection Board to carry out in that year on and in relation to land held under pastoral lease an amount of operational work equivalent to the amount of work carried out by the Protection Board, councils, a regional council and vermin boards in the financial year that commenced on the first day of July, 1975 . . .

The Hon. J. M. Brown: That is well understood.

The Hon. D. J. WORDSWORTH: In other words, when the original Act was passed, much work had been carried out, and we were endeavouring to ensure that this would continue.

The Hon. J. M. Brown: I understand that.

The Hon. D. J. WORDSWORTH: The honourable member said that the ratio between the amount contributed by the ratepayers and by the Government was 11 : 1.

The Hon. J. M. Brown: That was what the Minister said.

The Hon. D. J. WORDSWORTH: That was the total expenditure of the board in the pastoral area in that year, and it amounted to $2.25 million.

In my speech I said that in respect of the declared plant and animal control fund the ratio was 5 : 2; that is, $5 from the Consolidated Revenue Fund to $2 from the ratepayers.

The Hon. J. M. Brown: Yes.

The Hon. D. J. WORDSWORTH: In 1979-80 the declared plant and animal control fund estimate allowed for a rate collection of $205 000 and for a CRF allocation of $500 700. So in other words that is roughly $205 000 to $500 000—the ratio I stated. However, that was the money that went into the fund for control programmes; it was not the total expenditure.

The $2.25 million included the expenditure on plant, staff, buildings, general contingencies, control work on Crown land, as well as the control work on the pastoral leases which came from that fund. I think that probably covers that particular point.

Another question was raised more as a comment by the Hon. Norman Moore. He referred to the support the Government was giving to the pastoral industry by leaving this rate as it was for the next two years; that is, at 3c in the dollar. One point that has not been raised is that the declared unimproved value on which the ratings were based was the value set when this Act came into being. Since then there has been a revaluation, so we are in the position that some areas of the pastoral zone are enjoying rating on a former annual value. This means the pastoralists are not paying rates on the reappraisement of the valuations which took place in the pastoral industry in the Kimberley in the last year.

The Hon. J. M. Brown: Was that an upward trend?

The Hon. D. J. WORDSWORTH: Yes, the valuations were increased approximately two or three times. If I may say so, the rent paid by the pastoralists is really quite ridiculously low. When

the pastoralists appealed against the reappraisals, they were not complaining so much about the rents to be paid to the Government as the rent on their properties, but rather the rates they would have to pay for other services as a result of that revaluation. The pastoralists were concerned primarily with the Agriculture Protection Board rate.

The point is, they were not going to be charged the APB rate on the reappraisement, but on the former figure. That situation should be understood as it relates to the Kimberley.

As members know, and as I have mentioned previously, the rental for a pastoral property in an ideal position in the Kimberley—the rental is lowered for those in disadvantaged situations—was 30c a year per large animal, which indicates just how low the rental is. Once we move outside the Kimberley and into the sheep areas, the rental, if I recall correctly, is 5c or 6c per sheep per annum. For the sake of comparison, a person looking for agistment today would expect to pay about 15c per sheep a week.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) 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 60 amended—

The Hon. J. M. BROWN: Yesterday, I asked the Minister a question relating to the rate applying for each financial year, as provided for in section 60 (1) of the Act. I also referred the Minister to subsection (2) which provides that the rate to be applied shall be published in the *Government Gazette* before 30 June. However, I do not think the Minister answered my query.

The Hon. D. J. Wordsworth: No, I did not.

The Hon. J. M. BROWN: Has the rate been applied, and was it gazetted in anticipation of this Bill coming before Parliament?

The Hon. D. J. WORDSWORTH: My understanding is that the rates will not go out until this Bill is passed. However, I shall speak to the Minister for Agriculture on the matter, and inform the honourable member.

The Hon. J. M. BROWN: My other question was whether the rate had been published in the *Government Gazette* before 30 June, as prescribed in the Act. Section 60 (2), in part, states as follows—

> ... the Protection Board, with the approval of the Minister, imposes by notice published in the *Gazette* on or before the thirtieth day of June immediately preceding that financial year.

Has that procedure been followed on this occasion? From my own inquiries, I have been unable to ascertain whether or not it was so gazetted.

The Hon. D. J. WORDSWORTH: I do not have that information. I am willing to adjourn debate during the Committee stage so that I can provide the honourable member with the information he requests; alternatively, the information could be provided during the third reading stage.

The Hon. J. M. BROWN: I am quite happy to accept the Minister's assurance that he will provide the information at the third reading stage.

Clause put and passed.

Clauses 4 to 9 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

TAXI-CARS (CO-ORDINATION AND CONTROL) AMENDMENT BILL

Second Reading

Debate resumed from 16 September.

THE HON. F. E. McKENZIE (East Metropolitan) [3.06 p.m.]: The amendments contained in this Bill are minor in nature and do not require a great deal of comment from the Opposition. We support the Bill.

Section 16 of the Act is to be amended to permit the Minister to approve the issuing of taxi-car licences in those areas which currently are not catered for under the existing Act. My understanding of the reason for this amendment is that a need was established in one of the outer metropolitan areas for a licence to be issued to an operator, but that the existing provisions of the Act did not permit that licence to be granted. It appears that taxi drivers are somewhat reluctant to service the requirements of people living in the outer metropolitan areas because it is not economically worth while. Therefore, it is desirable to have a taxi operator located within the area who is prepared to cater for this need.

Section 19 of the Act is to be amended to enable an increase in licence fees to be included in the Act. The Minister has made it clear that there is no intention in the foreseeable future to increase taxi-car licence fees. However, the maximum fees prescribed by the Act have been reached and this is an opportune time to amend the Act to provide for the future. The reason increases take place is to provide finance to enable the board to continue to operate, licence fees being one of the means of financing the operations of the board.

Whilst I am on that subject, I will pass on to the House a view that has been expressed to me quite clearly by the people using the taxis and also the taxi drivers. That view is that the taxi industry is not a very happy one. In many instances the public are not particularly happy with the operations of the taxi industry. The main problem relates to peak periods. Quite often people have complained to me that they have ordered a taxi and had to wait for an inordinately long time for it to arrive at the door. I suppose that is understandable during peak periods; but people become upset when they expect a taxi to arrive at a certain time and it does not do so. I believe even if one books a taxi at a particular time, it is always advisable to give at least one hour's notice to ensure it will be there at the right time. This problem is causing concern to the public in peak periods when there are insufficient taxis on the road.

On the other hand, if one talks to the taxi drivers—and I frequently use taxis—one finds they are not happy with the industry. In particular, they are not happy with the board. A number of taxi drivers have told me that when I have been in their cabs. The board ought to be concerned about its image amongst those who are responsible to it—the taxi drivers themselves.

I note that a long time ago the Minister announced that there was an inquiry being held into the taxi industry. Hopefully, some improvements will be made as a result of that. I do not know whether the improvements will be made at the level of the board. Perhaps there may be recommendations to alter provisions in the Act.

One of the complaints often made by taxi drivers in conversation is the necessity to have their vehicles checked and tested by inspectors from the Taxi Control Board and to carry out the same exercise at a Road Traffic Authority inspection point. The taxi drivers are concerned about this duplication in the industry when there should not be any need for it. Anyway, we ought to wait for the outcome of the inquiry. I do not know when we will hear about it. Perhaps the Minister handling the Bill may be able to comment on that.

I thought I would make those remarks because we are talking about the finances of the board, and the provision to increase the fee. We should bring to the notice of the House the fact that this industry is a difficult one, and that all is not well within it.

The taxi drivers generally do not seem to be a very well organised body of people. That applies to the employees and the owner drivers. For that reason, they find it difficult to speak with one voice.

One driver told me only two or three weeks ago that he felt the Swan Taxis Co-operative Ltd. was doing an excellent job so far as the industry was concerned, and that it was doing it better than the board. If that type of comment is being made generally—I cannot say that it is because that comment was made to me by one driver only—

The Hon. D. J. Wordsworth: What would they mean by that?

The Hon. F. E. McKENZIE: He explained that there were a lot of functions the board was not carrying out, but the Swan Taxis Co-operative Ltd. was doing its very best to ensure that the problems within the industry were minimised. If it is left to a co-operative to carry out the functions of the board, we ought to be concerned because, after all, the board should carry out its functions.

I have spoken to a number of drivers, but only one has mentioned that facet of the work of the Swan Taxis Co-operative Ltd.

The final clause of the Bill relates to an alteration to section 23. That will provide for the board to impose penalties for breaches of the Act. That provision is in addition to the power of the chairman. I cannot see anything to be concerned about in that provision. It is a good provision; and I wonder why it was not included in the Act in the first instance. I wonder to what extent is will be used. It is better to give power to the board to deal with cases of discipline and breaches of the Act. Instead of a taxi driver appealing to, or having a penalty imposed by, an individual, in the future he will have the opportunity to appear before the board. I expect that provision will be utilised. I do not know whether it will be used generally; but in serious cases the matters will be determined by the board. That is an improvement on the present procedure.

Of course, there is the provision in the Bill that, notwithstanding any decision made by the chairman or by the board, the taxi driver will still have the right to appeal to the appeal court. I see that as an improvement.

The amendments are minor, and the Opposition supports them.

THE HON. P. H. WELLS (North Metropolitan) [3.17 p.m.]: I rise to support the Bill and to comment on the amendments to sections 16 and 23.

Section 23 deals with disciplinary matters, and section 16 includes provision for multiple hiring. I have some comments to make on those matters. Let me say, first, that my experience with the taxi industry has been a pleasant one, and I believe it is making a contribution to our community. Indeed, the members of the industry are to be complimented for the campaign of "grab a cab". I believe it can make significant inroads into the toll on our roads. If we encourage people to use taxis rather than their own cars when they have been drinking, that will ensure that we do not have on the roads the people affected by alcohol.

In relation to multiple hiring, the question of the rights of individuals concerns me. Because our buses have no smoking, it is reasonable that the taxis allow people to smoke, because that is the alternative. That relates to the private hiring of a taxi. However, there is a different situation if the Minister deems it necessary to allow multiple hiring under proposed new section 16. That may happen if there is a strike, or some other occurrence like that. There are already five places at which multiple hiring is authorised. Those five places are the Perth airport, Perth Passenger Terminal, the races, the Royal Show, and somewhere near Boans. There can be multiple hiring at those five places, and any other place the Minister deems necessary.

I raise the rights of the non-smoker in the situation where there is multiple hiring. If the driver is smoking, the passenger is entitled to ask him not to smoke; and that is fair enough. In that situation, one is entitled to smoke or not to smoke.

The Hon. H. W. Gayfer: It always was a filthy habit.

The Hon. P. H. WELLS: I notice the House makes provision for smokers in the corner of the Chamber.

I am suggesting that we should respect the rights of non-smokers in taxis in the multiple-hiring situation. I suggest that people who do not want to smoke should not have to ask the others to stop smoking. Amongst the passengers, there may be people like myself who suffer from motion sickness; and if they hire a taxi and find someone alongside them who is smoking, they may not want to be offensive and ask him to stop. I suggest that the board should study that situation, and that consideration should be given to the total rights of the hirer. On the buses, we have acknowledged that there is to be no smoking. We have said that it would be better if there was no smoking allowed.

The Hon. P. G. Pendal: We are a dying breed.

The Hon. P. H. WELLS: I agree that we have to protect the rights of all people. I am sympathetic towards the rights of smokers. I remind the House that the campaign to have people stop smoking is one that seems to have a fair amount of Government support. I do not suggest the campaign should be taken to the point where all people are denied their rights to smoke, but we should consider people's total rights.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [3.21 p.m.]: I thank members for their support of this Bill. I was interested in the comments they made regarding the industry as a whole. Having been a Minister for Transport for several years, I have a little sympathy and feeling for the sensitivities of the Taxi Control Board. I think any Minister for Transport would find this one of the major sections of his portfolio.

I guess taxi drivers are a fairly rugged group of individuals. They are the last of the private enterprise individuals who control their own business and the operation of that business. In no way do they like being regulated, but it is necessary that there be some regulations. I believe the board does endeavour not to overcontrol.

If one goes to America, particularly the State of New York, one will see the broken-up, dented, and bashed cabs they have there. It makes one very frightened to get into them.

The Hon. P. H. Wells: Are you sure it is not the other traffic doing the damage?

The Hon. D. J. WORDSWORTH: It breaks one's confidence when one has to jump into a cab in such a poor state. In many parts of the world the taxis are in a ragged state and many are covered in advertisements. The state of our taxi industry is a great credit to the people involved.

The Hon. P. H. Wells: They advertise in the Eastern States.

The Hon. D. J. WORDSWORTH: Yes. Western Australia is one of the few States where advertising is not allowed. We have seen a slight change only recently where some taxis do have small advertisements reading "Don't drink and drive—grab a cab". The latest one is, "Don't buy a second car—use a cab". They are two good themes which the control board has allowed.

As members may realise, the Taxi Control Board comprises the Commissioner of Transport or his deputy, a representative of the Road Traffic

Authority, and five members appointed by the Government, one of whom comes from local government, another from the Metropolitan Transport Authority, and three from amongst the taxi drivers themselves. Those taxi drivers, when elected to the board, get covered with the same gas with which members of Parliament get covered when they become members of the Cabinet. They have to see the other side of the argument. It is very much a matter of self-control.

One of the amendments allows the board, rather than the chairman alone, to discipline drivers. That will be of benefit in not only giving the members of the board more responsibility, but also in taking some responsibility from the chairman. At present, if the chairman is not available and has not heard a particular case which has come before the board, it is very difficult for him to then deal with the offence.

As has been mentioned, there is an appeal court which works well. The Hon. Fred McKenzie mentioned that the Swan Taxi Co-operative was doing a good job and it was a pity the board was not doing as well.

The Hon. H. W. Gayfer: Like all co-operatives.

The Hon. D. J. WORDSWORTH: But the co-operative is in a different position from the board; it is really a union of drivers.

The Hon. H. W. Gayfer: A union of many minds with a common ideal.

The Hon. D. J. WORDSWORTH: The co-operative and the board have different tasks. I am glad the Swan Taxi Co-operative is doing such a good job, but the two bodies are working in different fields.

I will pass on to the board the comments made by the Hon. Peter Wells in regard to smoking. Smoking in taxis has always been a difficult argument. The drivers themselves often wish to be able to smoke and so it is hard to say that there should be no smoking at all in cabs.

The Hon. P. H. Wells: I did not say no smoking.

The Hon. D. J. WORDSWORTH: That is true. If a driver wishes to smoke we must be able to allow the passenger to smoke.

The Hon. H. W. Gayfer: Why should he be allowed to smoke? If you do not want to catch his filthy fumes, why should he be able to smoke?

The Hon. P. H. Wells: A person can ask him to stop smoking at present.

The Hon. D. J. WORDSWORTH: It is a difficult subject, as the drivers do reserve the right to smoke when other people are not there. So already there is some smoking in cabs. We do not have a situation where we can say there will be no smoking at all. The member drew attention also to the problem of multiple hiring.

The Hon. T. Knight: Perhaps we should have cabs for non-smokers.

The Hon. D. J. WORDSWORTH: That has been considered; but it would become very confusing having to identify the different taxis.

The Hon. P. H. Wells: I would not suggest that.

The Hon. D. J. WORDSWORTH: I am answering the Hon. Tom Knight.

The Hon. D. K. Dans: I missed your earlier comments, but in New South Wales the person who hires the cab first gives the okay as to whether or not there shall be any multiple hiring. He should be the arbiter of whether or not people can smoke in the cab.

The Hon. D. J. WORDSWORTH: I respect the negotiations Mr Dans has done in his union days. I shall convey his suggestion to the appropriate people. I thank members for their contributions.

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. D. J. Wordsworth (Minister for Lands), and passed.

SLAUGHTER OF CALVES RESTRICTION ACT REPEAL BILL

Second Reading

Debate resumed from 16 September.

THE HON. R. T. LEESON (South-East) [3.30 p.m.]: I rather enjoy seeing repeal Bills relating to agricultural matters being introduced into the Chamber and this one is no exception. We have seen a number of similar repeal Bills introduced in the House over the past few years. That simply goes to show how many Acts of this nature have been lying around for a long time. The Government is slowly waking up to this fact.

It is obvious the reasons for which the Act was first passed no longer apply. We have much greater control on marketing today than we had earlier this century.

In the last few years we have seen changes in people's dietary habits and people have been turning to the use of margarine in an endeavour to lower the risk of heart disease. As a result, the dairy industry seems to be in a state of decline.

This Government has decided there is no need for the Act to remain in force, therefore, it seeks to repeal it. We on this side of the House support the measure.

THE HON. N. E. BAXTER (Central) [3.32 p.m.]: If one looks at the history of the Act which this Bill seeks to repeal, one will see the legislation was introduced initially in 1919. This was the period after World War I when the dairy industry was struggling in Western Australia. At the same time group settlers were undergoing a rather lean time. They farmed blocks of approximately 80 acres—sometimes a little less—and they had to cut down trees with an axe in order to obtain firewood. The cattle which they had, in most cases, were supplied by the Government.

At that time my father was the Minister for Agriculture and the Government endeavoured to plan for the future when it introduced legislation covering the dairy industry in this State.

It was felt that female calves should not be slaughtered for veal. If a group settler owned a female calf it was an easy matter for him to kill it and send it to the meat market in Perth to gain a little extra money to help him exist. That was the orginal reason for which the Act was passed. It was felt that the State should have as many female cattle as possible available for breeding purposes so that the number of cattle would increase.

However, we are well beyond that situation today and it is clear that this Act may have remained on the Statute book longer than necessary. A number of people are leaving the dairy industry and there is no longer a need to have legislation of this nature.

I support the measure.

THE HON. V. J. FERRY (South-West) [3.34 p.m.]: This Bill is probably as brief as it is possible for legislation to be. As has been referred to already in the debate, the Act was passed originally for very good reasons. In 1917 problems were being experienced in the dairy industry. It is interesting to recall that, because of the shortage of milk-producing cattle at that time and the small number of cattle, as referred to by the Hon. Norm Baxter, it was necessary to introduce legislation to prevent female calves being slaughtered for meat, rather than allow them to mature into dairy cows. This step was taken to ensure that milk products, which were part of the staple diet of people of that era, were available.

The situation is quite different today. Our lifestyle has changed and the dietary customs of people are markedly different from what they were in the early part of this century.

During the period 1917-19 it has been recorded that there were approximately 5 000 dairy cows in the Perth metropolitan area. I would hazard a guess that today we would be battling to find one dairy cow in the same geographical area. It is clear that dairy herds are found in agricultural areas today.

However, in 1917 there were reasons that dairy cattle were kept in the metropolitan area. We must remember that motorised transport was in its infancy in those days. People relied mainly on horse power for transportation. Many people would be able to recall the "milko" who delivered milk in cans or other receptacles which householders left out for him. The householder hoped to receive a full measure of the prescribed quality from the milko. Sometimes it was debatable whether that occurred, but that is the way milk was delivered at that time. Therefore, it was necessary for the means of milk production to be close to the market. Accordingly, a number of cattle were kept in back yards, and within close proximity to residential areas. I do not know what the health authority or the environmental protection people would say about that today. Nevertheless, those were the origins of this Act and it was introduced for valid reasons.

Today the dairy industry is located further away from the metropolitan area. I have obtained figures which are the official statistics for the numbers of dairy cows and heifers in Western Australia for the following years: 1978-79, 126 228; 1973-74, 173 199. Members can see that there has been a reduction of approximately 47 000 cows between those two periods. I do not have access to the figures which would show the number of dairy cows in Western Australia at the time of peak production; but I would hazard a guess the figure would be well over 200 000. The decline in the dairy industry is continuing. People who are more closely associated with the industry than I, would be able to express a more accurate opinion. However, I point out the dairy industry is declining in this State for a number of reasons, not the least of which is, as I have already stated, the change in our dietary habits.

The Dairy Industry Authority must continue to watch the situation carefully in an endeavour to save the industry from what could be extinction, taking my argument to perhaps a ridiculous

extreme. I am alarmed at the trend which is continuing in the dairy industry.

I know the members of the Dairy Industry Authority represent different interests in the industry, not the least of which are the producers, and I have regard for their decisions; but I also have regard for the challenge they have, and the challenge we have as representatives of the people, to ensure that Western Australia has sufficient dairy products for its own people.

One could refer also to the Australian scene and I am horrified to think that there may come a time—I believe it is approaching rapidly—when Australia will have to import a great deal of its dairy produce from other countries.

I make that observation in the knowledge that the Act which this Bill seeks to repeal was introduced at a time when the industry was floundering. Indeed, it was floundering to such an extent that moves were made in 1917 for a company to be formed to raise dairy cattle, particularly cows and heifers.

The intention was that the company would make calves available to suppliers and would require them to build up their dairy stock. That plan did not come to fruition because a number of difficulties were experienced. However, that was the nature of the need to introduce this type of measure at the time. People will have to do something about this matter but there is no need for me to go on any further than make those observations and express my concern again that the dairy industry in this State appears to be suffering from a number of limitations.

I challenge the Dairy Industry Authority to do all within its power not only to protect the industry as it is today, but also to expand so that our dairy cattle industry can increase its numbers and its role in the community.

THE HON. D. J. WORDSWORTH(South—Minister for Lands) [3.41 p.m.]: I thank members for their support of this Bill and I think it is of interest that one member can say that his father introduced the legislation.

The Hon. N. E. Baxter: I am not quite sure of that, I will have to check it out.

The Hon. D. J. WORDSWORTH: I recommend the honourable member should read *Hansard*.

I am somewhat concerned about the forecast made by Mr Ferry and I hope we will not have to reintroduce this Bill at a later stage to save the dairy industry.

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. D. J. Wordsworth (Minister for Lands), and passed.

Sitting suspended from 3.43 to 4.01 p.m.

STALLIONS ACT REPEAL BILL

Second Reading

Debate resumed from 16 September.

THE HON. R. T. LEESON (South-East) [4.01 p.m.]: Mr President, if the last Bill debated in this place could draw three speakers, this Bill should represent another Address-in-Reply. Everybody will have a go at speaking!

On a far more serious vein, if you, Mr President, were to take a good hard look around this Chamber I am sure you would agree there are many members far better equipped than I to handle this Bill.

The Hon. R. G. Pike: You can only speak for yourself.

The Hon. R. T. LEESON: For some obscure reason I have been given the job.

The Hon. R. G. Pike: Because of your natural endowments.

The PRESIDENT: Order!

The Hon. R. T. LEESON: The Stallions Act was introduced many years ago in an effort to control the breeding of horses. It was during an era when the draught horse was the main work horse in Western Australia. I can well remember, as a child, seeing many of these horses in the goldfields region. They were also in other country areas and in the metropolitan area of this State. The draught horses certainly had a great part to do with opening up Western Australia, and in this respect they did a tremendous job. Large numbers of them were lowered many thousands of feet underground in the goldmining industry, and in other mining ventures. They did a tremendous job. I know how human beings finish up after spending a considerable number of years working underground and I know that in those days I had some feelings of sympathy for the horses.

With the introduction of the motorcar, and other machinery, draught horses have been phased out, almost completely, in this State and in other parts of the Commonwealth. The

Government, in its wisdom—and we all know how wise is the Government—has decided that we should repeal the Act. I spent some time wondering whether I should support the repeal of the Act, or oppose it. I wondered whether, perhaps, we should retain it and even strengthen it to include other animals. However, after considerable thought the Opposition has decided it will support the Bill to repeal the Act.

THE HON. H. W. GAYFER (Central) [4.05 p.m.]: I appreciate the sentiments expressed by the previous speaker in his approach to this Bill, and the support which he has given to it. I also appreciate the nostalgia which he attached to his utterance in respect of the repeal of the Stallions Act. It is sad that the Act finally will be struck off the Statute book of this State, for very many reasons—some of which have been mentioned by the Hon. Ron Leeson.

The honourable member did not mention the era nor the reason for the introduction of the legislation. The war horses—the horses exported from our shores during a period of war—were responsible really for the introduction of the Stallions Act. In 1907 it was first mooted that something should be done in respect of the control of breeding of horses, and that breeding should be only from stallions that were declared to be sound.

The Commonwealth was approached and requested to do something on a Commonwealth basis. The matter was debated for many years and, finally, in 1917 the Prime Minister at the time took some action. In 1921 a Bill was introduced into this House by the then Minister for Education (the Hon. H. P. Colebatch) whom everybody would remember. The Hon. Phil Pendal probably would know him extremely well from history. I intend to quote from the speech made by the Hon. H. P. Colebatch which appears at pages 1542 and 1543 of the *Parliamentary Debates*, 1921-22. Before quoting that speech, I will refer also to what was said by the present Minister for Lands (the Hon. D. J. Wordsworth) when he introduced the present Bill into this House. He said—

> The principal Act was introduced at a time when heavy draught horses were a commercial part of agriculture. The intention of the legislation was to ensure that a registered stallion was not affected by hereditary or transmissible unsoundness or disease.

It is interesting to learn the reason the Act was introduced. During his second reading speech in 1921, the Hon. H. P. Colebatch said—

> In 1918 the acting Prime Minister advised that the Minister for Defence—

The Minister for Defence, mark you! To continue—

> —had drawn attention to the fact that the standard of horses in Australia was deteriorating and was now very low, one of the chief causes for this low standard being the use of unsuitable stallions. He suggested the elimination of these by direct legislation, and a conference was convened by the Minister for Defence, at which the following resolutions, referring to stallions, were passed:—
>
> > That this conference recognises the urgent necessity for taking immediate steps towards placing the horse-breeding industry on a more satisfactory footing, with a view to improving the type of horses raised in Australia.
> >
> > That the first step to be taken is to provide for the elimination of unfit stallions, i.e., stallions affected with hereditary unsoundness or defective in type or conformation.
> >
> > That this result can only be achieved by legislation, and that if such legislation be not within the powers of the Commonwealth Parliament, steps should be taken to procure the enactment of uniform measures by the Parliaments of the States.

This State certainly was not the first to enact legislation for the control of stallions. I often wonder, after reading the Stallions Act, whether Mr Leeson may be on the right track when he mentioned that perhaps we should not repeal the Act, and that its repeal may be a little before its time. The Act does not refer only to draught horses or to war horses. The Act is explicit. The Act sets out that an inspector shall be appointed, and that the inspector shall have power to appoint two other persons of good repute being competent judges of horses.

Stallions had to be paraded at agricultural shows so that they could be inspected; that is, registered stallions. They were the only ones which could be used or travelled.

My father used to travel a registered stallion. I do not know whether anyone in the Chamber knows what that means. The stallion used to be tied behind the buggy and taken around from farm to farm serving mares as required. They were often brought into the country at a huge price. This work was done by many stockmen in those days.

Section 10 of the Act says—

> 10. No uncertificated stallion shall be used for stud purposes except on mares the property of the owner or one of the owners of the stallion, and no person shall stand or travel or permit or be party or privy to the standing or travelling of any uncertificated stallion for stud purposes:

The main purpose of the Act was to clean up the industry and take those with unsoundness or hereditary disease completely off the scene. We are now looking at sprint horses and so on, and I believe there are a great many more breeds than there were three, four, or five years ago. An Act such as this, dealing with the unsoundness of stallions at any place, should be looked at more tolerantly; otherwise, our horse-breeding standards might go back to those of 1917 which led to the introduction of the Act.

It is true that even in those days, as the Hon. Norman Baxter's father pointed out in the debate, the legislation was not regarded as a cure-all for the industry, because it did not prevent a private person using any stallion at all. That was the problem in the State, especially on the stations up north. Colts were not gelded until they were three years old, by which time, sound or unsound, they had been on the rampage; and this was one of the problems we experienced when bringing them down south.

This is the end of an era. Although I was brought up in the mechanised age, I had an association with a family the father of whom was buying horses for the Army during the First World War. After the war he raced horses in Perth for many years and travelled a stallion up till about 1925 or 1926. He was very famous in our district for the work he did with horses, and of course he was a horse lover.

In repealing this Act we are closing another page in our history and virtually turning our back on an era which lasted many thousands of years, when the horse was the all-important creature and his breeding was everything, whether he was used for war or commerce. However, we must support this Bill which the department in its wisdom has put forward. It is challengeable and perhaps in the future we will have to reintroduce legislation to establish guidelines and give them some credence. In the meantime, I support the Bill and commend those who introduced it on their wisdom.

THE HON. N. E. BAXTER (Central) [4.15 p.m.]: One could be excused for thinking it would be wiser to retain this Act on the Statue book than to repeal it. One has to compare the situation today with the time when the draught horse stallion—whether a Clydesdale or other breed—was taken around to various properties for the purpose of serving mares so that the owners could breed their own draught horses. In his second reading speech the Minister mentioned that some 30 years ago the use of the draught horse started to decline. Clydesdales, Shire stallions, Suffolks, and others disappeared from the country areas, and today there are perhaps no more than half a dozen stallions of heavy horses bred in Western Australia.

We now have the most noble of horses, the thoroughbred, with a system of registration. Every thoroughbred stallion in Australia has to be registered on the stud register at Randwick in New South Wales. This year the registration procedure has been taken further, in that not only must one send in a slip each year but one must pay a fee for registration of the thoroughbred stallion and by a certain date forward a blood sample to a pathologist to have the blood of that horse checked for record purposes so that there can be no switching over of stallions when it comes to progeny. In other words, blood samples can be taken from a stallion's progeny and be checked on a pathological basis. That is the situation in the thoroughbred industry.

On 28 February this year, a requirement was introduced that every thoroughbred mare which produces a foal after 30 August must be registered in the stud book; otherwise, the unregistered progeny of a mare cannot race on thoroughbred racetracks. The matter is fairly well covered.

Soundness of stallions is important, whether people are buying a stallion or procuring the services of one for mares. It is up to the breeder himself to consider the background of the stallion and for a purchaser to have the stallion checked by a veterinarian for soundness, disease, and so on. That was provided for in the Stallions Act.

I understand from a friend of mine who is well up in the trotting industry that pacing stallions have to be registered with the WA Trotting Association. For Andalusians and other breeds there are various associations with which the stallions must be registered, and soundness is important with all these horses. A large amount of equine research is being carried out in Australia. There is an equine research foundation in the thoroughbred industry and other associations are building up similar research organisations.

The economics of the horse-breeding industry is a consideration in legislation in regard to

stallions. It would be puerile to try to introduce legislation to cover the many facets of the industry today.

I believe the organisations set up to control the particular horse breeds will give all the cover that is necessary through stud registrations in regard to unsoundness and diseases of horses.

THE HON. V. J. FERRY (South-West) [4.20 p.m.]: I have no desire to delay the House, but it may not be generally known that I am a great lover of horses. As I am, I would like to add a few words to this debate.

The Act we are seeking to repeal was introduced in 1919 because of an energy crisis. So what is new? We have an energy crisis today. However, back in 1919 it was deemed necessary to protect the major means of transport—on land anyway—at that particular time; that was the horse.

It is rather interesting to read what was said in this Parliament during the debate on that originating measure. We have to remember that in this era motor transportation was just coming in, and the main form of transport was the horse. This was actually the changeover period, and it was causing something of a trauma in the community. I would like to illustrate that by referring to a debate which took place in this Parliament on 2 October 1919—that happens to be just 61 years ago. This debate appears on page 759 of Volume I of *Hansard* of 1919. It states—

> Mr ROCKE: It would be wise if the existing provision were allowed to remain. It may be necessary at times to have at hand a man who could render assistance in the case of a horse being frightened by a traction engine or steam roller. Only on one occasion in Australia has anybody been injured by a steam roller. That was in Victoria, when the man carrying a flag in front of a roller was run over by the roller.
>
> Mr UNDERWOOD: I support the amendment. We have evidence that an attendant walking in front of a steam roller was run over by the engine.

Then the Hon. Philip Collier—a gentleman who later became a Premier, and a very competent Premier of this State—had this to say—

> There should have been a man in front of the man in front.

The debate then continued—

> Mr UNDERWOOD: Out of consideration for the man carrying the flag in front of a steam roller we should cut out the existing provision. If a horse has made up its mind to shy at the engine, it does not matter whether there is a man in front with a red flag or not. I once had a horse that would go off the road looking for something to shy at. We should cut out this useless attendant in front of the steam roller, especially when we remember that one of them has been run over while on duty. If we could get a man fast enough to carry a red flag in front of a motor car, he would be doing useful work.

You see, Mr President, the various eras all have their difficulties! I support the repeal of the Act.

THE HON. R. G. PIKE (North Metropolitan) [4.22 p.m.]: Mr President—

The Hon. H. W. Gayfer: Are you talking in your capacity as a butcher?

The Hon. R. G. PIKE: We will leave the Hon. Mick Gayfer as the boxer, and me as the butcher!

I rise very briefly to support the Bill. I am reminded of two of my colleagues in this House—the two Ps. Of course by that I mean that they are both Phillips, and the Greek derivation of that word relates to the lovers of horses. No doubt we will hear from them also on this subject.

I want to congratulate the Minister for Agriculture (Mr Old) for presenting the most refreshing kind of Bill; that is, a Bill to repeal an Act. I want to say to Ministers in this place and Ministers in another place that I think it is high time we embarked on a programme of ridding the Western Australian Statute book of a great many cobwebs.

The Hon. H. W. Olney: What about section 54B of the Police Act?

The Hon. R. G. PIKE: Many redundant Acts have been on our Statute book for a long time. It is encouraging that we are being asked to vote for the repeal of an Act. I repeat: We need less government rather than more government.

THE HON. G. C. MacKINNON (South-West) [4.25 p.m.]: I would like to just say, in defence of Sir Arthur Griffith, that the Law Reform Commission was established long ago, and because of the work of this commission, many Acts have been consolidated, rewritten, or repealed. So this policy is not new; it is part of a programme. While I join in the commendation of the Minister for Agriculture, nevertheless I believe the credit ought to remain with the gentleman who initiated the move in this House (Sir Arthur Griffith).

The Hon. R. G. Pike: I am happy to acknowledge it.

The Hon. G. C. MacKINNON: Possibly it commenced before that. Indeed, the most interesting measure we dealt with arising out of that policy was in regard to an Act which was signed initially by Queen Elizabeth I. Finally this Act was amended in this House.

The Hon. D. K. Dans: We didn't get rid of it—we amended it!

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [4.26 p.m.]: I thank members for their support of the measure. It is rather interesting that several members have praised the fact that we are seeking to repeal legislation, and yet one of the debaters was himself a little uncertain whether or not this Act should be repealed. This shows it is a little harder to remove legislation from the Statute book than it would appear to be to the general public.

I thank Mr Gayfer for correcting me. In my prepared speech on the history of this legislation I said it was needed to protect the draught horses. I suppose I should have realised that was incorrect because my father is presently writing his memoirs and I am aware of a little of the history. My father has now reached the ripe old age of 87, and it is only in the last few years that he has found he is not able to play golf. To keep him out of trouble, we suggested he should write his memoirs.

As a young man he formed a company in the town in which he lived—Cowra in New South Wales. They collected their horses and went off to Gallipoli as lighthorsemen. Our horses built up a great reputation in the Middle East; our lighthorsemen carried out some fantastic feats in the desert. Very little water was available for the animals, and so the lighthorsemen travelled overnight to the battleground, fought a battle the next day, and then returned back to camp that night.

The Hon. H. W. Gayfer: We had Australians in India, too.

The Hon. D. J. WORDSWORTH: The horses sent overseas were destroyed when the soldiers returned. Presumably Australia was very short of horses just after the war.

My father transferred to the Indian Army during the war, and, in peacetime, in order to keep up with the British officers who mostly had private incomes, he used to return to Australia, buy horses here, train them as polo ponies, and sell them to the Maharajahs.

The Hon. H. W. Gayfer: He was what you might call a "qaso" horse trader.

The Hon. D. J. WORDSWORTH: There was quite a trade in horses from Australia after the war. I thank Mr Gayfer for informing the House that the original legislation was a defence move.

My children now breed ponies, and I myself wonder whether this legislation should be repealed as they are never quite sure whether they should geld their colts—they always think a particular colt might turn into a magificent stallion! Perhaps we still require this Act.

As Mr Baxter has so rightly pointed out, nowadays the breeding societies do this regulating, and they do it very well. I do not believe there is a requirement for this Act, and I thank members 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. D. J. Wordsworth (Minister for Lands), and passed.

ADOPTION OF CHILDREN AMENDMENT BILL

Second Reading

Debate resumed from 30 September.

THE HON. H. W. OLNEY (South Metropolitan) [4.33 p.m.]: I rise with some reluctance to speak to this Bill, not because I do not want to say something about the adoption of children, but because I cannot reminisce back to the horse and buggy days, and talk about cows, bulls, and stallions. In fact, I can talk about children mainly because I have had some involvement with them both as a parent and in other ways.

The subject of the adoption of children is one with which I have had some personal involvement and one on which I have some fairly strong views. The Minister who introduced the Bill in this House probably has traced the history of the debate elsewhere and he will know—and I reaffirm the fact—that the Opposition is opposed to the Bill. The Opposition does not oppose the Bill because it is necessarily opposed to every provision in it; in fact, perhaps the Minister will be a little surprised at some of the comments I make here. I can make them fairly confidently

seeing that many of my party colleagues have much more important business to attend to; the comments I will make will not necessarily be similar to those made elsewhere and in some respects will differ from what has been said.

Nevertheless, the Bill as a whole is opposed because we find some objectionable features in it.

The Bill covers a number of different amendments proposed to the Adoption of Children Act. I shall refer briefly to each amendment and indicate my views as I go along.

The first aspect of the Bill to which I wish to refer is the clause which deals with the insertion of a new section 5D. This is supported by the Opposition. The new section will provide for the elimination of unnecessary formalities in proceedings in the Family Court related to the adoption of children. It will give the Family Court more flexibility and more capacity to deal expeditiously with applications in certain cases. We have no quarrel with that whatever, and indeed would support any move that simplifies the administration of the law.

The second aspect of the Bill relates to the question of the name by which an adopted child shall be known. The Minister said in his second reading speech that some uncertainty has occurred in the Family Court in cases where adopting parents have different surnames because the wife has retained her own surname after marriage. The Bill provides that an adopted child, like any other child of married parents, will take the surname of the adopting father.

I do not think the problem is quite as simple as has been stated there. Perhaps I might comment briefly in a similar vein to a comment I made yesterday in another context. The Minister in his speech said that there has been some uncertainty in the Family Court in certain circumstances. That is a bit like the Parliamentary Counsel expressing a view, and the Minister giving us that view without telling us the background leading up to it.

Here again, I would have liked to hear from the Minister what the uncertainty is, because if one looks at the Act as it stands—that is, section 10, which is proposed to be amended in relation to the surname of the adopted child—perhaps there is some uncertainty that needs to be cleared up. However, I would have thought the Minister would tell us what the uncertainties are in order to justify the legislation; and in so doing he may have indicated to us whether or not the particular means sought to remedy the uncertainty in the form they take in the Bill are the appropriate means.

It is, of course, a matter of common law that a legitimate child takes the surname of his or her father. It is also a matter of common law that an illegitimate child takes the surname of his or her mother. In a simple situation in which married parents are involved, obviously the children of the marriage are legitimate and take the surname of the father. However, these days many women do not assume the surname of their husband. Perhaps this is a modern trend, but it certainly is nothing new in law, and probably we will talk about this subject on another Bill which was introduced yesterday.

However, it probably does not matter whether this is caused because many women are today not assuming the surname of their husbands, but are retaining their maiden surname and continuing to use it; whether it is because there is an increasing number of divorced people in the community who remarry; or whether it is because there is an increasing number of single women who are mothers of children and retain their children as part of their family and bring them up using the mother's surname.

The fact is, of course, that the situation arises, and apparently has been arising with some frequency in the Family Court that adoptions have been applied for where the parents of the child to be adopted have different surnames.

The Minister seems to have overlooked the fact that many children reach a mature age bearing the surname either of their mother or their father, who may be deceased, and then find themselves in the position where their mother marries or remarries, and the husband adopts the child as part of his family—which, I might say, is a most commendable practice.

The position most certainly arises on many occasions, even where the mother of a child in fact has taken the surname of her husband, or second husband as the case may be, where the child itself, since birth, has been known by a surname different from that which the mother adopts or acquires after her marriage.

What this Bill will do is to ensure that in every case the child will be required by virtue of the adoption order to be known by the surname of the adopting father.

I know of a particular instance when I was a schoolboy aged about 12 years of one of my friends being known by a particular surname. I believe his father was killed in the war, and his mother remarried. He was adopted by the second husband and, one day, he came along to school and said his surname was now something different. That may or may not have suited him.

However, one could imagine that many children under the age of 18 years may not want to change their surnames simply by reason of their being adopted by the husband of their mother. I know the answer has been, "They can always use the Change of Names Regulation Act and change their name back again"; however, I suggest that is a silly answer.

The more appropriate answer to this question is that when a person or a couple apply to the Family Court to adopt a child, they should nominate to the Family Court the surname by which the child is to be known, in the same way as they nominate to the court the Christian or given names by which the child is to be known. Indeed, a child of any maturity—and apparently, with a Christian name, the age of 12 years is thought to be the age of maturity—should be consulted and give his or her consent. In the absence of that consent, some discretionary jurisdiction should be available to the Family Court to order that the surname by which the child is to be known be different from that of the adopting parents, if that is appropriate.

Again, I appreciate that the Act as it stands, adopted as it was in 1896—even before the Stallions Act and the Slaughter of Calves Restriction Act, which have just been repealed—was drafted in the days when it was contemplated as a matter of course that a married couple would in fact always use a common surname. Conditions since then have changed. It is a change which has always been open as a matter of law that people who are married need not necessarily use the same surname. These days, that practice has developed to a significant degree.

I concede that the Act as it stands, in its unamended form, could be confusing. It seems to me that the step should have been taken at this stage, if a change is to be made, not to move towards being arbitrary about what surname shall be used by the adopted child, but to move in the other direction and give the Family Court an appropriate discretion to deal with the matter in the way the parties concerned feel is in the best interests of the child. In the absence of the parties being able to express a view, the court should have the power to determine the question in an appropriate way.

I believe the question was asked elsewhere, "What would happen if the parents could not agree on the surname by which the child should be known?" I suggest, again, that that is a fairly silly sort of thing to say because people simply do not get to the stage of applying to the court to adopt a child unless they have a fair degree of unanimity as to the whole process.

So, the Opposition opposes here as it did elsewhere the provision which seeks to amend section 10 of the Adoption of Children Act whereby as a matter of course and as an inevitable matter of law the surname of an adopted child will be that of the adopting father.

The Minister stated in his second reading speech that the most significant clause in the Bill was also the shortest. I agree that it is the shortest, but whether it is the most significant perhaps is a matter of contention. He was, of course, referring to clause 5 of the Bill, which seeks to delete paragraph (b) of section 15(2) of the principal Act. This section deals with the recognition of foreign adoptions, which are adoptions effected according to the laws of other countries. The idea of the amendment is that in future, foreign adoptions will be recognised in this State and given effect to as if they were adoption orders under the Western Australian Adoption of Children Act.

The part of the existing legislation which is to be repealed is a limitation on the recognition of foreign adoptions which requires that the recognition extend only to cases where the adoptors were resident and domiciled in the country where the foreign adoption order was made. So, the situation arises under the present legislation that people who normally are resident and domiciled in Australia and go overseas and adopt a child, and bring that child back to Australia, then find it necessary under our legislation to take further adoption proceedings in order to make the adoption fully effective. The Government proposes to remove that restriction; and I must say that personally I approve of that, although that was not the view expressed on behalf of the Opposition elsewhere.

The next aspect of the amendment also relates to foreign adoptions. It is to be provided that the Director of Community Welfare may supervise a child who has been adopted overseas for less than a year before entering Australia if the child and both the parents were not nationals of the country in which the adoption order was granted. The justification for such a provision, in the words of the Minister, is that the clause provides safeguards for children in families where problems may be caused by the parents being of a different nationality, and the adoption has not stood the test of time. It is a fact well known to anybody who has had any dealings with children who become what euphemistically may be called "behaviour problems" in their teenage years or

even younger that adopted children are at considerable risk in this regard.

I have some close personal experience with one of the institutions in this community that operate as a school and home for "behaviour problem" boys. I am alarmed when I am told, quite often, by my wife who is a teacher at that place, of the number of boys who are in fact adopted children and who find their way into that type of environment. There is no question about it. I would freely admit that every adoption does not work out perfectly. Of course, the same may be said of the relationship between parent and child in a natural situation. That goes without saying. There does not seem to be any real need to distinguish between the adopted children and the children born naturally into a family.

As the parent of an adopted child and also as the parent of a number of children born naturally into my family, I can assure the House that in the vast majority of cases there is no distinction within the family between the adopted children and the natural children of the parents. This proposed provision is one I would oppose with considerable force, because it is discriminatory against the children who have been adopted overseas.

The Minister spoke about the adoptive parents being of different nationalities; but I think, if one reads what was said elsewhere, what is meant is that the parents and the child are of different races. We are familiar with the desire by many Western Australians—indeed, Australians generally—to do some small thing towards alleviating the harsh conditions of life in countries to the north of Australia by adopting children from those countries. It is a fact that many people of different nationalities, and certainly of different races, are being brought into this community in that way.

Again as the adoptive parent of a child of a different race, albeit a child of the indigenous race of Australia, I can assure the House that the relationships between parents and children of different races, and between children of different races within a family, and between people of different races and nationalities within the community generally, are not likely to be affected by the power of the Director of Community Welfare to supervise a child who happens to be an adoptee of a different nationality.

In our view, this provision represents an unnecessary intrusion into the privacy of families and parents; and it places a particular class of adopted children into a category which makes them second-class people, for a limited period at least. They are children over whom the director is to have special powers of supervision. The welfare legislation of this State abounds with opportunities for the different agencies to supervise, assess, protect, punish, or otherwise deal with children and parents whose conduct, whose way of life, and whose standards do not accord with the acceptable standards of our community. There is simply no need for the provision contained in clause 6 of the Bill; and I hope some thought will be given to its removal.

I appreciate that the clause provides for the exemption of any child from the operation of the proposed new section. It would be most offensive for that exemption to be exercised at all, because one would have the situation in which it might be thought that children of particular nationalities are in receipt of discriminatory treatment. I suggest that perhaps the Australians or Western Australians who went to the United States of America and adopted a white, Anglo-Saxon child, and who came to this community and continued to live here, may well find that the Director of Community Welfare is not interested in that adoption. However, if the same couple went to Korea, Taiwan, or somewhere else close to the north of Australia and brought back an adopted child, they may well be subject to this sort of supervision.

It is unnecessary to provide any additional powers of supervision. I know that the powers being granted by this proposal are limited. They do not provide for the child being taken out of the custody of the parents, except through the ordinary processes of the welfare legislation. I would have thought that fact in itself would indicate that the proposed new section is unnecessary.

The next aspect of the Bill places a restriction upon the removal of prospective adoptees from the State during the period pending the adoption. The Minister has indicated that when a child is placed with a family for adoption, there is usually a period of about six months while the child settles in before an application for adoption is made to the Family Court. The Bill seeks to prevent such a child from being taken out of the State during that period without the consent of the director. We would not object to such a provision; but I comment that what the Minister said is true—that the usual practice is for a child to be placed with a family for a period while the child settles in before the application for adoption is made to the Family Court.

I suggest this practice is a most undesirable one. It is not a practice which is followed when one has a child which is naturally born into the

family. We do not have our kids for six months on "appro" while we decide whether or not we want to keep them. We would need to wait perhaps 16 years before we decided, but then it would be too late. I know of cases where a child has been placed with a family in anticipation of his being adopted. That child has been accepted by the family, particularly during the first six months when parents develop a great affection for and affinity with a child, especially a young child, only to find that for some reason or other, usually the withdrawal of consent or for some technicality in the bureaucracy, it comes to pass that the child has had to be removed from the custody of the prospective adopting parents which causes only heartbreak all around.

In this respect I want to take the opportunity to pay tribute to Matron Beryl Grant from Ngal-a who has recently retired from that position. I have known Matron Grant for many years. My personal experience with her was that for this very reason she refused to allow children to be placed out in anticipation of adoption.

I know from cases in my former legal practice many years ago when I had a lot to do with family problems that all sorts of difficulties, hardship, and agony are caused when a child is in the custody of parents in anticipation of the child being adopted and that adoption does not go ahead for some reason or another. Matron Grant had very strict rules about this, particularly with the adoption of Aboriginal children. As an adoptive parent of an Aboriginal child I can appreciate the problem she wished to guard against. Nevertheless, this practice is adopted and there ought to be some restriction on the removal of a child from the State pending the attention of the Family Court and other authorities to the necessary formalities.

The final matter upon which I wish to comment and which is dealt with in the Bill relates to the power of the Minister to determine appropriate charges for the preparation of adoption applications when they are prepared by staff in the Department for Community Welfare. Members will be aware that applications for adoption can be arranged through the Department for Community Welfare, but they can also be made by private application; that is, application directly to the Family Court, in which case it is usual, although not legally necessary, for a lawyer to be involved in the preparation of the necessary documents.

I have always had some reservations as to the role of lawyers in this aspect of legal practice. I myself, particularly since I adopted a child, have felt that this is a function which lawyers could well bow out of. I always made it a practice never to charge a fee for this sort of service, not because I did not need the money, but because I felt some sort of affinity with the parents adopting a child. The procedures of adoption involve the Department for Community Welfare to a very substantial degree.

It is probably appropriate in this case that that department, with its expertise and its involvement in the field of welfare generally, and particularly because of the need for the department to give certain approvals before adoptions can go ahead, ought to be the body to handle the entire procedure in every case.

That brings me to that part of the Bill which concerns the charging of fees. I would have thought this is an area where the community, represented by that particular branch of the Public Service, could well afford to be a little bit generous. I do not see why the costs incurred by the department—and I am sure the charge made never really covers the cost—should be made against the parent. After all, the adopting parents are doing a service for the community. Leaving aside the situation where the adopting parents are a natural parent and a second spouse, which does occur frequently, and would be mainly a formality, and dealing with the case of genuine adopting parents who take a child who has been born and not wanted by its natural parent, those adopting parents are doing a service to the community in undertaking to provide a home and a family for that child, a child who would have become a burden on the State.

I suggest in the application of the provisions of this Act regarding the imposition of charges for services rendered in assisting with the adoption of children, the department could very well afford to be generous to the adopting parents. Certainly it was my experience that the cost involved was only £10. It would have cost a lot more to go to a lawyer.

In conclusion, I would like to make a couple of general observations. One is that the Adoption of Children Act deals with the status of children and not the status of parents. In reading what was said in another place, in fact by one of my own colleagues, I think this particular fact was overlooked. This is a piece of legislation to protect the legal status of children rather than the parents, although parents are obviously an integral part of the scheme of an adoption. I suggest that in our dealing with this legislation we ought always to have paramount in our minds the welfare of the child and not necessarily the welfare of the parents. Obviously the welfare and concern of the parents have to be given expression

too, but we must in every case always place the welfare of the child concerned paramount in our considerations.

I do not have the answer to the second comment I shall make, but as recently as 1962, after this 1896 Act had been amended 10 times, the Act still managed to expand to only 12 pages.

Now in 1980, indeed before the new amendment becomes part of the Act, we find the Act comprises 41 pages of legislation. I have no doubt that many of the provisions which have been inserted in this legislation in more recent times are desirable. I feel that anyone who cares to peruse the Act may agree with me that there is a degree of confusion represented by the legislation. It is obvious sections have been stuck in on a "cut and paste" basis when particular circumstances have arisen.

I urge that some thought be given to the streamlining of this legislation so that an ordinary citizen off the street might go down to the Superannuation Building and buy the Adoption of Children Act and, upon reading it, know what his or her obligations are and what are the requirements contained in the law. At the present time it is necessary for someone to wade through 41 pages of legislation which has been amended approximately 12 or 15 times since it was introduced originally in 1896.

Basically the Opposition opposes the Bill, although it does not object to some aspects of it.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [5.12 p.m.]: I cannot say I thank the Opposition for its support. I have to admit that, having listened to the Hon. Howard Olney, I feel he has acted in a truly judicial manner, in that he has presented both sides of the case to the House. I am not sure exactly what the member is opposing, because he so admirably represented the Government side, whilst also pointing out the reasons that the Opposition opposed the legislation.

However, I feel the member has not told the House the particular clauses the Opposition intends to oppose. If this were done, it would be helpful when we come to debate the Committee stage.

The member obviously has a great deal of experience in this field. It is clear that not only has he carried out legal work in regard to this matter, but his wife, as a teacher, is involved in it also. I understand that the member has himself adopted a child, so I do not believe one could have more practical experience than that.

One of the points with which the Opposition does not agree—I say this because the matter was raised in the other House—is that of the child taking the name of the husband of the child's mother, should the new husband be willing to adopt the child. I am aware this is a difficult question. As I understand it, the situation is that when a child is born in wedlock it uses the parents' name. In adoption, if both parents—the adopting parent as well as the natural parent—intend to keep this child and the new husband adopts it as if it were his own, it is felt to be right that the child should use their name.

It is a different matter, however, if the child is over 12 years of age, as it has to agree to be adopted. This is one of the matters at which the court looks. The notes supplied to me by the director say, "Children of 12 already have to consent to their own adoption."

The Hon. H. W. Olney: That is just about the surnames.

The Hon. D. J. WORDSWORTH: The point I was getting at is that if a child disagrees and does not wish to use the new name, the adoption does not take place. It is not forced upon the child. If the child expresses a desire not to take the new name, the court has the right to set up a guardianship, rather than an adoption. Under that system the child would retain its own name and yet would still be cared for by the family and the family would have the same responsibilities. I am speaking as a layman in a field in which it is obvious Mr Olney has great expertise.

The Hon. H. W. Olney: The point is, you may get both parents of the child wanting the adoption and wanting the child to retain its former surname, but the court has no power to rule accordingly. That is the problem.

The Hon. D. J. WORDSWORTH: That is a point which perhaps has not been raised. In the case mentioned by Mr Olney, both parents want the child to retain its surname, but the court does not have the right to rule in that regard.

I shall conclude my remarks on the second reading stage of the Bill and will ask the Minister to examine the matter before we enter into debate in the Committee stage.

I believe that was one of the major points raised by Mr Olney. The other point mentioned by him was the influence of the Department for Community Welfare. The member felt the department was somewhat over-possessive in that it demanded to have a say particularly in the case of a family adopting someone of a different nationality or race.

I do not know whether the member is being quite fair. Perhaps the department desires to be in a position to influence and decide regardless of

race, but obviously there could be added complications if a family is adopting a child of a different race and bringing it into a different country.

This is a matter of judgment. When legislation is being written, it is necessary to insert such powers. It would be wrong if the department did not have this type of jurisdiction, but I hope it would not step in unless absolutely necessary. I understand the original legislation was slanted in the other direction. Under that legislation a doctor could arrange the adoption. Perhaps it is better that the Department for Community Welfare should play this part, rather than a doctor. Difficulties could arise in that situation, particularly in regard to legislating to give the doctor the power to arrange the adoption.

The Hon. H. W. Olney: Doctors, particularly in some communities where they had a very large practice dealing with unwanted pregnancies, used to be involved in this area. This was also the case with lawyers.

The Hon. D. J. WORDSWORTH: Whilst one must admire those who carried out these matters in a genuine manner, it must be recognised that it would be very easy for the situation to be abused, and undue profit could be gained as a result.

This brings us to the matter of fees about which Mr Olney was concerned. I admire the member for his outlook on fees, but I feel he must admit his circumstances are somewhat different from those of others. I do not know how frequently lawyers reduce their charges—

The Hon. P. G. Pendal: Ask you wife. Your wife might know!

The Hon. D. J. WORDSWORTH: My wife never got around to charging a fee. The member is remarking on the fact that my wife passed through law school; but that has been very expensive for me, because she now wants more advice than is normal. It is always on the one hand or the other.

The Hon. P. H. Wells: That always happens when it's legal.

The Hon. D. J. WORDSWORTH: The medical profession was always very good in respect to fees. The doctor seldom charged, if one were a member of the family of a doctor, and of course he did not charge in many cases where the needs of the family were known. However, now there are other forms of payment and social services as well as medical insurance, so I guess that does not apply.

In this case I do not think the fees will be unduly arduous. The fee can be determined by the Department for Community Welfare which can look at cases where the adopting parents are not able to pay the full fee. Nevertheless, where families are able to pay the fee there is no reason that they should not. They should pay a fee because if the child were a natural born child there would of course be associated expenses.

I once again thank the member for his contribution in this debate and I feel it will be of great use, not only to the Minister but to his department also. I thank members of the House for their support.

Question put and passed.

Bill read a second time.

RAILWAYS DISCONTINUANCE BILL

Second Reading

Debate resumed from 17 September.

THE HON. F. E. McKENZIE (East Metropolitan) [5.24 p.m.]: There has been some nostalgia in the Chamber today especially when we spoke about the repeal of two Acts which were introduced into the House many, many years ago and for which there is no longer any need.

In some respects, the Bill we have before us is of a similar nature although it may have greater prospects of being reintroduced, especially when we consider the reintroduction of railway services to the north of the State beyond Pindar may occur at some later date.

It is necessary for us to look at the requirements of the legislation before us. I draw the attention of the members of the House to the State Transport Co-ordination Act 1966. Section 21(1)(h) reads—

> . . . recommending to the Minister the closure or partial suspension of any transport service, including a railway.

Section 26 of the same Act reads—

> Before the second reading of a Bill for the construction, or for the closure of a railway, the Minister shall cause the report or the recommendation, as the case may be, made by the Director General in that regard, pursuant to Section twenty-one, to be laid before each House of the Parliament of the State, in turn.

The Bill before us is a result of the recommendations of the Director General of Transport. I believe it is necessary to comment on some of the matters contained in the director general's recommendations. He recommended that both Houses of Parliament be asked to assent to the Railways Discontinuance Bill 1980.

In the document presented for tabling in this House by the director general, he stated, in part, as follows—

> ... an extensive special maintenance programme was initiated in 1973/74 with the intention of arresting the deterioration—which was abandoned after the expenditure of $1.621 million.

One may wonder why $1.621 million was spent in 1973-74 and then subsequently it was found the line was unsuccessful and it was decided to close it in 1978.

The Hon. D. J. Wordsworth: If money had not been spent you would have said we did not try hard enough.

The Hon. F. E. McKENZIE: That is true, but the point I wish to make is that with a total expenditure of $10 million the railway could have remained in its present form to handle the existent traffic. That amount of money could have kept the line open.

The Hon. N. F. Moore: When would that money have had to be spent?

The Hon. F. E. McKENZIE: If that money had been spent over a period of time it would have kept the line operating to handle its existent traffic. On page 3 of the report the director general stated in part as follows—

> The prospect of closure was not new for the line. The condition and future of the line was the subject of formal considerations as early as 1956, when a special committee appointed by the Minister for Railways and Transport(1) concluded that on financial grounds the line should be listed for closure. In 1970 and 1971 the position was re-evaluated by the Office of the Director General of Transport(2) and a case for closure was again established. However, on both occasions a decision on closure was deferred because the line served an outlying community and it was expected that the line would be required to satisfy the transport requirements of the potential mineral developments in the Murchison area. It was anticipated that these developments would not only substantially increase the rail traffic but would justify, or contribute towards, the capital required for rehabilitation. The developments have not yet eventuated and are not expected in the foreseeable future.

There are a number of reference notes at the bottom of page 3 of the report. The notes state that the special committee comprised the Chairman of the State Transport Board, the Commissioner of Railways, and the Commissioner of Main Roads and recommended as follows—

> ... that the line should be listed for closure. However, the final report recommended that—" .... a decision regarding line closure be deferred until the opportunity has been provided of observing the results of the closure of other lines ...". The Commissioner for Railways, in signing the final report, added his minority view that this section should have been included in those listed for closure as soon as possible as per the preliminary recommendations.

So it would appear from these reference notes—and that is all I have to go on—that in 1956 the Commissioner of Railways recommended the closure of the line, whereas the other two members of the committee made a majority report which recommended that it should not be closed.

The Hon. P. H. Lockyer: It was a "wait and see" report.

The Hon. F. E. McKENZIE: Yes, the honourable member has some information.

The Hon. P. H. Lockyer: I have the same report from which you are quoting.

The Hon. F. E. McKENZIE: I repeat: the Commissioner of Railways, in signing the report, added his minority view that the line should be closed. If that means we should "wait and see" I will leave it to members to decide. I am not saying it does or does not. I formed the opinion that he expressed a minority view; that may not be the case.

In 1956 it was evident that the line was in trouble, probably both from the traffic which was offering and the need to carry out regular maintenance because of deteriorating conditions. That is quite understandable because the line was constructed between 1898 and 1910. I am not sure of the history of the line but during that period it was constructed to Meekatharra or Wiluna.

If it was evident in 1956 that the line was in danger, and needed repair, I imagine that would be one of the reasons for wanting to close it. What have successive Governments done since that time? The deplorable neglect by respective Governments demonstrates their irresponsibility. Those Governments let the line run down to the stage where it is now necessary to close it, at a time when we should be considering the reopening of our railways. That applies especially in view of the present energy crisis, and the increasing potential of the Murchison.

The Hon. D. J. Wordsworth: I think you are being a bit hard.

The Hon. F. E. McKENZIE: I do not think so. If ever there has been a time in the last 25 years when we should be looking to the reopening of our railways, certainly it is now. From my reading of newspaper reports, there is great excitement that the Murchison is about to re-emerge.

The Hon. N. F. Moore: It would be necessary to build a new line, that is the difficulty.

The Hon. F. E. McKENZIE: Yes, either that or rehabilitate the present line. We are talking about discontinuing the line, and putting nothing in its place.

The Hon. N. F. Moore: That is for the present time. You know the existing line cannot be used in its present state.

The Hon. F. E. McKENZIE: I am aware of that, and that is why we support the Bill. I would like to see something more positive with regard to reopening the line to Meekatharra. The question of a railway link to the Pilbara has been talked about. A survey was carried out by the director general three or four years ago, and a preliminary report was handed down. Nothing more has been done, and all we can get from the Government is that it is looking at the situation.

If the Prime Minister can promise to build a new line from Alice Springs to Darwin, at a cost of $420 million, surely to goodness we should consider retaining the line to Meekatharra with a prospect of extending it into the Pilbara.

The Hon. D. J. Wordsworth: It is a pity Mr Hayden did not put that in his policy speech.

The Hon. F. E. McKENZIE: It is unfortunate that I did not speak to Mr Hayden.

The Hon. D. J. Wordsworth: It is never too late.

The Hon. F. E. McKENZIE: It is now a little late, but it will keep. I will bear in mind the comment from the Minister.

It is a tragedy that we are in the situation where we should be extending our railway system, and when the need is probably at its greatest. We are likely to see great development in the Murchison in the future.

The Hon. N. F. Moore: Not in the tonnage required for a railway.

The Hon. F. E. McKENZIE: Not yet.

The Hon. N. F. Moore: Not in the foreseeable future. You should read my speech on this matter.

The Hon. F. E. McKENZIE: That is true, and the director general made that statement.

The Hon. N. F. Moore: It is an unfortunate fact.

The Hon. F. E. McKENZIE: It is not likely in the foreseeable future with the present rate of development in the area. However, it will be more costly in the future.

The Hon. N. F. Moore: The Premier has already given an undertaking that no project will be held up for the lack of a railway line. That is a fact.

The Hon. F. E. McKENZIE: I will not comment on that. Perhaps what the honourable member said is the case. However, I make the point that now is the wrong time to close the line. The closure has been brought about by the neglect of successive Governments since 1956. If maintenance work had been done the railway would have stayed. The fault is on both sides.

A sum of $1.6 million would not have been spent in 1974-75 if the intention was not to retain the railway. Because nothing has been done since, there is no option but to close it.

The Hon. N. F. Moore: I think it was constructed in the wrong place anyway.

The Hon. F. E. McKENZIE: The sum of $10 million which I mentioned earlier is not a great sum of money when it is considered that $1.6 million has already been wasted. I cannot understand why those responsible at the time were not taken to task if it was not intended to keep the line operating.

At page 4 of the report the first paragraph, referring to Maunsell and Partners, reads—

> In summary, the consultant confirmed that, despite the upgrading between 1973 and 1976, the line was in a very run-down condition and that a capital expenditure of $10.0 million would be required for it to continue to handle the existing low traffic—rising to $33.0 million if any new traffic were to arise.

I want to make it clear that I looked at the report, and it was a super-duper railway at $33 million.

The Hon. N. F. Moore: Westrail suggested $23 million.

The Hon. F. E. McKENZIE: That figure was mentioned, but Westrail probably was being more realistic than Maunsell and Partners. Maunsell and Partners were looking at 110 lb per yard rail, whereas Westrail was probably looking at 90 lb per yard rail. I have the report, and I do not think that an expenditure of $23 million would have been sufficient to meet the rail requirements of the future, allowing for extension through to the Pilbara if extremely heavy tonnages were to be

hauled. However, for the existing traffic $10 million is all that was needed.

In 1977 a document was prepared, and it was tabled in the Legislative Council recently. The comprehensive report commissioned in 1977 was headed, "Review of Alternative Means of Improving the Transport Requirements of the Murchison Area."

The Hon. N. F. Moore: It was made public.

The Hon. F. E. McKENZIE: I am glad the honourable member has mentioned that point because what have not been made public are the many documents in the reference notes. It is quite unfair to members of Parliament, who are required to make decisions on policy, not to be given the opportunity to study each and every document so that they are in a position to evaluate proposals in their proper context.

When we are given reference notes with little sketchy bits extracted from the report here and there, we are not able to get the true picture. It might be all right for members of the Cabinet.

The Hon. D. J. Wordsworth: To which ones are you referring?

The Hon. F. E. McKENZIE: I asked a question the other day pointing out how difficult it was to come to a decision when one is unable to obtain the full document and that it might be quoted out of context. A document was tabled but it was not the one I was seeking. The document tabled was "A Review of the Alternative Means of Meeting the Transport Requirements of the Murchison Area," and the reply to my question stated that the other documents were internal Westrail reports. I attempted to get them through the Parliamentary Library, but the librarian said I could not have them. It was then I asked a question of the Minister and received the document to which I have referred. I did not realise it had been made public.

I am not arguing about the discontinuance of the line. The line is finished and, after reading such reports as I can obtain, I think it is reasonable to assume that if another railway line were constructed it would probably take a different route, perhaps through Weld Range or branching off onto a direct route at Wubin. However, I am unable to come to a satisfactory decision. I digressed to say that we and the public should be given those documents. It seems to me the Government tables documents in Parliament only when it suits it. We had an instance of that in regard to the report of the Stanford Research Institute.

The Hon. D. J. Wordsworth: I think all those listed in the report of the Director General of Transport are available.

The Hon. F. E. McKENZIE: I am not sure that they are but if in his reply to the second reading the Minister could give me an undertaking to make them available, I would be happy to accept them. Certainly, some of those referred to in the document which was tabled are not available. They are referred to in notes but one cannot study them if one cannot get them.

I come back to the point I was making about what took place when it was decided the line should be closed. I quote from the conclusions on page 37 of the document—

> 5.1. In order to resolve whether or not the Mullewa-Meekatharra line should be upgraded Westrail posed the much broader question:
>
> > What is the best way to provide transport services for the Murchison Area, taking into account the potential mineral development while ensuring that the communities in the area continue to be provided for and are not disadvantaged by any changes introduced by providing transport services in a different way?
>
> 5.2. Three transport alternatives were identified, each of which met the requirement that an alternative be capable of transporting current and future transport demands, including potential mineral traffics. One of these was the "all rail" alternative, essentially the situation as is, but with complete rehabilitation of the Mullewa-Meekatharra railway. The second was the "rail/road" alternative, which made use of rail to Wubin, and road (with heavy haulage vehicles) from Wubin to Mt. Magnet and Meekatharra. Road was also used in connecting Mullewa and Mt. Magnet with flexibility of rail or road between Geraldton and Mullewa. The third alternative was "all road" with road replacing the rail segments of the "rail/road" alternative.
>
> 5.3. The alternatives were costed over the tonneage range 100 000 to 1.1 million net tonnes per annum. It was concluded that, on a financial basis, the "rail/road" alternative was best up to 550 000 net tonnes per annum and possibly up to 1.1 million net tonnes, depending on how much road costs were debited to the alternative. All road costs were debited at the 550 000 tonne level, and

decreasing these raised the tonneage for which the "rail/road" alternative was best.

5.4. When all quantified resource costs were included, which meant adding the net costs of accidents, congestion and time it was found that the "rail/road" alternative was better than "all rail" over an even wider tonneage range, and that communities in the Murchison Area derived additional benefits through faster transit times for goods into and out of the area. It was concluded that the "rail/road" alternative was better than "all rail" on both a financial basis and on a quantified resource cost basis.

5.5. The effects of factors not quantified were considered, with special reference to how the communities in the Murchison Area were affected. It was concluded that the local communities would benefit from the "rail/road" alternative (as in paragraph 5.4.), would not be disadvantaged in terms of regional development, and could derive benefits from bringing the developments forward in time. There were potential disadvantages to the community arising from the possibility of service changes and from the relocation of Westrail staff and their families. However, it was concluded that these could be overcome, or at least minimized.

In February 1977, that report came down recommending that a road-rail system be operated. That means in turn rail to Wubin and road from there on.

The Hon. N. F. Moore: I have spoken about it several times in this House.

The Hon. F. E. McKENZIE: Previously, I wanted to keep the railway open.

The Hon. N. F. Moore: But you did not look at the alternative.

The Hon. F. E. McKENZIE: The alternative was a compromise. The director general does not mention anything about the all-rail alternative. He says—

> Satisfied that the most economical transport services to the Murchison region would be provided by changing from rail to road, on 19 December 1977 the Government outlined its policies and gave the following basic undertakings:

I will not go into the undertakings. As far as I am aware they have been carried out but only the people in the area would know that. The Government did not even choose to accept the recommendations contained in that report.

The Hon. N. F. Moore: That is not entirely true because all the nitrates going up to Newman go by rail to Dalwallinu and then by road. There is a gantry at Dalwallinu.

The Hon. F. E. McKENZIE: Why did not all the traffic go to Wubin?

The Hon. N. F. Moore: They chose Dalwallinu instead of Wubin.

The Hon. F. E. McKENZIE: They are talking about all the traffic. All the traffic could have gone to Wubin and that was the alternative provided for in the report. Talc is brought all the way to Perth.

The Hon. N. F. Moore: It is obviously cheaper for the company to do that.

The Hon. F. E. McKENZIE: It might be cheaper for the company; but is it cheaper and better for the community? People and factors other than the company must be taken into consideration. The community should be taken into consideration in these matters.

In another part the report reads as follows—

> In order to cater for the demands which the freight traffic, diverted from rail to road, would make on the road system a road improvement programme in the region was commenced in 1978-9. Over the period 1978-9 to 1980-1 $3.9 million will have been spent on sealing the Geraldton to Mt. Magnet road and, during 1979-80 to 1980-1, $2.0 million on selective widening between Wubin and Meekatharra. Whilst it is likely that these roadworks may have eventually been undertaken regardless of the cessation of rail services, they have been undertaken earlier than would have other been the case.

There is a necessity to do something about the roadworks because we must cater for the heavy vehicles.

The Hon. N. F. Moore: Also for individual car drivers who want to travel on bitumen roads.

The Hon. F. E. McKENZIE: But the sort of road we need for these heavy vehicles is quite different from what we need for a motorcar. I do not represent this area, but this matter should be of concern to the members who do. About 18 months ago I asked a question in the House as to how this work was progressing. Someone must have read this question and answer in *Hansard* because I received a letter from one of the station owners in the Murchison area. He said that the answer given by the Minister to my question was not correct. In fact, what I was told had been done had not been done. It is necessary for

members who represent this area to see that the roadworks are carried out.

The Hon. N. F. Moore: I drive over it every week.

The Hon. F. E. McKENZIE: I know that I received this letter.

The Hon. N. F. Moore: I should invite you up to have a look yourself. The road is going ahead very quickly.

The Hon. F. E. McKENZIE: And everyone up there is very happy about it?

The Hon. N. F. Moore: Yes.

The Hon. F. E. McKENZIE: I will accept that statement, but certainly the station owner who wrote to me was not happy about it.

The Hon. P. H. Lockyer: He must be the only Labor supporter in the whole Murchison area.

The Hon. F. E. McKENZIE: The Government is now showing concern at the failure of the Federal Government to allocate sufficient road funds to Western Australia. The position has been the same since the Fraser Government came to power five years ago. When the Minister for Lands introduced the Main Roads Amendment Bill yesterday he had this to say—

> Members will be aware that Western Australia will receive an increase of 11.15 per cent in its Commonwealth road grants in 1980-81. The State Government is most unhappy at this increase which will barely offset the expected rate of inflation in road construction costs.
>
> Repeated submissions have been made to the Federal Government pointing out the vast road needs of Western Australia and requesting increased road funds. These, together with requests by other States supported by campaigns by local government associations and the Australian Automobile Association, have been disregarded.

Those comments contain a note of warning. I do not think the Fraser Government will be in power for much longer.

The Hon. P. H. Lockyer: Three more years for sure.

The Hon. F. E. McKENZIE: While the Fraser Government is in power, this State will be starved of road funds. In spite of all the endeavours of the various State Governments for increased road funds to cater for their needs, nothing has been forthcoming.

Every railway line we close down throws an additional burden on our roads. We will have to cater for the heavy vehicles which will be transporting the minerals and produce. While we are building up the roads in this area, other parts of the State suffer. Rather than closing down railway lines, we ought to be opening up more.

Before concluding I would like to direct the attention of members to the report of Maunsell & Partners Pty. Ltd. We must bear in mind that we are closing the railway line from Mullewa to Meekatharra—we are not closing the line between Pindar and Meekatharra. Some maintenance has been carried out on the Mullewa-Pindar line. I would like to refer to portion of this report so that members will understand why the line to Pindar is being retained.

The Hon. N. F. Moore: We know the reason for this.

The Hon. F. E. McKENZIE: The honourable member knows this because he represents the area. The report reads as follows—

> Pindar has a large modern 14 000t wheat storage facility serving the north-eastern corner of the wheat growing area. Although the yield of wheat from this area varies with the season, substantial tonnages of wheat are railed to Geraldton each year and this commodity would probably always justify the Mullewa/Pindar rail link.

So Maunsell & Partners believe that the freight will justify the retention of the line. However, again I sound a note of warning. In his second reading speech the Minister said that the line should be all right for the next 17 or 18 years. However, in the Maunsell report we find the following—

> . . . . in wet rail conditions, trains very often have difficulty in negotiating the steeper grades with heavier loads limited to 500t because of the lack of momentum when approaching a rising grade. Sometimes trains have to be broken and handled in parts. This applies particularly between Mullewa and Pindar where the train loads are usually the heaviest.

This statement appears in the conclusion of the report, and I draw to the attention of the Minister the necessity for an ongoing programme. The report shows that the wheat traffic offering is enough to justify the retention of the line. The report reads—

> The Mullewa to Pindar section is of a slightly better standard than the remainder of the line, and could be more easily upgraded than any other section of the line.

Members will note the word "slightly". Parts (vi) and (vii) of the conclusions read as follows—

> The upgrading programme between 1973 and 1976 did not effect any substantial improvement of the line and was costly, providing little or no return on the effort and investment involved.
>
> The practicability of keeping the line in service without unreasonable cost is not possible except for the Mullewa to Pindar section.

The Government is keeping this section of line open. Unless the necessary maintenance is provided, we will be faced with the closure of the section between Mullewa and Pindar.

In his second reading speech the Minister told us that the Bill provides for the capital charges to be transferred from Westrail to the Treasury. I do not know whether that is the normal course followed with the discontinuance of a railway line. I would like to be advised on that point. The Government is to be commended if it is an innovation. Certainly the capital charges should not be carried on as deficits.

I am pleased that the Government is considering gazetting part of the line as a Class "C" reserve for a future railway. The Opposition supports the Bill.

Debate adjourned, on motion by the Hon. N. F. Moore.

House adjourned at 5.59 p.m.

QUESTIONS ON NOTICE

257. *This question was further postponed.*

PRISONS

Prisoner: Amanda Wilbraham

258. The Hon. H. W. OLNEY, to the Minister representing the Chief Secretary:

(1) What are the administrative steps taken to give effect to a decision by the Executive Council to commute a death sentence to a sentence of life imprisonment?

(2) In the case of Amanda Wilbraham—

(a) for what period of time was she held in the "condemned cell";

(b) on what date and at what time of the day or night was she removed from the condemned cell;

(c) is it a fact that shortly after she was removed from the cell she was returned to it;

(d) if so—

(i) when was this done;

(ii) why; and

(iii) when was she finally removed from the condemned cell?

(3) Is it a fact that the conduct of the senior prison officer who was responsible for Amanda Wilbraham being returned to the condemned cell was the subject of an adverse report at the time?

(4) If so—

(a) what were the criticisms made against her;

(b) what disciplinary or other action was taken against the officer; and

(c) what is the present status of the officer?

The Hon. G. E. MASTERS replied:

(1) The usual procedure to effect the Executive Coucil's decision to commute a death sentence is as follows—

(a) A copy of the Executive Council minute paper relating to the commutation is forwarded by the Under Secretary for Law to the Director of the Department of Corrections.

(b) The director informs the superintendent of the prison where the prisoner is held, of the terms of the Executive order.

(c) The superintendent personally advises the prisoner of the commutation and its terms and interviews the prisoner.

(d) The prisoner is removed from seperate confinement into normal prison routine.

(e) The Chief Secretary's order, pursuant to section 679 of the Criminal Code is prepared and retained on Department of Corrections records.

(2) (a) From 31 October 1979 until 22 November 1979 on which day the prisoner was transferred to a normal remand cell as an appeal class prisoner. On 21 December 1979 following rejection of the appeal the prisoner was returned to the observation cells until 18 February 1980, the day that the death sentence was commuted.

(b) On 22 November 1979 the prisoner was removed from the day observation cell at 12 midday following lodgment of appeal. On 18 February 1980 at 5.20 p.m. the prisoner was removed from the day observation cell on receipt of information that the death sentence had been commuted.

(c) Yes.

(d) (i) At approximately 9.40 p.m. on 18 February 1980.

(ii) On the instructions of the director.

(iii) At approximately 7.00 a.m. on 19 February 1980.

(3) and (4) There was an incident report submitted by an officer to the superintendent. The officer alleged that she had been abused by the senior officer. The superintendent investigated the allegation and as a result of his investigation no action was taken against the senior officer.

The senior officer retains her rank.

260. *This question was further postponed.*

HEALTH

Aborigines: Prime Minister's Policy Speech

262. The Hon. N. E. BAXTER, to the Minister representing the Minister for Health:

With reference to the Prime Minister's Liberal Party speech as published in *The West Australian* of 1 October 1980, and

particularly to Health—what would the Prime Minister mean when he refers to "environmental health of Aborigines"?

The PRESIDENT: I rule this question out of order.

SEWERAGE

Septic Tanks: Griggs System

263. The Hon. P. G. PENDAL, to the Minister representing the Minister for Health:

With reference to question 238 on 30 September

(1) Is the Minister aware of the invention patented by Mr E. C. Griggs of Bayswater?

(2) If "Yes", will the Minister arrange for an evaluation of the invention, either by his department alone or in conjunction with the CSIRO, to determine—

(a) the effectiveness of the invention as an effluent disposal unit; and

(b) the effects of any discharge from the unit on the underground water supply?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) The evaluation requested is already being conducted by this department.
The efficacy of the disposal unit has yet to be determined.

EDUCATION

Teacher Training Courses

264. The Hon. J. M. BERINSON, to the Minister representing the Minister for Education:

In respect of each of the relevant tertiary institutions in this State—

(1) What was the average TAE aggregate of students enrolled for the first time this year in teacher-training courses?

(2) What was the minimum TAE aggregate accepted for enrolment in these courses?

The Hon. D. J. WORDSWORTH replied:

This information is not available for the following reasons—

(a) Not all students who enrol for teacher training courses are admitted on the basis of results obtained in the Tertiary Admissions Examination. Institutions may, for example, admit mature age students on the basis of results obtained in other examinations or tests or following an assessment of factors such as educational background, work experience, and motivation. Other students—for example—Diploma in Education and Bachelor of Education students—are admitted on the basis of having already completed a degree or a diploma.

(b) The admissions aggregates used by the various institutions are calculated in different ways and are not, therefore, strictly comparable. Institutions may, for example, specify different combinations of TAE subjects which they accept for admission purposes, and may take account of only a proportion of the scores obtained in some subjects. Scores obtained in the TAE may be adjusted to take account of special factors such as sickness or disability or the fact that a student is repeating a TAE subject. In addition, instututions may use supplementary information such as school assessments and results obtained in the Australian scholastic aptitude test in assessing students for admission purposes.

RACING

Horse: Sprint

265. The Hon. H. W. Gayfer (for the Hon. TOM McNEIL, to the Minister representing the Chief Secretary:

Is the Chief Secretary correctly reported in the *Sunday Independent* of 28 September in an article concerning the introduction of sprint horse racing—"the Government has issued no ultimatum to the WA Turf Club. The responsible members of the club will undoubtedly be aware of the true position"? As this contradicts the reported statements in the same article

of Vice Chairman of the WA Turf Club, (Dr Neville Way) will the Minister advise the House—

(1) What instructions were given to the WA Turf Club committee in respect of the introduction of sprint horse racing?

(2) Were the committee men told to have within a fortnight guidelines prepared for the introduction of sprint racing?

(3) Was an ultimatum given that, should they fail to comply with the Government's request, they would lose the right to allocate racing dates for the whole of the State, and that those rights would be given to the Chief Secretary's Department?

(4) What are the reasons for his statement "that the responsible members of the club will undoubtedly be aware of the true position"?

The Hon. G. E. MASTERS replied:

The Chief Secretary advises that the quoted statement is slightly incorrect, as the second sentence should read, "The responsible members of the committee will undoubtedly be aware of the true position". The answers to the specific questions are—

(1) None.

(2) No.

(3) No.

(4) The statement actually made by the Chief Secretary, referred to above, is self-explanatory.

TRANSPORT: BUSES

South Terrace

266. The Hon. H. W. OLNEY, to the Minister representing the Minister for Transport:

(1) Does the MTT lay down a set route to be followed by its buses travelling between the Clontarf Road depot and Fremantle when—

(a) coming onto service; and

(b) going off service?

(2) If "Yes", what route or routes are prescribed?

(3) What steps are taken to ensure that drivers actually follow the prescribed run on and run off routes?

(4) In the last two years, has any disciplinary action been taken against any driver for failure to follow such prescribed routes?

(5) Is the MTT aware of the concern of residents of South Terrace, Fremantle, at the—

(a) frequency;

(b) speed; and

(c) noise;

of MTT buses using South Terrace to run on and off service?

(6) Has any consideration been given to discussing with the City of Fremantle or the Main Roads Department the idea of having "stop" signs placed in South Terrace at the intersection of South Street to help reduce traffic speed in the area?

(7) Would the MTT arrange for a responsible officer to meet with representatives of the Fremantle City Council, the Main Roads Department, the residents of South Terrace, and local parliamentarians, to discuss the questions of noise and safety hazards caused by buses using South Terrace to run on and off service?

The Hon. D. J. WORDSWORTH replied:

(1) (a) and (b) Yes.

(2) Cantonment Street North Side—

Run On—Via right Clontarf Rd., right Hampton Rd., left Douro Rd., right South Tce., Market St., right Cantonment St., to ranks.

Run Off—Via Cantonment St., left Goldsbrough St., Left Elder Place right Phillimore St., Left Henry St., left Marine Tce., left Douro Rd., right Hampton Rd., left Clontarf Rd. to Depot.

Cantonment Street South Side—

Run On—As for Cantonment St. to Market St. then right Elder Place, right Goldsborough St., right Cantonment St. to rank.

Run Off—Via Cantonment St., right Market St. and as for Cantonment St. run off.

Queen Street—

Run On—As for Cantonment St., run on then via Cantonment St., right Queen St. to ranks.

Run Off—Set down passengers at stand in Cantonment St., (near Queen St.) then via Cantonment St., right Market St. and as for Cantonment Street run off.

High Street North Side—
Run On—As for Queen St., then continue in Queen St., left High St. to terminus.

Run Off—Via High St., right Stirling St., Hampton Rd. left Clontarf Rd.

Adelaide Street West Side—
Run On—As for Queen St. ranks then via Queen St., left Adelaide St., to ranks.

Run Off—Set down passengers at stand in Cantonment St. (near Queen St.) then via Cantonment St., right Market St. and as for Cantonment St. run off.

Adelaide Street East Side—
Run On—Via right Clontarf Rd., right Hampton Rd., left Stirling St., left High St., right Parry St., left Adelaide St. to rank.

Run Off—Via Adelaide St., left Queen St., left High St., right Stirling St., right Hampton Rd., left Clontarf Rd.

Rail Replacement Service (Linc)—
Run On—To Fremantle Terminus—via Clontarf, Hampton and Douro Rds., South Tce., Market, Cantonment and Queen Sts., to terminus.

Run Off—Ex Fremantle Terminus—Via Queen, Adelaide and Edward Sts., Elder Place, Market St., South Tce., Douro Rd., Hampton and Clontarf Roads to Depot.

(3) Drivers are issued with instruction booklets. MTT inspectors carry out periodical checks as part of their normal duty.
(4) Yes.
(5) No.
(6) No.
(7) Yes.

RAILWAYS

Locomotives: Fires

267. The Hon. N. E. BAXTER, to the Minister representing the Minister for Transport:

(1) Are statistics or records kept of fires started by diesel locomotives?

(2) If "Yes" to (1), would the Minister please advise—

(a) how many fires occurred on or adjacent to railway lines which were attributed to diesel locomotives; and

(b) did any fires occur last summer in the Walyunga Park area?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) (a) For the 12 months ended 31 December 1979 there were nine fires which were attributed to diesel locomotives, but so far this year there has been none.

(b) No fires occurred in Walyunga Park last summer as a result of Westrail's train operations.

CRIMINAL INJURIES (COMPENSATION) ACT

Offenders on Probation

268. The Hon. PETER DOWDING, to the Attorney General:

(1) Is it a fact that section 4 (1) of the Criminal Injuries (Compensation) Act, 1970-76, provides for the making of an order for compensation "where a person is convicted of an offence"?

(2) Is it also a fact that section 20 of the Offenders Probation and Parole Act, 1963 as amended, deems a probation order "not to be a conviction for any purpose"?

(3) Is it a fact that as a result, a victim of an attack by a person who was subsequently placed upon probation for the offence, is not eligible for compensation under the Act, and that as a result *ex gratia* payments have been made to such victims?

(4) Will the Attorney General consider an amendment to the Criminal Injuries (Compensation) Act section 4(1) to include an entitlement to compensation where a person is the victim of an offender who has been placed on probation?

The Hon. I. G. MEDCALF replied:

(1) and (2) These parts of the question are out of order. The information being sought is set forth in documents readily accessible to the member—p. 331 Erskine May, 19th Edition.

(3) I am aware that there have been a number of such cases where *ex gratia* payments have been made. In 1979 I issued a Press statement indicating that all aspects of the law would be examined to see if any changes should be recommended to Cabinet.

(4) A number of aspects concerning this Act are at present under consideration. As indicated to the House on 30 September, I am hopeful that legislation will be introduced in the current session.

PASTORAL LEASES

Lamboo Station

269. The Hon. PETER DOWDING, to the Minister for Lands:

(1) Has the Minister ever received a request from the Aboriginal Land Fund Commission, or any other instrumentality or person for the transfer of Lamboo Station to an Aboriginal group or person?

(2) If so—

(a) upon what date or dates; and

(b) by whom was the request made?

(3) If "Yes" to (1)—

(a) what was the Government's answer to the request, or each of them; and

(b) will the Minister table his reply, if any?

The Hon. D. J. WORDSWORTH replied:

(1) No.

(2) and (3) Answered by (1).

QUESTIONS WITHOUT NOTICE

HEALTH

Aborigines: Prime Minister's Policy Speech

75. The Hon. N. E. BAXTER, to the Attorney General:

Could the Attorney General define the meaning of the term "environmental health of Aborigines"?

The Hon. I. G. MEDCALF replied:

I possibly could, but I think the answer would involve a statement of opinion and that would be out of order.

CRIMINAL INJURIES (COMPENSATION) ACT

Offenders on Probation

76. The Hon. PETER DOWDING, to the Attorney General:

My question is supplementary to the answer supplied to my question in relation to criminal injuries.

Will the Attorney General assure the House that the matters referred to in my question 268 will be taken into account in the draft legislation which is presently before him?

The Hon. I. G. MEDCALF replied:

I can assure the member that the matter to which he has referred is under consideration.

ELECTORAL

Postal Votes: Prosecutions

77. The Hon. PETER DOWDING, to the Attorney General:

I refer to a series of charges launched against persons in connection with the 1980 election in the Kimberley, and concerning postal voting. My question is as follows—

(1) Is the Attorney General aware that a decision in some of those cases was handed down on 10 June 1980, and the time for appeal against those decisions expired six weeks ago?

(2) Is the Attorney General aware that a number of charges are outstanding in relation to the complaints issued in March 1980?

(3) Will the Attorney General state the reason for either not proceeding with those cases or withdrawing them?

The Hon. I. G. MEDCALF replied:

(1) to (3) I am aware of the matters referred to in the first and second parts of the question from my reading of the newspaper. These matters come within the portfolio of the Minister for Police and Traffic, and should be directed to him.

ELECTORAL

Postal Voting: Prosecutions

78. The Hon. PETER DOWDING, to the Attorney General:

My question is supplementary in relation to these matters, and I gave notice of my question to the Attorney General's office this morning. It is as follows—

(1) Is it not a fact that a Mr Murray, the Crown Prosecutor, was engaged in the prosecution of some of the proceedings in the Kimberley?

(2) Are not, therefore, the conduct of those proceedings within his jurisdiction relating to law officers of the Crown?

The Hon. I. G. MEDCALF replied:

(1) and (2) Mr Murray was engaged as counsel for the police complainants. The complainants were members of the Police Department, and they quite properly were entitled to make complaints. It is not within my jurisdiction. It is only matters under the Criminal Code that come within my specific jurisdiction.

POLICE

Mr Shaker Morton: Letter

79. The Hon. PETER DOWDING, to the Attorney General:

I ask this question of the Attorney General in relation to his responsibility for the administration of the Criminal Code.

(1) Is it a fact that the offence of sedition is committed by the publisher of seditious material?

(2) Referring to question 141 asked on 2 September, since the material may be seditious, and since Shaker Morton may be guilty of the offence of sedition, will the Attorney General inquire—

(a) whether there is material supporting such a fact; and

(b) whether the Criminal Code has been properly administered in this case?

The Hon. I. G. MEDCALF replied:

(1) and (2) I ask that the question be put on the notice paper.

ELECTORAL

Postal Voting: Prosecutions

80. The Hon. H. W. OLNEY, to the Attorney General:

My question arises out of the reply to the second-last question asked by the Hon. Peter Dowding and is as follows—

(1) What are the circumstances under which the facilities of the Crown Law Department, particularly the prosecution section, are made available to prosecutors other than the Crown; for example, the Police Department when prosecuting for breaches of, in this case, the Electoral Act?

(2) Does the Attorney General accept that the Crown has the right to take over and conduct any prosecution commenced either by a private citizen or a Government department at any stage of proceedings?

(3) Is this not what happens when the Crown Law Department provides counsel in department prosecutions?

The Hon. I. G. MEDCALF replied:

If I heard the question correctly, the first part asked me what was the Statute under which—

The Hon. H. W. Olney: No, the circumstances.

The Hon. I. G. MEDCALF: I am not sure I really should answer this question; probably it is asking for an opinion on a question of law. However, I will attempt to explain the position.

The situation is that any private citizen can make a complaint in a petty sessional matter under the Interpretation Act. That would include making complaints and bringing prosecutions under the Electoral Act. That is exactly how the Police Department has brought these prosecutions. The Police Department is entitled to call in the assistance of the Crown Law Department and for one of its officers to act as counsel. That is what happened on this occasion. However, the Police Department still has the conduct of the proceedings.

COURTS: PROSECUTIONS

Crown Law Department: Assistance

81. The Hon. H. W. OLNEY, to the Attorney General:

I would like to direct a further question to the Attorney General. Just a moment ago the Attorney General said that the Police Department is entitled to call on the assistance of the Crown Law Department. That was really the nub of the original question. Under what circumstances is a prosecutor, who is obviously prosecuting in a private capacity, able to call on the services of the Crown Law Department?

The Hon. I. G. MEDCALF replied:

The Police Department has the authority to call on the Crown Law Department to assist it. I am afraid I cannot quote chapter and verse for that authority, but I suppose that as policemen are members of a Government department they are able to call on the services of the Crown Law Department which services Government departments.

COURTS: PROSECUTIONS

Takeover by Crown

82. The Hon. PETER DOWDING, to the Attorney General:

I would like to ask the Attorney General a question supplementary to that asked by the Hon. H. W. Olney. Does the Attorney General accept that the precedent of the Sankey v. Whitlam case applies in Western Australia and that the Crown is entitled to take over the conduct of a prosecution at any time?

The Hon. I. G. MEDCALF replied:

I believe these questions have gone far enough. That question clearly asks for an opinion on a matter of law; I am not prepared to answer it.

ELECTORAL

Postal Votes: Prosecutions

83. The Hon. PETER DOWDING, to the Attorney General:

I would like to ask a further question without notice of the Attorney General. Assuming that the Crown has the right to take over the conduct of a private prosecution or prosecutions instituted by the Police Department, will the Attorney General give consideration to taking over the prosecution of the cases involving the offences I referred to earlier, being offences related to complaints issued in March of this year and not proceeded with by the Police Department?

The Hon. I. G. MEDCALF replied:

I have answered this question already by saying that the police have the conduct of the matter. In so far as the question contains an assumption, it requires an answer of a hypothetical nature and it is out of order.

ELECTORAL

Postal Vote: Prosecutions

84. The Hon. PETER DOWDING, to the Attorney General:

Supplementary to the question I just asked, does the Attorney General regard it as satisfactory, bearing in mind his responsibility for the conduct of his law officers, that his law officers should be involved in prosecuting complaints which have lain dormant for a period of over nine months?

The Hon. I. G. MEDCALF replied:

This question is out of order.