I recall reading in the newspapers about a case which was put up to the Minister by the Shire of Perth. That local authority admitted to the Minister that it had resumed some land for a specific purpose; that it did not want to use it for that purpose but for some other purpose; but that the law would not allow it to do so. That was a fair statement that this local authority had no intention of using the land for the purpose for which it had been resumed. When it arrived at the decision not to use the land for the purpose for which it had been resumed, it was the duty of that local authority to give the land back to the person from whom it had been resumed at the price at which it was resumed. It did not do that; instead, it asked the Minister to introduce amendments to get it out of a fix, so that it would not be under an obligation to give that land back.

The CHAIRMAN (Mr. W. A. Manning): The honourable member has two minutes to go.

Mr. TONKIN: I could not agree to this clause without endeavouring to preserve for the persons concerned their existing rights. My principles are well known. I am a socialist, and here I am asking a private enterprise Government to make certain payments to private individuals for land which was resumed on behalf of the State, but I am meeting resistance in connection therewith. To explain my position I say that a socialist can be completely fair. He works along certain principles, but they are principles of common justice and fairness.

I do not care who a man is or what he owns, as a matter of principle, if I think he is getting a raw deal I will fight for him to see he gets a just deal. I think it is a raw deal to introduce legislation deliberately framed in some instances to allow people to avoid existing legal obligations and to allow them to do what they wanted to do for a long time but which the law would not previously allow them to do. Because of that, I move an amendment—

Page 2, line 8—Insert after the figure (1) the words "Subject to the proviso."

Progress

Progress reported and leave given to sit again, on motion by Mr. Ross Hutchinson (Minister for Works).

ADJOURNMENT OF THE HOUSE: SPECIAL

MR. BRAND (Greenough—Premier) [6.1 p.m.]: I move—

That the House at its rising adjourn until Tuesday, the 5th October.

Question put and passed.

House adjourned at 6.2 p.m.

Legislative Council

Tuesday, the 5th October, 1965

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

BILLS (15): ASSENT

Message from the Governor received and read notifying assent to the following Bills:—

1. Mining Act Amendment Bill.
2. Coal Mines Regulation Act Amendment Bill.
3. Bush Fires Act Amendment Bill.
4. Coal Mine Workers (Pensions) Act Amendment Bill.
5. Education Act Amendment Bill.
6. State Government Insurance Office Act Amendment Bill.
7. Dog Act Amendment Bill.
8. Land Act Amendment Bill.
9. Hairdressers Registration Act Amendment Bill.
10. Police Act Amendment Bill.
11. Marketing of Eggs Act Amendment Bill.
12. Tuberculosis (Commonwealth and State Arrangement) Bill.
13. Western Australian Marine Act Amendment Bill.
14. Sale of Human Blood Act Amendment Bill.
15. Housing Loan Guarantee Act Amendment Bill.

QUESTION ON NOTICE

WOOL STORES AT ESPERANCE

Construction by Government

The Hon. J. DOLAN (for the Hon. R. H. C. Stubbs) asked the Minister for Mines:

In view of the amount of wool that is produced on the Eyre Highway stations, most of which is transported to Adelaide at present, and the vast increase in production expected, together with the wool produced adjacent to all the narrow gauge railways in the goldfields, mallee, and Esperance areas, and in the Ravensthorpe area, will the Government give assistance by the construction of wool stores in Esperance, with a view to the storage and sale of wool at this point?

The Hon. L. A. LOGAN (for The Hon. A. F. Griffith) replied:

The production of wool in all shires adjacent to narrow gauge railways in the goldfields, and Ravensthorpe, is increasing, but the total produced is still well below the amounts offered each year at Albany sales.

The difficulties associated with establishing and conducting satisfactory wool sales at Albany have been such that, for the present, no consideration is being given to wool sales at Esperance.

STREET PHOTOGRAPHERS ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Local Government), and transmitted to the Assembly.

WORKERS' COMPENSATION ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [4.40 p.m.] I move—

That the Bill be now read a second time.

The first amendment which I shall explain is that dealing with the right of a worker to elect either to claim compensation under the Act or to take proceedings independently of the Act in respect of injury sustained by the personal negligence or wilful act of his employer.

At present, when both remedies are available and action is brought unsuccessfully to recover damages, the court is required to assess compensation or refer the assessment to the Workers' Compensation Board.

There are occasions when financial circumstances constitute an encouragement to an injured worker to accept compensation and forego an action for damages, though acceptance of workers' compensation, of itself, does not amount to the exercise of the option. Nevertheless, notification of the intention to take proceedings for damages independently of the Act absolves the employer technically—or, should I say, the insurer—from the obligation of continuing compensation payments.

It is known that considerable personal hardship would result were this the course normally followed. So it is worth noting that the State Government Insurance Office often agrees on the grounds of a worker's financial need to make weekly payments at workers' compensation rates, and to pay hospital and medical expenses to the limit of the Act. Such action often occurs where there appears to be an incontrovertible right to substantial damages; and, in respect of such payments, there is the understanding that they do not constitute workers' compensation but rather an advance payment of damages in anticipation. I believe the S.G.I.O. is not alone in adopting this policy.

However, in this matter we are dealing with provisions in the Act formulated upon the concept that a worker who accepts compensation while knowing he has the right to institute proceedings at common law is thereafter debarred from taking the latter course. There are good reasons for supposing that many of those permitted to renounce compensation in

favour of damages had full knowledge of their common law right. Many, for instance, who have renounced compensation have made application through a person or agency conversant with the provisions of the Act as regards the workers' alternative remedies. On the other hand, it is often by accidental means that the employer or insurer becomes aware that the employee possessed the necessary knowledge of his common law right at the time of accepting compensation.

There have been other occasions of employees, against whom the provisions of the Act have been successfully invoked, being placed in that predicament by the carelessness or ignorance of an adviser. This can come about by the employee being advised of his rights at common law, but not being informed that he must cease to accept compensation payments forthwith should he wish to preserve them.

With a view to obviating any misunderstanding as regards these important aspects of workers' compensation eligibility, it is proposed to amend the Act to enable an injured employee to continue to receive compensation without prejudicing his right to institute proceedings at common law. Furthermore, if this Bill is passed, he may continue to receive payments to the limit of the Act.

On the other hand, it is proposed that should an employee not have commenced proceedings for recovery of damages within 12 months of the accident, the insurer may call upon him to make a decision in this regard within 42 days and give written notice of his intentions if proceedings are not to be taken. In the event of no decision being made within that period, it would be competent for the employer to apply to the Supreme Court for an order that the employee commence such proceedings within such time as that court may direct.

It would be then open to the court to decide the course to be taken. Either the worker could be ordered to proceed in such time as directed by the court; proceedings could be adjourned on such terms and conditions as the court saw fit; or, alternatively, the court could make any other order or give any such directions as it saw fit. Additionally, the court might extend any period previously determined on application.

In the event of the employee notifying the employer that he did not intend to institute proceedings for damages, or should he not proceed within the time stipulated by the court, the employee's right to sue would be nullified but without affecting his right to compensation under the Act.

There is contained in this measure, also, a provision relieving the insurer of the liability to make compensation payments as well as damages in the event of the employee having recovered judgment for damages. Correspondingly, any payments already made would be deducted from the amount recovered for damages, and any amount recovered for damages would be deducted from the sum recoverable by the employee by way of compensation.

It is submitted that the stipulation of time limits by court direction will be equally advantageous to both insurer and employee. Members will appreciate that, in determining the degree of liability by court proceedings, a hearing too remote in time from an accident could occasion difficulties both in regard to the events surrounding the injury, and also the availability of witnesses.

The next amendment is to raise the minimum payment which may be made to dependants of an injured worker who dies as a result of an injury for which he had been receiving compensation. The maximum was increased last year to £3,500, plus £100 for each child, and the minimum should have been increased proportionately. There is, therefore, an amendment to increase the minimum from the present £800 to £1,120—

The Hon. R. Thompson: That was pointed out to you last year, but you would not take notice.

The Hon. L. A. LOGAN: —for the surviving widow or mother wholly dependent upon the deceased worker, and from £75 to £100 for each dependent child. These payments are made under the first schedule of the Act.

The Act was amended in 1956 to enable the male rate of compensation to be paid to females employed in industry on a pay scale which did not differentiate as to sex. Though the intention of Parliament was clear in this respect, some doubts exist as to whether the Act does, in fact, implement Parliament's intention. So there is a suitable amendment included in the Bill to clarify the position.

The last amendment which I shall explain relates to the journeying provision agreed to last year. During the course of the debate on that occasion, the words "or place of pick up" were added as being synonymous with place of work. The particular words were added in response to representations made with a view to catering for wharf workers. It has since been ascertained that the inclusion of these words is regarded as having no effect as such workers are casually employed. This comes about because the contract of service commences after the worker has been picked up, and terminates prior to his returning home at the conclusion of an allotted task.

As a result, the employee, during the period of journeying between home and place of pick up, has no employer, and a right to claim cannot apply as there is no-one against whom a claim may be laid. This problem was resolved in another State by a provision that, in such cases, the worker's last employer should be liable for

any claim. An appropriate amendment in this Bill makes a similar provision apply in the Western Australian Act.

The Hon. R. Thompson: That is not quite correct. Waterside workers are ordered to the pickup by the authorities.

The PRESIDENT (The Hon. L. C. Diver): Order! The honourable member will have the opportunity to speak in this debate.

The Hon. L. A. LOGAN: The honourable member will find this is the legal opinion, and that is why the Act is sought to be amended. The provision has had no effect up to date, and the Bill seeks to remedy the defect. In my opinion this will be to the benefit of the waterside workers.

Debate adjourned, on motion by The Hon. R. Thompson.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Further Report

Further report of Committee adopted.

LOCAL GOVERNMENT ACT AMENDMENT BILL

In Committee

Resumed from the 23rd September. The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. W. F. Willesee in charge of the Bill.

Clause 4: Section 525A added—

The CHAIRMAN: Progress was reported after the clause had been partly considered.

The Hon. W. F. WILLESEE: I move an amendment—

Page 3, lines 26 to 32—Delete paragraph (c).

This paragraph is what might be called the escape provision from the City of Perth Parking Facilities Act. However, it differs in principle from the one in that Act. I do not think there is any need to labour this point, because we discussed the Bill at some length last Thursday week.

The Hon. L. A. LOGAN: When dealing with this Bill previously I pointed out that I was opposed to the amendments then on the notice paper. I said that if this paragraph was removed, the Fremantle City Council could not use revenue derived from parking meters or other parking facilities to provide or widen streets which lead to a parking area, whether the parking area be multi-storeyed or otherwise. I believe that is wrong. I believe that money so derived from motorists should be available for use in streets such as those in Fremantle, which are so narrow that is is difficult to negotiate a car in them.

I know Mr. Ron Thompson said that the City of Fremantle wanted these streets widened so that parking meters could be installed. However, if the honourable member considers the legislation he will realise that the council will not be able to install parking meters in any streets unless it first obtains the approval of the Minister.

The Hon. R. Thompson: I realise that.

The Hon L. A. LOGAN: The honourable member might realise it, but he did not mention the fact. He said that the streets were to be widened in order that parking meters might be installed.

The Hon. R. Thompson: I said the council wanted this revenue to resume land to widen streets to install meters.

The Hon. L. A. LOGAN: But the parking meters can only be installed if the consent of the Minister for Traffic is obtained.

The Hon. R. Thompson: Yes.

The Hon. L. A. LOGAN: I am sure that members representing Fremantle will appreciate that it will be in the interests of motorists if some of the streets are widened—not to install parking meters, but to allow the free movement of traffic.

The Hon. R. Thompson: I agree entirely with that.

The Hon. L. A. LOGAN: I feel sure the Minister for Traffic will agree with me that that is what is wanted.

The Hon. R. Thompson: Not by the Fremantle City Council.

The Hon. L. A. LOGAN: The Fremantle City Council cannot do what it likes; it must seek the permission of the Minister. To delete this paragraph would, in my opinion, spoil the intention.

I pointed out previously that the Fremantle City Council has obtained the approval of the ratepayers to erect a multi-storeyed parking area at a cost of some £200,000. All the revenue derived from that project will have to be dealt with under the Bill. I do not like that principle, but I have accepted it in view of the overall traffic problem. However, when we realise that that project has already been decided upon, why should we, by a dragnet clause, make the council use all the revenue from that area for something else, when the ratepayers have already agreed that the project should be carried out? I have already made one concession, so I hope the Committee will not agree to the deletion of paragraph (c).

The Hon. R. THOMPSON: Evidently the Minister has misconstrued my remarks. I thought I pointed out that at a meeting with the town clerk, we opposed the suggestion that the money collected should be made available for resuming properties in Pakenham, Henry, Mouat, and Cliff Streets, for the purpose of installing

meters. We told him we could not support that idea, because the streets are too narrow already, and because we are opposed to the money for parking, derived from motorists—the highest taxed members of the community at present—being used to widen streets to install more meters so that they can be taxed again. We said that provided the money was used to widen the streets to allow the free flow of traffic, we would agree to the principle; but this point was not conceded.

As a result of the multi-storey car park being built at a cost in excess of £200,000, Fremantle is not going to gain very much from parking meters for many years, because that money has to be repaid. There are many other areas in and around Fremantle which will not be serviced by that car park, and it will be necessary for the council to buy other properties with the revenue received in order that further off-street parking can be provided.

We cannot get away from the principle that money that is being derived from fines and parking meters can be used to widen streets so that more parking meters can be installed to further tax the motorist. I am firmly opposed to that, and I think this Committee should be, too. It is not justice. We can see what has happened in the City of Perth. The city council just cannot get enough one-armed bandits; it wants to tax the motorist in areas that are not cluttered up with traffic.

The problem at Fremantle is completely different from that at Perth; and possibly it will be some years before the country areas will find it necessary to install meters at a high cost, initially, and at a high cost to control parking.

At present I am looking at the metropolitan area, and I think it is an injustice to allow the city councils to use revenue derived from this source to provide other areas where they can tax the motorist further.

The Hon. W. F. WILLESEE: The principle of road-widening and the principle of building roads are one and the same. There is ample provision in the Local Government Act to cover such matters, and I think it is wrong in principle that we should, by this Bill, endeavour to allow money from parking to be used for road-widening, or, indeed, to create an entrance by way of a road. That is no different, in principle, from the building of a road; and I feel that in the course of time money from parking revenue will be used for such a purpose.

The Minister has indicated that he is, with some reluctance, in accord with what is in the Bill, as a principle, and will support it. I do not wish to delay the Committee unduly, but I do say it is rather a pity that the Fremantle City Council has been quoted so often, because this issue is State-wide. Therefore it is reasonable to ask the Committee to delete the subclause.

Amendment put and negatived.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

PLANT DISEASES ACT AMENDMENT BILL

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 8 amended—

The Hon. F. J. S. WISE: I mentioned this clause when speaking to the Bill previously, and I pointed out that the word "penalty" is connected with section 35 of the Act. That section specifies that no less than one-twentieth of the fine capable of being imposed must be levied, and I suggested that if we altered this clause to provide for a surcharge of 10s., instead of a penalty, it would be better.

The Hon. L. A. LOGAN: I got some advice on this question, and these are the notes I have—

> Section 35 is not relevant to the new penalty, because the penalty is not imposed by a court.

The Hon. F. J. S. Wise: I realise that.

The Hon. L. A. LOGAN: To continue—

> Furthermore, the provisions of section 35 are rarely if ever invoked by the department because they are regarded as pretty severe.
>
> "Surcharge" instead of "penalty": Penalty is the correct and proper word because the person, if he admits having committed an offence, incurs a penalty of 10s. in addition to the fee prescribed. It is a penalty in addition to the fee, not as an addition to the fee.
>
> It is not a question of drafting: it is a matter of proper description of the amount of 10s. involved. It is a penalty for late payment, not a surcharge on the fee. Many other Acts are similar.

That is the Crown Law interpretation. I think we are dealing with two different parts of the Act, and I think we are dealing with a penalty and not a surcharge. It becomes a penalty because the person concerned has not done something.

The Hon. F. J. S. WISE: I drew attention to this matter after examining the Bill and its affect upon the parent Act, and I pointed out that section 35 prescribes what may be done when a penalty is imposed by a court. The method proposed

here is to avoid a case going to court; and, in my view, a surcharge rather than a penalty is provided for.

What I am trying to do is to avoid confusion in the verbiage. I suggest that the word "penalty" in the different parts of the Act means two entirely different things. Under clause 2 a person is not liable until he has been in default for 60 days, but once he has been in default for 60 days, he is liable to a penalty; and under section 8 of the Act that penalty is £20 plus a daily penalty of £1 a day. That means he is liable for £80 under that section. My contention is that one-twentieth of £80 is £4, and he cannot have a penalty of 10s. imposed on him if we are to be consistent.

I admit that section 35 refers to the case going to a court, but we will not assist, when a matter is to be determined by a court, by having a differential use of the same word in different sections.

The Hon. H. K. WATSON: Did I understand the Minister to say that it was not customary for the department to invoke section 35?

The Hon. L. A. Logan: I said that the provisions of section 35 are rarely if ever invoked by the department because they are regarded as pretty severe.

The Hon. H. K. WATSON: Has the department any say in the matter?

The Hon. L. A. Logan: I imagine it has.

The Hon. H. K. WATSON: The provision in the Act is a mandatory one, as I read it.

The Hon. L. A. LOGAN: It has nothing to do with the department, as far as I can see, inasmuch as the case would go before the court.

Getting back to section 8 and the amendment in clause 2, we are dealing with a modified penalty for an offence. If we use the word "surcharge" here we should surely use it in the City of Perth Parking Facilities Act.

The Hon. F. J. S Wise: Yes; but there is no prescribed requirement to charge a certain amount.

The Hon. L. A. LOGAN: Yes there is. If a person does not pay the modified penalty, he goes to court.

The Hon. F. J. S. Wise: But there is no section 35 in the City of Perth Parking Facilities Act.

The Hon. L. A. LOGAN: There are other sections of the same sort. Under that Act people pay a modified penalty rather than go to court because in the long run it is cheaper; and this is exactly the same principle.

The Hon. F. J. S. WISE: Even if I were convinced by the Minister's argument, I would be convinced against my will, which leaves me of the same opinion. The word "penalty" in clause 2(c) means, in that context, the penalty prescribed by section 8 and section 35. I am trying to avoid confusion when a case has to be heard by a court of petty sessions. I am afraid that as the Bill stands it will cause conflict, and it might even arouse adverse comment in respect of what the Legislature has done; whereas I think the inclusion of the words I have suggested—a surcharge of 10s.—would meet all objections. However, I am not going to move for their inclusion.

Clause put and passed.

Clause 3 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 8th September, on the following motion by The Hon. L. A. Logan (Minister for Local Government):—

That the Bill be now read a second time.

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [5.14 p.m.]: When Mr. Willesee spoke to the debate he raised several queries which he wanted cleared up. I understand that since we last dealt with this measure the honourable member has had discussions with the Registrar-General, and possibly the Registrar-General has given him a better and clearer understanding of the Bill than I could. I do not know whether the honourable member requires me to go through the points that were raised, or whether he is prepared to accept the explanation given to him by the Registrar-General.

Perhaps it might be better, for the benefit of members, if I replied to the points raised by Mr. Willesee. The first point raised by the honourable member was in regard to duplication; but one of the main aspects he raised was in connection with allowing any person to search the records. I think it will be appreciated that in the case of the genuine person who is requiring a duplicate of a birth certificate, marriage certificate, or death certificate, it should not be necessary, if that person happens to be in the country, for him to write to the metropolitan area for such a copy, particularly if it can be made available to him in the country area in which he lives.

It would, of course, be entirely different if somebody other than the person concerned wished to obtain a copy, and in such a case the registrar has the power to say "No". If the registrar says he will not supply the information the person concerned then has the right to apply to the

Registrar-General. I cannot see anything wrong with that. It would be wrong to expect people who, in the ordinary way, want these things for their own benefit to make application to the metropolitan area before they are able to obtain a copy.

In the present Act there is a safeguard in that no person except the Registrar-General can give a certificate or permit a search in regard to illegitimacy, adoption, or legitimation. That aspect is safeguarded at the moment, and it will continue to be safeguarded in the future.

I do not think there were any other points raised by the honourable member. Perhaps it would be as well if there were a duplicate record available in the country areas in case something happened to the records in the metropolitan area. Having copies throughout the country areas would safeguard the records for all time.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 3 amended—

The Hon. W. F. WILLESEE: The facts are as enumerated by the Minister. However, I did not go away entirely convinced from my discussion with the Registrar-General except that I appreciated the fact that he had to administer the Act with the machinery available to him, and it might be possible for my views to make his work more cumbersome and to overload the Perth section of his department. The Registrar-General was sure that 90 per cent. of what might be termed the mundane work of making these records available in the country was better kept as it is.

Although I appreciated the point he raised in connection with a duplicate set of records, I still feel it is a cumbersome way of doing things. It was, however, a good exercise to go into all aspects of the Bill, and it was enlightening to discuss the matter with the Registrar-General.

Clause put and passed.

Clauses 4 to 32 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

BILLS (3): RECEIPT AND FIRST READING

1. Traffic Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. W. F. Willesee, read a first time.

2. Western Australian Coastal Shipping Commission Bill.

3. Milk Act Amendment Bill.

   Bills received from the Assembly; and, on motions by The Hon. G. C. MacKinnon (Minister for Health), read a first time.

JETTIES ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 21st September, on the following motion by The Hon. G. C. MacKinnon (Minister for Health):—

That the Bill be now read a second time.

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [5.28 p.m.]: In his comments on this Bill Mr. Wise raised a couple of matters which I would like to answer, and on which I would like to make some comment. Mr. Wise quite rightly pointed out that the wording of paragraph (13) as it will appear in the new Act was not a great deal different from the wording in the parent Act. I think the honourable member said that the wording was identical. This is almost true, except that in the parent Act the wording appears in the one phrase prescribing the conditions for leases or fees, whereas in the amendment it is set out as follows:—

(13) Prescribing the conditions to be inserted in any lease granted under this Act; and

(13a) Prescribing the fees to be payable for any license granted under this Act.

So it will be seen that the two parts of this paragraph are now divided. This has been done quite deliberately, the whole purpose being to divide paragraph (13) into two parts, the first part of which is to be called paragraph (13) and the second part paragraph (13a). This will enable the power to make regulations with regard to these two matters to be kept quite separate and distinct.

The first one will allow for the making of regulations in respect of the granting of a lease, and the second will allow for the making of regulations regarding the fees payable. It is considered that this is the correct way to do this; and that is, in fact the desire.

The Hon. F. J. S. Wise: It has stood the test of time the other way, has it not?

The Hon. G. C. MacKINNON: Most of our Acts have stood the test of time and have worked, but most of our amending Bills are to improve these things.

The Hon. F. J. S. Wise: I do not think it is a thoughtful reason you have given.

The Hon. G. C. MacKINNON: When it is found, in the opinion of the Minister and his department, that certain things are no longer standing up to modern requirements—

The Hon. F. J. S. Wise: You have not given an instance where they have not.

The Hon. G. C. MacKINNON: If we can foresee difficulties arising, I think it is preferable to bring down amendments before we reach the situation where urgent amendments are required. I think we have all faced the situation—

The Hon. F. J. S. Wise: I think the Minister is on thin ice.

The Hon. G. C. MacKINNON: —where we have listened to requests for amendments to Acts in order to ratify something or to clear up a problem that has arisen. It is felt that this amending Bill will obviate special problems that are foreseen in this regard. So much for that particular matter. I have no doubt that Mr. Wise might have a little more to say on this question at a later stage.

The second major objection of Mr. Wise was in regard to the use of the words "on such terms and conditions as he thinks fit." Mr. Wise said he had a number of legal rulings on this matter. There is a distinction between the use of the word "reasonable," as suggested by the honourable member, and the expression "as he sees fit." Where the word "reasonable" is used there is generally a situation in which the citizen has enjoyed certain rights which he is going to have curtailed in some way.

In this context it has become habitual to use the word "reasonable." The Minister and the executive authority have to show there is reasonable ground. which has been fairly clearly defined, as the honourable member said, in courts of law. It has, in fact, to be just what it says, "reasonable," but the connotation of this word is that a right previously enjoyed is being curtailed in some way, or something which a person or persons have been allowed to do is going to be restricted in some way.

This restriction has to be on "reasonable" grounds. This is the way in which the word is used. In the sense in which the provision will apply in this measure, it will be an entirely different matter as the Minister may or may not issue a license. There is no previously established pattern of habits, or anything else, which is going to be curtailed. A license is either going to be issued or is not going to be issued; and in this context a better expression to use is "on such terms and conditions as he thinks fit"—and there is ample case history to support this contention.

The honourable member stated that in his view this gave too much power to the Minister; but power or authority—call it what you will—is a natural concomitant of any office. Mr. Wise, himself, has exercised with a degree of forbearance some very great powers, not only in this State, but in Federal territory; and he, of course, knows quite well this is an accepted and established principle which has, indeed, been enunciated on a great number of occasions.

I have been supplied with some comments made by Mr. Tonkin in 1955 when he defended the rights of Ministers in their exercise of powers and responsibilities. For the smooth running of the parliamentary system, it is essential that this should be so; and the Parliament should have time to legislate rather than be embroiled in so many of the details of administration. Of course, often this power of the Minister is also essential, because, in his capacity as Minister, he alone, on odd occasions, is the one who has the complete picture.

It might be worth while for me to quote Mr. Tonkin's remarks in this regard. He was talking about a different matter, but the principle was the same. He said—

> The taking of land for public purposes is an executive act. It represents an authority that the Parliament has imposed upon the Minister, and Parliament believes that he will properly exercise that authority. To set up an outside body to tell a Minister that he does not know what he is doing when resuming land is just too ridiculous. The Minister, by virtue of his oath of office, accepts full responsibility for the taking of land for public purposes, and some Ministers have fallen because, having taken land for specific purposes, they have diverted its use to other purposes.

At that time, apparently there had been an instance where this had happened in England. Mr. Tonkin then went on to quote a speech by Senator McKenna in the Commonwealth Parliament, who said—

> It is rather difficult to find a body whether it be a board of inquiry or otherwise, which would be competent to set itself up to determine whether a Government or a Minister has acted in the public interest.

Of this statement, Mr. Tonkin said, "I agree with him absolutely."

Mr. Wise, when he made his speech on the second reading of this Bill, further pointed out that there was no appeal from the Minister's decision. At the present time there is no appeal. The Minister either grants a license or he does not grant a license. What we are asking for is simply that the Minister have the right—

The Hon. F. J. S. Wise: He has it now within prescribed conditions. That is why I am at variance with this move.

The Hon. G. C. MacKINNON: Yes; under limited conditions as to where the jetty shall be. All we are asking is that he have the right to give a license or refuse a license as before.

The Hon. F. J. S. Wise: It is wider than that.

The Hon. G. C. MacKINNON: But he will be able to vary the conditions. In other words, there will be more flexibility.

The Hon. F. J. S. Wise: According to his whim.

The Hon. G. C. MacKINNON: No. I think it is a little unjust to refer to the whim and caprice of a Minister of the Crown, particularly when we have regard for the sincerity with which the Minister at present in charge of this department exercises his various responsibilities. In the experience of this Parliament, we have had nothing but this sort of sincerity of purpose exercised by Ministers in the execution of their duties. Surely from past experience of Ministers, irrespective of their political colour, we have little reason to adopt the attitude that a Minister does things because of a whim or caprice! A Minister does as he thinks fit on the advice of his officers, who are reliable and responsible men.

In these days of rapid development, with changed techniques and technology, there is need for flexibility. Surely there are few members who will disagree with what I say. One of the major criticisms levelled at government and government departments is that they lack flexibility; and we are now trying to apply a little more flexibility to this matter, yet we receive a certain degree of opposition.

This is a matter which can be discussed more fully in the Committee stage. I hope the House will agree to the Bill as it stands.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. R. H. Lavery) in the Chair; The Hon. G. C. MacKinnon (Minister for Health) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 4 amended—

The Hon. F. J. S. WISE: I refrained from voting against the second reading of the Bill as I thought that would be not the fair thing to do, but I think the Minister's explanation of the division of the existing paragraph (13) into two parts, stating exactly the same matter in almost the same words was unsatisfactory. The Minister did not show that the change is necessary. The controlling Minister has, under the existing paragraph (13) of the Jetties Act, identical authority to that which he now seeks, and I simply point that out.

I am not going to oppose the clause if it will be helpful in assisting to administer something which is not known at the moment. We usually legislate for things we know something about. We cannot legislate for the hereafter. There has been an unsatisfying argument as to why this division in the Jetties Act is required in respect of happenings in outports of the State that we do not know about; but, by the same rule, I do not intend to oppose this subdivision.

The Hon. G. C. MacKINNON: Perhaps I can add to the explanation. If paragraph (13) were allowed to stand in the parent Act as it now appears, it would conflict with the amendment to section 7. I will read out the details, and it might be a little clearer. They are as follows:—

> Section 4 sets out the regulation making powers under the Act. If paragraph (13) of this section is not amended to remove the regulation making power in regard to the granting of licenses then obviously the amendment to section 7 would conflict with paragraph (13) of section 4.
>
> The present amendment seeks to divide paragraph (13) into two parts. The first part is to be called paragraph (13) and enables the making of regulations in respect to the granting of leases. The second part to be called paragraph (13a) enables regulations to be made regarding the fees payable for any licenses granted. That part of the old paragraph (13) dealing with the regulation making power in regard to prescribing conditions under which licenses can be granted has, of course, been omitted.

That is the explanation which was given to me, and which I earlier tried to paraphrase. It is rounded off by saying that the wording of the new clause is identical with the old clause. As can be seen, this has been done for a definite purpose. I trust that makes the situation clearer.

The Hon. F. J. S. WISE: It does not make the situation any clearer. Paragraph (13) of section 4 of the Jetties Act prescribes the conditions to be inserted in any lease or license granted under that Act. We propose to alter that wording to—

> Prescribing the conditions to be inserted in any lease granted under this Act;

That part is identical. Paragraph (13) goes on to state that fees will be payable for any such license. So this regulation-making power under the Jetties Act gives the Minister and the Governor the right to make regulations prescribing the conditions and the fees payable.

The difference is that instead of prescribing the fees by regulation the Minister may, under the proposed amendment, say that there shall be no fees. He could

say that without any amendment to section 4 of the Act, because he has the right to impose no conditions at all.

The Hon. G. C. MacKINNON: I am sorry that I was not as explicit as I might have been. Paragraph (13) prescribes the conditions to be inserted in any lease or license. The amendment will prescribe the conditions to be inserted in any lease. The words "or license" are omitted.

The Hon. H. K. Watson: It is not the same; there is a word less.

The Hon. G. C. MacKINNON: Paragraph (13) in the original Act does not use that word. The reason why it is necessary to amend this in such a way as to leave out the word "license" is that section 7 has been amended by inserting after the word "license" the words "on such terms and conditions as he thinks fit". This amendment takes out the word "license," so it is no longer necessary to make regulations for the conditions to be inserted in any license granted under this Act. I trust that clears the reason for the amendment.

At this stage I am not debating whether this is a good thing. I am discussing the mechanics of the amendment. It eliminates the word "license" so that it does not conflict with section 7.

The Hon. H. K. WATSON: I would be obliged if the Minister could explain this situation. Assuming that under clause 3 the Minister grants a license upon such terms and conditions as he thinks fit, am I correct in assuming that the fees payable for that license would still be controlled by regulation and not determined by the Minister under section 7?

The Hon. G. C. MacKINNON: As I read the Act the fees would be set for the license under section 4. One would know what the fees were going to be. There is no longer any regulation under which they could be altered.

The Hon. F. J. S. Wise: Do I interpret the Minister's explanation of this paragraph to mean that in the future there will be no provision for the making of conditions in regard to a lease?

The Hon. G. C. MacKINNON: There will be for the making of a lease. The fees will be the same as they have always been. The honourable member could have asked if there will be any conditions—any means of imposing conditions—with regard to licenses. There will be—as the Minister thinks fit. The mere inclusion of these words, as opposed to the inclusion of words making it obligatory to write in regulations and have them tabled, does not preclude the necessity to impose conditions for a license. However, such conditions will not, of necessity, be made in a regulatory form.

The Hon. F. J. S. Wise: Can you give us an illustration of a situation where a license will suffice and a lease not be necessary?

The Hon. G. C. MacKINNON: No; I am not as conversant with this subject as I am with some others. I understand a license will be granted where a lease is of a temporary nature.

The Hon. F. J. S. Wise: Take the case of the temporary jetty at King Bay.

The Hon. G. C. MacKINNON: I was going to say that a temporary jetty may not necessitate a license. I am not sufficiently knowledgeable on the intricacies of the legal situation in this regard to say whether or not it would be possible to grant a license without a lease. It might be if it is only of a temporary nature. If a floodable structure—one which could be floated into position, flooded, and used as a jetty, then refloated and taken to another site—were used, it is possible that such a jetty could be operated without a lease.

The Hon. F. J. S. Wise: I am seeking justification for the need.

The Hon. G. C. MacKINNON: The whole justification for the need is in the justification for the Bill. The need to remove the words "or license" is purely and simply so that the Minister will no longer be bound in regard to the terms of the license by the actual regulations which are being submitted here. If there was necessity for the rapid building of a jetty which did not quite conform to the regulations, the Minister could alter the regulations if it was a reasonable proposition, and the jetty could be built. Then, in June the regulations could be tabled and disallowed.

This would seem to me to be an unreasonable situation in which one could find oneself. The jetty could be half built or completed. The amendment will mean that the jetty can be built as the Minister thinks fit. Some of the jetties for which permits are required could include the one in the application by the Australian Iron and Steel Ltd. to construct a wharf from Koolan Island, and those in the proposals of the Mt. Goldsworthy company and the Hamersley company to construct wharves in and around Port Hedland.

The Hon. F. J. S. Wise: They will all be strictly in conformity with the Act.

The Hon. G. C. MacKINNON: They may have to be; because there was no option to do anything else. We had an Act and regulations, and the companies went ahead with their plans. There was also an application by a company conducting whaling operations for a license for a jetty adjacent to its factory, and a request from the Public Works Department for a jetty license for the United States Navy for the very low frequency communication project at North West Cape.

They are examples of applications, and I trust the explanation I have given indicates why paragraph (13) has been altered in the way it is set out in the Bill.

The Hon. H. C. STRICKLAND: I cannot see anything wrong with these amendments to the Jetties Act; I think they are bringing the old Act up to date, but the Minister has not told us of one reason for the wording in the Bill. Consequently I had to look for a reason and on looking through the clauses in the iron ore agreements, which we have agreed to, it seemed to me that the clauses dealing with wharves, which cover jetties, conflict with the provisions of the old Jetties Act. I am only guessing about this because the Minister has not told us about it. In all the iron ore agreements the clauses dealing with jetties state that the jetties shall be constructed on sites and under conditions to be mutually agreed upon. Now we find that the provisions of the Jetties Act could stand in the way, and I believe that this Bill is only bringing the Act up to date.

It is true that any license or lease granted for a private jetty has to conform with the regulations which may be in existence, or they may be special ones brought into existence; but they were certainly not brought into existence for every jetty, or lease of a jetty. I can remember that I, as Minister, signed numerous leases for small jetties; but the existing regulations covered all of them. No new regulations were required, and mainly the licenses had to conform with safety regulations.

The Hon. F. J. S. Wise: And the requirements of the Harbour and Light Department, too.

The Hon. H. C. STRICKLAND: Yes, or the harbour authority—whichever controlled the particular water involved. In this case I think the Minister must have some latitude in regard to the wharves and jetties that are being constructed.

Among the examples he gave, the Minister quoted the B.H.P. works at Yampi. That company built the wharves there and used its own engineers for the work. It cost the Government nothing.

The Hon. G. C. MacKinnon: That is the sort we like.

The Hon. H. C. STRICKLAND: Members can imagine how far behind companies like that would be if they had to wait for Government instructions or authority to go ahead with such undertakings, or even to pass the plans. There are some engineers in the employ of the Government, or semi-governmental authorities, who could pass judgment on the plans; but when we look around some of the works perhaps they would not be able to pass judgment on whether a proposal was safe or not. I think the Jetties Act really restricts companies that wish to construct huge jetties in places where some of our departmental officers have thought it was not possible even to find a harbour. Personally I cannot find any fault with these proposed amendments.

The Hon. F. J. S. WISE: I do not want to hold up the Bill, but simply to say the Minister has not given a satisfactory explanation of the need; and as regards the instance cited by Mr. Strickland, and others like it, they were subject to consultation and agreement between the Government of the day and the companies concerned prior to their construction. Those jetties have been operated within the ambit of the Jetties Act over the last 25 years. I shall not prolong the debate any further.

Clause put and passed.

Clause 3: Section 7 amended—

The Hon. F. J. S. WISE: I was amazed at the illustration given by the Minister and by his quotes from Mr. Tonkin's speech. I know how well the Government receives any opinion expressed by Mr. Tonkin! Of course, we may even reach the stage where the devil will quote the Scriptures!

This, too, is a case where the Minister has not given an illustration of the need for the extremely wide powers and authority which are being sought in the Bill. I have no objection at any time, nor in any way—and naturally one could not have an objection—to a Minister exercising all of the powers that are vested in him. But what authority are we giving him under this Bill? The authority we are giving him is that he shall not be circumscribed by any condition or provision in the Jetties Act when he is issuing a license. The license shall not and need not conform to the strictures in the Act at the moment, but it may have conditions applied to it as the Minister thinks fit. They are entirely unchallengeable and there is no parallel with the Minister, or an administrator, or anyone else, acting under the requirements of an Act.

It is not a case of casting an aspersion on any Minister, past or present; it is a case of the responsibility of this Chamber to see that the law is explicit and that it states what is meant to be applied. Therefore I think we are going much too far by using the words "on such terms and conditions as he thinks fit." Therefore, I move an amendment—

> Page 2, lines 7 and 8—Delete the words "he thinks fit" with a view to substituting the words "are reasonable."

The Hon. G. C. MacKINNON: Mr. Wise just raised one or two matters when moving his amendment and he referred to the acceptance or otherwise of Mr. Tonkin's opinions. I do not think that matter needs any comment, because Mr. Tonkin has made some very intelligent statements, as I think all of us would agree.

In my opinion I have explained the matters contained in this Bill satisfactorily; although, in the opinion of Mr. Wise, I have not done so. The decision

as to whether I have or not rests with the Committee. Earlier I explained why I and the draftsman thought that the words "as he thinks fit" are more reasonable than the word "reasonable" in this context; and I do not think there is any need for me to go over that again. These words clothe the Minister with some powers, and there are legal decisions on this question. As this Bill does not take away an accepted right and habit, and does not curtail any previous actions, but deals with the issue or non-issue of licenses, I think the expression "as he thinks fit" is more acceptable. Therefore I would ask the Committee to oppose the amendment.

Sitting suspended from 6.14 to 7.30 p.m.

The Hon. H. K. WATSON: When Mr. Wise, a week or so ago, pointed out the dangers in the words, "the Minister may impose such conditions as he thinks fit," I found myself in complete agreement with the fears he expressed. I did so on the principle of looking at experience rather than prophesy, because words of similar import appear in the Town Planning and Development Act, and section 29 of that Act provides that the Town Planning Board, in approving of a subdivision, may impose such conditions as it thinks fit.

The Hon. F. J. S. Wise: That is a familiar section.

The Hon. H. K. WATSON: We have seen over the years that the conditions which have been imposed by the Town Planning Board are, in the minds of many of us, most unreasonable. For that reason I was inclined to support the amendment foreshadowed by Mr. Wise. However, in the light of the very complete and logical explanation of the Minister in this instance, the words are not open to the same objection as they are, in my opinion, in the town planning Act. In his second reading speech the Minister made it very clear that the Bill is designed to assist, rather than impede, someone who wants to build a jetty.

As Mr. Strickland mentioned, the iron ore agreements provide that wharves and jetties may be erected upon such terms and conditions as may be mutually agreed upon. I can imagine many illustrations where the regulations, which are fairly ancient, may, on some technical ground, preclude the construction of a safe and sound jetty or wharf. Therefore, this does seem to be an easing rather than a constricting provision, and that being so I do not see in this legislation the same dangers that I see with the words in the town planning Act.

The Hon. F. J. S. Wise: You do not like the provision in the town planning legislation, do you?

The Hon. H. K. WATSON: I certainly do not. I was just going to add—and I can see by the smile on the Minister's face that he anticipates what I am going to say—that my support of him, for the reasons that he gave on this Bill, is in the full and complete confidence that when Mr. Wise or I bring down a Bill to delete the words, "The Minister may impose such conditions as he thinks fit," from the town planning legislation, we will have the full and complete support of the Minister.

The Hon. G. C. MacKINNON: I must hasten to assure Mr. Watson that on every occasion I will listen carefully to his arguments and make up my mind on the virtue of them at the time.

The Hon. F. J. S. Wise: From time to time, as you think fit.

The Hon. G. C. MacKINNON: Yes, from time to time, as I think fit.

The Hon. F. J. S. WISE: I continue to be very unhappy about these words remaining in the clause; and I refer briefly to the illustration given by Mr. Watson, which is quite correct, that the arrangements in the iron ore agreements are for jetties, towns and the like to be constructed by mutual agreement; but, by inference, this is to be mutually agreed upon in conformity with the Act, which applies to all such matters. That is the position.

There will not be any conflict with things that are done in accordance with the iron ore agreements and with the construction of towns for which the companies are responsible. There will not be any conflict over the structures which the Act and the agreement give them authority to construct, such as railways and ports, all of which are the responsibility of those with whom the agreement is made. It is not the responsibility of the Government. They will be constructed in conformity with our laws.

What I am concerned with is that there has not been an illustration given of the need for this far-reaching authority when the Minister's decision is beyond all doubt and when there is no chance of its being challenged. I suspect that this Bill is designed not to deal with anything in the future, but to condone some things of the past. I am sure I am right and I wish the Minister would say so, but perhaps he has not been so advised.

I think this Chamber is entitled to more than an explanation on words of this kind. The Chamber is entitled to more than something that means conjecture. Something may happen to require this ministerial authority, but I do not think that is the situation at all. I think the situation is that it is required to ratify something that is at present in existence. Can the Minister tell us that that is not so?; because I think that if he says it is not so I will have to be at some pains to show him it is right.

The Hon. G. C. MacKINNON: All I can say is that to the best of my knowledge and belief it is not so. From my experience of The Hon. Ross Hutchinson, the Minister in charge of this legislation, I have no hesitation in saying that had this been so he would have told me. It may quite possibly be in the mind of Mr. Wise that there is some reason for this amendment, but I think that if this had been so I would have been told, because during my experience of The Hon. Ross Hutchinson for nearly 10 years I have found no reason to doubt him or to question anything he has done or anything he has requested me to do.

Therefore, I say that, to the best of my knowledge, this is an ordinary, straightforward measure and it is not a "cover up" in order to right something which has been done in the past. If it were, I see no reason why the honourable member would not have said so. Would this be the first time, if it were so, that a Bill has been introduced to correct something that had been done in the past; indeed, at times, something of doubtful legality; something that is *ultra vires* the Act? This is not unusual. If this had been so in this case I see no reason why The Hon. Ross Hutchinson would not have said so.

So I will explain once more that the difference between "reasonable" and the words "as he thinks fit" is that the word "reasonable" is generally used in a situation in which the citizen has enjoyed certain rights which he is going to have curtailed in some way.

It is with some fear and trepidation that I realise that I am about to place in the hands of Mr. Watson the weapon of almost perfect logic, because I think it could be argued with some relevance that the Act to which he referred does, in fact, interfere to some extent with pre-existing rights.

The Hon. H. K. Watson: It is a classic comparison.

The Hon. G. C. MacKINNON: In those circumstances it is normal that the word "reasonable" should be used. I do not want it to be thought it should be in the circumstances of the Act to which Mr. Watson referred, because I have not studied it in sufficient detail to make such a definite statement. However, in the circumstances where pre-existing rights can possibly be interfered with, the word "reasonable" is correct.

Under the provisions of this Bill a license has to be granted. It has to be granted on such terms as the Minister thinks fit, and the company which has made the request can either reject or accept the decision. No pre-existing rights will be affected. In those circumstances it is considered that the term "as the Minister thinks fit" is more appropriate.

As regards the suggestion made by Mr. Wise that this clause has been inserted to correct a situation that has occurred, I would assure him that to the best of my knowledge that is not the case. This is a simple Bill which has been introduced, and it contains no subterfuge. I repeat that if there is a matter which needs correction there is ample precedent of this Chamber having made corrections in the past, and it will do so in the future. For those reasons I oppose the amendment.

The Hon. H. C. STRICKLAND: I support the amendment for the reason that Ministers in the future might be unreasonable. I had some practical experience of witnessing what I considered to be a very unreasonable decision in connection with a town planning case. This occurred in respect of the very provision quoted by Mr. Watson. As an onlooker I thought the decision was very unreasonable.

To give the Minister the authority to issue a license on such terms and conditions as he thinks fit might be dangerous. I cannot see anything wrong with the inclusion of the word "reasonable," because on all occasions Ministers of the Crown attempt to be reasonable in their decisions. However, in the case I refer to, the Minister concerned was guided by his departmental officers; and this is the procedure adopted by most Ministers. When departmental officers put up recommendations some Ministers do not depart from them, and for that reason we could find some unreasonable decisions being made.

Iron ore companies with world-wide experience in the drawing up of agreements frequently use the term "reasonable" in their agreements. I refer to the Iron Ore (Tallering Peak) Agreement Act in which the word "reasonable" is used in many of the clauses. In clause 6 (18) of the agreement we find the following:—

> The State will at the request and cost of the Company if reasonably practicable make available to the Company on a leasehold tenure Crown land or land vested in the Railways Commission within approximately two (2) miles of Geraldton Harbour reasonably suitable for the processing of ore transported under this Agreement and in reasonable proximity to an existing railway.

There is a similar reference to "reasonable" in subclauses (19) and (20). In most of these agreements the conditions are based on reasonableness, and the companies concerned have to be reasonable in their requests to the State.

In view of the great emphasis placed upon the term "reasonable" by world-wide organisations, and because of the unreasonable decision given by the Minister in the case I referred to, I consider the amendment put forward by Mr. Wise is very sound and is desirable for the protection of the people concerned.

If a yacht club or a group of fishermen apply for a license to erect a small jetty, or even a landing, and the department considers the request is unreasonable, that will be the absolute end of the matter, and construction of the jetty will not be permitted.

The Hon. F. J. S. WISE: The words in this clause which the amendment proposes to delete are contained in another Statute which has caused much dissatisfaction and injustice. Many members have had experience of how such words, in administrative operation, not only imply a freedom of operation to the persons who are authorised under the Act to use them, but also render considerable injustice to the community.

I cannot understand the attitude of people who applaud their use, but who speak in violent deprecation of them where they otherwise occur; namely, in the Town Planning and Development Act. What we should endeavour to avoid is injustice being done. If the words which I propose to insert are inserted, then any decision arrived at will have to be based on reasonableness.

Amendment put and a division called for.

Bells rung and the Committee divided.

Remarks during Division

The DEPUTY CHAIRMAN (The Hon. F. R. H. Lavery): Before the tellers tell, I give my vote with the Ayes.

Result of Division

Division resulted as follows:—

Ayes—12

Hon. N. E. Baxter	Hon. H. C. Strickland
Hon. E. M. Heenan	Hon. R. H. C. Stubbs
Hon. E. C. House	Hon. S. T. J. Thompson
Hon. R. F. Hutchison	Hon. W. F. Willesee
Hon. F. R. H. Lavery	Hon. F. J. S. Wise
Hon. T. O. Perry	Hon. R. Thompson *(Teller.)*

Noes—12

Hon. C. R. Abbey	Hon. L. A. Logan
Hon. G. E. D. Brand	Hon. G. C. MacKinnon
Hon. V. J. Ferry	Hon. N. McNeill
Hon. C. E. Griffiths	Hon. H. K. Watson
Hon. J. Heitman	Hon. F. D. Willmott
Hon. J. G. Hislop	Hon. H. R. Robinson *(Teller)*

Pairs

Ayes	Noes
Hon. J. Dolan	Hon. A. F. Griffith
Hon. J. J. Garrigan	Hon. J. M. Thomson

The DEPUTY CHAIRMAN (The Hon. F. R. H. Lavery): The voting being equal, the question is resolved in the negative.

Amendment thus negatived.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

AUDIT ACT AMENDMENT BILL

In Committee, etc.

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 6 amended—

The Hon. L. A. LOGAN: I move an amendment—

> Page 3, line 5—Delete the word "directed" and substitute the word "authorised".

The reason for this amendment is that it is better for the Governor to authorise rather than direct.

The Hon. F. J. S. WISE: I suppose it does not matter in whose name amendments of this kind appear on the notice paper; but I am very glad that I drew attention to this. I recall an interjection by Mr. Watson in which he supported the thought that to say the Governor is to direct a senior public servant is not the best choice of words because the Governor as Governor would not be doing so. The word "authorised" is not only much nicer, but more appropriate.

Amendment put and passed.

The Hon. L. A. LOGAN: These amendments are on the notice paper in the name of the Minister for Mines, who will not be back until later this evening. Therefore I am dealing with them in my name. I move an amendment—

> Page 3, line 10—Delete the word "direct" and substitute the word "authorise".

The reason for this amendment is the same as for the previous one.

Amendment put and passed.

The Hon. L. A. LOGAN: I move an amendment—

> Page 3, line 16—Delete the word "directs" and substitute the word "determines".

If members read this clause they will find that the word "determines" is more appropriate than "authorises".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 5: Section 7 amended—

The Hon. L. A. LOGAN: I move an amendment—

> Page 3, lines 19 to 26—Delete all words after the word "is" down to and including the word "forty-two" and substitute the following:—
>
> amended by substituting for paragraph (c) of subsection (2), the following paragraph—
>
> (c) if, except on leave granted by the Governor, he absents himself from duty for more

than twenty-one consecutive days, or for more than forty-two days in any twelve months, inclusive in each case of annual leave; or

The reason for this amendment is that it appears the intention of the original provision may have been misconstrued in relation to annual leave. This amendment will clarify the position and will permit the taking of special leave in unforeseen circumstances without affecting the original limitation in the Act.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 6 to 18 put and passed.

Clause 19: Section 44 amended—

The Hon. F. J. S. WISE: This clause provides for the charging of fees for audits which are extraneous to the department's operations. We know, for example, the wonderful work done by the Auditor-General's Department for road districts for which fees are charged and collected. However, I am wondering what particular instrumentalities or semi-governmental organisations this is now intended to cover.

The Hon. L. A. Logan: You mean audit services for which there is a charge?

The Hon. F. J. S. Wise: Yes.

The Hon. L. A. LOGAN: I am not too sure whether this is the answer Mr. Wise requires, but as far as I can ascertain the following are audits for which fees are charged:—

	Under statutory authority	Without statutory authority
Trading Concerns	State Implement Works State Shipping Service W.A. Meat Export Works Wyndham Meatworks	
Marketing Boards	Potatoes Eggs Barley Dairy Products	Onions Dried Fruits Milk
Other Boards	Medical Optometrists	Albany Harbour Bunbury Harbour Midland Junction Abattoirs Metropolitan Water Supply Taxi Control
Trusts and Commissions	....	Fremantle Port Authority Metropolitan Markets Metropolitan (Perth) Passenger Transport State Electricity State Housing R. and I. Bank Transport Co-ordination
Other	Charcoal Iron State Insurance University Mine Workers' Relief	Education Self-supporting Classes

I hope that is the information required by the honourable member.

The Hon. F. J. S. WISE: It is clear in the clause that for any department or concern that operates directly on the Consolidated Revenue Fund, no fee is chargeable or paid; and I am still wondering—not concerned, but wondering—how far it is intended to depart from those governmental of semi-governmental bodies.

There is something more interesting than that in this clause and that is that the Auditor-General may determine the fee to be paid for an audit, not as he thinks fit, but as he considers reasonable under the circumstances. Without passing reflection on a recent vote of this Chamber, if ever there was justification for a decision to be opposite to the one then made, this is the justification.

Clause put and passed.

Clauses 20 to 24 put and passed.

Title put and passed.

Bill reported with amendments.

RURAL AND INDUSTRIES BANK ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 23rd September, on the following motion by The Hon. A. F. Griffith (Minister for Mines):—

That the Bill be now read a second time.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [8.15 p.m.]: The Bill proposes several amendments to the Rural and Industries Bank Act, which, since its passing in 1944, has not very often been before Parliament. I think I can say with due modesty that I know nearly as much about the Act as most people. With the change from the old Agricultural Bank Act to the Rural and Industries Bank Act the salvaging of the institution known as the Agricultural Bank really became a matter of history. How it occurred is quite another matter.

The Rural and Industries Bank Act came into being after years of preparation, planning, and consideration by Ministers of the Government in office in the early '40s. The Bill as presented to Parliament contained about 132 clauses; and I speak from a very good memory, because at that time I knew every one of them. It emerged from Parliament as an Act of 118 sections; and, as is well known, Parliament almost rejected the Bill. In fact the fateful decision to agree to it was made after an all-night sitting in conference of the management committee of the two Houses, and the Bill was endorsed in the form that Parliament accepted it after the sun rose in the morning following our all-night sitting. That was a very strenuous and determined effort to salvage something for the State from the organisation and instrumentality known as the Agricultural Bank—a bank which served this community more amazingly, I think, than many people realise.

It is an interesting observation in connection with the Act we are to amend by this Bill to say how long ago it seems to those days of the moratoria brought about by the Farmers' Debts Adjustment Act, the Industries Assistance Act, and so on; because the farmers at that time were the paupers of the State. They were then the hardest worked section of the community and they were in the greatest difficulty. The farmers' debts adjustment operations through the various chairmen—one, in particular, Mr. Smith—did an amazing job in keeping men going and in keeping them on the land.

Of course today the position is very different; and one of the reasons for the Bill before us is this difference: that the farming community today is an affluent society. The position is very different from the days which I can clearly recall when people, in queues 100 yards long, waited outside my office, when I was Minister for Lands, seeking some easement of a very serious position.

So it is that this bank which, startling though the figure may appear, commenced with actual cash resources of less than £200,000 and millions of pounds represented in mortgages, many of them which could not be handled by the trading banks but had to be dealt with under the agency section of this Act, which many members know of.

What is the transition since that time? It is a wonderful transition in so far as the State's prosperity is concerned, and remarkable in the effect it has had on very many individuals in the State. When the Rural and Industries Bank Act was introduced it repealed the Agricultural Bank Act and did away with the three commissioners of those days—three commissioners who were supposed to have a very close and intimate knowledge of the farming industry inherited from the time when the late Mr. McLarty did a wonderful job as the chairman of the bank, a long while ago.

Since then, of course, we have had bankers—handicapped bankers—as members of the commission, and only one member other than the Under-Treasurer belonging to the old organisation; and I refer to Mr. John Gabbedy. The others were all experienced men from some bank or another; and I can say that the great success which has come the way of this institution is in no small measure due to the calibre of the men who have been its chairmen and its commissioners—men handpicked from other institutions; men of great experience, integrity, and capacity.

The Bill proposes that in future all the commissioners shall have had banking experience. Most of them have had that experience in associated banking practice and procedure. But the R. & I. Bank is now apparently so much an institution closely allied to general banking, without any particular interests associated with the land or with industry, or with the members of the community who have through any industry, enterprise, or profession, an account with it, that it has passed from the old agricultural bias to something wholly based on the principles of banking practices.

I cannot quite see the need, otherwise, for this move; but it is certain that when the Bill passes and one of the present commissioners passes from the stage, all appointments must fall to those with banking experience.

I think that many of the adjustments in the Bill are quite warranted in the light of today's circumstances; that is the arrangement for a part-term appointment so that the appointments of all the commissioners will terminate when the commissioners reach a certain age, and the provision by which long service leave may be cumulative. Also, one very important feature that the Bill provides for is that school banking—children's banking at the schools—shall not be the prerogative of one institution, but shall be competitive. The Bill will permit the R. & I. Bank, and all other banks, to enter this field, which is now controlled by one institution—the Commonwealth Bank.

This is a good thing, in my opinion. Indeed the teaching of children to save their shillings will be of benefit not only to them but to the State; and I hope, selfishly perhaps, that in the interests of Western Australia and of this institution, it will be their inclination—if their parents open an account in the R. & I. Bank for them—to continue through life to be customers of that bank. I think that is reasonable. If they do that, they will then provide money to assist the State in many directions and to improve the State's position in regard to industry, trade, and commerce.

I do not wish to go into all the other clauses of the Bill, but I support it.

THE HON. V. J. FERRY (South-West) [8.26 p.m.]: I was very interested to hear Mr. Wise's comments relating to the establishment of the R. & I. Bank in 1944, and I note his remarks that the House apparently sat through the night and into the daylight hours. I have no intention of speaking that long tonight; but it is interesting to learn how the R. & I. Bank came into existence. I think many of us are aware of how it originated, but it is nice to be reminded at times how institutions that are serving the State well have been formed.

The Bill before us contains many features, but I shall not touch on them all. There are, however, a few points on which I wish to speak. Firstly we have an amendment concerning the eligibility of people to be appointed as commissioners after having reached a certain age. Until the passing of this measure an officer of

the bank—or of any bank for that matter —can be precluded from becoming a commissioner of the bank because of his age.

Banking, of course, is a career profession. Most bank officers start on the lower rungs of the banking ladder and climb steadily throughout their career with the object of attaining senior administrative positions. Without this incentive no organisation or institution can hope to prosper and give efficient service; and without this personal incentive no officer can become efficient or can give of his best in any situation.

I am pleased to see that one of the provisions in the Bill is to enable a bank officer who may be of any age less than the age of 65 to be appointed one of the five commissioners, if his qualifications are otherwise deemed to be adequate and should a vacancy occur.

Previously such an officer has been denied this opportunity. A bank officer who was over the age of 58 could not be appointed for a period of seven years, because he would reach the retiring age before his term expired. Under the Bill that position will be corrected, and I commend the amendment.

Another feature of the Bill is the amendment dealing with the deferment of long-service leave. Under this provision an officer will be able to accumulate long-service leave for 12 months instead of the present period of six months. I feel this is in keeping with modern-day thinking in respect of long-service leave in the banking profession. It will happen at times that a staff member may have long service leave entitlement due to him, but because of the requirements of the service it is not convenient for the bank to grant leave at that particular moment; and it may also be that a particular officer has very good reason for not taking his leave at that time, and so, with permission, he can have his long service leave deferred. This Bill intends to correct that situation.

Mr. Wise also commented on school savings banking. I am very glad to see that the Rural and Industries Bank will be allowed, under this Bill, to participate in school savings banking. As the honourable member mentioned, and as I am sure we are all aware, until very recently there was a monopoly of school savings banking held by the Commonwealth Bank. I commend the service given in the past by the Commonwealth Bank to the schools and to the students. The bank was very efficient in this matter. I feel, however, it is correct that all savings banks should participate in school savings facilities.

The Rural and Industries Bank in this State is the last bank to fall into line with other banks in connection with this service. I call it a service, because it is purely a service to school children to help their education. It is a means of encouraging children to discern, as they are encouraged to discern in normal education, that there is more than one avenue open to them. There are many banks with which they can choose to conduct their business. We all know that to a large extent the parents guide the children in this aspect, which, I feel, is correct.

In my experience, however, many a child wishes to open a savings account for a particular reason of his or her own. This is a good thing, because it encourages a sense of self-reliance gives the child some idea of the value of 1s., 2s., or 10s., as the case may be. Children should be encouraged to be discerning in these matters, and all banks should be encouraged to participate in this field of banking. It is surely the basis of our system of free enterprise in the commercial world, wherein we have the right to choose the firm we would like to patronise.

In referring to the commissioners once more, I would like, for the information of the House, to mention quite briefly the duties of the four full-time commissioners. It has been asked, and probably some of us here are thinking, what each commissioner does in his job.

They are all called commissioners, but what actually is their function? We all know, of course, there is one part-time commissioner, who is the Under-Treasurer. We then have four full-time commissioners headed, shall I say, by the chief commissioner, who is the control chairman, if we would like to use that term. He is virtually the equivalent of the general manager in a trading bank.

Another commissioner controls the branch department and the general lending operations of the bank, and that function itself is quite an administrative one. Yet another commissioner acts as secretary, and is responsible for the administrative side; for the secretarial duties; the issuing of instructions; and the control of premises such as new buildings, alterations, furnishings, and the like. Finally, the last commissioner is responsible for the valuing of land, and for values generally.

The Hon. F. J. S. Wise: One of these of course incorporates the savings bank responsibility.

The Hon. V. J. FERRY: That is so. I am only briefly touching on their duties, because as members will imagine their duties are considerable and varied. I am only referring to some of the main items they control. I thought they would be worth mentioning to help clarify the situation somewhat, because to some people the word commissioner is a little confusing. It is felt in some quarters that a commissioner does not conduct banking business; that it is rather a name applied to a position.

I feel that the other provisions in the Bill before us are mostly machinery amendments which are virtually automatic; they bring certain features into line

with the commercial and administrative requirements of banking. I have pleasure in supporting the Bill.

THE HON. A. R. JONES (West) [8.37 p.m.]: I do not wish to oppose the second reading of the Bill, but I would like to have a few words to say in regard to one of its provisions. I feel there is not much wrong with section 8 of the Act, which says—

> The management of the Bank shall be and is hereby vested in five Commissioners one of whom shall have had administrative or executive experience in a trading bank.

The amendment in the Bill seeks to repeal section 8 and to re-enact it. The proposed new section reads as follows:—

> The management of the Bank shall be and is hereby vested in five Commissioners all of whom except the part time Commissioner shall have had administrative or executive experience in the Bank or other trading bank.

That is very far removed from the original intention of the Act, and from what was thought necessary for the management of the bank. I would like to see the provision left more open, so that we could have at least two of these gentlemen possessing other than banking experience. A bank of this type engages in banking activities with the rural industry, all types of secondary industry, and with mining interests; it deals with people interested in those sorts of things. I feel it would be cramping the style of the commissioner and of the officers of the bank if we confined the commission to men with banking experience only.

I do not wish to say anything about bankers as such, except that a banker who had been engaged in banking business all his life would not have much knowledge of the implications of any other industry, unless he had experience in such industry; particularly an industry where mining is carried out. So it should be quite competent for the commission to acquire the services of a man with knowledge outside that of banking.

Rather than have the whole section repealed and re-enacted as suggested in the Bill, I would urge the Minister in charge of the measure to give consideration to doing no more than make a change in the existing provision. I would vote against the change proposed in the Bill. The Act says: one of whom shall have had administrative or executive experience. We could make that number three, which would leave it open for two outsiders to be brought into this field if it were thought necessary. With those few remarks, I support the Bill.

Debate adjourned, on motion by The Hon. L. A. Logan (Minister for Local Government).

House adjourned at 8.40 p.m.

Legislative Assembly

Tuesday, the 5th October, 1965