to do something about the matter. The policy of the Opposition is to deal with urgent matters urgently and not to delay.

It would be a different matter if the Minister could show that this amendment will do harm and will go very wide of what is said to be its mark; namely, the restoration of the status quo. But no attempt has been made to demonstrate that. Although I do not do it with great confidence, I press on in my endeavour, in the first instance to delete clause 6 with a view to substituting a new clause 6.

Clause put and passed.

Clauses 7 to 10 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 11.46 p.m.

Legislative Council

Thursday, the 23rd October, 1975

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 2.30 p.m., and read prayers.

HOSPITALS ACT AMENDMENT BILL

Introduction and First Reading

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

QUESTIONS (8): ON NOTICE

1. TOWN PLANNING

Social Survey Questionnaire

The Hon. R. F. CLAUGHTON, to the Minister for Education representing the Minister for Conservation and the Environment:

(1) Is the Minister aware of a social survey questionnaire being compiled by Scott and Furphy Engineers Pty. Ltd., consultants for the West Coast Highway-Swanbourne Area Study?

(2) Will he advise why the consultants seek the information in the questionnaire on the respondents' weekly income, monthly rent or home repayments, and their attitude to the neighbourhood?

(3) In planning roads for an area of what importance is it whether a resident is earning $90 or $400 per week?

The Hon. G. C. MacKINNON replied:

(1) to (3) The Minister for Conservation and the Environment undertakes to have the consultants in the study advise the Hon. member on these matters.

2. BUILDING BLOCKS

Karratha

The Hon. J. C. TOZER, to the Minister for Health representing the Minister for Lands:

(1) Would the Minister please confirm that the premium for services charged by the Lands Department for single detached residential allotments in sub-cell "J" of the first residential cell at Karratha was $3 750?

(2) Is it a fact that any of the original allotments in this sub-cell, which have been surrendered, are to be offered for auction?

(3) In view of the facts that—

(a) the allotments in the second cell are to be released to private purchasers at a figure of $7 000 (see answer to question on the 1st October, 1975); and

(b) the selling price per allotment, which will be obtained at any auction, will almost certainly approach this high figure—

will the amount, by which the auction price exceeds the original premium, be paid into consolidated revenue or be directed to the townsite development funds for services and area improvement?

(4) If the excess proceeds from the proposed auction must go to consolidated revenue, will the Minister direct that the auction be abandoned and the land be reallocated by ballot or by Land Board determination, thus ensuring that some private home builders, at least, will be able to secure building blocks at a reasonable cost and that a person will not end up paying a price which may be double that paid by his neighbour?

The Hon. N. E. BAXTER replied:

(1) The premium for services on lots released in Area "J" Karratha, is $3 700. The land price is $50 for each lot.

(2) Yes; 18 lots are proposed to be sold by public auction during November, 1975.

(3) It is statutory that excess amounts must be paid to Revenue. Lots released to the public include a service premium relating to cost of reticulation of services only. The cost of major headworks is met by the State and Mining Companies under agreement with the State.

(4) No. The Land Act has no provision for ballot and a Land Board determination is considered inappropriate for the allocation of residential lots.

Under the circumstances, I consider normal public auction procedure to be the most suitable.

3. HIGH ROAD, LYNWOOD

Upgrading

The Hon. CLIVE GRIFFITHS, to the Minister for Health representing the Minister for Transport:

(1) Has the Main Roads Department been approached concerning the dangerous condition of High Road between Watling Avenue and New High Road in Lynwood?

(2) If the reply to (1) is "Yes" would the Minister advise what action, if any, is being taken to have the necessary remedial work carried out?

(3) Does the Main Roads Department consider that the section of road is up to normal safety standards?

The Hon. N. E. BAXTER replied:

(1) Yes.

(2) This road is not under the control of the Main Roads Department but is the responsibility of the Canning Town Council which is developing New High Road as an alternative route to Nicholson Road. The improvement of the Watling Avenue to New High Road section is a matter for the Council to decide.

(3) The Council is constructing the intersection of New High Road with High Road and the normal difficulties associated with road construction are to be expected. The balance of the section referred to is considered to be up to normal safety standards.

4. CIVIL COMMISSIONER

Exmouth

The Hon. S. J. DELLAR, to the Minister for Justice representing the Premier:

(1) With the impending retirement of Colonel J. P. K. Murdoch, O.B.E., from the position of Civil Commissioner at North West Cape as from the 31st December, 1975, has the Government taken any steps to advertise for, or appoint a successor?

(2) If the answer to (1) is "No" what arrangements does the Government propose for the administration of the area for the period following Colonel Murdoch's retirement and the appointment of a successor?

(3) If the position is to be advertised, what medium will the Government utilise for this purpose?

The Hon. N. McNEILL replied:

(1) Yes.

(2) Answered by (1).

(3) The Commonwealth Government will advertise the position, but the appointment will be made jointly by the State and the Commonwealth.

5. MADDINGTON SCHOOL

Reticulation of Sports Ground

The Hon. CLIVE GRIFFITHS, to the Minister for Education:

(1) In regard to the provision of a bore for the reticulation of the grounds at the Maddington Primary school, would the Minister advise—

(a) (i) Have funds been set aside for this work; and

(ii) if so, what is the amount;

(b) when were the funds made available; and

(c) when is it anticipated that the work will be completed?

(2) Will the Minister take the necessary steps to ensure that this urgent work is completed during the current school year?

The Hon. G. C. MacKINNON replied:

(1) (a) (i) Yes.

(ii) $7 000.

(b) 7th October, 1975.

(c) Quotes are being called and subject to a suitable tenderer being engaged it is anticipated that the work will be completed early January 1976.

(2) If water can be obtained from this bore in sufficient quantity, it is hoped the work will be finished this financial year. However, if not, an artesian bore will have to be provided at a cost of approximately $18 000. Funds are not available at this time to put such a project in hand.

6. CHARLES STREET

Traffic Flow

The Hon. R. F. CLAUGHTON, to the Minister for Health representing the Minister for Traffic:

What works are in progress or proposed to improve traffic flow along Charles Street, North Perth?

The Hon. N. E. BAXTER replied:

The planned extension of the Mitchell Freeway to Hutton Street, Osborne Park, should,

when completed, cause a reduction in the amount of traffic using Charles Street.

7. ARMADALE-KELMSCOTT SHIRE

Construction of Golf Course

The Hon. R. F. CLAUGHTON, to the Minister for Justice representing the Minister for Local Government:

(1) Is it a fact that the President of the Armadale-Kelmscott Shire Council has undertaken work on the construction of Forrestdale golf course which is currently under construction as a R.E.D. scheme project?

(2) If so—

(a) what is the value of the work undertaken;

(b) was it awarded by competitive tender; and

(c) has there been any infringement of the provisions of the Local Government Act in the awarding of the contract for this project?

The Hon. N. McNEILL replied:

(1) The Minister has been advised by the Shire Clerk that the President has undertaken such work in the ordinary course of his business.

(2) (a) The Shire Clerk advises that work to the value of $1 374 has been undertaken to 9th October, 1975.

(b) The Shire Clerk advises that as the work is on an "as required" basis, tenders have not been called.

(c) This question seeks a legal opinion.

8. PUBLIC SERVICE

Questioning of Applicants

The Hon. G. E. MASTERS, to the Minister for Justice representing the Premier:

(1) Is the Minister aware that applicants for employment in some Federal Government agencies are required to give details of political beliefs and affiliations when attending an interview, as instanced by the case of a 16 year old girl, who recently applied for a position with the Commonwealth Bank at their Perth Office, and at the interview was asked for her opinion of Mr Gough Whitlam and which political party she supported?

(2) Would the Minister assure the House that the present Liberal/Country Party State Government is adopting no such actions in its employment of staff?

The Hon. N. McNEILL replied:

(1) No, but if this is the case, then the practice is to be deplored.

The Premier would like more information to pursue the matter further.

(2) Yes, the Government gives an unqualified assurance to this effect.

WORKERS' COMPENSATION ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by the Hon. G. C. MacKinnon (Minister for Education), and returned to the Assembly with amendments.

CHURCH OF ENGLAND (DIOCESAN TRUSTEES) ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [2.41 p.m.]: I move—

That the Bill be now read a second time.

The purpose of the Bill is to implement, at the request of the Perth Diocesan Trustees and the Diocesan Council of the Diocese of Perth, a resolution adopted unanimously at the second session of the 35th synod of the diocese.

The preamble to that resolution indicates that the Perth Diocesan Trustees is, by the Church of England (Diocesan Trustees) Act 1888 as amended, a corporation with power *inter alia* to acquire and hold for the Church of England in Australia in the Diocese of Perth by purchase devise or otherwise, all lands tenements and hereditaments whatsoever of every tenure and also all personal estates.

The Perth Diocesan Trustees has power to take, hold, employ and invest all such real and personal estate as it shall deem advisable, but nevertheless only for the purposes of the diocese, and subject to the performance of any trusts upon which these lands, tenements, hereditaments, and personal estate may have been acquired; and subject in all respects to the statutes, orders, directions and resolutions of the synod of the Diocese of Perth.

The preamble to the resolution explains that the Perth Diocesan Trustees has, for over 70 years, received reimbursement for all moneys properly expended by it, and, by way of commission charged against the income of the property, remuneration for its management.

However, some two years ago, doubts arose that the Perth Diocesan Trustees is entitled to remuneration as well as reimbursement, and entitled to recover such remuneration by way of commission. The synod of the diocese subsequently unanimously adopted the resolution seeking an

amendment to the Act to resolve those doubts.

Historically, the decision to charge a commission was made by resolution of the diocesan council on the 15th November, 1897. The arrangements, which were confirmed by the first session of the 10th synod in 1898, and which have pertained ever since, were that a commission of 5 per cent would be charged on the gross income of properties directly managed by the church office, while a commission of 3 per cent would be charged on the gross income of properties otherwise managed.

The Perth Diocesan Trustees presently administers some 500 bequests and endowments. A few of these are large but the majority are quite small in value. It is obviously impracticable and would be unnecessarily expensive to maintain separate cost records for each of these trusts. The alternative, which is the long established practice, is the charging of a commission on the income from its trustee operations.

In the 1974-75 financial year the income available to the Perth Diocesan Trustees from commissions charged in this way was approximately $79 000 derived substantially from three major properties. Expenditure by the Perth Diocesan Trustees in the same period with respect to trustee operations was approximately $66 000. The small surplus that is derived from its trustee operations is used for the purposes of the Church of England in the diocese.

The Bill before the House therefore seeks to confirm the practice of the last 78 years, and to establish that practice in statutory form in a similar manner to the power conferred upon The Perpetual Executors Trustees and Agency Company (W.A.) Limited and The West Australian Trustee Executor and Agency Company Limited.

I commend the Bill to the House.

THE HON. R. THOMPSON (South Metropolitan—Leader of the Opposition) [2.45 p.m.]: I do not think there is any need for us to hold up the passage of the Bill. The operative amendment is contained in clause 3. In proposed new section 3BA (2) the following is stated—

> (2) The fees and commissions charged from time to time pursuant to subsection (1) of this section—
>
> (a) shall not exceed the fees and commissions which Trustee Companies may from time to time lawfully charge, retain or receive against, from or out of the capital or income, as the case requires, of estates, trusts, or funds committed to their administration; or
>
> (b) if those last mentioned fees and commissions differ, shall not exceed the average thereof.

Proposed subsection (4) of new section 3BA provides as follows—

> (4) In subsection (2) of this section "Trustee Companies" means the companies on which powers are conferred respectively by The Perpetual Executors, Trustees and Agency Company (W.A.) Limited Act, 1922 and The West Australian Trustee Executor and Agency Company Limited Act, 1893.

I would point out that we have already increased the fees which the two trustee companies mentioned in proposed subsection (4) are permitted to charge. The Bill before us merely brings the Church of England Diocesan Trustees into line with the rate of commission it can be expected to charge. Furthermore, as the Minister pointed out, the Bill will legalise something which has been in doubt.

I support the second reading.

THE HON. N. McNEILL (Lower West —Minister for Justice) [2.47 p.m.]: I do no more than acknowledge the co-operation of the Leader of the Opposition. I thank him for his support of the measure, bearing in mind that this Bill represents an amendment of a private Act. It has been sponsored by the Government, as is the convention of this Parliament. In the circumstances on behalf of the Church of England Diocesan Trustees, I do express appreciation of the co-operation of the Leader of the Opposition to enable the Bill to be passed with expedition.

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.

EDUCATION ACT AMENDMENT BILL (No. 3)

Second Reading

THE HON. G. C. MacKINNON (South-West—Minister for Education) [2.49 p.m.]: I move—

> That the Bill be now read a second time.

This Bill is largely the result of a recent review of the penalties provided under the various sections of the Education Act carried out by the State Crown Solicitor. The Bill contains no controversial issue nor does it introduce any changes in policy in relation to education. It is rather in the nature of a tidying-up measure to bring up to date the various penalties provided throughout the Act, and to bring the Act into line with changes in nomenclature and practice in recent years.

In a number of sections of the Act penalties are provided but these have remained unchanged almost since the present Act was drafted in 1928. For example, the penalty in section 19 for a

parent not producing a child in court when summoned is $1. The Government asked the Crown Law Department to examine the penalties in the Education Act in order to bring them into line with penalties in other Acts and to make them more realistic for the 1970s.

I now intend to explain briefly the purpose of each proposed amendment.

An examination of the proposed amendments, as listed in this Bill, shows that the changes to sections 15, 16 and 17 of the Education Act—clauses 3, 4 and 5 of this Bill—relate to increases in penalties. It will be noted that throughout the amendments on penalties, the practice in the existing Act of sometimes providing a minimum penalty has been discontinued and the courts will be able to impose any penalty up to a stated maximum.

Part V of the Education Act sets out the provisions for compulsory attendance at school and the procedures and penalties relating to nonattendance and truancy. The sections of this part permit authority to be given to the department's welfare officers to make complaints and conduct prosecutions.

The amendment to section 17B (1) is really only of an administrative nature and seeks to amend the present situation whereby the written consent of the Minister is required before children on probation as a result of truancy convictions can be summoned before a children's court under the Child Welfare Act, should the Director-General of Education be not satisfied with the conduct of the child.

It is proposed to delete the words "with the consent in writing of the Minister" so as to enable the welfare officers to carry out their duties associated with the provisions of part V without delays that inevitably occur when referrals have to be made.

The amendment to section 18 is the result of a recent court decision whereby it was held that although the child concerned was absent more often than he was present he did attend school occasionally and therefore could not be said to be "constantly absent". As the present working of this section of the Act authorises prosecution of parents whose children are "constantly and habitually absent from school" it has become necessary to delete the words "constantly and" to enable welfare officers to continue prosecutions as in the past.

At the present time section 32A of the principal Act requires schools providing instruction up to and including the "leaving certificate examination of the Public Examinations Board of Western Australia" to be registered as efficient schools.

The Leaving Certificate examinations are currently being phased out in favour of the internal assessment by extending the scope of the Achievement Certificate up to year 12 level. Entrance to tertiary studies will be determined also on a combination of internal assessment and special scholastic tests. In this context the term "Leaving Certificate examination" will no longer be appropriate. Also the Public Examinations Board of Western Australia has now ceased to exist and a new body known as the Tertiary Admissions Examination Committee has been established to undertake these functions.

As neither the examination nor the board referred to now exist, it has become necessary to include a minor amendment to the section to allow for the changing situation.

The final purpose of the Bill which I wish to mention briefly is only of minor significance and relates to a list of efficient schools published annually in accordance with section 13 of the Act. The Act presently requires the names of the heads of these schools to be included; however, the department has not done so for a number of years and it is not considered necessary to do so. Consequently the proposed amendment seeks to delete the requirement.

As mentioned previously, this Bill is of little consequence and contains no radical changes in policy in relation to education.

I commend the Bill to members.

THE HON. R. F. CLAUGHTON (North Metropolitan) [2.55 p.m.]: The Minister was good enough to advise me of the contents of this Bill before the House met today and I was able to make an examination of those contents. As the Minister has indicated, the Bill deals mainly with machinery matters and does not include any contentious items to which we would object.

Perhaps I should remark on the provision to delete the necessity for the consent of the Minister in writing to be obtained before children, on probation as a result of truancy convictions, can be summoned before a Children's Court. That provision will need to be handled in a responsible manner, and I understand it was written into the Act for that very reason.

The Minister did not indicate whether the director-general would have the power to delegate his authority. I do not think such authority should be delegated.

The Hon. G. C. MacKinnon: There are officers who have been specially trained and authorised. It will be a little like the authority given by the Minister for Health to his inspectors. He delegates responsibility to those who are fully trained.

The Hon. R. F. CLAUGHTON: There have always been truancy officers.

The Hon. G. C. MacKinnon: But they were not trained, as they are today.

The Hon. R. F. CLAUGHTON: The committal of a child by a Children's Court is a serious matter, and it needs to be

done in a responsible way. I trust the Director-General of Education will not neglect his responsibilities.

Apart from that, we have no objection to the Bill and support the second reading.

The Hon. G. C. MacKinnon: Thank you.

Question put and passed.

Bill read a second time.

In Committee

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

Clause 1: Short title and citation—

The Hon. R. F. CLAUGHTON: I want to indicate to the Minister that I contacted the Teachers' Union with regard to this Bill. The union indicated that it had not been advised of the contents of the Bill so I will forward a copy to the union. If there is any objection we will not know about it until the Bill reaches another place.

I think it is relevant that I should mention the fact to the Minister. I was a little surprised that he did not see fit to advise the union of the proposed changes.

The Hon. G. C. MacKINNON: I have constant association with the Teachers' Union. Indeed, I met with the union for approximately 1½ hours this morning.

This is a Bill which, in my judgment, does not touch on the Teachers' Union as such. It deals more with internal administration. I imagine it would have more to do with child welfare, in some ways, than with the Teachers' Union. It did not enter my head to mention the matter to the union.

I can assure the Committee that the consultation between the Teachers' Union and myself is constant. There must be occasions when it would be a waste of time to talk about particular aspects which relate just to straightout administrative detail.

Clause put and passed.

Clauses 2 to 13 put and passed.

Clause 14: Section 32C amended—

The Hon. R. F. CLAUGHTON: This clause seeks to amend the section of the Act which states that instruction in the schools will take place in the English language, unless a special language course is being conducted.

I simply draw the matter to the attention of the Committee and raise the question as to whether in fact such a provision is really needed in these days. It seems to be excessively authoritative to tell the school that instruction must be carried out in the English language.

I think by now the English tongue is well and truly established in this country and we would not be in any danger of being threatened by a foreign tongue. Perhaps at some future time when the Act is being amended, consideration could be given to the removal of this particular section.

The Hon. G. C. MacKinnon: The point is worth looking into and I will bring it to their attention.

Clause put and passed.

Clauses 15 and 16 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

MURDOCH UNIVERSITY ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (South-West—Minister for Education) [3.03 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend sections 17, 24 and 29 of the Murdoch University Act, 1973, and contains no major matters of policy.

The university authorities have requested, and the Government has agreed, that legislation be introduced to amend the principal Act for two main purposes, both of which are straightforward.

They relate to the making of by-laws and the university's lands.

I now intend to deal briefly with each of these matters in the order in which they are contained in the Bill presently before the house.

The university authorities have previously expressed concern over the validity and power to make and enforce certain by-laws relating to the control of persons and vehicles on university lands.

The proposed amendments to sections 17 and 24 of the principal Act are designed to clarify and, where necessary, extend the by-law making powers of the senate.

Similar amendments were introduced in earlier sessions relating to both the University of Western Australia and the Western Australian Institute of Technology.

The other amendments contained in this Bill relate to the land held by the university. It has been brought to the Government's attention that the principal Act does not include provision for lands vested in the university to be exempted from rates and taxes as is normal with universities.

The proposed amendment to section 29 will ensure that "no tax or rate may be levied upon any property vested in the university for the purposes of providing facilities necessary or conducive to the attainment of the objects of the university and the performance of its function".

Members will recall that the establishment of Western Australia's second university was entrusted to a planning body known as the Murdoch University Planning Board.

An apparent oversight in the original legislation resulted in the exclusion of an appropriate provision to enable the transfer of all real and personal property vested in the planning board by virtue of the Murdoch University Planning Board Act, 1970, to the university upon its establishment.

The amendment to section 28 of the principal Act will effectively overcome this problem.

This Bill is simple in nature and purpose and is commended to members.

THE HON. R. F. CLAUGHTON (North Metropolitan) [3.06 p.m.]: As with the previous Bill, I have been able to make an initial study of the contents and this Bill also receives our support.

We recognise, of course, that institutions of the size of the Murdoch University are faced with the problems of controlling traffic within their lands, and it is only reasonable that they should have the power so to control the traffic.

It should be appreciated that on the senates in these days are included representatives of the staff and student bodies who, if they find they are faced with such problems, have a direct say in all the decisions that will be made.

It could be thought that there are sinister implications in some of these amendments such as that which says that the senate will have the power to regulate the conduct of persons upon those lands.

This has a very dictatorial sound to it, but I think that is all it means. As the senate is a democratically constituted body I think we can feel it will exercise these powers responsibly.

The amendment contained in clause 3 would appear to give the senate power to issue what amounts to identity cards; a proposal that normally meets with very vigorous objection—I would think it would meet with such objection from members on the Government side—although there is one country, namely Rhodesia, which has in fact recently issued identity cards to everybody.

Again, I think we must appreciate the nature of the senate and I feel it will use these powers responsibly. With those words I indicate our support for the Bill.

The Hon. G. C. MacKinnon: Thank you.

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.

SECURITIES INDUSTRY BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [3.11 p.m.]: I move—

That the Bill be now read a second time.

This Bill is intended to consolidated and amend the law relating to trading and dealing in securities, by which term is meant debentures, shares, stocks, bonds unsecured notes, and also interests within the meaning of section 76 of the Companies Act.

I feel it is desirable to give members some explanation of the history behind the Bill, and the manner in which its preparation developed.

A body known as the Standing Committee of Attorneys-General, representative of all States and the Commonwealth, cooperated prior to 1973 in the formulation of many laws, including company laws, and, from the late 1960s onwards, laws dealing with the securities industry.

In 1970 in this State, and at approximately the same time in the States of New South Wales, Queensland and Victoria, the first Securities Industry Acts were passed, but those Acts were intended principally as a measure to implement some licensing requirements.

It was intended that from the experience gained in the administration of those Acts, a more sophisticated and effective Securities Industry Act would be prepared on a uniform basis for enactment throughout Australia at a later stage.

By 1972 all States and the Commonwealth had reached the stage of preparing a further draft of much more extensive securities industry legislation to be enacted in all States and territories on a uniform basis.

However, in 1973 the then Commonwealth Attorney-General (Senator Murphy) announced that the Commonwealth Government intended to proceed unilaterally in the field of both company law and securities industry law and, as members know, the Commonwealth Government proceeded to introduce a Bill known as the Corporations and Securities Industry Bill and withdrew from the working party on securities industry legislation which had been established by the Standing Committee of Attorneys-General.

The Commonwealth Bill is still before the Senate, and has been referred to a Senate Select Committee which is still receiving and considering numerous submissions, including submissions by State Governments.

It is the view of the Governments of the four States which are parties to the Interstate Corporate Affairs Agreement—that is, this State and the States of New

South Wales, Victoria and Queensland—that the passage of the Commonwealth Bill would have most serious consequences to the commercial and business community and the public generally.

There are substantial areas in which the constitutional validity of the Commonwealth Bill is extremely doubtful, and it is obvious that if the Bill were enacted, operated upon for any length of time and then found to be invalid in any substantial area of its application, the consequences would be very grave.

Besides these constitutional difficulties, the provisions of the Commonwealth Corporations and Securities Industry Bill have been the subject of considerable valid criticism in many areas.

This Government, and the Governments of New South Wales, Victoria and Queensland, in their submission made to the Senate Select Committee earlier this year, again offered to co-operate with the Commonwealth on a joint basis with a view to having satisfactory securities industry legislation enacted by all Governments to operate in the States and territories of the Commonwealth.

The offer made by the four States was to develop a comprehensive co-operative legislative and administrative scheme for Australian company law, including securities industry law, but no response has been received to the offer, though it attracted immediate support from some areas of the business and commercial community.

In making their submission along these lines, the four States referred to the obvious benefits that had been obtained from the co-operative approach between them and achieved through the Interstate Corporate Affairs Agreement.

This State and the States of New South Wales, Victoria and Queensland have, as I have already mentioned, recognised since 1970 that there is a real need for further legislation to achieve better regulation of the securities industry, particularly as a prime purpose of that legislation is to ensure the protection of the investing public. It was for that reason that a considerable amount of work had been done prior to 1973 on the preparation of a completely new securities industry code.

Shortly after this State became a party to the Interstate Corporate Affairs Agreement, the four States concerned set out to complete the task of preparing new securities industry legislation which had been abandoned temporarily when the Commonwealth made its announcement in 1973.

The Bill now before the House represents the legislation which all four States have agreed to introduce on a completely uniform basis in the spring sessions of their respective Parliaments.

I shall now proceed to explain the principal provisions of the Bill and, in doing so will, where appropriate, indicate major extensions or changes from the present Securities Industry Act, 1970, which the Bill proposes be repealed.

Under the Securities Industry Act, 1970, dealers, dealers' representatives, investment advisers, and investment advisers' representatives were required to be licensed by the Registrar of Companies, who has since been retitled the Commissioner for Corporate Affairs.

Members of the Perth Stock Exchange and their servants were exempt from the 1970 licensing requirements, but members of a stock exchange of another State and their servants were not exempt if they carried on business in this State. This Bill proposes to extend the licensing requirements to members of the Perth Stock Exchange and their servants.

In furtherance of the principles of interstate recognition inherent in the Interstate Corporate Affairs Agreement, persons licensed in a particular capacity—say, as a dealer or dealers' representative, in another State which has passed uniform legislation corresponding with this legislation—will be treated as recognised licensees, and will not be required to obtain local licenses.

Correspondingly, of course, a dealer licensed under the Western Australian legislation will be regarded in New South Wales, Victoria or Queensland as a recognised licensee, and will not be required to obtain a license under the law of that other State to carry on similar business in that State.

It is obvious that the creation of the new concept of recognised licensees will obviate the need for multiple applications and licensing, and will effect considerable savings in costs and administration, both to industry and to the respective corporate affairs offices.

It is implicit in the Interstate Corporate Affairs Agreement that the respective corporate affairs offices will adopt common standards for the consideration and granting of licenses, and in fact it is envisaged that identical forms of application and, to the greatest possible extent, common conditions will be adopted in each State.

The legislation goes further than the Securities Industry Act, 1970 in identifying particular conditions which may be included in a license granted. These conditions are designed to afford greater protection to the investing public.

The commissioner will be authorised to include in a license conditions relating to the limitation of the liability which a licensee may incur in connection with his business of dealing in securities, conditions relating to the incurring and disclosure

to the commissioner of personal liabilities arising other than from his business of dealing in securities, and finally, conditions requiring the licensee to enter into a bond in an amount not exceeding $20 000 determined by the commissioner.

As a protection against the commissioner imposing unreasonably onerous conditions in any particular case, the legislation confers on an applicant for a license a right to appeal to a court against any particular condition which the commissioner is seeking to impose, and this right is, of course, additional to a similar right of appeal against any refusal to grant, or any suspension or revocation of a license.

The commissioner is obliged to afford a hearing to any person where the commissioner proposes to refuse to grant, revoke or impose a new condition in a license, but this is in addition to and not in substitution of the right of appeal to the court.

I turn now to the provisions of the Bill dealing with the regulation of stock exchanges. As in the 1970 legislation, a stock exchange may not be operated unless it is a body corporate, and unless it has been approved by the Minister. The Perth Stock Exchange has already been approved under that legislation and it will not require further approval under this legislation to continue to operate as a stock exchange; but no new exchange can commence operations without ministerial approval. There are, however, significant changes in other aspects concerning both the existing and any new stock exchange.

Any existing stock exchange will be required within two months of the commencement of the legislation to submit its listing rules to the Minister for approval, and the Minister will have a further period of two months in which to disallow any provisions of the listing rules which he considers undesirable.

Thereafter, no alteration to the listing rules of an approved stock exchange will be effective until it has been submitted to the Minister for his consideration, and the Minister has determined that the alteration should not be disallowed. These provisions will enable the Minister to prevent the adoption by stock exchanges of listing rules which appear to be contrary to the interests of the investing public.

Another new provision in the Bill concerning listing rules is a provision which, in effect, gives to the listing rules a degree of statutory recognition. Under the Bill, the commissioner, or any person aggrieved by the failure of another to observe, enforce or give effect to the listing rules of a stock exchange, may apply to the Supreme Court for an order to secure compliance with the listing rules.

Another important change which the Bill would make in relation to stock exchanges, is to confer on the commissioner a right of full and free access to the trading floor of the stock exchange, and to all books kept by a stock exchange or any broker.

Moreover, the stock exchange is obliged to provide such assistance to the commissioner as he reasonably requires for the performance of his powers and duties. There are no corresponding provisions in the 1970 Act.

Part VIII of the Bill is an innovation in this State, although analogous provisions have been in force in New South Wales and Victoria for some years.

That part requires every sole trader and member firm of a stock exchange to lodge a deposit with the stock exchange, the quantum of the deposit being calculated as a specified percentage of the balance in his trust account over a preceding period. The stock exchange is under a duty to invest the moneys so deposited with it in the manner directed by the Bill, and the income earned from that investment is, in turn, to be paid to the stock exchange fidelity fund. These requirements are similar to those imposed under other legislation upon legal practitioners.

The Bill makes substantial alterations to the 1970 provisions dealing with the fidelity fund required to be maintained by a stock exchange.

Under the Bill sole traders or member firms are required to make contributions direct to the fidelity fund maintained by the stock exchange in lieu of the present practice whereby the stock exchange makes the contributions out of membership fees received from its individual members.

The legislation also enables a stock exchange to impose additional levies directly on its members, to be paid direct to the fidelity fund. The method of making claims against the fidelity fund and the persons to whom payments may be made are generally similar to those already in existence under the 1970 Act.

It is noted that the Bill requires a stock exchange to keep full and proper accounts, both of the deposits required to be made from stock brokers' trust accounts, and of the fidelity fund, and requires the stock exchange to appoint a registered company auditor to audit those accounts. Copies of the auditor's reports and of the balance sheets to which the reports relate are required to be furnished to the commissioner.

There are significant new provisions which apply to persons dealing in securities.

The provisions of the Bill requiring dealers to keep accounts are far more elaborate than those contained in the 1970 legislation. In addition, the Bill seeks to strengthen the position of auditors of dealers' accounts, firstly by conferring on them greater protection against actions for

defamation in apropriate circumstances, and secondly, by providing that a dealer may not dismiss an auditor without the consent of the commissioner or the court. The Bill also provides that an auditor cannot resign without the consent of the commissioner or the court.

It has long been accepted that stock brokers and other dealers dealing with the public, and their representatives and investment advisers should be under an obligation to disclose any pecuniary interest or benefit which they are likely to derive from dealings in securities with, or their recommending of securities to, the public.

Some provisions along those lines are contained in the Securities Industry Act, 1970, but experience has since shown that those provisions are inadequate. The Bill, through a combination of its provisions, will impose more stringent and further-reaching obligations than the 1970 Act.

Perhaps the most important change is that a licensee in any capacity is not merely obliged to disclose his own interest to a client or person to whom he sends a letter or circular of recommendation of any particular securities, but he is also required to disclose the interests of any of his associates.

The circumstances in which a person is deemed to be an associate of another person are set out at length in clause 6 of the Bill, and the circumstances in which a person is deemed to have an interest in securities are set out in clause 5.

It is the object of those two clauses to ensure that the disclosure provisions cannot be avoided by the establishment of trusts, nominee companies, unwritten arrangements, or other devices by which the licensee concerned might otherwise hide his interest in any securities in which he is dealing, or which he is recommending to the public.

The Bill also goes further than the 1970 legislation by preventing licensees from having circulars and letters of recommendation signed by other persons in order to avoid disclosure, and prohibits a dealer from causing or permitting a letter or circular to be sent out other than under his own name or the name of one of his partners, and in the case of a corporate licensee, unless it is signed by a director, manager, or secretary of the corporation.

The Bill prohibits a dealer from charging brokerage or commission of any kind when he buys or sells securities in his own right—that is, as principal—except where he is dealing as the management company of a unit trust and the commission or brokerage is charged in accordance with the trust deed. This is to accord with the general principle that an agency fee should never be payable when the person purporting to act as agent is, in fact, dealing with his own property.

Another measure to better the position of the investing public is the more extensive provision made in the Bill in relation to contract notes. This is intended to ensure that a person dealing with a dealer is fully aware of the rate of commission or brokerage which he is being charged, particularly in circumstances when the rate of commission concerned is not that fixed by a stock exchange, or where the transaction is an off-market transaction.

The enforcement of these more elaborate provisions, all of which are aimed at requiring full disclosure in cases where a licensee's interests may be in conflict with those of his clients, are to be aided by Part VII of the Bill, which requires the maintenance by licensees and financial journalists of a register of their interests in securities.

Part X of the Bill is the part which deals with the most serious misconduct in connection with trading and dealing in securities; namely, market rigging and manipulation, insider trading, and similar activities.

The following activities are specifically prohibited and are subject to severe penalties—

(a) creating a false or misleading appearance of active trading in securities on a stock market;

(b) creating a false or misleading appearance with respect to the market for, or the price of, securities on a stock market;

(c) inflating, depressing, or causing fluctuations in the market price of securities by means of fictitious purchases or sales, that is to say, purchases or sales in which there is no actual change in beneficial ownership;

(d) making false statements or disseminating information which is false or misleading in a material particular likely to induce the sale or purchase of securities by other persons, if the person making the statement or disseminating the information does so either without caring whether the statement or information is true or false, or when he knows or ought reasonably to know that it is false or misleading;

(e) attempting to induce a person to deal in securities by making a misleading, false or deceptive statement, promise or forecast, or by dishonestly concealing material facts.

The penalty for each of those offences is a fine of $10 000 or five years' imprisonment for an individual, or a fine of $50 000 where the offence is committed by a corporation.

One of the most important subjects dealt with in part X is insider trading which, as members will know, may broadly be described as dealing in securities at a time when the person concerned is, by virtue of his position in or in connection with a company, in possession of confidential market-sensitive information not yet made public, whereby he is in a position of special advantage.

Insider trading was formerly dealt with partly by section 124, but principally by section 124A of the Companies Act, and it is proposed to repeal the latter section. One of the deficiencies of section 124A of the Companies Act is that it applies only to officers of a corporation who were in possession of confidential information, and did not extend to persons who had been officers of a corporation but had ceased to be.

Nor did section 124A extend to persons who took advantage for themselves of confidential information given or sold to them by officers of a corporation. The new provisions are far more elaborate, and are designed to give the investing public much greater protection than does section 124A.

Members may also note that not only does the insider trading clause—clause 112—create an offence punishable by a fine of $10 000 or imprisonment for five years, or by a fine of $50 000 if the offence is committed by a company, but it also confers specific civil remedies upon persons who suffer loss from dealing in securities with an insider trader.

It should also be noted that similar penalties and civil liability are imposed on officers of the Corporate Affairs Commission if they deal in securities while they are in possession of market sensitive information which has not been made public, and which they obtained in the course of their employment.

Part X also contains provisions designed to ensure that licensees and their employees do not get advantages over members of the public who are their clients by, first of all, requiring dealers to give priority to their clients' orders over their own, and, secondly, by imposing restrictions on the way in which employees may deal in securities and preventing their employers from giving them credit for that purpose.

I feel confident that members will agree, after perusing the Bill, that this State, and the States of New South Wales, Queensland, and Victoria have, in their co-operative venture, succeeded in producing a vastly improved legislative scheme for the proper regulation and control of the securities market.

I commend the Bill to members.

Debate adjourned on motion by the Hon. R. Thompson (Leader of the Opposition).

INDUSTRIAL ARBITRATION ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly and, on motion by the Hon. G. C. MacKinnon (Minister for Education), read a first time.

JUSTICES ACT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

COMPANIES ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [3.33 p.m.]: I move—

That the Bill be now read a second time.

This State, on the 31st March, 1975, became the fourth State to sign, and become a party to, the interstate corporate affairs agreement.

Following the signing of that agreement on behalf of Western Australia, the Companies Act Amendment Bill, 1975 was passed in the autumn sitting of this session of Parliament to effect the necessary changes to the Companies Act to enable the necessary reciprocity to be accorded, particularly in relation to the concept of recognised companies.

The Companies Act Amendment Act, 1975, represented only the first step towards achieving the objects of the interstate corporate affairs agreement.

That agreement enunciates as its first and principal intention, "to achieve greater uniformity in the law relating to companies . . ." and the Bill now before the House seeks statutory realisation of that intention.

Shortly after the interstate corporate affairs agreement was first signed by the States of New South Wales, Victoria, and Queensland, a body known as the Interstate Corporate Affairs Commission was established, as contemplated by the agreement, to be the body to co-ordinate and implement the measures necessary to achieve the objects of the agreement.

So far as the attaining of uniformity is concerned, the commission, together with the assistance of corporate affairs offices of the participating States which are signatories to the agreement, set about comparing and identifying the differences between the Companies Acts of the respective States. When Western Australia became a party to the agreement in March, 1975 the same examination was undertaken objectively to identify the differences between the Companies Act of Western Australia and those of the other three States.

When the task of identifying the differences between the four Companies Acts had been completed, the Interstate Corporate Affairs Commission made recommendations to the ministerial council, which is comprised of the four Ministers in the respective States administering those Companies Acts, as to which State's provisions ought to be adopted in each case where a difference existed.

After the Ministers concerned had considered the recommendations of the commission, and reached agreement on the manner in which those recommendations should be dealt with, it was then possible for each of the four States to prepare amendments to its Companies Act which, if enacted, would result in the Companies Act of that State being identical in all revelant aspects with the Companies Acts, as similarly amended, of the other three States.

There are, of course, some areas in which total uniformity is not possible. One instance is in relation to the protection afforded to auditors against actions for defamation. It is not possible to achieve total uniformity in this area because the law of defamation differs from State to State, the greatest difference being between the law in New South Wales and in other States; but even here uniformity was possible, at least between Victoria and this State, the respective defamation laws of those two States not being greatly dissimilar.

There are other differences of a more technical or procedural kind which are unavoidable because of differences which exist in other Acts of the various States which, in turn, affect the Companies Act. The Evidence Acts, Land Acts, and Strata Titles Acts are some examples.

Although the Bill before the House is a lengthy measure, the majority of its provisions by far are concerned solely with attaining uniformity in language, uniformity in section and subsection numbering, and the like. There are involved, in most instances, no significant changes in the law.

The prospect of attaining uniformity in language and in numbering may not be regarded as a result of a purely technical exercise of little impact, as it will produce worth-while benefits to the community and to the corporate affairs officers charged with administering the Acts in the four States.

There are obvious advantages in the attaining of uniform interpretation of the various Acts, and in the greater value of future judicial decisions from the point of view of precedent. Further, on the passing of this legislation, it would become possible for a person concerned with a particular provision of the Companies Act immediately to be able to identify the corresponding provision in the Acts of the other three States. More importantly, it will be possible for completely uniform regulations, uniform forms, and uniform office and commercial practices to be adopted throughout the four States.

Furthermore, it is envisaged that a single set of forms will be prepared and printed for use in any of the States, with the added advantage that it will no longer be necessary for persons who are lodging documents in more than one State to procure the appropriate form for a particular State.

This will be particularly advantageous for company secretaries and for legal and accountancy firms who, on behalf of their clients, are constantly preparing and lodging forms required by the Act.

I have already mentioned that the majority of the provisions of the Bill effect no significant change in the law, so I would now like to turn to such of the provisions of the Bill as will effect significant changes to the Companies Act in Western Australia.

The first amendments of any real consequence which I wish to explain to members relate to fees and involve amendments to section 7, and the substitution of a new second schedule.

Members will be aware that, as a consequence of the adoption of the recognised company concept earlier this year, forms of annual return and other documents which were once required to be lodged in this State by foreign companies incorporated in New South Wales, Victoria, or Queensland are no longer required to be lodged here. Members may also recall that the Bill passed earlier this year provides the procedure whereby companies may reserve a name in one or more of the participating States.

The States have agreed upon an apportionment between them of parts of the fees received for lodging annual returns, to be effected by a division amongst them of a component of the fees received on the lodging of annual returns by companies which have reserved names, and carry on business in other States. The division will be calculated according to the proportions of respective numbers of foreign company registrations in the States as at the 31st December, 1973.

Fees received for reservations of names in participating States and for searches conducted in participating States will also be divided in the manner set out in the agreement.

This apportionment of fees will substantially compensate Western Australia for the loss of revenue incurred by the fact that New South Wales and Victorian companies operating in this State are no longer required to lodge annual returns as foreign companies.

Members will appreciate that it is implicit in any fee-sharing arrangement that changes in the scales of company fees must

hereafter be contemporaneous, at least in respect of the fees liable to apportionment. Accordingly, it seems to the Government to be desirable to provide that the fees may also be altered by regulation in order to confer the necessary flexibility in timing, rather than by recourse to amending the Act.

The next substantial change in the law concerns the tenure of office of auditors. There exist at the moment substantial differences between the States on this subject, and the Bill seeks to bring the Companies Act of Western Australia into line with the Acts of Victoria and Queensland in this regard. New South Wales has agreed similarly to amend its Act.

Another amendment of some significance is the repeal and re-enactment of section 6A of the principal Act. That section specified the circumstances in which a person was deemed to have an interest in a share for the purposes of other provisions of the Act dealing with the disclosure of substantial shareholdings and the disclosure of directors' interests, and also with takeover offers. The present section 6A applies a single set of rules for determining whether a person has an interest in a share, and those rules apply equally to the three different groups of provisions which I have mentioned.

The New South Wales Companies Act, on the other hand, has taken a different approach by creating a concept of a relevant interest and by applying different rules for determining whether a person has relevant interest according to the context of the provisions in which the term is used.

This Bill seeks to follow the New South Wales approach, and accordingly members will see from a perusal of proposed new section 6A that the circumstances in which a person is deemed to have a relevant interest in a share will differ according to whether the circumstances concerned are related to a takeover offer, or to the obligation of a director to disclose his interests, or to the disclosure of a substantial shareholding. The States of Victoria and Queensland have also agreed to make similar alterations. There are some consequential alterations throughout the Bill stemming from the enactment of the new section 6A.

There are considerable differences as between the Companies Acts of the four States on the matter of discretionary powers. In the Western Australian Act some powers are conferred on the Governor-in-Executive Council, some on the Minister, and others on the commissioner. It seems desirable that in each State similar powers ought to be exercisable by correspondingly similar persons.

An examination was made of the context of each discretionary power in the Companies Acts of the four States, and it was resolved that where the exercise of a discretionary power is either fettered or accompanied by conditions precedent or guidelines, or alternatively is subject to review by a court, the power concerned could properly be vested in the commissioner.

On the other hand, where there are no guidelines or conditions precedent, and there is no right of review conferred by the Act on a court, it was recommended by the Interstate Corporate Affairs Commission that the power should be vested in the Minister. The Bill provides accordingly.

The Bill alters the present Act in relation to the term of office of auditors. At present an auditor holds office until the end of the fourth annual general meeting of the company held after his appointment. Queensland and Victoria give an auditor an indefinite term of office subject to removal or resignation, and New South Wales has retained the original 1961 provision whereby an auditor is appointed from year to year.

It is desirable in the interests of the proper auditing of accounts of companies that auditors should not be liable to be removed at the whim of the company even as infrequently as once every four years, and the Bill provides that the office of auditor becomes vacant only when, with the approval of the Companies Auditors' Board or the court, he resigns or is dismissed by the company or, of course, if he dies or becomes disqualified for other reasons.

The provisions of the present Act dealing with inspections have been revised in order to facilitate inspections of books and documents in this State by persons holding office in corporate affairs offices of other States. Similar rights will, of course, be conferred by the Bills of the other States upon corporate affairs officers from this State.

At present there exist substantial differences between the New South Wales Companies Act and the Companies Acts of this State, Victoria, and Queensland in relation to prohibitions upon advertising, offering, or calling attention to prospectuses.

The provision in this State, and in Victoria and Queensland, is contained in section 40 of the respective Acts, and is limited in its application to an advertisement which offers or calls attention to an offer of shares or debentures of a corporation. The section, in effect, prohibits advertisements of that kind from containing other than very limited material by providing that any advertisement which goes beyond the prescribed limits is deemed to be a prospectus.

In the New South Wales Act, on the other hand, the equivalent sections extend beyond advertisements to notices or circulars which offer or call attention to an offer of shares or debentures. In addi-

tion, section 40A in New South Wales prohibits the dissemination of any written material which might reasonably be expected to induce the making of applications for shares or debentures at a time when a prospectus in respect of an issue of such shares or debentures has been issued or is in the course of preparation.

This Bill, with certain modifications which are also to be adopted by New South Wales as well as the other participating States, will, in effect, adopt the general approach of the former New South Wales provisions.

It is to be noted that because of the apparent breadth of the provisions, certain exceptions are provided, the principal of which is a bona fide news report or news comment. The new provisions thus continue to provide machinery whereby a newspaper proprietor who might be concerned that material he is asked to publish as an advertisement might infringe the law can get exemption from the sections by requiring the directors or promoters of the company placing the advertisement to give him a certificate acknowledging that they are aware of the contents of the advertisement and accept responsibility for it. Such a certificate absolves the publisher but renders the directors liable for the contents of the advertisement.

Finally, there is one further amendment contained in the Bill which is an entirely new provision agreed to be included in the Companies Acts of all four States. This is the amendment to section 125 dealing with the prohibitions on company loans to directors.

The present section 125 generally prohibits only the making of loans by a company to a director of the company, or to a director of another company that is related to the first-mentioned company within the meaning of subsection (5) of section 6 of the Act. There is abundant evidence to suggest that the section so limited is unsatisfactory. Its limitations were exposed in the report of the United Kingdom Company Law Committee, and the 1973 United Kingdom Companies Bill contains provisions to extend the operation of the equivalent section in the United Kingdom Act.

It would also appear that the making of loans to relatives of directors and to companies which are not related companies but are, nevertheless, connected with the lending company were a significant feature in the failure of the Barton group of companies in New South Wales.

Accordingly, this Bill and the Bills of the other three States seek to amend the section firstly to extend the prohibition to certain relatives of directors, and secondly to prohibit the making of loans to directors by companies in circumstances where the director to whom the loan is sought to be made is a director of the company in which the lending company has more than a 10 per cent shareholding. The section does not, of course, apply to the activities of exempt proprietary companies and there are exceptions to cover the cases of genuine company housing schemes and so forth.

The Government regards the introduction of this Bill, and Bills to achieve similar purposes in the States of New South Wales, Victoria, and Queensland, as a major achievement which demonstrates the efficacy of the operations of the Interstate Corporate Affairs Commission, and I commend the Bill to members.

Debate adjourned, on motion by the Hon. R. Thompson (Leader of the Opposition).

Sitting suspended from 3.48 to 4.06 p.m.

GOVERNMENT RAILWAYS ACT AMENDMENT BILL

In Committee

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. N. E. Baxter (Minister for Health) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 23 amended—

The Hon. D. K. DANS: I have read with interest the Minister's reply to the debate. He set out to give us a number of assurances, but it still does not alter the fact that if this amending legislation were aimed only at installing parking meters at the East Perth terminal, the Bill should have said just that. I have no doubt that the Minister believes what he is saying to be true, and, in fact, that it is true. However, circumstances change so quickly that the system could very easily be used somewhere else next week.

I accept some of the reasons in the Minister's reply. However, if the legislation is simply to regulate parking at the terminal, why is not this simply spelt out? Had a Bill been introduced to the effect that it is an amending measure to provide limited parking at the interstate rail terminal the fears expressed by the three unions to which I have referred and the Royal Automobile Club would be put to rest. We all know that Governments and Commissioners of Railways change.

It is all very well for the Minister to say that we can move to disallow any by-laws. However, a number of these matters slip through. I object to the fact that this is a open-ended arrangement. I have no reason to doubt that the only railway land on which parking fees will be charged at present is that at the terminal. I thank the Minister for the information he gave to the House, but this measure goes far beyond the East Perth terminal.

The Hon. N. E. Baxter: What right does it give for other property?

The Hon. D. K. DANS: This is spelt out in the Minister's second reading speech. The Bill provides for regulated parking on railway property, and it does not limit it,

as far as I can see, to the East Perth terminal. I do not want to engage in tedious repetition about this, but the Minister knows full well what it says. If at some future stage it becomes necessary to provide for regulated parking at other places, other amendments could be brought in. I would like to hear the Minister's answer on this point.

The Hon. N. E. BAXTER: I believe the reply to this complaint was in my introductory speech. Members were assured in another place that there was no present indication to regulate parking by installing parking meters and making charges at any other area than the East Perth terminal. The Bill was framed in this way so that if it becomes necessary to apply the principle to other areas, the matter can be covered by the introduction of a by-law. The Commissioner of Railways must promulgate a by-law, have it published in the *Government Gazette*, and the by-law must lie on the Table of the House where it can then be challenged by members. I know that we do not have time to study all the subordinate legislation, and that perhaps a by-law could be missed. However, we feel this course is preferable to presenting another small amending Bill if it becomes necessary to provide for regulated parking at, say, Midland. I do not know the view of the Opposition on this matter, but the Government's view is to avoid introducing legislation for the sake of very small amendments.

The Hon. R. Thompson: Three-quarters of your legislation has been like that.

The Hon. N. E. BAXTER: Sometimes it is unavoidable. Where it is possible, we feel we should pass legislation so that these small matters can be covered by regulations in the future. If it is not necessary to control parking at Midland, I am quite certain that no by-law will ever be prepared. However, it may be that people who do not use the railways are cluttering up the parking area, and in this case the commissioner may feel justified in preparing a by-law. I mention this purely as a possibility and to explain the reason that the legislation was drafted in this way. I cannot see much wrong with it, and any by-law can be challenged in the House.

The Hon. D. K. DANS: Perhaps that is quite a good explanation from the Minister. However, my mind is coloured by the other assurances we have received from time to time by Ministers of all political persuasions. It worries me to see an open-ended arrangement such as this. In his second reading speech, the Minister said—

> It will be noticed that the amendment amplifies the Commissioner's existing general powers to make by-laws regarding parking, and extends them specifically so as to authorise the charging of a parking fee wherever these areas exist.

In my opinion, that just about sews it up. The Minister goes on to say—

> Members were assured by the Minister representing the Minister for Railways in another place, that at the present time there is no intention of charging for parking in any railway land other than the area at the East Perth terminal.
>
> It is possible, however, that changing circumstances in the future may make this desirable.

At the risk of being a little tedious, I repeat that I simply do not agree with these open-ended arrangements. I feel there is a need for limited parking at the East Perth terminal, but it simply is not good enough for the Commissioner of Railways to come to the Minister and say, "We need more parking at the East Perth terminal".

This probably is why all of us are in Parliament; namely, to look after the interests of the people. After all, we are the representatives of the electors; the Commissioner of Railways and his staff have no direct confrontation with them. As far as I am concerned, this provision will allow the Railways Department to add to this list from here to eternity.

The Hon. N. E. Baxter: In a by-law, which must be approved by the Minister.

The Hon. D. K. DANS: I make this objection now so that it may be written into the *Hansard* record.

I do not think Ministers deliberately give the wrong answers to the Parliament. But by the time these things pass into law and the administrative body concerned gets hold of them, notwithstanding anything that is said in Parliament, the application of these laws often is quite different from the way they were represented when they appeared before Parliament. The Minister went on to state—

> The raising of charges in other areas could, of course, be implemented only through a by-law approved by the Government.

Every day the public is subjected to further charges. There is a direct confrontation in the way of personal income tax; the public is then hit by indirect taxes and a whole conglomeration of hidden charges, and this is one of them. I have no reason to doubt the assurance of the Minister that this provision is intended—at present, that is—to apply only to the East Perth terminal.

I do not know how long I will remain a member of Parliament, but I can assure the Committee that even if it is not very long, I will see a by-law introduced to further the commissioner's powers in respect of charging for parking.

Clause 2 contains one other very open-ended provision, and that is the scale of charges a person must pay to recover his

vehicle which has been towed away. The Minister said that if a vehicle has been abandoned on the highways and byways of railway property it should be towed away. I would be very happy if this is exactly what this part of the clause means.

However it does not lay down how long the vehicle must remain in a parking area before it is deemed to have been abandoned. It does not say how much shall be charged to recover that vehicle, once the Commissioner of Railways or one of his officers has deemed the vehicle to be abandoned and has had it towed away. I seriously doubt the credibility of the statement that this part of the clause has been inserted in the legislation simply to deal with abandoned vehicles. If that is its purpose, why does it not say so? It says nothing of the sort. Paragraph 2 (g) states—

> prescribing the circumstances under which an officer or servant of the Department or Commission may remove a vehicle, or cause it to be removed, from a parking or standing area to a specified place, prescribing his further powers in relation thereto, prescribing the scale of charges to be paid to recover the vehicle from that place, and authorising the Commission to hold the vehicle until the prescribed charges are paid;

Surely the Minister is not going to suggest that that paragraph deals with abandoned vehicles; it mentions nothing about abandoned vehicles. I believe the Minister has been very badly advised on this matter, because this paragraph simply lays down the scale of charges for getting the vehicles back.

The Hon. R. Thompson: What if a person does not want the vehicle back?

The Hon. D. K. DANS: If no-one claims the vehicle I suppose it can be deemed to have been abandoned; but this paragraph does not deal with abandoned vehicles.

The Hon. N. E. Baxter: It does, partly.

The Hon. D. K. DANS: I do not think anyone would suggest that the Parliamentary Draftsmen are so inept as to lay down in a paragraph the powers of the commissioner to have a vehicle towed away, and the scale of charges one must pay to recover the vehicle from that place, if it were meant to deal only with abandoned vehicles.

Am I to understand that if anyone wishes to abandon a vehicle he has simply to drive along to the East Perth terminal and leave it there, and the commissioner will have it towed away and stowed away? What are they going to do with the vehicle? How will it be determined whether or not a vehicle is abandoned? The Railways Department could end up with a great stack of vehicles which could fill the showgrounds four or five times over. It will have no authority to dispose of them, because the clause does not give it that authority.

I believe I know what this paragraph means; it means that if someone is foolish enough to park without paying the prescribed fee and travels to Kellerberrin or somewhere else for a couple of days—the Bill does not say for how long a vehicle may be left before it is deemed to have been abandoned—that vehicle can be towed away.

What is the situation if a vehicle is abandoned in one of the council carparks?

The Hon. N. E. Baxter: Or on the road verge.

The Hon. D. K. DANS: No, let us say a supervised parking area such as that proposed at the East Perth terminal. Who is to be the arbiter as to whether the vehicle has been abandoned, or just left? The Bill simply does not give any indication as to these matters.

This is not good enough, and I should like to hear the Minister's reply. I suggest that if the intention of this clause were to deal with abandoned vehicles, it would have said so; but it does not say that at all.

The Hon. N. E. BAXTER: Had the honourable member gone to the trouble of reading this clause, his questions would have been answered. Proposed new paragraph (23b) states—

> Generally regulating the control, supervision and management of parking or standing areas set aside under by-laws made pursuant to paragraph (23a) of this section and in particular—

Paragraph (g) of proposed paragraph (23b) states—

> prescribing the circumstances under which an officer or servant of the Department or Commission may remove a vehicle, or cause it to be removed, from a parking or standing area to a specified place, prescribing his further powers in relation thereto . . . .

I will not read the entire paragraph, as Mr Dans has already read it to the Committee. Of course that relates to abandoned vehicles. It gives the commissioner the power to deal with vehicles left in railway parking areas. I think that is as clear as it could possibly be.

Let us consider what happens when a car is left for any length of time in a supervised parking area, or on the road verge. It may have been stolen, and abandoned there. As soon as the police realise the vehicle probably has been abandoned, they get in touch with the owner of the vehicle and ask him to remove it. If it is not removed, the police simply tow it away and put it in the police yard.

The same situation will apply in respect of this legislation. The wording used by the Crown Law Department is similar to

the wording used to confer such powers on the police. I trust that explanation is acceptable to the honourable member; if it is not, I cannot help it.

The Hon. D. K. DANS: If I were confused when I started to speak on this paragraph, I am thoroughly confused now.

The Hon. N. E. Baxter: You just cannot understand English.

The Hon. D. K. DANS: I think my grasp of the English language is reasonable, although I would not say it is perfect. As I understand the Minister's explanation, we have moved from a question of abandoned vehicles to one of stolen vehicles.

The Hon. N. E. Baxter: I raised the question of abandoned vehicles first; the matter relating to stolen vehicles was a hypothetical case.

The Hon. D. K. DANS: Surely this legislation does not envisage that the Railways Department will take over the powers that are normally vested in the Police Department or the Road Traffic Authority. I am sure the Minister did not mean what he said; if he did then the provision in paragraph (g) becomes more damaging.

The Hon. N. E. Baxter: I was giving an illustration of how the Road Traffic Authority would deal with such a vehicle.

The Hon. D. K. DANS: I do not think the Minister meant what he actually said. Does he say that the provision in paragraph (g) deals only with vehicles abandoned in railway parking areas?

The Hon. N. E. BAXTER: I did not say nor did I intend to say that paragraph (g) dealt only with abandoned vehicles. I referred to abandoned vehicles, and then to vehicles left in parking areas beyond the permitted period. If a vehicle is left for too long a period and the parking meter has expired—say it is left there for two or three days—then the officers of the department would get in touch with the traffic authority for the purposes of contacting the owner of the vehicle. If the owner cannot be contacted the department will then tow it away to a police yard where it is kept until the owner claims it.

No vehicle should be left in a parking bay, a street, or a public area for too long without someone in authority being able to take action. If the owner cannot be contacted the Road Traffic Authority should be able to remove the vehicle.

The Hon. D. K. DANS: The Minister referred to a vehicle being left for a long time, but I do not know what that period constitutes. Let me refer to what the Minister said in his second reading speech. He was dealing with my comments when he said—

> The honourable member referred to people who leave their vehicle parked for such a period that it could be towed away. Without this provision, the area concerned could become a resting place for abandoned vehicles. Somebody could abandon a vehicle there and therefore it is necessary to have this provision included in the legislation. The power would only be invoked as a last resort. Members can well imagine that a vehicle could be abandoned and left in the area for many weeks. If the commissioner did not have this power, he would have to leave it in the parking area and it would be a pretty difficult situation to deal with.

I am not prepared to accept the Minister's explanation. In his reply he dealt only with an abandoned vehicle. When I asked him whether the provision in paragraph (g) dealt only with abandoned vehicles he said, "Definitely not." I believe him.

If the owner of a vehicle did abandon it at a railway parking area it would be necessary to provide the Commissioner of Railways with power to remove it. The Minister then said he did not agree with me that the provision dealt only with abandoned vehicles, and he referred to the case of someone leaving a vehicle in a parking area, street, or public place for a long time.

In all my experience in this Parliament I have not seen any Bill introduced which contained a provision in these term, "Your vehicle shall be towed away if you leave it there too long."

The Hon. N. E. Baxter: I qualified that. I mentioned a day or two.

The Hon. D. K. DANS: The period is still not specified. To refer to a long time is to speak in generalities. If the Minister meant what he said he should have provided in these terms, "If your vehicle is left there for a day or two and the Commissioner of Railways or one of his officers deems it has been left there too long, it will be towed away. You will get it back by paying a certain sum." That is the way the provision should have been set out.

An abandoned vehicle has nothing to do with this provision. Abandoned vehicles are dealt with under other laws. I could imagine a situation where a person leaves his vehicle in a parking bay and goes away on a six months' trip. That space could well be used to the advantage of the motoring public. In those circumstances the commissioner should be given the power to have the vehicle towed away.

All that is necessary is to set out in the provision, "Under the following circumstances the commissioner shall have the power to remove the vehicle to a certain place as the vehicle has been left there in excess of X number of days without the authority of the commissioner. You will be required to pay a certain amount of money to recover the vehicle."

As the provision is worded, if a person parks his vehicle for three hours in a parking bay with a two-hour meter, it would be reasonable to expect the vehicle to be towed away. The Minister is laughing at my assumption, but it is the kind of situation which prevails in other States. What is proposed in the Bill refers to parking of vehicles at the East Perth terminal.

The Hon. N. E. Baxter: It does not mention the East Perth terminal.

The Hon. D. K. DANS: That is the intention. If it does not cover the East Perth terminal, what does it cover? This clause gives very wide powers to the Commissioner of Railways to have vehicles towed away. I do not know why such powers have been included. The provision in paragraph (g) does not deal with abandoned vehicles; it merely states that the Commissioner shall hold the vehicle until the prescribed charges are paid.

The Hon. N. E. BAXTER: I have been in Parliament for a long time, but I have not seen any Bill which spells out all the details; which crosses all the Ts and dots all the Is. That is done when the by-laws are drawn up and promulgated. Furthermore such by-laws will be laid on the Table of the Chamber, and will be subject to the scrutiny of members. The by-laws go from the commissioner to the Minister for vetting before they are printed in the *Government Gazette* and laid on the Table of the Chamber. If all the details have to be included then I am afraid we will have many long Bills.

What is an abandoned vehicle? It could be a vehicle which a person wants to get rid of.

The Hon. D. K. Dans: That would be a stolen vehicle.

The Hon. N. E. BAXTER: It is an abandoned vehicle, although it might be abandoned by the person who stole it.

The Hon. D. K. Dans: That is a stolen abandoned vehicle.

The Hon. N. E. BAXTER: That is another abandoned vehicle. In other cases vehicles could be left at parking bays or public places by their owners who did not intend to leave them there for too long. The owner of such a vehicle might sustain an injury and be admitted to hospital, or he might take ill and be unable to return to pick up his vehicle. In such circumstances if the abandoned vehicle has a number plate the department will make inquiries to find out who owns it. If the owner is not prepared to come and pick it up, it will be towed away. This applies to abandoned vehicles, as well as other vehicles which are not regarded as being entirely abandoned.

The Hon. D. K. DANS: From what the Minister has said I should abandon all hope of getting any logical explanation from him!

The Hon. N. E. Baxter: You will not accept a logical explanation.

The Hon. D. K. DANS: In his reply the Minister used the word "abandoned" many times. He has said that this deals with an abandoned vehicle. I would ask him to give me an assurance that is what the provision means.

The Hon. N. E. Baxter: I said it did, but it also has other features.

The Hon. D. K. DANS: Finally, the Minister gave a resume of the different meanings of "abandon".

The Hon. N. E. Baxter: That is right, and which I thought were rather informative.

The Hon. D. K. DANS: I hope that when the by-law is published the regulations will be similar to those which operate at the airport, and other tow-away areas in Australia. In that case, the length of time a vehicle may remain in an area is specified. I consider the length of time should be spelt out in the Bill now before us. We should not be left in the air without any knowledge of what the by-laws are likely to incorporate.

I am now as clear as mud about the matter but I do not want to debate this clause any longer. I only hope that what the Minister has said is somewhere near the mark. However, I think I am reasonably correct in what I consider will be the case. I am not arguing that particular point. I am arguing the fact that we are expected to accept an amendment without receiving sufficient detail of what it seeks to do.

The Hon. N. E. BAXTER: If the honourable member can show me any Act which specifies what is to happen to vehicles considered to be abandoned, I will take the Bill back to the Minister responsible for it to see if the provision can be included.

The Hon. R. T. LEESON: I suppose it could be said that I have abandoned my vehicle at the East Perth rail terminal for a period of two or three days at a time when I have gone to Kalgoorlie. I know of at least one other member who has done the same thing. When I return from Kalgoorlie I simply retrieve my vehicle.

Is it intended that parking meters will be installed at the rail terminal, or will the set-up be similar to that at the airport terminal where a toll is paid on the length of time a vehicle is parked?

The Hon. N. E. Baxter: It will probably be a tollgate system.

The Hon. R. T. LEESON: Well, probably! It has to be one thing or the other. This is very important because I know that vehicles are left at the rail terminal for long periods, sometimes days. If a tollgate is to be used the problem will be overcome, and a person who leaves a vehicle for any length of time will pay for it. However, if parking meters are installed it will be a different story unless

separate areas are provided for vehicles which are to be parked for long periods.

The Hon. N. E. BAXTER: I am not sure whether parking meters will be used, or whether it will be a tollgate system, but it does not really matter very much. In the situation of the honourable member who has raised the query, if he received an infringement notice I am sure that by an arrangement with the Railways Department he could have the fine annulled, as is the case when Ministers or members who are attending to parliamentary duties receive infringement notices for overparking.

The Hon. R. T. LEESON: It is all right to say that a member of Parliament might receive special dispensation but we must have regard for the general public. A member of the public can park at the airport terminal for a considerable time as long as he is prepared to pay the toll when he removes his vehicle. I believe the Railways Department requires some smartening up at the moment in order to encourage people to use the trains. I do not think the proposal now before us will encourage this patronage. We are trying to encourage people to go to Kalgoorlie for a couple of days, and if those people were able to park their vehicles while they were away that would be to the advantage of the Railways Department.

The Hon. N. E. BAXTER: I suggest to Mr Leeson that if a person intended to catch a train to Kalgoorlie, and be away for a couple of days, surely he would go to the authorities at the East Perth terminal and advise them that he would be leaving his vehicle for that period. That is the course of action I would take either as a private individual or as a member of Parliament. This is something which can be overcome and I do not think there will be any worries.

The Hon. D. K. Dans: It may be cheaper to catch the train and abandon the vehicle.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

MOTOR VEHICLE DEALERS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 21st October.

THE HON. D. W. COOLEY (North-East Metropolitan) [4.55 p.m.]: The Opposition has no quarrel with the contents of this Bill. We see it as an extension of a very excellent measure introduced by the Tonkin Government during its term of office. The excellence of the Bill is reflected in the comments by the Minister, during his second reading speech, when he said—

> It is interesting to note that the Bureau of Consumer Affairs has reported a fall off in complaints covering secondhand motor vehicle purchases from consumers following the introduction of the Act and its licensing system.

It appears that there was consultation, in respect of amendments, with the Australian Automobile Dealers Association, the Motor Vehicle Dealers Licensing Board, and the Commissioner for Consumer Affairs.

The measure will tighten up some laws in regard to the licensing of salesmen, and premises. The Bill is not controversial, and we have pleasure in supporting it.

THE HON. N. E. BAXTER (Central—Minister for Health) [4.56 p.m.]: I thank the honourable member for his comments and his acceptance of the Bill, and I commend the second reading.

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.

House adjourned at 4.59 p.m.

Legislative Assembly

Thursday, the 23rd October, 1975

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

QUESTIONS (19): ON NOTICE

1. LAND

Gosnells: Government Acquisition

Mr BATEMAN, to the Minister for Urban Development and Town Planning:

(1) Is it a fact the Government is buying land in the Gosnells area?

(2) If "Yes", from whom and for what purposes?

Mr RUSHTON replied:

(1) Yes.

(2) The MRPA is buying land in Gosnells and other parts of the metropolitan region as part of its on-going responsibility of implementing the Metropolitan Region Scheme. The Urban Land Council (Interim) has bought land in Gosnells but I understand it is not currently purchasing land in this shire.