

Legislative Council

Tuesday, 3rd September, 1957.

CONTENTS.

	Page
Assent to Bills	1155
Question: Local government, per capita rating	1155
Bills: Occupational Therapists, 3r.	1155
Nollamara Land Vesting, 3r., passed	1156
Coal Miners' Welfare Act Amendment, 2r., Com., report	1156
Country Areas Water Supply Act Amendment, 2r.	1156
Juries, 2r.	1156
Trustees Act Amendment, 1r.	1162
Audit Act Amendment, 1r.	1162
Bread Act Amendment, 1r.	1162
Public Service, 2r.	1162
Traffic Act Amendment (No. 1), 2r.	1164
Newspaper Libel and Registration Act Amendment, 2r.	1166
Stipendiary Magistrates, 2r.	1167
Local Government, Com.	1170

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

ASSENT TO BILLS.

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

- 1, Interpretation Act Amendment (No. 1).
- 2, Justices Act Amendment.
- 3, Local Courts Act Amendment.
- 4, Legal Practitioners Act Amendment (No. 1).

QUESTION.

LOCAL GOVERNMENT.

Per Capita Rating.

Hon. H. K. WATSON asked the Minister for Railways:

With reference to the information concerning the Nedlands Municipality, as furnished in answer to the question asked by me on the 20th August, 1957, will he kindly furnish similar information in respect to:—

- (1) The City of Perth.
- (2) The Municipality of Northam.
- (3) The Municipality of Kalgoorlie.
- (4) The Municipality of Albany.
- (5) The Municipality of Geraldton.
- (6) The Melville Road Board.
- (7) The Perth Road Board.
- (8) The Bayswater Road Board.
- (9) The Kojonup Road Board.
- (10) The Koorda Road Board.
- (11) The Goomalling Road Board.
- (12) The Harvey Road Board.
- (13) The Kellerberrin Road Board?

The MINISTER replied:

The information regarding land tax asked for by the hon. member could be obtained only by the analysis of a very large number of tax assessments. This would take a long time and involve the Taxation Department in considerable cost. Approximate information was given to the hon. member in respect of a previous question regarding the Nedlands Municipal District and this required much detailed work by the Taxation Department.

In some of the areas referred to by the hon. member valuations are not up to date, and approximations might prove very misleading.

The other information asked for by the hon. member is:—

Local Authority.	Adult Population 1954 Census.	Per Capita Payment Per Adult on Latest Rate Figures Available.
		£ s. d.
(1) City of Perth	66,971	0 19 6
(2) Municipality of Northam	3,275	8 14 7
(3) Municipality of Kalgoorlie	5,993	7 3 0
(4) Municipality of Albany	4,968	12 14 10
(5) Municipality of Geraldton	4,657	10 11 8
(6) Melville Road Board	11,458	7 18 11
(7) Perth Road Board	30,647	7 11 3
(8) Bayswater Road Board	8,407	6 3 7
(9) Kojonup Road Board	1,438	10 13 7
(10) Koorda Road Board	485	17 17 4
(11) Goomalling Road Board	925	16 0 1
(12) Harvey Road Board	3,730	4 1 3
(13) Kellerberrin Road Board	1,382	11 6 10

BILL—OCCUPATIONAL THERAPISTS.

Third Reading.

HON. E. M. DAVIES (West) [4.42] in moving the third reading said: Some information was asked for, and I have endeavoured to obtain it from the various departments. The question of the issuing of diplomas was raised. The Crown Law Department has advised—

The board has the power under the Bill to appoint staff, including examiners. Therefore the board will conduct examinations.

The board under Clause 7, paragraph (k), is given the power to make regulations to issue diplomas.

The other question concerned the representative of the Senate on the board. This is to provide liaison with the medical school. As this is an auxiliary medical service, we hope to keep the training at a high level and co-ordinate it with current medical practice. I move—

That the Bill be now read a third time.

HON. J. G. HISLOP (Metropolitan) [4.43]: It is helpful to know that this board has the power to hold examinations and grant diplomas. But it is somewhat distressing that two Bills, which purport to do exactly the same thing in very much the same scheme of training, have such different wording. In one, the board is

empowered, as it is under the Physiotherapists Act, specifically to hold examinations, and it has a specifically worded clause which grants it the right to issue diplomas; whereas, under this Bill, both the ability to employ and pay examiners and to grant diplomas is cloaked in some other wording, which gives one the feeling that neither of these powers exists in the board.

Surely when documents of this sort are being prepared for consideration by Parliament, it would be much better to adhere to a standard form of procedure and presentation to the House; otherwise we will find ourselves in some degree of doubt by having Bills of a similar nature, but with different wording, presented to us.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

BILL—NOLLAMARA LAND VESTING.

Read a third time and *passed*.

BILL—COAL MINERS' WELFARE ACT AMENDMENT.

Second Reading.

Order of the Day read for the resumption of the debate from the 22nd August.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—COUNTRY AREAS WATER SUPPLY ACT AMENDMENT.

Second Reading.

Debate resumed from the 22nd August.

HON. SIR CHARLES LATHAM (Central) [4.47]: I have no objection to the Bill. I do not know why the distance of 1½ miles should have been fixed for this special piece of legislation; but I think there is a great deal of justice in the introduction of the measure, and therefore I support it.

On motion by Hon. L. C. Diver, debate adjourned.

BILL—JURIES.

Second Reading.

Debate resumed from the 22nd August.

HON. A. F. GRIFFITH (Suburban) [4.48]: When Mr. Heenan introduced the Bill, he said that the recommendations made by the select committee appointed last year were of considerable value in the preparation of the measure. As chairman

of the select committee, I am pleased to hear a comment of that nature coming from the Government particularly as, when I take my mind back to the debate on the question of the appointment of the select committee, I remember how it was opposed by the Government on party lines. Therefore it is some satisfaction to me to see this particular point of view put forward.

Over the past few years a number of attempts have been made to amend the Jury Act; and certain things have happened to those amendments during their passage through both Houses of Parliament. I found it interesting to look at the Votes and Proceedings to find out what took place in some instances; and I found that, throughout, there has been a desire, in one way or another, to make certain amendments to the legislation. One amending Bill which I examined was introduced by Hon. A. V. R. Abbott as a private member of the Legislative Assembly. Some of the amendments which he introduced are similar to those which have been incorporated in the legislation now before us. It was also interesting to see the fate of the Bill introduced by that hon. member—and some of its clauses in particular—when it was passing through another Chamber.

Taking as a basis the draft Bill that was on the files of the Crown Law Department in 1945, and the evidence and report of the select committee, the Government has tried to give effect to some of the recommendations made; and in some respects at least, this legislation falls far short of the intentions of the select committee.

Great emphasis is laid upon the fact that this Bill is for an Act to consolidate and amend the law relating to juries and for other purposes, including the provision for service on juries by women. I would like Mr. Heenan, when replying to the debate, to comment on the principle behind the words "and for other purposes". What do they mean when applied to the Jury Act?

The Government still seems to be insisting that mention must be made of "service on juries by women". The select committee's thoughts on that matter were that there should be no difference between men and women in regard to service on juries. Members of the select committee felt that men and women should be treated as persons. They are persons who are intended to make up the jury panel, so there is no need to go beyond the first part of the title of this Bill—"A Bill for an Act to consolidate and amend the Law relating to Juries."

As we go through the Bill we find that a number of persons are brought within its orbit, and we must bear in mind that a great deal of the evidence placed before the

select committee came from women who represented various organisations. There was also evidence from women who represented no particular organisation, but who stated their own personal viewpoint. But the predominant feature in the minds of all these ladies was that they should be entitled to serve on juries. Beyond that they did not seem to have, nor could one expect them to have, much knowledge of the Jury Act as it stands.

I received a letter from the Women's Service Guild shortly after the report of the select committee was published. It was intended to be addressed to me, but the name was spelt incorrectly. It reads as follows:—

My organisation wishes to congratulate you on the report of the select committee on the Jury Act and hopes that the time will not be too far distant when it will be implemented by a Bill making women eligible to serve on juries.

I read that letter because the Women's Service Guild is an organisation which represents a large section of women in this State, and its members were satisfied in regard to the select committee's report. The report, in respect of the service of women on juries, reads as follows:—

Your committee recommends therefore that any amending legislation should provide that any woman should be excused from attendance upon being summoned as a juror if she has a child under the age of 14 years and desires to be excused for that reason or for any other valid reason whatsoever which she might advance to the summoning officer, the court or judge, such reason being in the opinion of the summoning officer, the court or judge, a reasonable one for applying for exclusion.

When we look at the Bill, we find that the Government has paid no attention whatever to the select committee's recommendation in that regard. Instead of making a provision that women, the same as men, shall be liable and eligible to serve on juries, but that they shall be entitled to exclusion for the particular reason I mentioned—and that one only—the Government has included in this measure a provision that women shall be liable and eligible to serve, but that any woman, upon any grounds whatever, may contract out of the service.

If members are prepared to accept that clause, then, for reasons which I shall adduce as I go along, the idea that both men and women, called persons, shall serve on juries will not be effective. I will deal with that aspect straight away. The Bill envisages that a jury book shall be made up pertaining to various magisterial

districts. It provides, in the words of the Bill, that the list shall be made up to comprise—

as far as is practicable and as far as the enrolment of the respective sexes permits one-half of the jurors so selected are men, and the other half are women.

I think perhaps an example along those lines might be best at this stage.

If the jury book is made up of, say, 3,000 men and 3,000 women and, because of the wording of the previous clause, 2,000 of these women contract out—or let us take it to an extreme figure and say that 2,900 of them contract out—the basis of service by men and women on juries will be completely ineffectual.

Hon. R. F. HUTCHISON: You know that men can be excused as well. There is no difference.

Hon. A. F. GRIFFITH: I rather expected that. If the hon. member would like to wait a little longer, I will give her greater cause to interrupt me. The fact remains that a man cannot contract out, but can be excused. That is not the same by any means.

Hon. R. F. HUTCHISON: Yes, it is.

Hon. A. F. GRIFFITH: I appeal to you, Mr. President: Is this back-chat going to continue?

Hon. F. R. H. LAVERY: You should be the last one to object to that.

Hon. A. F. GRIFFITH: I propose to explain my objections to the measure; and after that, Mrs. Hutchison could come in and tell me where she thinks I am wrong. That would be fair, and it would enable me to get through my speech a lot quicker. The point is that men are not able to contract out in the same way as women can. A man is excused under certain conditions laid down in the existing Act, and also provided in this Bill.

Hon. R. F. HUTCHISON: He is not likely to have the same conditions.

Hon. A. F. GRIFFITH: But a woman can cancel her liability to serve by simply giving written notice.

Hon. R. F. HUTCHISON: In reasonable circumstances.

Hon. A. F. GRIFFITH: That is an entirely different thing. Clause 5, Subclause (2) says—

A woman qualified and liable to serve as a juror may cancel, subject to the provisions of Subsection (5) of this section, her liability to serve . . .

That is when she has been summoned—

. . . by service of written notice to that effect on the jury officer for the jury district in which she lives.

Hon. H. K. WATSON: And without any reason whatsoever.

Hon. A. F. GRIFFITH: That is so. It is as plain as the nose on my face; and Clause 5, Subclause (2) will be found on page 6 of the Bill. That is how I read it. But that is not what the select committee intended to imply. The select committee intended that everybody between the ages of 21 and 60—the Government has seen fit to make it 65, and I will not argue on that point—who is not exempt under the schedules of the Bill should be liable and eligible to serve. That is what we wanted.

But we said that since home life is an integral part of our community, women with infant children should be given the opportunity to be exempt from service; and in that case we suggested that women could contract out from jury service—for that reason in the main, but also for any other reason which in the opinion of the responsible officer permits her to make application. That part applies to men as well as women, but that is where it starts and ends.

Hon. H. K. Watson: But even then you breach the principle.

Hon. A. F. GRIFFITH: Certainly. I have a number of amendments to put on the notice paper in connection with this Bill. I had rather a long and protracted interview with the Crown Law officer on the point; and I must ask for a little time to enable this gentleman to go about the difficult task of having a look at the obvious drafting errors in this measure, which I hope will be righted as we go along.

From the phase of applying jury service to all persons, whether male or female, we develop to the point where I have some difference of opinion so far as the preparation of the Bill is concerned on one or two particular matters. I do not propose to mention any of these small matters which, to my mind, are just bad drafting errors. Possibly consideration of that matter can be left until we deal with the Bill in the Committee stage. But there is one point to which I would like to draw attention, and that is the method by which a jury is actually empanelled.

It is provided, in effect, that a drawing and selecting shall take place, and also that there shall be two boxes—one for jurors in use, and others for jurors in reserve. There is a very complicated method of ultimately arriving at who shall be on the jury and who shall not. What one does by having two boxes—one for jurors in use, and the other for jurors in reserve—is that one applies to the jurors-in-use box, bearing in mind that it is desired under the Act to get a balanced jury, and one might for a start pick out the names of 20 women and not strike any man at all. So in order to maintain this balance one must keep on putting them back until one strikes an equal balance.

To me it is obvious that it would be better to have two boxes—one for women, and the other for men jurors in use, and jurors in reserve; and the balloting officer would then have no trouble in arriving at the conclusion at which he wanted to arrive. If we have a look at Section 629 of the Criminal Code we will find that it says—

An objection to a juror, either by way of peremptory challenge or by way of challenge for cause, may be made at any time before the officer has begun to recite the words of the oath to the juror, but not afterwards.

When we have a look at the Bill before us, we find that is completely the reverse. The Bill provides that the right to challenge a juror peremptorily must be exercised as the juror comes up to take his seat and before he takes it, and not afterwards. I think it is elementary for drafting officers to see that new legislation that is brought down does not contradict existing legislation. In this case it obviously does. We have the Criminal Code saying one thing, and the measure before us the exact opposite.

Hon. Sir Charles Latham: The Juries Act would prevail because it would be the last measure passed.

Hon. A. F. GRIFFITH: Another very important thing from the point of view of the administration of the law is the provision contained in Section 20, Subsection (4), which is to the effect that where a number of persons are summoned for jury service—and the practice is to summon approximately 40—a list of those that are summoned is made available to the counsel for the defence. In this Bill, however, for some extraordinary reason that is cut right out. I do not know whether Mr. Heenan, being a practising lawyer, could give me a reason for that.

Hon. E. M. Heenan: What was that?

Hon. A. F. GRIFFITH: Section 20, Subsection (4) of the Jury Act says—

The summoning officer shall return to the Court, on the day appointed for that purpose, the panel of jurors in accordance with the order or precept, and shall cause a copy of such panel to be kept in his office for seven days at the least before the day appointed for the attendance of the jurors, and the parties in all cases, civil and criminal, at that sitting, their solicitors and counsel, shall have full liberty to inspect the panel without fee.

In this Bill that is left out.

Hon. E. M. Heenan: I thought it was reduced to four days.

Hon. A. F. GRIFFITH: I cannot find any mention of it; but if the hon. member can find it for me, I will naturally drop my

objection. In practice the position is that the precept is sent out, the jurymen are summoned, and the list is available to the Crown as well as being available to the accused; and the accused has as much opportunity to carry out any investigation that he or his solicitor wants in connection with the proposed challenge that might be made to the jury being empanelled. Under the Bill, that right will be preserved only to the Crown, and this to my mind would be quite unreasonable and most unfair.

The point I have mentioned about the challenge to a juror before he takes his seat and not afterwards, brings forward the question that the accused cannot communicate with his defence counsel after the jury is seated. To make sure of the practice that took place, I went down to the Supreme Court and watched a jury being sworn in. What happens is that the jurymen, approximately 40 of them, appear at the court, and on the empanelling, their names are chosen by ballot—the ballot papers are numbered and the numbers are applied to the names.

When a man's name is called out, and he goes forward from his seat towards the box, at that stage one of two things happens: Either the Crown exercises its right of stand by or accused's counsel—in the case I saw it was an accused without counsel—has the right to challenge without cause any six of those persons who come forward. On the occasion I was present, the Crown did not challenge anybody. All the Crown did was to exercise its right to stand by. The accused, for reasons of his own—and I tried to make up my mind on what basis he exercised his challenge—said, "Challenge" as the man went forward.

When the jury of 12 had all taken their places they were sworn in—and at that stage only were they sworn in. It is possible, at that stage, under the existing Act, for the accused to make any further challenge. Under this Bill, if it becomes law, that right of challenge will not be permitted because it says that the right to challenge a juror peremptorily must be exercised when a juror goes up to take his seat, and before he takes it, and not afterwards. I think we would do well to resort to the practice adhered to before, bearing in mind that any doubt must be given to the accused under our system of British justice. I think the Crown has a decided advantage in the choosing of a jury.

I would like Mr. Heenan to tell me why the provision that applies now is being taken out; and at the same time, would he justify the right that the Crown has of standing by as against the right to challenge? I imagine a court of justice as being the scales and the judge with a black hood over his head, so that the prosecution and the defence start on

equal grounds. Perhaps because of my inexperience in these matters, it appears to me, on looking at the situation, that the weight of justice in the empanelling of a jury is not in favour of the accused.

So far as the right to stand by is concerned, I am a little perturbed at what could happen at the hands of a Crown prosecutor. I am careful not to endeavour to incriminate anybody—least of all the officers we have there at present—but it is not beyond conception that a Crown prosecutor could see to it, by exercising his right of stand by when empanelling men and women for jury service, that a jury was empanelled consisting of one gender or the other. It would not be beyond possibility in such circumstances for him to empanel a jury of all men or all women. That is my private view of the matter. The select committee did not have anything to say about it, but I would like Mr. Heenan to give me some information on the subject.

Probably one of the most controversial matters that has been introduced in this Bill concerns a majority verdict at criminal trials. I want to read what the select committee thought about this matter. This is what the report says—

Your committee recommends the retention of the present provision of unanimous decision in trials for capital offences, but is prepared to venture the opinion that in other criminal cases a majority verdict of five-sixths of the jurors be taken as the verdict of the whole jury after deliberation of three hours.

That has brought forth quite a deal of Press controversy. It is interesting to note that this is not the first attempt that has been made to introduce a provision of this nature into the Legislature of Western Australia. An effort was made by a former member of the Legislative Assembly, Mr. Abbott, who, in 1953—as a private member—introduced a like Bill. In that Bill there was provision for a similar type of thing. However, his provision was that all criminal offences would be heard on the basis of a majority decision of a jury. On that occasion in another place there was a move to cut out the words "all" and to apply the provision to other than criminal cases. It is also interesting to notice that the move was defeated in another place, and then the Assembly voted against the whole clause.

Now, however, we find a reversal of form. An amendment was moved in another place to the effect that this provision should not apply in respect of criminal trials where the penalty of death might be inflicted for the crime. A debate ensued, the Committee divided, and the amendment was negatived. It appeared to be quite a non-party matter

in another place. But in 1953 the Legislative Assembly had views contrary to those it held recently, when the Bill in the other House was passed, on party lines, with this particular provision included in it.

I notice that in this Bill, under the heading of "View, Tales" it is provided that the Supreme Court or a judge may order any two of a jury to visit a particular place or centre in order to have a look at something that has come out of the evidence. The provision reads—

The Supreme Court or a judge may, on the application of a party to any civil trial, grant an order, before or at the trial, that any two or more of the jury shall at the expense in all things in the first instance of the party applying, have a view of any place or property in question; but the expenses of the view and of such order shall be costs in the cause.

The question that comes to my mind is: Why are only two of the jury to look at something upon which the whole jury will be expected to make a deliberation? As a private member who took on the job of having a look at this matter of jury service, I think it is competent for me to ask for an explanation of this matter.

I know that this would apply in particular cases; but it seems to me that the whole system breaks down if a jury can deliberate on a particular matter and then reach the stage when a judge can say, "I think some of you should have a look at this," and sends two of the jury to do so, after which they come back and say, "We have seen it," and the rest of the jury are apparently to accept the decision of those who have had the view. It strikes me that all the jury should have a look if the result of the view is going to determine the verdict in the case.

Hon. L. A. Logan: That happened at Armadale the other day.

Hon. A. F. GRIFFITH: I do not know how many went on the inspection in that case. Another controversial matter I want to deal with is the clause concerning the restriction on newspapers publishing names or photographs of jurors engaged in criminal trials. I do not think there can be any argument about the desirability of a newspaper not publishing the names or photographs of jurors under headings indicating that these are the men who will be giving a judgment on a trial the following day. Perhaps the prevention of that sort of thing is all to the good, but I do not think the Press in this State has ever been guilty of printing photographs or names of jurors in any cases.

Hon. Sir Charles Latham: You don't know what they will do tomorrow, though.

Hon. A. F. GRIFFITH: The select committee, on the evidence of one person, included this paragraph in its report—

Your committee considers it highly desirable that there should be a prohibition on the publication of jurors' names or photographs and that jurors should remain as anonymous as possible before a trial, in order to give the fullest possible protection from publicity or the consequent dangers which do at times exist.

Your committee considered the matter of Press publicity. In many trials it appears that in some cases the Press acts in a manner prejudicial to a fair trial by highlighting the evidence to build up a "good seller." This applies particularly to preliminary trials, the Press publicity of which is read by the public as a whole, many of whom are potential jurors and may result in some influence on the juror before he goes into court.

It would perhaps be highly desirable to prohibit the Press from publishing the evidence of a preliminary trial where the accused is committed for trial. The Press could attend and listen but not publish any of the evidence where a man is committed for trial.

That portion of the report has caused quite a lot of comment.

Hon. L. A. Logan: And opposition.

Hon. A. F. GRIFFITH: Yes. While I am prepared to say that the publicity which is given in some newspapers in some trials is undesirable and may have had an effect on those trials, I am not prepared to go the whole way. Probably every member of this Chamber would say there have been occasions when he has picked up a paper and said, "This is a dreadful report. This fellow is for it. This does not look too good." In other words, one is inclined to prejudge the matter on the mere report—

Hon. Sir Charles Latham: On the exaggerated report, sometimes.

Hon. A. F. GRIFFITH: —which appears in the paper. But this Bill comes far short of what was intended. The select committee's report used the word "perhaps." It threw out to the Government the suggestion that it might have a look at this matter; but the action of the Government was to grab the thing around the neck and say, "Ah, we have an opportunity to put a stranglehold on the Press! It has been suggested by the select committee." That is what the Government thought had happened, so it clutched on to it and framed this provision in the Bill.

The reference is to a newspaper. What newspapers have we in Western Australia? It must mean it is "The West Australian"

that the Government is having a crack at. It must mean the "Sunday Times," the "Daily News," the "Weekend Mail," "The Farmers' Weekly."

Hon. G. C. MacKinnon: Or "News Review."

Hon. A. F. GRIFFITH: I do not know whether that is a newspaper. I understood that a newspaper was a publication that was issued at least twice a month. Does it not appear that this has been a hurried sort of action by the Government? What would happen to a magazine? There is no mention of a magazine. What would happen in the case of a periodical? There is no mention of that either.

Hon. G. C. MacKinnon: What about a paper like "Truth" in another State?

Hon. A. F. GRIFFITH: Not being sufficiently well-versed in law on this matter, I cannot answer the question as to whether it would have application in that case or not. But what would happen in any other part of the world? I see that the report of the select committee on the Jury Bill has gone to a New South Wales paper; and a case which comes to my mind is that of Dr. Adams in London, because I was there at the time. There were Press reports of that case in every part of the world, in various languages; and all that one could recognise, in instances where one could not read the language, were the photographs. The fact remains that this measure falls far short of what is required—

Hon. H. K. Watson: Don't you mean that it really goes much further than is necessary?

Hon. A. F. GRIFFITH: I, Mr. Teahan and Sir Charles Latham can speak as individuals. But I was surprised to see a clause of this nature placed in the Bill, apparently without consideration being given to it. The Minister for Justice received advice in regard to it; and although I have not had an opportunity to examine the Crown Law opinion, as I heard it stated, that opinion did not favour the Bill. While that Crown Law opinion might be 4d. for it straight out, it is 8d. on it for a place bet—

The Minister for Railways: Where did you see that?

Hon. A. F. GRIFFITH: I heard it. I said that I have not seen it, but am hopeful of seeing it. The fact remains that I understand this report was not in favour of the context of this clause. One matter which struck me when I was overseas was the influence of television, which will come to Western Australia in due course, although I am not in a position to say when. One of the redeeming features of television overseas was the amount of time given to news reviews, with a man sitting

at the microphone giving the news reports of the day. There is nothing in this measure to prevent any reports being made over television when television does come to Western Australia.

It is interesting to learn that the House of Commons—as I am sure members are aware—found itself faced with a position similar to this in connection with the Dr. Adams case; and, according to a Press report, arising out of the police court hearings in that case, the British Government appointed a committee under Lord Tucker—who is a Lord of Appeal—to report whether restraint should be placed on the publication of reports of proceedings before examining magistrates. The Press report then gives further details of the matter. It struck me that the reasonable thing for us to do in this State would be to wait until we see the report of Lord Tucker's committee, as it might easily have a wide effect—

Hon. R. F. Hutchison: Why not make up our own minds?

Hon. A. F. GRIFFITH: We would be most unwise at this stage to try to write into our legislation something which I doubt would have much effect as regards Eastern States papers, periodicals, magazines, radio reports and, subsequently, television. I suggest to Mr. Heenan, that in view of inquiries being made overseas we might, if we wait, benefit considerably by the findings of Lord Tucker's committee. The deliberations of that committee, when available, might be of considerable advantage to us.

My only other comment on the measure has regard to the Second Schedule. It appears that the Government has paid no attention at all to the question of exemptions. For some extraordinary reason the Government apparently cannot get out of its mind the thought that the predominant necessity here is to grab those parts of the select committee's report which suit it and leave aside those parts that do not. The Government is quite prepared to take up this question of Press publicity—

Hon. R. F. Hutchison: What do you think about it?

Hon. A. F. GRIFFITH: I would not dare tell the hon. member what I am thinking at the moment as it would be completely unparliamentary. The Government, however, is prepared to depart completely from the most valid suggestions of the select committee and those to which most consideration was given, and some of the provisions of the Bill are completely divorced from the recommendations of the select committee. Obviously the Government has not given much thought to the exemptions contained in the Second Schedule. Does Mr. Heenan think it is

reasonable that a clergyman in holy orders should be exempt from jury service and that his wife should not—

Hon. R. F. Hutchison: I think it is quite reasonable.

Hon. A. F. GRIFFITH: Does Mr. Heenan think that the Chief Justice or the other judges of the Supreme Court should be exempt from jury service and that their wives should not?

Hon. R. F. Hutchison: I think so.

Hon. A. F. GRIFFITH: I am trying to get the views of a person who can think in regard to this question. To my mind it is unreasonable that a wife of a judge of the Supreme Court should be liable to jury service.

Hon. R. F. Hutchison: But that does not make it unreasonable.

Hon. A. F. GRIFFITH: I think Mr. Heenan, with his trained legal mind, will agree with my point of view. Should the wife of a justice of the peace, who finds himself sitting in the capacity of magistrate, be liable for jury service?

Hon. L. A. Logan: Or you own wife?

Hon. A. F. GRIFFITH: Yes, the wife of a Legislative Assembly or Legislative Council member. I think the Government should have given more consideration to this question.

Hon. R. F. Hutchison: Don't you think the wives should serve?

Hon. A. F. GRIFFITH: I think a great deal more consideration should have been given to the question of exemptions for women—

Hon. R. F. Hutchison: Why?

Hon. A. F. GRIFFITH:—rather than just give them the right to contract out. I would leave them to take their part in service to the community just as men do; and I would give them the same exemptions as men, having some regard to family considerations. But do not let us have the incongruous position of the wife of a judge of the Supreme Court stepping up to be challenged by one side or the other—

Hon. R. F. Hutchison: But she is a person like any other woman.

Hon. A. F. GRIFFITH: To my mind it would be unreasonable. Lastly, I apologise to Mr. Heenan and to the House for the fact that the amendments that are being prepared are not yet on the notice paper. The drafting officer has a great deal to do, and some of the amendments are a little difficult. But if the Bill passes the second reading—which I support—I am hopeful that many of the differences of opinion will be sorted out during the Committee stage.

On motion by Hon. R. F. Hutchison, debate adjourned.

BILLS (3)—FIRST READING.

- 1, Trustees Act Amendment.
- 2, Audit Act Amendment.
- 3, Bread Act Amendment.

Received from the Assembly.

BILL—PUBLIC SERVICE.

Second Reading.

THE MINISTER FOR RAILWAYS

(Hon. H. C. Strickland—North) [5.45] in moving the second reading said: It will be recollected that a Bill similar to this was rejected last session in this House as members were of the opinion that the lateness of the session did not give adequate time to deal properly with the measure. On this occasion the Bill has been introduced sufficiently early for members to give it the necessary consideration.

The principal object of the Bill is to replace the position of a single Public Service Commissioner with a board of three, the chairman and one member being appointed by the Governor-in-Council and the other member being elected by secret ballot by the Civil Service Association. At the same time the opportunity is being taken to repeal and re-enact the existing Act, certain sections of which are recast and regrouped so as to delete provisions that are now inoperative, and rectify anomalies and ambiguities. A greater amount of flexibility in administration is also sought for the proposed board than is possessed by the commissioner.

Public service boards exist in New South Wales, Victoria and South Australia, and the Civil Service Association in Western Australia has asked the Government to follow suit. After agreeing in principle to this request the Government sought information from the three States I have mentioned and closely examined their legislation. Some of the provisions in these States are incorporated in the Bill and others have been modified to suit local conditions. The Government, in deciding to introduce the Bill, was influenced mainly by the consideration that, if approved by Parliament, it should achieve greater efficiency in Government departments.

The growth of population has, as its corollary, an increase in the size of Government departments, as well as in the responsibility and variety of activities that the Government is called upon to meet. The increase of population in this State has been rapid and it is most difficult for individual Ministers to gauge whether the growth in departments is entirely warranted. By the same token it would be difficult for a single Public Service Commissioner to carry out his administrative functions with the maximum thoroughness and efficiency that could be desired.

It is possible that there should be a reorganisation and, perhaps, amalgamation of Government departments and a board of three would be able to give far better consideration to such matters than can individual ministers or a single commissioner. In addition a board would be able to give more time to personal inspection and investigation of conditions in the various departments, thereby ensuring a greater degree of efficiency.

The Bill proposes that the chairman of the board shall be appointed for a term of seven years, and the other two members for five years each. The retiring age for both chairman and members would be 65 years of age. Provision is made for the member appointed by the Governor to act as deputy chairman, whenever the chairman is absent, and for the appointment of deputies to act in the absence of the appointed member and the member elected by the Civil Service Association. Deputies would exercise all the power possessed by the members they represent. A quorum would comprise two members or one member and a deputy.

Any officer of the Public Service appointed as a member, would cease to be an officer for the term of his appointment but would not lose any rights or privileges due to him. If such an officer was not re-appointed as a member when his term of five years expired he would be entitled to reinstatement in the Public Service at a status no less than that he possessed on his appointment as a member of the board.

In certain respects the Bill provides for the board to have more power than the commissioner has. At present the commissioner may only recommend appointments, promotions, transfers and retirements to Ministers and Executive Council. Where these matters involve officers, whose positions carried a salary at the 23rd July, 1956, of £1,948 a year—

Hon. C. H. Simpson: Would that be more now?

The MINISTER FOR RAILWAYS: Possibly it is. It is called the justiciable salary. In those instances the Bill proposes to give the board the necessary power of appointment, etc. This will help to reduce detailed work now being handled by Ministers and Executive Council. The proposed alteration will not affect officers' right of appeal.

It is proposed to give the board authority to hear all appeals in the first instance in respect of classifications, promotions and punishments. For this purpose provisions similar to those in the Government Employees (Promotions Appeal Board) Act and the Public Service Appeal Board Act, have been included in the Bill. There will, however, still be a

right of appeal to the Public Service Appeal Board, so far as the following matters are concerned:—

- (a) Where, following a general reclassification of the public service the decision of the board in respect of an appeal is not unanimous.
- (b) Where, in regard to punishment, the penalty imposed is dismissal, a fine of £25 or more, or a reduction of more than one grade in status.
- (c) Where, in respect of promotion, the decision of the board is not unanimous.
- (d) Where incapacity or unfitness is concerned and an officer is directed to retire or accept a transfer to another office. This right of appeal does not exist at all at present.

For the purpose of hearing these appeals, the appeal board would consist of a Supreme Court judge as chairman and a representative each of the Government and the Civil Service Association. With regard to appeals in respect of promotion, it is proposed to extend the right of appeal to all officers except those in the administrative division and those in the professional division who have a maximum salary in excess of £2,347 per annum at the 23rd July, 1956.

Provision is made for the Government to add to or subtract from this list of appealable positions after consultation with the Civil Service Association. At present a right of appeal lies only in respect of promotion—in all divisions—to positions which have a maximum salary below £1,958 per annum as at the 23rd July, 1956. All rights of appeal would lie only in respect of officers who are members of the Civil Service Association. At present this stipulation does not apply to appeals in respect of classification or punishment, but only to promotion appeals.

The Bill also proposes several minor amendments to existing administrative practices with a view to obtaining a more flexible management of the service. The more important of these are:—

- (a) Decisions regarding the need for temporary assistance in departments to be made by the board in lieu of by Ministers.
- (b) Statutory authority to be given to officers to request a review where the board proposes to appoint a person other than an officer to a vacancy. (The right of review exists at present only by virtue of a gentlemen's agreement between the commissioner and the association.)

- (c) Parties to an appeal before the Public Service Board not to be entitled to be represented by an agent or counsel.
- (d) Parties to an appeal before the Public Service Appeal Board to be entitled to be represented by counsel only in appeals relating to punishment or retirement on the grounds of incapacity or unfitness. In other matters they may only be represented by an agent other than a legal practitioner.
- (e) The taking of annual leave to be approved by permanent heads in lieu of Ministers, and accumulations of annual leave to be approved by the board in lieu of Ministers.
- (f) Periods of leave without pay not exceeding one month to be approved by the board in lieu of the Governor.
- (g) Initial grants of sick leave up to a maximum period of two months to be approved by the board in lieu of the Minister.
- (h) Clarity is given to such expressions as "seniority," "equal classification" and "promotion."
- (i) The requirements regarding financial provision for retirement from the public service to be prescribed by regulation in lieu of being governed by statutory provisions.
- (j) A fifth division, the technical division, to be introduced to permit of greater refinement between professional, technical and general skills. More exhaustive definitions of the divisions is provided also in the Bill and greater emphasis is placed on minimum entrance qualifications.
- (k) "Statutory offences," as distinct from "public service offences," to be defined more explicitly instead of a single reference to "indictable offences."
- (l) Specific regulation making power to be provided in respect of cadetships to resolve doubt, if any, regarding the validity of the existing provisions in this connection.
- (m) The public service board to be allowed express authority to give consideration to improvement in the training of officers.

The powers proposed to be vested in the board by the Bill would make it necessary to amend the—

Industrial Arbitration Act,
Public Service Appeal Board Act,
Government Employees (Promotions Appeal Board) Act.

For convenience, amendments to these Acts are contained in the schedule to the Bill.

There is one further small item included in the Bill, which has no relation to the proposed public service board. The chairman of the Promotions Appeal Board has drawn attention to the fact that certain State organisations which come under Commonwealth awards have no say in the selection of the union representative on the board. It is therefore proposed to amend the definition of "union" in Section 6 of the Government Employees (Promotions Appeal Board) Act to include the Australasian Transport Officers' Federation and the Association of Railway Professional Officers of Australia. I move—

That the Bill be now read a second time.

On motion by Hon. C. H. Simpson, debate adjourned.

BILL—TRAFFIC ACT AMENDMENT (No. 1).

Second Reading.

HON. F. D. WILLMOTT (South-West) [5.56] in moving the second reading said: The object of this Bill—which is only a small one—is to amend the Traffic Act by adding after Item 10 of Part I of the Third Schedule of that Act the proviso which is set out in the Bill. The reason for the Bill's introduction is to correct an anomaly which has arisen as a result of the amendments that were made to the Act last year when the legislation was before this House.

Members may recall that some of those amendments had this effect: that, for any motor-vehicle which used a fuel other than petrol, the licence fee was double the fee for a petrol-driven vehicle. As a result, the fees on agricultural tractors used for road haulage were raised very steeply. To give members some idea of the increase in such licence fees, I will quote the instance of a Fordson diesel tractor, which is fairly popular in the areas most affected by this high licence fee.

Before the Act was amended last year, the fee payable on a Fordson diesel tractor was £12 per annum. Section 11 of the Act as it then stood, provided that only half that licence fee would be payable in certain cases—such as by farmers, prospectors, sandalwood pullers, and other people engaged in similar occupations. The licence fee payable by those persons was £6 per annum. After the amendments had been agreed to and enacted, the full licence fee was increased from £12 to £45; and to those persons who are eligible to enjoy the concession, the fee on that same Fordson diesel tractor is now £22 10s.

In the main, the people who are most affected by this amendment to the Act are those in the South-West Province because, generally speaking, tractors in other parts are not used for road haulage to any great extent. They are used principally by small farmers—such as orchardists, potato-growers—and, in some cases, by dairy farmers for the delivery of cream on the road to the pick-up point.

In the main, it is the much smaller farmer who is doing this work by tractor; because as soon as a person became big enough in his operations, he would use a motor-truck for this work, or engage a carrier to undertake his cartage, rather than cart his own requirements by tractor. It is obvious to members that this provision will only apply to persons in this category who live within a reasonable distance of the delivery point. They cannot cart any great distances by means of tractors.

The idea of this provision is to give some relief to the small orchardist and farmer who is using his tractor for carting. The provision is to apply to a tractor and trailer, or tractor with a carrying platform having a maximum pay-load capacity of not more than two tons. It is considered that the two-ton limitation is reasonable. As far as I have been able to ascertain, there is no objection from the various licensing authorities which will be affected by this provision. In actual fact, its operation will not have very much effect on the revenue of those licensing authorities, because not many people will be able to take advantage of it. Although it will not affect to any great extent the revenue of the licensing authorities, it will be of very great benefit to the few small farmers.

Under the existing Act the licence is subject to the usual formula which applies in calculating the fee payable. In any formula such as the one contained in this Bill, the weight of the vehicle has to be taken into account. In the case of agricultural tractors that is not really practicable for this reason: Take a Fordson diesel tractor which has rubber tyres without any water in them. Such a tractor will be considerably less in weight than a tractor having tyres filled with water. In the latter case the weight might be increased by half a ton.

Some tractors have to be operated on the farm under boggy conditions—such as for potato digging—when dual wheels have to be used, with or without water in them. Such tractors again will vary very considerably in weight from the single-wheel tractors. As everyone knows, all modern tractors have attachments of various sorts, such as hydraulic linkage and mid-mounted mowers. It would not be reasonable for the farmer to have to remove such attachments when he wanted

to do some cartage, so as to bring the tractor back to the weight approved by the formula. In practice that would not be feasible. By the use of the formula contained in the Bill, all tractors will be placed on the same footing.

Some members might wonder why there is a limitation of £10 in paragraph (a) of the proviso. If thought is given to the matter, they will see that all tractors used for road haulage would be on the same basis. Take the old diesel-driven type, such as the Ferguson tractor. A person using such a tractor is permitted to haul two tons along a road. At the same time, a person operating a Fordson diesel tractor, which is of much greater horsepower, will similarly be permitted to haul only two tons. So the extra horse-power would be of no benefit to the owner of the second vehicle if he wished to take advantage of the provision in Clause 2. Therefore it is reasonable to put them somewhere near the same footing.

Then again the question of damage to roads caused by such tractors is an extremely small matter. Generally speaking it is the speed of vehicles which damages roads. Of course these tractors travel at very slow speeds. They have squashy tyres and they do not traverse great distances; therefore any damage caused by them would be very minute when compared with the damage caused when the same weight of materials is carted by trucks travelling at greater speeds.

The only other point that needs explanation is paragraph (b) of the proviso. It was included to bring the amendment into line with the existing provision. If reference is made to Section 11 of the Traffic Act, it will be seen that the fourth proviso states—

Provided further that the licensing authority shall in respect of one vehicle owned by any person, and may in its discretion in respect of any other vehicle owned by that person, charge only half the fee payable according to the scale in the Third Schedule where it is proved to the satisfaction of the licensing authority that—

Then it goes on to state—

The vehicle is owned by a farmer, a prospector, a sandalwood puller and the other persons listed in the Act.

The reason for this provision is to bring it into line with the Act, and to leave a discretion in the hands of the licensing authorities. I have explained this Bill and the reasons for it to the best of my ability. I move—

That the Bill be now read a second time.

On motion by the Minister for Railways, debate adjourned.

BILL—NEWSPAPER LIBEL AND REGISTRATION ACT AMENDMENT.

Second Reading.

Debate resumed from the 20th August.

THE MINISTER FOR RAILWAYS (Hon. H. C. Strickland—North) [6.9]: I referred this Bill to the Crown Law Department for its observations and I would like to relate them to the House. The proposal in Clause 2 to delete the words "on or before the 14th day of January, 1885, and thereafter" would be similar in effect to an amendment to a similar Act in the United Kingdom. This amendment was made by the Statute Law Revision Act as long ago as 1894.

While it is agreed that the amendment would have the effect of repealing what Sir Charles Latham has described as "obsolete wording," it also might prevent any prosecution in future for any failure to comply with the provisions of Section 9 of the Act. Section 11 of the Criminal Code provides that a person cannot be punished for doing or omitting to do an act if the law in force at the time when he is charged does not constitute the act or omission as an offence. It is possible, however, that action could be taken in such cases if the amendment is accepted, and so there is no real objection to it.

In Clause 3, Sir Charles seeks to repeal Sections 3, 4 and 5 of the principal Act. So far as can be ascertained these three sections are somewhat novel inasmuch as they have no counterpart in the legislation of the United Kingdom. Section 3 gives power to a court to require the plaintiff in a libel action to give security for costs if he is an uncertified bankrupt, or has recently compounded with his creditors, or is without fixed domicile or without visible means of paying the costs of an action should his action be unsuccessful.

Admittedly, it might be possible for this section to operate harshly against an impecunious plaintiff who had been libelled, but who was unable to give security for costs. It is considered, however, that the present discretion given to the court is an adequate safeguard against such an occurrence. It can be presumed that the court, on hearing an application for security for costs, could form a reasonably accurate impression as to the merits of the plaintiff's claim, and if it thought proper, would refuse to alter security for costs. Sir Charles may be able to advise the House as to whether this provision has operated harshly so far as any plaintiff is concerned, but on the face of it, there appears little objection to the provision.

Section 4 of the principal Act which Sir Charles also wishes to disallow, provides that a plaintiff shall be non-suited in any action against a newspaper unless he gives evidence as witness on his own behalf. In studying the debates when the principal

Act was introduced in 1888 it appeared there was considerable difference of opinion as to the fairness of this section. Those in favour argued that if a man brought an action to recover damages because his character was assailed, surely it was not too much to expect him to go into the witness box and subject himself to cross-examination. It might also be said that unless the court is made aware by cross-examination of the plaintiff of the plaintiff's character, a person of that character might be awarded much heavier damages than he was entitled to.

Those opposing the section in 1888 argued that it could operate very harshly against a person who had been cruelly libelled, but who so feared the distress or embarrassment from cross-examination by the opposing counsel, that he was deterred from seeking justice. It seems, therefore, that there is substance in Sir Charles's proposal to repeal Section 4. Sir Charles also seeks to repeal Section 5 of the Act. This section provides that no action for libel shall be brought against a newspaper after the expiration of four months from the date of publication of the libel. Normally an action for libel can be brought within six years of publication, and an action of slander within two years.

I think it might be agreed that a newspaper could fairly claim greater protection in the way of limitation of time than could private persons since, in the nature of things, and as we all know, a newspaper is continually publishing material which might offend some person, and at times might be unpopular with the public. The Crown Law Department is of the opinion that in the great majority of cases the existing four months' limitation would not operate harshly against any plaintiff; and that, in fact, no case is known where the limitation has had a harsh effect. Actually, it would seem to be better to enlarge the limitation of four months to, say, 12 months, than to abolish it.

When introducing the Bill Sir Charles said he thought that most cases affected by the Act could be dealt with under the Criminal Code. The Solicitor General advises, however, that he cannot see that the provisions of the Criminal Code are in any way applicable. It seems that this Bill can be regarded as acceptable in part, but that other proposals should be rejected.

When Sir Charles has had an opportunity to reply to the various points that might be raised in connection with this Bill, the House will be in a much better position to make up its mind. For the moment I am prepared to wait and hear what he has to say in relation to the opinion by the Crown Law Department.

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

Sitting suspended from 6.15 to 7.30 p.m.

BILL—STIPENDIARY MAGISTRATES.*Second Reading.*

Debate resumed from the 21st August.

HON. J. M. A. CUNNINGHAM (South-East) [7.31]: This Bill is one which I think I can safely recommend to this House, as its intention is good. I believe the intention of the Bill is to streamline and rationalise the position as it applies to several categories of the magisterial office.

For many years we have had an anomalous position. The magistrates have differed only in name, rank, salary, scope and age of retirement. In almost every other direction the entire work and responsibilities undertaken by the two classes of magistrates have been such that the two positions are identical. We have the case of the resident magistrate having his activities confined to a particular district as against a stipendiary magistrate—whose authority in every other way is the same—being able to operate or work or have jurisdiction in any part of the State.

It is farcical that in some cases a magistrate resident in a district should have to stand back and allow a stipendiary magistrate to travel many hundreds of miles, go into his district, and conduct a court there. The magistrate residing in the district is quite capable of presiding, except for the fact that the Act precludes him from doing so, merely by reason of the name, "resident magistrate."

We have a peculiar position at Kalgoorlie where the resident magistrate holds a commission whereby he is permitted to sit on cases that normally would be attended to by the Supreme Court. Yet, if that man, as a resident magistrate, came to Perth and presided in a court, his jurisdiction in that court would be subject to some doubt. These anomalies will be removed by the Bill.

It is the intention of the Government to bring stipendiary magistrates and resident magistrates on to the same level, and to remove certain other difficulties and anomalies where they are completely under the control of the Public Service Act. However, there are one or two matters to which I would recommend the Minister to give some further consideration. I have spoken on this Bill to several of the people most concerned—both resident and stipendiary magistrates—and they are in agreement with it except for one or two points which they would like clarified and, if necessary, slightly amended.

One of the peculiarities mentioned is this: Today the working magisterial force is low—that is admitted—and we are short of magistrates of both categories. Yet in the Bill there is a provision that the magistrates, after being lifted to the rank of stipendiary magistrates, will all have the

retiring age of 70 years; but any magistrate appointed after this Bill becomes law will retire at the age of 65 years.

Hon. J. D. Teahan: It is not consistent.

Hon. J. M. A. CUNNINGHAM: It seems inconsistent when we realise that we are short of magistrates. We know that the number of men coming forward to fill magisterial positions is not very large, and it does not appear likely to increase in the near future. The position can become much worse; yet the retiring age for new applicants from the commencement of this Bill is to be reduced to 65 years. There is possibly a reason for it.

Hon. E. M. Heenan: It is 65 now.

Hon. J. M. A. CUNNINGHAM: It is going to be left at 70 temporarily for present appointments, and reduced to 65 if this Bill becomes law. That does seem strange, in view of the fact that the tendency today is not to reduce the retiring age, but to allow men to retire at a later age if their work is satisfactory in every way.

The Bill provides a safeguard, inasmuch as the Minister does have the right to suspend or remove a magistrate from his position for reasons of mental or physical health or deterioration of his ability to carry on the office. If there is any other reason, it is merely one of principle: that it is better to have a retiring age of 65. It seems to be desirable that a provision should be included whereby a magistrate on approaching the retiring age of 65, if he believes he is still competent and wishes to carry on, could apply to the Minister for an extension of his time to the age of 70. The Minister could admit or reject the application according to a report on the magistrate's activities. It appears that the position is safeguarded in every way, and it could mean that a man could give service to the State for several more years. However, today he has no choice after the promulgation of this Act but to retire at the age of 65.

Hon. E. M. Heenan: That will only apply to new appointees, who will be young men.

Hon. J. M. A. CUNNINGHAM: If and when they come along. But I think the hon. member will agree that the tendency today is not to retire men at an early age but to allow them to go on, because the life expectancy is greater than it was 10 or 20 years ago. We know that a man of 60 or 65 can be quite robust and vigorous in health—

Hon. Sir Charles Latham: Holding responsible positions.

Hon. J. M. A. CUNNINGHAM: —and be quite competent to carry on the work he has been doing for a number of years. In many ways, a man after passing the age of 65, if he has been active in the position of magistrate, has gained experience over

the years, which is something that cannot be replaced or acquired in a hurry. Such a man could give many, many years of most useful and valuable service to the State. There are men in this Parliament who are 65 or more, but they are probably far more valuable to their respective districts and Parliament than they were 10 years ago. However, if they were compelled to retire because they were 65 years of age, I think members would agree it would be a great pity.

Hon. G. E. Jeffery: A lot retire much sooner than 65.

Hon. J. M. A. CUNNINGHAM: Yes. A lot retire at 65 and sooner; but if they could make application, they would wish to carry on. I agree that a lot of men who retire from here and another place would do so with reluctance, and would like to apply for an extension of time.

There is also provision that temporary appointments may still be made for magistrates; but it appears it would be desirable if, after a period of temporary appointment—say four years, more or less—application could be made to confirm the appointment and make it permanent. Unless there is the intention that temporary appointment is only to be of a short duration—nothing in the Bill indicates that is the case—a permanent appointment should be made after four years, if the position is satisfactorily filled.

Another point brought to my notice during the discussion in regard to this Bill was in the case of appeals. I may be wrong, but I think the position is different from that under the parent Act and the consolidated Act. Under this Bill magistrates will come under the Public Service Act only in certain spheres. To be exact, I think it is in matters pertaining to remuneration and leave, etc. Other than that, they will be removed from the Public Service Act in matters pertaining to dismissal from office, disciplinary action, and retirement; and the position arises that in the event of a magistrate or magistrates wishing to make an appeal on some matter, they would come under the Public Service Act at the present time.

Under the Public Service Act the interpretation of a magistrate is a resident magistrate, police magistrate, or a magistrate of a local court. If this Bill becomes law, there will be no such person as a resident magistrate; all will be stipendiary magistrates, who are not specifically named in the Consolidated Act or the Interpretation Act of 1904.

The Public Service Appeal Board Act, as consolidated in 1950, refers specifically to the Act of 1904. So far as this measure is concerned, a magistrate is no longer a resident magistrate but a stipendiary magistrate "public servant." In the event of an appeal, a magistrate would be appealing to a board, the chairman of which was

a magistrate. The magistrates, therefore, would be appealing to themselves. This seems wrong in principle.

There are certain named categories for which a judge of the Supreme Court is the chairman of the appeal board. The members of the Education Department, and such, appeal to a board which is presided over by a judge of the Supreme Court. It appears to me that a magistrate should be included in this group so that in the event of an appeal he would go before a judge of the Supreme Court.

I may be on the wrong track but from delving in the old Act it appears that this point had actually been overlooked. The Bill has, in every other way, been carefully designed to preserve all the rights and privileges of the magistrates even to the extent of covering them under the Superannuation and Family Benefits Act. I believe this has long been a matter of some discontent on the part of both the resident and the stipendiary magistrates.

The simplest parallel I can think of is that of a justice of the peace. A justice of the peace is appointed to a specific magisterial district and he cannot have jurisdiction outside of that area. The same man, however, could be appointed to be a justice of the peace for the whole State. The work and responsibilities of the two are identical, yet one is precluded from acting outside a limited area whereas the other can operate throughout the State. That, broadly, is the position today, namely, that a resident magistrate is confined to a particular district whereas a stipendiary magistrate covers the whole State.

Those in the department and elsewhere know that resident magistrates from outside the metropolitan area, coming to Perth on leave for business reasons, have been given the opportunity, for experience, to sit on courts in the metropolitan area. An astute lawyer would be on a pretty fair bet if he challenged the jurisdiction of such a magistrate and claimed that he was not operating within the area to which he was originally appointed. The findings of such a magistrate could be subject to considerable legal doubt.

This is rather a foolish position. We have two men doing exactly the same work, carrying the same responsibilities but operating under different Acts, responsible to different authorities, but subject to different conditions of remuneration, leave, retiring age, etc. This has gone on for many years. The Bill seeks to remove these anomalies and bring all magistrates, whether stipendiary or resident, into the same category of stipendiary magistrates and to retire them all at the one age of 70—the same age as applies to judges of the Supreme Court—with the exception

that as from the promulgation of the Act, future appointees will retire at the age of 65.

That is the strongest point brought to my notice by the magistrates. They all felt there should be some lessening of rigidity on that point. If a magistrate could indicate that he was qualified by reason of health and in other ways to carry on for a further five years, they felt he should have the right to appeal to someone for an extension of time. As I mentioned earlier, the tendency today is to give men the opportunity of continuing in their work to a later age and this seems to be a good point. For that reason, and also because they are filling a job which is at present under-manned—and there is no indication of any group coming forward to serve as magistrates, who are so sorely needed today—I think the suggestion I have just mentioned should be given consideration.

Appointments will be made only from amongst lawyers; but men can study and pass examinations, and people from that source can be appointed to the job. But strangely enough applicants in this category are not numerous. One man that I talked to—and I know that at one time he was most keen to pass his examinations—is no longer ambitious; and he is still a young man.

Hon. H. K. Watson: He probably thought they would make him commissioner for unfair trading.

Hon. J. M. A. CUNNINGHAM: The position of clerk of courts was better than the position he would get if he went ahead with his original intention. The slightly higher remuneration was not sufficiently attractive to induce him to continue with his studies. The position of clerk of courts was most attractive and satisfying to him, and he decided not to go ahead. The new Bill will make the job a little more attractive; and I believe that there will be a greater number of men who will complete their studies and pass the examinations, and ultimately be appointed as magistrates. I consider the Bill is a good one, and has been needed for some time. I been needed for some time. I commend it to the House.

HON. G. C. MacKINNON (South-West) [7.53]: The Bill as presented is a praiseworthy attempt to rationalise a position which has been allowed to remain, and the only reason for it is really historical, in that there are two sets of magistrates.

Strangely enough the basic problem of the magistrates in this State does not seem to have been touched. Mr. Cunningham has made the position clear with regard to the scarcity of magistrates throughout Western Australia. Indeed, in a Bill recently before us we saw where, because of this shortage, it was deemed

necessary to make it possible for clerks of courts to handle judgment summonses without the magistrate having to travel some distance to hear those particular cases. They could later be ratified by the magistrate.

As Mr. Cunningham said, very few men are coming forward. Yet a pronounced need exists for more magistrates and for them to have definite qualifications. We are not alone in this problem as apparently the position is even worse in England.

We have a magistrate's examination which men working through the clerks of courts' offices in various towns can take; and as Mr. Cunningham has also said, the inducement offered those people to become magistrates is scarcely sufficient to entice the type of person that we want for this responsible position.

To take a parallel case, it was not so long ago when people could serve several years as dental mechanics; and after serving more or less an apprenticeship, they could start practising as dentists. That was the position until about 1929, when a degree of dentistry was created in this State through the university. The laws were then changed to make it obligatory for anyone desiring to set up as a dentist to have such a degree.

Before law degrees were established here, it was perfectly reasonable that a magistrate should be a person who had studied a reasonable amount of law. I suggest that a magistrate should be one who has practised as a lawyer, or who has at least taken a law degree. But we then come up against the problem that the remuneration is not sufficient to attract him to do a little further study and put in a couple of years of articles in order to become a lawyer.

Whilst it would appear to be a simple matter to bring down an amendment to make it necessary to have these qualifications, we come up against the problem, clearly explained by Mr. Cunningham, of the shortage of lawyers. If we do this, we must increase the salary paid to a magistrate to make the position attractive; and then we are getting closer to the salary paid to a judge, and we have to look at that position.

It comes back to the point that we are, perhaps, expecting justice at too cheap a price. When Mr. Heenan replies, I would like him to give us some comments on that problem—as to whether in fact we are expecting justice at too cheap a price, and are making the position of a judge and that of a magistrate too poorly paid to be able to enforce qualifications of a high standard.

Hon. J. McI. Thomson: Does this Bill mention any increase in salary?

Hon. G. C. MacKINNON: None whatever. The Bill has not tackled what has become the major problem. It has tackled a small point, in that it has dealt with something historical in regard to the two different types of magistrates.

I suggest the time has come when we must take a serious look at this. We have been well served by our magistrates; but from inquiries one makes, it would appear that the supply of them is rapidly diminishing. I agree with Mr. Cunningham that it would not seem wise to reduce the age of a magistrate to 65; but rather we would do better to leave it at, perhaps, 70, and even to give the magistrates the option. But I would not be definite about that.

Hon. J. McI. Thomson: Do you suggest that should apply to all magistrates hereafter?

Hon. G. C. MacKINNON: I do not see why not, because the Bill gives the Minister the right to remove any magistrate from office in the event of his being unfit to carry on because of ill health, or for some other reason. Today there is a greater expectancy of life; and because of that fact, people must gain more experience and knowledge. Law and its interpretation is an involved subject, and we all know of dozens of people who could adequately cope with this work at 70 years of age. As our medical knowledge improves so the average age should increase.

So I think we should allow our magistrates to carry on at least until they are 70 years of age, rather than peremptorily put them out at 65, particularly as the indications are that these people will be in short supply unless definite steps are taken to correct the position. I would like to hear Mr. Heenan, when he replies to the debate, give us the views of the Government on these points. Apart from that, I support the Bill.

On motion by Hon. J. McI. Thomson, debate adjourned.

BILL—LOCAL GOVERNMENT.

In Committee.

Resumed from the 21st August. Hon. W. R. Hall in the Chair; Hon. J. D. Teahan in charge of the Bill.

Clause 215—Hawkers (partly considered):

The MINISTER FOR RAILWAYS: We reported progress because the Committee wanted further consideration of the two proposals put forward by Mr. Griffith and myself. We have discussed the question since then, and have arrived at an amendment which we consider will be acceptable to the Committee. Mr. Griffith will move the amendment.

Hon. A. F. GRIFFITH: It is understood that neither the Minister nor I will proceed with the amendments on the notice paper in regard to the definition of "hawker." I move an amendment—

That all words after the word "means" in line 33, page 155, down to and including the word "person" in line 7, page 156, be struck out and the following inserted in lieu:—

any hawker, pedlar or other person who, with or without any horse or other beast bearing or drawing burden, travels and trades and goes from town to town or to other men's houses there soliciting orders for or carrying to sell or exposing for sale any goods, wares or merchandise, with the exception of:—

- (a) commercial travellers or other persons selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein, or selling or seeking orders for books or newspapers.
- (b) Sellers of vegetables, fish, fruit, newspapers, brooms, matches, game, poultry, butter, eggs, milk, or any victuals.
- (c) Persons selling or exposing for sale goods, wares, or merchandise in any public market or fair legally established, or upon any racecourse, agricultural show ground, or public recreation ground.
- (d) Sellers of goods of their own manufacture.
- (e) Persons representing a manufacturer whose goods are sold direct to consumers only and not through the intermediary of shops.

In its wide application, the definition of "hawker" could cover almost anybody including an oil traveller, the man who delivers the milk and vegetables, and so on. The object of this amendment is to narrow down the definition, bearing in mind that the local authorities still have power to regulate or prohibit hawking by by-laws which must be approved by the Governor and which are subject to disallowance by Parliament. By that means there is adequate protection for all interests. I do not think any local authority will offer any opposition to people who are legitimately carrying out the functions of their occupation. I think this amendment will fit the Bill, but I shall still carry on with a further amendment which I have on the addendum.

Hon. L. C. DIVER: I do not like paragraph (b) of the amendment. I object to a man loading up with vegetables and fruit in the metropolitan area with a view to setting up in opposition to established businesses in the country towns. He would have to get a permit from the local authority, and this excludes him. It is dangerous.

Hon. H. K. Watson: But he would have to get a permit from the Transport Board.

Hon. L. C. DIVER: Yes; but there has been no difficulty in that regard up to now. We should frame our laws to protect the country people, particularly if decentralisation means anything. I oppose paragraph (b) of the amendment.

Hon. G. C. MacKINNON: I do not think that was included in the amendment listed in the name of the Minister for Railways. It means that branch firms of a service nature which call at houses and take orders and service goods at the same time would still be classed as hawkers. This is a service which the city folk get by merely picking up a telephone, whereas people in the scattered rural areas have to wait until this service comes by. These travellers would still be classed as hawkers. I would refer members to Subclause (2) (a) on page 156. They will see that, from the classification of hawkers, we would no longer be able to insist on the use of scales, etc. It has been said that we would need a book to define the word "hawkers." I think we would need two books.

Hon. A. F. Griffith: Don't you think that the weights and measures section would apply?

Hon. G. C. MacKINNON: One would have to take one's chance if one wanted some apples, for instance. One person might get more in the basket than another. We could not insist on these people carrying scales. Perhaps Mr. Griffith, who has this at his fingertips, could explain the points I have raised.

Hon. N. E. BAXTER: I do not like paragraph (b) of Mr. Griffith's amendment. Bona fide business people in the country centres, who pay their rates and taxes and contribute generally to the welfare of the town, would naturally object, if they were dealing in perishable goods, to anyone hawking these commodities.

The Minister for Railways: We have to eat your rolled oats.

Hon. N. E. BAXTER: The local authority would be powerless to control them. We have seen this happen before. We also have the local storekeeper who would sell brooms and matches. Surely he is entitled to sell these goods without opposition from people who may come in with trucks! The words "or any victuals" refer to any foodstuffs. This means any

hawker could go into a town and sell whatever he liked in the way of foodstuffs. I move—

That the amendment be amended by striking out the words "vegetables, fruit, brooms, matches" and "or any victuals" in paragraph (b).

Hon. A. F. GRIFFITH: I want it to be well and truly appreciated that I have no desire whatever to do anything that would have an ill effect on the country towns or on the people who are in business in those towns. That was not the purpose of my amendment. Why does Mr. Baxter leave in such commodities as fish, newspapers, game, poultry, butter, eggs and milk? Does he not mind these commodities being hawked?

Hon. N. E. Baxter: No.

Hon. A. F. GRIFFITH: He does not have any objection to these things which are produced in the country being hawked.

Hon. L. C. Diver: Where are fish produced in the country?

Hon. G. C. MacKinnon: He has caught a red herring!

Hon. A. F. GRIFFITH: I am talking about their being sold. I do not think I mentioned fish particularly.

Hon. Sir Charles Latham: There are trout in the dams.

Hon. A. F. GRIFFITH: Mr. Baxter's amendment will cut out vegetables. That means that a man who provides a service at the door in the metropolitan area will now need a hawker's licence, as will the man who takes fruit around. I do not mind the whole of paragraph (b) being struck out if the Minister has no objection. All I wish to do is to protect the genuine businessman who has an established business. It has been suggested that people could go to the country towns and sell vegetables; but the local authorities could control that by making by-laws. For instance, a man could not set up his truck on the side of a road in country towns if there were a by-law against it any more than he could do so in St. George's Terrace if there were a by-law preventing him.

Hon. L. C. Diver: It has been done.

Hon. A. F. GRIFFITH: Then it has been done illegally, and the remedy lies with the local authority to control it by means of a by-law. I do not want to damage the chances of the country people.

Hon. N. E. BAXTER: It is not the genuine grower of fruit and vegetables who does the hawking. It is the person who buys his vegetables in the metropolitan area, loads them on his truck, and hawks them in the country town. He pays neither rents nor rates; and if he goes into the country towns, he should have a hawker's licence to sell these goods. The local authority could not control him if

he were selling lines which came under the definition of "hawker." He is not setting up a store. He pulls up in his truck, sells a few things and moves on. Mr. Griffith may be able to tell me what part of the legislation says that the local authority can take action. I believe the same applies to brooms and matches. They are not hawked around in most instances. I do not see any reason for their inclusion.

Hon. A. F. Griffith: Why leave in fish?

Hon. N. E. BAXTER: For the simple reason that it is a perishable product; and throughout the country districts, it is not always easy to get fresh fish. There are some folk who catch fish and take them through the country areas. I do not see any harm in leaving in fish. As for newspapers, they are under a type of control, and the vendors are not actually hawkers.

Hon. A. F. Griffith: What makes them not actually hawkers?

Hon. N. E. BAXTER: Usually there is an established newsagent in the town.

Hon. A. F. Griffith: Does that preclude him from being a hawker?

Hon. N. E. BAXTER: He usually has a shop, which precludes him from being a hawker. If he gets some boy to sell the papers, he is still a genuine businessman.

Hon. Sir Charles Latham: What about the boy on the street corner?

Hon. N. E. BAXTER: That is why I left newspapers in, to protect such people. Again, poultry are not sold in great quantities, and are usually sold by the small producer, who may run a few poultry, dress them, and sell them in the town. There is no need for such people to have a hawker's licence. Butter, milk and eggs are controlled products; and "any other victuals" covers vegetables, fruit and that type of produce.

Hon. G. C. MacKINNON: With regard to vegetables, I would like to give an actual case. There are vegetables grown at Geelorum just outside Bunbury in the Harvey electorate and in the Capel road board area. There is a man who carries these vegetables on a round to Capel, through Stratham, Boyanup, Dardanup, Australind and Eton; and if he were classed as a hawker, he would have to pay a licence of £60 a year. Yet he runs a legitimate business, and the people he serves get good fresh vegetables.

It is a peculiarity in this State that in the country areas people are desperately short of good vegetables. Better vegetables at a cheaper rate can be purchased in the middle of the city than in most country areas. People in places like Stratham are happy to see this man, who has a good business. A licence of £60 a year would be a big knock to a business like that.

Hon. G. Bennetts: Would there be no established vegetable shop in that area?

Hon. G. C. MacKINNON: No. Along that road from Stratham to Boyanup there is no shop, although there is a service station which serves afternoon tea. The supply is so irregular. I do not know of any vegetable market gardener able to supply the district. Here is a case where it would be unjust for a man to be classed as a hawker.

Hon. L. C. DIVER: I was rather intrigued with Mr. Griffith's statement to the effect that in the event of a man taking vegetables to a country town the local authority could make a by-law to deal with him. If that be correct, are we not wasting time discussing the question of hawkers at all? Would it not be possible for each local authority to attend to the framing of such a by-law? I would like to hear from Mr. Griffith exactly under what heading a local authority would prevent a man from carrying his wares on a motor-vehicle and operating in country towns.

Hon. A. F. GRIFFITH: Let me ask Mr. Diver a question. Suppose he decided he was not going to be a member of Parliament any more, but would run a grocery round; and suppose he set up a cart in the middle of St. George's Terrace. What does he think would happen?

Hon. J. D. TEAHAN: We can gather from the debate that to define "hawker" is difficult; and to try to control what members wish to control is even more difficult. So we get back to the clause as printed. The present definition of hawker is wide. Can anyone point to a case where a legitimate person was ever refused the right to trade in a municipality or road board area? If that time came there would be reason to seek a definition that would restrain road boards or municipalities from taking such action.

Hon. N. E. Baxter: What do you mean by "legitimate"?

Hon. J. D. TEAHAN: We are trying to seek a definition that will allow products like those of Rawleigh to be traded. I suppose that municipalities and road boards have permitted this in the past, and would do so in the future under the existing definition of "hawker." The definition is fairly wide; and if the matter were left to the good judgment of the local authorities, as has been the case in the past, there would not be any injustice. They have never turned down a legitimate grower such as Mr. MacKinnon mentioned. But they do want to keep out those who only come in to take the cream of the trade.

For instance, speaking of my own town, there are frock shops and drapery stores that trade all the year round through fine

weather and wintry weather; through prosperity and adversity. Yet people with a big van will appear in some flush period—as, for instance, during a racing carnival—stay just a week, and take the cream of the trade. The local authorities want the right to restrain such a person.

Hon. G. BENNETTS: I agree with what Mr. Teahan has said. Some three years ago there were two or three vegetable shops in Norseman which had to get their commodities from the metropolitan area. Those orders regularly went down. On one occasion a person went to the town and hawked goods; and one of the local men went out of business; and commodities previously ordered were left in the shop to rot away.

There have also been some very bad cases of hawking of linen. Only recently samples of first-class linen were brought to the doors and the householders were asked for a deposit on the goods. The other day I had to go to the Perth Court in connection with one such case. The person concerned had paid £1 deposit on a parcel of beautiful linen; but when the linen was received, it proved to be inferior to what was shown at the door. The individual concerned returned it to the firm and took out a summons. The buyer was prosecuted and had to pay the price of the parcel and, in addition, about £20 to £25 in costs. We have to give the local governing authorities the right to protect people.

Folk in remote areas have a job to find employment for the young people. If men are allowed to hawk goods in these towns, what will we do with our teenagers who are looking for jobs? They will have to go to the city and seek positions. This is a matter that should be left to the local authorities.

The MINISTER FOR RAILWAYS: The definition of "hawker" explained by Mr. Griffith is one taken from an existing Act known as the Hawkers and Pedlars Act. It is a very old statute, and this definition has been extracted from it. To it Mr. Griffith has added his own proposal to protect people like Rawleigh. I have no objection to the deletion of "brooms, matches or any victuals" but I think that vegetables and fruit are just as essential to people living in the country as are eggs, butter and milk; and if Mr. Diver only wants to protect certain people and not others, he will not achieve his objective of decentralisation. Fruit and vegetables should be left in. I do not think many greengrocers would take their wares around the country towns, as distances would make it too expensive. Could not the owner of a good vegetable garden just outside Kalgoorlie sell his goods except through a shop?

Hon. Sir Charles Latham: That would make them dearer.

The MINISTER FOR RAILWAYS: Would the Chinaman who operates around Perth be put out of business after so many years?

Hon. N. E. Baxter: Not necessarily.

The MINISTER FOR RAILWAYS: He could be forced out by having to be licensed in each district, at £20 a time. I wonder why clothes-proprs have not been included. Mr. MacKinnon was dubious as to what would happen to travellers, but I think the provision should meet with approval.

Hon. Sir CHARLES LATHAM: I am more concerned with the service these people give and the benefits the public receive. We all know that people from Bridgetown and elsewhere bring truckloads of apples to Perth in season, thus providing cheaper apples than are available from other sources, and saving waste. Should they be stopped? I can recall the wonderful service rendered by Afghans in outback areas in my youth. I think the Minister gave a good reason for leaving these people as they are, but I wish to ensure that those who operate are of good character. If that is assured I will support the provision.

Hon. N. E. BAXTER: The amendment makes so many exceptions that one wonders who will be a hawker. If we strike out the words "fruit and vegetables", the man in the South-West to whom Mr. MacKinnon referred should not be interfered with, because it is left in the hands of the local authority, which would not interfere with a person of good character who was giving good service. However, the local authority must have the right to refuse a licence to a person who is not of good character.

Hon. A. F. GRIFFITH: After hearing Mr. Baxter I have heard everything. Sub-clause (2) provides for the making of by-laws for the regulating and prohibiting of hawking in the district or prescribing annual fees not exceeding £20; and surely the local authority would not say to an individual, "We will not make by-laws about you or charge you £20 for a licence"! The object of the provision is to allow the local authority to do what Mr. Baxter says it will not do, and I do not think he has given a valid reason for cutting out sellers of vegetables. If he asked for the exclusion of sellers of brooms or matches—

Hon. N. E. Baxter: I did.

Hon. A. F. GRIFFITH: The Minister was surprised that props were not included. I think we should cut out the words, "Brooms, matches" and so on, and leave the rest as it is. One of the interests that approached me about paragraph (e) has been in business for many years, has had dealers going through the country, and has built up a large clientele in perhaps seven or eight road districts. Under the clause,

as printed, it could be up for £160 annually in fees for hawkers' licences. If the words, "brooms, matches or any victuals" are struck out, I will be satisfied.

Hon. L. A. Logan: Who would be classified as hawkers under the amendment? It appears that a motor firm with agents operating in the country would become a hawker.

Hon. A. F. GRIFFITH: If it was desired to put the interpretation into full effect, almost anybody could be classed as a hawker today, and I am trying to clarify the position. A traveller who tries to sell a farmer a later model car could be a hawker.

Hon. N. E. Baxter: You are trying to bring them in as hawkers.

Hon. A. F. GRIFFITH: No; I contend they are hawkers now, and I want to clarify the position.

Hon. L. A. Logan: But who will be hawkers?

Hon. A. F. GRIFFITH: I cannot say who will be left.

Hon. H. K. Watson: The hawkers, of course.

Hon. A. F. GRIFFITH: I think if we read the provision we will see who will be the hawkers. In regard to the instance quoted by Mr. Bennetts of the man who showed a sample of goods which was much superior to the article supplied, I suggest that such a person could be dealt with in a civil action.

Hon. J. D. TEAHAN: After studying the amendment closely, I think it seeks to achieve what most of us desire. I think we are all anxious to ensure that commercial travellers are not prevented from doing what they have done in the past. Paragraph (a) would cover those travellers. The next one relates to the sellers of perishable goods; and in this instance we are all desirous that the existing practice should continue.

The CHAIRMAN: I have given the hon. member sufficient latitude. I must warn him to keep to the amendment.

Hon. J. D. TEAHAN: As most of the five paragraphs of this amendment appear to protect those that have been protected in the past, I intend to support the amendment.

Hon. L. C. DIVER: If this amendment is agreed to, we will be determining how local government will manage its own affairs. We are therefore taking away the power which a local authority has enjoyed over the years. I do not agree with paragraph (d) of Mr. Griffith's amendment which deals with perishable goods. I consider he is drawing a long bow when he states that a hawker may pay anything up to £60 in hawker's fees.

Hon. A. F. Griffith: Can you say what the Busselton Road Board will do?

Hon. L. C. DIVER: Yes; it will adopt a commonsense attitude. The principle involved in this issue is to allow the local authority to determine the circumstances of the case and to fix a fee for a hawker's licence according to its merits. If the amendment is agreed to, a local authority will not have that right.

Hon. N. E. BAXTER: We have agreed on the deletion of the words, "brooms, matches" and so on; but in regard to fruit and vegetables we do not see eye to eye. If Mr. Griffith looks at Subclause (2), he will see that it provides that a local authority may make by-laws for regulating that a bona fide provider of fruit and vegetables does not need a hawker's licence. Under that provision a local authority has power to regulate without issuing a hawker's licence. It is not mandatory for a seller of fruit and vegetables to take out a hawker's licence. As Mr. Diver has said, we have to give the local authority power to deal with each case on its merits. Under the provisions of the amendment, it could deal with only a few commodities.

Hon. A. F. GRIFFITH: I draw Mr. Baxter's attention to an Act to repeal the law relating to hawkers and pedlars which was passed on the 18th March, 1892. The wording in Section 6 of that Act is the same as that contained in the amendment. In that Act it is stated that the provisions of the succeeding section shall not apply to commercial travellers, vendors of fish and vegetables, persons selling or exposing goods for sale, and sellers of goods of their own manufacture. It is now proposed to insert this extra provision which will apply to the people we are most concerned about.

Section 2 of that Act provides that the council or municipality may make by-laws to cover a number of things, such as regulating the method of hawking, the prescribing of fees, the limiting of the number of licences, the requiring of hawkers to have a badge and also requiring them to display such badge when offering goods for sale. Surely members of the Committee cannot be expected to believe that if five provisions are laid down by a local authority it is not going to carry out any of them.

Hon. N. E. BAXTER: I would remind Mr. Griffith that we are not back in the year of 1892. There were not the facilities in those days to hawk goods such as fish and vegetables through the country. Today, however, with modern transport, they can be hawked throughout the country areas. Although we have not seen fit to exclude those commodities in the past, that does not mean to say that we should not take any action now. In the early days it was the practice for the grower

of fruit and vegetables to hawk his goods around for sale. Today, however, fruit and vegetables are grown in large quantities and the growers are not interested in hawking their products around for sale.

Hon. Sir CHARLES LATHAM: I move—

That the Committee do now divide.

Motion put and passed.

Amendment on amendment put and negatived.

Amendment put and passed.

Hon. A. F. GRIFFITH: I move an amendment—

That after the word "twenty" in line 17, page 156, the word "pounds" be struck out and the word "shillings" inserted in lieu.

The object of this amendment is to obviate a hawker, who operates in many districts, paying a large sum of money in hawker's licence fees.

Hon. J. D. TEAHAN: The maximum licence fee proposed is £20; but Mr. Griffith seeks to reduce it to £1, and that seems to be too low. The amendment to which this Chamber has just agreed gives local authorities the right to refuse the issuing of licences, and that should be sufficient safeguard. I would assume that in most cases the fee to be imposed would be £1, but the right should be given to local authorities to prescribe up to the maximum of £20.

Hon. R. C. MATTISKE: Under the existing provision in the Municipal Corporations Act the comparable figure is £10; and under the Road Districts Act it is £10 for towns and prescribed areas, and £6 for the country. I feel that £1 would be too low an amount to prescribe as the licence fee for hawkers.

Hon. L. A. LOGAN: It would be preferable to leave the figure at £20. There are still a few undesirable hawkers going around the State selling carpets and such things in competition with the country town trades people. We must remember that the £20 is to be the maximum, and in many cases that would not be the figure prescribed. In any event, £20 is not too high a figure to ask of a hawker who is selling high-grade wares; it is not high when compared with the rates and taxes which storekeepers in country towns have to pay. I am sure that if a hawker were to notify a local authority that he was applying for a licence in three or four districts, that fact would be taken into consideration in determining the amount of the licence fee.

Hon. A. F. GRIFFITH: In view of these remarks, I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Hon. A. F. GRIFFITH: I move an amendment—

That after the word "hire" in line 33, page 156, the following subclause be added:—

(3) The council of a municipality shall not entertain any application (other than an application for a licence by way of renewal of a prior licence) unless the applicant produces a certificate signed by two reputable inhabitants of the State certifying that the person sought to be licensed is of good character and reputation and is a fit person to exercise the trade of a hawker.

The Bill does not provide for the production of certificates of good character by an applicant for a hawker's licence, and this amendment will give a protection to local authorities.

Hon. J. M. A. CUNNINGHAM: I do not see any protection being given to local authorities by the production of two character references which may be given by persons in any part of the State. It would be an easy matter for any person, even one of bad character, to obtain two references from persons in Perth when applying for a hawker's licence in Kalgoorlie. If the amendment provided that an applicant must produce two certificates of good character from residents living in the area of the local authority concerned, some protection would be afforded. That would mean that a hawker applying for a licence in three road districts would have to furnish two references from each of those three districts.

Hon. J. D. TEAHAN: I agree with the intention of the amendment. The objection that has been raised against it can be overcome by providing that each application for a hawker's licence shall be accompanied by two references from justices of the peace, members of Parliament, police officers and similar persons, as is the practice under certain legislation.

Hon. A. F. GRIFFITH: I would point out that Subclause (2) (c) provides for the making of by-laws for limiting the number of licences to be issued and for refusing a licence, either when the limit is reached or for any other reason. The production of two references is desired to improve the standards of hawkers and to ensure that their reputation is high. Mr. Cunningham's suggestion would not have the desired effect, because a hawker from Perth might want to operate, say, in Kalgoorlie where he was completely unknown and where it would be extremely difficult for him to obtain two references. He would not be able to comply with the suggestion of Mr. Cunningham, despite the fact that he might have references from very reputable persons in Perth. The amendment would create no difficulty because the local authorities still have the

power to refuse a licence either because the limit has been reached or because there are too many hawkers in the area.

Hon. R. C. MATTISKE: I agree that the amendment gives all the protection that is needed by local authorities. It must be remembered that a local authority is not compelled to grant a licence when the two certificates are produced. Under certain statutes, where the production of two certificates from reputable persons is required, the normal procedure is for the interested party, when in doubt, to check on the references. If it is not satisfied, it has the power to refuse a licence.

Amendment put and passed.

Hon. J. G. HISLOP: I have listened to the discussion on this clause with great interest. But I wonder if we are on the right track in regard to the issuing of hawkers' licences. I realise that there is a desire on the part of local authorities to control the operation of hawkers in their districts, but I can also realise the need for more than mere local control. When it is proposed that the licence fee—or in reality, the penalty for trading—is to be £20, we must remember that hawkers will not in most cases limit their activities to one locality. Many of them operate State-wide, particularly those selling linen, selling suits or taking orders for suits.

The suggestion that an application for a hawker's licence shall be accompanied by two certificates from two persons who might be quite unknown in a road district, indicates that hawkers should be centrally controlled, and the fees received should be divided among the road districts. I would suggest the establishment of a central controlling authority under the Police Department for the issuing of hawkers' licences, and for a person applying for a hawker's licence to produce a reference from a member of Parliament, a police officer, a magistrate, or a justice of the peace. That would overcome the difficulty referred to by Mr. Bennetts, where hawkers deliver goods of inferior quality.

If hawkers were licensed centrally under my proposal, they would all be known to the police as men of good character. I suggest that this clause be postponed and the question of a central authority be given consideration. I believe it is the only way to adequately handle the hawking business, provided the man has that essential qualification from the Police Department and the signatures of two people whose office would be stated on the form. The whole matter would then be put on a sounder basis than it is at the moment in the Bill. I suggest that the member who introduced the provision look at it from that angle.

Hon. A. F. GRIFFITH: If Dr. Hislop likes to move at a later stage for the re-committal of this clause in order to take

it out of the Local Government Bill, and introduce some legislation which would have the matter dealt with by the Police Department, I do not mind. It is of no use withdrawing any of the argument in connection with this matter, because if the question of a hawker's licence went to the police it would not go into the Local Government Bill; it would be separate legislation.

Hon. R. C. MATTISKE: I think the member in charge of the Bill should reconsider this clause; and there are two aspects to which I direct his attention. I am sure we would strike a lot of trouble if we had one central authority to apply conditions for all the remote sections of Western Australia as well as the closely settled areas.

Not so long ago there was a strong move to have the collection of motor-vehicle fees made through one source; and there was great opposition to this, particularly in the country districts. The principal argument was that they did not want it taken out of their hands, and still wanted to control vehicles within their own district. If a move were made as suggested, local authorities in country areas would strongly object to the control over hawkers being taken out of their hands.

There is another aspect which should be considered regarding the fixing of the fee, which is £20 per annum. It is to protect the individual who has to conform to certain by-laws and erect a building to a certain standard before he can sell wares, as against the individual with or without a vehicle who can go from house to house. The person who has established the business has to pay rates and taxes for the right to trade; and it is equitable that the individual coming into the district should also contribute something of a like nature to the finances of that particular local authority. I hope Mr. Teahan will give that aspect careful consideration if he intends to recommit that clause.

Clause, as amended, put and passed.

Clauses 216 to 226—agreed to.

Clause 227—Officers:

Hon. G. C. MacKINNON: There is a marked need in growing towns for a right to make by-laws, regulations and so forth for parking areas. I would like Mr. Teahan to say whether he considers there is need to specifically mention this in paragraph (a), or whether he considers it is adequately covered in the Bill.

Hon. J. D. TEAHAN: I will seek the necessary information and will have it available tomorrow.

Clause put and passed.

Clauses 228 to 230—agreed to.

Clause 231—Quarrying and excavating:

Hon. R. C. MATTISKE: I move an amendment:—

That after the word "Council" in line 37, page 167, the following proviso be inserted:—

Provided that this section shall have no application in respect of the excavation for or mining or winning such minerals as are defined by Section 136 of the Mining Act, 1904-1955.

Under the Mining Act there is prescribed a large list of minerals. In order to excavate for these minerals, it is first necessary for an individual to take out a miner's right, and then go through various other formalities until he reaches the stage when his claim to excavate is heard by a warden or a magistrate. But after all aspects of the claim are heard, a recommendation is made to the Minister for Mines who, in accordance with the Mining Act, issues a permit to excavate if he thinks it should be given. If the amendment is not accepted, we will have the ludicrous position of a local authority endeavouring to override the Minister for Mines.

Hon. J. D. TEAHAN: I strongly suggest that the Committee does not support this amendment. Under the heading of "Minerals" in the Mining Act there are many substances. Clay is one; and if this amendment were accepted, it would remove from a municipality the right to prevent persons despoiling the countryside after digging for clay, such as has occurred at Midland Junction.

Hon. R. C. MATTISKE: Section 136 of the Mining Act covers precious minerals and other basic minerals which the Mines Department has seen fit to have included. Therefore, the Minister for Mines has the right to say whether or not a hole shall be dug for any of these minerals. Without this amendment a local government will have power to override the Minister for Mines in something specifically stated in the Act.

The MINISTER FOR RAILWAYS: If this amendment is agreed to it will mean that local authorities will have no control over excavations, particularly for clay. The Mining Act mentions 40 or 50 minerals, including clay. So far as overriding the Minister for Mines or the Mining Act is concerned, the provisions contained in this clause have always been in the Road Districts Act, Section 202. This section provides for a local authority to grant licences for quarrying stone or clay, gravel or any other material on other than townsites and prescribed areas without the licence of the board; but I would suggest that local authorities should have some protection in their townsites, and ask that the clause remain as printed and that the proposed amendment be not agreed to.

Hon. R. C. MATTISKE: There seems to be a certain amount of confusion about this. We had a long discussion the other night on the desirability of digging for clay for the manufacture of bricks, and the Committee agreed to include in the Bill a provision under which brick-making is definitely controlled. At that time when members spoke of the undesirability of having large holes in different areas, I stated on more than one occasion that there was no need to control brick-making because control was provided in Clause 231 over the quarrying for the material to make the bricks. The clause deals clearly with quarrying mines, and it includes clay. Under this provision the local authority has power to make by-laws to regulate quarrying. That is the complete protection the local authority has against brick manufacturers or other users of clay, sand, etc.

The amendment to which I am speaking concerns minerals as distinct from clay and so on, which I do not propose to have removed. I agree that local authorities should have power to control those things. The Perth Road Board is faced with a terrific problem in the Wembley Downs area where huge lime pits with sheer faces of up to 60ft. are a danger to the people building there and a problem to the local authority in connection with the construction of roads and footpaths.

I do not deny that the local authority should continue to have power to control those excavations. It is not the intention of the amendment to restrict that power in any way. The amendment is to avoid the invidious position that would arise if a local authority could say to a miner, "You cannot dig a hole in Kalgoorlie for the extraction of gold or at Exmouth Gulf for the extraction of oil or for certain other minerals listed in the Mining Act."

Hon. J. M. A. CUNNINGHAM: I think Mr. Mattiske has something here. He is specifically bringing within his amendment such precious and semi-precious minerals as have been mentioned. It appears to me that it is right that they should be under the control of the Minister for Mines rather than the Minister for Local Government.

The CHAIRMAN: Order! I must ask the gentleman in the public gallery to resume his seat.

Hon. F. R. H. LAVERY: I am not in favour of the amendment. Mr. Mattiske spoke of the quarries in Wembley Downs. In the West Province we have many of them. Mr. Davies was responsible for preventing the opening of some quarries almost in the centre of Fremantle. Recently at Brisbane I saw a most beautiful piece of coast, known as the Gold Coast, that had been absolutely ruined by people mining it. They did this under the authority of the Mining Act.

I am perturbed that the Minister for Mines in this State will grant permits to people to mine our beach sands. The Minister for Local Government will lose complete control if the amendment is carried. People who operate under permits given in accordance with the Mining Act are supposed, when they finish their operations, to level the ground and bring it back to a reasonable standard, but they do nothing about it. The Minister for Local Government, not the Minister for Mines, is the one to whom we should appeal.

Hon. H. K. WATSON: Mr. Lavery has given a reason why the amendment should be supported. Anything done under the Mining Act is a matter for the experienced officers of the department. Mr. Lavery has mentioned beach sands. Only the other night we heard that the Premier wanted to sell £10,000,000 worth of iron ore to Japan, but the Federal Government knocked him back. Tomorrow the Premier may get the idea of selling £10,000,000 worth of mineral sands to Japan. He will find then that he is stopped, not by the Federal Government, but by some tinpot local authority. I suggest that any minerals covered by the Mining Act be excluded from this Bill.

Hon. E. M. DAVIES: The fears expressed by Mr. Watson do not arise, because most of the minerals he has mentioned are on Crown lands.

Hon. H. K. Watson: No.

Hon. E. M. DAVIES: Certain things are permitted under the Mining Act. A local authority in a mining district would not go out of its way to prevent a company from excavating to obtain minerals, but I would venture to say that even in our mining districts, although a person could peg a lease, the local authority should have some say as to whether it should be in the middle of the main street. That is all the clause is for. The local authority may make by-laws for the regulating of quarrying. Local authorities would carry out the intention in the Bill with due consideration for a mining claim. It would not be wise to agree to the amendment.

Hon. F. D. WILLMOTT: I am not prepared to agree to Mr. Mattiske's amendment without some further information on it. The Busselton Road Board is concerned about the ilmenite mining in its area because it will not have any control over the excavations on its beaches. If the amendment is agreed to it will affect the jurisdiction of the board as compared with the jurisdiction it will have under the Bill as it stands. I am not prepared to support the amendment until I have gone further into the matter.

Hon. R. C. MATTISKE: We are losing sight of the fact that before a permit to excavate, which is what this amounts to,

is granted by the Minister for Mines, the applicant has to submit his claim to a warden or a magistrate who then makes a recommendation to the Minister for Mines, and if the Minister ultimately gives the right to excavate, that right is not given lightly. If the Bill remained as it is and some individual applied for permission to excavate for some of the minerals listed in the Mining Act, there would ultimately be a right of appeal to the Minister for Local Government. The final say comes back to ministerial level. The net effect is the same whether it be under the local government legislation or under the Mining Act. But I feel it is ludicrous for the Mining Act to provide how all these minerals can be won from the earth, and then for this power to be taken from the Mining Act and placed in some other statute. I hope this is now clear to Mr. Willmott. This is not power that will be exercised willy-nilly by anybody; it will be exercised only by the Minister for Mines.

Amendment put and a division taken with the following result:—

Ayes	10
Noes	12
Majority against		2

Ayes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. J. Murray
Hon. L. C. Diver	Hon. H. L. Roche
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. G. MacKinnon	Hon. A. F. Griffith

(Teller.)

Noes.

Hon. G. Bennetts	Hon. J. D. Teahan
Hon. F. F. Hutchison	Hon. J. M. Thomson
Hon. G. E. Jeffery	Hon. W. F. Willesee
Hon. Sir Chas. Latham	Hon. F. D. Willmott
Hon. F. R. H. Lavery	Hon. F. J. S. Wise
Hon. H. C. Strickland	Hon. E. M. Davies

(Teller.)

Pairs.

Ayes.	Noes.
Hon. C. H. Simpson	Hon. G. Fraser
Hon. L. A. Logan	Hon. J. J. Garrigan
Hon. A. R. Jones	Hon. E. M. Heenan

Amendment thus negated.

Clause put and passed.

Clauses 232 and 233—agreed to.

Clause 234—Records:

Hon. G. C. MacKINNON: I have been approached by members of the Historical Society to ask if it would be possible to make provision for local authorities to forward certain of their records to the Archives Branch, records which they consider of some historical value.

The MINISTER FOR RAILWAYS: I shall have necessary inquiries made and inform the hon. member.

Hon. G. C. MacKinnon: Thank you.

Hon. G. BENNETTS: Could not the Historical Society make application to the local authorities? I am vice-president of the Goldfields Historical Society, and we have made application to different bodies

in this regard and have always been successful in getting what we wanted, if it was of no value to the authority concerned. Perhaps the Historical Society here could do the same thing.

Clause put and passed.

Clause 235—School hostels:

Hon. R. C. MATTISKE: What is the necessity for this clause? Do any local authorities conduct hostels for school children?

Hon. G. Bennetts: Yes.

Hon. Sir Charles Latham: I think that some road boards do. The one at Koorda did.

The MINISTER FOR RAILWAYS: I cannot recall any at the moment; but I think at one time the Carnarvon council, in conjunction with a church, conducted a hostel. Apparently the clause is required; otherwise it would not have been inserted in the Bill.

Hon. G. BENNETTS: The Kalgoorlie Municipal Council conducted one of these hostels for students attending the School of Mines.

Clause put and passed.

Clauses 236 to 238—agreed to.

Clause 239—Streets—use and management:

Hon. R. F. HUTCHISON: I move—

That paragraph (s), in lines 4 to 6, page 176, be struck out.

This deals with perambulators, and I do not think it should have been included in the Bill. I remember my mother telling me of the time when she had me in the pram, as a baby—and that is not yesterday. She was standing in front of Buckley & Nunn in Melbourne, and the policeman told her that she could not obstruct the footpath with a perambulator. When she said that she was looking at a hat, he said, "You must admire it elsewhere."

Hon. R. C. Mattiske: You had a reputation even in those days.

Hon. R. F. HUTCHISON: I think that must have started my career. The clause is redundant. Although it is said that the hand that rocks the cradle rules the world, apparently a woman cannot walk along the footpath with a perambulator. A pram is essential to a mother these days, and I hope members will agree to this amendment.

Hon. Sir CHARLES LATHAM: This paragraph does not prohibit the use of perambulators. Not long ago I saw some fellow wheeling another chap in a perambulator through the streets of Perth. Apparently it was done for amusement; but in narrow streets the local authority should have power to stop that sort of thing. This paragraph only regulates and

does not prohibit the use of prams. It has always been in this type of legislation, and I feel sure it would not be misapplied.

Hon. G. C. MacKINNON: Mr. Chairman, can anyone tell us whether a perambulator is used only for carrying children, or do the contrivances that some women wheel about to pick up their groceries come within that category for the purposes of the Act?

Hon. E. M. Davies: They are buggies.

Hon. R. F. HUTCHISON: I did not think there would be any opposition to this amendment. I am amazed. Surely we expect women in these days to use perambulators with commonsense. Good heavens! A woman does not take a perambulator to town unless she is forced to do so! As I said previously, women are considered to be the cart-horses of the age. I want members to understand that. They have to fetch and carry, and they are forced to take their babies into town in their perambulators. If any member here has a family, I would like him to go back and tell his wife that this has been opposed and see the answer he will receive if she is a person with commonsense.

I am amazed at the view expressed by Sir Charles Latham. I cannot get over the cheek of men talking about perambulators in this fashion, and I certainly do not appreciate their impertinence. Where are these women to take their babies? Are they to take them in the back streets so that the lords of creation can pass on the footpaths? It is ridiculous. There has always been a dearth of women in Parliament, and it will be a good thing when there are more women in this Legislature so that we can have better laws and more commonsense.

Sitting suspended from 10.17 to 10.36 p.m.

Hon. L. A. LOGAN: Mrs. Hutchison is reading this wrongly. It is to make by-laws to regulate for the protection of perambulators. I think they need protecting at times.

Hon. F. R. H. Lavery: The word "protection" is not there.

Hon. L. A. LOGAN: Is not a by-law for the protection of something? Today a pedestrian has the right of way on a cross-walk but a perambulator has not. If a mother is pushing a perambulator with a baby in it on a cross-walk, the perambulator has not got the right of way, but only the person pushing it.

Hon. R. F. Hutchison: Nonsense!

Hon. L. A. LOGAN: It is not nonsense at all. Have a look at the Act! A perambulator is not a pedestrian.

Hon. R. F. Hutchison: You are out of your depth.

Hon. L. A. LOGAN: No; I am not. A perambulator is not a pedestrian and what is in it is not a pedestrian either. It might be anything. The provision is for the protection of perambulators.

Hon. Sir CHARLES LATHAM: I would point out to the hon. member, who gets excited when people dare to oppose her, that since 1890 there has been in the Municipal Corporations Act a provision regulating the use of perambulators or upon streets, ways, footpaths and so on; and it is being continued as it is of material benefit to mothers, giving them the right of way at all crossings as long as the lights are not against them, and particularly when pedestrian crossings are marked out. We have all seen how many men help mothers to get their prams and strollers down from the backs of buses.

Hon. R. F. HUTCHISON: Don't you think they should?

Hon. Sir CHARLES LATHAM: Of course! But we have heard the hon. member say repeatedly in this House that whatever men can do women can do also. I am just about fed up with listening to some of the rubbish she speaks; and if this provision is taken out, I think the women of the State will be sorry that the hon. member is in this Chamber.

Hon. R. F. HUTCHISON: Sir Charles is not half as sick of listening to me as I am of listening to some of the things he says. There is no reason why perambulators should not be allowed to be used freely anywhere; and to say that this provision is for their protection is nonsense.

Hon. Sir Charles Latham: What is the meaning of the word "regulating"?

Hon. R. F. HUTCHISON: I will not argue further. But it is about time that these things were brought into proper perspective; and neither Sir Charles nor any other member has heard me say anything that would lower the dignity of women. I have said in this Chamber a great deal in their favour, and will continue to do so in spite of the outcry when I speak. One of the first things our lady town-planner did in her plans for townships was to introduce pram ways.

Hon. Sir Charles Latham: Isn't that regulating them?

Hon. R. F. HUTCHISON: No; it is providing a privilege that they did not have previously.

The MINISTER FOR RAILWAYS: The local authority can give protection to perambulators under the provision as it stands. It could set aside an area at a football ground, for instance, for the protection of perambulators. A pram way—which the hon. member mentioned—might be a ramp to lift prams from

the street to the footpath. I am sure no local authority would attempt to put through this Chamber or another place a Bill that would impose undue restriction on perambulators or their use. I support the provision as it stands.

Hon. A. F. GRIFFITH: On examining the amendment I cannot agree that the hon. member knows what she is talking about, because no local authority would wish to restrict mothers in the use of perambulators. If the paragraph sought to prohibit the use of perambulators, the position would be different. I have seen women using pusher carts to push babies and also to push groceries but no one would do anything to prevent a mother transporting her child in a pusher, and I do not think the hon. member understood the provision, if she read it.

Hon. F. R. H. LAVERY: I was not in the Chamber when the hon. member moved the amendment and did not hear what she said, but she has the right to give her ideas—

Hon. L. A. Logan: You did not hear what she said.

Hon. F. R. H. LAVERY: I prefaced my remarks by saying that. I am not being facetious. Every time the lady member in this Chamber rises to speak on behalf of her sex she does not receive fair treatment.

Hon. Sir Charles Latham: Mr. Chairman I object to the statement that Mrs. Hutchison does not receive fair treatment. She does from me, anyway.

The CHAIRMAN: I think the debate has gone far enough on this line. Members should keep to the subject matter before the Chair; and before any other members speak, I ask them to do that.

Hon. F. R. H. LAVERY: With all deference to your ruling, Mr. Chairman, as I was about to say, if you object to what I am going to say I will disagree with your ruling.

Hon. Sir Charles Latham: That is a threat.

Hon. F. R. H. LAVERY: I will do it very smartly, too.

The CHAIRMAN: The hon. member will please resume his seat. He has the same opportunity of speaking to this amendment as anybody else; but I think we will all agree that this matter has just about gone far enough, and it is becoming tedious repetition. Under the Standing Orders I have a perfect right to mention this to members, and that is all I am doing. The next member who gets up to speak must keep to the subject matter before the Chair. The hon. member is entitled to continue.

Hon. F. R. H. LAVERY: Mr. Chairman, I am going to say what I was about to say before you sat me down; and I do not care how I finish up tonight. The question before the Chair at the moment is the deletion of paragraph (s).

Hon. Sir Charles Latham: What does it say?

Hon. F. R. H. LAVERY: The hon. member would not know. I am addressing you, Mr. Chairman, and no one else. Every time Mrs. Hutchison speaks in this Chamber, on anything connected with her sex, which she proudly represents here, Sir Charles Latham ridicules her. I say that, and I do not care whether he demands a withdrawal of the statement or not. It is time he got up and talked a bit of commonsense.

Point of Order.

Hon. Sir Charles Latham: Mr. Chairman, the hon. member is criticising me and is not speaking to the motion before the Chair. Secondly, he is making a statement which is not true.

Hon. F. R. H. Lavery: It is true.

Hon. Sir Charles Latham: I object to it under the Standing Orders. Under our Standing Orders a member cannot be offensive to any other member.

Hon. F. R. H. Lavery: Haven't you been offensive before now?

Hon. Sir Charles Latham: Mr. Chairman, I have the right to defend myself; and under the Standing Orders, you are the only one who can defend me.

The Chairman: Standing Order No. 394a says—

No members shall use offensive or unbecoming words in reference to any member of either House and all imputations of improper motives and personal reflections on members shall be considered highly disorderly, and words infringing this Standing Order, when objected to, shall be withdrawn forthwith.

I want the hon. member to take notice of that Standing Order.

Debate Resumed.

Hon. F. R. H. LAVERY: I do not intend to withdraw one word of what I said. If you, Mr. Chairman, rule otherwise, all right; but I do not withdraw one word, because what I said is correct.

As regards the amendment, I do not think Mrs. Hutchison has read the paragraph correctly. I intend to throw a bouquet at myself tonight on the subject of prams, because some years ago, about

1928, the Railway Department, in attempting to fight the Metro buses, reduced the fares between Perth and Fremantle. The company called the staff together and asked what we could do to combat this. Mr. Adams, the manager of the company, can verify my statement that I said we could carry prams free for mothers. That was agreed to and was the starting point for the carrying of prams on buses. Sometimes what I say may sound like piffle but that is not so.

One member wrote to the paper the other day and said that goods in Leederville were cheaper than they were in town. I do not agree that that is the case in other suburbs, and women have to use their prams to go shopping in town. However, I think Mrs. Hutchison has misread this paragraph.

Hon. R. F. HUTCHISON: I have not misread the paragraph. For years I have been fighting over this sort of thing; and it is only in the last few years that women have been allowed to take their prams on trams and buses. Even now it is only by the goodwill of a tram conductor—and thank goodness there are a number of them in the Tramway Department—that a woman can take a pram on a tram. I saw a woman the other day in Inglewood. She had a seven-months-old baby in her arms and was pulling a pram along. I asked her if I could put the pram on the tram for her and she said, "No, there is a nice chap on the tram, and he will put it on for me."

I cannot understand the controversy over this amendment. It was all right before the war when goods were delivered; but now women have to carry heavy parcels and look after their children at the same time. It is only recently that pushers have been permitted in open shops, public vehicles and theatres. I hope members will agree to the amendment.

Hon. L. C. DIVER: A great disservice has been done to Sir Charles Latham in that he has been accused of not protecting the rights of women with children. However, it has been pointed out that only recently when Sir Charles Latham saw a woman with an infant in a pram, he hung the pram on the back of the bus. Yet, apparently, it is to be recorded in Hansard that Sir Charles Latham is very callous in regard to the treatment he has meted out to mothers with perambulators. The hon. member appeared to have something in her favour when she moved this amendment; but as she persisted with her line of argument, I became more and more convinced that had she control of a perambulator she would run over every member of this Committee. I feel that the clause should stand as printed.

Hon. F. R. H. LAVERY: Following Mr. Diver's remarks, I do not want it to be understood that I have suggested in any way that Sir Charles Latham has shown anything but kindness towards children.

Hon. Sir CHARLES LATHAM: I was pleased to hear the hon. member who moved this amendment point out the progress that has been made in regard to the assistance rendered to mothers who travel with perambulators by public transport. If we study the meaning of the word "regulating" we will understand it. I am perfectly satisfied to let the paragraph in this clause remain.

Hon. G. C. MacKINNON: It might be of interest to Mrs. Hutchison to learn that we are one of the most progressive countries in the world, because the hooks used on the backs of buses were invented for perambulators by Campbell and Mannix.

Amendment put and negatived.

Clause put and passed.

Clauses 240 to 251—agreed to.

Clause 252—Adoption of draft model by-laws:

Hon. R. C. MATTISKE: I would draw the attention of members to Subclause (4) (a). Do I read it correctly in taking it to mean that had the model by-laws recently presented to both Houses of Parliament not been objected to they could have been adopted with amendments to certain of their provisions?

Clause put and passed.

Clause 253—Cases where the Governor may make by-laws:

Hon. R. C. MATTISKE: The Committee should object to Subclause (3). Is that not a very sweeping power to give—to completely override a local authority by amending or revoking those by-laws wholly or in part?

Hon. Sir CHARLES LATHAM: The word "Governor" means Executive Council, and not the Minister. It would be the decision of the Executive Council.

Hon. R. C. MATTISKE: I know that. But it is the Minister who virtually makes the decision. He makes his proposal to Executive Council, and the Governor's part in it is largely a formality.

The MINISTER FOR RAILWAYS: This provision is to protect the ratepayers in cases where local authorities may refuse to repeal or amend a by-law that is out of date. In such cases the Governor can step in; and, as Sir Charles Latham has said, the reference to the Governor means the Minister would submit the question to Cabinet first, because it would be a rather drastic step to take, and it would only be

taken when absolutely necessary to bring a local authority into line. Cabinet would consider the matter; and if it decided to approve, it would go to Executive Council and be tabled here.

Hon. W. F. WILLESEE: My view is that we often have a by-law which is ultra vires the parent Act. It may not be known to the local authority until it tries to invoke the by-law and it is challenged by application to the Minister. That is where the Governor would step in and override it or, alternatively, make it workable. Something that might have been good in 1950 might be unworkable in 1955 because of an Act that has come into operation in the intervening years.

Hon. R. C. MATTISKE: The Minister for Railways has given me the answer I was seeking. He said that the by-law made by the Governor must ultimately be tabled in this House.

Clause put and passed.

Clauses 254 to 264—agreed to.

Progress reported.

House adjourned at 11.20 p.m.