directly, "What is the matter with Manjimup tobacco?"; and he said, "Its no Pygmalion good."

Mr. J. Hegney: Put that in your pipe and smoke it!

Mr. ROWBERRY: Those who have seen "My Fair Lady" will know the adjective to which I am referring. It is sanguinary in the extreme. When he said, "It's no bloody good"—

The SPEAKER (Mr. Hearman): Order!

Mr. ROWBERRY: I will withdraw that, Mr. Speaker.

The SPEAKER (Mr. Hearman): The honourable member has just about exceeded his time anyway.

Mr. ROWBERRY: As he said that, he saw one of the Manjimup tobacco growers standing behind me; and he turned around to him and said, "That does not apply to yours." He was just growing the ordinary tobacco, the same as that grown by other people, but this representative had bought this fellow's tobacco and he did not see him standing behind me when he used that particular adjective in relation to Manjimup tobacco. I have told this story to give members some indication of the standards that manufacturers use when they buy our tobacco. Because of that I think my motion for the appointment of a Select Committee should have the approbation of the House.

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

Ayes—22.

Mr. Bickerton	Mr. W. Hegney
Mr. Brady	Mr. Jamieson
Mr. Curran	Mr. D. G. May
Mr. Davies	Mr. Moir
Mr. Evans	Mr. Norton
Mr. Fletcher	Mr. Oldfield
Mr. Graham	Mr. Rhatigan
Mr. Hall	Mr. Rowberry
Mr. Hawke	Mr. Sewell
Mr. Heal	Mr. Toms
Mr. J. Hegney	Mr. H. May
	(Teller.)

Noes—23.

Mr. Bovell	Mr. Hutchinson
Mr. Brand	Mr. Lewis
Mr. Burt	Mr. I. W. Manning
Mr. Cornell	Mr. W. A. Manning
Mr. Court	Mr. Mitchell
Mr. Craig	Mr. Nalder
Mr. Dunn	Mr. Nimmo
Mr. Gayfer	Mr. O'Connor
Mr. Grayden	Mr. Runciman
Mr. Guthrie	Mr. Williams
Mr. Hart	Mr. O'Neil
Dr. Henn	*(Teller.)*

Pairs.

Ayes.	Noes.
Mr. Tonkin	Mr. Wild
Mr. Kelly	Mr. Crommelin

Majority against—1.

Question thus negatived.

House adjourned at 10.31 p.m.

Legislative Council

Thursday, the 27th September, 1962

CONTENTS

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS ON NOTICE

"ESPERANCE FLYER"

Reintroduction during Christmas Holidays

1. The Hon. G. BENNETTS asked the Minister for Mines:

   In view of the large number of miners who travel to Esperance during the Christmas period when they are on annual leave, and because of the limited space available on the railway road bus which operates from the goldfields to Esperance, will he ask the Minister for Railways to reintroduce the *Esperance Flyer* which operated prior to the road bus system, so that a greater number may travel and be able to transport all of their necessary luggage by rail?

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

The department does not intend to reintroduce the *Esperance Flyer* because it is considered that the intended augmenting of the Kalgoorlie-Esperance bus service over the Christmas holidays, plus the provision of a luggage trailer and an extra freighter bus to assist in transporting passengers' luggage will prove adequate to meet the needs of the vacation period.

SUPERPHOSPHATE IN BULK

Tonnages Hauled and Supply of Trucks

2. The Hon. C. R. ABBEY asked the Minister for Mines:

(1) What tonnages of superphosphate in bulk were hauled by the W.A.G.R. for the seasons 1957-58, 1958-59, 1959-60, 1960-61, 1961-62?

(2) Has any difficulty been experienced by the W.A.G.R. in supplying suitable trucks for the haulage of bulk superphosphate?

(3) What additional tonnage of bulk superphosphate is it estimated will be hauled by the W.A.G.R. in 1962-63?

(4) Will any difficulties arise in the supply of suitable railway trucks if the anticipated tonnage is—

(a) reached; or

(b) exceeded?

(5) Should the answer to No. (4) be "Yes", what steps is it proposed to take to meet the situation?

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

(1) 1957—58 Nil.
1958—59 3,000 tons.
1959—60 9,000 tons.
1960—61 16,937 tons.
1961—62 58,748 tons.

(2) No.

(3) 40,000 tons..

(4) No. Provided the ordering is spread over the season and the wagons are released promptly at destination.

(5) Answered by No. (4).

STATE RENTAL HOMES

Erection outside Metropolitan Area on Guarantee

3. The Hon. J. M. THOMSON asked the Minister for Mines:

(1) Is the Housing Commission prepared to erect State rental homes in areas outside the metropolitan area, if payment of rent is guaranteed by—

(a) the local authority;

(b) private employers; or

(c) a State Government department?

(2) Would the Housing Commission be prepared to erect State rental homes in centres outside the metropolitan area for employees engaged on rural holdings, and what guarantee for payment of rent would be required?

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

(1) After taking into account the relative housing needs of other eligible applicants, and where circumstances warrant, the Housing Commission erects rental homes outside the metropolitan area for employees where the rent is guaranteed by—

(a) Local authority,

(b) Private employer,

(c) State Government department.

(2) It is felt that the providing of homes for employees on rural holdings is more a matter for authorities which administer rural development schemes rather than for a State housing authority.

KATANNING-KOJONUP WATER SUPPLY

Progress of Work on Pipeline

4. The Hon. J. M. THOMSON asked the Minister for Local Government:

(1) Will the Minister inform the House the progress of work on the Katanning-Kojonup water supply pipeline?

(2) What remaining work is required to be done to complete this supply line?

(3) Can a date be anticipated now—(a) when water will reach, Kojonup per medium of this line; and (b) when water will be available for public use per medium of stand pipe and reticulation?

The Hon. L. A. LOGAN replied:

(1) Work is 90 per cent. complete.

(2) Complete construction of service reservoir and pumping station.

(3) (a) During the second half of November, 1962.

(b) Early December, 1962.

COAL MINE WORKERS' PENSION FUND

Contributions, Qualifying Period, and Payments

5. The Hon. R. H. C. STUBBS asked the Minister for Mines:

(1) What are the pension contributions under the Coal Mine Workers' Pension Fund for—

(a) the miner;

(b) the company; and

(c) the Government?

(2) How many persons employed in the coal mines contribute to the fund?

(3) What is the qualifying period, and also what other conditions apply to enable the pension to be received?

(4) What are the pension payments to—

(a) the pensioner;

(b) wife; and

(c) children?

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

(1) (a) 7s. 6d. per week.

(b) 22s. 6d. per week per man employed.

(c) £30,000 per annum.

(2) All men employed on the coal mines—approximately 750.

(3) For a pension at retirement at age 60; 25 years' contributions under section 6 of the Coal Mine Worker's Pension Act. There are various qualifications under sections 7, 7 (1) (A) and 8 of the Act for earlier retirement on account of invalidity.

(4) (a) £6 2s. 6d. per week.

(b) £5 7s. 6d. per week.

(c) £1 0s. 0d. per week.

(These pensions are reducible by any amount received by the husband or wife as social services pension).

HOMES FOR THE AGED

Number Awaiting Entry to Mt. Henry Home and "Sunset"

6. The Hon. J. D. TEAHAN asked the Minister for Mines:

(1) Is there a waiting list for applicants desirous of entering homes for the aged at—

(a) Mt. Henry; and

(b) Sunset?

(2) If so, what is the number in each instance?

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

(1) Yes.

(2) Mt. Henry Home—185, of whom 35 are urgent cases.
Sunset Home—15.

MINE WORKERS' RELIEF FUND

Contributions, Qualifying Period, and Payments

7. The Hon. R. H. C. STUBBS asked the Minister for Mines:

(1) What are the pension contributions under the Mine Workers' Relief Fund for—

(a) the miner;

(b) the company; and

(c) the Government?

(2) How many persons employed in the gold mines contribute to the fund?

(3) What is the qualifying period, and also what other conditions apply to enable the pension to be received?

(4) What are the pension payments to—

(a) pensioner;

(b) wife; and

(c) children?

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

(1) (a) 1s. 9d. per week.

(b) 1s. 9d. per week per mine worker employed.

(c) A sum equal to the total contributions made by the employers.

(2) Approximately 4,500.

(3) There is no qualifying period. Basically, benefits are payable by the Mine Workers' Relief Fund to mine workers who—

(i) have been prohibited for tuberculosis with silicosis or notified of advanced silicosis after compensation under the Workers' Compensation Act has been exhausted, or

(ii) have been prohibited for tuberculosis, or

(iii) have been notified of early silicosis and are registered as early silicotics under section 50 of the Mine Workers' Relief Act and who have exhausted their percentage compensation under the Workers' Compensation Act, providing they are—

(a) in receipt of an old age pension, or

(b) in receipt of an invalid pension, or

(c) unable to work on account of some non-compensable malady or disease.

(4) (a) A benefit of £2 per week.
(b) A benefit of £2 per week.
(c) A benefit of 10s. per week.

The maximum benefit payable is £4 10s. per week and is reducible if the beneficiary is receiving the invalid or old age pension and the benefit would make his total income exceed the permissible income for those pensions.

STATE GOVERNMENT INSURANCE OFFICE

No-claim Bonus

8. The Hon. J. D. TEAHAN asked the Minister for Mines:

(1) When a motor vehicle accident occurs and one of the drivers, who is insured with the State Government Insurance Office, is adjudged free of all blame, does he in all cases receive the benefit of the no-claim bonus?

(2) If the answer is "No," in what such circumstances is the insurer entitled to this rebate?

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

(1) The bonus is a no-"claim" bonus, not a no-"blame" bonus, and it is forfeited if an insured elects to claim under his policy. If, however, S.G.I.O. recovers in full from the third party or if the third party is insured but S.G.I.O. considers full recovery would have been possible but for this, then the no-claim bonus is reinstated. In this latter instance if S.G.I.O.'s client is free of blame it would be considered that full recovery would be possible and the bonus would be allowed. This information is printed in red on every S.G.I.O. accident report form so that a client will not be misled.

(2) Answered by No. (1).

ESPERANCE JUNIOR HIGH SCHOOL

Upgrading to Five-year High School

9. The Hon. R. H. C. STUBBS asked the Minister for Mines:

(1) Is it planned to upgrade the Esperance Junior High School to a five-year high school?

(2) If the answer is "Yes," when is it anticipated the upgrading will take place?

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

(1) and (2) No. As explained previously to the honourable member, a junior high school must first become a three-year high school and then, at a later stage, may be lifted to a five-year high school if numbers warrant it. At the moment Esperance does not qualify for a separate three-year high school.

ESPERANCE DISTRICT HOSPITAL

Extension

10. The Hon. R. H. C. STUBBS asked the Minister for Mines:

(1) Is it planned to extend the Esperance District Hospital to a larger hospital?

(2) If the answer is "Yes," when is it anticipated that the work will be commenced?

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

(1) and (2) Not in the immediate future. The hospital, however, is planned in such a way that additions can be economically built as and when the need arises.

LAND ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [2.42 p.m.]: I move—

That the Bill be now read a second time.

By way of introduction to the first of the important amendments in this Bill, members are referred to division 1 of part V of the Land Act, which deals with conditional purchase. Section 47 in that division sets out the maximum areas of land suitable for cultivation and/or grazing land, which a person may cultivate either as lessee or transferee.

In the assessment of equivalent areas, five acres of grazing land was deemed under the Act to be equivalent to two acres of land suitable for cultivation. This definition is no longer practicable because of advances made in agricultural science and the upgrading of the land.

The maximum area which one person may acquire is 5,000 acres of grazing land. The purpose of the additional amendment is to extend the provisions of section 47 to enable the Governor to increase the maximum area up to a maximum of 10,000 acres. That is if it is necessary to do so to establish a farm as an economic unit. The reason for this suggested increase lies in the greatly diminished area of heavy lands still held by the Crown. As a consequence, we are fast reaching a stage in our agricultural development where the Crown will have mainly light lands available and suitable for the development of agricultural pursuits.

Members will be interested to learn that Crown lands within the project area south of Mingenew consist of varying types of known soils suitable for cultivation. The broken nature of the country points to the necessity to make available for selection as single farm units areas in excess of 5,000 acres. Otherwise there would be doubts as to whether each successful applicant could be given a reasonable proportion of land suitable for cultivation as against grazing land.

A report on the Midlands, submitted to the Government by a committee comprising R. & I. Bank Commissioner J. P. Gabbedy, (Chairman); Mr. T. Cleave, Deputy Surveyor-General; and the Deputy Director of Agriculture, Mr. F. L. Shier, substantiates the views now held with respect to that part of the project area south of Mingenew.

In these matters it is not being overlooked that the determination of cultivable land as against non-cultivable land, as related to the provisions of section 47, is fraught with many complexities. These are, for the most part, associated with present-day improvements in agricultural science, and the widespread use of trace elements.

The passing of the amendment just explained would enable the Governor to approve of larger farm units being made available upon recommendations which could be substantiated by the relevant factors of land use, suitability, soil classification, rainfall, and locality.

The next major amendment proposed in this measure writes into the Land Act sections 3 to 9 of the recently repealed Closed Roads Alienation Act of 1932. The purpose of reinstating these provisions in the Statutes is to permit the alienation of land comprised in closed roads which otherwise now becomes re-vested in the Crown under the provisions of section 294 of the Local Government Act of 1960, and subject to section 57 of the Transfer of Land Act, 1893.

Members might be reminded that the 1960 Act repealed the Closed Roads Alienation Act of 1932, the intention being to effectuate the provisions of the 1932 Act through the regulation-making powers of the 1960 Act. Subsequent examination of the laws, however, disclosed that there was no legal basis in the Local Government Act of 1960 for the drawing up of such regulations, and the intention consequently became an impracticability.

It follows that, unless the main provisions of the 1932 Act are reinstated in the Statutes, the present unsatisfactory conditions under which such land must be dealt with will prevail. That, in fact, is the position as it stands at present equally as it was prior to the passing of the 1932 Act. That Act obviated the necessity to issue separate Crown grants for each separately numbered location. They were issued under section 57 of the Land Act, 1898.

One of the lesser but very real difficulties associated with that procedure was the positioning of such small parcels of land on small-scale plans. The main purpose of the amendment then is to provide for the land in any closed road to be vested in the holders for the time being of the adjoining land. It will then become part of that land and be included under its lot number and subject to the same encumbrances.

The Bill proposes two or three other similar provisions in respect of land becoming available through other causes. One of these has to do with parts of the rabbit-proof fence which have been sold *in situ* to the owners of the adjoining land, together with the land in portions of the reserve, and also the intervening portions of closed roads lying between the fence and private property. The handling of many small parcels of such land is now being held in abeyance pending the passing of this measure.

The provisions of the proposed section 118B will cover the alienation of the land in the reserves. It can then be dealt with in the same manner and at the same time as that lying within the adjacent area of closed road.

Similar procedures to meet the same set of circumstances are proposed in respect of railway lands; that is, upon discontinuance or deviation of any railway. Those provisions are contained in the new section 118C and are along the same lines as those incorporated in the Railways (Cue-Big Bell and other Railways) Discontinuance Act of 1960; but whereas the provisions in that Act have application only to the railway lands the subject of that Act, their insertion in this Bill will make overall provision for any railway lands no longer required for railway purposes because of discontinuance or deviation of a line.

Finally, in proposed section 118D will be found authority for the vesting of additional Crown land under similar conditions in order to square up a boundary. That could operate, of course, only in circumstances where other Crown land lies contiguous to land becoming available because of the closure of roads or cessation of railway activities, and its operation is restricted to such lands as are referred to in the proposed new part VIIA of the Act.

Debate adjourned, on motion by The Hon. F. J. S. Wise (Leader of the Opposition).

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 25th September, on the following motion by The Hon. L. A. Logan (Minister for Town Planning):

That the Bill be now read a second time.

THE HON. L. A. LOGAN (Midland—Minister for Town Planning) [2.50 p.m.]: This Bill contains three amendments, one dealing with the continuation of the Interim Development Order for the metropolitan region scheme; one dealing with the granting by the Minister of an Interim Development Order in those areas not covered by the metropolitan region scheme; and another which provides relief to those people who are transferring land as a result of subdivision. Much has been said in connection with the Bill, and I will endeavour, as far as possible, to reply to the points raised during the second reading debate.

Clause 3 of the Bill adds a new section 7B to the principal Act. The purpose of this amendment is to empower the introduction of an interim measure of control over development within a district or part of a district pending the consideration by the Minister of a town planning scheme for that area. The new section is in substantially the same form as the present section 7A, which relates only to the Perth-Fremantle metropolitan region.

Section 7A was inserted in the Act in 1955 following reference of the Stephenson-Hepburn regional plan and report to the parliamentary advisory committee. The advisory committee, in effect, recommended that pending the translation of the regional plan into the form of a planning scheme with statutory effect, steps were necessary to protect essential features of the plan against adverse development. Section 7A therefore empowered the Minister, with the consent of the Governor, to make an interim development order with just that object. In a similar way, town planning schemes are being made and will be made for towns in other parts of the State.

The preparation of a town planning scheme and the procedures which have to be followed before the stage of final approval is reached can be quite protracted. During this interim period, between the initiation of a planning scheme and its final approval and coming into force, well conceived plans for the advancement and proper planning of the town may be prejudiced or negated by development which the local authority has no power to control. It is in such a situation as this that an interim development order may be an essential safeguard.

It should be noted that the proposed section 7B does not, as some members appear to have read into the Bill, empower a local authority to make an interim development order. The power will rest only with the Minister and be subject to the approval of the Governor as in the case of the powers under the present section 7A.

The misgivings which have been expressed at giving local authorities very extensive powers of hindering and harassing their townspeople seem to me to be quite without foundation. The local authority which may be specified as the responsible authority for the administration of an interim development order consists of councillors of honesty, sanity and integrity, and will be given only such powers as are necessary to achieve the purpose of the order, to protect the provisions of the town planning scheme until it is finally approved.

An interim development order can only be made on the basis of the proposed town planning scheme. That is to say, the town planning proposals must have been formulated before the Minister can consider making an order to give interim protection to those planning proposals. Any order so made will cease to have effect when the town planning scheme comes into force or when and if the order is revoked by the Minister; or twelve months from the date the order is applied to a district unless the Minister, again with the approval of the Governor, extends the operation of the order, which the Bill empowers him to do from time to time for a further period not exceeding twelve months.

It should also be noted that the proposed section 7B repeats the present provisions of section 7A in giving a right of appeal to the Minister against the refusal of development consent by the local authority administering the order, and in providing for compensation or acquisition of property where a refusal of development consent is on the grounds of proposed reservation of subject property for public purposes.

Mr. Watson spoke of the amendment giving power to a metropolitan local authority to introduce an interim development order, thus duplicating the powers of the Metropolitan Region Planning Authority. Apart from the fact that, as I have already observed, it is not the local authority but the Minister who makes an order, that could scarcely happen. It would be pointless, as the metropolitan region is already covered by an interim development order protecting the regional plan.

Clause 4 of the Bill introducing section 20A of the principal Act has no bearing on the discretionary powers of the Town Planning Bill in controlling subdivision. The purpose of the amendment is to facilitate the transfer of land for certain purposes associated with subdivision. At the

present time, where, for example, a subdivider incorporates in his subdivision a right-of-way or pedestrian access-way or a reserve for one purpose or another, the vesting of such land in the Crown involves a separate transaction by way of transfer documents, lodgment and fees.

The effect of the amendment will be that the necessary transfers will be made automatically, as it were, on the registration and approval of the diagram or plan of survey in the Titles Office. This amendment is made in the interests of landowners, irrespective of any discussion on the policy or practice of requiring recreational areas to be transferred. Whatever arguments there may be about that aspect of town planning, there can scarcely be any argument about the requirement sometimes made for drainage, reserves, or public footways in connection with a subdivision. The subdivider will want to provide these anyway for effective development of his land. The practice, if this amendment is not introduced, involving him in the lodgment of separate transfer documents and the payment of fees, will continue as something of minor vexation. It might well have been removed earlier.

Although it goes outside the scope of this Bill, there has been a good deal said in the debate in the Chamber and in another place about the power of the Town Planning Board in sometimes requiring land to be transferred to the Crown for certain purposes as a condition of approval of subdivision. Reference has been made, too, to litigation in this matter in which the Town Planning Board was recently engaged. I think the principles involved may not be fully understood by members, and I should like to try to clarify them.

Very briefly, the litigation referred to concerned a stretch of coastal land of some 600 acres south of Mandurah. A syndicate bought this land and proceeded to subdivide it into quarter-acre blocks for sale to the public. It was made clear to the syndicate at the outset that approval to the subdivision would be subject to provision being made for part of the land, including the foreshore, to be set aside as the necessary recreational areas for the use of the community which would eventually live there.

In short, the plaintiff relied on two contentions for substantiating this claim. The first was that the demands made were excessive and unreasonable. The second was that no explicit legislative sanction was given for land to be required to be transferred to the public and that it therefore represented expropriation and was beyond power. In that respect I would like to refer to what Mr. Justice Virtue had to say—

> It is hardly necessary to consider in detail the provisions of the statute relating to the general powers, duties, and obligations of the Board to determine whether the subject matter of the conditions imposed on which complaint is made were beyond power. They relate to matters such as the provision of areas of the subject land for reserves for park and recreation and the provision of a strip of land alongside the Old Coast Road for widening purposes and for construction of service roads, clearly matters with which, in accordance with the terms of the Act, the Board and Minister were directly concerned. There can be no doubt, accordingly, that the legislature would have had within contemplation the imposition of conditions relating to these matters before a plan of subdivision would be approved. Nor am I prepared to conclude that the amount of land which the Board determined was proper to be applied for these purposes from the subject land is unreasonable. The Town Planning Commissioner has given evidence that the areas required to be allocated for these purposes are reasonable and proper and were arrived at by the Board in accordance with recognised principles of town planning. I accept that evidence and find accordingly.

He went on to say that the only question which caused him concern was the right of the board to impose conditions which were tantamount to expropriation of the property of the individual without direct legislative sanction. On this ground he found that the board had gone beyond its powers, and he so ordered.

The matter was then taken by way of appeal to the High Court of Australia and heard before Mr. Justice Kitto, Mr. Justice Menzies, and Mr. Justice Owen. These learned judges could see no foothold for any argument based on the general principle against construing Statutes as enabling private property to be expropriated without compensation. Nor could they accept that in this case there had been any expropriation for the benefit of the Crown in any real sense of the expression. Here I would like to read an excerpt from the judgment of the three learned judges—

> The question in the case seemed to Virtue J. to be "whether the Board can expropriate for the benefit of the Crown and without any right of compensation substantial portions of the plaintiffs' land as a condition of their being able to use the balance remaining." With respect, this is not an accurate way of stating the question. There is here no expropriation for the benefit of the Crown in any real sense of the expression. True it is if the land required for open space reserves is transferred to the Crown for park and recreation purposes as the conditions require, the beneficial title to

> it will pass to or be vested in the Crown without legal fetter. There will be a moral obligation on the Government to keep it reserved for the purposes mentioned, but no legally enforceable obligation. The ultimate sanction must be political only. But the fact remains that the Board has stipulated for the transfer solely in order to serve purposes which it is justified in serving by an exercise of its power to impose conditions, and has done so because a reliance upon the continuing good faith of the Administration provides the only available means by which the fulfilment of those purposes may be practically secured.

If members would like to read those words for themselves they will get a very clear picture of the position.

The Hon. W. F. Willesee: Are you replying to the debate on the Bill, or introducing a fresh one?

The Hon. L. A. LOGAN: If the honourable member had listened to the debate, he would know that references were made to the matters I am dealing with.

The Hon. W. F. Willesee: I listened as thoroughly as you, but I am completely bewildered now, and so are you.

The Hon. L. A. LOGAN: I am not; I am replying to the issues raised by Mr. Watson and Mr. Wise; and if the honourable member had listened to their speeches he would know that that is what I am doing.

The Hon. W. F. Willesee: I wish you would be more direct.

The Hon. L. A. LOGAN: I am direct. There is nothing more direct than quoting Mr. Justice Virtue's decision and the decision of the High Court of Australia; and they are available if the honourable member wishes to read them.

The Hon. W. F. Willesee: Thank you; but I have just heard you read them.

The Hon. L. A. LOGAN: So you have it.

The Hon. W. F. Willesee: Yes; and I am delighted.

The Hon. L. A. LOGAN: I voice these thoughts only to suggest that the picture sometimes painted of the Town Planning Board as a ferociously appetited dragon and the land speculator as a saintly knight in armour is rather a travesty. Whilst I certainly do not suggest a reversal of these roles, I do suggest a doubt whether the land speculator, who seems to have some champions here, has always made very commendable contributions to the welfare of the community.

I do not think there are any grounds at all for suggesting some sinister authoritarianism in the operations of the board, or that it is harsh and unreasonable in the exercise of its responsibilities and duties for the administration of those sections of the Act it is concerned with.

Nor do I believe there is anything inherently inequitable in the board requiring in certain circumstances some portion of the land being subdivided to be given for public purposes as a condition of approval of subdivision. Indeed, in several respects the subdivider of land in Western Australia is subject to much less onerous conditions than are applied under comparable legislation in New South Wales and Victoria, and in New Zealand too.

I might go further and say that only recently I discussed town planning with an eminent man from Johannesburg; and I can assure members that the conditions applying at Johannesburg, as well as those that apply in the other places I have mentioned, are much more stringent than they are here. For example, the subdivider in Sydney, Melbourne, or Auckland is, I understand, generally required now to meet the cost of sewerage and water reticulation in residential subdivision as well as to construct subdivisional roads and footpaths to substantially higher and more costly standards than are asked for in this State.

The practice of requiring subdividers to transfer portions of their land for public recreation purposes is neither new nor unique to Western Australia. It has long been the practice in New South Wales, for example, to require up to 10 per cent. of the area of a subdivision to be provided without payment for public open space. Similar policies are applied in other States.

There is a widespread recognition now in most parts of Australia that in subdividing land—I suppose invariably at a profit—the subdivider can quite reasonably and properly be expected to meet some part of the need for additional land for public purposes. His action in subdividing largely creates that need.

It is universally accepted that for social and health reasons an urban community needs a certain quota of land to be available for playing fields, parks, children's playing grounds, and open space facilities generally. A standard that is commonly suggested as an acceptable minimum is 10 acres per 1,000 of population.

If an area of 100 acres of land is subdivided into residential lots, houses eventually built on those lots are likely to house 1,000 people. If no provision is made at the time of subdivision, sooner or later the local authority will be faced with the problem of acquiring 10 acres of land for that purpose, with a probability that by then it will be impossible to do so, or only at a prohibitive cost.

It is scarcely necessary to underline the additional burden this would impose on the general body of ratepayers, or the undesirability of depriving the community of the amenity and enjoyment of parks and playgrounds.

It must be recognised that the possibility of that hypothetical owner of 100 acres being able to reap the profit that goes with the subdivision is not created by his efforts. Increase in the value of his land and the realisation of its development potential is due mainly to the efforts of the whole community in bringing about urban expansion.

The Hon. A. R. Jones: Why is he sold the land in the first place if the Government is going to ask for it back again?

The Hon. L. A. LOGAN: He buys from a private individual, not the Crown.

The Hon. A. R. Jones: The Crown sold it originally.

The Hon. L. A. LOGAN: No; it did not. The honourable member is referring back to the 1700's is he? That is in broad acres. This is an entirely different matter. When recreation facilities are required in subdivisional development they are for the benefit of those people who are paying for the land and not the subdivider.

Rather than there being anything inequitable in requiring the subdivider to give up land for public purposes, I think the reverse would be the case. The inequitability would be in expecting the community generally to meet the cost of the need which the subdivider creates. We have been going through a period of rapid expansion and outward growth of our cities. The demands this makes on services of all kinds: for water, power, drainage, sewerage, highways, schools, clinics, hospitals, and so on, are enormously costly and have certainly stretched our resources to the utmost. The landowner who has been able to take advantage of the lucrative opportunity to subdivide his land has, in a sense, profited by the public expenditure on those services.

The Hon. F. R. H. Lavery: It was ever thus.

The Hon. L. A. LOGAN: Let me offer one or two quotations which I think are indicative of the attitude in some other parts of Australia and some other parts of the world on this matter of the responsibility of the subdivider in providing for recreational open space. The *Town Planning and Local Government Guide* recorded in volume 4 in 1959-60 that, in the State of New York, legislation has been enacted explicitly permitting towns to require subdividers to make cash payments instead of providing space for park and recreation reserves if the planning board decides that a suitable park cannot be located within the area to be subdivided.

The Hon. H. K. Watson: That was done by legislation.

The Hon. L. A. LOGAN: And, according to the High Court of Australia, it is done by legislation here. It is recorded in the same volume that Mr. Justice Hardie of the New South Wales Land and Valuation Court held, on appeal, that 7½ acres out of a subdivision of 70 acres provided reasonable garden and recreation space in the subject area which, when built on, is anticipated to hold 950 to 1,000 persons. Again, the Landsborough Shire Council in Queensland has made a by-law requiring subdividers to transfer to the council not less than 5 per cent. of the total area of land to be subdivided.

In the December, 1961 issue of the *Journal of the Australian Planning Institute*, it is reported that the South Australian Government Town Planner (Mr. S. B. Hart) and the National Fitness Council have convinced municipalities generally that 12½ acres of recreational space is required for each 1,000 of the population. The provision of 12½ acres for each 1,000 of population represents nearly 20 per cent. of an area if it is developed on a basis of four blocks to an acre, four persons to a house.

The town planner normally requires 5 per cent. of new subdivisions to be handed over to the local council for recreation areas. This would represent only about one quarter of the suggested optimum of 12½ acres per 1,000. A request has been made by the Municipal Association of South Australia urging that the Town Planning Act be amended to increase this amount to 10 per cent., to be provided either in land or money which shall be earmarked for the purpose of acquiring the reserves.

The Hon. Frederick W. Hall, Associate Justice of the Supreme Court of New Jersey, wrote as follows in an article published in 1961:—

> In subdivision regulation there has been no trouble at all in requiring the developer to lay out and construct his development so that it will cause as few municipal problems as possible once he has left the scene for new pastures and to install and pay for adequate streets, utilities, drainage and other improvements which would otherwise become the obligation of the local government unit. Overall, the point I make is that firm and advanced ground has been established from which I feel certain there will be no significant retreat. When we look back only a little way, we see how revolutionary the judicial breakthroughs have been and how much free use of property has been subordinated to the general welfare under increasingly stringent regulations.

It would not be difficult to produce a volume of authoritative statements on the same theme, all demonstrating the acceptance everywhere—including the United States of America, where one might expect the most jealous preservation of the rights of an individual in his land—of the principle of the subdivider of land being expected to an increasing extent to meet some of the needs of the community out of his land rather than leave these obligations to be met at the cost of the general body of ratepayers or taxpayers. I say "to an increasing extent" because change in social outlook and attitude are involved in this. Fifty years ago there might have been some righteous indignation at the thought of an owner having to surrender any of his land for the public good. Now, as the American judge whom I quoted a moment ago has pointed out, it is commonplace.

A mathematical formula is not in any case applicable to matters of this kind. It is a matter of experience and judgment and town planning technique, and for this reason alone I am sure that there is merit and justification in Parliament having relied for more than 30 years on what the court has described as an "expert" Town Planning Board. That board knows perfectly well that the discretionary powers given to it must also be exercised in good faith for the purposes provided for in the Act, and without any capriciousness or unreasonableness, or the court would very soon intervene, if the Minister did not himself bring them back to the level of reasonableness.

There is nothing happening here in the way of requirement for provision of recreation reserves in subdivision that is not happening similarly in other Australian States and in other countries. If there is a danger of the Town Planning Board grasping 75 per cent. or 100 per cent. of land the subject of a subdivision proposal, as Mr. Watson suggested, it is a danger which has existed here for 30 years, through many Parliaments and Governments and under many Ministers, and it has existed nearly as long in New South Wales. It seems to me just as irrational an argument to say that Parliament, which undoubtedly has the power to do so, is likely to bring in a law requiring every member of the Chamber to dye his hair blue. That statement is no more irrational than the statement made by Mr. Watson.

I have replied at length to the debate; and, admittedly, some of these things are outside the scope of the Bill. However, queries were raised in the second reading and I thought it only fair to give adequate replies to them. I repeat that the three principal objectives of the Bill are—

(1) To extend the term of the Interim Metropolitan Development Order to control the Metropolitan Town Planning Regional scheme until 1963, when it is hoped the scheme will become law.

(2) To make provision for an interim development order to provide for town planning schemes outside the metropolitan region.

(3) To ease the position and make it less costly for subdividers who have, in their own right, to give land to be transferred to the Crown.

I do not think any great exception can be taken to those three basic principles in the Bill which I commend to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

The Chairman of Committees (The Hon. W. R. Hall) in the Chair; the Hon. L. A. Logan (Minister for Town Planning) in charge of the Bill.

Clause 1: Short title and citation—

The Hon. F. J. S. WISE: This clause will enable me to make a few comments on some of the things which have been said, some which have been left unsaid, and some which would have been better left unsaid. I refuse to accept the view of the Minister, in deference to the President and to the will of this Chamber, that matters extraneous to this Bill were discussed in the second reading debate; because that is not so.

All the matters in the general debate on this Bill which had reference to the Town Planning and Development Act, mentioned in the clause we are dealing with, were wholly relevant to the Bill, and were within the scope of the title and the subject matter of it. It is a direct reflection, either by the Minister or by the one who prepared his notes, to say otherwise.

This Bill was dealt with very temperately by me in a very short address concerning its specific provisions and related matters; and I referred only to outside matters when I mentioned clause 24, which also was referred to by the Minister in his introductory speech. Those were all the matters discussed by me.

I supported the first provision in the Bill without qualification. I drew attention to the second provision and made a comparison between the existing law in section 7A, and what is intended in clause 2. I did not even mention the subject matter of another clause. I suggest that some of the things we have heard from the Minister were obviously not in his own language, or of his own preparation.

The Hon. H. K. Watson: It was a second reading speech.

The Hon. F. J. S. WISE: I am not interested in that part. The Minister has a full right to reply to any matter previously raised, but I suggest to those who took

any part in the preparation of his notes, that it ill becomes them to attempt to cast a slur on persons, on members of Parliament, on the districts they represent, or on the interests within those districts; and it does not become them to use ill-chosen, ill-selected, and improperly-placed words.

The Hon. L. A. Logan: Do you not think I have the right to uphold the standing of those who have been criticised in this House?

The Hon. F. J. S. WISE: I am speaking for myself. My only words of reference to individuals of the board in question were words of eulogy.

The Hon. L. A. Logan: Who said I was referring to you when I made my remarks? I did not mention your name.

The Hon. F. J. S. WISE: We cannot deal with this matter loosely and have a general application lodged. We cannot accept the statements as not affecting everybody. So far as I am concerned the Minister cannot get away with that. I simply repeat that it will be wise for those who prepared the subject matter of the Minister's comments to remember that in their choice of words they should use the same criteria in their approach to this Parliament as they would use in their own enthusiasm—which I acknowledge—for applying the high standards of their profession.

When I speak to the subsequent Bill appearing on the notice paper, to which a member in this Chamber addressed himself when I was unfortunately absent through illness, I want to make it clear that it is not necessary to have us regaled with the accomplishments of those who constitute boards and authorities. I remind the Minister that we are not all novices.

The Hon. H. R. Robinson: Who said you were? I did not.

The Hon. F. J. S. WISE: If the cap fits, wear it!

The Hon. L. A. Logan: Of course that also applies to yourself.

The Hon. F. J. S. WISE: So it is very necessary for those matters to be handled in a guarded fashion. We acknowledge, without qualification, the authority, the rights, the responsibilities, and the very great interest displayed by those who administer these laws. We are here as custodians not only of the administration of the laws and the manner appertaining to it, but also to say what is right and proper in that regard.

In connection with the parent Act, referred to in the clause under discussion, I have prepared terms of reference to move for a Select Committee—a matter of which I have not yet given notice. When such things happen, as have happened by references in the last week in this Parliament, it is obvious that a Select Committee can do nothing other than a lot of good. One of the greatest needs, if one holds a great responsibility, is to accept it humbly, knowing that in the particular authority, vested with all the power, the first great need is humility and consideration of the points of view other than one's own.

The Hon. L. A. LOGAN: Members should read what I have just said and compare my remarks with what Mr. Watson had to say. He used these words, "if it is proposed that they are to be given very extensive power of hindering and harassing, to a not little degree." Mr. Watson was referring to local authorities. That being the position, is it not right that I, as Minister for Local Government and Town Planning, should have something to say about such a comment? I have every right. Members of local authorities are men of honesty and integrity who give their time and services free of cost to the community.

The Hon. F. R. H. Lavery: Have you heard any member in this House say otherwise?

The Hon. L. A. LOGAN: What is this reference to hindering and harassing? Those words were referred to in the notes I read. A little further on he says—

> Clause 4 is the only other provision in the Bill which calls for comment. It relates to the automatic vesting in the Crown upon the registration of any subdivision of such land as may have been confiscated—

"As may have been confiscated" are the words Mr. Watson used; and he continues—

> —from a subdivider by the Town Planning Board when making its approval of the subdivision.

Again I take exception to the accusations being made that the Town Planning Board would confiscate anyone's land. Surely I have a right to reply, and I am sure Mr. Wise would not deny me that right. Those are the words used. Surely the Committee is not going to tell a Minister that he cannot reply to accusations of that kind.

The Hon. F. J. S. Wise: I made no suggestion that you should be denied the right to reply.

The Hon. L. A. LOGAN: The implication was in the honourable member's words. Mr. Watson also had this to say—

> The question was recently tested in the courts, and the judge in the original jurisdiction of our Supreme Court held that the power was not in the board.

I gave the High Court's judgment which stated that the board did have the power.

The Hon. H. K. Watson: I also said that.

The Hon. L. A. LOGAN: The honourable member then went on to say—

> Section 24 did not confer the power of confiscation or expropriation.

Again, he is implying that the board was using powers of confiscation. Those were the words uttered by the honourable member. Then he said—

> The point is that if the power exists to expropriate land which may be 5 or 10 per cent. today, under the authority of the existing Town Planning Board, as I read in the High Court judgment, it could be that if it is to remain unchallenged, the Town Planning Board could demand the surrender not of 5 or 10 per cent. of the land, but of 20 or 50 per cent., or, if one cares to go a little higher, even 75 per cent.

If that is not accusing the present board of irresponsibility I do not know what is. The present board consists of the Town Planner (Mr. Lloyd); Mr. V. L. Steffanoni, who has been on the board for 28 years; Mr. Paddy Clare, who was the Principal Architect and who has been on the board for 24 years; and Mr. Harvey, who has been on the board for 14 years or more. If members will read what I said they will appreciate that my remarks were in reply mainly to those words uttered by Mr. Watson.

Every board has a right, through its Minister, to express its views in the House when such accusations are made against it, such as those which were made by Mr. Watson. I do not intend to crawl down from what I have already said on this matter.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Section 7B added—

The Hon. H. K. WATSON: We must remember that when we legislate and a Statute is placed on the statute book, it is there for all time and anyone interpreting that Statute does so by reading it. He does not read the second reading speech to find out how certain sections will be limited. During the second reading debate the Minister explained that the provisions of the proposed new section 7B were intended to operate only in respect of country local authorities. I hope I did not misunderstand him.

The Hon. L. A. Logan: No; that is quite true.

The Hon. H. K. WATSON: Well, that being so, I would have thought it more appropriate if after the word "district" at the end of line 10, the words "within the metropolitan region" were inserted. If this were done the Act would then be quite clear. However, as it stands, despite the remarks of the Minister, I submit it would be quite within the province of any local authority in the metropolitan area to submit a town planning scheme notwithstanding the provisions of the metropolitan regional plan.

While I am on my feet, I would refer to the Minister having taken extreme umbrage at my suggestion—

The Hon. L. A. Logan: I did not take umbrage in the first place.

The Hon. H. K. WATSON:—that town planning and the town planning scheme had hindered and harassed the general public. I repeat what I said. Anyone who has been at the receiving end of a town planning scheme will quite freely agree that in 99 cases out of 100 such a town planning scheme does hinder and harass the public.

This has proved particularly so lately because, despite the fact that the original town planning scheme was propounded in 1955, it is found in 1962 that the authorities have changed their minds and all the plans made by those previously affected by the 1955 scheme have been disorganised. In other words, those who had become resigned to being affected by the 1955 scheme had made other plans and now they find that those plans may not be necessary, despite the fact that they may have been involved in heavy financial commitments.

On the other hand there are others who under the 1955 scheme were not affected but who now find that their properties and businesses are, in fact, to be disorganised. I repeat that I do not think I am doing an injustice to anyone by saying that a town planning scheme does hinder and harass a very substantial section of the community.

The Hon. L. A. LOGAN: All I wish to say in reply to Mr. Watson is that I am quite agreeable to the insertion of the words he suggests. From my point of view I do not feel it is necessary to insert them because the metropolitan region comes under an interim development order and any local authority must submit its town planning scheme within a certain time, and it must conform to the terms of the over-all regional scheme. I am sure that no Minister would give a local authority the right to carry out a scheme of its own if it affected the over-all scheme. If members wish to make it clearer I am quite happy to accept Mr. Watson's proposal because it covers the same purpose as I require.

I am not going to enter into a debate on town planning principles but I will say that whatever is done in the way of town planning is done in the interests of the whole of the community. If a decision made in 1955 is no longer reasonable in 1962 it has to be altered to meet the circumstances. We cannot get away from

the fact that the whole principle of the metropolitan region plan is to ensure that this region thrives. The very fact that we have to move the inner ring road from Roe Street to Newcastle Street proves that this is so. The number of cars coming to the city is growing to such an extent that we have to make provision to get them in and out.

The Hon. E. M. Davies: It is not suggested that we cannot amend the original plan.

The Hon. L. A. LOGAN: I know. If the plan had already been put into effect, the amendments mentioned today would have to be amendments to the scheme.

The Hon. E. M. Davies: That was the basis of the town planning scheme.

The Hon. L. A. LOGAN: I know, but Mr. Watson seems to think that once a plan has been made it cannot be altered. The plan is there for the purpose of making this State function and to maintain the values in the city. The Crown does not get anything out of it. It is for the benefit of the community and that is the way it ought to be. If we have to change our plan it will not be altered to any great extent.

I think the two phases mentioned by Mr. Watson—the East Perth complex and the inner ring road—are the main ones. One has not been entirely discarded by any means, and we are getting expert advice on the other. The plan was not big enough and that is the reason for this amendment. I am quite prepared to accept the suggestion made by Mr. Watson to make the amendment clearer.

The Hon. J. M. THOMSON: I wish to move an amendment to subclause (2) (a).

The Hon. L. A. LOGAN: I think we should complete my amendment first otherwise we will have to go back to Mr. Thomson's amendment. I think that to use the words "pending the consideration by the Minister of a proposed town planning scheme for a district or part of a district which is not covered in the metropolitan region town planning scheme area" would just about cover it.

The Hon. F. J. S. Wise: May I suggest to the Minister that the words, "situated outside the regional area" might be better?

The CHAIRMAN (The Hon. W. R. Hall): What is the proposed amendment?

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

> Page 2, line 10—Insert after the word "district" where secondly occurring the words "outside the areas defined under the Metropolitan Region Town Planning Scheme Act,"

The Hon. F. J. S. WISE: I take it that the Minister is satisfied that the contention raised by Mr. Watson is wholly correct. Careful reading of this clause—in which the words "development within the district, or part of the district" occur many times—shows that there is logic in accepting the contention held by Mr. Watson. I am wondering if there is any doubt on that point. If the relationship between section 7A and proposed new section 7B is sufficiently clear, the words may prove to be unnecessary. I think there is no doubt that since sections 7A and 7B are referring to two separate portions of the State —two separate areas entirely—unless there is a differentiation in the wording, it will be better to be specified. I am not sure whether there is that need, and I wonder if the Minister would prefer to report progress or adjourn for a few minutes and perhaps in consultation we can iron it out.

Sitting suspended from 3.50 to 4.9 p.m.

The Hon. L. A. LOGAN: During the afternoon tea break we have been in touch with the Parliamentary Draftsman, and he has suggested that the wording which should be used is "which district or which part is situated outside the metropolitan region." I presume he has done that because the region is defined in the Act. I bow to the Parliamentary Draftsman's knowledge and ask leave to withdraw the amendment with a view to inserting those words in its place.

Amendment, by leave, withdrawn.

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

> Page 2, line 10—Insert after the word "district" where secondly occurring the words "which district or which part is situated outside the metropolitan region."

Amendment put and passed.

The Hon. J. M. THOMSON: I propose to move an amendment—

> Page 2, line 38—Delete the words "three times in a daily newspaper" and substitute the word "newspapers."

The Hon. L. A. LOGAN: I would point out to the honourable member that if he takes out the words "three times" there will be no defined number of times that the notice shall be published. To satisfy the honourable member's desire he should delete the word "daily," and then whatever paper is desired can be used for the publication of the notice.

The Hon. J. M. THOMSON: I appreciate the point raised by the Minister, and I move an amendment—

> Page 2, line 38—Delete the word "daily."

The Hon. G. C. MacKINNON: This has been discussed before in this Chamber in regard to other Acts, and I would sound a note of warning such as has been sounded

on previous occasions. There are a number of newspapers circulating in certain districts which would not fill the bill, and while they would probably not be used—

The Hon. A. L. Loton: They could be.

The Hon. G. C. MacKINNON: That is so. In Bunbury we have a weekly *Rotary Bulletin* which is classified as a newspaper, but it could not be used for this purpose. Most districts have their local papers which are usually known as the local rag. But frequently they would not be satisfactory because in some districts there is a certain amount of overlapping. The only town outside the metropolitan area which has a full plan under consideration at the moment is Bunbury, I think.

The Hon. L. A. Logan: No; there are Geraldton, Albany, and Busselton.

The Hon. G. C. MacKINNON: This matter has been discussed considerably in the local paper; but for formal advertisements I would say that we should at least retain the daily newspaper. Whilst this would eliminate the local paper, the local authority generally puts the advertisement in the local paper, anyway.

The Hon. J. M. Thomson: Does it?

The Hon. G. C. MacKINNON: There has been much discussion in the local paper, and much publicity given in it. To make it more specific we might provide for the daily newspaper or the locally recognised newspaper, or something like that. The present provision refers to newspapers classified for purposes of transmission through the post.

The Hon. F. R. H. LAVERY: Whilst I agree with Mr. Thomson in his concern that perhaps *The West Australian* or *The Sunday Times* might not be read by the people in the district; and whilst I support the honourable member in this, because I believe the general public should be informed and not have to find out at some future date as to what is happening, I do think that Mr. Thomson will be defeating what he intends to establish; namely, that the advertisement shall be carried three times by the local newspaper circulating in the district. This could still mean that it would be carried by *The West Australian, The Sunday Times,* or the *Weekend News,* together with the local newspaper. I would like to hear Mr. Thomson on this.

The Hon. J. M. THOMSON: When speaking to the second reading of the Bill I intimated that I proposed to move an amendment that the advertisement should be carried in the *Government Gazette,* and three times in the daily newspapers, and in three issues of the country Press circulating in the district. The Minister intimated by interjection that the amendment in the Bill would cover what I wanted to do. I want to make sure the people in the districts affected by these schemes will be fully informed. Mr. Wise suggested that the people involved in the schemes should be notified by circular letter or something similar. While that may be too much to expect, it is desirable to advertise in the local Press, because while some people may not read the public notices in *The West Australian* very carefully, they will read the local paper thoroughly.

The CHAIRMAN (The Hon. W. R. Hall): I suggest to Mr. Thomson that if he desires to move another amendment he ask leave to withdraw the one before the Chair now; and he can substitute a fresh one later.

The Hon. J. M. THOMSON: It is not easy to define and I think that might be the best course.

Amendment, by leave, withdrawn.

The Hon. J. M. THOMSON: I take it that it will be possible for me to ask for a recommittal at a later stage in order to move my amendment?

The CHAIRMAN (The Hon. W. R. Hall): Yes.

The Hon. J. G. HISLOP: There is a point on which I seek some guidance. Recently in the newspaper a suggestion was made that between the Town Planning Board and the Minister himself an appeal might be made to the court. It has been suggested to me that it would provide a sense of confidence in people if they could appeal outside their governmental institution when they felt deeply aggrieved.

In the question of land resumption they would have the right of appeal to the court. But in the case of an interim development plan, where they are prevented from doing certain things, they only have an appeal from the Town Planning Board's decision to the Minister himself, and he may hear the appeal or appoint some other person to do so. Is it possible that the right of appeal to the court could be of advantage if placed in the Bill; or would it hinder unduly any interim development which is proceeding? Has the Minister given thought to such a possibility?

The Hon. L. A. LOGAN: For administrative reasons I would say that the individuals would be better served as the Bill stands. I say that advisedly from experience I have had. The figures I gave the other night prove that the Minister does go outside the scope of the Act; that he does use a little humanity, which no tribunal could use. The department, the tribunal, and the court of law should confine themselves to the Act.

I know the opinion has been expressed that a tribunal should be set up for these things. But who would pay for it? Suppose someone in Bunbury, Busselton, Geraldton, or Albany, appealed against a

decision of a local authority. It would be necessary, if we set up a tribunal to hear such an appeal, to send the Town Planling Commissioner or the tribunal to the place in which the appeal was lodged. I do not think this could accomplish any more than the Minister is achieving now—and achieving with far less cost to the individual. The fact that 50 per cent. of appeals were upheld either conditionally or unconditionally surely proves that the Minister is not without humanitarian principles.

The Hon. F. R. H. LAVERY: That might be all right while the present Minister is in office. But, as Mr. Watson said, once the Bill becomes law the provision is there for all time. I, too, am concerned about the point raised by Dr. Hislop. I compliment the Minister on his administration of this matter. I have had dealings with the Minister myself, and I have been treated most courteously and expeditiously. But when I have tried to have dealings with the board I have not got past the front counter. I do not think this would be a good provision for all time; though it might be very good while the Minister is in office.

Clause, as amended, put and passed.

Clause 4: Section 20A added—

The Hon. H. K. WATSON: I have no objection to this clause on the assumption that under section 24 of the Act the board has power to expropriate land. If that is so, then the provisions in this clause are necessary and desirable. As a matter of fact, I think they could well have been in the Act from 1928 onwards. But there is a special reason why I suggest the clause could well be deleted from this Bill and deferred until the Act is being amended next year. My reason, is that, as the Minister mentioned earlier, there is litigation which is still in the course of being resolved on the question of whether the board has power under section 24 to expropriate part of the land.

From time immemorial and ever since Parliaments were Parliaments a cardinal rule of parliamentary practice has been that where litigation is in progress, Parliament shall do nothing to alter the position of either litigant from what it was at the time the litigation was commenced. Of course there is a very good reason for that. Inasmuch as this clause is directly related to section 24, and if section 24 as it stands at the moment does not give the Town Planning Board power to expropriate this 10 per cent., then the proposed section 20A becomes unnecessary. Proposed section 20A assumes that the board has power, under section 21, to act as I have said.

If it were passed it would clearly prejudice the rights of the appellant, in the case to which the Minister has referred, in its proposed appeal to the Privy Council. The position, as I understand it, is that the appellant won its case before the Supreme Court of Western Australia, lost its case before the High Court of Australia, and has now appealed to the Privy Council.

I feel strongly that Parliament should not expressly or by necessary implication do anything which would alter the rights of litigants until after the litigation has been finalised. It is for that reason only that I suggest to the Minister and the Committee that clause 4 could well be deferred until next year. In my opinion it should not appear in this Bill having regard to the circumstances mentioned.

The Hon. L. A. LOGAN: I hope the Committee will not agree with Mr. Watson. I think we all would agree that this amendment should have been made many years earlier. It is an attempt to assist subdividers. The Act deals with access-ways and easements for drainage, etc.; and why should we deny the rights to these people for another twelve months? The clause will have no bearing whatsoever on the litigation. There are many subdivisions where access-ways are provided by the subdivider for the benefit of the subdivision; and he could not get a subdivision unless he had a drainage easement. I hope the Committee will allow the clause to remain in the Bill.

The Hon. H. K. WATSON: My advice is from the solicitors for the appellant who say that in their opinion the passage of this clause would seriously prejudice the rights and the position of the appellant in the Privy Council.

The Hon. F. J. S. WISE: I listened carefully to the reply given by the Minister and I understood him to say that there is neither intention contained in this clause nor could there be any obligation within it which could be regarded as a prejudice in the case referred to by Mr. Watson, and that its general application is to facilitate the transference of those operations involved in subdivisions after the approval of the subdivisional plans.

The Hon. L. A. Logan: Irrespective of what they might be.

The Hon. F. J. S. WISE: If this has any oblique reference at all to a case that is probably pending before the Privy Council the clause should not be in the Bill. But if it has no oblique reference I cannot see any real purpose why the clause should not be included in the Bill.

The Hon. H. K. WATSON: It has been explained to me that the argument under section 24 is whether the board has or has not power to expropriate land. That is simple enough. We are now inserting a clause to provide what shall happen after the board has expropriated it on the express assumption and implication under section 24 that it has the power so to do; and that is the point which I suggest is a distinct danger.

The Hon. L. A. LOGAN: I might mention to the Committee I have been endeavouring to have this amendment incorporated in the Act for some time. Where the land is transferred to the Crown, whether by order of the board or whether it is part and parcel of a person's subdivision, it is necessary to provide a pedestrian access-way and drainage easements, which condition is laid down by the Metropolitan Water Supply, Sewerage & Drainage Department.

The Hon. F. J. S. Wise: In your view has this any association whatever with current litigation?

The Hon. L. A. LOGAN: I can categorically say it has no thoughts or intentions with regard to the present litigation. This came up long before the litigation ever started.

The Hon. R. C. MATTISKE: I see no reason why this clause should not be permitted to stand as printed. The point raised by Mr. Watson regarding the present litigation is that if this clause be now included it will presume that section 24 means certain things. Is it not always the intention that legislation should express in black and white what is to be interpreted by those operating under it? This present litigation, having reached the Privy Council, will be considered by the best brains available and in the light of the printed word—not of intentions or implications through further amendments.

If this clause is included I cannot see how it can affect the present litigation. There is also this point: The Minister has said that for some time he has wanted to have this provision inserted in the Act but has not been able to do so. There possibly could be litigation year after year from now on and he would never have it inserted. I would like to hear further from Mr. Watson in view of the possibility that we may do something to impair the present case.

The Hon. H. K. WATSON: The short answer to Mr. Mattiske is this: I agree with him that the Privy Council will decide this case on the printed word, but it is necessary that it should decide on the printed word as it has so far proceeded, not on the printed word after we have passed this legislation.

The Hon. L. A. LOGAN: Surely the Privy Council will decide the issue as it was firstly presented to Mr. Justice Virtue and to the High Court and not on any extraneous matters! Nobody will know what is contained in the Act, much less the Privy Council. It will only decide on the judgment of the High Court over the judgment of Mr. Justice Virtue. I fail to see how this will come into the litigation.

The Hon. F. J. S. WISE: Whether the powers now vested in the Town Planning Board under section 24 of the Act be as ruled by the High Court of Australia or as interpreted by Mr. Justice Virtue will be a matter for decision if the appeal to the Privy Council is permitted. In my view we are not extending the powers within the law with which the litigants are at present at variance. Section 24, and the authorities in it, rests upon the breadth of interpretation of a certain grouping of a few words—such conditions as may be imposed.

Mr. Watson's contention is that after a decision is reached and a subdivision approved there is, in this clause, some extension or support for the board's authority within section 24. I cannot see that and I am prepared to support clause 4 as printed.

The Hon. N. E. BAXTER: I think Mr. Watson regards this clause as being retrospective. Line 10 on page 9 says—

> . . . . after the commencement of this section, the diagram or plan of subdivision of the land as so approved is received, registered or deposited in the Office of Titles or Registry of Deeds . . . . .

I take it that has already been done with regard to the property that is the subject of litigation and it would not be affected by what happens after the commencement of this section. I think it is clear that it is not retrospective in respect of anything that has transpired in the past as regards a subdivision. Therefore I cannot see why this clause should be deleted.

Clause put and passed.

Clause 5 put and passed.

Title put and passed.

Bill reported with an amendment.

EDUCATION ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

MENTAL HEALTH BILL

Second Reading

Debate resumed, from the 25th September, on the following motion by The Hon. L. A. Logan (Minister for Local Government):—

> That the Bill be now read a second time.

THE HON. L. A. LOGAN (Midland—Minister for Local Government): [4.48 p.m.]: I was told, when speaking to the second reading debate on the last Bill, that I was not using my own language. I can assure the House that I will not be entirely doing so on this Bill. I would like to

thank those members who have contributed to the debate on this Bill. I think we all appreciate—and certainly all those who have spoken have appreciated—the urgent need and the real need for some new approach to mental health.

Some members were critical, although not to any great degree, of parts of the Bill. Some had their own thoughts and ideas on the Bill and they expounded them. On the whole I think they were endeavouring to approach the problem of mental health in their own way and to put forward suggestions to the Minister. I have received the comments of the Minister for Health in regard to the points made during the second reading speeches. I will refer to the Minister's comments, and in so doing I think we should bear in mind that the Bill was designed in the first place to safeguard the interests of patients and to ensure they were not committed unnecessarily; and that if they were committed, they were not held any longer than was necessary.

The Bill itself is designed to get away from the closed door methods which were mentioned by Dr. Hislop. In all the comments and constructive criticism on this Bill during the past 12 months, no voice has been raised to suggest that we should adopt the Victorian idea of a form of board administration by a mental hygiene authority. I think that was one point raised by Mrs. Hutchison. Personalities have become involved in this particular field; and ideas and thoughts have been expressed by some speakers which indicate a lack of appreciation of the fact that this Bill is a very good legislative vehicle to carry the modern approach to mental illness.

Those who feel that the former Inspector-General of Mental Health Services never had direct access to the Minister, or that he was forced to go through the Under-Secretary, or that the Minister or any of his officers held up developments unnecessarily, are not aware of the true position. Possibly they are expressing the opinions of somebody else, or perhaps they are rumours; but in any case, they have no foundation of truth. I might mention that although the Victorian Act was passed some years ago, it has not been proclaimed as yet. Dr. Hislop seems to think that, among other things, this Bill lacks a good deal because it is not so large or voluminous as the Victorian measure. If the honourable member has indeed read the Bill a number of times, he should appreciate that a good deal of time and thought has been put into making it a reasonably simple and easily understood piece of legislation which adequately covers the situation.

The Hon. F. R. H. Lavery: I don't think anybody denies that.

The Hon. L. A. LOGAN: This Bill was introduced and laid on the table in another place at least 10 months ago. The idea of introducing it at that time and of tabling it was to enable the general public and all those interested in a new approach to mental health to have a copy of the Bill, to study it, and to place any necessary suggestions or amendments before the department. Those people have had 10 months in which to do that.

The Hon. F. R. H. Lavery: I thought it was to be dealt with by Parliament and not by the department.

The Hon. L. A. LOGAN: This Bill was introduced and laid on the Table of the House in another place at least 10 months ago. I should have thought that any person or organisation that was interested would have gone to the Minister or to the department with any suggestions in order that they might be incorporated in the Bill before it was proceeded with in Parliament. I think that is the correct approach. To enable the public to have a proper appreciation of what is included in a particular Bill, that has been done in connection with more than one measure that has come before this House.

It is difficult to understand Dr. Hislop's remarks about there being "still a great deal of the old closed door system in the mental hospital treatment in this Bill," because he followed this by relating how open the door really is, and appreciated very sensibly—as one or two other members did not—that whether we like it or not we will still "have the people who will be permanently incarcerated in places like the Claremont hospital."

The definition of "psychiatrist" mentioned and criticised by the honourable member is being dealt with by an amendment which will be moved. I think the amendment will overcome the difficulty in respect of paragraph (b) on page 50.

Dr. Hislop also said—as did other speakers—that he was glad the new director would have direct access to the Minister. He referred to the loss of Dr. Moynagh due to the fact that Dr. Moynagh wanted to do one thing and the department another. This is an over-simplification of an administrative problem, and the honourable member's comments were not worthy of him.

The honourable member also inquired whether the period of 72 hours was long enough for observation purposes before a patient was admitted to a mental hospital; and later he expressed the opinion that it was too long. I am not too sure that Dr. Hislop expressed it quite in that way. I do not think he did. I think he was talking about something entirely different at that stage. The time of 72 hours is regarded as being a reasonable period. In any case it is a maximum period and is one of the safeguards against wrongful detention.

The period of 14 days referred to by Dr. Hislop is also one that has regard for practical factors. The period of 14 days

is a maximum period and it is in all respects designed to protect the person of the patient. It is emphasised that the final word in regard to a person's admission as a patient rests with the superintendent of the hospital.

Mr. Baxter agreed with Dr. Hislop and was critical of the fact that "the way had been made much easier for medical practitioners to refer people to mental hospitals." If Mr. Baxter reads the Bill fully and reads the introductory speeches, he will understand that this legislation protects the patient from wrongful detention, and unduly long detention, at every step. The honourable member can be assured that conditions at Claremont Mental Hospital are very much better now than they were even four or five years ago, and they are certainly not, as he said, the same as in years past.

The Hon. N. E. Baxter: There could be some improvement.

The Hon. F. R. H. Lavery: Thanks to Dr. Moynagh.

The Hon. L. A. LOGAN: Furthermore, improvements are continuing at the present time and I would like members to know that our methods of treatment of patients—as well as our various institutions—compare very favourably indeed with conditions in mental institutions in other States.

Mr. Lavery displayed appalling ignorance about the legislation when he said that he understood during the last 18 months that "the Government intended to bring before Parliament a measure covering the establishment of a complete mental authority"—

The Hon. F. R. H. Lavery: It was an appalling Bill which was brought forth.

The Hon. L. A. LOGAN: —because no-one had ever suggested that this should be done. The Minister for Health has given consideration on several occasions in the past two years to the proposition of establishing a mental hygiene authority. The special committee which helped to draw up the Bill did not recommend it, and no-one has suggested it.

Anyone who attempts to amend the Bill in a major way without having given prior notice of many months is being completely unfair and impractical, and I would ask the House to reject any such proposal.

Mr. Lavery complimented Dr. Hislop "on the way he tore the Bill to pieces." That was rather an extraordinary statement and I doubt whether Dr. Hislop appreciated the remark or the compliment, if it could be called a compliment. I would not deny the right of any member, even at this late stage, to make suggestions if it was thought that a particular amendment would improve the Bill. Whether I would agree with the amendment is an entirely different matter.

Mr. Lavery inquired about psychologists being "left out completely." His reference to the advertisement for a new Director of Mental Health being designed to ensure that a certain person was selected here in Western Australia is as untrue as it is insulting to the person concerned. I do not think I need say anything more than that. The Under-Secretary for Health is recognised as being one of the State's finest civil servants.

What is true is that the same conditions regarding direct access to the Minister previously applied when Dr. Moynagh sought the position, as apply now, and the advertisement expressed then the same terms concerning rights of access to the Minister as the present one does. This illustrates, surely, how illogical the criticism is in actual fact.

The Hon. F. R. H. Lavery: I have the original advertisements and I should know.

The Hon. L. A. LOGAN: The exasperating and unedifying situation of Dr. Moynagh refusing to go to see the Minister, or avoiding him on simple issues and pressing the Under-Secretary to see the Minister instead, is the correct version of this particular matter. That is where the whole answer to the situation lies.

The Hon. F. R. H. Lavery: It is coming out in the open now, is it not?

The Hon. L. A. LOGAN: Dealing with the comments made by Mrs. Hutchison, apart from those in connection with amendments to the Bill, there seems to be some confusion of thought in her mind on the development of the services necessary in the mental health field. In the first place she sets out to say that this State is sadly behind with its building programme and mental health units, and hopes no attempt will be made to alter the old parts of Claremont; that renovations being made to the toilet blocks are wasteful expenditure. She makes other similar references throughout.

The Hon. R. F. Hutchison: What I said was that they could be regarded as obsolete, out-moded buildings which should not even be used. I was referring to a new building altogether. I was implying that anything spent on the old buildings now could be wasteful expenditure.

The Hon. L. A. LOGAN: Yes; but when we have not sufficient money to build new wings, we have to make do with the old buildings until more money is available. The honourable member was then somewhat critical that Western Australia has not used up the grants made available by the Commonwealth for capital works; but the other States are in the same position. Among other things, she further suggested that before the State embarks on any rebuilding programme and before the mental health services are committed to such a

programme, it should make a thorough investigation of the position. What does she want us to do?

The Hon. R. F. Hutchison: That is, an investigation of the old type of building.

The Hon. L. A. LOGAN: I can assure the honourable member that a thorough investigation will take place; and, to some extent, it has already taken place.

The Hon. R. F. Hutchison: That is good.

The Hon. L. A. LOGAN: Some of the delay to which the honourable member refers has been occasioned by the fact that there has been an intense desire by the administration to ensure that up-to-date facilities will be made available for the care and treatment of the mentally disordered. The provisions of this Bill are closely related. However, we must also have regard for the fact that apart from any of the services so to be provided, we have a problem concerning patients already in our mental hospitals; and this relates, in particular, to Claremont.

I do not agree with Mrs. Hutchison that the conditions under which the patients are accommodated and the associated services should not be improved. I appreciate the honourable member's interjection in regard to what she was trying to convey. Those patients are entitled to, and will receive, better accommodation as and when finances permit. Such improvement is a continuing process and will further continue. It must be appreciated by everyone that while planning for the future we must also have regard for the present. Today we are in a stage of transition from the old conception of custodial care to that of active early treatment and the retention of a patient in the community, or his early return to the community under adequate guidance and supervision.

Members are no doubt aware that this trend has been assisted by the advent of new therapies and new drugs, and it follows that our whole attitude to this matter should show a complete change to that which existed only a few years ago. We might say, therefore, that like other States and other countries we are in the difficult situation of having to provide for patients who have been used to long supervision and care in a mental hospital, and, at the same time, provide accommodation and facilities for the new patients under a vastly different regime of treatment.

I would say to Mrs. Hutchison, therefore, that it is quite wrong not to proceed with the improvement of conditions at Claremont. These require relief and cannot wait on the long-term effects of a new policy. In more specific terms, this means that institutions like day hospitals, hospitals, after-care homes, sheltered workshops, etc., should be provided as far as the State is able to provide them, and increased as experience and the demand require. This means also that active measures should be taken to reduce congestion and overcrowding at Claremont by the provision of alternative accommodation for some of the inmates; that is, the mental defectives.

By the provisions of the Loan Bill, it will be observed that considerable funds have been set aside for work to be done at the various mental hospitals. For this year alone, these amount to approximately £183,000. In this amount provision has been made for a start on a new project at Guildford for mental defectives, a new day hospital at Shenton Park, and further additional accommodation at Whitby Falls. Provision has also been made for a start on new administration headquarters at Havelock Street, West Perth. As to the children at Claremont, the Minister has been endeavouring to provide alternative accommodation for them and this will be provided at the earliest practicable date, depending on the completion of the Guildford project, in regard to which I have already indicated that an initial amount for a commencement of this project has been set aside in this year's Loan Estimates.

I agree with those people who deplore children being in the same compound as adults, and anything we can do to segregate them should be commended.

The Hon. R. F. Hutchison: They could build a new block. It would not cost much if they wanted to do it.

The Hon. L. A. LOGAN: Dealing with the matters referred to by the honourable member, to which she thought some consideration should be given by way of amendment to the relevant clauses in the Bill, in the first place she mentioned clause 29 which deals with orders for the conveyance of the mentally disordered to a hospital. The clause provides that if, upon the application of any person made in the prescribed manner, a justice is satisfied that that person is suffering from mental disorder and it is in his own interests, or in the interests of the public, that he should be admitted to a hospital, the justice may, by order in the prescribed form, order that person to be taken, conveyed to, and received into an approved hospital.

It further sets out that the justice shall not make such an order unless it appears from the referral of a medical practitioner that he has, during the space of 14 days immediately prior to application, personally examined the person concerned. In the first place, it must be mentioned that even though these proceedings have been taken in this way, the superintendent of the hospital still retains the right to admit the patient. If he considers that he is not suffering from a mental disorder—I may add that the superintendent is to be a psychiatrist—he may refuse the admission

of the patient. In such a case, of course, the superintendent, as is normal in such circumstances, would confer with the medical practitioner who, in the first instance, had supported the order.

However, the point raised by Mrs. Hutchison is that this period of 14 days is too long and should be replaced by a period of two days. My advice is that such a period would be much too short. One can visualise a set of circumstances in which it might take up to seven days or more in which to convince a patient that he should go to a mental hospital. Persuasion to go is a procedure which should be encouraged in any event and is preferable to the use of the compulsory method. It is again emphasised that the last word rests with the superintendent. Furthermore the provisions are identical with those in New Zealand, Victoria, and in other States. Whether the period is two days, 14 days or 20 days it is again emphasised that the last word rests with the superintendent.

Concerning Mrs. Hutchison's proposed amendment to clause 36, this clause deals with the remand of persons charged with offences. She mentions that in such circumstances the persons concerned become ineligible for social service benefits, and asks whether it would be possible for something to be written into the clause which would not deny to those persons the benefits in question.

The clause sets out that where it appears to a court of summary jurisdiction, before which a person stands charged with an offence, and where there may be some evidence he is suffering from mental disorder, the court may order a remand for a period not exceeding 28 days, either on bail for examination by a medical practitioner, or in custody in an approved hospital. In the first place, it should be mentioned that this provision is already in the Mental Treatment Act, 1927, the whole of which is sought to be repealed by the Bill; and the relevant section has stood the test of time since 1927.

This section deals with a man who has committed an offence; and, so far as social service benefits are concerned, he is in no different situation than any other man who has been committed and remanded. To justify their actions, some of these offenders plead mental disorder, and whilst the motive behind the proposed amendment is appreciated, any amendment as proposed by the honourable member would have no effect because it relates to Commonwealth legislation. The subject matter to which she refers is purely one for Commonwealth jurisdiction.

The honourable member also referred to clause 42 of the Bill and mentioned that part of the relevant clause in the draft Bill of 1961 had been omitted from clause 42. Obviously, the part to which Mrs. Hutchison refers is that which states that a patient who has been absent without leave for a period of three months or more shall not be returned to a hospital. Clause 42 deals with leave of absence for certain patients in hospital. It states, among other things, that a patient who quits the precincts of the hospital without obtaining permission, or who fails to return after the termination of the period of his leave of absence, may be taken back to the hospital at any time by the superintendent, any medical officer of the hospital, or other person authorised by the superintendent, or any police officer.

The deletion of the subclause to which the honourable member refers has been done on the advice of medical and legal authorities. It must be appreciated that the Bill covers patients suffering from all forms of mental disorder, including those with psychopathic tendencies, some of whom are people of particular cunning. There will be others involved, but to leave the door wide open for any patient who is absent without leave for a period of three months to be privileged to remain so when he should be under observation and care, would not be justified.

The Hon. F. R. H. Lavery: My intention was that the patient was to have absence with leave.

The Hon. L. A. LOGAN: Mrs. Hutchison will recall, I think, a situation where circumstances like this permitted a person to be absent from a hospital in the Eastern States. The judge concerned was highly critical of the provision which enabled such a situation to arise. The next amendment referred to by the honourable member is that contained in clause 59, which deals with letters written by patients. The clause provides that every letter written by a patient addressed to the Governor, the Minister—

The Hon. A. L. Loton: Is that the Minister for Health or a minister of religion?

The Hon. L. A. LOGAN: A minister of religion, I think.

The Hon. J. G. Hislop: Surely he would have the right to communicate with the medical practitioner who referred him.

The Hon. L. A. LOGAN: I know the honourable member mentioned a medical practitioner and that Mrs. Hutchison mentioned the next of kin or guardian, but I suppose we could go on adding many other people *ad infinitum*.

The Hon. R. F. Hutchison: Guardian or medical practitioner?

The Hon. L. A. LOGAN: A guardian or next of kin has access to the patient per medium of visits to the hospital; and, as a matter of fact, a guardian or next of kin would visit these people in hospital, so it would be much better for them to visit the patient who could advise them of anything he so desired at that time, rather than have letters sent to them by the patient. Sometimes it is very disturbing

for relatives to have letters sent to them from a patient, and therefore it is much better that they do not receive such letters.

I pass those comments on to all members for their consideration, because they are of some importance. I would point out, however, that there is an amendment on the notice paper to extend this clause to include legal practitioners. In reply to the interjection by Mr. Loton, the Minister referred to is the Minister for Health.

Such a provision was deliberately left out of the Bill on the advice of medical people with practical experience of the distress which is caused to relatives by certain letters being addressed to them by patients. It must be realised that where a letter is addressed to relatives or next-of-kin and the superintendent reads it, and there is no distress occasioned by the contents, then it would be forwarded on to the addressee.

If it be that the honourable member is seeking further protection for patients in the event of complaints being made, there is adequate scope in the clause, or, for that matter, in other parts of the Bill where the patients' interests are protected. The Bill must be read fully to appreciate the safeguards involved for the protection of patients.

With regard to the question of a mental hygiene authority, to which Mrs. Hutchison referred, it is pointed out that the need for such an authority was given further consideration by the special committee which investigated the legislation, and it was decided the provisions in the Bill for the appointment of a director would more adequately meet the needs of this State. In any event, the subject matter was given further consideration by the Government before it approved the form of administration that is provided for in the Bill.

Finally, I would say this to all members who might be inclined to think that insufficient attention has been given to the drafting of this Bill, that the Minister for Health introduced this legislation late last session. Prior to its introduction last session the Bill was drafted following the advice of a special committee of senior psychiatrists, including departmental medical officers, of both the Commonwealth and the State, and representatives of the Psychiatrists' Association.

Its principles were endorsed by the State Health Council consisting of 17 members, who comprised representatives of the Faculty of Medicine of the University of Western Australia—including the professors of medicine and child health—representatives of the Australian Medical Association and the Psychiatrists' Association, and representatives of private practice, of the mental health services and of the Public Health Department. In all they comprise representatives of every branch of medicine in the State. Many of the gentlemen mentioned in the two preceding paragraphs have had wide experience overseas.

It will be observed, therefore, that considerable research and expert advice was made available and has already been received concerning this legislation, which will make provision for the established and future services and requirements, and for an adequate administrative structure in order that the new trends in the care and treatment of mental disorders may be further developed in this State. The Government is proud to present this most important Bill to Parliament with the confident belief that it will receive wide acclaim. These comments cover adequately the points which have been raised by members.

I have a considerable list of amendments on the notice paper, but there is still one of which I have not given notice and that relates to the matter raised by Dr. Hislop. I am prepared to accept an amendment to clause 64, or alternatively, to move one myself. Most of the amendments are consequential and do not amount to very much if the principle is accepted.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 to 4 put and passed.

Clause 5: Interpretation—

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

> Page 3, line 39—Insert after the word "State" the words "and includes any duly appointed acting or Deputy Master".

If this amendment is agreed to the Master of the Supreme Court will be empowered to deputise an acting or deputy master to act for him.

Amendment put and passed.

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

> Page 4, lines 19 and 20—Delete all words commencing with the word "registered" down to and including the word "Act" and substitute the following words:—"whose name is contained in a register of psychiatrists prepared and maintained pursuant to the provisions of section eighty-nine".

This amendment affects clause 88 (2) (b) which provides for the making of regulations to cover the registration and cancellation of psychiatrists. In the Bill a psychiatrist is defined as a medical practitioner registered in the prescribed manner as a psychiatrist under the Act, and it is sought to alter this definition.

It is proposed at a later stage to insert a new clause after clause 88 to provide for the keeping of a register of psychiatrists by the Medical Board.

The Hon. J. G. HISLOP: This amendment is quite acceptable to us and will fit in exactly with the Workers' Compensation Act, under which the Medical Board is required to keep a register.

The Hon. R. F. HUTCHISON: Can Dr. Hislop inform us about the qualifications of a psychiatrist? Does he receive training in psychiatry while he is undergoing his medical training, and is he also trained in sociology?

The Hon. J. G. HISLOP: At the first conference on medical education in Sydney in August, 1960, it was laid down that in all future training of specialists of a medical character, as opposed to a surgical character, there should be at least a four-year period of training after qualification had been achieved through the University. After that, a certain period must be spent in the specialty which the individual decides to practise. Therefore, I can assure members that the training in the whole field of psychiatry and, in fact, in almost every medical specialty, will be, including time at the University in basic training, in the neighbourhood of 13 years. In that time the individual should be pretty well qualified. Therefore there need be no query as to the status of these persons.

The Hon. R. F. Hutchison: I thank Dr. Hislop for that explanation.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 6: Minister—

The Hon. F. R. H. LAVERY: This is the clause under which I am able to answer the criticism levelled at me in regard to my second reading speech. Far be it from me or any other member of Parliament to attack a civil servant in any capacity in this State, because he has no way of replying to that attack.

I spoke the other night about Dr. Moynagh not being with us because I know the actual facts of what happened at the time he resigned. I want to make this very clear so that it will be made known to the officer concerned. I know very well that Dr. Moynagh offered to resign before the last State elections, but the Minister refused to accept his resignation, telling him that it would not be accepted until after the elections.

The Hon. E. M. Davies: That is common knowledge.

The DEPUTY CHAIRMAN (The Hon. A. R. Jones): I take it that the honourable member is making a personal explanation on this point, because the matter has not been raised.

The Hon. F. R. H. LAVERY: I am very sorry, Mr. Deputy Chairman. I should have waited until clause 8. I humbly apologise.

Clause put and passed.

Clause 7: Department of Mental Health Services—

The Hon. R. F. HUTCHISON: Will the Department of Mental Health Services be a separate entity and divorced from the provisions of the Mental Health Act, or will the department be under the same Minister who administers the Health Act?

The Hon. L. A. LOGAN: The Department of Mental Health Services will be the department which administers the Act when it comes into being.

The Hon. R. F. Hutchison: Will it still be under the Health Department?

The Hon. L. A. LOGAN: It will come under the direction of the director who, in turn, will be responsible to the Minister for Health, the same as the Secretary for Local Government is responsible to the Minister for Local Government.

Clause put and passed.

Clause 8: Administration of Department—

The Hon. F. R. H. LAVERY: I regret my mistake in speaking to clause 6. I want to continue where I left off. When speaking of this matter the other evening, I said that the actions on the part of someone must have been very unsatisfactory to have caused the resignation of Dr. Moynagh. Dr. Moynagh has after his name the letters M.R.C.S. (Eng.), L.R.C.P. (Lond.), M.B., B.S. (Lond.), D.P.M. (Lond.), M.C.

The Hon. G. C. MacKinnon: What do those letters stand for?

The Hon F. R. H. LAVERY: The honourable member can ascertain that information for himself. As I have first-hand knowledge of the situation which surrounded Dr. Moynagh's resignation, I have a perfect right to inform members. The wires ran hot all over Australia at the time, and although he has all those qualifications, he now cannot get a job in Australia. It is for this reason that I expressed the view the other night that the Minister should be the person to whom the director must be responsible, and not to some other subordinate person.

I know that Mr. Logan did not prepare the speech, but I must, of course, direct my remarks to him. One of the comments in that speech was that I insulted the person to be appointed However, I did not suggest the other night who the person was. If there is a cap fitting here, I say, as did Mr. Wise the other night, that the person should wear it.

What I did say the other night was that from the wording of the advertisements I believed it was intended from the beginning that someone from this State should

be appointed and not that we would gain the world's best if the world's best felt inclined to apply. The Minister for Health is far from right if he believes that I attempted to besmirch the character of any doctor in this State. I say here and now that I did not know of any proposed appointee; nor in my speech did I suggest I knew. As I said, I am still of the opinion that it was intended to appoint someone from this State to this position.

If there is a person in this State capable of holding that position I will be happy to see him appointed. I want it clearly understood by the Minister for Health that I attacked neither him nor his Under-Secretary. I expressed my own personal opinions as to what I thought was happening and that is my right as a member of Parliament.

The Hon. J. G. HISLOP: There are one or two paragraphs in clause 8 to which I referred in my speech. I query these because I am interested in the smooth working of the administration. Paragraph (3) provides that the director may delegate to a permanent medical officer of the department, approved by the Minister for the purpose, any of his duties and when carrying out those duties at the direction of the director that medical officer has all the powers and immunities that are conferred on the director by this measure. That is all right. The director may delegate some of his powers to a member of his staff, but no provision is made for the actual appointment of a deputy.

Surely there must be a deputy director appointed because there will be times when the director will be out of contact with the whole organisation of the various hospitals, and there must be someone who has authority during his absence. I would have liked to see the director given power to appoint his deputy director.

Further down in the clause appear the words "In the case of the illness or absence." I do not know what "absence" means. Perhaps it means that when he leaves the institution at night the Minister may appoint someone to act as director. It looks to me as though this sort of administration could easily become involved, and I think the Minister would be wise to take this point back to the Minister in charge of the department and ask him whether it would not make the administration easier if either the Minister or the director were entitled to appoint a deputy director under this Act.

I think it would work more smoothly if, when the director was away or ill, he knew that someone who had been trained in the field of directorship was taking charge of the institution.

The Hon. W. F. Willesee: You mean a permanent deputy director?

The Hon. J. G. HISLOP: Yes; one to act as his deputy at all times when required. At the Royal Perth Hospital the medical superintendent has as his deputy the assistant medical superintendent. The same position applies in all large hospitals so that the working of the administration may be smooth. The administration under this measure does not appear to be smooth and could leave itself open to some of the difficulties that arose in the case of the previous administrator. Further on the clause states that the director can rescind any order made by a superintendent. I think it would be better if the words "after consultation with the superintendent" were added.

The Hon. L. A. Logan: You don't think he would do it without consultation do you?

The Hon. J. G. HISLOP: He has the right to do it; and it would be better if the words I have suggested were added.

The Hon. L. A. Logan: Surely you can leave something to the commonsense of the fellow up top.

The Hon. J. G. HISLOP: One has to realise that there have been difficulties in regard to people in charge of organisations of this sort. I am only making suggestions and if they are disagreed with I will not lose any sleep. I am offering advice because I have had a long period of working in hospitals. The people who have drawn up this Bill—I am not speaking of the people within the mental hospitals section, but the people who drafted it—have not had experience of the administration of a hospital. I think it would make for much more simplicity and harmony between the officers if they felt that no order of theirs could be rescinded by a stroke of the pen.

One must realise they will be highly trained men. They will not be psychiatrists of recognised character until they have been qualified for at least six years. Therefore, I think some means of making decisions in consultation would be better. The Minister would be well advised to postpone this clause to see whether the suggestions I have made are acceptable. I am not going to try to assert my opinions with regard to this Bill, but, while it is being considered, I am going to make suggestions for the purpose of better administration.

The Hon. R. F. HUTCHISON: I agree with the views expressed by Dr. Hislop. It is necessary to have a permanent deputy director under the director. However, I still say that my heart is set on a separate mental hygiene authority being constituted. I agree with Dr. Hislop that a deputy director should be appointed because we do not want troubles almost as soon as we start. The director may become ill or be absent for some time and the institution

could be left without leadership. If a deputy director were appointed he would be the man to take charge. It was my intention to move an amendment along the lines suggested by Dr. Hislop, and I have it written down, although it is not on the notice paper.

The Hon. F. R. H. LAVERY: It is absolutely essential for a permanent deputy director to be appointed, although I say this for different reasons from those given by Dr. Hislop. I do not assume that the director will be in charge of Claremont or Heathcote; I believe he will be the chief administrative officer and as such he will require a deputy under him.

Digressing a little, I would point out that at the Fremantle Hospital there is a Dr. Rowe who is not only a good professional man, but a good administrator, and he has been promoted within the Department of Health. I think it would be for the better if the clause were amended.

The DEPUTY CHAIRMAN (The Hon. A. R. Jones): I believe we have had sufficient discussion without some amendment or proposal before the Chair.

The Hon. R. F. HUTCHISON: I have an amendment written here, but it is not on the notice paper. I would like to add a new subclause to provide that a deputy director be appointed.

The DEPUTY CHAIRMAN (The Hon. A. R. Jones): Will the honourable member please send up a copy in writing?

The Hon. L. A. LOGAN: Possibly it would be better to leave this. We can always recommit the Bill. I think the honourable member will be imposing a charge upon the Crown if her amendment is agreed to and the position of deputy director is created. It would possibly cost £3,500 a year.

The DEPUTY CHAIRMAN (The Hon. A. R. Jones): Order: Will the Minister please sit down? I consider the wording of the honourable member's amendment to be insufficient. The director has to be a psychiatrist, and there is no mention of that in the amendment. Is it the Minister's wish that the clause be postponed?

The Hon. L. A. Logan: Yes.

The DEPUTY CHAIRMAN (The Hon. A. R. Jones): The Minister must move a motion to that effect.

The Hon. L. A. LOGAN: I move—

> That further consideration of the clause be postponed.

The DEPUTY CHAIRMAN (The Hon. A. R. Jones): In those circumstances, I suggest that the honourable member should confer with the Minister.

Motion put and passed.

Clause 9 put and passed.

Clause 10: Medical officers—

The Hon. J. G. HISLOP: The word "psychiatrist" is mentioned all the way through this Bill. In this particular clause the words "permanent medical officer" appear. Another clause refers to a permanent medical officer who is occupying certain other positions. There seems to be some conflict between clauses 8 and 10. Subclause (3) of clause 8 says that the director may delegate to a permanent medical officer any of his duties and when carrying out those duties at the direction of the director that medical officer has all the powers and immunities that are conferred on the director. Clause 10 says that the Governor may appoint any medical practitioner to be a permanent medical officer. I think this clause needs to be reworded.

The Hon. L. A. LOGAN: The clause is referring to a medical officer, apart from a psychiatrist.

The Hon. W. F. Willesee: Where are we going to get all of these psychiatrists?

The Hon. L. A. LOGAN: "Medical practitioner" means a medical practitioner within the meaning of the Medical Act. However, I will check that point.

Clause put and passed.

Clause 11: Board of Visitors—

The Hon. R. F. HUTCHISON: I move an amendment—

> Page 7, line 20—Insert before the word "legal" the word "practising."

I know of a case where a legal practitioner was appointed and it was found he was not suitable.

The Hon. L. A. LOGAN: The amendment would confine this clause to those people who are practising. A legal practitioner who is retired may be an excellent man and he may have the time and the opportunity to devote himself to the board of visitors. He may have more time than a practising legal practitioner. I think the clause should be left as it is. The board could consist of either a practising or a retired practioner as circumstances warrant.

The Hon. J. G. HISLOP: If we are going to change the paragraph to read "a practising legal practitioner" should not the medical practitioner be a practising practitioner? There is one person on the board of visitors who spent many years in general practice. He is now retired, but he is rendering good service as a member of the board. I think the proposed amendment would close the door to many people who might wish to participate in this work.

The Hon. W. F. WILLESEE: I think the tendency is for a retired person to undertake this work because of his experience after many years of practising. I think the clause is eminently suitable.

Amendment put and negatived.

Clause put and passed.

Clause 12 put and passed.

Clause 13: Casual vacancies—

The Hon. R. F. HUTCHISON: I draw the Committee's attention to paragraph (c) of subclause (1). There is no mention of how often these meetings are to be held. I think we should know that. I think this paragraph is very loosely worded. I propose to move the following amendment:—

Page 8, line 7—Insert after the word "consecutive" the word "monthly."

Are the meetings held monthly?

The Hon. L. A. Logan: I think if you turn to page 10 you will get your answer.

The Hon. R. F. HUTCHISON: I see. I think two meetings would be sufficient. Anyone who is absent for three meetings cannot be very interested.

The Hon. G. C. MacKinnon: What if he is sick?

The Hon. R. F. HUTCHISON: It says "without having obtained leave of absence from the board".

The Hon. W. F. Willesee: Three is the logical number.

The Hon. R. F. HUTCHISON: In view of the Minister's explanation by way of interjection I shall not proceed with my amendment.

Clause put and passed.

Clauses 14 to 19 put and passed.

Clause 20: Approved State hospitals—

The Hon. J. G. HISLOP: During the second reading debate I queried whether there were to be boards visiting private hospitals, and it would appear on reading the Bill that it is not specific. Apparently the board will not visit private hospitals. I would like the Minister, when he is making his final comments, to find that out for me.

The Hon. L. A. LOGAN: I am sorry that the answer has not been obtained for the honourable member as yet but I will get it before the Bill is passed.

The Hon. R. F. Hutchison: I wanted to raise that point, too, because the Bill is not clear.

Clause put and passed.

Clause 21: Approval of private hospitals—

The Hon. R. F. HUTCHISON: I would like to draw members' attention to subclause (4) on page 12. It refers to a period of one month and I think that is too long. I think 10 days would be sufficient. I move an amendment—

Page 12, lines 22 and 23—Delete the words "one month" and substitute the words "ten days".

The Hon. L. A. LOGAN: I hope the Committee will not agree to this amendment. This matter has been referred to the acting director, and I think some of us will agree that in some cases a month may not be a sufficient length of time. If we have to arrange the transfer of a permit to another person it may take more than a month. On the other hand, we cannot have the period too long because the patients could not be left without somebody being responsible for the conduct of a hospital. Therefore, a period of one month was considered to be most appropriate. Again, I think 10 days would be too short a period to allow all the necessary details to be attended to for the purpose of transferring the permit to another holder. I hope, therefore, the Committee will not agree to the amendment.

The Hon. J. G. HISLOP: The Committee could not possibly accept this amendment because it would mean the sudden termination of a hospital within 10 days, and a certain degree of chaos could occur among the patients. I agree with the Minister that a month is not long enough. I would like him to consider an amendment, perhaps in the form of an extra sentence, giving the director power to increase the period up to three months should he deem that to be necessary. Such a situation might occur in a large private hospital. There would certainly be trained hospital staff other than the person who was in charge of the hospital, and the death of the person in control might not make much difference to the administration of the institution, and therefore the transfer of the permit might take considerable time.

If we left it to the discretion of the director to increase the period for any time up to three months, we might get a far more satisfactory clause than we have now.

The Hon. R. F. HUTCHISON: If Dr. Hislop views the clause from that angle, I will not press my amendment. I regarded the clause from a different point of view. I thought if a person died and there was no-one to take over the hospital, a period of one month would be too long for patients to find out what was to happen.

Amendment put and negatived.

Clause put and passed.

Progress

Progress reported and leave given to sit again, on motion by The Hon. L. A. Logan (Minister for Local Government).

House adjourned at 6.13 p.m.