at the Canadian Department of National Health and Welfare in Ottawa, was published in the May 1963 issue of "Archives of Environmental Health," an American Medical Association publication, official journal of the American Academy of Occupational Medicine and of the Association of Teachers of Preventive Medicine.

The implications of the line of thought in the thesis could be significant to the whole structure of reasoning on which artificial fluoridation of public water supplies is built.

The authors recited from 71 different research papers and books which are listed by name and date, to show the pattern of their thought, and then posed questions of such a fundamental nature that it is difficult to see how any thoughtful person, concerned with the welfare of his fellows, could continue to support the addition of fluoride to public drinking water until unequivocal answers have been obtained.

I ask that your Association gives consideration to the work of J. Marier, Dyson Rose and Marcel Boulet, which is the subject of this letter, and in due course favours me with an expression of its views thereon.

The reply I received read—

> I have been asked to inform you that the scientific body on which this Association relies for advice on such matters is the National Health & Medical Research Council of Australia. When that body's views on your enquiry have been received I will write to you again.

Mr. Graham: They have not a mind of their own.

Mr. TONKIN: I had hoped that these gentlemen who were supporters of fluoridation would read this article themselves and try to form some judgment on it. But they sent it over to somebody else, and they were prepared to accept whatever they were told.

That has been the pattern with this promotion right from the start. When Dr. Oscar Ewing took charge of the United States Health Services, for $750,000 he started promoting fluoridation, and then, with the United States Health Service, they gingered up the World Health Organisation—which they could not move at all at first—and subsequently they got them to move, because some kind friend in the United States provided the oil to lubricate the machine. Once it was lubricated an expert committee was set up which was loaded from the start by proponents of this proposition.

Is it any wonder that the World Health Organisation endorsed the views of the American Health Service? So we have a chain reaction. When the National Health and Medical Research Council of Australia endorsed it, the various branches of the Medical Association did what they were told, and endorsed it. So it went on. Then we had the dentists, and the medical men who, according to the minutes, were the easiest ones to get in; and they endorsed it.

We then had the example of a dentist who had a child in front of him who was allergic to fluoride. He said he was shocked. Up till then he was a proponent of fluoridation, but now he is not too sure. Of course he is not; because he has seen for himself what can happen to people who are allergic to fluoridation. There will probably be hundreds of these in the community.

Yet we propose to say to them, if we pass this Bill, "Even though you are allergic to fluoride, and we know it upsets you and could even kill you, we still say that you must take it." So far as I am concerned, no vote of mine will go to effect that.

Debate adjourned, on motion by Dr. Henn.

House adjourned at 12.17 a.m. (Wednesday).

Legislative Council

Wednesday, the 12th October, 1966

CONTENTS

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

QUESTION WITHOUT NOTICE

MT. LAWLEY RECEPTION HOME

Treatment of Inmates

The Hon. R. H. C. STUBBS asked the Minister for Child Welfare:

(1) Can he advise the House what action has been taken, and what is proposed regarding an allegation of cruelty at the Mt. Lawley Reception Home made in a letter to the editor published on page 6 of this morning's issue of *The West Australian?*

(2) Does he know if the allegation is correct, and if so—
  (a) what is the age of the boy concerned; and
  (b) what was the reason for the punishment?

(3) What is the Child Welfare Department's policy on corporal punishment in institutions of this kind?

The Hon. L. A. LOGAN replied:

(1) and (2) As a result of the Press report in this morning's paper, the officers of my department were on the job at 8.45 a.m., and I had the following information typed at 4.20 this afternoon. The situation is this: On Monday evening, at a distance of 85 yards, and with his line of sight interrupted by tree branches, a fence, and a steel grille, Mr. Poulsen observed the head and shoulders of a boy whom he believed was being harried and ill-treated by an officer of the Child Welfare Reception Home. One can hope that any other citizen making the same observation would have been equally concerned. Had Mr. Poulsen addressed his protest immediately to the officer-in-charge of the Reception Home instead of to the newspaper he would have found—
  (a) That he was mistaken in thinking there was only one boy concerned. There were two, each being given alternate periods of exercise.
  (b) That the reason for this treatment was that both boys are persistent truants from school and absconders who are the despair of their parents and teachers and who, if they go unchecked, will be a menace to the community.
  (c) That they regard their own escapades and others' efforts to prevent their repetition as amusing demonstrations of their own smartness.
  (d) That, in fact, the officer involved was not "standing over" the boys but was supervising a group of children watching TV, boys going to the toilets, and to their beds. The two boys took every advantage of these interruptions and this accounts for the officer raising his voice, which he agrees he did.
  (e) That neither of the boys was struck by the officer at any time and neither has suffered any real physical distress.
  (f) That in spite of their promises on Monday evening not to "play the wag again" one of them is absent from school again today.
  (g) That it is to be understood that boys of this type sometimes need treatment which those who do not see or know the full facts will misunderstand.

(3) It is not the duty of officers to inflict corporal punishment. It has occurred on very, very few occasions. Members must realise that in some of these institutions are some fairly strong lads of 17. If they attack an officer, which they have done on more than one occasion, they deserve some retribution from the officer-in-charge. However, the general instructions are that no corporal punishment is to be inflicted, and I think the officers carry out those instructions.

I would now like to comment on an article which appeared in today's *Daily News*. Some of the statements in the article are not factual. First of all, Mr. Poulsen claimed he phoned the Minister for Child Welfare. I do not know whom he phoned. He did not phone me, my home, or Parliament House, so I do not know where he phoned. Secondly, the article states—

> Child Welfare Minister Logan was out of his office early this afternoon. But he had left a message saying that he would not comment.

I left my office this morning at 11.10 and I was back in it at 12 noon; I did not leave my office again until 1.30 p.m. and I was back again at 2 p.m. where I stayed until I left to attend Parliament at 4.20 p.m.

I interviewed a reporter from the *Daily News* at 2.15 p.m. in my office, so I was available—but not for comment. As members would appreciate, until there is something on which to comment, nobody would make a comment and find himself in the same position as Mr. Poulsen is in, by making a comment before he is in

possession of the facts. I think I should put the record straight and I hope I have satisfied Mr. Stubbs.

QUESTIONS (2): ON NOTICE

KARRAKATTA CEMETERY BOARD

Membership

1. The Hon. H. R. ROBINSON asked the Minister for Local Government:

With reference to my question on the 6th October, 1966, relating to the Karrakatta Cemetery Board, will the Minister inform the House who are the members of the board?

The Hon. L. A. LOGAN replied:

Mr. H. L. Downe (Chairman).
Mr. D. J. Chipper.
Sir Thomas Meagher.
Mr. W. G. Kensitt.
Mr. W. R. Read.
Mr. C. L. Howard.

LAND

Resumptions: 1048-1054 Hay Street

2. The Hon. H. C. STRICKLAND asked the Minister for Town Planning:

(1) Which Government authority acquired the property known as 1048 to 1054 Hay Street, which was situated next to where Marlborough House once stood?

(2) For what purpose is the property required?

(3) On what date did the authority decide the property was required?

(4) Was the property under reservation for public work?

(5) What prices were paid in respect of—
(a) land;
(b) improvements; and
(c) compensation?

The Hon. L. A. LOGAN replied:

(1) Metropolitan Region Planning Authority.

(2) Mitchell Freeway.

(3) The 13th April, 1966.

(4) No.

(5) Purchased for a lump sum of $70,940.

LEAVE OF ABSENCE

On motion by The Hon. R. H. C. Stubbs, leave of absence for 12 consecutive sittings of the House granted to The Hon. F. J. S. Wise (North) on the ground of private business.

OPTICAL DISPENSERS BILL

Third Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [4.43 p.m.]: I move—

That the Bill be now read a third time.

Yesterday I said I would obtain some information for members who spoke to this Bill with regard to the makers of haptic lenses. I was right in what I thought the situation to be.

This reference to haptic lenses is to protect a man who has not the academic qualifications—if one can put it that way—to make haptic lenses but who has served a full and useful position in the community in the manufacture of these lenses over a number of years. This is a normal part of the skill and knowledge gained by optometrists.

There is one person who has had specific training in this work and another who is quite competent. Should the particular gentleman to whom this refers have to give it away for any reason at all, then there are at least two, and probably others, who could step into the breach if they felt inclined to do so.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

OPTOMETRISTS ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Health), and transmitted to the Assembly.

EDUCATION ACT AMENDMENT BILL

Third Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.45 p.m.]: I move—

That the Bill be now read a third time.

I see Mr. Ron Thompson rising to his feet. I have something to say in relation to the third reading of the Bill but, perhaps, in view of his desire to speak on the third reading, I will address myself to you, Mr. President, in reply.

THE HON. R. THOMPSON (South Metropolitan) [4.47 p.m.]: Last evening I raised the question of children being transported from the East Hamilton Hill-Coolbellup area to the Princess May School. Unfortunately, I did not have with me the photostat copy of the petition I presented to the Minister. However, I have it with me today and it contains 29 names. If one looks at the petition closely, it can be condensed to 18 different addresses so it would be reasonable to assume that 18 parents have signed this petition which reads—

High School Petition

We, the undersigned, residents of the Coolbellup area, wish to strongly protest against our children being sent to the Princess May Annex in Fremantle for the following reasons—

(1) Our children who live within easy walking distance of

Hamilton High are required to travel to Fremantle whilst children from the Fremantle area are travelling to Hamilton High.

(2) The method of selecting students to attend this annex appears highly unsatisfactory, if as we were informed only top students were selected, it would seem they are being penalised for working hard and making good grades in Primary School.

On the 17th January, 1966, which was possibly within a day or two of the receipt of this petition, I wrote to the Minister for Education as follows—

Dear Mr. Lewis,

re: Hamilton Hill High School

Please find attached, a petition from the parents in the East Hamilton Hill-Coolbellup area, who protest against their children being directed from the respective primary schools they attended last year, to attend the Princess May Annexe in Fremantle for their high school education in 1966.

General dissatisfaction is expressed also by parents in the Hilton Park area, who have requested that you review the method adopted in conjunction with the petition from the Coolbellup area.

Trusting you will give this matter your early consideration, as I would appreciate a reply prior to the resumption of school.

Yours faithfully,

(Sgd.) R. Thompson, M.L.C.

On the 8th February, 1966, I received the following letter from the Minister for Education:—

Dear Mr. Thompson,

I have for reply your letter of the 17th January, with which you enclosed petition from some parents in the East Hamilton Hill-Coolbellup area protesting against their children being directed to the Princess May annexe in Fremantle for their high school education in 1966.

As I have already made known through the Press it has been found necessary to use this annexe to accommodate the increasing population at Hamilton High School. It should be possible to abolish this annexe when the South Fremantle High School opens in February, 1967.

As has been the case for years at John Curtin Senior High School, the annexe will accommodate only first year students and these students will proceed to Hamilton Hill High School next year.

Even while attending the annexe, however, they will form an integral part of the Hamilton Hill High School and will take all directions from the Principal of that school. The school has been organised in graded classes as if no annexe were necessary. This was done so that students would be affected to the minimum by the necessity of some of them being accommodated at Princess May.

Arrangements have been made to transport students at no cost to the families concerned.

Naturally the parents are disappointed and whatever form of segregation had been adopted it would have caused disappointment to some. There appears to be no better alternative to the department's current planning and I am of opinion that these proposals are in the best interests of all the students.

I did not raise any objection at any stage yesterday evening to boundaries or lines of demarcation being drawn which would direct some students to attend school "A" and others to attend school "B." I did object to the fact that children were crossing paths to attend different schools. As will be seen from the petition containing 29 names, and representing possibly 18 families, those people were also concerned about the situation, and it was along similar lines that I made my objections. I still object that it is necessary for children who, in some instances, live opposite a school, and in others who are living only 200 yards from it—or a maximum, possibly, of 300 yards—having to attend some other school. If members so desire they can have a look at these photostat copies I have had made of letters received. I thought I would make this information available to the House in case anyone thought I had exaggerated the position.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.52 p.m.]: It would seem to me that in the matter he is pursuing, Mr. Ron Thompson is difficult to satisfy. It also seems to me, from the correspondence he read to us, that the questions he asked were, to a large extent, answered. However, I repeat he still seems to be dissatisfied with the situation.

The Hon. F. R. H. Lavery: So does his colleague.

The Hon. A. F. GRIFFITH: One of his colleagues.

The Hon. F. R. H. Lavery: His district colleague.

The Hon. A. F. GRIFFITH: I accept the sense in which Mr. Lavery made his interjection. Yesterday evening I offered to refer the remarks made by Mr. Ron Thompson to the Minister for Education.

This I did, and the Minister in another place came to me not long ago, having examined the speeches that were made in this House yesterday evening, and handed to me some comments on the matter which have been supplied by Dr. Robertson, the Director-General of Education.

I am advised that the reason for the direction of children from Hamilton Hill High School to the Princess May annexe was that there were more children from the district than there were available places in the school. There was vacant accommodation at Princess May annexe so it was decided to use the latter temporarily until the South Fremantle high school building is ready for occupation. I do not think this was elucidated by Mr. Ron Thompson. It is expected that the South Fremantle high school will be ready in February 1967. Did Mr. Ron Thompson know this?

The Hon. R. Thompson: Yes, I just read it out to you.

The Hon. A. F. GRIFFITH: I am sorry.

The Hon. R. Thompson: I just read it out to you.

The Hon. W. F. Willesee: I think I interrupted you.

The Hon. R. Thompson: I read the Minister's reply, too.

The Hon. A. F. GRIFFITH: I am just wondering whether any information contained in these notes completely satisfies the honourable member. The information I have also discloses that five classes of first-year students are conveyed daily to Princess May, and transport by M.T.T. buses is provided at no cost whatsoever to parents.

The Hon. R. Thompson: That is right.

The Hon. A. F. GRIFFITH: It is the whole class that is transported.

The Hon. R. Thompson: The students are not transported as a class.

The Hon. A. F. GRIFFITH: It is stated in these notes that five classes of first-year students are conveyed daily to Princess May.

The Hon. R. Thompson: That would be correct.

The Hon. A. F. GRIFFITH: The students selected were the top first-year classes, because it was considered they would be the most reliable and the most unlikely to provide disciplinary troubles. This has proved to be correct as the discipline is considered to be exceptionally good. Only one floor of the Princess May building is used, but the students take manual training and home science at the John Curtin High School once a week and return to Hamilton for one afternoon per week for the purpose of integration with their own school.

I am also advised it was considered wiser to select children on a criterion of reliability rather than on a locality basis, as the groups in the latter case would not be homogeneous and would constitute a much greater problem in teaching. It is customary for children to move from one part of a high school to another, and the burden of carrying books 100 yards or so is not considered a serious matter.

The Hon. F. R. H. Lavery: One hundred yards? It is three-quarters of a mile!

The Hon. A. F. GRIFFITH: I am reading what is contained in these notes.

The Hon. R. Thompson: Mr. Lavery is right in what he says.

The Hon. A. F. GRIFFITH: I agree that, to the department's credit, it might be added that no children need have been transported from Hamilton to Princess May if the department had been prepared to make the classes inordinately large. It was considered to be in the best interests of the children to have them at Princess May in smaller classes rather than to have them at Hamilton in very large classes.

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

The Hon. A. F. GRIFFITH: Then I do not know what the honourable member is grizzling about!

The Hon. R. Thompson: My grizzle was that they were being transported three and a half miles to one school, whereas they could have gone straight to the Hamilton Hill High School.

The Hon. A. F. GRIFFITH: We have established one thing, then; that is, the honourable member was grizzling.

The Hon. R. Thompson: I will continue to grizzle, too.

The Hon. A. F. GRIFFITH: The notes I have conclude with the statement that it is hoped to end this situation this year, but the housing development at Coolbellup, about which estimates cannot be obtained, might delay the ending of the use of the annexe. I have made this explanation to the honourable member in furtherance of what I have already said, but apparently he knows as much as anybody else about it because he has certain correspondence in his possession.

The Hon. R. Thompson: I did not have it with me yesterday evening, but I brought it along today and read it to the House.

The Hon. A. F. GRIFFITH: We would have saved ourselves a great deal of time last night if the honourable member had reserved his remarks until he was in a position to quote the correspondence.

The Hon. F. R. H. Lavery: Are you not being hard on the member for the district?

The Hon. A. F. GRIFFITH: I am being hard?

The Hon. F. R. H. Lavery: Are you not approaching it from the personal angle?

The Hon. A. F. GRIFFITH: I am not being personal at all, but would the honourable member like the comment, "You are dumb," said to him across the floor of the House?

The Hon. R. Thompson: Turn it up!

The Hon. A. F. GRIFFITH: Is not that getting personal?

The Hon. R. Thompson: That was said in jest, as you know.

The Hon. A. F. GRIFFITH: I know all about these remarks being said in jest. I am not upset over this matter. I was accused of making a personal comment, but I am not. I have made this explanation in an effort to assist, but I think Mr. Ron Thompson is making a storm in a teacup when there is no need for it.

The Hon. R. Thompson: There is need for it.

The Hon. A. F. GRIFFITH: It is obvious that the honourable member lodged an objection with the department, which explained that the complaint will be rectified next year. Therefore, I will not waste any further time discussing the question.

Question put and passed.

Bill read a third time and passed.

MEDICAL ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Health), and transmitted to the Assembly.

FIREARMS AND GUNS ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.1 p.m.]: I move—

That the Bill be now read a second time.

This Bill has been passed in another place and has, as one of its main objectives, a better control over indiscriminate shooting which continues at substantial cost to primary producers in spite of earlier amendments to the Act introduced to combat this menace.

I shall now deal with the amendments as they appear in the Bill. The amendments in clause 2 widen the definition of a firearm by the insertion of the words, "or any component of ammunition." In the existing definition of "firearms," the term includes "ammunition designed for discharge from any firearm." This definition would seem to cover only ammunition manufactured as such.

Since the inception of the Act, and of increasing availability in later years, are facilities for the purchase of components in their separate forms—the powder and primers, projectiles, and cartridge cases—thus enabling any person to reload ammunition of any calibre. These components are stocked mainly by licensed firearms dealers who, though required under the Act to record sales of complete ammunition, are not at present required to record the sale of components. This is considered quite unsatisfactory and, therefore, it has been decided that components designed or sold for the purpose of reloading ammunition be included in the definition in order that they might thus come under control.

The amendment in clause 3 repeals and re-enacts section 4 of the principal Act in order that all the provisions in the Act might be applied throughout the length and breadth of the State. Certain portions of the north-west of the State were exempted until this year from the provisions of the Act, though there has always been power under subsection (4) of section 4 to bring towns in the exempted area within the scope of the Act by means of proclamation. Early this year it became necessary, by virtue of the rapid expansion in our north-west, to proclaim the whole of the State as being within the scope of the Firearms and Guns Act.

It will be conceded it is essential for the police to have full power to deal with firearms under the Act. Nevertheless, police powers are insufficient under section 11 for the following reasons:—firstly, although provision is made in this section for a police officer to seize any firearm in the possession of a person who has not the requisite license under the Act, or any unlicensed firearm, it would appear that no provision has been made for the police to seize any firearm found in the possession of any person who states that he is the holder of a current license for the firearm but who cannot immediately produce proof of it, or proof that he is exempt under the provisions of section 9 of the Act.

It is felt in these circumstances that the firearm should be seized and the person concerned not allowed to possess it until he can produce proof that a license has been issued to him or that he is exempt from the requirement of holding one. The required amendment in this respect occurs in paragraph (a) of clause 4.

In paragraph (b), there appears an amendment designed to protect the public by empowering the police to seize firearms which are deemed to be unsafe. A police officer may have reason, for instance, to interview a person suspected of an offence under the parent Act. The suspect may be able to produce a current license for the firearm in his possession but, on examination of the firearm, it could be deemed to be unsafe. In those circumstances, power to seize is warranted.

The next amendment with which I shall deal is that contained in paragraph (a) of clause 5, which adds a new item 5A in the table to section 12. This new item makes it an offence to deface or alter without lawful excuse any number or identification mark on a firearm. It follows that any person being in possession of a firearm, which has been so altered or defaced so as to differ from

that existing at the time the license was first issued, will also be liable.

Members will be aware of there having been instances where .22 rifles have been cut down to pistol size, yet no action could be taken in respect of such person altering the firearm or the person in whose possession it was being held. As a consequence of the weakness of the existing law, a person may cut down a .22 rifle, for instance, to pistol size and he could not be charged under the provisions of section 12, subsection (1) (a) for being in possession of a firearm without holding the requisite license, and neither could the weapon be classed as an unlicensed pistol as it was currently licensed as a rifle. The only action that could be taken was to declare the firearm unfit for use, and refuse to license it further.

Furthermore, in this connection the Crown Law Department has advised that a rifle barrel is not a firearm within the meaning of the Act. Nevertheless, a separate barrel can be purchased by any person wishing to change the calibre of his existing licensed firearm without advising the Police Department of his action. This is quite a reasonable procedure in the matter of firearms used for sporting purposes, or in the case of .303 club rifles for which no license is required and which can be converted without difficulty to .303/25—a popular calibre amongst shooters. It is desirable, nevertheless, the Police Department be advised of any alteration made to any licensed firearm.

Finally, in paragraph (b) of clause 5, there appears the amendment initially referred to, which has been drawn up to facilitate the catching of offenders using firearms on another's property without requisite permission.

Before submitting this proposal to the House, a close study was made of control measures adopted in other States. A provision in division 7 of part VII of the Victorian Police Offences Act of 1961 appeared to go a long way towards helping to eradicate the menace of indiscriminate shooting. The section in question makes it an offence—

> Except with the consent expressed or implied of the occupier of land for a person to carry or have in his possession any firearm while he is on such land.

For the reason that many roads cut across large holdings in this State, it was considered necessary to clarify the point that no offence would take place in the carrying off or having a firearm on a road open to and used by the public.

The appropriate amendment in paragraph (b) of clause 5 provides for the insertion of a new clause 13A in the table to section 12 to read as follows:—

> Carrying a firearm other than on a road open to the public without reasonable excuse, onto or across land that is used for or in connection with primary production without the express or implied consent of the occupier or of some person apparently authorised to act on behalf of the occupier.

Under these circumstances the carrying of a firearm onto or across land that is used for primary production will be an offence, and a person apprehended will be liable to a penalty of $20. The need to ban the carrying of firearms without the consent of the owner lies in the fact that it is very difficult actually to catch the person or persons in the act of shooting, especially in isolated areas. The amendment will, it is felt, go a long way to combating a menace that should not exist.

Debate adjourned, on motion by The Hon. E. M. Heenan.

BILLS (2): RETURNED

1. Health Act Amendment Bill.
2. Corneal and Tissue Grafting Act Amendment Bill.

Bills returned from the Assembly without amendment.

STRATA TITLES BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.11 p.m.]: I move—

> That the Bill be now read a second time.

This Bill, which comes from another place, is to all intents and purposes identical to the one which I introduced into the Legislative Council last session on the 9th November. Members will recall I then allowed the Bill to lie so that all interested in its provisions would have full opportunity to study its contents.

I did this because the legislation provides something entirely new in this State in the matter of procuring titles to property constructed in varying strata. Legislation of a similar nature, and upon which this measure has been framed, has been working very well in New South Wales for some years, and for a shorter period in Queensland.

As it is nearly 12 months since the Bill was explained to members in this Chamber, I feel obliged to recount its provisions and I propose to repeat in the main the explanation given last year.

The procedures set out in the measure are, of their nature, quite involved, and I fear that, were I to satisfy myself with some briefer and alternative explanation, I would be only inviting confusion. I should at this point mention, however, that since the contents of the 1965 Bill became public property, quite a deal of interest in it has been shown.

Representations concerning several aspects were made by the Law Society, and information as to the ramifications

of the Bill was sought by the Real Estate Institute of Western Australia. Discussions have taken place between persons representing varying interests and officers of the Crown Law Department. As far as I am aware, all points which were raised have been cleared up without necessity for much amendment to the original Bill and, indeed, it can be accepted safely that this Bill is identically the same as the one I explained last session.

I would like here to express my appreciation of the great amount of research and effort put into the compilation and drafting of the somewhat complex provisions contained in this measure by the Chief Parliamentary Draftsman (Mr. Kevin Walsh). This Bill is, as it were, his baby in that regard and I am indebted to Mr. Walsh for his untiring efforts which have enabled him to produce a set of laws which, though based on legislation tried and proven in other States, overcomes some of the initial difficulties encountered with similar legislation elsewhere, but modified to meet conditions existing here.

I believe these laws will provide a secure basis upon which to launch the proposed system of strata titles and a firm foundation upon which to build—in a legislative sense—in the future to meet contingencies as they arise.

As I mentioned last session, the measure was drafted in collaboration with the Commissioners of Titles and Town Planning, the Secretary for Local Government, and Crown Law officers. In this connection we did not receive unanimous opinions from our officers. I think I mentioned this last year, but nevertheless the officers went as far as they possibly could, reserving for themselves their opinions about the Bill to the point of supporting it and getting it before Parliament.

The Hon. L. A. Logan: They expressed the opinion that if it was to be introduced this was the best form.

The Hon. A. F. GRIFFITH: For fear that I might have given some incorrect interpretation of the views of the officers, they considered that if the Bill was to be introduced this was the best form.

During the course of the explanation given by me last year, I mentioned five aspects which were given consideration during the period of preparation. I mentioned some weaknesses of the present system and the popular demands for their improvement.

Briefly, these disabilities and requirements are as follows:—Firstly, in the matter of tenancy in common and home unit companies, there exists the frustrations under the former through incoming tenants not being prepared to adhere to the original terms of agreement; disabilities in the matter of registering agreements; and the lack of protection by *caveat*. With the home unit company system, at present, there is no court recognition of ownership and, consequently, no normal legal redress as to trespass or ejectment. The owners' rights are contractual not proprietary, and lending bodies doubt the security offered.

Secondly, there is, on the other hand, a definite demand for higher density living in many areas, which brings us to the third point—the evident demand for this type of separate and exclusive occupation and ownership with facilities for procuring finance for purchase, security of tenure, and satisfactory title for dealings.

Fourthly, at present agreements with purchasers and subpurchasers are often not executed at all, or become mislaid. Also, section 20 of the Town Planning Act has presented real difficulties. Not all schemes have made provision for normal contingencies likely to arise and it is known that purchasers often have little appreciation of their projected liabilities.

Finally, we must all agree that there is material evidence that unit ownership has come to stay and, as current procedures are most defective, there is an urgent necessity for improvement and regulation by law.

This Government is further encouraged by the system of unit ownership being recognised by legislation overseas and in most other States, and as the present position in this State is quite unsatisfactory to buyers, the situation should not be allowed to continue unchecked.

As its title implies, the Bill has as its basis the registration of a strata plan. The strata plan is clearly defined and there is provision for defining the land contained in the parcel of which it is comprised. The plan must set out the separate lots contained in the building and define the boundaries of each lot by reference to floor, walls, and ceilings, and the approximate floor area of each lot. The strata plan will also have annexed to it a schedule specifying the unit entitlement of each lot. "Unit entitlement" is defined in respect of a lot as meaning the unit entitlement of that lot specified or apportioned in accordance with the provisions of the appropriate clause.

Under this clause, every plan lodged for registration as a strata plan will have an endorsement on it specifying in whole numbers the unit entitlement of each lot and a number equal to the aggregate unit entitlement of all the lots. The endorsed entitlement determines, firstly, the voting rights of a proprietor; secondly, the quantum of the undivided share of each proprietor in the common property; and, thirdly, the proportion payable by each proprietor of contributions levied for the establishment of a fund to meet administrative expenses.

The success of a home unit proposition in its management and administration de-

pends so much upon clearly defined unit entitlement that it is considered this important factor, in the holding of a satisfactory certificate of title, should be endorsed directly on the title itself.

The schedule of the strata plan also will specify the aggregate unit entitlement of all lots and this unit entitlement will determine the voting rights of proprietors, the quantum of the proprietors' share in the common property, and the proportion payable by each proprietor of contributions towards the maintenance of the building.

"Common property" for the purpose of this Bill means so much of the land for the time being comprised in a strata plan, as is not comprised in a lot shown in the plan, and covers such facilities as stairways, garden plots, and many appurtenances referred to in the schedule.

It is required that, before the strata plan may be registered, it must have a certificate by a registered surveyor that the building shown on the plan is within the external boundaries of the parcel and a certificate of compliance under the Local Government Act of 1960, together with a certificate under the hand of the Chairman of the Town Planning Board that the proposed subdivision of the parcel shown in the plan has been approved by the Board. There is a right of appeal upon refusal by the local authority or the Town Planning Board to direct the issue of a certificate.

When the strata plan is registered under this measure, a memorial shall be entered on the certificate of title relating to the parcel and this will enable the Registrar of Titles to issue a separate certificate of title for each lot, together with the share of the common property appurtenant to it, but no share in the common property may be disposed of except as an appurtenant to the lot of the proprietor.

Upon the registration of a strata plan, the proprietors become a body corporate known as the company but not subject to the Companies Act of 1961. The company may make by-laws for its corporate affairs and for the control, management, use, and enjoyment of the lots, the common property, and the parcel. Until such by-laws are made, the by-laws set out in the schedule to the Bill regulate the rights between the company and the proprietors and between the proprietors themselves.

The powers and duties of the body corporate are exercised and performed by a council of the body corporate. The council will consist of not less than three nor more than seven proprietors of lots elected at each annual general meeting of the body corporate. The body corporate has defined powers including that of establishing a fund for administrative expenses sufficient for the control, management, and administration of the common property; for the payment of any premiums of insurance; and the discharge of any other obligations of the body corporate. For this purpose, the body corporate is empowered to determine from time to time the amounts to be raised from the lot owners and the contributions to be levied on individual lot owners to meet these expenses.

This system, which has been called the "company method," makes full provision for all normal procedures adopted in existing home unit undertakings without any of the initial expense involved in forming a company.

To protect minority voters, the Bill permits application to the Supreme Court for the appointment of an administrator to safeguard against irregularities or neglect on the part of the body corporate. There is provision for the court, when satisfied that there is no person able to vote in respect of a particular lot, to appoint the Public Trustee, or some other person, for the purpose of exercising such powers of voting. The necessity for this could occur with a unit being vacant in a block when its owner had died and his affairs were being wound up.

The position of mortgagees has also been closely considered to ensure that the security afforded by a home unit title is adequate for its purposes. Thus, special provisions are directed to the destruction or partial destruction of the building and it will be appreciated readily that the question of insurance is of much consequence in this regard.

Members will notice that valuation and rating aspects form an important part of this measure. It will be apparent that the proprietor of each lot comprised in the parcel is deemed to be the owner in fee simple in possession of the lot as if it were a separate parcel of land having a value equal to that apportioned to it in proportion to the unit entitlement.

Similar provisions exist as regards the apportionment of land tax, for under this Bill, a reference to the Land Tax Assessment Act of 1907 to an owner includes a proprietor of a lot.

In commending this Bill to members, I would emphasise that there is a growing demand for this type of legislation in this State. In saying this, I do not wish to appear to be unmindful of the fact that the subject matter of this type of legislation is not easy of solution. Lack of trained staff to implement it is a major consideration. Defects and difficulties under the legislation, if it is passed, will surely arise, but the system of unit ownership, nevertheless, continues to enjoy a great deal of support throughout many sections of the community and the problems, associated with providing the means of buyers procuring a satisfactory title, must be faced up to.

In conclusion may I say that this Bill was introduced into the Legislative

Assembly this year. This was done purposely because the Bill was introduced in this Chamber last year. This was to ensure that all members of Parliament received the Bill and had an opportunity to consider it with all its ramifications. Copies of the Bill have been widely distributed.

I think it is true to say that the Bill received a good hearing in the Legislative Assembly. One or two minor amendments were made to it and a number of questions were raised. I think answers were given to the satisfaction of those members who raised various points in the other House.

This Bill is almost identical with its original form but I would still like to give members ample opportunity to study it. By the same token I hope it will receive a reasonably speedy passage through this House after due time has been given for its consideration.

Debate adjourned, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

FISHERIES ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Fisheries and Fauna) [5.27 p.m.]: I move—

That the Bill be now read a second time.

This Bill provides for four necessary amendments to the Fisheries Act, and briefly they are—

(1) Control of the commercial exploitation of seaweeds.

(2) Rectification of an omission from last year's amendments relating to containers or receptacles in which undersized fish or underweight crayfish tails are found.

(3) The exclusion of boats not licensed as processing establishments from the higher penalties prescribed for processing establishments dealing with undersized crayfish or underweight crayfish tails.

(4) The provision for processing establishments to pay annual license fees in two half-yearly moieties, rather than one lump-sum payment.

To elaborate further on these amendments, and briefly explain the reasons for them, I will deal firstly with those relating to seaweeds.

The Department of Fisheries and Fauna has recently had a number of inquiries relating to the availability of edible seaweeds. The trend of these inquiries would indicate that some inquirers are very anxious to commence their commercial exploitation. As the law now stands, this aspect of the fishing industry is completely uncontrolled.

Seaweeds, or to be more academic, marine algae, is not classified or defined as fish under the existing Act. However, as the Department of Fisheries and Fauna is responsible for all other marine products, it is considered desirable, and in fact, very necessary, that the exploitation of marine algae should be placed under the jurisdiction of the Minister controlling that department.

It is interesting, with regard to this point, that as seaweed is not classified as fish we did seriously think of altering the Act so that the term "fish" would incorporate "marine algae," and making it fish for the purposes of the Act. However, we decided that was not the best method and we changed our minds, as is apparent from the Bill.

The unrestricted harvesting of seaweeds could cause considerable and serious damage to the habitat of many fish, including crayfish. In fact, the destruction of the habitat of any living organism could result in the loss of that organism forever. If this proposed amendment is approved, the licensing powers already existing in relation to fish, as defined under the Act, with power to close beds and impose close seasons, where necessary, will also apply to seaweeds.

When the Act was amended in the last parliamentary session to provide heavier penalties for offences against the crayfish conservation laws, a clause relative to the imposition of penalties for having undersized fish or underweight tails in containers or receptacles was inadvertently omitted. The amendment in the Bill is intended to rectify this omission.

We covered the matter of their being taken in aircraft and, really, in every conceivable thing except containers and receptacles. It seems obvious that these should be covered and that is what the Bill proposes to do by this amendment.

Section 24D of the principal Act provides much larger penalties for licensees of processing establishments, including freezer boats, convicted for offences relating to undersized crayfish, underweight crayfish tails, and "berried" or "brushed" crayfish, than those imposed on the ordinary fisherman. However, there is need for clarification as to what constitutes a freezer boat. As the Act now stands every licensed fishing boat is involved. This amendment is designed to clarify the position and to remove any doubt as to which type or class of boat the heavier penalties were intended to cover.

Members will recall that last year the Bill under which licensing fees for processing establishments were imposed followed on the measure which provided for the heavier penalties. So when the Bill imposing the heavier penalties was put into force the only measure we could use to cover the other position was a Federal law relating to the licensing of processing establishments. Subsequently we had our own Act covering the licensing of estab-

lishments and now, of course, by this amendment we will be able to tie it in with our own Act.

The final amendment relates to the annual license fee payable by processing establishments. When the Act was amended last year, provision was made whereby fish processing establishments were required to pay an annual license fee. These fees were to be paid into a separate Treasury account and expended only on research, development, exploration, and fisheries extension services. It has been found that in some cases the payment of a lump sum annual license fee is proving a financial hardship.

Processors normally finance a considerable number of fishermen in the early part of the season and, in addition, after purchase from the fishermen, have to hold considerable stocks of crayfish until sales are effected on overseas markets. With this amendment it is proposed that the annual license fee may be paid in two half-yearly moieties instead of a lump sum payment and this will alleviate the position for some processors who become temporarily financially embarrassed.

The Bill is commended to the House.

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

COMPANIES ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.34 p.m.]: I move—

That the Bill be now read a second time.

This Bill has been passed by the Legislative Assembly and its provisions, which amend the Companies Act, have been drawn up in pursuance of the scheme for uniformity of company law. These provisions are approved by the Standing Committee of Attorneys-General. Changes which they introduced have already been enacted in the east and, although it is a sizeable measure, its main bulk is devoted to the repeal and re-enactment of Part IX of the parent Act having to do with official management.

The parent Act comes by its title of the Companies Act, 1961-1965, through the passing of the Decimal Curreny Act, of 1965, as affecting monetary aspects of it.

I shall make some brief reference to Part IX amendments before dealing with the other matters in the order in which they appear in the Bill. The main amendments to the provisions under company law, as affecting official management, commence with clause 10, which introduces a new section 197A. At the time of its inception, this part introduced a new concept in company law; namely, official management as already referred to. The original provisions that have been observed in operation throughout the Commonwealth have, in this measure, been revised in the light of the observations which have been made and following the receipt by the Standing Committee of Attorneys-General of comment by such interested parties as accountants and lawyers and, indeed, by the commercial community generally upon the provisions of a proposed draft for the new part, which was circulated fairly widely throughout the Commonwealth.

Under the amendments as affecting official management, the definition of "officer" is extended to include an official manager and a deputy official manager. Official management will commence on the date of passing of the special resolution as to official management by the company's creditors. Appointments of members of committees of management earlier made are validated. Creditors that are companies related to the subject company are prevented from voting on any special resolution under the part. A summary of the statement of affairs of the company concerned is to be sent to all its creditors with the notice of the first meeting under the part, and the full statement of affairs is to be available for inspection.

At least one director must be present at the first meeting of creditors. The creditors at the meeting may appoint any person as official manager with a right for 10 per centum in value of the unsecured creditors to apply to the Supreme Court for the appointment of a registered company auditor as official manager in lieu of the person appointed by the meeting.

A stay of legal proceedings will operate upon the commencement of official management rather than, as at present, upon the sending of notices for the first meeting of such creditors. Any period of official management may be extended by one year at a time and the initial period is limited to not more than two years.

The official manager, if he is of opinion that the company will not be enabled to pay its debts, is obliged to call meetings of creditors and members with a view to winding-up. The authority of the official manager to sell or dispose of the company assets otherwise than in the ordinary course of its business is restricted; the official manager is to have such authority up to $400; the committee of management may authorise up to $2,000; otherwise the consent of the Supreme Court must be obtained. The official manager may apply to the Supreme Court for directions.

Machinery is provided for the re-appointment of directors on the termination of official management. The priority rights held by creditors in and under the scheme for official management are preserved where the winding-up of the subject company ensues on or within two months after, the termination of the official management. And, finally, a foreign company

in this State—that is, under official management in the State of its incorporation—is required to add to its name in its official publications, etc., the words "under official management," and to lodge advice with the registrar accordingly.

Clauses 3 and 4 also have to do with official management. Clause 5, amending section 14, will enable any partnership carrying on a profession or calling declared by proclamation to be a profession or calling not customarily carried on in the Commonwealth by a company, to have as many as 50 partners.

Under clause 6, amending subsection (2) of section 42, the Registrar of Companies is to be empowered to refuse to register a prospectus of any local company or of any other company incorporated outside the Commonwealth, if, in his opinion, the prospectus contains a statement or matter that, in the form or context in which it is included, is misleading.

Clause 7 amends section 64 dealing with the granting of certain rights not being a reduction of share capital. This amendment will ensure that a grant by a company administering a home unit scheme to any of its shareholders of the right to occupy or use a home unit, being part of property owned or held on lease by the company, does not amount to an unlawful return of capital to the shareholder or a reduction of capital of the company, if the grant is in pursuance of or authorised by the memorandum or articles of the company. This provision is to have retrospective effect.

Clause 8 amends subsection (7) of section 74F of the principal Act to give elasticity and promote economy where a borrowing or guarantor corporation is required to ascertain the value of its stock in trade for the purpose of making up the intermediate six months' account required by section 74F. The value of stock is to be permitted to be estimated by the directors of the corporation, unless the trustee for the debenture holders otherwise requires.

The Bill also contains some other provisions of a machinery and consequential nature and, finally, in clause 41, amendments to the regulation-making powers contained in section 384 are to be made in relation to the form, signing, and verification of documents to be lodged with the registrar. Another makes provisions for rules for the calling and conduct of, and proxies at, meetings of creditors or debenture holders and, similarly, for joint meetings of creditors and shareholders.

There is an amendment which will simplify the rate of charge by the registrar for copies of registered documents. This amounts only to the substitution of a rate per page for the former folio rate with provision for a reasonable charge for the supply of uncertified photographic copies.

Also, it is proposed that the fee on company annual returns be increased by $2 with the object of providing additional funds to be applied indirectly towards the establishment of an investigational section in the companies registration office.

Debate adjourned, on motion by The Hon. H. K. Watson.

METROPOLITAN REGION IMPROVEMENT TAX ACT AMENDMENT BILL

Second Reading

Debate resumed from the 11th October.

THE HON. L. A. LOGAN (Upper West—Minister for Town Planning) [5.43 p.m.]: Last night, when speaking on this measure, Mr. Strickland seemed to have only two complaints; firstly, that sufficient information was not given in regard to the matter; and, secondly, that the 1965-66 report was not available for tabling. I have no control over the report, but I took the opportunity to get a draft copy and I gave it to Mr. Strickland this afternoon.

Dealing with the question that I did not give sufficient information, I do not know just what information the honourable member requires. I gave the House figures regarding the amount of tax being raised, and the amount of money being raised by way of loans. I also gave the expenditure for the year and the anticipated expenditure for next year, and the figures show a great discrepancy between what was to be received and what was to be spent. To me, this was the crux of the situation.

Mr. Strickland was also wrong when he said that the increase in the tax would take us only to the year 1971, and that probably before then another increase in the level of tax would have to take place. What I did say was that if there were no increase in the rate of tax, by the year 1971 no money would be left in the fund to enable the authority to do anything at all. All the tax and revenue would have been taken up in servicing loans and therefore the authority would not be able to purchase any more property.

By increasing the tax from 0.15625c in the dollar to 0.25c in the dollar we will be able to carry on because the authority will have sufficient revenue to borrow $1,000,000 a year, and it will be able to carry on at this rate indefinitely. That is what I said when I introduced the Bill and I do not know what other information I can give in this regard.

The total amount spent for land purchased for important regional roads, to the end of June, 1966, was $283,000. The total land purchased for the Mitchell Freeway and the city inner-ring road

cost $4,881,826 and that for public open space cost $1,603,392, making a total of $6,415,218 to the 30th June, 1966. Mr. Strickland mentioned the amount received from the tax. I might say here it was not until 1964-65 that the rate of ¾d. in the pound actually made up the amount we received; previously it was ½d. in the pound.

Whilst I do not propose to criticise the decision that was made, because it was one that was accepted by the House, I would remind Mr. Strickland that it was not the Government that reduced the rate from ½d. to ¾d. in the pound; this House reduced it. Had we not reduced the rate many people who have not been paid for land that was to be resumed may not have had to wait.

I have had many members of Parliament make representations to me in connection with people whose properties are affected by the regional scheme, whose land is under the control of the regional scheme, and who want to get out now and cannot, because there is no money to buy them out. Not just one member of Parliament but many members of Parliament have come to me and made representations, and have asked me to see what I can do to get the regional authority to purchase the properties concerned.

The people in question cannot be paid if there is no money. There are no two ways about that. Our costs, and our expenses in regard to the Mitchell Freeway, which is an urgent necessity, have been very great, because the land concerned has had to be bought on a priority basis. If members look at the figures and see the amount that has to be paid for purchases next year for the second and third stages they will appreciate that we will again be struggling to get this problem out of our hair before we can continue the progress.

I have recommended to the authority that it look at these matters on a hardship basis. I do not believe in directing the authority unnecessarily, but I have asked it to consider these as hardship cases and to give further consideration to the purchase of properties which will not be required for another 15 years. I do not know what further information I could have made available to the House.

The Hon. R. Thompson: You will not want the land for 15 years, but the people cannot develop it either.

The Hon. L. A. LOGAN: Some of them can. Human nature being what it is some of them would not want to develop their land for the next 15 or 20 years; but because a restriction is placed on them they suddenly feel they want to develop the land. They say that as the Government is going to take the land, it might as well take it now, so that the people concerned can go somewhere else.

The Hon. R. Thompson: That is not the case in the representations I have made.

The Hon. L. A. LOGAN: There have been occasions where development has taken place. Under the Act if a person applies to develop land which is under the control of the regional authority, and the authority refuses permission, the authority must then purchase that land, and it usually does so. There is no argument about that. But there are circumstances where development which might not affect the overall situation could take place; and possibly in 10 or 15 years' time the amount of money spent on development will be amortised, and the cost to the community will not be greater than it is today. In some cases perhaps the authority has been a little—

The Hon. R. Thompson: Cagey, I would say.

The Hon. L. A. LOGAN: What I meant was that the authority has not been game enough to say, "Go ahead and develop." There are occasions when one must call the bluff of the people concerned. This was done in the case of a property in George Street. The authority asked me what it should do, and I suggested that the authority permit the people to develop the land; but, of course, the people concerned did not wish to do that. We have had to purchase some of the properties over the years, but I am sure this could have been avoided had the authority said to the people concerned, "Go ahead and develop." But the authority was doing its duty, and it thought that if it could purchase the properties concerned today they would be cheaper than they would be in 15 years' time.

If members will look at the figures I gave the other night they will realise that the actual income for 1965-66 was $2,228,049. I also said that in April this year it was anticipated that the expenditure for next year for the Mitchell Freeway, the inner-ring road, and the public open space would be $3,424,000. That is the situation we are in.

Even if we raise the tax more than has been suggested in the Bill, the only way in which we could use the money would be on capital expenditure, because the limit of borrowing for the regional authority is $1,000,000. That is the maximum the Treasury will allow. Money is not available for long-term projects such as this, and since a lot of these are long-term projects it would not be of much use trying to go any further.

From last year to this year the amount of increase in income from the tax was a little over $14,000 but I would like someone to tell me the increase in the value of properties that have been purchased over that period. I think it would be found to be in the vicinity of many thousands of dollars. Because of the increased values the very small rise in the tax is so insignificant that it does not matter. A review was made in 1962 and it was anticipated

then that expenditure on land acquisition would be—

	$
Public open space	4,500,000
Important regional roads ..	5,092,000
Fremantle Port roads	100,000
Western switch road No. 1	2,202,600
Western switch road No. 2	5,003,000
Total	$16,897,600

Today that figure is in the region of $62,000,000. That will give members some idea of the increase in the valuations in the metropolitan region since the regional tax was introduced; and the regional authority is endeavouring to make its purchases with the limited amount of money it has.

I do not think I can add any more to what I have already said. I think members will appreciate that there can be no going back; that we propose to fulfil our function. The scheme must go on; the Mitchell Freeway must go on; the extensions to the freeway must go on; and the inner-ring road must go on. If all these things are to be proceeded with then we must have finance to fulfil our obligations; to pay out those people who are involved; and to pay them the best possible price at the earliest possible moment.

Question put and passed.

Bill read a second time.

Reference to Select Committee

THE HON. H. C. STRICKLAND (North) [5.57 p.m.]: I move, in accordance with Standing Order 186—

> That the Bill be referred to a Select Committee.

The reason for my moving that the Bill be referred to a Select Committee is not with any intention to destroy the measure, or delay it unnecessarily. I want to make that quite clear, because it is possible that my motives could be misconstrued. I have no intention of trying to destroy the Bill.

I feel this question has engendered a variety of opinions, and various viewpoints have been expressed since the tax was first placed before Parliament—I refer now to the measure that was put before us in 1957 which dealt with much the same proposition as does this Bill.

Members of both Houses seem to have a considerable difference of opinion in connection with this tax, and accordingly I feel that much good could come from recommendations which might be arrived at if the Bill were referred to a Select Committee, and the committee were asked to inquire into and investigate, mainly, the incidence of this tax upon the community within the metropolitan region. That is clearly my intention.

We know there has been some quite heated debate in connection with this legislation on almost every occasion it has been brought to Parliament. Strangely enough on this particular occasion there has been no heated debate in this House at all. The Minister and I are the only ones who have spoken to the measure; and I confess I did misquote the Minister when I misinterpreted the words he used when introducing the Bill. I said there would be a need for increased taxation between now and 1971. The Minister has, however, explained the position and I am quite happy on that point. I do not intend to enter into an argument on that score at all.

I was very pleased the Minister said in his reply that he did not know what information I might have required. He said this after he had given some information from the draft report of the Metropolitan Region Planning Authority. I like to be up to date so I can be aware of what this authority has in mind. Therefore I am pleased the Minister supplied me with a copy of the draft report, because it has in it some very straightforward thinking on the part of the authority in relation to finance—and that is the question which confronts Parliament today in the passing of this measure.

In order to finance some of the authority's commitments, the finance committee made an exhaustive investigation into the authority's financial affairs and made certain recommendations. The authority adopted the recommendations in various modes. One of the recommendations which was adopted, and which I feel must relieve the authority of a great deal of the financial stringency through which it is passing, as the financial committee pointed out, is that the authority is required to spend some of its resources on public open space and not concentrate all of its resources, for instance, on the Mitchell Freeway and ancillary works.

As a result of that recommendation I am pleased to learn the authority has approached the Main Roads Department—with some success, I gather—in order to be relieved of some of its expenditure by way of the Main Roads Department taking over some of it in connection with the purchase of property to enable roads to be built. Surely that is a fair enough proposition. After all, main roads' funds are for the construction of roads; and when we find that this authority is buying all the properties required in order to construct these roads, to my way of thinking it is unreasonable.

I am pleased the Minister provided me with this draft report this afternoon as I was able to see some action has been taken in that respect. Surely it should not be the responsibility of the people who are subscribing to this tax to buy the properties on which roads are to be built. That would not be a fair proposition.

The motorist provides money through the petrol tax to build roads throughout Australia; and surely it is quite fair and

reasonable that funds for roads which are to serve motorists should come from the money supplied by motorists. Therefore I am pleased to see the authority has acted along the lines I have mentioned.

I am not moving this motion with any idea of restricting the authority; I am hoping, if I have any success, I will be able to assist the authority. If we can assist the authority to have more money at its disposal, we will then overcome the Minister's complaint that it is unable to buy land, when people approach him with hard luck stories, because it has no money.

I think the question should be examined to see if there are any other avenues from which the required funds to some extent may be supplied. It is not to be expected that the whole of the money will be found in one year; but over a period of years.

The Bill exempts many classes of people within the region from contributing to this tax. The tax is a metropolitan region improvement tax, which means that the money derived from it shall be spent on improvements within the metropolitan region, which extends roughly from Serpentine up to somewhere this side of Gingin and up to the hills around Mundaring and Kalamunda. I am not certain, but that is roughly the area covered by the region.

Within the region there is a population of something like 500,000 people. Of that 500,000 people, it would be interesting to know just how many property owners are taxed, and the number exempt. After all, as I have already said, the expenditure will improve the whole of the region; and the impetus which this scheme will provide for an inflation of the values of land within the region is, I would say, very great.

There is always an inflation of values from normal development and normal expansion, and from the demand for land that takes place at all times, whether it be in the metropolitan region or, perhaps, in Wyndham. The values have increased and always will increase with the inflationary pressures which are always upon the economy. However, this scheme itself has placed upon the metropolitan area an immense impetus in land and property values.

As the Minister pointed out to us a little while ago the scheme has had the effect of increasing costs. Estimates made today will be nowhere near the mark in another five or six years when we have regard to the rate at which property values and costs of all kinds have increased in recent years.

As I said before, we can expect to have a Bill similar to this one before us again in the near future because of the heavy financial demand upon the authority. Some other avenues for finance must be provided; and I would suggest very strongly that a Select Committee be appointed to examine and report upon the possible avenues that might be available for obtaining more finance; and to see whether some people who are suffering hardship as a result of this tax could not be given some relief or, at least, not be called upon to pay any increased tax in the near future.

There are many people living in the metropolitan area—elderly people, people living on fixed incomes, superannuation and so on—who live in their own homes.

Sitting suspended from 6.11 to 7.30 p.m.

The Hon. H. C. STRICKLAND: Before the tea suspension I was remarking that this tax falls heavily on some landowners, and particularly on those on fixed incomes or drawing superannuation for which they contributed in years gone by. Values have been eroded by inflation and, therefore, I would not like to see any additional impost placed on people in that category. It would be most unfair that people in those circumstances should have taxes increased when they could ill afford to pay them.

People in those circumstances like others in more affluent circumstances are being taxed, but they can afford to meet it. Another anomaly is that many land holders within the region pay no tax at all because they are exempt from the provisions of the Act. Clause 3 of the Bill reads—

> The principal Act is amended by adding after section three a section as follows—
>
> 4. For the year of assessment ending the thirtieth day of June, one thousand nine hundred and sixty-eight, and for each year of assessment thereafter, the rate of the tax referred to in section two of this Act and imposed and payable as provided in that section shall be one-quarter of one cent for every dollar of the unimproved value, as assessed by or under the Metropolitan Region Town Planning Scheme Act, 1959, and the Land Tax Assessment Act, 1907, of all land chargeable with the tax.

Subsection (3) of section 41 of the Metropolitan Region Town Planning Scheme Act exempts the following lands from the provisions of the section:—

> improved land within the meaning of subsection (2) of section nine of the Land Tax Assessment Act, 1907, used solely or principally for the purpose of agricultural, pastoral, horticultural, apicultural, viticultural, grazing, pig-raising or poultry-farming business.

I am sure many of those who are exempt from the tax would not begrudge paying it because of the increased value of their properties as a result of the metropolitan region scheme. They must benefit from that scheme by way of what has been termed the unearned increment. No-one can deny that because it is a positive fact.

As I have said, I believe some of the exempt landholders would not begrudge paying this tax. It is not a big amount to each individual taxpayer. My complaint is that under the Act the tax is imposed unfairly.

The metropolitan area is the heart of Western Australia. It is the seat of the Government and the centre of all commerce, trade, and industry. Even if companies in Western Australia are not operating within the region, they certainly have their headquarters or registered offices within it. The region is the core of the financial institutions throughout the State; and every person in Western Australia has some connection, in one way or another with the metropolitan area. Every child born and every person who dies is registered in Perth. I could enumerate dozens and dozens of businesses of all kinds which are centred in the metropolitan area and which benefit as a result of the improvements effected in that area.

However, this Bill does not cover the State, but only the metropolitan region. Unfortunately, in my opinion, a large number of people within the region are going to enjoy an unearned increment on their properties as the result of the implementation of this scheme, but they are not required to contribute one cent towards it.

Members will recall that in 1963, in order to remove one of the anomalies which we considered existed, this House carried a motion recommending that people whose properties would be demolished or taken over by the Government should be exempt from the payment of the tax. However, this Chamber has never been advised by the Government, the Minister in charge of the House, the Minister for Town Planning, or anyone else, the result of that motion.

The Leader of the Opposition in another place asked the Treasurer whether any action had been taken as a result of the passing of the motion, and the Treasurer replied that Cabinet had considered the matter—or words to that effect—and was of the opinion that no anomaly existed. If there is no anomaly in the fact that a person pays the tax and thereby contributes to his own destruction, while someone alongside him waxes fat and contributes nothing, then I must be misreading the dictionary. I think it is the *Oxford Dictionary* which states that an anomaly is any inequality of conditions. An inequality of conditions surely exists in this matter. That was the opinion of this House, but nothing transpired as a result of the motion which was carried.

I was the mover of that motion on that occasion, and perhaps I have been remiss in not moving another motion that the Legislative Assembly be advised accordingly and its concurrence requested. However, the matter was drawn to the attention of the Treasurer who stated that in the opinion of Cabinet no anomaly existed.

I believe that the unfairness which does exist in the incidence of this tax should be thoroughly examined. A Select Committee appointed by this House would have the authority and be in a position to obtain relevant information which would be required to enable it to make recommendations, if necessary, to spread the tax more evenly amongst those who are going to benefit by the scheme; and in this way increase the revenue of the authority.

I want again to impress upon members the fact that I have no intention at all of interfering with the Bill as it stands. I do not wish to obstruct the passage of the Bill. If the House agrees that a Select Committee should examine the position and submit recommendations, I believe it should report on the 17th of next month. This would allow ample time, even if the question is not decided until next week, for the committee to make its inquiries. In this way the normal procedure of the Bill would not be delayed, unless, of course, any recommendations the committee might make were adopted. However, the committee could only request that the recommendations be implemented.

I would also point out that the provisions of this Bill do not come into operation until the 1st July, 1967, and consequently the appointment of a Select Committee would in no way create any trouble.

The Hon. L. A. Logan: The Bill must be passed this session.

The Hon. H. C. STRICKLAND: This new tax does not take effect until the 1967-68 financial year.

The Hon. L. A. Logan: But this Bill must go through this session to make that apply.

The Hon. H. C. STRICKLAND: Oh, yes I agree with the Minister that that is quite right. After reading the draft report which the Minister handed to me as the House met, I am more than ever of the opinion that the authority must necessarily have more money, but I am not convinced that the people who are paying the tax now should continue to be the only ones to pay the tax forever.

I have heard rumours of all kinds and I have been told many stories. However as I have said previously, I do not like repeating stories unless I have seen some substantial evidence of their veracity or otherwise. Nevertheless, I would say that some of the stories I have heard are about subdivisions, the activities of subdividers land-developers, and so on, which have taken place within the region on land which has contributed nothing at all by way of tax until it is subdivided. Of course, when it is subdivided, the purchasers of the blocks commence to pay the tax. The stories I have heard about the activities of these people imply that they are making lots of money but are

contributing nothing at all towards the authority.

I think the Select Committee could well look into some of those activities and it might, perhaps, be able to check that type of thing. I do not care what any town planner, or anyone else, thinks because there is not the slightest doubt that some of the properties which are exempted in the near-metropolitan area—I would say there are quite a number of properties exempted within five miles of the G.P.O.—only conduct themselves as a business, with consequent inclusion under one of these exemption headings, because of the knowledge that, in time, the value of the land will increase.

The value of the land will increase until such time as the owners feel they have the incentive to sell, and then they will sell. When that is done, those areas will come under either subdivision or, perhaps, be zoned as flat sites, or something else. Some of these areas to which I am referring are quite close to Perth. Generally, in my opinion the position is really anomalous and, for the reasons I have outlined, I submit my motion to the House.

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

PUBLIC WORKS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 11th October.

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [7.48 p.m.]: More than one member when speaking to this Bill referred to it as being one of the difficult ones and one whereby emotion is sometimes raised. I would add to that by saying that sometimes, because of this emotion, things seem out of perspective.

As matters pertaining to public works are not within the scope of my department, the department concerned has forwarded to me comments on some of the points made by members. I intend to read these comments and subsequently I will deal with the situation from my own point of view. In dealing with the points made by Mr. Ron Thompson, the departmental advice I received is as follows:—

> Referring to clause 3, and in particular the insertion of a paragraph (ca) (1) in subsection (3) of section 29, the honourable Mr. Thompson stated "that the original owner is not going to have an option on the land, but the land could be amalgamated with an adjoining property."
>
> However, if the land can be amalgamated with adjoining land held by the applicant, then he would still have a right to an option.

Of course, this is so. To continue—

> It is only when such amalgamation is necessary to comply with the Town Planning Acts, and the applicant is not able to do this because he does not hold the adjoining land, that the Minister may refuse to grant him an option to repurchase.

Mr. Ron Thompson went to a lot of trouble to talk about subdivisions of five acres, 10 acres, and all the rest. However, that has nothing whatsoever to do with it because those lots comply with town planning requirements.

All that is dealt with by this amendment to the Act is the situation where the land cannot comply with the town planning requirements. Such a situation would be where there is an area of land in a residential section which is possibly about 2,000 square feet, or 3,000, square feet. One cannot build a house on such an area of land, nor in fact can one do anything with it and, therefore, it does not comply with the town planning requirements.

Consequently, this land is offered to the fellow next door instead of being offered to the original owner. The other aspect under town planning is when resumption is involved for a road, or a railway, and there is no access to the remaining land. Under the Town Planning Act, a block of land to which there is no access cannot be subdivided.

The points I have just mentioned are the two main aspects with regard to this amending Bill. In the case of a subdivision of five or 10 acres, one can do anything one likes with this amount of land —it can be zoned; or a house can be built on it.

The Hon. R. Thompson: When there is no physical access?

The Hon. L. A. LOGAN: No, that is my point. I have already said that where there is no access, it does not comply with town planning requirements and, in those circumstances, it cannot be offered to the original owner but to the person next door.

The Hon. R. Thompson: When the standard gauge railway was put through, blocks were severed through the middle and there was no physical access to the back portion of the land. Because the land was resumed for the purposes of building a railway, it was not necessary to build a roadway. That situation is wrong. In any case of resumption for purposes of the railway, it is not necessary to construct a roadway and, I repeat, that is very wrong.

The Hon. L. A. LOGAN: The honourable member is talking about something entirely different. I am talking about areas of land which, because of their smallness, do not comply with town planning requirements, and areas of land where resumption is involved for a road, or a railway, and there is no access to

the remaining land and, because of this, they do not comply with town planning requirements. This is what the Bill is dealing with—it is not dealing with the building of roads.

The Hon. R. Thompson: Nevertheless, this is pertinent if you read the Act.

The Hon. L. A. LOGAN: That has nothing to do with the Bill. The Bill is dealing with an owner who has had a portion of his land resumed for public purposes, and where there is no access to the rest of it.

The Hon. R. Thompson: I will debate this aspect in Committee.

The Hon. L. A. LOGAN: Because there is no access, this land cannot be utilised except by the fellow next door. I have already explained to the House the substance of the principles behind this amending Bill.

If one looks around the metropolitan area one will possibly find a drainage sump on a corner block. The rest of the block is not, in itself, a big enough area on which to build a house, and, because of deep drainage, the sump is valid no longer. What does one do? The block is not big enough for a house to be built on it and, consequently, the individual cannot build.

The Hon. R. Thompson: I did not raise any complaint.

The Hon. L. A. LOGAN: In some instances it could be located in a shopping area and the land could be big enough for a shop to be built. Therefore, it could be offered back to the original owner. As I have said, it is the requirements of the Town Planning Act which are the only points under consideration.

The Hon. R. Thompson: I will argue the other point with you in Committee.

The Hon. L. A. LOGAN: The honourable member is dealing with a road but I am not dealing with a road at all. I should like to continue reading the departmental advice, and I quote—

> The Hon. Mr. Thompson further states that, if this Act becomes law the Public Works Department can say that there is no physical access to the land whatsoever and therefore it can resume the lot of the land.

I am not sure Mr. Ron Thompson intended to say this.

The Hon. R. Thompson: Could the Minister repeat it?

The Hon. L. A. LOGAN: Yes, I said—

> The Hon. Mr. Thompson further states that, if this Act becomes law the Public Works Department can say that there is no physical access to the land whatsoever and therefore it can resume the lot of the land.

The Hon. R. Thompson: That is correct.

The Hon. L. A. LOGAN: The honourable member has admitted saying it and I have it here so I know it is correct. The advice continues—

> But the amendment does not authorise the resumption of land, it only applies to disposal.

We really have a complex situation when we start talking about resumptions. The last departmental quote I mentioned is referring to the option to the original owner or to the new owner—the land having already been resumed. It continues—

> Land can only be resumed for authorised purposes and there is no provision or implication in the Public Works Act to suggest that land could be resumed to be sold at a "huge profit."

And, neither there is.

The Hon. R. Thompson: There was in the amending Bill of 1965.

The Hon. L. A. LOGAN: The advice continues—

> The amendment gives the Minister a discretionary power to refuse to grant an option and the intention of the Minister to exercise discretion in refusing to grant an option is demonstrated by the insertion of paragraph (d) which enunciates a general principle to be observed when no rights to an option exist at all.

I interpolate here to say that this was only an enunciation of a general principle in regard to paragraph (d) whereby nobody had the right of option and the Minister, if he thought fit, in view of the exigencies and the circumstances, could say to the original owner, "We think we might give you the right of option, or of the new option." At the moment, no right exists for the Minister to do such a thing. As I have said, this was only a general principle which was enunciated. The quote continues—

> In any case an aggrieved applicant has recourse against the Minister's refusal to grant an option.

Let me say that, if any Minister, or department, tried to grant an option to someone else when the original owner was entitled to it, he would not get very far in a court. The Minister would make a fool of himself and of course, he is not likely to do anything silly. The quote continues—

> The venue of such appeals—

and I think Mr. Ron Thompson made reference to this—

> —was altered from the local court to the Supreme Court, firstly, because many appellants would prefer adjudication by the higher court and, secondly, that the substance of appeals, that is the value of the land concerned, would almost certainly in all cases exceed the jurisdiction of a local court.

The Hon. R. Thompson: It would not be a matter for the local court but for the Supreme Court.

The Hon. L. A. LOGAN: This has been amended in another place but there are very few blocks of land today, I imagine, which cost under $1,000. In ordinary circumstances, anything under $1,000 would be a matter for a local court but over that figure it is a matter for the Supreme Court. Consequently, in my opinion, very few cases would be referred to the local court because I do not know where one could buy a block of land for $500 or $1,000 today. The quote continues—

> Amplifying Mr. Ron Thompson's statement that "possibly nowhere in the British Commonwealth of Nations would such provisions be written into legislation", I can say that nowhere else in the world would legislation be found giving such rights to former owners to repurchase resumed land. This State is certainly leading the field in this respect, but some modifications are necessary to make the legislation workable.

From information which has been given to me I know this State does lead in this regard. I would say that Western Australia leads the world in relation to this compensation. Members can check this statement, wherever they wish, but they will find it to be true.

The Hon. R. Thompson: The rest of the world must be very backward.

The Hon. L. A. LOGAN: Western Australia leads the field in this respect and that is not a bad record to hold. I would now like to read the reply to Mr. Lavery with regard to interest, and this reply has been prepared by the department. It reads—

> The honourable Mr. Lavery referred to the deferment of resumption of property likely to be required in the future for public works.

I think he mentioned main roads. The advice continues—

> I agree that these are matters which could be taken up by or on behalf of the owners with the department or Minister concerned but I do not see any remedy in legislation, particularly by amendment of the Public Works Act.
>
> The honourable Mr. Lavery also referred to the proposed abatement of interest on advanced payments and I must make it clear that this is to apply only to advance payments and not to a formal offer of full compensation.

The Hon. H. K. Watson: To what does it not apply?

The Hon. L. A. LOGAN: It does not apply to a formal offer of full compensation. At the moment up to 60 per cent. has been offered as a preliminary amount. Very often, the vendor will not accept the 60 per cent. and, under those circumstances, he has subsequently claimed the interest on it. I can add to this remark but, first of all, I would like to read the balance of the advice, but possibly I will return to it later. It continues—

> Rates of interest payable on compensation outstanding are much higher under the Act in this State than elsewhere, and it has been found that some claimants are not interested in settlement of their claims because of this handsome return (free of outgoings) on land which but for the resumption was unproductive.

I think that is the position. A man might buy a vacant area of land which, for some reason or other, will have to be resumed and purchased for public purposes. The valuation is made, but no agreement is reached. The department then offers to pay 60 per cent. of the valuation on account.

The Hon. A. R. Jones: On whose valuation?

The Hon. L. A. LOGAN: That is done irrespective of the valuation made at the time.

The Hon. A. R. Jones: Yes, but on the valuation made by the owner or the department's valuation?

The Hon. L. A. LOGAN: It will be the department's valuation initially, and if there is no agreement it will offer to pay the owner 60 per cent. on account. It would also indicate to the owner that this was not the final figure and that negotiations could proceed at some later date. I am speaking of land that is unproductive. On the arrangements which prevail at the moment, if an owner does not accept the offer of 60 per cent. of the valuation he is claiming interest on unproductive land.

The Hon. A. R. Jones: Fair enough.

The Hon. L. A. LOGAN: My notes continue—

> Authorities in this State have been advised by counterparts in the Eastern States to reduce the rates of interest payable, but we in this State take a different view and feel that any reduction in interest rates would not be equitable. The amendments as proposed are an alternative to a reduction in the interest rates and cannot be regarded as other than reasonable.
>
> It is quite fictitious to suggest the effect will be that "people are going to be bulldozed" into accepting final settlement. Some interest rates in the Act are tied to the bank overdraft rate which members will know varies from 6½ per cent. to 7¼ per cent.
>
> When claimants—or vendors under negotiated purchases—have to finance re-establishment by bank overdraft, the department has been obliged, on the basis of equity, to meet the interest as charged, pending settlement or payment of advances.

I think this is fair enough. When a person is forced to move and he has to borrow money to make the move, the interest on the overdraft is paid by the department. To continue—

> In other cases it is considered that payment of interest at 6 per cent. is quite adequate.
>
> It will be noted that the Act allows some discretion in this respect. Section 63(d) stipulates that interest shall be paid at the rate of 6 per cent., or such higher rate as is deemed adequate, having regard to the circumstances of each case.

So the department has discretionary power to grant 6 per cent. interest, or a higher rate if the circumstances should warrant it.

The Hon. R. Thompson: In your notes the figure of 7 per cent. was mentioned.

The Hon. L. A. LOGAN: The department has discretion to grant interest rates varying from 6½ per cent. to 7¼ per cent.

In replying to comments made by Mr. Strickland, I agree with him that the Public Works Act already provides sufficient scope for valuation and assessment of compensation. To continue with the information I have been given—

> The departmental valuers are qualified by examination as members of the Commonwealth Institute of Valuers, although I do not know of any who have attained a doctorate in the profession. The Government has sought to obtain and maintain a high standard in valuation by augmenting the staff and stipulating qualifications in appointment of valuers. Having achieved this object the Government could deem it unethical to interfere in such a highly specialised and contentious field. It has been found that criticism of the department's assessments of compensation is, on the whole, grossly uninformed.

This, I suppose, is open to argument by some members. However, this is in the records of the department and is the contention held by it. To continue—

> The valuation for probate referred to by Mr. Strickland was not a Taxation Department valuation. It was submitted by an independent valuer for the estate and would have been checked by the Taxation Department only if it was thought to be too low. The Public Works Department does not give any credence to any suggestion that this probate valuation was high because it was known that the property was to be acquired. This sort of thing could, however, happen. Again, valuations for taxing and rating purposes are of necessity done on a broad face but, for acquisition, particular valuations are made of the subject property involving detailed inspection.

That is a fair statement, too. In earlier years, especially during the war years, when land was valued for water rating, the valuer merely walked down the street and recorded his valuation.

The Hon. J. Dolan: You mean over-valuation.

The Hon. L. A. LOGAN: That is the practice that was followed in those years, as I know.

The Hon. J. Dolan: It is still the practice.

The Hon. H. K. Watson: And it is called a specialised profession.

The Hon. L. A. LOGAN: If a valuer had to make a valuation of a separate property he would carry out a detailed valuation. Continuing—

> It would therefore be extraordinary if there were not some difference between the two approaches. Generally, a particular valuation for acquisition should be higher than a rating or taxing valuation, but the reverse does occur in isolated cases, and the department is invariably constrained to accept the higher valuation.
>
> It is grossly misleading to infer that the departmental valuers deliberately open negotiations at a figure lower than their valuation. The department's policy is to make its initial assessment as correct as possible and deprecates any suggestion that it is a basis for bargaining. The departmental valuers do not set themselves up as infallible and never regard their initial assessment as inflexible. They are always ready to investigate any pertinent evidence or submission presented for or on behalf of claimants.
>
> Mr. Strickland is well aware of one particular case where the department's initial assessment was supported by an independent valuation but the department, in subsequent discussions, went a long way to meet the claimant in settlement.
>
> Values current at the date for valuations, derived from prices paid for comparable properties, are the basis for assessments under the Public Works Act, subject to the provisions of the Act. Similarly, acquisitions for town planning are based on values current at the date for valuation, without regard, however, to any increase or decrease in value attributable to the town planning scheme. This latter provision is somewhat difficult to apply and will become increasingly so as time goes on, but the department exercises considerable reserve in this respect.
>
> There is no stipulation in the Bill that surplus land should be offered to the owner of adjoining property. Certainly in clause 3, paragraph (d),

the owner for the time being of the land from which the surplus land was taken is joined with the former owner. It will be readily agreed that when land is taken from a farm for a school site, for instance, and the former owner has subsequently sold the farm, the land, if it becomes available for disposal, should be reincluded in the farm by being offered to the current owner thereof.

That is plain common sense—

If the land is subject to subparagraphs (i), (ii), and (iii) of paragraph (a) (ca) in clause 3 of the Bill, the only practicable way of disposing of it could be by amalgamation with adjoining land, but there is no stipulation that it be disposed of in this way other than through the former owner, and he could be given an opportunity to consider ways of achieving this objective before the Minister refuses to grant him an option to repurchase.

Most of the points raised by members have been answered in the notes I have quoted to the House. In reply to the question on town planning raised by Mr. Ron Thompson, I can assure him it is only impossible to do anything when there is fragmentation of land following resumption. When the adjoining block does not belong to the owner affected, the only solution is to offer the land to the owner of the adjoining block and not to the original owner. Also, when a piece of land is severed from the main portion by resumption, and there is no access to it, if an owner of an adjoining block has access the only alternative is to offer the severed piece of land to that owner.

The Hon. R. Thompson: What happens when the land is a strip half a mile long?

The Hon. L. A. LOGAN: If there is no access to it, it is of no use to the original owner.

The Hon. R. Thompson: That is contrary to what you said a while ago.

The Hon. L. A. LOGAN: No, it is not.

The Hon. R. Thompson: We will argue it in Committee.

The Hon. L. A. LOGAN: I am just reiterating the purpose of the amendments in the Bill to point out the various town planning aspects. I have referred to the situation brought about by a piece of land being divorced from the main portion of the block, and when there is no access to it, unless one traverses another owner's property. In such circumstances it is only right that the severed portion of land should be joined to the neighbouring property. In regard to paragraph (d) of clause 3, I have explained that this amendment seeks greatly to expand a general principle.

The other amendment on which some controversy ensued—and this is more in line with that to which Mr. Ron Thompson has referred—relates to the situation when a man has disposed of his property and the land which is resumed from it is no longer needed for the purpose for which it was resumed. However, to offer the land to the original owner after he had already disposed of the original property would again be wrong. In such circumstances the option of purchase would be given to the man who purchased the main portion of the land.

Further, the amendment only provides that the Minister shall not be obliged to offer the land to the original owner for repurchase. I should think the Minister, knowing the person concerned has the right of option to the land would, before taking away the right of appeal from the original owner, ensure that an offer of the land was made to him.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Section 29 amended—

The Hon. R. THOMPSON: I consider the Minister has given fair answers to questions raised, but they do not measure up with the answers given by the department concerning the situation I have in mind, and which actually exists. I referred to this case the other evening. It arose when the Cockburn railway line was constructed contiguous with the Shell Oil Company crossroad in Spearwood.

This case occurred some years ago and members will possibly recall the circumstances surrounding it, because one market gardener threatened to place his wife and children in front of the bulldozers. This land was subdivided into five and 10-acre lots, and in this section, at the end of the street, the lots were 600 yards or 700 yards long.

These were blocks with a three-chain frontage running back to an unmade roadway. Provision had been made for a roadway in an earlier subdivision, but it was not built. The railway line virtually cut through the middle of the blocks. It went from Newton Road to Barrington Road. Compensation was paid for the land which was resumed.

I have raised this matter on many occasions, and the Minister for Mines obtained answers for me from the Public Works Department, the Minister for Works, the Minister for Railways, and others. The department claims it does not have to construct a roadway at the rear portion of the blocks. But this land was severed completely.

The Hon. H. K. Watson: Was all the land resumed?

The Hon. R. THOMPSON: Just a portion of about two chains' width in the middle.

The Hon. L. A. Logan: That has nothing to do with this Bill.

The Hon. R. THOMPSON: It could have in the future. Through these five and 10-acre blocks the railway line was built. There is an embankment approximately 30-feet high on one side of the line, and there is no physical access to the portion at the rear. Should this Bill become law, when a railway line is built the department will not have to provide alternative access. The roadway to one of these properties was cut off, and the department finally purchased a strip 20-feet wide from the adjacent landowner to provide a track as access.

The resuming authority, which was the Public Works Department, refused to pay compensation for providing an access to the rear portion. Some of the landowners concerned have been provided with access across the railway line, but where there is the 30-feet high embankment on the lower side access cannot be obtained to the rear portion. If this Bill is passed the Public Works Department can say that this land has been severed and there is no physical access; therefore it can be amalgamated and sold to an adjoining landowner.

The Hon. L. A. Logan: You are wrong.

The Hon. H. K. WATSON: Mr. Ron Thompson is wrong in what he said. I thought he had a point when he was speaking to the second reading, but after examining the position very carefully in the light of what he has just told us I find he is dealing with an entirely different matter.

He is dealing with what could well be an inequity when land is resumed as to assessing the basis of compensation. That is a point in respect of the resumption of land, but this clause has nothing to do with it. This deals entirely with land which has been resumed and which is being returned to the original owner or, except in the circumstances mentioned, to the current owner. It has nothing to do with the resumption of land.

The Hon. L. A. LOGAN: In the cases referred to by Mr. Ron Thompson the railway line has gone through the middle of the properties, and the area for the line has been resumed. The department has not resumed the land on either side of the line, and that land still remains with the original owners. The only area resumed is the strip of two chains for the railway line.

Under this Bill if it is found within 10 years that such land is no longer required for the purposes for which it has been resumed, the department will offer it to the owner of the property on either side. If the land is not required for a public purpose it will be offered back to him.

The Hon. R. THOMPSON: When a situation such as the one I mentioned arises and the land is completely severed, the Public Works Department can resume more of the land. It does not have to be for a specific purpose. If the land is severed is it not reasonable for the department to resume the back portion to avoid the provision of a roadway?

The Hon. L. A. LOGAN: The principle is that no resuming authority will take more than is required; but where, as a result of resumption, severence occurs, and it is in the interests of the owner to sell the whole of the land, then negotiations take place. The concern of Mr. Ron Thompson is that because of the resumption of land in the middle of the property the owner has no physical access to the rear portion.

The Hon. R. Thompson: When this Bill becomes law land which has no physical access can be taken.

The Hon. L. A. LOGAN: If it is not taken at the time it will not be taken at a later stage.

The Hon. R. Thompson: I will note the remarks which you have made.

The Hon. L. A. LOGAN: If the land is required for another public purpose then that would be all right. The department cannot resume land willy-nilly without stating the purpose. The purpose has to be a public purpose, and the owner has a right to object.

The Hon. R. Thompson: Do you claim that in the past land, in excess of requirements, has not been resumed?

The Hon. L. A. LOGAN: No, and that is why the Bill is before us. A lot of land for road purposes has been resumed under the regional scheme. In time some of it will be surplus, but that is for a public purpose and nobody can object. Having resumed land for a particular purpose the authority will not say the next day that it wants more land for other public purposes.

The Hon. R. Thompson: If severence takes place in the future, it will be logical to expect that the resuming authority will take the remaining portion.

The Hon. L. A. LOGAN: Where there is no access it will take the lot, and the owner generally agrees. If over the years access is provided through subdivision, then an option will be given to the original owner. So he stands to gain from any development that takes place.

I move an amendment—

> Page 4, line 14—Delete the word, "practicable" and substitute the words, "in the opinion of the Minister practicable and appropriate."

One of the main reasons for this amendment is that at the moment an option can be given. It could be in respect of land resumed by local authorities. The amendment will ensure that the option is in the

opinion of the Minister practicable and appropriate. It takes the matter out of the hands of the local authorities.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 4 and 5 put and passed.

Clause 6: Section 46 amended—

The Hon. R. THOMPSON: Section 46 of the principal Act is amended by repealing subsection (3) and re-enacting it with amendments as follows:—

> (3) As soon as practicable after making such offer (but subject to all the other provisions of this Act) the respondent may offer and pay to the claimant, as and by way of an advance or interim payment on account of the compensation, such amount or amounts as the respondent thinks fit, but if required by the claimant the respondent shall pay to the claimant, by way of such advance or interim payment, an amount equivalent to two-thirds of the amount of the offer of compensation; and any such payment may be so received and retained by the claimant without prejudice to his rights under section forty-seven or any other provision of this Act.

In conjunction with that clause, I will now read subparagraph (iii) of clause 9 (h), which is as follows:—

> (iii) Subject to subparagraph (ii) of this paragraph, when any amount representing an advance payment of the compensation is paid to a claimant, interest is payable on the total amount of compensation only to the date of the first of such payments, and is payable thereafter only on the balance outstanding from time to time, or if any amount is offered by the respondent as an advance payment of compensation under subsection (3) of section forty-six of this Act and is not accepted by the claimant within thirty days thereafter, no interest shall be payable thereafter in respect to any amount so offered.

I can see that some difficulties could arise. There is a tie-up of those two clauses which deal with compensation and methods of payment. I have quoted the two passages here so that when we reach clause 9 members will know what I am talking about.

Clause put and passed.

Clauses 7 and 8 put and passed.

Clause 9: Section 63 amended—

The Hon. H. C. STRICKLAND: I move an amendment—

> Page 7, line 19—Insert after paragraph (e) the following paragraphs:—
>
> (f) by deleting the word "may" in line three of paragraph (c) and substituting the word "shall";
>
> (g) by deleting the words "not exceeding" in line five of paragraph (c) and substituting the words "not less than";
>
> (h) by deleting the passage ", as the respondent considers sufficient," in lines seven and eight of paragraph (c);
>
> (i) by deleting the word "may" in line eleven of paragraph (c) and substituting the word "shall";
>
> (j) by deleting the words "not exceeding" in line thirteen of paragraph (c) and substituting the words "not less than";
>
> (k) by deleting the passage ", as the Court deems proper," in lines fifteen and sixteen of paragraph (c).

The purpose of the amendment is to ensure that a minimum 10 per cent. reward will be granted for compulsory acquisition. This clause has no relation to the clause dealing with negotiation. There is no claim, but provision is made where a property is resumed compulsorily, through the channels of the legislation, that the department may award 10 per cent. as a reward on the offer agreed upon. If the parties go to court because they are not able to agree, then the judge or magistrate may also include an amount up to but not exceeding 10 per cent. of the offer which he determines as a reward for the compulsory taking of the property. My intention is to make both of these provisions a minimum of 10 per cent.

The reason I am moving this amendment is that the Bill does liberalise to the extent that it abolishes the limit of 10 per cent. reward. That means the department, or the court, can allow 12½ per cent. or 20 per cent., or whatever they consider adequate. A figure of 10 per cent. is little enough as a reward over and above the agreed-upon offer.

When the Bill was introduced in another place it was explained that this liberalisation would take place. It was also explained by the Minister in this Chamber; but I feel the Government overlooked this particular section. The amount could be nothing, or 20 per cent.

The Hon. L. A. LOGAN: Whilst this amendment might sound all right, it would not work in practice. I will read the comments from the department in regard to it. They are as follows:—

> In considering ways of amending the Act to provide for the payment of additional compensation some thought was given to removing the limit of 10 per cent. on the allowance for compulsory taking.

However, it was decided that this could best be done in the manner of clause 3(f) of the Bill, which gives the resuming authority and the courts discretion in this respect as the circumstances warrant.

The amendment now submitted proposes not only to remove the limit in the allowance for compulsory taking but to make payment of the additional 10 per cent. mandatory as a minimum.

Removal of the limit of such allowance might be a popular move but any suggestion that payment of 10 per cent. or any such payment at all be made mandatory is grossly misguided as there are cases, and there could be many, where no allowance for compulsory taking is justified.

It is now well known that it is a policy of the Government to pay the full 10 per cent. for compulsory taking generally but there have been cases where no such allowance is warranted.

One example is the resumption of sites for schools in comprehensive subdivisions where the provision of a school is an integral part of the prospective development and of some financial advantage to the subdividers. In one such case the compensation court confirmed the department's offer of a reduced value and made no allowance for compulsory taking. In fact, Counsel for the claimant in his final address conceded that no such allowance was claimed nor expected.

It should also be appreciated that in an assessment of, say $200,000, in which case the claimant has ample capacity to establish a full valuation, the mandatory addition of 10 per cent. would result in some part of the $20,000 being tantamount to a gift out of public funds if such payment is not fully justified. In such circumstances it is a matter for consideration to what extent an allowance for compulsory taking is warranted.

Surely this should be left to the discretion of the Minister or the courts and not made mandatory.

Members should be aware that it is now the practice to acquire lands for public works by negotiated purchases as much as possible. Members might not be aware, however, that in such purchases under the Public Works Act it is the department's policy and practice to make full allowance where the element of compulsory taking is present. This cannot be specifically provided for in legislation as all such purchases are not compulsory.

As I have said consideration was given to the removal of the limit of 10 per cent. in the allowance for compulsory taking but this is not necessary in face of the amendment in Clause 3(f) of the Bill which gives the respondent and the courts discretionary power to award additional compensation as might be warranted.

Provision for payment of any allowance for compulsory taking has long since been deleted from relevant legislation throughout the world and the West Australian Act is now one of the few, if not the only one, in which it is retained.

The South Australian Compulsory Acquisition of Land Act, 1925, states categorically that "no allowance shall be made on account of the acquisition being compulsory."

If there are any shortcomings in the assessment of compensation the remedy lies in the application and measure of value and not in increasing the allowance for compulsory taking.

This is only a palliative and a much discredited one throughout the world, and will not remove any contention in the basic valuation and assessment of compensation.

Last night Mr Watson asked me for how long this provision had been taken out of the English Act. My information is that it was taken out in 1919; and it was taken out of the Canadian Act in 1961; it has never applied in South Africa; and, as far as I know, it has not applied in other States of Australia. By the amendment we will be providing for a compulsory payment of 10 per cent. without giving any consideration to the amount paid or the circumstances of the resumption, and I do not think it is right that we should bind the court, the Minister, or the department.

It is the community which pays compensation for the resumption of properties. It is not Parliament or the Government, but the people and, under the circumstances, I must oppose the amendment.

The Hon. H. C. STRICKLAND: The Minister claims that the community pays in cases of resumptions. I thought it was only those who were taxed for this purpose who paid.

The Hon. L. A. Logan: This is a public works resumption and not a town planning resumption.

The Hon. H. C. STRICKLAND: From the screed read by the Minister it appears that every day we are coming more under the control of a dictatorship. Because something happens in South Africa, or Greenland, or Timbuctoo, apparently it should happen here. In my view what happens in South Africa has no relevance to what happens in Western Australia. We should be proud that we are the last place in the world—if what the Minister says is true, and we are the only place—which retains in its legislation some pro-

vision for fair and equitable compensation for those who are being deprived of their land.

I thought the Government had overlooked the matter, and I was glad when the Minister said that some consideration has been given to it. I was a bit disappointed to hear the Minister read from the screed that there are cases where the 10 per cent., in addition to the compensation, is not justified. The author of the screed did not say that there could be, or that there might be, but that there are cases where it is not justified; and he cited a case where somebody did not want it and did not apply for it. I feel there is some justification for my amendment, and I hope the Committee will agree with it.

The Hon. H. K. WATSON: What happens in other countries and what appears in other Acts is relevant to the exent that our Public Works Act, 1902, was framed on and copied from the Public Works Act of England which, at that time, contained a permissive extra 10 per cent. for compulsory taking. But for the provision in the English Act it is safe to assume that the provision in our Act as it stands would never have appeared. The Minister, much to my surprise, informed us that the provision was deleted from the English Act as far back as 1919.

The Hon. L. A. Logan: I am trying to confirm that, but that is the information given to me.

The Hon. H. K. WATSON: Coming to the merits of the case, I feel there is some substance in the Minister's rejection of the amendment. At the moment it is within the power of the authorising officer, or the court, to offer or award, as the case may be, an extra 10 per cent. for taking; and, in all my experience, whether it be an offer by the Minister or his officers, or an award by the court, that 10 per cent. has been added as automatically as mum adds an extra teaspoon of tea to the teapot. It has become a habit but, as the Minister rightly said, there could be an odd case where it would really be unnecessary and unwarranted to add that 10 per cent. To that extent I think we should leave it to the discretion of the Minister or the court, as the case may be, to cover the odd case.

I am satisfied that leaving it to their discretion, and making it permissive instead of mandatory will not affect the victims, as Mr. Strickland not unnaturally calls people whose land is resumed, and with whom I have a lot of sympathy. In this case, however, I think justice will be met, particulary as the amendment in the Bill is designed not to restrict the provisions of the Act, but considerably to enlarge them. At the moment the Act says the 10 per cent. may be granted; but under the amendment in the Bill any amount may be granted. I think that is extremely liberal.

Amendment put and negatived.

The Hon. R. THOMPSON: My main concern is for those whose homes are being resumed and where a replacement value is involved. It is not always possible for a person who has been put out of his home because of some public works project to find a suitable alternative home immediately. It could take 12 months for a person to find a house which suits him, particularly if elderly people on restricted incomes are involved.

Consequently, I think it would be unfair to say that no interest is to be paid if the offer of the department is rejected after it has been made. If a person cannot find an alternative property which suits him it could be said that he should accept a portion of the payment and then place it in the bank. But that could have all sorts of repercussions on a person's pension, and I think it is rather unfair when the Minister says that it will remove a reluctance on the part of some people to accept the offer if no interest is paid.

I am not particularly happy about this proposal and I think some more thought should be given to it. If only vacant land were involved, I would go along with the proposal. I know claims in regard to the industrial land at Kwinana have not been finalised yet, because the owners will not finalise the arrangements, but where a home is concerned, and a person has to find alternative accommodation, I think the provision is unfair.

The Hon. L. A. LOGAN: I do not think it makes any difference if it is vacant land or a house that is involved. The same principle applies. The resumption officer says, "This is our first valuation, and we are prepared to pay you 60 or 65 per cent. If you are not satisfied then we will start negotiating." But many people have said, "We are not going to accept anything at all. You pay us interest." All that is intended is that where an offer is made and is refused—that is the 60 or 65 per cent. offer—after a period of 30 days no interest will be paid.

All this proposes to do is to make sure that people will accept the first instalment, so that the resuming authority will not be subject to interest on the particular amount of money, which could be substantial at times. In the case of a property we purchased, the owners could have got sticky and that property alone could have cost $600,000.

The Hon. R. Thompson: I appreciate that, but I am talking about the pensioners' homes.

The Hon. L. A. LOGAN: I think we could leave this with the boys in the Public Works Department, because they go out of their way to try to find homes for these

people. Very often the homes are not acceptable, and the department gets no thanks for its efforts.

Clause put and passed.

Clauses 10 to 17 put and passed.

Title put and passed.

Bill reported with an amendment.

House adjourned at 9.3 p.m.

Legislative Assembly

Wednesday, the 12th October, 1966

CONTENTS

The SPEAKER (Mr. Hearman) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (4): ON NOTICE

OIL

Discoveries: Refining and Price

1. Mr. MAY asked the Minister representing the Minister for Mines:

   (1) Will oil produced from Barrow Island and other likely locations in Western Australia be processed at the Kwinana oil refinery?

   (2) If so, will it be kept separate from foreign oil processed at the refinery?

   (3) If kept separately, will it be sold in Western Australia only; if so, will there be any difference in price as compared with the present price of imported oil retailed in Western Australia?

Mr. BOVELL replied:

(1) The Government's desire is that any oil produced in Western Australia should be processed in Western Australia. The matter of processing Barrow Island oil is currently being discussed.

(2) Oil is not handled that way in a refinery.

(3) Answered by (2).

LAND

Sales Advertised in American and Canadian Newspapers

2. Mr. MAY asked the Premier:

   (1) Has he any knowledge of the following advertisement appearing in American and Canadian newspapers offering land for sale in Australia at less than 10 dollars an acre?

   > Prime land for farming, grazing or to hold for profit.
   >
   > These prices will never be repeated. All land less than ten dollars per acre.
   >
   > Many American and European firms have already bought.
   >
   > Don't miss the opportunity of a lifetime. Minimum purchase 1,000 acres. Terms.

   (2) Does he know if this advertisement is in anyway connected with land sales in Western Australia; if so, was the advertisement published with the knowledge and approval of the Government?

Mr. NALDER (for Mr. Brand) replied:

(1) No.

(2) No.

TRAFFIC

Fatal Accidents: Percentage of Alcohol in Victims

3. Mr. GAYFER asked the Minister for Police:

   What percentage of road fatalities under the age of 21 years shows an amount of alcohol in the blood stream of the victim in excess of 0.05 per cent.?

Mr. CRAIG replied:

The only figures available relate to the metropolitan area, exclusive of Fremantle and adjoining districts. Of 42 drivers of vehicles killed who were under the age of 21 years, blood tests showed that 19 per cent. had alcohol in the blood above 0.05 per cent.