I want to make it quite clear that if we agree to the printing of the report it must be clearly understood that there is no acceptance of the report, so far as the Opposition is concerned, for reasons which the member for Mirrabooka will appreciate.

Mr. A. R. Tonkin: That is understood.

Sir CHARLES COURT: I have been a little at a loss to find out exactly what happens now. I assume that it is only a formality if the report is printed. It would then become a printed report, in an official way, instead of an *ad hoc* reproduction which has been the case to date. I also assume that if any action is to be taken on the report, such action would have to be initiated by the Government and would not flow automatically from any decision to have the report printed. There seems to be some uncertainty about this.

I had assumed in my own mind that the printing of the report would make it no more than a formal document, as distinct from an *ad hoc* reproduction. If that is the case, the Opposition does not object to the printing of the report. I certainly cannot imagine there will be a big demand for copies.

This is the point I am making clear on behalf of this side of the House; namely, there is no acceptance of the content of the report and any action to initiate any of it would have to be taken by the Government or the Parliament with ample opportunity for us to debate it.

The SPEAKER: I point out to members that there would have to be another motion moved in the House to adopt the report.

Question put and passed.

House adjourned at 5.54 p.m.

Legislative Council

Tuesday, the 9th October, 1973

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

BILLS (2): ASSENT

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

1. Age of Majority Act Amendment Bill.
2. Wood Chipping Industry Agreement Act Amendment Bill.

AUDITOR-GENERAL'S REPORT

Corrections

THE PRESIDENT (The Hon. L. C. Diver): Honourable members, I have been requested by the Auditor-General to make the following corrections to his report which was tabled in this House on Wednesday, the 3rd October—

Page 3, Introduction—5th paragraph line 6—"Section 45", should read "Section 48".

Page 4, General Review—3rd paragraph, line 5 "exceeded", should read "fell short of".

QUESTIONS (2): ON NOTICE

1. TEACHERS

Resignations and Appointments

The Hon. R. J. L. WILLIAMS, to the Leader of the House:

(1) How many teachers left the employ of the Education Department at the end of the 1972 school year?

(2) How many teachers went on Long Service Leave in the 1973 school year?

(3) How many newly qualified teachers joined the staff of the Education Department in the 1973 school year?

(4) How many teachers, previously qualified, were re-engaged, excluding those on supply, in the 1973 school year?

The Hon. J. DOLAN replied:

(1) It is not possible to identify the number of teachers who left the Department at the end of the year. However, there was a loss of 763 teachers during the year.

(2) 226.

(3) 929.

(4) All teachers previously qualified and re-entering the Department are employed for a probationary period on supply. However, approximately 200 primary and secondary teachers returned from leave without pay, travel, accouchement leave and other sources in 1973.

2. ELECTRICITY SUPPLIES

Uniform Rate

The Hon. W. R. WITHERS, to the Leader of the House:

In view of the profit shown by the State Electricity Commission, plus the repeated statements concerning the need for decentralisation, why does not the Government use part of the State Electricity Commission profits to establish a uniform power rate throughout the State?

The Hon. J. DOLAN replied:

Since the 1st November, 1971, the State Electricity Commission has charged a uniform domestic tariff in all areas served by the interconnected system.

From the same date commercial and industrial tariffs in areas served by the interconnected system were altered towards uniformity.

In November 1972 the Commission introduced a Country Towns Assistance Scheme which will progressively reduce charges to consumers in country towns not at present served by the interconnected system.

SHIRE OF ARMADALE-KELMSCOTT

Disallowance of Health By-law: Motion

THE HON. CLIVE GRIFFITHS (South-East Metropolitan) [4.45 p.m.]: I move—

That By-law 19 relating to General Sanitary Provisions made by the Shire of Armadale-Kelmscott under the Health Act, 1911-1972, published in the *Government Gazette* on the 20th July, 1973, and laid on the Table of the House on Tuesday, the 7th August, 1973, be and is hereby disallowed.

In support of the motion I intend to raise two aspects—the matter of principle, and the matter of cost.

Parliament gives local authorities the power to make by-laws. However, section 36 of the Interpretation Act enables Parliament to rescind those by-laws regarded as not being in the public interest, if such is the case. I believe that in this instance such is the case.

I do not argue against the motive for the introduction of by-laws. However, from the point of view of principle I would question the action of the council in using its authority to introduce a by-law which will impose such a high cost on the public, without consultation or discussion with the representatives of the building industry. The organisations which in my view should have been consulted are the Master Builders' Association, the Housing Industry Association, and the Building Industry Advisory Council of Western Australia.

I understand that no such consultation took place; but, as I said earlier, I have no argument with the motive which caused the shire to introduce the by-law. Indeed, I am most sympathetic towards that motive. I understand that for several years the council has been concerned with the amount of litter that has been allowed to accumulate on building sites, but more particularly that which has been allowed to accumulate in the streets.

Apparently when the strong easterly winds blow, from November to January, cement bags and plaster bags, as well as other papers, are blown onto roadways and private property in the particular locality. I understand that the council did call an on-site meeting with several builders and members of the State Housing Commission. Unfortunately that meeting was attended by only one builder and the State Housing Commission representatives.

It seems that because of this the council decided to introduce the by-law in question. The fact that two or three builders failed to keep an appointment with the local authority is no justification for not consulting the organisations which I mentioned previously; namely, the Master Builders' Association, the Housing Industry Association, and the Building Industry Advisory Council of Western Australia.

The fact that these people failed to keep the appointment is the very reason why the council should have invited the organisations concerned in the building industry to a conference; to discuss the problem, and particularly to discuss the problem of the builders not keeping the appointment. There certainly are grounds for the local authority to have some discussion with the parties affected, prior to the implementation of a by-law such as this.

It would appear that in order to control a few people, the multitude are to pay the penalty. I would suggest that the Local Government Act already provides the council with the power to take action against offending parties. I refer to section 685 of that Act; this provides some power for a local authority to take action against people who permit litter to be blown or thrown onto streets.

That particular section of the Local Government Act not only provides for a $200 penalty, but it also provides that a council may appoint persons to be honorary inspectors to assist in the administration of the provisions of the Act. Also, any person so appointed shall be an officer of the council for the purposes of the provisions of section 669 of the Act, other than the provisions of subsection (3). In other words, a local authority not only has the power to take some action against people who permit litter to blow into the streets, but it also has the power to appoint honorary inspectors to go into the field for the purpose of detecting offending persons. So from the aspect of principle, surely, the Shire of Armadale-Kelmscott erred in not consulting with those bodies directly concerned with the building industry.

The next aspect is the cost which will be involved. We are all familiar with the extent of the increase in costs to home builders in Western Australia since the present State and Federal Governments took office. Some of the increased costs apply not only to those whose homes have been constructed during the terms of the two Governments, but they apply to almost every person who is paying off a home, notwithstanding when it was built.

I wish to demonstrate the extent of the increase in costs which will result from the introduction of this particular by-law, and I intend to quote some figures. It has recently become the practice for home builders, or house builders, to use the services of industrial disposal bins for the removal of site rubbish and building waste. The extent to which individual builders use this service is variable. However, it is clear that an allowance of somewhere between $20 and $40 has to be made by home builders for the use of a disposal service.

I intend to give some figures relating to the current rates, and the periods during which bins are placed on building sites. Normally, disposal bins are placed on site on two occasions. The first occasion is usually when the tiling of the house commences, and the second occasion is usually a week before the house is completed, or when the house is completed.

The fee for the collection of the first bin is $16, and there is an additional charge of $3 for tipping. The bin is usually on the site for two days, on the first occasion, and the current hire rate is 40c per day. The total cost for the first bin is $19.80.

The second bin is placed on the site, as I have said, when the building is completed. The collection fee is $16, as on the first occasion, and the tipping fee is, once again, $3. The bin is usually left on the site for anything from three to five days, but for the purpose of this exercise we will say four days. The rate is 40c per day, which means that the hire would cost $1.60. The cost for the hire and the removal of the bin, on the second occasion, is $20.60. The total cost for the use of the rubbish disposal bins amounts to $40.40. Of course, I must acknowledge that the figure would be variable, depending on the period during which the bin remains on the site.

The by-law we are now discussing, and which was introduced by the Shire of Armadale-Kelmscott, requires that a bin be on the site during the whole of the construction period. Again, we have to acknowledge that the construction period is variable; sometimes a house takes 16 weeks to complete, and sometimes it takes 26 weeks to complete. Assuming a construction period of 21 weeks, and applying the current hire and disposal charges, the total cost would be $96.80. My estimate is based on the bins being emptied only twice, but I think my estimate is conservative because it is most likely that the bins would be emptied more than twice. The two collection fees of $16 each would amount to $32; the two tipping fees would amount to $6, and the charge for hiring, over a period of 21 weeks, based on the current rate of $2.80 per week, would amount to $58.80. As I have said, the total would be $96.80.

It will be seen that the provisions of the new by-law will cost the average home builder approximately $97 as compared with the usual cost of from $20 to $40. For the sake of this argument let us assume that the average cost of removal is $30. That means the additional cost, to the home builder, will be in the vicinity of $60 or $70 per house.

Taking a conservative point of view, we could assume, perhaps, that with the introduction of the compulsion to have a bin on a building site during the entire period of construction, the hiring rate may be reduced. Perhaps it could be reduced by one-third, which would bring the additional cost down to, say, $40 or $50 per house.

It can be seen from those two simple examples that it is blatantly obvious the cost to the home builder will increase by approximately $50 per house. That increase will be the result of a by-law introduced without any consultation whatsoever with those involved in the building industry. The by-law has been introduced to overcome a problem which, as I have suggested, could be policed by implementing the section of the Local Government Act to which I have referred.

It may well be said that it is not necessary to use one of the industrial types of bins on which I have based my calculations. Most members will be aware of the type of bin about which I am speaking and will have observed them on building sites and in the streets. A special vehicle picks up the bins and carts them away. Although it may not be necessary for a builder to use this type of bin, I point out that this is the type of bin which is available for use by home builders. For the benefit of members perhaps I should read what the by-law actually sets out. I must ask the House to bear with me because it is important that I read the by-law in order that members will know precisely what I am asking them to disallow. The by-law reads—

PART I.—GENERAL SANITARY PROVISIONS.

Method of Disposal of Rubbish.

By-law 19 (3):

(a) It shall be the builder's responsibility to ensure that an adequate rubbish disposal bin, approved by the Local Authority, is provided on all building sites during the period of construction.

(b) It shall be the builder's responsibility at all times during construction to ensure that the building site is maintained free from waste building materials, by having the waste building

materials deposited in the rubbish bin provided by the builder on the building site.

(c) It shall be the builder's responsibility to ensure that any loose building materials are not permitted to be blown from the building site on to any road verges or other properties.

(d) It shall be the builder's responsibility to ensure that on completion of construction the building site is completely cleared of all waste building materials to the satisfaction of the Local Authority.

(e) At the completion of construction it shall be the builder's responsibility to ensure that the rubbish disposal bin is removed from the site and the contents disposed of in accordance with the requirements of the Local Authority.

The penalties for breaches of the by-law are set out as follows—

> Where anything by this part of the by-law is directed to be done or forbidden to be done, or where authority is given to any officer to direct anything to be done or to forbid anything to be done, and such act so directed to be done remains undone or such act forbidden to be done is done, in every such case the person making default as to such direction and prohibition respectively shall be deemed guilty of a breach of this part of the said by-laws. And every person guilty of a breach of this part of the said by-laws shall be liable for every such offence besides any cost or expenses which may be incurred in the taking of proceedings against such person guilty of such offence, to a penalty not exceeding forty dollars for every breach of any such by-law, or to a penalty not exceeding four dollars for each day during which such breach shall be committed or continued, and in addition to such penalty shall be liable to pay to the local authority any expense incurred by such authority in consequence of any breach or non-observance of any by-law, or in the execution of any work directed to be executed and not so executed.

Firstly, the by-law says a rubbish disposal bin approved by the local authority must be used, and the rubbish disposal bins approved by the local authority are a six cubic yard bin and a 10 cubic yard bin. The by-law goes on to state further that the bin shall be on the building site for the duration of the construction of the building; in other words, from the time building commences until construction is completed.

The Hon. F. R. White: Does the by-law state the capacity of the bin?

The Hon. CLIVE GRIFFITHS: The approved bins for the purpose of the by-law are bins of six cubic yard and 10 cubic yard capacity.

The Hon. F. R. White: But the by-law does not say that?

The Hon. CLIVE GRIFFITHS: No. The by-law says "an approved bin", and I read out the type of bin that is approved by the local authority.

It is therefore not unreasonable to assume that when the local authority decided to adopt this particular by-law the type of bin it had in mind was the industrial bin which is currently available from several firms in this city which are in the business of hiring them out. Bins of six and 10 cubic yard capacity happen to be the standard size bins which are hired out by those firms and they are the types of bin which are available; so it is not unreasonable to assume that these are the types of bin the local authority had in mind.

Indeed, it has been brought to my attention that just prior to the promulgation of the by-law one of the firms happened to set up in the area a depot for the hiring of these bins. It is strange that this depot should appear just prior to the promulgation of the by-law.

It has been rightly said—and the Minister may say it again—that the by-law does not compel builders to use that particular type of bin. However, builders are compelled to use a six or 10 cubic yard bin, and when we consider the size of a six or 10 cubic yard bin and imagine the amount and weight of rubbish it will hold, we must also consider the aspect of removing the bin from the building site when it is full, if the builder is using one of the types of bin which, as I have explained, the local authority apparently had in mind. Obviously, it would be much more economical for a builder or anyone else to use that type of bin than to construct a bin of that capacity and subsequently hire equipment for the removal and emptying of the bin.

I have nothing against that, but I am pointing out that the Minister has already said in correspondence that there is no compulsion to use that type of bin, although there is compulsion to use a bin of that size for the period that the building is under construction.

The Hon. R. H. C. Stubbs: You mentioned correspondence with the Minister. Which Minister?

The Hon. CLIVE GRIFFITHS: I think it was the Minister for Health. It is obvious that this is the type of bin builders will have to use because it meets the requirements of the local authority's by-law and it is now available. I still have difficulty in finding justification for what the local authority has done. I refer to an item

which appeared in the *Daily News* of the 31st July, 1973, under the heading, "Ruling on bins 'ill-conceived' ". The item reads—

> A new local government law making disposal bins compulsory on building sites was attacked by the Housing Industry Association today.
>
> The president of the association, Mr Alan Cough, said the Armadale-Kelmscott Shire ruling was "ill-conceived and totally without thought for consumer costs."
>
> Mr Cough said the extra cost of providing a bin would automatically put about $98 on the home-buyer's bill.
>
> He said the shire was the first in Australia to bring down such a ruling.
>
> "The shire's complaint is against wind-blown refuse," he said.
>
> "I acknowledge this problem, but bins won't solve it. They are a magnet to anyone within cooee for household rubbish."
>
> Mr Cough said the regulation had been approved by the Commissioner for Public Health. Most builders had used the bins until hire-costs had leapt from 10c to 44c a day.
>
> "The shire claims it has tried for three years to get building industry support to beat the problem, yet we have not received any request for assistance in that time," he said.
>
> The association would enlist the support of kindred bodies and complain to the Minister for Consumer Protection.
>
> Builders who did not comply with the ruling faced a $40 fine plus $4 a day for continued breaches.
>
> Mr Cough said the ruling had been "lamentably short-sighted" because the shire did not realise that the public would pay for the bins in the end.

That is perfectly true. It is the home buyer who will pay the cost, and it seems to me nobody has the slightest concern about the ever-increasing costs which are being faced by home buyers.

I have said before that I appreciate the problem caused by refuse blowing from building sites and by building sites being littered with rubbish, but this has always been the situation and, surely, it is only a temporary situation which will prevail until the house is completed, when the site will be tidied up by the buyer if it has not already been tidied up by the builder. I would go so far as to say that the accusation is not true that some sites are left in an untidy state after the house has been completed. I happen to represent an area where a great deal of new building is under way and I have not seen any untidy sites after the buildings have been completed. Indeed, it would be crazy for a builder to leave his site in an unsightly condition. Because of the competition which exists today, it is imperative that a builder present the home in the best possible manner to the prospective buyer. It is a matter of common sense to leave the building site in a satisfactory and tidy state when the building is finished.

I come back to the period during the course of construction—the 21 weeks. Perhaps the building site is in an untidy state during those 21 weeks; but how can one erect a building without having some debris and refuse on the site? The provision of a rubbish bin will not solve the problem because, if the workmen do not place the waste material in the rubbish bin provided, what will be achieved? Also, some of the apparent rubbish is quite often required in some part of the building for filling and the like later on during the course of construction.

The Hon. D. J. Wordsworth: Is there a lid on these rubbish bins?

The Hon. CLIVE GRIFFITHS: No. Some of the alleged refuse is not refuse at all. It is material which, although it looks untidy, will subsequently be used in the building at a later stage.

If the builder is required to place this material in the rubbish bin that would be the end of it; he could not use it again. He would then have to go away and cart filling back to the place because of the lack of it on the site.

There is no requirement in the by-law that the rubbish bin must have a lid. In this connection reference has been made to the strong easterly winds that prevail in the particular area in question and this being so surely there is nothing to prevent the wind blowing the lunch wraps, the pieces of plastic off building materials, cement bags, and so on out of the rubbish bin onto the street and possibly onto the block of the builder next door. These are the items referred to and a strong wind could quite easily blow them out of the bin.

How would it be possible to police such a situation? The whole thing is quite absurd, because all it does is to add to the cost of the homes that are being built for our own people. The presence of such material is a temporary expedient only, because once the building is completed the material will no longer be left on the site. It seems strange for a local authority to want to penalise its own ratepayers, because there is no doubt that the people who enter the area subsequently and buy these houses will be penalised to the extent of the extra $40 or $50 I have already mentioned. This should not be required merely because somebody has allowed rubbish to blow around temporarily during the course of building.

When the Master Builders' Association heard about this and had the by-law drawn to its attention it wrote to the Minister for Local Government in the following terms—

> We attach hereto a copy of an amendment to the Shire's Health By-Laws promulgated on 20th July, 1973.
>
> Whilst the By-laws concerned are those under the Health Act and, on a strict interpretation, it may be supposed that we should address your colleague the Minister for Health, it is thought that the real issue ties up with Local Government. This is accentuated by the fact that the By-Law relates to building processes which fall under your Act and building By-Laws.
>
> A study of the existing By-Law 19 of the Model By-Laws Series A illustrates to us that the Shire would have some grounds for wanting powers to control indiscriminate distribution of waste matter from building sites. On this specific point we bow to the public interest. But paragraph (a) of the By-Law 19 (3) is to us, clearly one which is against public interest.
>
> The requirement is that an approved Industrial Waste Bin shall be on the site at all times during the period of construction. This is a requirement which will add a cost burden to each house purchaser which cannot be warranted under any circumstances.
>
> It is current practice amongst builders to use waste bins either once or twice during the building period. One at about two-thirds of the time and one during the last few days or a week or so for final clear up purposes. The cost of doing ranges between $25-$40 and is part of the price paid by the client. To do what the new By-Law requires, however, will involve a cost (at current rates) of between $95-$100 —an additional amount of $60-$70 which will simply be loaded on to the cost to the client.

The letter continues and says several things about the by-law with which I will not weary the House. The letter further states, however—

> Your urgent consideration of this and comment would be appreciated.

The letter was signed by the secretary of the Master Builders' Association. The Master Builders' Association is an association of very high repute. In its letter to the Minister for Local Government it pointed out that perhaps in the strict sense of the term it should be addressing its letter to the Minister for Health, but because of the explanation it gave, it thought it was perhaps as well for the letter to be addressed to the Minister for Local Government and the association accordingly asked him for his comments on the submission it had made. The secretary of the Master Builders' Association received the following reply from the Minister for Local Government—

> Dear Sir
>
> Your letter of 16th August, 1973, in which you complained concerning the by-law of the Council of the Shire of Armadale-Kelmscott, was referred to the Council and to the Hon. Minister for Health.
>
> For your information the following are extracts from the replies:

The letter then sets out certain extracts provided by the Minister for Health and by the Armadale-Kelmscott Shire Council and is signed, "Yours faithfully—C. Stubbs."

The Hon. W. F. Willesee: That is what they should do—see Stubbs!

The Hon. CLIVE GRIFFITHS: The Minister expressed no views or comments at all; though he did pass on certain comments he had received from the Minister for Health. I thought it strange, however, that the Minister for Local Government should sign the letter without passing any comment himself. I feel he should have made some sympathetic comment or perhaps some constructive comment, but he saw fit not to make any comment at all. At least that is how it struck me, although it may not have struck others in that manner.

It is important that I read out the comments expressed by the Minister for Health. I can only assume that this is apparently part of a letter from the Minister for Health to the Minister for Local Government. The comments passed by the Minister for Health are as follows—

> Firstly, the by-law was only adopted after repeated unsuccessful requests to builders to avoid creating a nuisance in areas in which they were operating by littering the area and its surrounds with rubbish.

I will deal with that comment later. The next comment states—

> Secondly, there is nothing in the by-law which requires the hiring of a detachable bin. The builder can provide his own bin or bins.

I have already answered that. Though the by-law does not say the builder must hire a bin it does say that he must have a receptacle of six cubic feet or 10 cubic feet. To instal a bin of this size it would obviously be necessary to hire it from the people who have such bins for hire. One would not have to be a genius to know that the cost would be astronomical, and it would indeed be foolish, for a builder to have such equipment readily available.

The Minister for Health, under whose portfolio these particular by-laws were promulgated, said—

> Thirdly, during cottage building there is no need for a detachable bin for the whole of the 16 week building period. The period when litter has to be disposed of in quantity is much shorter than that.

The Minister points out that there is no need to have a bin for the entire building period. He said that the period in which litter has to be disposed of in quantity is much shorter than that. However the by-law states—

> It shall be the builder's responsibility to ensure that an adequate rubbish disposal bin, approved by the Local Authority, is provided on all building sites during the period of construction.

The Minister for Health, however, says this is not necessary at all. He indicates that whilst the law says that this is what must be done in fact that is not what one must do; one can do something else and break the law and everything will be perfectly all right. The fourth comment is as follows—

> Fourthly, the cost of $95-$100 does not represent only hire charges of a detachable bin, but that plus three removals of a 10 cu. ft. bin and the disposal site fees.

I have already given some figures which indicate that the figure comes to approximately $97 for only two removal fees, not three as the Minister has said. Accordingly the Minister is not correct when he suggests that the figure of $95 to $100 as presented by the Master Builders' Association is inaccurate because it includes three $19 charges. The fifth comment made by the Minister for Health says—

> Fifthly, building a cottage should require only two 10 cu. ft. bin removals of rubbish.

In his sixth comment he states—

> Sixthly, removal and proper disposal of rubbish is going to cost a sum of money in any case, and this should be deducted from the figure presented.

In the example I gave I deducted $30 which I took as the figure between $20 and $40 which is the present actual cost. I said that for the sake of argument I would use the mean figure of $30. Anyway in my calculations I am allowing that as the cost which is already there. Finally the Minister for Health said—

> Lastly, the by-law was introduced because of numerous complaints about rubbish being spread and blown from building sites.

I will answer that later. The Minister then included some comments from the shire council which said—

> The Association appears to have interpreted the by-law to read that a 'Crommelin' or other manufactured receptacle is required to be placed on building sites, and so incur an additional cost of something in the order of $60 to $70 to the client, this is not so and has been made abundantly clear by the Shire's Health Surveyors. The by-law simply asks for a receptacle. This could take the form of an average 6 cubic yard truck or even a smaller vehicle standing by and emptied daily—or a suitably enclosed area for the reception of building wastes provided it was not allowed to overflow.
>
> Furthermore, the required receptacle and its cubic capacity will be discussed with the builders, is not required to be placed on the building site until the brick work is commenced.

[Resolved: That motions be continued]

The Hon. CLIVE GRIFFITHS: I thank the House for granting me an extension of time. The comments from the Shire of Armadale-Kelmscott say on the one hand that the by-law simply asks for a receptacle and not a manufactured receptacle; that it could take the form of a six cubic yard truck or smaller vehicle which could be left standing on the site and emptied every day.

If we are searching for something absurd I do not think we need go any further than to accept this situation. If it is to cost $60 or $70 per home to place one of these receptacles on the site, how much will it cost every builder to have a six cubic yard truck standing on the building site all day and then at the end of the day the builder being required to take the rubbish away from the building site in the truck? In the meantime of course, the truck is not available for any other work for 21 weeks of the construction period. It is just absurd in the extreme to put forward a suggestion such as that, and in my opinion it completely typifies the lack of depth in which the local authority has studied this problem.

The local authority goes on to say that it is not necessary for the receptacle to be on the site during the whole construction period. It states that it need only be there from the commencement of the brickwork. So on the one hand we have a by-law that stipulates the receptacle shall be on the building site during the whole construction period, but on the other hand we have the local authority stating it is not necessary to do that; it is only necessary to place it there from the time the brickwork commences.

The by-law I am asking the House to disallow contains the words, "during the construction period". What the local authority said about the six cubic yard truck is probably correct, but I would draw the attention of members to what the local authority had printed in regard to its approved rubbish disposal bin. The wording is simply: Six cubic yard bin, or, 10 cubic yard bin.

Further on again the local authority called for an on-site discussion, but nobody turned up. However because of the importance the local authority placed on what it said, and indeed what the Minister had said in his comments—that is, that by-laws were only adopted after repeated unsuccessful requests to builders to avoid creating a nuisance—a questionnaire was sent out by the Master Builders' Association to numerous builders. That questionnaire reads as follows—

> To this end we need to know—
>
> (1) Are you currently building in the Shire?
>
> (2) How many sites?
>
> (3) Have you received any verbal or written complaints from the Shire that your sites are in an unsatisfactory state?

Subsequently the association asked a further question as follows—

> Did you receive any complaints about unsightly sites or escape of waste material?

The seven builders who replied to that questionnaire all answered "Yes" to question 1. To question 2: How many sites?—the answer was: A total of 84 buildings were under construction. To question 3, asking if the builders had received any written or verbal complaints from the shire about the unsightly state of the site, every builder answered "No". To the subsequent question, asking the builders whether they had received any complaints prior to the promulgation of the by-law every builder answered "No".

These builders happen to be the ones who are undertaking the majority of the construction that has been taking place in the Armadale-Kelmscott area during the last three or four years. Not one of them has been approached about the promulgation of the by-law, and yet the local authority and the Minister have said it was mainly because of the repeated unsuccessful requests to the builders for co-operation that the by-law was promulgated. I repeat, as indicated by the answers to the questions in the questionnaire that was sent to them, that not one building company was approached on these subjects.

In a genuine attempt to ascertain who these people were, the Master Builders' Association wrote to the local authority. Also, the member for Darling Range, who is interested in this by-law, was asked to take some action in another place and before he was prepared to do so he wrote to the local authority and asked it the following question—

> When rejecting an appeal against your regulation requiring builders to place rubbish disposal bins on their building sites, the Minister for Health stated that your Authority had not had the co-operation of builders in keeping building sites clean.
>
> I should be pleased if you would advise me of the names of builders to whom notices have been served, either verbally or written, requiring them to keep their sites tidy.
>
> I should also be pleased if you would advise me if you have prosecuted any person under Section 665A of the Local Government Act.

The member for Darling Range received an answer from the local authority, and reading only the relevant parts of this reply, the letter reads—

> In reply to your letter of 21st September 1973, I would advise that numerous requests have been made to builders in this area with regard to the need to maintain a litter-free site.
>
> This has not been satisfactory, there has been no co-operation received and building sites are generally untidy with large quantities of litter being continually discarded over the site and nearby streets.
>
> It is virtually impossible to observe persons who actually litter the building sites. Subcontractors place the blame on each other. Builders should, but will not accept responsibility. Naturally, Ratepayers object to this state of affairs, especially when this Council has to clean up litter which eventually is blown on to adjacent roads and road verges.

However there is not one answer to any of the questions that were asked by the member for Darling Range, and so he wrote again to the local authority as follows—

> Thank you for your letter of September 25, on the subject of litter disposal from building sites.
>
> Your letter does not state the names of builders on whom notices were served to keep building sites tidy. Nor do you state the names of persons prosecuted under Section 665A of the Local Government Act.
>
> I should be pleased if you will give specific answers to those two questions.

To that letter he received a reply from the shire dated the 3rd October, 1973, which simply contained the following extract—

> In the past the Shire has endeavoured to gain the co-operation of building firms about this problem, by

> contacting them by telephone and verbally requesting they take steps to have the areas concerned cleaned to the satisfaction of the Shire.

Despite the fact that this is a responsible local authority about to promulgate a by-law which will have far-reaching effects on the building industry, and the local authority in particular, it cannot provide the name of one building company that has been approached. Also it could not give any other information except that it has endeavoured to obtain the co-operation of builders but has been unable to do so. The shire also stated that it had approached some people by means of the telephone and had also spoken to them verbally.

One would think that a responsible local authority, exercising the power given to it under the Health Act to promulgate by-laws, would make every effort to contact the principal of a building company or companies by letter suggesting that the co-operation of that company or companies was sought. Despite this lack of information we are asked to agree to a by-law with all its ramifications in regard to cost that I have enumerated during my speech.

The shire also stated that it had carried out a survey among the building contractors in the area and that 60 per cent. of the builders contacted were of the opinion that the by-law would be a good idea and that they were in favour of it.

The Housing Industry Association, in a letter dated the 6th September, 1973, among other things, said—

> It is interesting to note that the Shire received approval from 60 per cent. of the companies contacted to the introduction of this by-law.
>
> As three of our members, including the writer, are responsible for more than 60 per cent. of the permits issued in the Shire, together with the mammoth number of complaints the Master Builders' Association and our own Association have received, it seems almost impossible to justify the sources of the companies that were contacted.

In other words the shire is stating that it has gone to extreme lengths over several years and yet it cannot provide even one name of a building company it has approached. The local authority has stated it conducted some sort of a survey in regard to the introduction of this by-law and that 60 per cent. of the builders replied that it was a good idea. Further, the Housing Industry Association has pointed out that more than 60 per cent. of the building permits taken out in that local authority area were granted to either the man who wrote the letter or to association members and that none of these was approached by the local authority.

In view of the numerous builders who have approached members of Parliament, and the numerous builders who have approached the Master Builders' Association and said that they were not approached, the shire should tell us that it can justify this action because it said it conducted a survey among 60 per cent. of the builders in question. Obviously, that statement cannot be true.

In the letter from the shire to Mr. I. D. Thompson, M.L.A., who wrote a letter to the local authority asking two specific questions, but did not receive an answer to either, the penultimate paragraph states—

> As you will now be aware, these By-laws were not a spur of the moment decision—there has been varied and lengthy discussion in Council on this matter for the past twelve to eighteen months and the final Council decision was to go ahead with the gazettal of the By-laws.

I would suggest that this is precisely what has happened; namely, that there have been varied and long discussions in council on the problem, but I also suggest that that is where the discussions have commenced and finished.

In dealing with this problem the local authority failed in regard to one important aspect; that is, it did not contact and consult the people outside who are engaged in the building industry. I have mentioned the letters that were sent to the Minister for Local Government in which he was asked to give his comments, but he failed to make any comment whatsoever. I have stated that this is rather a strange aspect of the whole situation. I have also quoted the comments which were forwarded to the Minister for Local Government by the Minister for Health.

It is coincidental, to say the least, to note how closely the comments presented to us by the Minister for Local Government resemble the remarks the Minister made in his answer to a letter from the Manager of Plunkett Homes. The only difference is in the fourth comment. In answer to a letter from the Master Builders' Association, the Minister for Local Government said—

> Fourthly, the cost of $95-$100 does not represent only hire charges of a detachable bin, but that plus three removals of a 10 cu. ft. bin and the disposal site fees.

The Minister for Health said—

> Fourthly, your costs of $98.80 do not represent only hire charges of a detachable bin but that plus three removals of a 10 cu. ft. bin and the disposal site fees.

All the other comments—seven of them—are identical in every respect.

The Master Builders' Association wrote to the Minister for Local Government asking for his comments on the by-law. The Minister gave no answer but quoted remarks made by the Minister for Health. Those remarks which are supposed to relate to the letter from the Master Builders' Association are identical to the comments the Minister made to the Manager of Plunkett Homes, with the exception to which I have referred.

So there seems to be quite an air of intrigue about the by-law—there is a great deal of doubt, anyway. Consequently I suggest the House should give serious consideration to the support of my motion.

The Master Builders' Association has given a figure of $95 to $100 as the approximate cost of the provision of a bin. Plunketts have given a figure of $98.80. I have been conservative and have taken into account discounts which will apply and my figure is $50. Members can rest assured that my figure is conservative in the extreme.

Let us consider what the cost will be all told in the Perth metropolitan region, or in Western Australia for that matter, if all local authorities adopt the by-law; and that suggestion is not beyond the realms of possibility as will be realised by the answer given to a question asked of the Minister for Health in another place. The question can be found on page 3438 of *Hansard* No. 15, and reads as follows—

> (b) Is he aware of any other local authority which has indicated its intention to introduce a similar regulation to the one made by Armadale-Kelmscott?

The answer of the Minister for Health was—

> (b) Although no direct indication has been received so far, it is anticipated that other local authorities will introduce similar by-laws.

So, according to the reply of the Minister, there is a strong possibility that other local authorities will adopt a similar by-law if the by-law proposed by the Armadale-Kelmscott Shire is not disallowed.

According to the Government Statistician's book sent to all members, and various other books, approximately 14,000 homes are built in the metropolitan region every year. In some years more are built as is the case in the current 12-month period. The 14,000 homes do not represent flats, home units, or any other kind of building. They are detached individual homes.

The Hon. A. F. Griffith: That number would not include renovations or additions to existing homes.

The Hon. CLIVE GRIFFITHS: No, none of those. They are 14,000 brand spanking new homes.

The Hon. W. F. Willesee: Sheer credit to a Labor Government.

The Hon. F. R. White: It had better do something about releasing more land.

The Hon. CLIVE GRIFFITHS: I am quoting the conservative figure of 14,000 in order that I might not be accused of inflating the figure, as I am sometimes accused of over-exaggerating a situation.

The Hon. W. F. Willesee: I do not think you ever do that.

The Hon. CLIVE GRIFFITHS: I repeat that the figure of 14,000 does not include any other type of building or renovation work, home units, or flats. I also take the opportunity to mention that it includes the number of homes built by the State Housing Commission and, Heaven knows, we are constantly reminded of the shortage of funds available to that commission. Nevertheless the by-law under discussion will involve at least another $50 for every house built.

The Hon. J. Dolan: If every local authority adopts the by-law.

The Hon. CLIVE GRIFFITHS: Sure. I prefaced this portion of my remarks by making that point.

The Hon. A. F. Griffith: Do you think it is likely to become a uniform building by-law?

The Hon. CLIVE GRIFFITHS: The Minister for Health says it is. He said that the indications are that every local authority will come into line.

I want to give an idea of the ultimate cost. From my own experience prior to my entering Parliament, and from my investigations since, I would say that the erection of a home takes anything from 16 to 26 weeks. From the recent inquiries I have made I have ascertained that currently the average time is about 21 weeks. If 14,000 homes are built per year, it is reasonable to assume—according to the statistician it is a fact—that at any given time more than 7,000 homes would be under construction. According to the statistician, 7,663 homes were under construction at the end of June. So let us use the figure of 7,000 of which 1,643 are State Housing Commission homes. Let us again be conservative and say that 1,500 are State Housing Commission homes. Again let us be conservative and instead of using my estimate of $50 for a bin, let us say the cost is $40. This means that in one year the State Housing Commission will be up for $120,000.

The commission will be up for $60,000 at any time because that is the number of houses being built, but during the course of 12 months, if it builds the same number of houses, it will be up for $120,000; while the whole housing industry in the course of one year will be up for $560,000, using my figure of $40 per home. This $560,000 must come from the source of finance available for mortgages for people who desire to build. If we use the

figures provided by the Master Builders' Association and the building companies the figure will be closer to $1,000,000 per annum for rubbish bins of doubtful value. If the provision of the rubbish bins would ensure that the building sites were spick and span all the time, there would still really be no justification for them; but that will not be the effect.

That is the kind of money which will be involved in the implementation of the by-law under discussion if all local authorities follow suit, which the Minister for Health suggests will be the case.

Members can imagine the number of bins which will be required if at any one time 7,000 homes are under construction. I have made some inquiries and although it is impossible to obtain accurate figures, I have been told that there are approximately 2,000 of these bins available and currently in use on either big construction jobs in the city or by householders who hire them—as I have done in the past. I have placed one on the front verge of my home and have invited the neighbours to utilise it for their rubbish so that all our houses are cleared of rubbish.

If the by-law is adopted by every local authority then the least number which will be required will be about 7,000.

The Hon. F. R. White: You must have two for every house. As one is removed, another one is provided.

The Hon. CLIVE GRIFFITHS: That only makes my argument all the better. Where will these 7,000 bins be placed? Members can imagine the situation which will arise when a row of houses is being erected. Dozens of bins will be placed out in the street and many of them will have nothing in them while the newspapers and cement bags will still be found lying all around the street. The wind will still blow this rubbish out of the bin even if the labourers place it in the bin.

The Hon. D. J. Wordsworth: Don't worry; the Federal Government will nationalise them!

The Hon. CLIVE GRIFFITHS: It will be a good business to be in.

The Hon. J. Dolan: Ask Mr. Crommelin.

The Hon. CLIVE GRIFFITHS: I guarantee he is clapping his hands.

The Hon. R. H. C. Stubbs: He won't be when you have finished.

The Hon. CLIVE GRIFFITHS: When we consider the sum which could be involved we must surely realise the impact on the funds available for home building in Western Australia. It would be tremendous. Consequently I ask members to support the motion and suggest that the local authority concerned or, better still, the Local Government Association, should consult with the industry which is interested in the subject and is willing to co-operate to find a satisfactory solution to the whole problem of litter on building sites. I commend the motion to the House.

Debate adjourned, on motion by The Hon. J. Dolan (Leader of the House).

BILLS (3): THIRD READING

1. Juries Act Amendment Bill.

   Bill read a third time, on motion by The Hon. J. Dolan (Leader of the House), and returned to the Assembly with an amendment.

2. Motor Vehicle (Third Party Insurance Surcharge) Act Amendment Bill.

3. Nurses Act Amendment Bill.

   Bills read a third time, on motions by The Hon. R. H. C. Stubbs (Minister for Local Government), and passed.

COAL MINE WORKERS (PENSIONS) ACT AMENDMENT BILL

Third Reading

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [6.02 p.m.]: I move—

That the Bill be now read a third time.

Mr. Tom Perry asked me some questions in regard to this measure and I undertook to give him the information requested at the third reading stage. My information is that the Mines Department has conducted a diligent search today but can find no evidence whatsoever of people being refused the benefits of this legislation.

THE HON. T. O. PERRY (Lower Central) [6.03 p.m.]: I wish to thank the Minister for Local Government for the information he has given. I was somewhat puzzled by the matter. I am grateful to the Minister for the trouble he has taken. Many of the men were known to me personally. I was under the impression that they were offered a vote on the question of being included in the Coal Mine Workers' Pensions Tribunal but they wished to stay outside the provisions of the legislation for several reasons.

I was somewhat puzzled because the previous Government was more or less accused of not giving any consideration to their request. I thank the Minister for the information he has given the House.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [6.04 p.m.]: I was not in the House the other evening when the measure was being debated. However I noticed when reading the *Hansard* report of the debate in another place that the present member for

Collie (Mr. Jones) asserted quite strenuously that the previous Government had refused the request made by a comparatively few men, who were timber cutters employed by the mines as distinct from being employed by the timber industry. The statement made was that the previous Government had refused the men's request to become eligible to be members and, consequently, to contribute to the coal mine workers relief fund.

I do remember something of this question but, because it is 12 or 13 years ago I cannot give the details from memory. I hope I am not wrong in saying this but I have a distinct recollection that the men themselves did not want to be included. One of their reasons was that they would have been obliged to retire at 60 years of age.

The Hon. R. H. C. Stubbs: Mr. Tom Perry made that point the other evening.

The Hon. A. F. GRIFFITH: I am not sure how far it really went because it is 12 or 13 years ago. I noticed that the member for Collie (Mr. Jones), in another place, was extremely quick to accuse the previous Government of refusing this request. The Minister in this House has now told Mr. Perry that a diligent search has been undertaken by the Mines Department but it has failed to reveal any such refusal. It would appear that Mr. Jones' memory is much better than the records of the Mines Department on this question!

I have some recollection of the situation, as I have said, and I think the reason I have given is accurate. There was a possibility that it could be stretched too far to include other people employed as timber fellers and working in timber companies. Men employed by a coalmine to fell timber for the purposes of the operation of the mine could leave their employment—and the coalmining industry—and be employed by a timber company. Such men would still have been members of the fund. Another man could come in to take the place of someone who had left and he would then be eligible to join the fund. The men were not included for this reason and for other reasons which the men themselves put forward.

I have no intention of opposing the measure but I wanted to state the position as I recollect it. I trust that the fears which were expressed at the time about the extent to which it may be taken do not develop as a result of including the people who themselves now apparently want to be included. What really happened was, I think, that the Coal Mine Workers' Union wanted the men included but the men themselves did not want to be included.

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [6.07 p.m.]: I had not intended to enter into this subject to such a degree because I obtained the answer to the question asked by Mr. Tom Perry. However I, too, was puzzled. As I have said, I obtained the answer from the Mines Department which undertook a diligent search but could find nothing to this effect. I then asked the member for Collie to give me an explanation. He said that there were deputations to the—

The Hon. A. F. Griffith: Coal Mine Workers' Tribunal.

The Hon. R. H. C. STUBBS: —Yes, to the Coal Mine Workers' Tribunal. I think he mentioned the name of Mr. Skews.

The Hon. A. F. Griffith: He would have been the chairman at the time.

The Hon. R. H. C. STUBBS: The member for Collie said that representations were made by way of deputation. I did not mention this before for the simple reason that the question asked concerned the previous Government.

The Hon. A. F. Griffith: Yes, but the member for Collie accused the previous Government of refusing such requests.

Question put and passed.

Bill read a third time and passed.

DENTAL ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by The Hon. R. H. C. Stubbs (Minister for Local Government), and passed.

Sitting suspended from 6.10 to 7.30 p.m.

BILLS (2): RECEIPT AND FIRST READING

1. Electoral Act Amendment Bill (No. 2).
2. Constitution Acts Amendment Bill.

Bills received from the Assembly; and, on motions by The Hon. J. Dolan (Leader of the House), read a first time.

WORKERS' COMPENSATION ACT AMENDMENT BILL (2ND)

Second Reading

THE HON. R. THOMPSON (South Metropolitan—Minister for Police) [7.33 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to substantially improve the benefits payable under the Workers' Compensation Act. Although it contains many important proposals, I would single out three for particular attention.

Firstly, the Bill seeks to increase the weekly compensation payable to injured workers up to the full normal earnings which they would have received were they not injured. This is the rate which applies in Tasmania and the rate sought for Commonwealth Government employees by the amending Bill to the Compensation (Commonwealth Employees) Act presently

before the Australian Parliament. The South Australian Government has also announced its intention to introduce a Bill to increase compensation rates applicable in South Australia to the workers' full pre-injury earnings. The rate proposed in the Bill will bring Western Australia to the forefront in workers' compensation in Australia.

We believe that workers incapacitated by a work-caused injury are entitled to be compensated to the full extent of their loss, which is of course their full pre-injury earnings. If the nature of employment caused or contributed to the incapacity, why should not employers be liable for the full loss suffered by the injured worker? Workers undertake financial commitments in accordance with their normal earnings. These commitments do not conveniently disappear if one of the hazards of industrial society produces physical misfortune. The Government, therefore, feels justified fully in proposing that workers injured due to accidents at their place of work should be compensated for their full loss.

Another important proposal seeks to remove the monetary limit applicable to workers' compensation claims. If the worker is to be fully compensated, he should be compensated for the full period of his incapacity. Where is the justification in stopping compensation, possibly the injured worker's only source of income, when some arbitrary limit is reached? At present, the limit can be extended in cases of permanent and total incapacity upon application to the Workers' Compensation Board. This provision was proposed by the former Government and inserted by Act No. 18 of 1970. We congratulate the previous Government for its enlightened attitude to that provision. However, we now ask why the partially-incapacitated worker or the worker who suffers recurrences of an injury which temporarily but totally disables him should be subject to some arbitrary limit. Even though such injured workers continue to suffer incapacity due to a work-caused injury, they immediately lose the benefits of compensation when the monetary limit is reached.

There is nothing new in this proposal; certainly we are not breaking new ground. There is no limit to weekly compensation with respect to Commonwealth employees nor to workers in New South Wales and the Northern Territory. Moreover, the international consensus of opinion, as represented by I.L.O. Convention 121, Employment Injury Benefits, is that payment of compensation benefits should be made throughout the full period of incapacity.

The third proposal which I would single out for particular attention is the proposed adoption of a new standard to be known as the "Prescribed Amount". Unlike the other two proposals this one does break new ground. Following the example of the Australian Government in its 1973 amending Bill to the Compensation (Commonwealth Employees) Act, it is proposed to adopt a standard based on the earnings for five years of the average male worker. The prescribed amount, therefore, is defined as 260 multiplied by the seasonally adjusted figure of the average weekly earnings per employed male unit throughout Australia. As the statistician's figure for the June quarter was $106.10 the "Prescribed Amount" would currently be $27,586. The equivalent standard in the Act at present could be said to be $13,136, which is the present maximum amount payable for second schedule disabilities and the maximum liability for weekly payments. The Bill therefore seeks to double roughly the basic standard.

The Government feels justified in proposing the substantial improvements in benefits which will flow from the adoption of this new standard. The fact that we go further than other states is no cause for apology. We do not consider the current scale of compensation benefits either in this State or in other States is adequate. We certainly do not consider a lump sum payment of $27,586 to a worker who suffers loss of sight of both eyes due to an accident at work, as being exorbitant. It is, in fact, no more than a more realistic assessment of the real loss involved. Values of society have changed and new values demand that realistic compensation be provided for the disabilities and losses suffered by workers due to employment-caused injuries.

I turn now to the Bill itself.

Clause 2:

The present datum through which benefits are varied, the basic wage, is to be replaced by a new datum—the Prescribed Amount. Consequently subsections (5) and (6) of section 4 becomes superfluous and are to be removed.

Clause 3:

As the basic wage is to be superseded, the interpretation is no longer required. It is proposed to delete the words "the earnings of" from the interpretation of "dependants". This will extend the meaning of dependency to include all types of income, not merely a worker's earnings. What is important is the relationship of dependency, not how the worker receives his income. If a worker is killed in an accident, his dependants lose all the worker's income, not merely his earnings. Whether a person is dependent on a worker is, of course, a question of fact, and is determined by the Workers' Compensation Board with reference to the facts.

As there has been disagreement as to the intent of the words "disabled from earning full wages" in section 8, a new

interpretation has been inserted to remove all doubt. Some insurance companies have adopted the policy, that a worker, although suffering from work-caused industrial disease and thereby disabled from earning the full wages of his particular vocation, is not entitled to compensation benefits if he earns the full wages of another calling even though the wages payable might be less. The fact is that the industrial disease has prevented him from earning the level of wages which he would have received if he did not have that industrial disease. The addition of this interpretation will remove all doubts as to workers' entitlement to payments for partially-incapacitating injuries.

Additional interpretations are also required consequential to proposed amendments to section 25 of the Act; that is, the words "Chairman", and for the new standard, the "Prescribed Amount".

The definition of "widow" or "wife" in the Act has been widened to include the situation where a spouse has been living with the worker—although not legally married to him—for less than three years and there is a dependent child of the union between him and the woman.

The definition of "worker" is to be amended to include clergymen of the Anglican Church within the provisions of the Act. This has been done at the express request of the Church. As officials of other large churches have also expressed interest, provision has been made for other amendments at their request.

Clause 4:

Cover is at present provided for accidents between work and one's place of residence only. It is intended to extend this in the case of men working in camps who, if they are to maintain any semblance of family life at all, must make weekend or even less frequent trips to their true homes. Because such journeys are necessitated by the exigency of their employment, there is no reason why they should not be covered in the same way as they are covered by the present journey provision.

Clause 5:

With the proposed addition of the disease, industrial deafness, in the third schedule, workers will become entitled to claim lump sum benefits under the second schedule for hearing loss suffered over periods of time due to noise at the place of work. The addition of section 7A seeks to avoid disputation as to the degree of compensation payable as a lump sum payment. When looking at this provision it should be borne in mind that, unlike other second schedule disabilities, lump sum entitlements for industrial deafness will arise through the operation of section 8. Therefore, it has to be remembered that the industrial deafness must not only be the result of noise at the place of work but it must also prevent the worker from earning full wages before an entitlement exists.

Clause 6:

The substitution of the word "whenever" for the word "where" in section 8(1c) may puzzle some members. This substitution is necessary because it has been considered by some people that a silicotic worker suffering chronic bronchitis prior to the 14th December, 1964, would not be entitled to the benefits of this provision. Although the words "where" and "whenever" may appear in this context synonymous, I am advised the substitution will make it clear that silicotic workers suffering from chronic bronchitis, irrespective of when they first contacted bronchitis, will be entitled to the benefits of the section.

Medical boards established by section 8(1d) of the Act to examine workers suffering from pneumoconiosis, mesothelioma, or chronic bronchitis in association with silicosis, are to be reconstituted to provide that one member each will be chosen by the worker and the employer, and the chairman will be selected by lot from a panel of specialists. The reason for the change is that it will give each interested party the choice of a specialist with an independent chairman. At present the medical boards comprise Government employees. Without reflecting on the integrity of past boards, it is felt this amendment is necessary to comply with a fundamental principle of justice: that justice should not only be done but should be seen to be done.

The clause also seeks the deletion of subsection (13) of section 8. This subsection places limitations upon the pneumoconiosis disease, which together with other noncompensable conditions contributes to incapacity. No other disease is treated in this way, nor is there any such provision in any other workers' compensation legislation in Australia. It is considered that the limitation is anomalous and should be removed.

The deletion of subsection (14) of section 8 is necessary so as to remove the monetary limit on pneumoconiosis claims.

Clause 7:

There are three types of conditions which the Government considers warrant special provisions. The addition of proposed section 8A will mean that the employer's insurer will have to prove that workers who are severely disabled from pneumoconiosis and subsequently die from natural causes, did not die from the pneumoconiosis condition.

It is usually very difficult to prove that death "resulted from" pneumoconiosis. For pneumoconiosis literally to cause death, the man would have to strangle slowly until such time as he had lost so much lung function that he simply could not breathe. Nevertheless, even though

pneumoconiosis did not actually cause death, in the advanced stages it is more probable than not that it at least accelerated or contributed to death. It is therefore deemed fairer to throw the onus of disproving the relationship onto the insurance offices, which have considerable resources to call on, than to leave the burden of proof on the widow and orphans.

The proposed new section 8B seeks to throw the onus onto the insurance companies to disprove the relationship between cardio-vascular and cerebro-vascular accidents and activities performed by the worker in his duties. The same justification for section 8A also applies to this provision.

The proposed new section 8C provides that mineworkers who are suffering from silicosis in the advanced stage are to be deemed totally and permanently incapacitated, and they are to be entitled to compensation from the last employer who employed them as mineworkers.

Clause 8:

The repeal of section 10 will have the effect of removing the restrictive conditions placed on hernias under the current Act. Medical science has advanced so as to remove the few basic inherent difficulties which were thought to have existed in establishing whether or not hernias result from work-caused incidents. No other State has these restrictive conditions and doctors in other States have experienced little difficulty in establishing whether hernias were work caused or not. There is now absolutely no justification for the retention of these archaic provisions.

Clause 9:

The report from the Senate Standing Committee on Health and Welfare in May, 1971, recommended that urgent steps be taken to eliminate the long delays occurring in disputed workers' compensation claims. The proposed new sections 12A and 12B seek to implement this recommendation.

The proposed section 12C makes clear that if a period of compensable incapacity supervenes on a period in respect of which the worker is receiving or is entitled to receive payment for annual or long service leave, the worker is entitled also to his weekly payments of compensation. The Government takes the view that whereas workers' compensation claims are generally a matter dealt with by insurance companies, annual and long service leave are matters between the employer and worker and therefore should be no concern of the insurance company. We are not saying that workers should receive double pay in these circumstances; we are saying annual leave or long service leave is no business of the insurance company. If the employer and worker decide, with due reference of course to any award or agreement affecting the contract of employment, that the worker should take his duly accrued leave entitlement during a period of incapacity when compensation is payable, then double payment will occur. This is only codifying that which much legal opinion accepts since the Western Australian workers' compensation case decision in Murray *versus* North Kalgurlie (Case No. 97 of 1966). The State Government Insurance Office, the largest insurer of workers' compensation in the State, has accepted this decision and does not concern itself with workers' entitlements to annual or long service leave.

The new section 12D stipulates payment of full rates for public holidays falling within any period of incapacity.

The proposed section 12E provides that an employer shall provide suitable work for employees who are partially incapacitated for work, and upon failure to do so employers will be liable for payment of full compensation. The intention of this provision is to increase employer involvement in the workers' rehabilitation and re-employment. There is nothing new about this type of provision. The New South Wales provision, from which section 12E was lifted, was included as far back as 1951. Furthermore, no objection was raised to the inclusion of such a provision in the Compensation (Commonwealth Employees) Act when the 1973 amending Bill was passed in the House of Representatives in Canberra. South Australia also has something of a similar nature. The existence of this type of provision elsewhere in Australia gives the lie to the argument that the provision will impose an impossible burden on small businesses.

The proposed new section 12F will enable professional people and hospitals who have rendered service to injured workers to claim direct from an employer or insurer in a proven or admitted compensation claim. Although the present provisions have proved to be satisfactory in most ways, complaints have been received from some professional people and from hospitals that they are often left without payment through the disappearance of the patient. It seems wrong that services given on trust for humanitarian reasons should go unpaid. The addition of section 12F will overcome this problem.

Clause 10:

The Bill proposes that the chairman will have entitlement as if his service as chairman were service as a District Court judge, and that he be entitled to the designation "Judge".

Clause 11:

The deletion of section 29(7) (aa) is consequential upon the proposal in the next clause to remove the monetary limit

to employers' liability. As there is to be no limit to weekly compensation, the power of the board to extend the limit in cases of permanent and total incapacity becomes meaningless.

Clause 12:

Besides the increase in weekly compensation to the level of the injured worker's normal earnings, and the removal of the monetary limit to workers' compensation claims, there has been a general upgrading in benefits. In particular the Government is concerned about the welfare of dependants of deceased workers, and accordingly there is a substantial improvement in benefits. The amount payable with respect to the widow is to be increased from $13,279 to 75 per cent. of the prescribed amount of $27,586—that is, $20,690—and for dependent children, from $4.20 to $9.00 per week. Although we have looked at the other States we do not apologise for going further than the other States have gone. Not only are the current benefits in Western Australia inadequate but, we feel, so are the benefits payable in the Acts of other States. We do not feel that an amount of $9.00 payable with respect to a child, especially considering we are talking about a fatherless family, is asking too much.

There are some other provisions in the clause, including one which gives the board the discretionary power to define certain children of deceased workers, not at present entitled to receive benefits, as dependants.

This might occur, for example, where a child was over 16 years of age and did not have the mental or physical capacity to work.

There is also provision for the repair or replacement of tools and clothing arising out of or in the course of employment. In answer to those who say this should be covered by awards, I would point out there is no such provision in any award, but there is provision in two workers' compensation Acts in Australia. It is, in fact, more closely akin to the cover provided for spectacles in the current Act, than it is to the provision by employers of tools or protective clothes as required by some awards.

Clause 13:

The percentages of the maximum for each second schedule disability have been updated to bring them more into line with other States, with particular reference to the percentages adopted in the South Australian and Commonwealth legislation. By adopting the "Prescribed Amount" as the maximum payable for the second schedule disabilities, there has been a rough doubling of lump sums payable for the disabilities listed in the schedule.

Additional items included for the first time are—

Total loss of the power of speech.

Loss of genital organs.

Permanent loss of the capacity to engage in sexual intercourse.

Severe bodily or facial scarring or disfigurement.

Clause 14:

This clause seeks to include industrial deafness in the third schedule. This will mean workers disabled from earning full wages due to industrial deafness will be entitled to compensation under the first schedule. If the nature of work causes the loss of hearing and consequent loss of wages it is only just that the worker be compensated.

Some additional diseases and their causes have been included in the schedule to enable Western Australia to comply with the I.L.O. Convention No. 42. This convention, dealing with occupational diseases, was ratified by Western Australia 14 years ago. Upon scrutiny, the I.L.O. Committee of Experts considered the Western Australian Workers' Compensation Act did not comply with the terms of the convention. Although there is some room for other opinion on this point, the proposed amendments will meet the I.L.O. request.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. G. C. MacKinnon.

RAILWAY (KALGOORLIE-PARKESTON) DISCONTINUANCE AND LAND REVESTMENT BILL

Second Reading

Debate resumed from the 4th October.

THE HON. R. T. LEESON (South-East) [7.59 p.m.]: This is a small Bill to authorise the discontinuance of some three miles of railway line between Parkeston and Kalgoorlie. The obsolescence of the line has been brought about by the construction within the last few years of the standard gauge line between Kalgoorlie and Perth, and goods from the Eastern States now travel through to Perth on the 4 ft. 8½ in. line. I feel that the line which is to be torn up has some historical significance because it has been in operation for approximately 56 years, and during that time millions of tons of goods have been transported over it. I suppose the people of Western Australia could say that it was their life line with the Eastern States for many years because, apart from those brought by ship, all the goods imported to this State from the Eastern States were transported on the 3 ft. 6 in. line.

Progress in Western Australia has resulted in the construction of a 4ft. 8½in. railway line from Port Pirie, and subsequently from Sydney on the east coast to Perth on the west coast. Consequently

there is now no further need for the Kalgoorlie-Parkeston 3ft. 6in. line. With those comments I support the Bill.

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [8.01 p.m.]: I thank Mr. Leeson for the contribution he has made to the debate on the Bill. This matter makes me a little nostalgic, because the first job I had when I left school was at Parkeston. I used to walk along the railway line to work, during the few months whilst I was waiting to be appointed to the Education Department.

The Hon. G. C. MacKinnon: You should have run; if you did you would have been in better training.

The Hon. J. DOLAN: Generally I ran home, because in those winter months the weather was on the cold side. The need for the Bill is caused by the redundancy of the railway line in question I might say. The materials and the land on which the line is built will, however, be put to good use.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

COMPANIES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 12th September.

THE HON. I. G. MEDCALF (Metropolitan) [8.05 p.m.]: The Companies Act Amendment Bill is a very large measure. It has been before the House for about a month; but prior to that it had been before the Legislative Assembly since last November.

The Bill is based upon the report of the Eggleston Committee which produced a report on various aspects of company law that had been referred to it, arising out of certain problems related to company shareholdings, takeovers, and associated matters.

The Eggleston Committee comprised Sir Richard Eggleston, who is a judge, as chairman; a Melbourne lawyer; and a chartered accountant. These are three very learned gentlemen, who are very experienced in company law.

This committee met over many months, and finally it produced a report which was presented to the Standing Committee of the Attorneys-General. This committee took a great deal of evidence before it made the report. It did this in an endeavour to cover all aspects of company law which were committed to its care. The committee met in secret; by that I mean its meetings were not open to the public.

The Eggleston Committee strenuously canvassed all aspects referred to it; it produced a full, conscientious, and helpful report so far as the Standing Committee of the Attorneys-General is concerned. As a result of the report it received the Standing Committee of Attorneys-General decided to introduce uniform legislation throughout Australia—the Leader of the Opposition would know more about this than I, because previously he was a member of that standing committee—to bring in most of the suggestions made by the Eggleston Committee.

Pursuant to that the New South Wales and the Victorian Parliaments introduced Bills in substantially the same form as the Bill before us. Of course, there were minor differences in the Victorian and the New South Wales Bills; just as there are minor differences in the Western Australian Bill, and in the Bills of the other State Parliaments. All the States have now passed the uniform Bill with the exception of Tasmania and Western Australia.

The Bills which were introduced, although substantially uniform, contained minor differences, but these are of no great significance from the point of view of the philosophy of company law. The Bill has been reported upon extensively by the Institute of Chartered Accountants, the Institute of Directors, the Law Council of Australia, and a number of other bodies and persons. I say the Bill has been and not had been extensively reported upon, because the reports were made after the legislation was introduced.

Some of the suggestions made were taken notice of by the Parliaments. For example, the New South Wales Parliament adopted one or two of the suggestions of the Law Council of Australia; and similarly some of the suggestions of the other bodies were adopted by the other State Parliaments.

As the Minister has explained, the purposes of the Bill are, generally speaking, to deal with substantial shareholdings in companies; the duties and liabilities of company officers; the disclosure of the interests of directors; accounts and audit, particularly in relation to the directors and their responsibilities; special investigations; takeovers by a company of the shares of another; and a number of general matters which company administrators had for some time wanted to rectify.

Although this is a very comprehensive Bill which deals with substantial interests of shareholders and with the provisions of takeovers, and although it contains requirements regarding the need for directors to disclose their interests in companies and provide more frank and down-to-earth reports, it must be conceded that most company officers and company directors

are honest. When I use the term "company officers" I do so as defined in the Bill, and the term includes not only secretaries, but also directors and other employees of companies. The word "officers" includes the directors.

Most company employees, including directors, are substantially honest. If they are not their companies would not have lasted as long as they have. However, in all walks of life there are a few people who sully the reputation of a great number of others who are doing their job honestly. In the area of company law we know there have been a few cases of dereliction of duty, dishonesty, and fraud; and these have obtained wide publicity and have given a bad reputation to certain companies and their officers.

This is a State Bill. That is obvious, otherwise we would not be debating it in this Parliament. It is the responsibility of the States to deal with the law governing companies, and we are debating an amendment to the Companies Act of Western Australia, just as the other States except Tasmania have passed amending Bills to their companies legislation.

Now comes a threat from a different quarter. Recently we received threats that the Commonwealth Government would introduce a national Companies Act. If that legislation is passed it is assumed it would take the place of the Companies Acts of the various States, because the Commonwealth Constitution, under section 109, provides that where the State and the Commonwealth laws conflict then the State law will be invalid to the extent that it conflicts with the Commonwealth law on the same subject.

The Hon. A. F. Griffith: It seems to me there will be a lot of conflict.

The Hon. I. G. MEDCALF: There could be. If the Commonwealth decides to introduce a law there will clearly be areas of conflict. In this respect I refer to a report which appeared in *The West Australian* of the 5th July under the heading—

Vic. and Qld. will conform—Evans

The report is as follows—

> Victoria and Queensland would eventually be forced to co-operate with the Federal Government's plan to introduce national legislation on companies and the securities industry, the W.A. Attorney-General, Mr. T. D. Evans, predicted yesterday.
>
> If the Federal Government enacted legislation giving it power over corporations, all other States would agree.
>
> This would mean that companies registered in Victoria and Queensland would transfer their offices to other States, particularly New South Wales.

These comments are apropos of those made by the Commonwealth Government that it would bring in a uniform Companies Act. In the same newspaper report the Attorney-General of Western Australia went on to say that he had introduced a Bill in the State Parliament to bring the Western Australian legislation into line with the legislation of the other States and that is the Bill we are considering. To continue with the report—

> Mr. Evans said he had introduced a Bill in the State Parliament last year to bring the W.A. Act in line with other States except Queensland.

This Bill was introduced in the Legislative Assembly in November of last year.

Senator Murphy has very recently reiterated that he does intend to bring in a National companies Act, and this has been repeated by other Federal spokesmen. This entirely overlooks the fact that there is a constitutional difficulty about bringing in a National companies Act.

Under the Commonwealth Constitution the Commonwealth has what is called "the corporations power" which gives the Commonwealth power to legislate in respect of foreign and trading corporations formed within the limits of the Commonwealth. This power has been interpreted, narrowly, since 1909—as a result of a High Court case—when it was decided that the Commonwealth power did not extend to passing a law for the internal management of companies. The case concerned the internal management of companies and it was held the Commonwealth power did not extend that far. However, in the last year or two there has been another High Court case which has changed the position. The case is commonly referred to as "the Concrete Pipes case".

As a result of the decision in that case it is believed the Commonwealth may now have a greater power than it had recently. However, the Concrete Pipes case was merely a decision on the question of restrictive trade practices and it was to the effect that the Commonwealth had power to legislate in respect of restrictive trade practices of companies and, therefore, its power over corporations was held to be extended. However, there are certain limits to that power and I believe it may well be found that the Commonwealth's powers under the National companies Act will be severely restricted. The Commonwealth may not be able to legislate in respect of the internal management of companies. If the Commonwealth legislated for a National companies Act we could anticipate some constitutional cases to decide the issue.

Senator Murphy, of course, clearly believed or realised, I should say, that the Commonwealth power may be limited because he has made a number of overtures to the States requesting them to refer

their power over corporations to the Commonwealth. Why should he ask for power over corporations to be referred to the Commonwealth if he already has the power to pass a National companies Act through the Commonwealth Parliament?

Power over corporations is still subject to consideration by the Constitutional Convention Committee and, of course, it has not been discussed yet. It may well be that the committee will recommend a reference of this power, or the States may pass legislation—which they could do—referring the power to the Commonwealth. There would be nothing to prevent a State, if it were so minded, to refer power over companies to the Commonwealth but so far no State has done so.

If the Commonwealth were to legislate, in respect of companies, what would happen to the Bill now before this House and to the Companies Act? The present Companies Act is uniform throughout the States, and was passed in 1961. Of course, it has been amended once or twice since then.

One may well ask: Where does the Commonwealth power begin and where does it finish? I do not think it could begin at the beginning, which is the incorporation of a company or the internal management of a company. I think the Commonwealth is probably debarred from entering this field, but that will be a decision for the High Court. If one pursues the question, "Where does the Commonwealth power end?" one gets into difficulties because in our Companies Act we deal not only with companies, but with private persons—shareholders and directors—and the present amendment even mentions associates in connection with companies.

Associates are people who hold shares on behalf of others where the voting powers can be used for a specific purpose by those others. The present Companies Act deals with a whole lot of individuals; auditors, receivers, liquidators, and a host of other people. If the Commonwealth has power over companies, then it will have power over all those people.

The Hon. W. F. Willesee: That would be a good thing if the individuals were transient.

The Hon. I. G. MEDCALF: Yes, but how far would the legislation extend? Nobody knows. We have seen the growth of Commonwealth power and seen it gradually extend into every field. We should bear in mind that if the power of the Commonwealth is extended the Commonwealth will end up being in a position of being able to pass laws in respect of private individuals who, in some way, were associated with companies. That would include partnerships.

The Hon. W. F. Willesee: How could one possibly cover a corporate company, which is a body of people?

The Hon. I. G. MEDCALF: Because companies consist of shareholders and the legislation may deal, firstly, in respect of the company and, secondly, in respect of the shareholders. Laws can be passed in relation to the directors or the shareholders so, in effect, the laws which are passed relate to individuals as well as companies. Once the Commonwealth gets into that field how far will it go towards prohibiting people from carrying on their business under the corporations power?

The Hon. W. F. Willesee: It would possibly affect lawyers.

The Hon. I. G. MEDCALF: It may even affect members of Parliament.

I will now pass to the next matter. The alternative to a national companies Act is for the States to achieve some degree of uniformity.

The Hon. W. F. Willesee: Yes.

The Hon. I. G. MEDCALF: Clearly, that is desirable.

The Hon. W. F. Willesee: That is right.

The Hon. I. G. MEDCALF: The States should have uniformity in this area with respect to any law concerning corporations; that is, forms and returns should be uniform throughout the States. There should not be any significant difference between the States. Clearly, it would be inconvenient for people, who have to use company law, to adopt one procedure in one State and another procedure in another State. What a shambles it would be if we had to have seven different sets of forms to cover the seven States. As the position is at the moment, the States are substantially the same as far as company law is concerned. There are minor differences but not in respect of basic formalities. So the uniformity of State Acts is really the answer to the Commonwealth entering the field of company law.

I do not intend to deal with all the matters in the Bill which I could otherwise speak to. There are matters which one could criticise from the strict legal point of view, and there are many other matters which appear to be vague. Some expressions in the Bill are abhorrent to lawyers and to people who habitually deal in company law and commerce. Some expressions are entirely new. For example, subsection (7) of section 162 contains a reference to a company director having to take reasonable steps to ascertain certain things. That is a vague expression; take reasonable steps. Who knows what that means? In ordinary conversation we all know the meaning of "taking reasonable steps" but who knows what it means when included in the context of company law?

An officer will have certain duties to perform and he must take reasonable steps to ascertain the value of the assets of a company, and to ascertain that there are no bad debts. In other words, he has to take reasonable steps to become certain or to

ascertain something, and this is a phrase which has caused a good deal of misgiving to accountants, lawyers, and others who have considered it.

Another phrase is a reference to "interests". A director must disclose not only the shares he owns himself, and listed in his own name, but he must disclose shares in which he is interested, and this includes the shares held by associates. It also includes trusts.

These are vague conceptions. Another phrase refers to someone who is accustomed to act in a certain way. In other words, I have to disclose not only the shares which I own in a company, but also the shares owned by somebody else who is accustomed to act as I wish. What if the shares are owned by my wife? Is she accustomed to act as I say! What if I owned the shares and my wife's interests are in question; am I accustomed to act in accordance with what she says?

The Hon. W. F. Willesee: It would probably be the first time you ever did.

The Hon. I. G. MEDCALF: If a man's mother-in-law owned some shares is he accustomed to act in accordance with what she says, or is she accustomed to act in accordance with what he says?

The Hon. A. F. Griffith: Usually the reverse.

The Hon. I. G. MEDCALF: Quite. These expressions are used in subsection (4) of section 6A of the Bill. I am reminded of the song in "My Fair Lady", "I've Grown Accustomed to her Face". I can remember Mr. Willesee, on one occasion, saying that he had grown accustomed to the face of the Leader of the Opposition.

The Hon. A. F. Griffith: He would take my advice every time.

The Hon. W. F. Willesee: I like him.

The Hon. I. G. MEDCALF: It can be seen how difficult these phrases are. It is not a joke; it is translated into the area of penalties, fines, and prosecutions. So it is a real problem for the company officers concerned. Even in the reference to "associate" there is no definition.

The Hon. W. F. Willesee: What does it mean, in general terms?

The Hon. I. G. MEDCALF: It is used in a way that one has to disclose all the shares owned by his associates. Who knows who they are? There are various other phrases which I need not weary members with at this time. However, these are not usually legal phrases, such as we know them, and which are generally used in legislation.

We are in a new area and were it not for the fact that these phrases are already used in the other States I am quite sure this Parliament would have more to say about them. However, they are already used in the uniform legislation in the other Acts. I have already said that I am in favour of uniformity and there is little more I can say on that matter. There will probably be a host of cases in the future to decide the interpretation of some of these words.

Some of the comments made about the Bill are not exactly complimentary but, on the other hand, I think they are reasonably constructive. A special committee of the Law Council of Australia considered this Bill—or the New South Wales counterpart of it—and the report, in part, is as follows—

> At present, we can only observe that while not disagreeing in principle with the intent of these provisions, the drafting uses so many vague phrases which have no stabilised legal meaning that unless clarified, it will be almost impossible to give advice with any degree of certainty. This is undesirable in commercial legislation of this type. There is also an increasing tendency in the "offence" sections to reverse the usual rules as to onus of proof.
>
> The enclosed Report deals with certain matters which the Committee regards as important changes of principle and also refers to some matters of drafting. It has been found impossible to deal exhaustively with a Bill as novel and long as this and we are conscious that the report does not mention many matters of importance. We must confess also to a sense of frustration at the circumstances in which we are asked to report.

The report goes on to deal in detail with various aspects of the Bill. It says—

> In this Committee's view, it is unfortunate that law reform in this field—affecting, as it does, every section of the community—should be handled in this way. This is no criticism of the work of the Eggleston Committee. In our view, basic changes in this area of law should be preceded by the fullest public discussion, evidence being taken by a Committee from experienced members of each sector of the community concerned with this field or whose interests are affected by it. Such a Committee should be concerned not only with the philosophical and political approach to reform, but also to see that the proposed changes are capable of practical application and that the law can be drafted with certainty. Modern business is increasingly complex and competitive and within an adequate system of safeguards, should, in the interests of the community as a whole, be assisted rather than unduly restricted. In our view, a system of controls drafted in uncertain language and supported by a penal sanction directed mainly against Company Directors does not achieve this object.

The Hon. W. F. Willesee: That was not the purpose of the Bill.

The Hon. I. G. MEDCALF: No. This is what might be called an incidental spin-off from the Bill, based on a careful analysis of it by people who are accustomed to certainty in the law and who in this new area have found these problems.

The Hon. W. F. Willesee: We must go through that.

The Hon. I. G. MEDCALF: Indeed we must. In order that I will not be accused of being one-sided, I mention that these comments were put to the Attorney-General of New South Wales, as were also the comments of the Institute of Directors and the Institute of Chartered Accountants which were along much the same lines. On the 8th September, the Attorney-General of New South Wales wrote to the Chairman of the Institute of Directors saying—

> You say, firstly, that the view of the Institute is that the over-riding consideration should be the production of a coherent Act which can be fully understood by all sections of industry and commerce. I agree with this basic proposition; however, it is not reasonable to expect that "simple" legislation may be formulated to cover complex, sophisticated aspects of company activity. Also, it appears to me, the provision of exhaustive definitions directed towards terms such as, e.g., "improper use", "special confidential information" and "reasonable steps", would merely add to the bulk of the Bill without any corresponding benefit, since the question of what is "improper", "special confidential", or "reasonable", is a question of fact, having regard to the particular circumstances obtaining at the time.

I quote that to illustrate the great difficulties in the Bill we now have before us. On the one hand we have the people skilled in commercial law who say there are phrases in this Bill which they cannot understand and which will take many court cases to interpret; and on the other hand we have the comments of officials, such as the Attorney-General of New South Wales, and the Eggleston Committee pointing out that this is a new, complex, highly sophisticated, and difficult area and it is not really possible to clarify with certainty all the matters about which I have been speaking.

We must try out this legislation—that is what it amounts to. I believe it is necessary for us to pass the Bill with the minimum of amendment and for it to be as consistent as possible with the legislation which has already taken effect in the other States.

I want to refer again to the major provisions in the Bill. Firstly, there are the provisions in relation to substantial shareholdings, and what they amount to is that any person, including a director, who has 10 per cent. or more of the shares in a company or who controls 10 per cent. or more of the voting powers must disclose his interest to the company so that the company knows a particular person is in a position to exert a considerable influence on the company's affairs.

I believe that is a worth-while proposition. It is necessary and desirable that persons who acquire a substantial holding, such as 10 per cent., should inform the company of it. If they do not do so, certain penalties apply. By stealthy means, people sometimes acquire control of a company, and in some cases they are able to pay less for the shares in the company than they would otherwise pay. I think it is important that the company should know who is in a position to exert an influence upon it and that it should be able to identify its principal shareholders. That is the first major provision.

Then there are takeover provisions, which require persons who are proposing to take over the shares in a company to take them all over—not just a certain proportion of them, but to make an equal offer on the same terms to everybody who is concerned in the company—and to disclose their interests, including shares and the voting powers they control. Those interests must be disclosed to the shareholders and to the company when a takeover offer is made.

The Bill contains additional provisions for special investigations. I also go along with these provisions, generally speaking. An investigator may be appointed to investigate a particular aspect of a company's affairs rather than the whole of the company's affairs as required at the present time.

The Bill provides greater protection for persons who are under investigation. If there is any threat of criminal proceedings against them, it will not necessarily be made public. This is an important safeguard for people who are under investigation and who might otherwise have a slur cast falsely on their reputation simply because the investigator says he thinks criminal proceedings might be taken. In the past, information has been published in newspapers to the effect that an investigator suggested criminal proceedings might be taken against a certain director. One can imagine the effect that has on a person's reputation. People say that where there is smoke there is fire. Under the Bill, it will not be necessary to make a public statement to that effect. In fact, any suggestion of criminal proceedings will be the subject of a separate report to the Minister.

There are additional provisions in relation to audit and auditors. Under the Bill as it originally went before the Legislative Assembly, auditors were to be given

virtually a lifetime appointment. The Bill was amended to provide that auditors would hold office for only five years. At a later stage I will suggest a further amendment is desirable to overcome some problems in connection with the amendment passed by the Assembly.

As I have said, I go along with these provisions. Generally speaking, we must come into line with the other States, and I believe we should therefore pass this Bill. However, I will reserve the right to make some comments and suggest some amendments of a comparatively minor nature which, in my view, will not affect the principle of uniformity which we have been discussing but which will effect some improvements here and there in specific cases.

I will suggest an amendment to cut out the double liability of company officers which exists at present under proposed sections 124 and 124A, so that a director or a company officer who is liable to a person as a result of that other person having suffered a loss in the sale and purchase of shares will not also be liable to the company, which is the position as the Bill stands at the present time.

Secondly, I will propose an amendment in respect of proprietary companies such as family investment companies, and other similar companies, so that those companies need not file all their balance sheets and accounts for public inspection when, traditionally, there is a certain amount of privacy attaching to private family investment companies.

Thirdly, I will suggest an amendment to proposed section 166, relating to auditors, to provide that instead of being appointed for a term of five years an auditor will be appointed for a term not exceeding four years, in round figures, which I think is quite adequate.

Fourthly, I will suggest that partnerships should not be brought within the provisions of this legislation unless they are prescribed. I do not think it is proper that we should bring them in.

Finally, I will propose a minor amendment which is a matter of tidying up a question in relation to company directors.

A particular company executive in Perth has pointed out to me that in this Bill there is a long-winded method of referring to sections. It will be seen that throughout the Bill references to sections are given in words instead of figures; for instance, "Section one hundred and seventy-three" instead of "Section 173". With one or two exceptions, all the references to sections, apart from the numbering of the proposed sections, are spelt out in full, which is not really necessary. This makes the Bill difficult to read. Sometimes one has to read two lines instead of just a figure. That is a matter which can be tidied up in a reprint or consolidation. I commend it to the Minister and the registrar for future attention. There is ample precedent for this. The Income Tax Assessment Act and the Evidence Act both give references to sections in figures instead of in words.

I mention in passing another point, which I have already raised with the Attorney-General, in connection with proposed sections 36 and 222 (1) (d), where an anomaly occurs in respect of public and private companies which are subsidiaries of public companies. I hope at a later stage the Attorney-General will have time to give me an answer so that it can be commented on at an appropriate stage.

I will now deal in general terms with the first amendment I will propose relating to the liability of company officers. The proposed section 124(2) reads—

> An officer of a corporation shall not make improper use of information acquired by virtue of his position as such an officer to gain directly or indirectly an advantage for himself or for any other person or to cause detriment to the corporation.

If a company officer makes improper use of information he has he is liable to pay the profit to the company. I am not quarrelling with that, because I think it is right. The next section says that if an officer makes use of specific confidential information he is liable to the person who suffers the loss. If he knows there is no nickel in a mine and he sells shares in that company and the shares go down then he is liable for any loss or hardship that may be suffered by the person to whom he sells the shares. The same also applies if he buys shares knowing that there is nickel in the mine because if those shares go up in price he is again liable for any loss suffered by the seller who does not have this information.

I do not quarrel with that aspect either. But when we consider the situation in which we place a company officer, we see he is liable to account to the company for profit derived from the information he has. In addition, he may be liable to pay out to the person whose shares he has bought under section 124A. My amendment seeks to provide that such an officer should be liable only once. He is still liable to the company but he will be able to take off the amount for which he is held liable to the person who has suffered loss. Such a person must come first; he must get his money before the company does.

In connection with these amendments I may say that I am sensitive to the fact that it may well be that the Minister might make representations or put up arguments and I would be the first to listen to them if he did. In connection with details here or there it may be possible for us to make a change or a compromise, and indeed in a Bill such as this I would be foolish to say otherwise.

My next amendment refers to family investment companies. The Bill says that a family investment company—which is the normal type of company private people have—should appoint an auditor as is the case with public companies, unless it decides to become an unlimited company; in other words unless it changes itself into a different type of company and becomes one that is unlimited, or unless it files every year with the registrar a copy of its accounts, balance sheets, profit and loss statements, and other documents, and also files with the registrar a certificate that it is keeping its books properly.

I believe we are going too far. The family investment company is just like a private person. A company is a person at law and a family investment company is entitled, as is a private person at law, to its own privacy. I agree that it must give all necessary information to the Taxation Commissioner as does a private person who discloses his affairs to the Taxation Commissioner.

I do not see any reason why a private company should have to file its accounts, statements of profit and loss and other documents, records and books of account every year with the Registrar of Companies so that they may be placed on the company file and be available to any member of the public who may wish to search that file and obtain information about the private company concerned. Such people are not able to find out all they want to know about a private person—information about his income, etc.—because the Taxation Commissioner does not divulge that information to anybody.

The Taxation Commissioner takes an oath of secrecy as indeed does the Registrar of Companies. The information, however, that is provided to the registrar is placed on a public file—the company file is a public file—but this does not apply in the Taxation Department.

Anybody can search a company file. I do not think there is any point in all this information being placed on the file every year, nor do I think the information should be made public so that anyone who wishes to do so may have a look at that company's activities and find out all about it. And for what reason?

If any party wants to sue the company concerned it would be like suing a private person. Such a party would not know what were the assets of a private person, so why should he be able to obtain this information in connection with a private company? Such a practice would provide information for goodness knows who; we might call them nosey parkers; people who pry into other people's affiairs for no good purpose.

I go along with appointing auditors for public companies and private companies if they do not keep proper books. I believe that it is an obligation on the private company to keep proper books but I do not believe that all the accounts should be filed in a public record. On the other hand if the registrar places these accounts somewhere removed from public scrutiny, it would be a different story. I do not object to these accounts, etc. being filed, because I believe private companies should keep proper books of account, and so on, but if they are simply required to file their accounts so as to make information available to all and sundry I see no purpose in it whatever. I believe it will increase the task of the Companies Office for no good reason, and it will place an additional cost factor into the administration of private companies. I cannot see how it will serve any useful purpose.

But I do go along with the remainder of the provision which states that a certificate should be given by the company officers that they are keeping proper books of account and are doing the right thing in the way of keeping their balance sheets and other documents. Such officers will be liable if they give a wrong certificate. While they should keep proper books and records why should these become public records? Accordingly I will place amendments on the notice paper along those lines.

I do, however, want to say something about auditors. In this Bill we place our faith in auditors; indeed we have to because what else is there? Auditors, of course, are not gods; they make mistakes like everybody else. They are, in fact, what we might call the ultimate sanction. If we like we may say they become virtually officers of the State, although their fees are paid by the companies; nevertheless they have certain tasks, duties, and obligations cast on them by this Bill, and they are expected to put in a report if something goes amiss. This is a good thing and I do not quarrel with it.

Do not let us imagine, however, that auditors can answer every question and solve every problem. I believe many of us have had experience of situations where auditors have failed to discover a fraud, a theft, or an embezzlement. They are only human beings; they come to events after they have taken place. They look at the events recorded in companies' books which by that time are purely historical records of what has happened. It is very much like closing the stable door after the horse has bolted. It is, however, the best we can do.

When this question of auditors was put to the Law Society some years ago it was rejected. There was a provision in the Legal Practitioners Act for compulsory audits, but it was never proclaimed by the Government of the day, either Labor or non Labor; and in practice the Law Society, which was all in favour of audits, decided that an audit would not in fact solve the problem, the point taken being

that audits do not disclose information until it is too late. The only time to bring an auditor in is when one wants to find out what has happened. It is very much like clinging to a raft in a turbulent sea. We should not rely on auditors as life savers. Also, auditors are in short supply and very expensive; and by the very nature of their task they are inclined to be pedantic.

We cast certain obligations on auditors which are laid down by Statute and regulation and they answer these questions in the words used in the Statute or regulation; indeed the Statute or regulation cannot refer to all aspects. There are loopholes in everything.

I suggest we should not leave auditors in sole charge of a company's affairs for a term of five years. I believe that is too long. Under the present Bill auditors cannot be sacked by the company until the annual general meeting five years after they are appointed, except in special circumstances. The company can in fact pass a resolution to remove them, but in practice it takes a lot to persuade a company to pass a resoluion to remove somebody. They do not mind appointing someone else; indeed in the United Kingdom there is provision for the appointment of new auditors in place of the old auditors. But to get the shareholders of a company to pass a resolution to remove an auditor is a different story so, accordingly, I believe five years is too long a period to leave one set of auditors in charge of a company's affairs without the ability to change them. After four years the auditors should have had ample time to get well into the saddle and learn all about the company. They should have results to justify their appointment.

The Hon. R. Thompson: Your amendment lessens it by one year.

The Hon. I. G. MEDCALF: That is right. The other part of the amendment merely clarifies an anomaly in relation to the amendment which was passed in another place.

On the question of partnerships the Bill states that henceforth partnerships will not be exempt from the Companies Act. The Bill says that partnerships will unless they are prescribed now come within the provisions of section 76 of the Act. So we are bringing in partnerships for certain purposes into this Act.

Under our existing Companies Act—the uniform Act we have had up to date—partnerships are exempt under section 76. Now we are saying under this Bill that a partnership is only exempt when it is prescribed by the Minister, or by the Governor-in-Council which is the same thing. I suggest we should delete that because I do not believe it is reasonable that we should bring partnerships within company law when they should be outside the provisions of the Companies Act. This is implied in the amendment which says that partnerships are still outside the Act unless they are prescribed. I do not like things that are prescribed; certainly not partnerships.

There are, of course, occasions when we have to prescribe details of this or of that, but Parliament cannot deal with every detail; we must leave it to the administration to prescribe certain things. But when it comes to prescribing what partnerships should be exempt, it is going too far. That is a task for Parliament. At a later stage I will ask the House to leave the situation as it is, rather than require partnerships to be prescribed.

There is one further minor point I wish to raise in connection with the age of directors. A director cannot be appointed if he is over 72, except by the calling of a special general meeting. This provision was amended in another place, but I believe an anomaly still remains in that section, so I will suggest that we make an amendment to correct the anomaly which I will explain at a later date. The amendment relates to the provision that is to be inserted in the Act that no person can act as a director after reaching the age of 72. I agree that he should not so act after that age, but at present the law states he cannot be appointed beyond the next annual general meeting, and if he turns 72 in July and the annual general meeting is in September, it means he cannot act between July and September and the board cannot appoint another person in his place until September. This is an anomaly which should be corrected.

Finally I would like to say that I believe it is not impossible for the States to rationalise their company procedures. There are areas of duplication; many forms are required in all the different States; fees must be paid in all the different States, but generally speaking the forms are much the same and the provisions for the incorporation of companies and the registration of foreign companies are very similar.

I believe we should subscribe to the view that legislation in one State, or the lodgment of documents in one State, should apply to all, so that by registering documents in one State it should be possible to work out a system that will operate automatically in all States. I believe this would overcome one of the principal problems facing commercial people and companies in relation to the Companies Act; that is the proliferation of forms and the duplication of procedures in the various States.

I notice there is a provision in subsection (5) of section 162C which states that the Registrar of Companies in Western Australia shall take into account the views of other registrars. That is a very important provision and I think this is the

first time I have seen it in legislation dealing with company incorporations; that is, the registrar shall take into account the views of other registrars. I know that, in practice, they frequently do. They are a most co-operative lot. I am not in any way critical of the registrars because, as I say, they are very co-operative, but it is important to bear in mind that if we provide in one section that a registrar shall take into account the views of other registrars, it should be possible to simplify our procedures so that registration in one State can be accepted as being registration in the other States.

I believe that most formal matters should have—and indeed they do now have—uniform procedures, but it should be a case of all for one and one for all. If we do not embrace this suggestion the alternative is an urge by commerce for a national Companies Act with the attendant danger that it will be used by the Commonwealth Government as a vehicle for imposing that Government's philosophy on companies, partnerships, directors, shareholders, officers, and all others concerned with companies. The philosophy could be the extermination of private enterprise.

Surely the States can rationalise their administrative requirements so that acceptance by one constitutes acceptance by all. What I have said represents a plea for the Sates to rationalise their registration procedures and formalities. I am in favour of the existing State Companies Act. I support this Bill, subject to the minor qualifications to which I have referred.

Debate adjourned, on motion by The Hon. S. J. Dellar.

STATE ELECTRICITY COMMISSION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd October.

THE HON. CLIVE GRIFFITHS (South-East Metropolitan) [9.06 p.m.]: As the Minister indicated in his second reading speech when introducing the Bill, this is a measure which seeks to amend the State Electricity Commission Act. As a result of my research I can see no reason to delay the House by speaking at length. I will indicate at the outset that it is not the intention of Liberal Party members to do other than support the two provisions in the Bill.

The first amendment is to section 14 of the principal Act and is designed to overcome the present situation which prevents the remuneration of the chairman and the commissioners being reviewed at a time other than that prior to their appointment or reappointment. An appointment can be for a period of five years, and a reappointment for seven years. In this day and age that is a most unsatisfactory state of affairs when salaries are being reviewed more frequently. Indeed we could have a situation, under the present law, where commissioners appointed on the same basis, but at different times, could be paid completely different amounts.

In regard to the commissioners' salaries, it is interesting to read what The Hon. A. R. G. Hawke, as Minister for Works, had to say in 1945 when he introduced the original Bill. I quote a brief part of his speech, at page 1342 of volume 1 of the 1945 *Parliamentary Debates*, as follows—

> The other commissioners will, of course, be on a part-time basis and none of the ordinary commissioners is to be paid a salary exceeding £350 per annum. In other words, the ordinary commissioners may be paid less than £350 per annum, according to the circumstances, but they will not be able, under the proposed Act, to be paid more than that amount in any one year.

We can see that even in those days it was anticipated that the commissioners could be paid up to $700 per annum and that this would have been a reasonable salary for them. It is coincidental that no mention was made in the debate on the original Bill in 1945 of the salary proposed to be paid to the chairman.

In answers to questions that were asked in another place it was disclosed that up to the 1st January, 1972, the private member commissioner received only $625 per annum, and the commissioners who were Government employees received only $250 per annum. On the 1st January, 1972, their salaries were increased by way of an allowance by the sum of $125 per annum in each case. The salary of the chairman up to that date was $2,500 per annum, but on the 1st January, 1972, he received an allowance of $500 per annum making his current salary $3,000 per annum.

So we see there is no provision in the present Act to alter the salary of the commissioners or the chairman other than at a time prior to their appointment or reappointment. Therefore, in order to at least give them some additional remuneration on the 1st January, 1972, they were granted allowances of the sums I have mentioned because the present Act prevented their salaries being increased by any method other than that one.

When we think of the chariman being paid his current salary of $3,000 per annum, including an allowance, and the other commissioners being paid something like $750 per annum, including an allowance, in this present day and age we should compare it with the information that is contained in a newspaper report on the Auditor-General's Report which has been tabled in this House. The article

was published in *The West Australian* on the 4th October, 1973, and to make my point I will read portion of it as follows—

S.E.C. profit rises $1.6m.

The operating profit on the State Electricity Commission rose by more than $1.6 million in 1972-73 to $6,098,749.

The profit was disclosed in the annual report of the Auditor-General, Mr. W. Adams, which was tabled in the State Parliament yesterday.

The report showed that the profit on metropolitan S.E.C. operations increased by slightly more than $2 million to $8.1 million.

But the loss on country operations was almost $480,000 more than in the previous year. Country services lost more than $2 million during the year.

Metropolitan operational revenue rose from $46.9 million to $54.2 million and expenditure rose from $40.9 million to $46.1 million.

In the country, revenue increased from $11.5 million to $14.4 million and expenditure rose from almost $13 million to $16.4 million.

The report said that the S.E.C. had total assets of more than $254.1 million and current liabilities of $215.1 million.

When we read of an organisation operating on figures such as I have just read to the House, and then find we are paying part-time commissioners of the State Electricity Commission $750 per annum, and the chairman $3,000 per annum, I think members will agree that the amendment proposed in the Bill which will enable adjustments to be made to their salaries at times other than at their appointment or reappointment, is quite justifiable in this day and age.

I have some notes which I originally intended to use, because I had in mind making some reference as to what my view would have been if this amendment had mentioned the salary that is paid to the General Manager of the State Electricity Commission. However, I have decided not to refer to these notes and I will refrain from making any further comment about that gentleman at this stage.

The second amendment in the Bill seeks to amend section 22 of the principal Act. Simply, it proposes to increase the maximum amount which can be expended by the State Electricity Commission without the approval of the Governor from $10,000 to $30,000. This also involves contracts with a performance period of three years. The maximum amount of $10,000 was set in 1945 when the Act was first introduced so it would seem to be reasonable to me that we should agree to the increase requested by the Minister because the purchasing power $10,000 had in 1945 has certainly deteriorated today.

Bearing in mind the ever-increasing expansion by the State Electricity Commission, we should support the measure. I have had a great deal of experience of the commission over the years and therefore I know that the people of Western Australia as a whole should be grateful for the fantastic job which has been done and is continuing to be done by the commission in the supply of power in this State. I support the Bill.

THE HON. R. H. C. STUBBS (South-East—Chief Secretary) [9.16 p.m.]: I wish to thank Mr. Clive Griffiths for his support of the Bill and also for the way he has carried out his research on it. As he pointed out, the commissioner is not able to take advantage of any wage rises; and as the honourable member pointed out, because of the change in values since the $10,000 was set under section 22 in 1945, the $30,000 provided in the Bill is a reasonable amount. It has been mentioned in Executive Council many times that because the amount has not been increased a great deal of work has been involved. However, that work will be eliminated under the Bill.

Again I thank the honourable member for his support of the Bill which I commend to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

ADOPTION OF CHILDREN ACT AMENDMENT BILL

Second Reading

Debate resumed from 4th October.

THE HON. I. G. MEDCALF (Metropolitan) [9.24 p.m.]: This Bill seeks to amend the 1896 Adoption of Children Act to which several important amendments have been made, particularly those passed in 1971.

The Bill does three things. Firstly, it limits to 30 days in all circumstances the period in which a consent can be revoked. Secondly, it provides for the dispensing with the report of the Director of Child Welfare when one of the adopting parents is, in fact, the natural mother or father of the child; and, thirdly, it reduces the publicity attaching to adoption proceedings.

As to the first matter—that is, the reduction in the time within which consent can be revoked—the circumstances in which this could arise are that an illegitimate father, if I may call him that, does not at present have to give his consent if he subsequently marries the mother of the illegitimate child. In such a case he has certain rights and the marriage legitimates the child back to the date of its birth. This

means, therefore, that the father's consent is back-dated, so to speak. In those circumstances he can demand that as his consent had not been given, he should have the child.

This, of course, causes great distress to the adopting parents and the present 30-day period is therefore not an infallible period in that type of case where there is a subsequent marriage and under the Commonwealth Act his consent is put in question. The effect of the Bill is that it will restrict the consent to that required at the time the order is made. So, when the order is made it does not matter that subsequently the natural parents marry. At present the whole procedure is upset because the father who does not have to give his consent now, by virtue of the marriage will then become entitled to give his consent. The Bill restricts the consent to that required at the time and therefore makes the 30-day time limit final.

The second provision, which concerns dispensing with the report of the director, is important because the natural parents commonly take a poor view of the Child Welfare Department investigating to see whether they are fit and proper persons to adopt their child. If one is the natural father or mother it is understandable that, if he or she has brought the child up, he or she would take a poor view of the department making these inquiries to ascertain whether they are fit persons to be the parents. However, under the law as it now stands, the department is obliged to make its investigation and assessment, and the object of the provision is to dispense with that requirement.

There was a time when a very limited inquiry was made by the department, but gradually a greater role has been cast on the department by both the court and the public, and a greater role has gradually been assumed by the department.

Once adoption proceedings were comparatively simple, but they are now ringed around with formalities and technicalities. The average adoption now takes many months, and some adoption proceedings seem to go on for years. Whether they do or not, I do not know, but they seem to, and this causes a great deal of distress and, sometimes, annoyance to the adopting parents. However, nothing can be done about the matter because of the requirements of the Act.

Formerly the technicalities were very limited and I often wonder how it came about in the days when there were not so many technicalities that a number of successful adoptions were made.

The Hon. G. C. MacKinnon: It is just as well natural parents do not have to undergo the same examination or there would not be many children allowed to be born.

The Hon. I. G. MEDCALF: Not only is the examination by the department rigorous, but also that of the judge before whom the application goes.

The Hon. R. Thompson: Very rigorous.

The Hon. I. G. MEDCALF: Many a couple has been disappointed because they have been unable to obtain an adoption order, particularly if what appears to be a mere technicality is involved. Nevertheless, this is the situation and anything which contributes to reducing the technicalities will be advantageous. Unfortunately adoptions generally take too long, but I do not know what can be done about this. It is a pity, because it is a matter of great emotional concern, more so to the adopting parents than to the natural parents who usually drop out of the picture and, in some cases, are happy to do so although, in other cases, they are not so happy.

I am not suggesting there is not a great trauma on the part of the mother of the illegitimate child, because she usually goes through a period of great distress, but that is limited and she is cut off from the child when it is taken away. The trauma then descends on the adopting parents who are waiting, with bated breath as it were, for the judge to make his order, which can take a long time.

The proceedings are often very protracted and very distressing for the parties involved and I am glad to support the reduction in a number of inquiries which have been found to be unnecessary. The judge may still call for a report even in the case of natural parents who are adopting their own child, and the director can still submit a report. In fact, he is encouraged to do so if there is something about which he should report.

If one party to a marriage is deceased and the other party remarries, then, as the Minister pointed out, the relatives of the deceased married partner must be notified so that they can keep track of the child and maintain their interest in it.

The final provision deals with the question of publicity, and I am very much in favour of this amendment which is designed to prevent public notification of adoption proceedings. I do not think it is a matter for the public at all, just as I do not think another matter I mentioned earlier tonight is a matter for the public. It is not a matter for the public that someone has been adopted, that certain people have adopted a child, or that someone has had an illegitimate child. It is a private matter and anything which helps to retain that privacy is, in my view, absolutely desirable and essential.

As the law now stands, the prohibition of public notification applies only when application is lodged at court and usually it is not very long before the order is made once the application is lodged, because it is normally not lodged until the major

formalities have been complied with. The proposal in the Bill is that the prohibition of public notification should commence when the proposal is first made for adoption; in other words, when the baby is first taken away from the hospital or when the parties first go to a doctor with the intention of adopting a particular child after that child is born. From that date forward there will be no public notification unless the Director of Child Welfare authorises it and this he would do presumably only in special circumstances. This applies not only to the adopting child, but also to any party who gives consent; in other words, a relative or someone who gives consent, approval, or a testimonial, will also be protected and there will be no public notification of that.

I believe that just as it is important that we should agree to this, there should be further limits which our law should prescribe. I do not quite know how it can be done, but I would like to refer briefly to the further preservation of privacy.

It was always a practice when I was an articled clerk and did a few adoptions in the office in which I served my articles that the adopting parents were not told who the natural parents were and the natural parents were not told who the adopting parents were. This information was kept absolutely strictly on the files and was not divulged. No affidavits or documents were sent out if they contained the name of the other party.

The people came into the office to sign the necessary papers but they were not shown the name of the other party. Applications and other forms were signed without their knowing or even seeing the name. In fact, they were told that they would not see the name. Most people understand this very well and, when adopting a child, they do not want to know whose child it is. They certainly do not want to know the surname. They are satisfied if there is a good report and if the adoption has been checked out by the Child Welfare Department and medical officers.

They do not want to know the surname nor do they want the natural mother and father to know their name, who they are, and where they come from. Of course there are notable exceptions but this is by arrangement between the parties—sometimes between relatives—and is a different matter altogether. I am talking of the average case whereby people like to preserve privacy in these matters.

I hope that one of these days it may perhaps be possible for the Child Welfare Department to consider this and make some recommendation so that prohibition on public notification will be extended and parties to adoption proceedings will also not be able to find out who the other parties are, except by special consent or in special circumstances.

I believe adopting parents should not know who the natural parents are and that the natural parents should not know who the adopting parents are. Common sense—not to mention some of the "whose baby?" cases—indicates that this is a wise precaution.

With those comments I give my unhesitating support to the measure.

THE HON. R. THOMPSON (South Metropolitan—Minister for Community Welfare) [9.32 p.m.]: I thank Mr. Les Logan and Mr. Ian Medcalf for their unqualified support of the measure. I consider that the passage of the amending Bill will probably make the Adoption of Children Act in this State the best in Australia. Amendments to such legislation take time, of course. It does not matter who the Minister is because I am sure the department adopts virtually the same attitude as has just been expressed by Mr. Medcalf. It is the child that counts. This is number one, because the child is of paramount importance.

The department has to traverse many avenues before a child is even placed. The department looks for the right child to suit the couple who will be the adopting parents. The department is quite exhaustive in its inquiries. The background of the baby is known when the child is born and sometimes even before it is born so that the child can be placed in the right circumstances.

It is true that not many adoptions fail. The department does not make many mistakes in the placement of children. There is an extreme shortage of children available for adoption in Western Australia at the moment. As a matter of fact, we have had to introduce criteria whereby childless couples receive first preference. After that field has been satisfied, a baby girl goes to a family who has a son and *vice versa*. It is virtually impossible for any parents with two children who want to adopt another child to obtain that child at the present time. This is because so few children are coming forward for adoption purposes in Western Australia.

I understand the department has always tried to preserve privacy but there are private adoptions over and above departmental adoptions. I will certainly bring the comments made by Mr. Medcalf to the attention of the director so that they may be examined on the next occasion an amendment is planned to this legislation.

Mr. Medcalf made the point about the length of time involved—sometimes it is months or even years before an adoption is finally agreed upon or is taken to the court. The honourable member rightly said that the court is extremely rigorous. This is quite true. Unless there is complete consent judges are rigorous and there

is absolutely no chance of a child being adopted unless a judge is completely satisfied that there is no claim on the child.

When I first became responsible for this portfolio I, too, was concerned about the length of time involved before such matters even went to the court. Sometimes a period of nine, 12 or 15 months would elapse. I thought the procedure should be speeded up. It could be speeded up but I changed my mind after seeing some cases. It is not often that adopting parents fall down on their job but now and again they do. After placements are made usually a period of approximately nine months elapses before any action is taken to legalise the adoption.

The Hon. L. A. Logan: It is pretty difficult to cut down the time.

The Hon. R. THOMPSON: There have been two occasions this year when children had to be taken back within one month. As I have said, it has only happened twice this year. It is a safeguard to make the placement and allow the family time to adjust to see that everything runs smoothly. Consequently there is good reason for the period of time involved. Now I would be the last person to want to see the period of time shortened. I think any member who was in the position of being Minister for the time being would take the same attitude after seeing what can happen from time to time. Admittedly, the instances are quite isolated but it is better to be sure than sorry. After all, the child has his lifetime in front of him and, in such a case, it is far better to take him away at an early age—nine or 12 months—and put him in a home where he will be completely happy than to leave him in a situation of unhappiness.

I thank members for their support of the measure.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

WESTERN AUSTRALIAN ARTS COUNCIL BILL

Second Reading

Debate resumed from the 4th October.

THE HON. J. M. THOMSON (South) [9.40 p.m.]: The long title of the legislation states—

> A BILL
>
> for
>
> AN ACT to make provision for the encouragement, fostering, and promotion of the practice and appreciation of the arts in Western Australia, to establish the Western Australian Arts Council, and for purposes incidental thereto.

We must relate the intention of the introductory remarks to one of the clauses in the Universal Declaration of Human Rights which states—

> Everyone has the right, freely to participate in the cultural life of the community and to enjoy the arts. The fundamental need for personal involvement in the aesthetic level of human existence is the underlying principle on which this right has been based; and it is to this end that U.N.E.S.C.O. directs the attention of its world-wide public to the significant contribution made by the arts to every facet of man's life.

The passage of the measure, as we will appreciate, will have a decided impact upon the social life of the community in which we live.

Clause 5 states in part —

> 5. (1) There shall be established a Council to be known as the Western Australian Arts Council which, subject to the Minister, shall be responsible for the administration of this Act.

This leads me on to clause 11 which states in part—

> 11. (1) It shall be the general duty of the Council to encourage, foster and promote the practice and appreciation of the arts in Western Australia.

Such words of intent give rise to deep satisfaction and high hopes among the many within our community who are interested in the promotion and expansion of arts and cultural activities within the State—in fact, within the nation as a whole.

Much has been said in favour of the proposals in the measure. I also wish to add my commendation to the Government in respect of the provisions of the legislation and I am sure it will achieve the purpose for which it has been designed. In doing so, I wish to add my comments to other comments which have already been stated.

I have some knowledge of the work and enthusiasm of people in country districts. These people have directed their interests and energies over quite a number of years to promote, establish, and maintain active participation in the pursuits of the arts. I am referring to folks from all walks of life. This applies not only to the community within which they reside because the expansion and diversity of tutorial programmes have continued to attract many entrants from far afield to the annual summer arts school which is held in January each year. In referring to this I have in mind the Albany summer arts school which is conducted under the auspices of the Albany Arts Council which has been in operation for some seven or

eight years, I believe. Prior to that the school was under the auspices of the Adult Education Board.

With the establishment of the Western Australian Arts Council one immediately assumes that the Australian Council for the Arts will have its financial contributions to make to the council which the measure proposes to establish.

At this point I wish to refer to the Australian Council for the Arts. I was associated to some small degree in the presentation of a request to this council while in Sydney a few years ago for a grant to a country arts council. We were cordially received, and departed on a very optimistic note, but alas, nothing further was heard from the Australian Council for the Arts. It is indeed a matter of concern, and an unknown fact at the moment, as to where the Australian Council for the Arts will stand financially in regard to the proposed Western Australian arts council. It would be disastrous if after what this Government has created it could be ridden over by the juggernaut—the Australian Council for the Arts.

Grants and subsidies from the State Government will be a necessity for our council, but grants from the Australian Council for the Arts are essential and they should be straight-out grants, made annually with no strings attached, and this should be insisted upon by our Western Australian arts council right from the start. The experience of many people in this State and elsewhere leads us to believe that the Australian Council for the Arts is more than an ordinarily difficult body to deal with. No doubt many country arts councils have discovered this. Each year many forms have to be filled in, and each year no results or assistance are forthcoming—at least, this has been the experience of a number of people who have applied. These people have not even received acknowledgement of their applications; apparently the council for the arts does not extend the courtesy of a reply to its correspondents.

Also, up to this point of time the council for the arts has been strongly loaded towards the performing arts, and apparently comparatively little consideration is given to such things as country arts councils to extend their modest buildings and facilities. I will be bold enough to say that the grant of $8,000 to the Fremantle Arts Council is just peanuts; good to receive but it is quite inadequate for what is wants to do.

I believe it would be more desirable to distribute the money in the form of a direct grant from the Australian Council for the Arts to the Western Australian arts council, which should then have the sole right to distribute the money to applicants within the State. Country arts councils should endeavour to make their activities self-supporting by their own efforts, but funds should be made available to permit them to acquire and develop activity centres for all the people of the community and to enable such facilities to develop year by year. It is essential that the interest and growth taking place in the country centres in relation to art and culture should be fostered.

Clause 6 refers to the constitution of the council; that is, it is to be composed of a chairman, a deputy chairman, and a council of not more than 10 and not less than seven members. No doubt it is the Government's earnest desire that the council should be a truly representative body, and I am sure we all subscribe to this view. I will be bold enough to suggest that three areas of the State as well as the metropolitan area should be represented on the council. I believe one councillor should come from the north regional area of the State—bearing in mind the successful art school held in one of the towns in this area this year—one from the central regional area, and one from the south, the south-western, and easterly region of the State for it will not be denied that from within the areas mentioned there is a choice of representatives fully appreciative and knowledgeable of the arts and potential in the areas they wish to promote.

I would like to further add, because of the business nature of its deliberations, I believe it most desirable it should have the benefit of a person well versed in business acumen. In saying that, one is mindful of the airy-fairy type of people we are aware of in our arty-crafty community. I make this comment realising the council will be called upon to exercise sound and forthright judgments—decisions which must be made in the interests of the community as well as to promote the arts. I sincerely trust that the Minister responsible for this legislation will see that the council represents the people throughout the length and breadth of the State—it should not merely represent people in the metropolitan area.

During the debate on this measure, reference has been made by other speakers to the establishment of an arts university or school. I, for one, would not be enthusiastic that such a proposal should be entertained by the council. Its functions and energies will be best expended in serving, fostering, and promoting the practice and appreciation of the arts throughout the length and breadth of the State by encouraging, assisting, and establishing cultural and community centres with facilities for potters, painters, creative writers, music through movement, sculpting, fabric printing, weaving, and sundry other items of activity within the arts field. Whole families can be involved in this way, and this is most desirable—art belongs to the people. It needs to live aware of, to be active, and it requires the involvement of the people who are interested in various activities and occupations of the arts.

Within the arts, we discern at times that unpleasant trait of intellectual snobbery which should certainly be discouraged, for amongst the humblest of our people there often lies a dormant talent, which only needs a small spark of inducement and encouragement to blossom and produce an artist of renown. I feel sure from within the community I have referred to, the council will achieve its objectives.

Provision for a university, college, or school of arts could well follow in later years in the wake of this promotion by the council. I believe that the provision of such institutions is wholly and solely within the scope of the Government's responsibility. Therefore, I trust that the arts council will function along the desired lines and that it will direct its attention particularly to the groups of people and the organisations interested in these activities irrespective of size or location.

I say most wholeheartedly that I support the Bill, and I wish the proposed Western Australian arts council all the success and the rewards which I believe will flow from its establishment.

THE HON. D. J. WORDSWORTH (South) [9.58 p.m.]: This Bill provides for the establishment of the Western Australian arts council, and it comes to Parliament some three years after the Brand Government set up the Arts Advisory Board to assist with the distribution of financial grants to the arts. The original board concerned itself mainly with the performing arts—drama, opera, and ballet. It is very good to see that the terms of reference have now been broadened to include the crafts of pottery, weaving, etc.

We have seen the Arts Advisory Board functioning very efficiently and quietly under the guidance of its sole officer (Mr. John Harper-Nelson). Mr. Harper-Nelson's vigilant administration and deep personal knowledge has enabled him to spread the small Government grant thinly over the field of cultural pursuits in Western Australia during the past two years. It is very gratifying to see an increase to the board of $78,000 to $310,000 in this year's Budget. This is good news. Probably the only cloud on the horizon is that Mr. Harper-Nelson will probably return to the A.B.C. He has certainly built up a very marvellous foundation for the arts in Western Australia, and I believe this amount will go a long way.

Very much of the groundwork has been carried out and it will not have to be repeated. I refer to the acquisition of kilns for pottery groups and to the encouraging of the formation of organisations.

I am aware that a grant was made to the Esperance Arts Council to enable it to commence. I used the term "grant" inadvertently; in actual fact it was a guarantee against any loss sustained in bringing to Esperance the play entitled "The Swan River Saga" so ably portrayed by Rita Parnell. After her visit to Esperance the Secretary of the Arts Council accompanied Miss Parnell in her tour of the Eastern States where these two women were able to give the other parts of Australia some idea of the rich history of Western Australia.

I am very happy to see that the Esperance Arts Council is following the lead of Albany in the formation of a summer school. It hopes to bring to the people of Esperance and to local crafts trained teachers in such fields as drama, art, pottery, and spinning. It should not be forgotten that the people of Esperance are very fortunate in having a ballet teacher of great distinction. I refer to Madam Tamara de Nicolai who started a ballet school at Esperance. This is a rather unusual occurrence, as it is probably the only ballet school outside those established in the cities. It seems rather amazing that she was able to give a lead to a small country town with a population of less than 5,000, and to find a sufficient number of children to form a ballet school. In a few short years she has been able to attain a very high standard of training, and these children have already participated in a tour of Western Australia.

This gives some idea of what a small amount of money will achieve in encouraging the arts in country districts. Mr. MacKinnon has suggested that we should not make the art groups affluent. I do not think there is very much chance of that coming about, because very small grants are made by the Western Australian Arts Council. Generally it is only a matter of a few hundred dollars.

I hope we will see an extension of the duties of this body to cover the purchase of buildings for cultural organisations, more particularly those established in the country areas. I am not thinking in terms of Opera House finance. I would like to quote the case of one small wheatbelt town which has a picture theatre with a particularly good stage. I gather the purchase price of this building is about $30,000. This is not a great sum to affluent organisations, but certainly it is a large amount for an amateur theatrical group to raise. If the Western Australian Arts Council can help the group by giving a guarantee of the repayment of, say, $2,000 a year, then I am sure it will be able to purchase these premises. This would be a very great extension of the work of the arts council.

It is indeed fortunate that a lodge which owned a condemned hall at Esperance leased it at a peppercorn rental to the local repertory group. It built a reasonable stage and installed tiered seating at a very

small cost. This has given a great boost to the performing arts at Esperance. In fact, it is one of the few places where the people are able to meet in some comfort.

When Mr. Ron Thompson was at Esperance recently to attend a meeting of Tourist Bureau officers he realised that this was the only hall which was suitable for the holding of the conference. The purchase price of the hall could have amounted to $10,000, but the repertory society would probably have had little chance of raising the money. The arts council should be able to extend its activities to cover the guaranteeing of purchases of this kind.

The council could also extend its services by organising a survey of the various venues which are available to the performing arts in country areas. Various deficiencies exist in many country towns, and I know that the Western Australian Symphony Orchestra is not able to make a full country tour. This is most unfortunate, because it functions under a Government grant. I think that last year a sum of $277,000 was allocated in the Budget. It does not come under the arts council grant. I know the orchestra was not able to visit Esperance, because no suitable venue was available.

The arts council should undertake this survey of deficiencies in country areas, in order to fill the gap. It could make submissions to the Government and to the shires, to encourage the building of halls. Most country towns have the usual public hall which is suitable for dances and local functions, but generally it is not suitable for the performing arts. The arts council should assist with architectural designs and suggestions, so that good facilities will be provided. In most local halls it is very difficult for all the viewers to see the stage, and generally the acoustics are bad. It is impossible for most repertory societies in the country to lease a stage for rehearsals. The establishment of suitable halls in country districts would encourage the performing arts.

In this respect Perth is very well served. With all the recent talk of the opening of the Opera House in Sydney we might not realise how fortunate Perth is; but we have the recently completed Concert Hall which resulted from the great foresight of the previous Government and the Perth City Council. This is a modest structure compared with the Sydney Opera House. This, together with the Playhouse, Her Majesty's Theatre which has been mentioned at some length by the member for Blackwood in another place, the Octagon Theatre, and the Hole in the Wall Theatre places Perth in a fortunate position. Our main difficulty is to find adequate performers to fill these halls and theatres.

The Western Australian Arts Council is making grants to local organisations. It gave $9,000 to the Opera Orchestra and $30,000 to the Opera Company. It arranged for the appointment of an administrator for the Perth Ballet Company, and this costs something like $10,000 a year. The W.A. Ballet Company received $25,000; the Hole in the Wall Theatre $8,000; and the Playhouse $57,000. The Playhouse also receives grants from the Australian Council for the Arts, as do other bodies.

It is unfortunate that most of the grants which come to Western Australia are based on per head of population. This is very unfair to bodies like the Playhouse and the Hole in the Wall Theatre, and actors are placed at a great disadvantage in this State.

In Western Australia no films are made for telecasting, and the A.B.C. has now discontinued producing original works. So, actors performing in Western Australia in places like the Hole in the Wall Theatre and the Playhouse have no alternative employment. However, one notices that an organisation in New South Wales receives a grant of something like $500,000 a year, because it claims to be the Australian national playhouse. Yet, the need for a subsidy in Western Australia is far greater than it is in Sydney. Not only is there alternative employment for actors in New South Wales, but also there are much larger audiences. I hope that in the future we will see more money coming to the smaller States, particularly to Western Australia because of its isolation.

There seems to be some confusion on the various arts councils that are established. There are three main ones, and their names are very similar. There is the Western Australian Arts Council, as referred to in the Bill; there is the Arts Council of Australia, which is responsible for organising country tours, but it does not function in Western Australia because the Western Australian Arts Council has been undertaking its duties; and there is the Australian Council for the Arts.

The last mentioned organisation is the one with which Dr. Coombs and Miss Battersby are associated. This has been given a large grant by the Federal Government to promote the arts. Recently we saw a large number of positions being advertised in the newspapers of this country by the Australian Council for the Arts.

The Hon. L. A. Logan: That is where all the money will go.

The Hon. D. J. WORDSWORTH: The honourable member is probably correct. In one advertisement on the 1st September we find that positions aggregating $250,000 in salaries were advertised, and they included administrative officers, personnel

officers, methods officers, assistant administrative officers, supervisors, classifying officers, file examiners, distribution officers and the like.

This is just another large Government organisation to be set up. Undoubtedly it will cost about $2,000,000 a year.

The Hon. W. F. Willesee: I bet there will not be a change even if the Government is changed.

The Hon. D. J. WORDSWORTH: That is unfortunately true. We could put this money to much better use, by assisting organisations such as that proposed to be set up under the Bill. Another interesting aspect is that all these positions are being advertised for one locality; that is, North Sydney. It is amazing that these positions do not relate to appointments in any other State or capital city, although I understand that the Australian Council for the Arts has an office in Melbourne. Whether or not this is done to please the people of Victoria I do not know.

It seems that all the positions go to North Sydney. I do not know whether North Sydney has been chosen, instead of Canberra, because of the view of the Opera House.

The Hon. W. F. Willesee: They have enough performing artists in Canberra.

The Hon. R. H. C. Stubbs: Some of them are not behind the door here, either.

The Hon. W. F. Willesee: We can produce clowns at any time.

The Hon. D. J. WORDSWORTH: There seems to be no provision for State representation at staff level. We have already heard how the council goes about investigating applications for assistance. Mr. Jack Thomson claimed that his request had not received any attention. I know that the council has sent people to this State from Sydney to investigate minor claims from country towns. People have been sent across from New South Wales to carry out investigations.

The Hon. L. A. Logan: It would probably have cost less to send a cheque in the first place.

The Hon. D. J. WORDSWORTH: The council is not making use of the local knowledge which is available. John Harper-Nelson has been able personally to sift out the applicants and get some idea of who is genuine, and who would be better employed for the benefit of a particular district. There seems to be a centralised policy with very little co-operation with the Western Australian council. I venture to say that this could be the reason for John Harper-Nelson deciding to return to the A.B.C. It seems that he is disillusioned as a result of what the Federal Government has done. I think that we have seen only the tip of the iceberg to date.

We recently read of the purchase of a Jackson Pollock painting for a sum of $2,000,000 U.S. Undoubtedly, Australia got a good Jackson Pollock.

The Hon. L. A. Logan: That was the "Blue Poles"; not the hole in the wall.

The Hon. D. J. WORDSWORTH: It is, indeed, one of the best in existence but it is rather interesting to know that the price paid was the highest ever for a work of art by an American artist, whether living or dead.

The Hon. J. Heitman: That money would have paid for a lot of water supplies in this country.

The Hon. D. J. WORDSWORTH: It would have bought a lot of art, too. The purchase certainly rocked the blase American art world, as *Time* magazine quoted. I understand the purchase could be the forerunner of several others by the Australian National Art Gallery. The gallery has its eye on Picasso's "Guernica" depicting the Spanish civil war. The figure could be $3,000,000.

The Hon. W. F. Willesee: If it is internationally known it will be worth it.

The Hon. L. A. Logan: No, it will not.

The Hon. W. F. Willesee: Have you seen the Opera House?

The PRESIDENT: Order!

The Hon. D. J. WORDSWORTH: I venture to say that the $5,000,000, allocated for the purchase of art for the National Art Gallery which is to be built on the shores of Lake Burley Griffin by 1977, will not go very far. I sometimes wonder whether we have really reached the stage where we should purchase such works of art. It is no wonder that *Time* magazine describes the budget of the proposed National Art Gallery as being the most lavish of any museum in the world.

The Hon. W. F. Willesee: *Time* magazine is going broke.

The Hon. D. J. WORDSWORTH: Perhaps we can learn from that, too.

The Hon. W. F. Willesee: We could all go broke together.

The Hon. D. J. WORDSWORTH: One wonders whether we have the culture, at the grass roots level, to warrant such lavish spending. I wonder whether we should concentrate more at the level at which the State arts council will begin.

I think most people agree with what the Prime Minister said, on the 30th November last, when he laid down four principles on the subject of art. They were—

to promote a standard of excellence in the arts;

to widen access to, and the understanding and application of the arts in the community generally;

to help establish and express an Australian identity through the arts;

to promote an awareness of Australian culture abroad.

Well, I think we certainly established an identity by spending such a large sum of money in the art world. However, I wonder whether we should not be thinking more of establishing and expressing an Australian identity. I refer to the identity of Australian art rather than the purchasing of art outside of this country. We should be encouraging more participation rather than buying our way into culture.

Unfortunately, we do not have any great tradition of culture as do many other countries. I am thinking of basic culture. We do not have a national type of dance as have most European countries, or as do many of the less developed countries of Asia and Africa.

The Hon. W. F. Willesee: I could start a dance with a member of the Liberal Party now!

The Hon. D. J. WORDSWORTH: We do not have any specialised crafts. We produce wool but we do not weave our wool as do the people in Scotland. We do not have a national dress, or a national form of music. In fact, we cannot make up our minds with regard to our national anthem. Undoubtedly Australia could be described as a "cultureless" country.

I believe we should be doing more to encourage and develop culture at its grass roots. This cannot be done by buying our way into the art world.

The Hon. W. F. Willesee: Well, advocate it in this speech of yours. All you have done is to be critical of something that you cannot control.

The Hon. D. J. WORDSWORTH: I admit that I cannot control it but we should make the people of Australia aware of Australian crafts. We should get down to the family level where the children take art lessons, and the women start to weave. We would then be getting down to the matter at the grass roots.

We are about to witness more leisure in this country with the encouragement of the 35-hour week, and money spent through our Western Australian arts council will be well spent. I wholeheartedly support the formation of the council, and the aims outlined in the Bill.

THE HON. R. THOMPSON (South Metropolitan—Minister for Police) [10.25 p.m.]: I thank members for their contributions to the debate, and the support they have indicated. I will certainly draw to the attention of the responsible Minister the comments which have been made. I trust that the arts council, when it is formed, will take into consideration the points which have been raised. I agree with what Mr. John Williams said in covering the whole ambit of art. There is no doubt he knows his subject well.

Likewise, I agree with Mr. MacKinnon that art should be fostered in the country areas, and where less opportunity for appreciation of the arts exists. Opportunities do exist in the metropolitan area at the high schools and technical schools for people to learn the different forms of art and culture. Those who have taken advantage of the opportunity to observe classes in the metropolitan area will have seen that they are run by qualified teachers, and thousands of people are attracted to the lessons which are usually held at night time.

Mr. Claughton also indicated his support of the Bill and, in the main, he was interested in the film industry. Under the provisions of this Bill that industry will grow if sufficient money is made available to it. Mr. John Thomson expressed much the same opinion as that expressed by Mr. MacKinnon. Although Mr. Wordsworth was critical of the Australian Arts Council, to some degree, I feel that what he had to say was in line with the thoughts expressed by other members.

I repeat: I will draw the attention of the Minister to the speeches that have been made on this Bill. I also feel that the arts council will take cognisance of the subject matter of the speeches.

There has been reference to the Australian Council of the Arts. I do not think anybody knows exactly what form the council will take. If we can take, as a guideline, the interest shown by Mr. Justice Hope, and his expert committee which inquired into our national estate and investigated methods of preserving the history of Australia, I think that interest augurs well. Mr. Wordsworth quoted the very good intentions of the Prime Minister.

I fully support the suggestion that facilities should be made available to people living in country areas. Many teachers take up art as an optional course, and attend classes at the Institute of Technology, or at some other institution. Many of those highly qualified people are living in country areas and I am sure that they will be found in virtually every country town. They will be able to provide the necessary assistance and guidance to the council.

I have seen some of the finest pottery work ever produced in Western Australia while visiting country centres. People have banded together and purchased a kiln, and then worked under the expert guidance of a teacher.

The contents of the Bill are fluid. Paragraphs (b) and (c) of clause 11 (3) read as follows—

(b) to make accessible to the public of Western Australia all forms of artistic or cultural work or activity;

(c) to foster and maintain public interest in the arts and culture in the State; and

The grass roots of the arts are to be found in pre-school centres or kindergartens. At the turn of the century, only a few people had the opportunity to study the arts, but pre-school children are now being taught some form of art and interest in the arts is being developed from a very early age.

I do not think I should delay the Bill any longer. I commend it to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. J. M. Thomson) in the Chair; The Hon. R. Thompson (Minister for Police) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Constitution of the Council—

The Hon. L. A. LOGAN: Mr Deputy Chairman, as you are in the Chair and unable to put to the Minister the suggestion you made during the second reading debate, I would like to ask the Minister on your behalf what thought has been given to the suggestion that some representatives on the council should be from country areas. When one considers the repertory clubs and other art groups throughout Western Australia, one finds that not all artists reside in the metropolitan area. Artists are scattered right throughout the State.

Just as we do not want every employee of the Australian Arts Council to be working in North Sydney, we do not want every representative on the Western Australian arts council to be from the metropolitan area of Perth. I ask the Minister to give consideration to this suggestion.

The Hon. R. THOMPSON: Mr. Deputy Chairman, I agree with the sentiments expressed by you when speaking to the second reading of the Bill. Clause 6 is quite a fluid provision. It states that the council shall consist of a chairman, a deputy chairman, and not more than 10 or less than seven other members. The council, when established, will not represent and will not be an agent or servant of the Crown.

I think I can see in the Bill the hand of John Harper-Nelson, of whom we have heard so much during the debate. People who are interested in the arts do not take regions into consideration, nor do they take politics, religion, colour, or creed into consideration.

I will bring this suggestion to the attention of the Premier, and I trust a completely representative body will be formed so that country areas will not be left out. I think it can be gathered from what I said in replying to the second reading debate that I think the people in the country should be given very earnest consideration. In the country districts there are some very good artists in all fields of art. I think it would be wrong if we stated in the Bill that one person should be from this area, one from that area, and so on. To do so would interfere with the setting up of the council. I will recommend to the Premier that the suggestion be given consideration.

Clause put and passed.

Clauses 7 to 33 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 10.40 p.m.

Legislative Assembly

Tuesday, the 9th October, 1973

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

AUDITOR-GENERAL'S REPORT

Corrections

THE SPEAKER (Mr. Norton): In accordance with Standing Order 233 I inform the House that I have permitted an alteration to be made to the Auditor-General's Report tabled on Wednesday, the 3rd October.

The report contains two errors and an erratum notice has been printed and inserted in the tabled copy and in those copies available to members.

BILLS (2): ASSENT

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

1. Age of Majority Act Amendment Bill.
2. Wood Chipping Industry Agreement Act Amendment Bill.

HANSARD

Availability

THE SPEAKER (Mr. Norton): I wish to advise members that due to yesterday being a holiday *Hansard* will not be available until noon tomorrow.