almost in every place one goes to throughout the country one sees notices telling people this is their duty.

The Hon. R. Thompson: You know and I know; but you can give them the cards and they will merely put them in a drawer.

The Hon. A. F. GRIFFITH: The people in my province are much more intelligent. I am glad to see that the proposal for the abolition of the practice of using loud speakers or public address systems on polling day will receive support. So far as I am concerned, I would not mind seeing how-to-vote cards dispensed with on polling days, but I could never go along with the suggestion that they should be replaced by putting the party name on the ballot paper. Democracy has it that one does not elect parties to the Parliament, one elects members.

The Hon. R. F. Claughton: That is a fiction.

The Hon. A. F. GRIFFITH: I believe it is not a fiction. The honourable member might tempt me to say something else if he takes this too far. However, I will not say it. If we place notices inside polling booths and insert the names of the parties on a ballot paper, then we would destroy the objective of a democratic Parliament. One should elect a person and not a party.

The Hon. V. J. Ferry: This is a fundamental principle.

The Hon. A. F. GRIFFITH: Yes, that is so.

The Hon. F. J. S. Wise: What do you think would be the effect of doing away with how-to-vote cards?

The Hon. A. F. GRIFFITH: I would not like to see them abolished altogether, and here again I am expressing my personal point of view. However, I think how-to-vote cards need not be used on polling day. Sometimes I think a method of doing this would be to allow the distribution of election literature up until 6 p.m. on the day before the ballot, thus allowing people to go to the poll on polling day with a bit of peace and quiet.

The Hon. Clive Griffiths: I know a printer who would not agree with you.

The Hon. A. F. GRIFFITH: I suppose the honourable member would also know some signwriters who would not agree with me if I suggested that signs should not be part of the election process. Signs are indeed an expensive item and they are becoming more expensive for candidates all the time. There again, the Commonwealth has some limitation on the size of election signs. I would not mind this, but I am expressing purely a personal point of view.

In relation to the attitude of some local authorities, the only way we could do this would be to introduce a State law laying down what a local authority must do in regard to signs, and such a law would not be at all popular among local authorities which are jealous of their position and their authority within their districts. I think more and more of them are insisting upon permits for signs and I can see the day when the use of signs will be much less than it is at the present time. In my own case, during the last election my signs were plastered from South Perth to Scarborough.

The Hon. F. J. S. Wise: It is as well you do not contest the province with Mr. Clive Griffiths.

The Hon. A. F. GRIFFITH: I once represented South Perth, and I now represent the Scarborough area. During the last election some of my supporters thought that not only was I doing a great deal of work but also that my name was well advertised.

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.

Third Reading

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Justice), and transmitted to the Assembly.

CONSTITUTION ACTS AMENDMENT BILL, 1970

Order Discharged

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [9.28 p.m.]: I move—

That Order of the Day No. 14 be discharged from the notice paper.

Question put and passed.

Order discharged.

House adjourned at 9.29 p.m.

Legislative Assembly

Thursday, the 16th April, 1970

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

LOWERING OF DRINKING AGE

Referendum: Petition

MR. YOUNG (Roe) [2.17 p.m.]: I have a petition addressed as follows:—

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia, in Parliament assembled.

We, the undersigned members of the Methodist Church in the Gnowangerup District, Western Australia, do herewith pray that Her Majesty's Government of Western Australia will consider the holding of a Referendum on the subject of the proposed lowering of the drinking age to 18 years of age.

Your Petitioners therefore humbly pray that your Honourable House will give immediate consideration to the holding of a Referendum to the people of Western Australia, and your petitioners, as in duty bound, will ever pray.

This is to certify that the above petition conforms with the rules of the House.

The petition has been signed by me and it carries 94 signatures.

The SPEAKER: I direct that the petition be brought to the Table of the House.

LOWERING OF DRINKING AGE

Referendum: Petition

MR. SEWELL (Geraldton) [2.19 p.m.]: I have a petition addressed as follows:—

To the Honourable the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia, in Parliament assembled.

We, the undersigned members of various churches in the Geraldton Circuit, Western Australia, do herewith pray that Her Majesty's Government of Western Australia will consider the holding of a Referendum on the subject of the proposed lowering of the drinking age to 18 years of age.

Your Petitioners therefore humbly pray that your Honourable House will give immediate consideration to the holding of a Referendum to the people of Western Australia, and your petitioners, as in duty bound, will ever pray.

This is to certify that the above petition conforms with the rules of the House.

The petition contains 283 signatures.

The SPEAKER: Has the member for Geraldton signed the petition?

Mr. SEWELL: Yes, Mr. Speaker, I have signed it.

The SPEAKER: I direct that the petition be brought to the Table of the House.

QUESTIONS (18): ON NOTICE

1. *This question was postponed.*

2. POULTRY

Referendum

Mr. BATEMAN, to the Minister for Agriculture:

As only five months have elapsed since the Government rejected a request from the Poultry Farmers' Association of W.A. for a referendum to determine whether the industry is in favour of controlled production in Western Australia, what change in circumstances occurred to bring about the altered decision to hold a referendum?

Mr. NALDER replied:

In July, 1969, the Australian Agricultural Council considered a licensing scheme to control egg production. Again in February, 1970, a proposal submitted by the New South Wales poultry growers —known as the "French" scheme —was considered by the Agricultural Council. It was agreed by council that, because of certain difficulties, the proposals could not be accepted and in the absence of an alternative scheme, it was decided not to proceed.

When a submission from the Poultry Farmers' Association of Western Australia requesting that a referendum be conducted was received by the Government, it was agreed that this course of action be taken.

The referendum will be conducted as soon as the necessary arrangements can be carried out by the Minister for Justice.

Poultry growers who own at least 250 head of adult female birds and who have delivered at least 3,000 dozen eggs to the board (or sold under board permit) in the 12 months period the 1st April, 1969 to the 31st March, 1970, will be eligible to vote in the proposed referendum.

3. RAILWAYS

Resumptions: Utakarra-Wonthella Area

Mr. SEWELL, to the Minister for Railways:

(1) Is it the intention of his department to proceed with the resumption of land in the Utakarra-Wonthella area for the purpose of railway marshalling yards?

(2) If "Yes" when can the land owners in the area expect that their properties will be taken over by his department?

Mr. O'CONNOR replied:

(1) Yes.

(2) The majority of those involved have been finalised and the remainder are at an advanced stage.

4. FARMERS

Federal Relief Money

Mr. W. A. MANNING, to the Premier:

What is the present position regarding Federal relief money for meeting the problems caused by seasonal conditions in the farming areas?

Sir DAVID BRAND replied:

A submission has been made to the Prime Minister detailing the drought relief measures taken by the Government and seeking Commonwealth reimbursement of State expenditure on those measures.

5 and 6. *These questions were postponed.*

7. RAILWAYS

Employees: Midland Workshops

Mr. BRADY, to the Minister for Railways:

(1) Are all employees, casual and permanent, examined in eyesight before being employed at Midland Workshops?

(2) If employees do not apply for permanent appointment are they permitted with defective eyesight to work indefinitely in the workshops —reference recent case of G. Merritt in blacksmith shop?

Mr. O'CONNOR replied:

(1) Yes.

(2) No. If at the time of applying for employment an applicant's vision is not of, or close to, the standard, he is not engaged.

On applying for employment G. Merritt was visually examined with glasses only. He was not examined without glasses as was required. His visual level without glasses was greatly below standard but this was not known to the department until he was examined by the Railway Medical Officer.

8. RAILWAYS

Land at Midland

Mr. BRADY, to the Minister for Railways:

(1) Has Woolworths' proposed purchase of Midland railway land at Midland been held up?

(2) If "Yes" what is the reason for not completing the sale?

(3) What area of land, if any, is still available for—

(a) purchase;

(b) parking,

other than land being negotiated by Woolworths?

Mr. O'CONNOR replied:

(1) No.

(2) Answered by (1).

(3) The possibility of releasing further land is currently under examination.

9. EDUCATION

Teacher Housing: Manjimup

Mr. H. D. EVANS, to the Minister for Education:

(1) In view of the decision to build a new primary school at Manjimup this year, will any additional Government Employees' Housing Authority accommodation be erected to house senior teaching staff of this school?

(2) If so, when is it expected that such new houses would be commenced and completed?

Mr. LEWIS replied:

(1) The quarters from the closed school at Middlesex are to be shifted to Manjimup and will be reserved for the headmaster of the new school.

(2) Tenders are about to be called for shifting the quarters and, following renovations, these will be ready for occupancy when the new school opens in 1971.

10. FISHING

Salmon Licenses

Mr. H. D. EVANS, to the Minister representing the Minister for Fisheries and Fauna:

(1) Further to his reply to a question on the 9th April will he clarify the point as to whether licenses to permit the catching of salmon are issued to individuals or to teams?

(2) How many holders of salmon fishing licenses are wholly dependent on fishing activities for income?

Mr. ROSS HUTCHINSON replied:

(1) Professional fishermen's licenses are issued to individuals while salmon beaches are allocated to teams. Conditional licenses are issued to part-time fishermen in the salmon fishery to assist the principals of the teams.

(2) Sixty salmon fishermen, mainly principals of teams, are wholly dependent on fishing for a livelihood. Some relatively uneconomic beaches are necessarily worked by men not wholly dependent on fishing for their livelihood.

11. MINES DEPARTMENT BUILDING

Collie

Mr. JONES, to the Minister representing the Minister for Mines:

(1) In view of the deplorable state of the existing buildings at Collie, has a decision been made to erect new premises for the Mines Department?

(2) If "Yes" when will the building be erected?

Mr. BOVELL replied:

(1) Yes.

(2) 1971-72, subject to Loan Funds being available.

12. KWINANA POWER STATION

Availability of Power and Cost per Unit

Mr. JONES, to the Minister for Electricity:

(1) When is it anticipated that electric power will be available from the Kwinana power house?

(2) What is the anticipated cost per unit of power produced at the station?

Mr. NALDER replied:

(1) Approximately mid-1970.

(2) It is too early to make a useful estimate of the cost per unit.

13. BUNBURY ENDOWMENT LAND

Granting

Mr. JONES, to the Minister for Lands:

(1) What was the date of granting to the Bunbury Town Council the land known as Bunbury endowment land?

(2) Under what conditions was the land endowed?

(3) Under what conditions was the new gaol site excised from the Bunbury endowment lands and the area of land involved?

(4) What land in Bunbury was granted by the Government to the Bunbury council in exchange for portions of the endowment lands for an education complex and what were the areas involved?

(5) What is the separate value of—
(a) the gaol site;
(b) the education complex site?

Mr. BOVELL replied:

(1) The 17th April, 1884.

(2) The Reserve was vested in the Municipality of Bunbury with power to lease the whole or part for periods of up to ten years (later extended to 21 years) provided that the proceeds were used for municipal purposes.

(3) Reserve 29299 for the purpose of "Prison" was excised from the Endowment Reserve with the consent of the Bunbury Council. The area is 52 acres 3 roods 18 perches. No conditions were attached to the excision.

(4) No land has yet been excised from the Endowment Reserve for an educational complex.

(5) (a) The land in reserve 29299 has not been valued.
(b) See answer to (4).

14. RAILWAYS

Land: Sale

Mr. BURKE, to the Minister for Railways:

(1) Has Treasury approval been given for the disposal of any W.A.G.R. property in the central city area?

(2) If "Yes" what is the location of the property involved and what was the official valuation?

Mr. O'CONNOR replied:

(1) No.

(2) Answered by (1).

15. *This question was postponed.*

16. RAILWAYS

Lowering: Approach to Commonwealth Government

Mr. BURKE, to the Premier:

(1) Has the Government approached the Commonwealth for assistance with the rail-sink project?

(2) If not, is an approach to the Commonwealth in preparation?

(3) If not, why is such an approach not being planned?

Sir DAVID BRAND replied:

(1) No.

(2) No.

(3) The Government is examining means by which this work could be undertaken.

17 and 18. *These questions were postponed.*

DISTRICT COURT OF WESTERN AUSTRALIA ACT AMENDMENT BILL

Second Reading

MR. COURT (Nedlands—Minister for Industrial Development) [2.25 p.m.]: I move—

That the Bill be now read a second time.

This Bill proposes the amendment of some of the procedural sections of the District Court of Western Australia Act, which

was passed in the earlier sitting of this session and which, after further examination, it is considered can be improved.

Other amendments contained in this measure are brought about by the decision to appoint the present Chairman of the Third Party Claims Tribunal as Chairman of District Court Judges and to provide further relief to the Supreme Court in civil matters.

The principal Act was proclaimed and came into operation on the 1st April last. Judicial and staff appointments have been made and already are dealing with criminal matters in Perth. It may be expected that the first sitting of the court in country centres will commence in May.

Consequent upon the careful consideration given to the appointment of the Chairman of Judges, the Government decided that it would be in the best interests of the court and of the Third Party Claims Tribunal, were Judge Good to be appointed to hold both offices. With his long service as Solicitor-General providing a useful background, such appointment will ensure that the new court will function in the best interests of the community.

Proposals, including provisions empowering any district court judge to act as Chairman of the Tribunal, are detailed in a complementary measure amending the Motor Vehicle (Third Party Insurance) Act. An amendment is considered necessary to prevent any legal right to a claim for payment of the salary for both positions.

At the time the Bill to establish the District Court system was before Parliament, it was believed that civil matters coming within the jurisdiction of the District Court, which had been commenced in the Supreme Court, would be finalised in the latter court. It has transpired, however, that increased volume of work received in the Supreme Court now renders it desirable that provision be made to enable the Chief Justice to make orders remitting these cases back to the District Court. By this means relief will be provided to the Supreme Court and delays in hearings obviated.

The Minister for Justice, when introducing this measure in another place, remarked that it might be appropriate to refer to the absence of undue delays in having matters heard by the court when compared with the position in other States. Nevertheless, I am advised that there is no doubt of the growth of more contentious litigation involving lengthy hearings, and therefore, the provision enabling cases to be transferred to the court is desirable.

A further desirable amendment authorises that the jurors' books, which are in operation or in course of preparation, are the jurors' books for the new court. The purpose of this is to obviate the preparation of new jury lists.

Further as to juries, the repeal of the courts of sessions has caused some difficulties in respect of the summoning of juries. The summoning officer for the purpose of the courts of session was the clerk of courts in the appropriate court, whereas under the Circuit Court of the Supreme Court, the function was placed on the stipendiary magistrate for the district. The deputy registrar appointed under the District Court of Western Australia Act is considered better able to carry out the duties required.

Another amendment removes from the duties of the registrar the function of Clerk of Arraigns. These duties will be undertaken by judges' associates and this procedure conforms with the practice in the Supreme Court.

The jurisdiction of the court is now to be increased to deal with actions of ejectment to recover possession of land. The new amount of $3,000 compares with the amount of $1,600 in the Local Courts Act.

Finally, it is considered desirable to include in the District Court of Western Australia Act a provision to determine priority of Supreme Court, District Court, and Local Court actions. In this regard, I mention *inter alia* that the Local Courts Act already includes provision in regard to Supreme Court and Local Court matters. The Bill is commended to members.

Debate adjourned, on motion by Mr. T. D. Evans.

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Second Reading

MR. COURT (Nedlands—Minister for Industrial Development) [2.30 p.m.]: I move:

> That the Bill be now read a second time.

In moving the second reading of this Bill I wish to explain that the reason I am handling it is because it is a consequential measure following on the District Court of Western Australia Act Amendment Bill, with which we have just dealt.

This Bill has been drafted to empower any District Court judge to exercise the powers and functions of the Chairman of the Third Party Claims Tribunal. Members generally are aware, I think, of the decision to appoint the present Chairman of the Third Party Claims Tribunal to the position of Chairman of District Court Judges.

The chairman of the tribunal drew attention some little time ago to the increasing demands on his services and requested that consideration be given to the appointment of a deputy chairman to ensure that undue delay in finalising claims would not occur.

The increasing number of claims which are being lodged involves the chairman in his official capacity, in addition to those duties associated with the sittings of the tribunal. Subsection (20) of section 16 of the Act gives the chairman jurisdiction to hear and determine all interlocutory proceedings before the tribunal, and for that purpose he has the powers of a judge and may sit in Chambers and alone. The increase in such matters imposes a burden on him which can be reduced by the decision to empower any District Court judge, at the request of the chairman and with the consent of the Chairman of District Court Judges, to act in the place of the chairman. This provision will enable a District Court judge to sit as chairman of the tribunal, whilst the chairman sits in Chambers. The position can be reversed if necessary. The new arrangement will also allow time for the preparation of draft judgments by the chairman for consideration with other members of the tribunal.

This arrangement involves no alteration in the jurisdiction of the tribunal, but the proposal will permit a better service to claimants. The decision to allow any District Court judge to undertake these functions involves aspects affecting the administration of the tribunal. Consequently, it is thought reasonable to transfer the administration of section 16, and complementary provisions of the Act in respect of the tribunal, from the portfolio of Local Government to that of Justice.

Debate adjourned, on motion by Mr. Graham (Deputy Leader of the Opposition).

HEALTH ACT AMENDMENT BILL

Second Reading

MR. ROSS HUTCHINSON (Cottesloe—Minister for Works) [2.33 p.m.]: I move—

That the Bill be now read a second time.

Despite the moderate size of this Bill, it deals with only two matters. The first proposal concerns a most important function of local government. The authorities which make up local government are charged by the Health Act with the responsibility of maintaining the wholesomeness and purity of our food and drug supplies. Officers of local authorities regularly sample foods offered for sale. These samples are examined by qualified analysts engaged by local authorities under an unofficial arrangement which has existed for some 30 years.

Membership of this scheme is voluntary, and that is its weakness. About half the local authorities in the State are members. These are the active bodies which take their responsibility to the public in a serious manner. Others are content to accept the benefit of this activity without sharing its cost. The scheme offers membership at an annual fee plus further charges for analytical work performed. It follows that the greater the membership, the lower will be the share of overhead costs charged to members.

An approach was made to the Commissioner of Public Health some time ago by the present management committee, seeking the arrangement which is now presented in this Bill.

Mr. Lapham: Is this going to be compulsory?

Mr. ROSS HUTCHINSON: No. The honourable member will find out that it is not, and I will explain that as I go along. I will tell the honourable member that the Commissioner of Public Health, if he sees fit, can force a council to join the scheme. It is proposed that a committee of 10 will be established as a corporate body. Of the 10 members, five would be nominated by the major local authorities within the metropolitan area. Three members would be selected by the Minister to represent the other 20-odd metropolitan local authorities, and two further members to represent country interests.

This arrangement is considered reasonable and practicable having regard to the fact that most of the State's food is manufactured or distributed within 25 miles of the City of Perth, and over half of the population of the State is found within that area. The committee could formulate its own scheme to provide analytical services. It could employ its own staff and set up a laboratory, or it could conclude a contractual arrangement with a private firm, such as that which operates at present.

It is hoped that all substantial local authorities will enter the scheme and therefore ensure its success. If substantial local authorities do not enter the scheme, then the Commissioner of Public Health may order them to join. This merely restates a power already exercisable by the commissioner.

I refer members, generally, to sections 27(1) and 29 of the Health Act, 1911-65. The first section says, in effect, that every local authority may, when required by the commissioner, appoint a medical officer as medical officer of health, and also such inspectors and analysts as may be deemed necessary by the commissioner. The second section provides that if the local authority does not appoint a medical officer of health, inspector, or analyst, the commissioner may, with the approval of the Governor, appoint such officer and fix his remuneration.

The Bill also clothes the proposed committee with authority to regulate its proceedings and manage its affairs. It will be seen that the normal sorts of things which apply to a body such as is being set up here are mentioned in the Bill. The

body is to be named the analytical committee and its financial affairs will be watched by the Auditor-General. It will be required to report its activities to the Minister annually.

The second aim of this Bill, which I mentioned in my opening remarks, is covered by clauses 11 and 12. Briefly, the purpose is to provide that health inspectors will, in future, be referred to as health surveyors. The professional organisation of health inspectors throughout Australia is the Institute of Health Surveyors. This organisation was first formed in New South Wales, and branches now exist in all States.

The term "health inspector" has been objected to on a number of grounds. In effect, it has become somewhat anachronistic and is outmoded. One ground of objection is that it tends to obstruct the setting up of good public relations. The inspector's role is increasingly concerned with education rather than the strict policing of the law. This used not to be the case, although, of course, that policing must, perforce, go on.

Approaches have been made to the appropriate authorities in all States to adopt the title health surveyor, and this is already the position in New South Wales. Victoria and Queensland have undertaken to make the change, and a sympathetic hearing has been given in South Australia and Tasmania.

I further understand that it appears the term will be adopted whether the legislation is amended or not. Nevertheless, its adoption would be accelerated and accepted more readily in the community at large if the amendment were made.

Debate adjourned, on motion by Mr Harman.

SUPERANNUATION AND FAMILY BENEFITS ACT AMENDMENT BILL

Second Reading

SIR DAVID BRAND (Greenough—Treasurer) [2.42 p.m.]: I move—

That the Bill be now read a second time.

Before I proceed to explain the provisions of the Bill I would like, with your permission, Sir, to inform the House that in view of the state of the notice paper we need not sit after tea tonight.

Members will recall that last year, substantial amendments were made to the Superannuation and Family Benefits Act to improve the benefits of contributors to the Superannuation Fund and to update pensions paid to widows and former contributors to the fund. On that occasion, the maximum number of units for which an employee could contribute was increased and a system of non-contributory unit entitlements was introduced into the scheme for the first time.

At the same time it was appreciated that with the passage of time, the real values of pensions are eroded unless the cost of living remains constant. Action was therefore taken last year to improve the position of former Government employees, particularly those who had been pensioners for a long time and who were suffering hardship because of the rise in living costs since their retirement. The principle adopted was to give the largest pension increases to those who had been on pension the longest.

The method of updating used, was to increase the Government share of pension by the movement in the consumer price index between 1953 and 1968. Pensioners who became eligible for pension after 1953 but before the 1st January, 1968, received the percentage increase appropriate to the period they had been on pension between those dates.

The adjustment was dated from 1953 in recognition of the fact that there had been previous increases in unit values in 1948 and 1951 which took into account changes in the cost of living up to that time.

Only the Government share of the first 20 units of pension was eligible for updating, because pensioners holding units in excess of 20 received the benefit of the non-contributory unit scheme. The updating resulted in substantial increases in pensions. For example, a 20-unit pension which was first paid in 1953, was increased by $564 a year.

When this amendment was introduced in 1969, I said it would be necessary to introduce further legislation in the next 12 months to cover any subsequent movements in the consumer price index. The Bill now before the House is to give effect to that undertaking.

As I have explained, last year's amendment applied to all persons who were in receipt of pension on the 31st December, 1967, and took account of movements in the consumer price index up to the December quarter of 1968.

Consumer price index figures are now available for the December quarter of 1969. These show that during the 12-month period to December, 1969, there was a 3.62 per cent. rise in the index for Perth. The purpose of this Bill is to apply this percentage increase to the Government share of pension that was payable on the 31st December, 1968.

The effect of the Bill will be to increase by 3.62 per cent. the previously updated portion of pension and also to increase by the same percentage, the Government share of pension of those people who became eligible for pensions for the first time during 1968. As at present, updating will apply only to the first 20 units of pension because the benefits of the non-contributory scheme apply to pensioners with units above that number.

The proposal would result in a maximum increase of $70 a year for pensioners who retired before 1954 with 20 or more units of pension, with the increases ranging down to a maximum of $49 a year for persons who became eligible for pensions during 1968. The maximum increases for each year can be seen by comparing the table in section 46C of the present Act with the table in clause 3 of the Bill.

The increases proposed in the Bill are to be payable on and from the first fortnightly payment of pension in January of this year, which means that they will date from the 2nd January. The cost in this financial year is estimated at $50,000.

The Bill before the House is concerned only with updating of pensions according to the movement in the consumer price index during 1969. The Treasury is continuing its review of the State Superannuation Scheme and other improvements to benefits are being considered for presentation in the next session. I commend the Bill to the House.

Debate adjourned, on motion by Mr. Norton.

Message: Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

BUNBURY HARBOUR (EAST PERTH-BUNBURY) RAILWAY BILL

Second Reading

MR. O'CONNOR (Mt. Lawley—Minister for Railways) [2.50 p.m.]: I move—

> That the Bill be now read a second time.

This Bill provides for the construction of a spur railway from the East Perth-Bunbury railway to the proposed new inner harbour at Bunbury, with a further railway connecting the spur line to the Bunbury station yard.

The provision of the new harbour with suitable rail access has been necessitated by the agreements entered into under the Alumina Refinery (Pinjarra) Agreement Act and the Wood Chipping Industry Act. The development of these industries will bring a requirement to move considerable bulk tonnages by rail to port for shipment.

In conformity with the provisions of the State Transport Co-ordination Act of 1966, the Director-General of Transport has examined the proposals and in his report has stated that from the point of view of overall transport co-ordination he can see no satisfactory alternative to having rail connection to the proposed inner harbour. He has also examined the proposed location of these two lines and has reported that he is satisfied that the selected routes are the most economic and satisfactory to meet the future requirements.

One of the consequences of the harbour work which will occur early in the dredging programme will be the severance of the existing rail connection between the Bunbury station yard and the Bunbury power house *via* "The Plug."

The immediate consideration therefore is to provide an alternative rail access to serve the power house and this is an additional purpose for the proposed northern spur line. Construction of this line is scheduled for commencement in May with anticipated completion in October. It is proposed that the State Electricity Commission stockpile a reserve of coal sufficient to tolerate a temporary interruption to coal supplies for two to three months at normal usage rate. Members will appreciate that there is a degree of urgency therefore in re-establishing this link to the power house and this will be provided by the northern spur line.

To retain for the railways the freight receipts from this coal traffic alone by construction of the northern spur line would economically justify the cost involved. The Director-General of Transport in his examination of the line construction proposals has commented as follows on the aspect of coal haulage to the power house:—

> In these circumstances justification for the investment in this line which, as mentioned, amounts to $400,000 or thereabouts must rest, at least in the short term, with the coal traffic from Collie to the Bunbury Power Station. The station's intake of coal in the future is expected to be roundly 200,000 tons annually. I have examined the profitability of this traffic to the W.A.G.R. and am satisfied that for the outlay involved it is traffic worth retaining, in which case the W.A.G.R. must have a rail connection to replace its present link which will be severed when dredging of the new harbour commences shortly.

There is another important aspect in the proposal to construct the new spur line and connecting line on the routes as provided in the schedules to this Bill. The present line between Picton and Bunbury station yard already carries fairly heavy daily traffic. I understand there are some 28 train movements daily. If we had to add to this substantial haulage of alumina and possibly, at some future date, large consignments of wood chips, then obviously considerable improvement works would need to be undertaken on this section of line to enable the handling of such additional traffic.

As I have previously stated the immediate necessity is construction of the northern spur line which it is estimated will cost $400,000. This will retain for the railways a direct connection with the power house. It is also worth mentioning that when this line is brought into use it

will reduce the traffic density on the Picton to Bunbury station yard section of line by the diversion of the power house coal traffic of approximately 200,000 tons annually.

It will also be the access line to the alumina berth which is proposed to be built on the north side of the new harbour. With the development of alumina traffic it would of course be necessary for the harbour authority to construct internal rail connection from this line to the berth provided for handling of the alumina.

The second section of line connecting the spur line with the Bunbury station yard as described in the second schedule of the Bill will service the south side of the new harbour and provide for the proposed berth for wood chips.

As indicated in the director-general's report, the timing for commencement of work on this line will be dictated by developments with the wood chip industry. Final details of the cost of this proposed line have not been arrived at, but it has been estimated at approximately $200,000. By obtaining the sanction of Parliament at this time for construction of this line, the department will be enabled to proceed with finalisation of any necessary requirements such as resumption of land.

I have for laying on the table of the House a copy of the Director-General of Transport's report together with a copy of W.A.G.R. Civil Engineering Branch Plan No. 62228A.

The plan and report were tabled.

Debate adjourned, on motion by Mr. Graham (Deputy Leader of the Opposition).

WILLS BILL

Second Reading

Debate resumed from the 14th April.

MR. T. D. EVANS (Kalgoorlie) [2.56 p.m.]: The greater part of the law relating to the making and execution of a will in Western Australia is to be found in a Statute which this year is 133 years old. I refer to the Wills Act of 1837, an Imperial Act, which, by way of Ordinance, was adopted in Western Australia.

When we come to examine the fact that here we are confronted with a Bill to amend the principal Act which is 133 years old, we may look at the situation in two ways. First of all, we could ask the reason for an amending Bill at this stage. Surely, if the principal Act has existed for 133 years, we could assume it certainly must have stood the test of time. Alternatively, we could say that these amendments have been introduced not before time. Those who have had experience with the operation of the 1837 Statute would have to favour the alternative and agree that the amendments are not before time.

The object of the present legislation is twofold. Amongst the provisions of the 1837 Act is to be found what might be called a great deal of deadwood—references to hereditaments and other interest in land which have never applied in Western Australia. Today the emphasis is placed on a distinction between real and personal property. The Bill before us, therefore, seeks to dispose of much of this deadwood and then to rewrite the existing desirable provisions of the 1837 Act in language which is more meaningful in modern times.

The second purpose of the Bill is to bring together provisions of other Statutes relating to the making, execution, and construction of wills, into one comprehensive piece of legislation.

If members glance at the schedule to the Bill, they will find that reference is made to no fewer than six Statutes which contain provisions relating to wills. These Statutes are first of all to be repealed and then their provisions re-enacted in this measure which will be known when passed as the Wills Act, 1970. It is of interest to note that in this Bill, reference is made to two sections of an Act which was passed by this Parliament only last year.

I refer to the Property Law Act, and therein I refer to sections 116 and 117. Those provisions are also to be repealed, and the identical provisions will find their place in the proposed Act.

I think it is worthy of observation to note that a will is probably the most important document to which a person, during his lifetime, will ever put his pen. With the exception of a will, after a person has signed his name to a paper, if it is found that something has to be rectified it is physically possible, in most instances, to attend to the requirement. However, that is not so in the case of a will because a will, by law, does not take effect at the time of execution, but at the time of death of the testator.

I have often felt that steps should be taken by the Legislature to protect people who are given an assurance and who rely upon home-made wills. However, I can imagine the outcry from the general population if some control was sought to be effected in relation to home-made wills. People would say that it was a law for lawyers, and was an attempt to protect lawyers. That is far from the truth, Mr. Speaker, as you would certainly realise. I would be prepared to say that in most instances the people who make their own wills are, in the long run, the lawyers' best friends.

The present Bill will effect substantial changes in the law in at least two important areas, and it contains a procedural change of great significance. I would first of all refer to the procedural change by drawing attention to a provision of the

1837 Statute which provided that a testator, having drawn up his will, was required to execute it by adding his signature at the end or the foot thereof. That provision has been the source of a great deal of litigation because of the construction placed upon it when various wills and testamentary documents have been taken to the courts where judges have been asked to rule whether the signatures appearing thereon were at the end or at the foot of the documents concerned.

In the proposed Wills Act that requirement will no longer apply and it will be a matter for the courts to determine whether, in fact, no matter where the signature appears on the document, it purports to acknowledge the will as being that of the testator. So long as the court is satisfied that will be sufficient, and the amendment is most desirable.

The other two major amendments to which I wish to refer deal with the substance of the law. First of all, I refer to the provision which requires the testator, having executed his will, to have his signature either attested or acknowledged in the presence of two witnesses. There is a section in the 1837 Statute which provides that if a person, or his spouse, who is named as a beneficiary in a will, should also happen to act as a witness to the will, then any benefit accruing to that person or his spouse becomes inoperative.

In 1968 a case went to the Supreme Court. The case concerned a will in which a testator named his children as his beneficiaries. He provided for two independent witnesses to be present at the time the will was executed, and in the presence of the two independent persons and the two children who were to be beneficiaries under the will, he executed the will. He then called upon the two independent persons to act as witnesses and then, probably in order to feel quite sure that the will had been duly attested, and that there was no question or any doubt as to his intention, he quite innocently and in all ignorance of the law asked his two children to add their signatures to the will as witnesses.

When the will went before the court for the granting of probate, it was found that it contravened a section of the 1837 Statute. The gift to the named children who had acted as witnesses was declared invalid. Soon after that decision a Statute was passed in the United Kingdom to overcome the anomaly. The Bill presently before us contains a similar amendment which provides that a gift to an attesting witness, or his or her spouse, will take effect if the attestation by that person is witnessed by two other independent witnesses and the will is otherwise duly executed. That, too, of course, is a most desirable amendment.

Mr. Brady: Does that mean that a testator can have up to three or four witnesses?

Mr. T. D. EVANS: Only two witnesses are required by law, but one can have as many as one desires. The major reform, and probably the most significant in the present Bill, was not designed by the authors but was introduced in the other legislative House of this Parliament at the behest of the Leader of the Opposition in that House.

The Bill introduced into the other House provided that the existing law would be perpetuated, and that a will made by a person under the age of 21 years was to be invalid. I am pleased to note that the Bill which is presently before us includes an amendment which was effected in the other place, to which I have referred, and which provides that a person 18 years of age will have the capacity to make a valid will. I will conclude this point by remarking that the amendment will acknowledge to the people at large that at long last we are approaching the stage where we recognise that a person of 18 years of age has, in fact—if not completely in law—the capacity to respond to, and exercise his full legal rights the same as a person over the age of 18 years has.

I think that a person who has attained the age of 18 years should have the right to make a valid will. This is the age of the motor vehicle, and when one examines the statistics it is tragic to see the number of persons of tender age—but over the age of 18 years—who have met an untimely death resulting from the use of a motor vehicle. Their relatives, at a time of great trouble, have been put to unnecessary difficulty in seeking letters of administration of the estates of these young people who by law have no right to make a will.

I would say that the law contained in this Bill is of such a nature that it was proper for a Government, rather than a private member, to have initiated it, and I am pleased to indicate the support of the Opposition to this measure. I conclude by saying that we regret the fact that we have not had the opportunity, as a Government, to introduce this Bill ourselves. If we had had the opportunity, it would have been introduced a good deal earlier. I support the second reading.

MR. COURT (Nedlands—Minister for Industrial Development) [3.12 p.m.]: I thank the honourable member for his comments. There is nothing that I specifically want to refer to beyond the point he made about home-made wills. I do not accept it in the spirit that it is aimed at making business for the lawyers. On the contrary, I speak with some experience of the tragedies that have occurred when people have prepared their own wills in their own peculiar way. I know it is very nice if one can express oneself in a good

homely style, but often, as the honourable member said, all one does is to make a gift to the lawyers.

I might relate an incident which adds to the point. There was a time when members of my own profession, chartered accountants, were rather naughty and were guilty of preparing a certain number of legal documents which they should not have prepared. This is going back many years now. It became quite an issue between the Institute of Chartered Accountants and the Law Society. However, when Mr. C. A. Hendry was the chairman of the institute in this State, and Mr. Wallace Unmack, now deceased, was the chairman of the Law Society, they got together, and the chartered accountants brought down some strict disciplinary measures to prevent their members preparing legal documents, thus exposing themselves and their clients to litigation. It is on record that it was thought by certain members of the Law Society that this was the worst thing that could have happened to the legal profession because when documents were not prepared by lawyers they could not blame the accountants if the documents were not satisfactory, and they said they received lower overall fees when they prepared the documents themselves. Whether it is true or not, it is not a bad story, and it does confirm the point the honourable member was making.

A will is a very important document, and the members of the community should appreciate the significance of a will. Often a person who is in very poor circumstances makes a will and it does not matter very much if there are some anomalies in it; but, through unusual circumstances, such a person could die at a time when he had inherited quite a considerable and complex estate, and the home-made will could land his beneficiaries in trouble. I thank the honourable member and the Opposition for their support.

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.

Third Reading

Bill read a third time, on motion by Mr. Court (Minister for Industrial Development), and passed.

METROPOLITAN REGION TOWN PLANNING SCHEME ACT AMENDMENT BILL, 1970

Second Reading

Debate resumed from the 14th April.

MR. JAMIESON (Belmont) [3.17 p.m.]: This is a small amendment that seems to be desirable to clean up the Metropolitan Region Town Planning Scheme Act. As I understand the situation, a similar scheme already exists as far as local authorities are concerned, in that they may enter into arrangements with landholders to conduct a planning scheme which will enable them to share equitably the results of such a scheme without all the ramifications and the necessity for resumptions to put the scheme through that would be required if this amendment were not passed. This has been found necessary in the Kelmscott improvement plan No. 4.

However, this is only the initial scheme. In my experience of other schemes, the Kewdale development initially, and now the industrial development schemes, they are to the benefit of the community. They allow orderly development, and I cannot see that anybody's interests would be prejudiced. The Bill does not widen the scope of the Act; it merely gives power to take certain action, which would be taken anyway, but by other means. It seems to be very desirable that this should be incorporated in the Act because at this time many development schemes are already being undertaken by local authorities. If the schemes are on a larger scale, they can be undertaken through this authority, which will lead to much more orderly development of the metropolitan area.

A great deal has been said about the provisions contained in section 37A under which resumptions are now allowed. Under that section power is granted to the authority to acquire land. Some people have been very upset with that provision as it has been used to resume land for industrial improvement schemes and for other purposes. However, I understand that in the future this will be taken care of by another Act in so far as it affects urban development. It seems to me that the proper thing to do is to tidy up that situation so that people can become a party to an agreement which will enable an area to be subdivided and successfully planned by an overall authority rather than by piecemeal methods followed by the various owners in the area affected.

Not much else can be said on the Bill except that it is designed to tidy up the existing legislation and clearly indicates to the Metropolitan Region Planning Authority that it will have powers to carry out its work instead of adopting the cumbersome method that is followed at present. The Minister has even said it will take a considerable amount of administration to overcome the problems that will be met. Nevertheless they would be no greater than those which are encountered by local authorities when they endeavour to implement their smaller town planning schemes.

This is a worth-while piece of legislation because it gives to the Metropolitan Region Planning Authority authority and power which it did not have before, and it would appear that it will assist in our community affairs being conducted in a more orderly fashion than is the case now.

MR. RUSHTON (Dale) [3.22 p.m.]: This amendment is necessary to allow the Metropolitan Region Town Planning Scheme Act to function more smoothly. We are reaching the point in the Kelmscott improvement plan No. 4 where this amendment is vital for its success. At this stage of the negotiations the scheme, which is a voluntary one, has relation to only 56 owners, and the next step will be to prove how the scheme can be implemented. To my knowledge the owners have not as yet accepted the proposals and therefore this is a crucial stage in the development of the plan towards seeing how successful it will be when it is finally put into operation.

We all know that this Bill has been introduced by the Government to achieve co-ordination and to place more land on the market in an orderly way with a view to attacking the shortage of suitable building blocks and towards reducing the high prices for land which have created many difficulties.

A great deal of negotiation has taken place with a view to implementing the Kelmscott improvement plan. These negotiations have been conducted with the owners in the areas and the local shires. To date, whilst there has been some concern and doubt created because of the lack of knowledge in certain cases, a fair amount of goodwill has been created by the practical negotiations that have taken place. At this stage I am also aware that the shire is not completely satisfied with one or two items of the plan and it is negotiating with the planners to gain satisfaction. I therefore hope that a reasonable compromise will be reached.

I also know that when the proposals are submitted to the residential owners, in particular, they want me to call them together to discuss and evaluate the proposal. This scheme, of course, will enlarge the Kelmscott community tremendously. The area, which is the subject of the plan, is well placed in relation to Kelmscott, which is one of the oldest settlements in this State. The increased development will attract services such as a high school, which is included in the plan, and this will help to round off the development of the area generally. It is situated within the Armadale-Cannington corridor development and it is interesting to note at this point of time the results that have been achieved by the planning.

Houses are being erected close to this area. The land was only rezoned in recent times. Therefore, the attempts of the Government to place more land on the market for the erection of new homes has shown positive results. We already know the results that have been achieved to date, and that so far they have been reasonably successful.

I would like to record that we certainly need to co-ordinate the various transport systems to keep abreast of this development. What was originally a reasonably small community is rapidly growing in size through the influx of a large number of new residents. As members know, the opportunities for employment in this area are not very great, and therefore the Railways Department and the M.T.T., in particular, will need to upgrade their transport systems within a reasonably short time. However, I am aware that consideration is being given to this matter. At the present time an assessment is being made to evaluate the needs of the area in the future.

As the previous speaker said, this amendment is necessary to allow the Kelmscott improvement plan No. 4 to proceed. With the few comments I have made I hope I have pointed to the fact that the amendment is vital to the Kelmscott development scheme and allows us to ascertain whether the scheme will be successful and worth while to repeat in the future. There is a testing time ahead, but the amendment that is now before us is certainly needed and it has my wholehearted support.

MR. TOMS (Ascot) [3.27 p.m.]: I support this proposed amendment to the Metropolitan Region Town Planning Scheme Act. It is interesting to note that section 37A was incorporated in the Act by an amending Bill that was brought before the House in 1965. I agree with what the member for Belmont has said: that local authorities have achieved beneficial results by taking the people into their confidence whenever they have plans to implement any development scheme.

For that reason alone the Bill is worthy of the support of the House, because it will mean that those who own land will, in the future, be consulted more and more whenever a development scheme is mooted and, in the ultimate, this will avoid many heartaches among those who are affected and will also relieve the Government of the necessity to make unnecessary resumptions.

In the past we have had experience of local authorities, in taking steps to implement their town planning schemes, calling together the people concerned. I have seen many large development schemes put in train by local authorities following this procedure. Therefore, I support the amendment before the House and I hope it will be carried out to the full letter of the law, and that the Government, in its feeling for the people involved, will have harmonious relationships with them. I trust that whenever compensation is necessary it will be paid to the satisfaction of the individual whose land is affected. At this stage I have much pleasure in supporting the Bill.

MR. BURKE (Perth) [3.30 p.m.]: I am prompted to say a few words on this measure, because at the present time the City of Perth and its people are probably affected more by town planning and resumptions that go with town planning, than others in our community.

Mr. Jamieson: You will find it hard to convince the people in Adelaide, with the system they have adopted.

Mr. BURKE: The foresight expressed in this measure for the benefit of the people who are primarily affected should, I think, be extended to all the people and to all types of private property.

The area which I represent has been greatly affected by resumptions. Although attention can be drawn to correspondence of four or five years ago advising people that they would be affected by future plans, there is no certainty that those plans would be adopted; or, if they were to be, when they would be adopted. Subsequently, those people—in some cases five years later—received an order to the effect that their properties would be resumed.

Furthermore, in the plan for the inner city area many properties are likely to be affected, but there is no certainty. The people can obtain no indication from the Metropolitan Region Planning Authority as to when their properties are likely to be affected, if ever. Although I agree that great problems arise in planning the future of a city like Perth, I would like to see the concern expressed in this measure applied generally.

I would also like to make reference to the fact that from my experience I have found that on many occasions people who had lived in their houses for many years were forced to vacate them, but the compensation which was offered was not adequate to replace even the land on which comparable buildings might be erected.

I have one case in mind which relates to a property a quarter of a mile north of the city. This family was offered $13,500 for a four-bedroom brick and tile house. I suggest it would be impossible to replace that house with one of the same size and of comparable standard anywhere in the metropolitan area at that figure.

In expressing my support for the measure I would like the Minister to note that I would appreciate the extension of this sort of concern to my electors and to all others who, because of the inevitable progress and development of our city, are likely to become subject to resumptions.

MR. LEWIS (Moore—Minister for Education) [3.33 p.m.]: I thank the members who have contributed to the debate for their general support of the Bill. The remarks of the member for Perth will be drawn to the attention of the Minister for Town Planning.

I appreciate the difficulty that may be associated with the development of the Kelmscott improvement plan No. 4. I am advised that arising out of this amending Bill the town planning authority will be given the power to develop this land, without having to acquire it. It is hoped that a joint venture between the town planning authority and the developer or developers will be formed, in order that 1,600 reasonably priced building blocks will be made available as early as possible, in addition to—so I am advised—two primary school sites, one high school site, and other very necessary open public space.

Although, as has been stated by the member for Dale, finality has not yet been reached in regard to planning the whole or any part of the area, it is hoped that these negotiations can be conducted with the 50-odd owners involving about 500 acres. I am told that one developer has 150 acres or thereabouts in this area; but the other holdings range from 80 acres to as small as one acre. On these lots I understand there is already some development; a few sheds, a few fowlhouses, one or two small factories, and so on.

Arising out of this it is hoped that a redevelopment programme will be implemented, with the ultimate object of providing a more orderly development, a more modern plan, and about 1,600 building blocks as cheaply and as quickly as possible.

The scheme will require the co-operation and the goodwill of a number of Government instrumentalities to provide the necessary services and facilities to the developers and the local authority. It is hoped that a high degree of goodwill will be fostered; and to obtain this it is admitted that a degree of flexibility in the approach is vital.

The scheme is expected to cost between $4,000,000 and $5,000,000, but it is not expected—if everything goes according to plan—that this will involve much public money. The money will be reimbursed from the sale of the reasonably priced lots. As I pointed out we hope to have three school sites and very useful public open space made available. Altogether I think it is a very useful piece of legislation, and I thank the House for its support.

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.

Third Reading

Bill read a third time, on motion by Mr. Lewis (Minister for Education), and passed.

LOCAL GOVERNMENT ACT AMENDMENT BILL, 1970

Receipt and First Reading

Bill received from the Council; and, on motion by Mr. Court (Minister for Industrial Development), read a first time.

BILLS (3): RETURNED

1. Education Act Amendment Bill, 1970.
   Bill returned from the Council without amendment.
2. Metropoltion Water Supply, Sewerage, and Drainage Act Amendment Bill.
   Bill returned from the Council without amendment; but with a typographical correction.
3. Building Societies Act Amendment Bill.
   Bill returned from the Council with amendments.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT AMENDMENT BILL

Council's Typographical Correction

THE SPEAKER: Before proceeding I would like to make some comments on the procedure as I see it relating to this Bill. I understand the typographical error in question was noted in this Chamber before the Bill went to the Legislative Council. The Clerks in this Chamber drew the attention of the Clerks in the Legislative Council to the matter. We would have had power under Standing Order 298 to correct the error before the Bill left this House but had we done so it would have been necessary to have the Bill reprinted. The Council having referred the matter back to us, we now have no power under Standing Order 298, and I think the simple way to get over the problem is to go into Committee and have the Council's correction accepted.

I might mention that in the Standing Orders Committee' report, which is before the House, a special provision is recommended to cover this very point.

In Committee

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Ross Hutchinson (Minister for Water Supplies) in charge of the Bill.

The correction made by the Council was as follows:—

Clause 3: Amendment to section 5—

Page 2, line 18—Substitute for the word "on" the word "in".

Mr. ROSS HUTCHINSON: This is an obvious error, and I move—

That the typographical correction made by the Council be agreed to.

Question put and passed; the Council's correction agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Council.

Sitting suspended from 3.46 to 4.4 p.m.

INTERPRETATION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th April.

MR. T. D. EVANS (Kalgoorlie) [4.4 p.m.]: The Constitution Act of this State provides that the Parliament is authorised to make laws for the peace, order, and good government for and in the State of Western Australia. This power has some limitations, because if we refer to section 51 of the Commonwealth Constitution we find that the Commonwealth Parliament is empowered to make laws, again for the peace, order, and good government of the Commonwealth in respect of powers contained within placitum xxxix of section 51 of the Constitution. There is a further jurisdictional limit on the power of the Parliament of Western Australia to make laws; namely, in regard to persons who are, or immovable property which is, beyond the limits of this State.

Section 109 of the Commonwealth Constitution provides that where there is conflict between the law of the Commonwealth and a law of the State, the Commonwealth law is to prevail and the State law becomes invalid to the extent of the inconsistency.

It has been the practice in regard to many of our State laws—and, indeed, the Commonwealth has also borrowed the procedure to protect its own laws—to include in those laws a section providing for the severability of any part of such laws that may, in the future, be declared invalid on jurisdictional grounds. This is done with legislation which at the time of enactment —or even after enactment—it is thought could be challenged so far as validity is concerned.

I would like to refer very briefly to a leading text book on the subject of legislative, executive, and judicial powers in Australia. It is edited by Mr. Wynes. I have the second edition of the publication, which is published by the Law Book Company of Australia. Under the heading of, "Severability" we find this passage—

> When an Act of the Commonwealth (or a State) Parliament is found to contain provisions that are *ultra vires*, it does not follow that the whole of the Act is invalid, for it may still be capable of a limited operation. The Act, while in respect of its general subject matter within constitutional power, may purport to apply to persons or things beyond power and may be "entirely valid as to some classes of case and bad as to others," or it

> may contain provisions or sets of provisions some of which are within and some without power, in which case it may be possible to sever the bad from the good. In both cases the basic consideration is the intention of Parliament, but the particular considerations upon which a severance or "reading down" depends may not be precisely the same.

I do not wish to continue with that passage, but I emphasise that the question of whether an invalid part may be read down or severed from the existing law depends upon the construction put upon the legislation as to what was the intention of the Legislature at the time of the conception or birth of the legislation. Firstly, the question becomes: Did the Legislature intend the piece of legislation, part of which has subsequently been declared to be bad? Secondly, the question becomes: Did the Legislature intend the piece of legislation to operate *in toto* and, if not *in toto*, did it intend it to operate at all?

These questions have been, of course, a rich source of difference and of litigation. In many of our Statutes—particularly those dealing with orderly marketing, for example—we find a section which indicates quite clearly what the intention of the Legislature is in the event that any part of the legislation should be declared invalid.

This practice is also adopted, as I have mentioned, by the Commonwealth Parliament, particularly in connection with legislation on orderly marketing. I refer to a series of cases, one of which was taken to the Privy Council. The barrister who appeared for the litigant, Mr. James of South Australia, was Sir Robert Gordon Menzies. One of the cases concerned the construction of one of the Commonwealth Statutes and dealt with the question whether the Commonwealth Parliament had intended the Statute to operate at all, having regard to the fact that part of it had been declared invalid by the High Court of Australia. It was after this case had been decided by the Privy Council that the Commonwealth Parliament adopted the step of writing a clear direction to the courts into the legislation.

In 1968 this Parliament took the step of writing into the Stamp Act a section which clearly directed the court as to the intention of the Legislature. Obviously, at that stage the Government feared that part of the stamp legislation was, in fact, subject to serious challenge as to whether it was valid.

The Bill before the Chamber proposes to obviate the need in the future to write this provision into every piece of legislation about which it may be feared the question could arise as to whether it is to operate at all if any part of it is declared invalid. The Bill before the Chamber seeks the approval of Parliament to write a clear-cut direction into the Interpretation Act, which is the Act which governs the interpretation of all Statute law in Western Australia.

This direction is to be found in clause 2 of the present Bill and it will take the form of a new section 22A to be added to the Interpretation Act. The provision will read—

> 22A. Every Act shall be read and construed subject to the limits of the legislative power of the State and so as not to exceed that power to the intent that, where any enactment thereof, but for this section, would be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

The Opposition supports the passage of the Bill.

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.

Third Reading

Bill read a third time, on motion by Mr. Court (Minister for Industrial Development), and passed.

COAL MINE WORKERS (PENSIONS) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th April.

MR. JONES (Collie) [4.16 p.m.]: This is a very small Bill to amend section 10A of the Coal Mine Workers (Pensions) Act. Members will be aware that under the provisions of the Act controlling the employment of labour in the coalmining industry, the workers—due to the nature of the work—retire at age 60 and do not conform to the general standard to be found in most industries of retiring at age 65.

Under the existing provisions, the Mine Workers' Pensions Fund meets completely the finance involved in the payment of pensions to mineworkers from the age of 60 until 65 unless, of course, a person becomes subject to the provisions of the invalid pension. At the moment the mineworkers are permitted to earn $17 a week in excess of their pension without affecting their pension entitlement and, of course, this is in line with the provisions contained in the Social Services Act.

This amendment will have the effect of permitting those mineworkers who retire at age 60 and who are not in receipt of any social services pension, to earn in excess of the prescribed $17 a week. The amendment will make no impact at all on the financial resources of the Coal Mine

Workers' Pensions Fund, and it will not be involved in any way with the Social Services Act. In the main, it will allow mineworkers to earn a little more than the amount prescribed in the Social Services Act.

The Combined Mining Unions Council requested that this amendment be made to the existing Act, and I have much pleasure in supporting the Bill.

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.

Third Reading

Bill read a third time, on motion by Mr. Bovell (Minister for Lands), and passed.

PERTH MINT BILL

In Committee

Resumed from the 9th April. The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Bovell (Minister for Lands) in charge of the Bill.

Progress was reported after clause 15 had been agreed to.

Clause 16 put and passed.

Clause 17: Special conditions for Royal Mint employees—

Mr. BOVELL: During the second reading debate the member for Belmont raised certain matters relating to the future employment of, and the payment of superannuation and gratuities to, the present employees of the Mint. He also raised the question of the retirement of those employees and their transfer to the State Public Service. I am grateful to him for raising these matters, and progress was reported in order that they could be examined.

Since then discussions have been held between the Deputy Under-Treasurer and representatives of the staff at the Mint. Following those discussions the amendments standing in my name on the notice paper were submitted to give effect to the ideas put forward by the member for Belmont.

The amendments have been carefully examined, and I have been informed that they are acceptable to the staff of the Mint. However one query was raised and the staff of the Mint requested that, should the Mint close or its operations cease, they have the option of retiring under conditions similar to their employment under Imperial control. Alternatively, it was requested that, if they so desired, they should be able to continue on in the State Civil Service, and the Public Service Commissoner should find satisfactory employment for them.

I have discussed this matter with the Premier and it has been agreed that an amendment would not be necessary in this regard. The Premier has agreed to forward to the Master of the Mint a letter committing the Government in this matter —and, of course, this letter would also be honoured by future Governments.

There are many amendments on the notice paper, but the whole import of them is that they clarify the position in regard to the future employment of the existing staff at the Mint. I move an amendment—

> Page 13, line 9—Insert after the word "conditions" the passage "and to have total or partial, as stated on the instrument, transfer of benefits to the Fund".

Mr. JAMIESON: I rise to clarify the situation regarding this amendment and my proposed amendments. For obvious reasons, I will not proceed with the amendments I have on the notice paper. I am indebted to the Minister and the Premier for the undertaking mentioned by the Minister for Lands.

One thing that is not so obvious is that if some future Government decided to transfer the Mint to Wiluna or Kalgoorlie the operations of the Mint would not cease, yet the present employment of the staff is in the City of Perth. If the Mint ceased operations completely, I suppose the situation would be clear enough. However, I feel sure there will be no problem in regard to that point, although I raise it because it might be a problem in the future.

A number of conferences have taken place and many people have worked hard to reach complete agreement between the staff, the Treasury officials, and the State Government. It looks as if the Imperial Civil Service had a hand in the matter, because the local agent, Mr. Smith, of the High Commissioner was in on the conferences.

Possibly the Minister did not cover very fully certain of the things that were mentioned. There was some thought that some of my proposals might be giving the employees double benefits. However, this is not so and it was never intended thus. The intention was merely to preserve the situation and the equity for the men at the time of takeover. In effect, the Government has done this.

Indeed, in letters passing between the Treasurer and the personnel of the Mint it was indicated that there would be no loss of equity. This is not true, of course, because a different set of circumstances will prevail. We can forget the aspect that the Imperial Civil Service is a form of Government service. If these people were in a private organisation and had accumulated a certain amount of pension and then went to work for the Mint, there would be no cause for the Government to take action.

The Government intends to tighten up the position regarding a person claiming his benefits and then offering himself for work at the Mint and being paid both amounts. This is quite unnecessary; if those people desired to do that they could be in a somewhat worse position.

We seem to have arrived at the stage where there are only two salient features that may be queried. One is that if the Mint should close down at some future time the men should then be allowed the conditions that prevailed at the time of their being able to opt for one or other of the several proposals before us. However, I would not worry about that at the moment because there is no prospect of it and in future we will have to let the position look after itself.

The Ministers amendments are somewhat complex and I would like to have a look at the Bill when it is reprinted and ready to be sent to another place. I could then advise my colleague of the position should anything require further tidying up. I think we had better tie up all the amendments we have in one bundle and proceed as far as we can.

Amendment put and passed.

Clause, as amended, put and passed

Clause 18 put and passed.

Clause 19: Benefits under Imperial conditions—

Mr. BOVELL: I move an amendment—

Page 17, line 18—Insert after the word "date" the words "but if he is, for any period after that date, employed in the service of the Crown, the State shall not, during or relating to that period, pay to or in respect of him any superannuation allowance that otherwise would be included in those benefits."

As the member for Belmont said, the amendments he moved were responsible for these amendments coming forward and, with a few exceptions, they carry out the intentions of the member for Belmont. I would seek your guidance, Mr. Chairman, and ask whether it will be necessary for me to read out the amendments suggested.

The CHAIRMAN: That will not be necessary.

Amendment put and passed.

Mr. BOVELL: I move an amendment—

Page 17—Delete subclause (4) and substitute the following:—

(4) In this section—

"employed in the service of the Crown", in relation to a person to whom subsection (2) of this section applies, means employed in any capacity by the Crown in right of the State, or by any department, as defined in section 6 of the Superannuation Act, or by any authority, agency, or instrumentality, of or under the Crown in right of the State, irrespective of whether by the terms and conditions of the employment—

(a) he is employed in a permanent, temporary, casual, or other capacity; or

(b) he is required to devote the whole or part only of his time to the employment,

and irrespective of the manner in which the remuneration for his employment is determined; and

"reckonable service", in relation to a person to whom subsection (3) of this section applies, has the same meaning as it has under the Imperial scheme.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 20: Credits to Fund for established persons—

The clause was amended, on motions by Mr. Bovell, as follows:—

Page 17, line 42—Delete the word "person" and substitute the following:—

person—

(a) where he has elected to have total transfer of benefits to the Fund, in accordance with all the provisions of that scheme; or

(b) where he has elected to have partial transfer of benefits to the Fund, in accordance with all the provisions of that scheme except those relating to an additional allowance.

Page 18—Delete subclause (3) and substitute the following:—

(3) The State shall pay to the Fund an amount sufficient to establish on behalf of an established person referred to in subsection (1) of this section a credit in the Fund of fully paid up units of pension as certified by the actuary in accordance with subsections (1) and (2) of this section and the Board shall credit him with that number in the Fund.

(4) Where an established person referred to in subsection (1) of this section has elected to have partial transfer of benefits to the Fund—

(a) the State shall, in addition to payment to the Fund on his behalf under subsection (3) of this section, pay on his behalf to the Treasurer an amount equivalent to such additional allowance, if any, as the Treasurer determines would have been payable to that person if he were immediately prior to the appointed day a person to whom section 3 of the Superannuation Act 1965 of the Parliament of the United Kingdom applied; and

(b) the Treasurer shall hold the amount paid to him under paragraph (a) of this subsection on trust for the established person, and may invest it in any securities in which money in the Public Account may lawfully be invested, until the employment of that person under the appointment or engagement referred to in subsection (1) of this section ceases but thereupon shall pay the amount to him with all interest derived from those securities.

Clause, as amended, put and passed.

Clause 21 put and passed.

Clause 22: Effect of credit in the Fund—

Mr. BOVELL: I move an amendment—

Page 20—Delete paragraph (a) of subclause (1) and substitute the following:—

(a) in the event of his retrenchment within the meaning of section 66 of the Superannuation Act—

(i) the State shall pay to him the benefits he would have received in respect of the retrenchment if he had, under paragraph (c) of section 17, elected to accept the appointment or engagement on Imperial conditions;

(ii) the whole of the amount paid on his behalf under subsection (3) of section 20, and the whole of any amount paid on his behalf under subseciton (4) of section 20 with all interest derived from the securities referred to in paragraph (b) of that subsection, is a sum of money due and payable to the State;

(iii) he shall be entitled to receive from the Fund the amount or amounts of contributions, if any, made by him to the Fund; and

(iv) notwithstanding the provisions of section 66 of the Superannuation Act, he shall not be entitled to receive from the Fund or otherwise any amount in respect of contributions that are referred to in that section as those which would have been made by the State or that are referred to in this subsection as those for which he is deemed to have completed payment; .

The member for Belmont referred to the possible transfer of the Mint to Wiluna or Kalgoorlie and asked what this would mean to the staff; whether they would be alowed to opt out because of the transfer. I cannot give such an assurance at this moment, because the Mint has not actually ceased operation; it has only been transferred. I do not want there to be any misunderstanding on this point. I will check the position and let the honourable member know.

Mr. JAMIESON: The Minister has indicated he is not sure whether this will mean the closure of the Mint, but it obviously would mean the closure of the Mint in its present position. There could be many people associated with the Mint who would not wish to go to Kalgoorlie on transfer. Indeed, at the moment, there is a similar problem in the British Isles. The Mint has been transferred from London to Wales and people living in London do not want to work in Wales. A similar problem may arise here. The Government has assured the employees that their conditions of work would be no worse, but surely this would not apply if they were transferred and they did not wish to go.

With the high rise flats being built, in 10 years' time there may be pressure to move the Mint to another place. If it were transferred to an area of mineral wealth, some consideration would have to be given to a determination of this aspect. The Minister has, however, indicated that he will have a look at the position and give us a clearer picture of what is implied. I hope the conditions I have mentioned will not merely apply in the resiting of the Mint in the metropolitan area but that

they will also apply in the complete re-establishment of the Mint away from the metropolitan area.

Mr. BOVELL: Since I was speaking I have had some further information on this matter. The position is that this is not an abolition of office and therefore an undertaking could not be given that on the transfer of the Mint the conditions to which I have referred would apply. I want the Committee to be quite clear on this. I would like there to be no misunderstanding in the mind of the member for Belmont.

As the advisers of the Government see the situation, the moving of the Mint would not constitute a cessation of operations or a closure, because there would be no abolition of office of the individual persons concerned. I think I have made it clear to the Committee that the letter of intent from the Premier could not include the undertaking that if the Mint were moved this condition of resignation or retirement could apply.

Mr. JAMIESON: With all due respect to the Minister's advisers, I would say that abolition of office does apply because a person employed in a job in one particular locality is not a person employed in a job in another locality. Therefore I suggest this would be a very clear termination of employment in the locality concerned.

However, we will probably never have to worry about this aspect. Nevertheless, if any employee were advised that his presence was required in Kalgoorlie and his home was in Nedlands and he had no desire to go to Kalgoorlie and did not go, then he would lose all his accumulated assets in the way of pension rights, gratuities, and the like. The information circulated to employees has indicated that there would be no worsening of conditions but if what I have just suggested were to occur, then there would certainly be a worsening of conditions.

I will not labour the point any more, but I would ask the Premier and the Minister to consider this matter again with their advisers and see what can be done in the future.

Sir DAVID BRAND: I do not think there is any need to delay the passage of the Bill. The point made by the honourable member is appreciated, but I think if we are realistic we must realise there will not be a transfer of the Mint from Western Australia when today it is not, in fact, a mint at all.

As far as the State Government is concerned it cannot foresee that in its term of office, or in the term of office of any other Government, it is likely that there will be a mint established anywhere else. This would be the best bet ever! Therefore we are crossing a bridge before we come to it. The Minister has made the situation clear, but we will study the matter in an endeavour to arrive at some satisfactory arrangement.

Mr. Jamieson: That is fair enough.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 23 to 29 put and passed.

Clause 30: Contributions, interest and sinking fund—

Mr. BOVELL: The amendments to clause 30, as they appear on the notice paper, have been submitted at the suggestion of the Auditor-General and have nothing to do with the matters we have discussed previously. The Treasury agrees with the amendments. I therefore move an amendment—

Page 23, line 31—Delete the word "amounts" and substitute the word "amount".

Amendment put and passed.

The clause was further amended, on motions by Mr. Bovell, as follows:—

Page 23, lines 32 and 33—Delete the words "and sinking fund contributions".

Page 23—Delete subclause (2) and substitute the following:—

(2) The Director shall pay to the Treasurer, as sinking fund contributions in respect of such portion of the General Loan Fund as has been applied to the exercise by the Director of any of his powers and functions under this Act, such amounts as may be fixed by the Treasurer from time to time. .

Clause, as amended, put and passed.

Clause 31 put and passed.

Clause 32: Application of profit of Director—

Mr. BOVELL: I move an amendment—

Page 24, line 19—Delete the words "and sinking fund contributions".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 33 to 45 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

House adjourned at 4.54 p.m.