officers or the set-up are not in existence? Any duplication of the existing facilities and officers will mean that the shires will lose some staff, and their duties will be taken over by public servants or by the police traffic control officers. These officers, instead of patrolling the roads, will be sitting in their offices doing paper work, whereas the shire-employed traffic officer can be employed in patrolling the roads all the time.

To put into operation what the Minister hopes to achieve he will have to recruit more officers. In his speech the Minister said that the nucleus of 100 traffic officers from the Traffic Department would be lost, and the department could ill-afford to lose them. I agree with his comments, because a report appearing in *The Sunday Times* of the 7th May under the heading of, "Crime Rate Soars in W.A." bears out what he has said.

Mr. Bickerton: You have misunderstood that. We were discussing a separate traffic authority within the force. The department said it would lose that number of officers overall, whereas if they were kept within the present Police Force they could do other duties as well.

Mr. W. G. YOUNG: I would point out that the police traffic officers are doing other duties as well. The report in *The Sunday Times* states—

> Upsurge in violence, bashings.
>
> The chances of being bashed, robbed or murdered in Perth increases day by day. In the first four months of this year, the City of Lights has had a shadow of violence cast on its streets. . . .
>
> In 1960, the strength of the W.A. Police Force was 1,142 policemen.
>
> Taken on a population basis this was one policeman to every 621 people.
>
> In 1971 W.A. had a population of 1,040,000 people and a force of 1,616 policemen—still one policeman to every 621 persons.

So, in a span of 11 years no improvement in the ratio of policemen to the population has been shown. Can we overnight hope to find a sufficient number of police officers to take over the duties of traffic control in the country and to perform the duties of police officers as well?

If the service is to be improved we will have to accept those officers who are already employed on traffic duties. In answer to a question I asked today, of the four country traffic authorities taken over only three of the inspectors were acceptable to the Police Force. Here we find another source of wastage, because of the criterion that has to be established. From discussions I have had with traffic inspectors I find that they do not like to be transferred, because of the conditions imposed and engagement as first-year constables.

I ask the Minister from where he will recruit the officers to fill the gap? I assure him there will be a gap. We are aware that the transition is supposed to take place on a graduated basis and some areas will be taken over before others. The fact is that the Police Force has not been able to maintain an improved ratio of policemen to the population in the last 11 years. That being so I fail to see from where the additional officers will be recruited.

From those remarks, I am sure that you, Mr. Speaker, will be aware that I oppose the second reading of the Bill.

Debate adjourned, on motion by Mr. Fletcher.

PIG INDUSTRY COMPENSATION ACT AMENDMENT BILL

Returned.

Bill returned from the Council without amendment.

House adjourned at 10.27 p.m.

Legislative Council

Wednesday, the 10th May, 1972

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.15 p.m., and read prayers.

QUESTIONS ON NOTICE

Postponement

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.23 p.m.]: I seek the permission of the House to deal with questions on notice later in the sitting as is usually the case when we meet early in the afternoon.

The PRESIDENT: Permission granted.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.24 p.m.]: I move—

> That the House as its rising adjourn until 11 a.m. tomorrow (Thursday).

Question put and passed.

LEAVE OF ABSENCE

On motion by The Hon. F. R. White (for The Hon. L. A. Logan), leave of absence for 12 consecutive sittings of the House granted to The Hon. J. M. Thomson (South) on the ground of private business overseas.

COMMUNITY WELFARE BILL

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and transmitted to the Assembly.

IRON ORE (GOLDSWORTHY-NIMINGARRA) AGREEMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.28 p.m.]: I move—

That the Bill be now read a second time.

The Bill now before members is to ratify an agreement between the State and Consolidated Gold Fields Australia Limited, Cyprus Mines Corporation, and Utah Development Company, known as the Goldsworthy joint venturers.

This is the same group which signed the original Iron Ore (Goldsworthy) Agreement Act of 1964, the first of the iron ore developers in the north-west of the State, which has, since June, 1966, been exporting iron ore from the Mt. Goldsworthy deposits through the port of Port Hedland.

The agreement follows the decision of the Government not to approve of a proposal by Sentinel Mining Company to assign its rights under the Iron Ore (Nimingarra) Agreement Act to the Goldsworthy joint venturers, and contains a number of provisions which are more favourable to the State than those in the Sentinel Agreement Act.

In broad terms it grants to the joint venturers immediate access to mining area "D," which comprises temporary reserves Nos. 5165, 4521, and 4522. No. 5165 is known as Sunrise Hill, and is at present a ministerial reserve, while Nos. 4521 and 4522 are temporary reserves respectively designated Nimingarra and Yarrie, which were formerly part of the area subject to the Iron Ore (Nimingarra) Agreement Act. These are shown on the plan marked "D" which, together with a plan showing mining area "E" which is the subject of the agreement, I seek permission to table.

The plans were tabled.

For this right, the joint venturers pay to the State $500,000 and to Sentinel Mining $2,000,000, the latter payment being by way of compensation towards expenditure incurred by Sentinel in exploring and proving the reserves.

Once access is granted, the joint venturers are obliged to carry out further investigations and submit proposals for the development of the iron ore deposits. Initially such proposals will only cover the Sunrise Hill area, which will be worked in conjunction with the Shay Gap deposit, which lies in close proximity to it, and is at present being prepared for development by Goldsworthy.

The company plans to increase its output through Port Hedland from the present maximum level of approximately 6,000,000 tons, to a maximum of 9,000,000 tons.

Within two years of ratification of the agreement, the joint venturers have the right to apply for a mineral lease over temporary reserves 4521 and 4522, comprising the balance of mining area "D."

At this stage, the joint venturers will be required to pay to the State a further $324,320 in a lump sum, and an additional $3,150,680 to Sentinel Mining, in three moieties, by way of further compensation for exploration work carried out.

It is expected that the joint venturers, on exercising this option, will immediately commence mining the Nimingarra and Yarrie iron ore in conjunction with the other deposits which they have in the area.

Mining area "E," formerly part of the Iron Ore (Nimingarra) Agreement Act, is to be granted to the joint venturers for the purpose of prospecting for ore under the terms of the agreement and, subject to the payment of the moneys due, on exercising their right to have a mineral lease over all the temporary reserves comprising mining area "D" the joint venturers may submit proposals for the development and exploitation of this ore.

It is thought that there will be a need for some form of secondary processing before the manganiferous ore can be marketed. How this will be accomplished is yet to be worked out by the joint venturers, and the final decision will depend on the result of investigations and experimental work planned for the future.

That is a brief summary of the agreement. I will now go through those clauses which require more detailed explanation.

In the interpretation clause, the definition of "f.o.b. revenue" has been amended from that which applied to the earlier agreements to remove anomalies which have arisen in regard to interpretation.

Under clause 4, the joint venturers are granted rights of occupancy for mining area "D" under the provisions of section 276 of the Mining Act. The rental payable by the joint venturers is $26 per square mile. This is a new rate set by the Mines Department, and compares with the former rate under the original Sentinel Act of $8 per square mile.

Renewals of rights of occupancy shall be at 12-monthly intervals and shall expire, in the case of the area coloured red, which is the Sunrise Hill deposit, once a mineral lease has been granted; and, in the case of the area coloured blue, two years after the commencement date unless, in the

meantime, an application for a mineral lease has been granted over that mining area. This means that the joint venturers have the right to defer any decision in regard to Nimingarra and Yarrie for a period of up to two years.

Under the provisions of clause 5, the joint venturers are to carry out a feasibility study of mining area "D." Considerable work on this area has been carried out by Sentinel Mining, and this information has been made available to the Goldsworthy joint venturers.

Under the agreement, the joint venturers have until the 31st December, 1972, to submit proposals for mining area "D." Initially, it is expected that these proposals will cover only the mining of the Sunrise Hill deposit which, as I explained earlier, will be mined in conjunction with the Shay Gap deposit, which is already in the preliminary stages of development under the provisions of the Goldsworthy variation agreement Act.

Initially, mining of the Sunrise Hill deposit will be at the rate of 1,500,000 tons of iron ore a year and, although there is a curtailment in the sales of ore to Japan, the Goldsworthy joint venturers do not consider that the marketing of this tonnage will be any problem.

The agreement provides that should the joint venturers desire at any time to expand their activities beyond the level of the proposals approved, they shall be liable to submit additional proposals. This requirement is to ensure that the State has the opportunity to impose further conditions, particularly to cover infrastructure requirements, if considered necessary.

Under clause 9, the joint venturers shall have the right to be granted a mineral lease over the area which is shown coloured red in mining area "D." The rental payable on the mineral lease shall be that specified from time to time in the Mining Act. This is to avoid being tied to a basic rental for the full life of the agreement.

A mineral lease over that part of mining area "D," coloured blue—Nimingarra and Yarrie deposits—if granted in the future shall be subject to the same terms and conditions as the first mineral lease. Mineral leases shall be initially for a period of 21 years, with successive rights of renewal of 21 years, subject to the same terms and conditions.

Clause 10 provides for the payment of compensation towards expenditure previously incurred by Sentinel in the exploration of mining areas "D" and "E." The total sum payable is $5,150,680. Of this sum, the joint venturers are committed to pay $2,000,000 once the agreement is ratified, the amount being payable in three moieties with the first payment within seven days of the date of ratification.

The balance of the compensation will be payable only if the Goldsworthy joint venturers make a decision to mine the Nimingarra and Yarrie deposits. This decision is to be made within two years. The total sum then remaining will be payable by three annual instalments.

Clause 12 requires some comment. Members will note that there is an obligation on the joint venturers to spend not less than $5,000,000 to enable them to mine ore. This sum is substantial, but relatively small when compared with the large-scale projects which have preceded it in the north-west and elsewhere in the State. However, it will be realised that the first stage of this project is being brought into production in conjunction with other areas controlled by the joint venturers. The estimated cost of doing that work is in excess of $40,000,000 and the $5,000,000 stated in this agreement would be in addition to that expenditure.

Clause 14 deals with the construction of a road or railway for the transport of ore. Opening up of the Sunrise Hill deposit will not involve the construction of any additional railway. The joint venturers intend to haul this ore to the crushing station and train-loading complex developed for the mining of the Shay Gap deposits.

It will be noted that clause 23 states that nothing in the agreement shall be construed to exempt the joint venturers from complying with any requirement for the protection of the environment.

Clause 25 deals with mining area "E," which encompasses the manganese and manganiferous ore formations. Under its provisions the State shall, on application, grant to the joint venturers rights of occupancy pursuant to section 276 of the Mining Act, with rental at the new rate of $26 per square mile. The rights of occupancy will be for 12 months and will be renewable, and shall expire on the granting of a mineral lease over the area, or on the determination of the agreement.

Under subclause (2), the joint venturers shall carry out exploration, and prepare feasibility studies relating to the establishment of a plant for the secondary processing of ore from mining area "E." Then, provided the joint venturers have entered into a commitment to pay the $3,150,680 already referred to, they may, within five years from the commencement date, be granted a mineral lease not exceeding in total an area of 300 square miles over the temporary reserves comprising mining area "E."

At the time of submitting the application, the joint venturers are obliged to submit detailed proposals of the development contemplated in respect of mining area "E." The proposals require approval of the Minister and, in cases where there

may be a divergence of opinion, the agreement provides for consultation as in similar agreements. It also provides for arbitration in the event of disagreement.

Once the proposals are approved or determined by arbitration, as the case may be, the joint venturers shall be granted a mineral lease for a period of 21 years, with successive rights of renewal for further periods of 21 years.

In the event of the joint venturers' proposals not being approved, or the award on arbitration being in favour of the Minister, the agreement provides that the State shall not grant a lease over mining area "E", to any party until the expiration of 10 years, on terms more favourable on the whole than those available to the joint venturers.

Clause 32, as is normal in such agreements, gives to the State power to resume land required for the purposes of the agreement.

Clause 33 is the royalty clause. For the right to export iron ore, the joint venturers will pay a standard royalty of 11 per cent, with a minimum payment in respect of direct shipping ore of 85c a ton, and 55c a ton in the case of fine ore. There is no minimum payment on fines, or ore with an average pure iron content of less than 60 per cent. The royalty payable on manganese ore is 15c. This rate applies for a period of five years. Thereafter, the royalty payable will be as prescribed in the Mining Act. On manganiferous ore, and locally used ore, the royalty rate is 15c a ton. This is the first increase of royalties, in accordance with the Government's election promise, negotiated with an iron ore company.

Subclause (4) of clause 33 clarifies the point that if ore under this agreement is mixed with other ore which attracts a lesser royalty rate, that proportion of the mixed ore applicable to this agreement shall attract the higher rate of royalty. This subclause was incorporated to ensure that there would be no misunderstanding in this regard.

The balance of the clauses in the agreement are normal machinery ones, which do not need any detailed explanation. I commend the Bill to members.

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

PUBLIC WORKS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 4th May.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [2.45 p.m.]: I was a little perturbed when Mr. Willmott, in the opening remarks of his speech to the second reading debate on the Bill, referred to the fact that the Minister's notes for the introduction of the second reading were not sufficiently clear to enable him to follow them, and he had found difficulty in obtaining the information he required. I regret that, because my colleague, Mr. Jamieson (The Minister for Works), is very meticulous with the preparation of his second reading speeches, and he sent those notes down to me. As will be realised, I cannot accept responsibility for them, but I will draw his attention to the matter and when we receive any further notes from him I am sure they will be up to the high standard usually shown in the preparation of his notes.

In making this reply to the second reading debate, I will now refer to some of the matters raised by those members who spoke to the Bill so that they will have a full understanding of the matters they did raise. I will also make reference to the amendments they suggested.

The Hon. A. F. Griffith: Whilst you are perfectly right about your colleague, the Minister for Works, the Ministers in this House have a responsibility to explain the the legislation to members here.

The Hon. J. DOLAN: I understand that.

The Hon. A. F. Griffith: I do not care what sort of explanation members in another place have been given; we are entitled to an explanation from the Minister in this House.

The Hon. J. DOLAN: When the notes he uses are sent from a colleague in another place, it is fairly difficult for a Minister in this House to anticipate what the line of thinking will be here; because, from my experience, the line of thinking in this House frequently has been the very opposite to the line of thinking in another place.

The Hon. A. F. Griffith: And frequently a lot more sensible.

The Hon. J. DOLAN: That is possible. I will not express an opinion one way or another on that.

The PRESIDENT: Order!

The Hon. A. F. Griffith: The Minister wants to improve his own line of thinking.

The Hon. J. DOLAN: The Leader of the Opposition wants to improve on everything, I think. The first matter raised by Mr. Willmott, which was the same as that raised by Mr. Williams, was in relation to the provision contained in clause 2(c)(iii) which deals with dwellings, hospitals, or other amenities for the welfare of Aborigines. This is a phase of government responsibility which is coming more and more to the fore and could well be brought within the ambit of the Public Works Act if only as an assurance against undue hindrance or delay in projects deemed to be urgent and necessitous, particularly for hygienic reasons.

In a present instance, drainage and effluent disposal from ablution and toilet blocks on a native dwelling area has, of necessity, been located for some years now on adjoining land, purchase of which cannot be negotiated because of doubtful ownership. Resumption under the Public Works Act would clear the way for settlement of difficulties such as this.

I will elaborate further on that from some extra notes which I have so that the matter will be perfectly clear, because, as I have said, this question was also raised by Mr. Williams. Specific reference was made by speakers to the inclusion of "buildings for Aborigines" within the definition of "public work." There are several good reasons for this move, not the least of which is that Aboriginal welfare is a legitimate function of the Government. I should point out to members that land has been purchased for this purpose in the past and mutually satisfactory negotiations regarding price have been concluded with the owners. It would be expected that this would be the common practice in the future. However, the amendment would in future give owners the protection of the Pubic Works Act.

There have also been instances in which the acquisition of land in the country for Aboriginal welfare purposes has been delayed inordinately because it was impossible to trace the rightful owners of land with very old certificates of title. Had the power to acquire the particular land been included in the Public Works Act, simple administrative action could have provided the solution to an awkward situation. I have made further inquiries as to the particular place to which reference was made, and I find it is the native settlement at Mullewa.

The second reference made by Mr. Willmott related to subparagraphs (v) and (vi) of clause 2 (c). The definitions relating to harbours and drainage are intermingled in paragraphs (16) and (18) of the definition of "Public Work" in section 2. It was proposed to separate these references by devoting paragraph (16) to harbours and ports, and paragraph (18) to drainage. That was the only change.

I thought it was unworthy of the honourable member to have introduced in connection with drainage a reference to the South Yundurup scheme, because it has no connection whatsoever with the Bill.

In redrafting paragraph (16) of the definition of "Public Work" in section 2 the term "port" has been introduced in addition to the term "harbour" so as to conform with present-day terminology; and provision is made to meet modern trends in the development and operation of ports by including a reference to land backing for shore installations, storage, and handling of goods and produce to and from ships.

Clause 3 seeks to amend section 16 of the principal Act. It clarifies the provision in section 16 dealing with compensation payable in respect of mining rights granted under the Mining Act. The phrase to be embodied is considered to be inadequate, and the amendment is to clarify the wording without in any way altering the intention of the section. The section does not affect minerals held under freehold titles which have been granted under the Land Act.

Mr. Medcalf raised two points in the second reading debate. The first relates to the position of the word "either" appearing in line 26 on page 5. He suggested that this word be inserted in line 25. Without debating this proposal in a pedantic way, I feel the word is quite all right where it stands, because it links up with either rent or profits.

However, to answer the honourable member more fully I will quote exactly what the Parliamentary Counsel has had to say—

> I had a discussion with Works on this this morning. The advice I gave was as follows—
>
> I have no strong preference, there is no objection to the suggested change, indeed in the amendment it looks better but in view of the general layout of section 63 of the Act into which this amendment has to be fitted I preferred to do it as printed.
>
> If the point of style is decided in the Hon. Member's favour then a similar change would be required to (e) (i) and (e) (iii) and I would then suggest (d) be restyled so that (iii) commencing with the word "where" came out to the margin instead of being a separate item.
>
> This is the crux of the problem stylistically, there are too many "wheres" in section 63.

For my own information I counted the number of times that the word "where" was used. I think it was used on 10 occasions in that section. To continue with the comments of the Parliamentary Counsel—

> I have chosen this format to try and emphasise the various "cases" which have been covered without pulling the whole section to pieces.

Mr. Medcalf questioned the time from when interest should be assessed. The following are the comments of the Parliamentary Counsel:—

> Payment of Interest from date of resumption rather than the date of service of the claim (Clause 9 (e) (iii)).

> This subsection refers to Section 63 (e) of the Principal Act which is to be repealed and re-enacted in a more logical form. There is no alteration to the original intention.
>
> The date of service of the claim is the more suitable date to commence interest payments as claimants frequently enjoy occupation of resumed properties for considerable periods after the date of resumption.

No useful purpose would be served by my going through the provisions of the Bill again. If any of the provisions requires further clarification, I shall give the explanation in the Committee stage.

Question put and passed.

Bill read a second time.

In Committee.

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. J. Dolan (Minister for Police) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 2 amended—

The Hon. R. J. L. WILLIAMS: I move an amendment—

Page 2—Delete subparagraph (iii).

I thank the Minister for his explanation, and I fully appreciate that 98 per cent. of these resumptions are carried out by negotiation. Perhaps I would have been a little happier had the Minister explained that the clause referred to mentioned unimproved land.

I realise the Minister and the Government are full of good intentions in this respect. I could not agree more with the Minister when he says that the Government is responsible for the welfare of Aborigines, and I do not quarrel with that view.

However, what I do quarrel with is the power given under this legislation that at any time any dwelling may be taken or resumed for the welfare of Aborigines. I dislike resumptions. Under this provision it means that any house in the metropolitan area or in the country can be resumed. That does not mean to say I am contending this, that, or any other Government will interpret the provision that way.

The Hon. J. DOLAN: This provision refers to dwellings, hostels, or other amenities for the welfare of Aborigines. The question of the resumption of private dwellings does not come into it, unless by negotiation they are purchased for the subsequent use of Aborigines. The only quarrel I have with this provision is the use of the word "aborigines." The term is accepted by the Commonwealth and will be used in future State legislation. I suggest that is the only amendment to which the Committee should agree.

The Hon. A. F. GRIFFITH: With respect to the Minister, I say it is obvious he does not understand his own Bill. To tell me that this applies only in the event of a building being resumed for subsequent occupation by Aborigines is nonsense.

The Hon. J. Dolan: Thank you.

The Hon. A. F. GRIFFITH: With due respect, it is nonsense. The Minister makes great play of the explanation given him by his colleague, the Minister for Works, so let us see what that Minister had to say about it in another place. He said this—

> Specific reference was made by speakers to the inclusion of buildings for Aborigines within the definition of "Public work." There are several good reasons for this—

He was talking about this clause. To continue—

> —not the least of which being that Aboriginal welfare is a legitimate function of Government.

We do not deny that.

The Hon. J. Dolan: I said that.

The Hon. A. F. GRIFFITH: To continue—

> I should point out to members that land has been purchased for this purpose in the past, and that mutually satisfactory negotiations regarding the price have been concluded with the owners. It would be expected that this will be common practice in the future. However, this amendment will give owners the protection of the Public Works Act in future.

I want to make it clear that as far as I am concerned no prejudice exists in the remarks I make. In fact, it is unfortunate that the word "Aboriginal" must enter this debate. However, I put it to members that if Mr. A owns a house somewhere in the metropolitan area and he is approached by a representative of a Government department who says the department wants to buy the house—and whether or not he discloses the fact at that time that the house is required for the future use of Aboriginal persons does not matter—and Mr. A says that he does not want to sell, what right has the Government of the day to say that under the Public Works Act it has the right to resume the house, and if the owner will not sell it will resume the house?

If the Minister can tell me that there is any equity in that, I would be very interested. Perhaps I might anticipate what he will say, but if this is not what is intended then no purpose will be served by making this amendment, because the Minister for Works said that properties are

purchased by negotiation, but that the provision could be of assistance to owners. He then went on to say—

> I understand a problem has arisen regarding a hostel or some other establishment for natives wherein the flow of septic effluent runs onto a private property. The owner of the private property was last registered way back in 1915, and we have no way of tracing him. Technically, it is easier to protect the interests of the owner and the interests of the Government by way of resumption.

Like fun it is! I will be disappointed if Mr. Ron Thompson does not rise and castigate the Government about this.

The Hon. R. Thompson: You will be.

The Hon. A. F. GRIFFITH: I knew I would be disappointed. No, that is not true at all, really.

The Hon. I. G. Medcalf: You are disappointed.

The Hon. A. F. GRIFFITH: I thought I would be disappointed because this is a Government Bill. Nevertheless, I would have liked Mr. Ron Thompson to voice the same strong objection he voiced on the question of resumptions when he sat in the seat now occupied by Mr. Heitman. I am glad that Mr. Thompson is nodding his head.

The Hon. R. Thompson: I still have not changed my mind.

The Hon. A. F. GRIFFITH: Good. That is one vote the Government cannot expect on this matter.

The Hon. R. Thompson: Don't be too presumptuous.

The Hon. A. F. GRIFFITH: I will be so presumptuous as to say that I will be amazed if Mr. Ron Thompson is not either paired or votes with the Government if there is a division on this matter.

The Hon. G. W. Berry: We will all be amazed.

The Hon. R. Thompson: You may be amazed. I told you not to be too presumptuous.

The Hon. A. F. GRIFFITH: In that case I will not be, but it is worth reminding members that chickens have a habit of coming home to roost. I repeat that it is a pity in a way that the word "Aboriginal" is involved because some people, when trying to decide whether a thing is just and equitable, become involved with prejudice; but that is not intended in this case. We must bear in mind that this amendment will add the words "dwellings, hostel," etc. What is a dwelling? A dwelling is a place where a person lives.

The Hon. J. Dolan: The word "dwell" tells you that.

The Hon. A. F. GRIFFITH: That is right. Even one with my intelligence can understand that. Therefore, under the amendment in the Bill the Minister could resume a person's dwelling. Would that not be the position?

The Hon. J. Dolan: I did not say it would not be. I have not said that at any time.

The Hon. A. F. GRIFFITH: I am asking for clarification.

The Hon. J. Dolan: When I get a chance I will tell you.

The Hon. A. F. GRIFFITH: I thought the Minister understood the Bill and that would be the case.

The Hon. J. Dolan: Of course I do. It is you who says I do not.

The Hon. A. F. GRIFFITH: I do not think the Minister does on that particular word; because he says the provision will apply only if the property is intended for an Aboriginal person or the subsequent use of an Aboriginal person.

The Hon. J. Dolan: That is how I read the Bill.

The Hon. A. F. GRIFFITH: Even if it were, what I attack is the principle involving a man being obliged to sell by way of resumption something which, in fact, he does not want to sell. I have said before that if a person owned a small or large block which was required for the building of the Narrows Bridge, and he would not sell his property because he lived on it and he disregarded the fact that the bridge would benefit 250,000 people who would travel to and from work over it, then, because the bridge was in the interests of the State, the person's property should be resumed.

However, I cannot say the same regarding the suburban dwelling of a private individual who does not want to dispose of that dwelling to a particular person.

The Hon. R. Thompson: Is there any difference between that and a person's property being resumed to make way for industry?

The Hon. A. F. GRIFFITH: Yes. I think there is a great deal of difference.

The Hon. R. Thompson: When the house will be demolished, the area fenced, and the land never used?

The Hon. A. F. GRIFFITH: A good deal of difference exists in a situation like that because an industry might well be for the general benefit of the public. In fact, it might be an industry which creates job opportunities, and the Government of which Mr. Thompson is a member should agree with that, particularly in view of the present unemployment situation in Western Australia.

So the situation is really different and, therefore, I think the move by Mr. Williams is a good one. I cannot see why the Public Works Department, in the execution of its duties for another Government department, should not go onto the open market as Mr. Jamieson has said it now does, and as it will continue to do.

The CHAIRMAN: Order! I refer the honourable member to Standing Order 83 which prohibits allusion to any debate in the Assembly during the current session.

The Hon. A. F. GRIFFITH: I know the Standing Order, Sir, and I hope you will recall that I was not quoting from *Hansard*. I merely stated what had been said in another place. However, I get the message. As the Minister for Works has said, at the present time purchases are made by way of negotiation.

The Hon. L. A. LOGAN: I support the amendment for a different reason. We have just passed legislation dealing with native welfare, and the Government went to extreme pains to ensure that no mention whatever was made of "Aborigines" in the Community Welfare Bill. The Government did not want to differentiate. However, the Government has immediately introduced another Bill which will differentiate, and will separate the people of one colour from those of another colour. I think it is wrong to introduce this principle in the legislation now before us.

The Hon. J. DOLAN: If Mr. Logan's only objection is the use of the word "Aborigines" I see no reason why the word cannot be removed from the Bill.

The Hon. A. F. Griffith: That would not alter the power of the amendment.

The Hon. J. DOLAN: The Minister in another place has referred to the fact that 98 per cent. of resumptions were done by negotiation. I doubt whether in the other 2 per cent. there would be any reference to Aborigines. A man could own two or three adjoining homes, and he would not want one of them resumed for the purposes mentioned in this particular Act. If he objected the resuming authority could go elsewhere.

The Hon. A. F. GRIFFITH: In my opinion the removal of the word, "Aborigines" would not solve the problem. I emphasised the fact that it was a pity the word was in the Bill, for the very reasons pointed out by Mr. Logan. I object strongly to the Minister for Works having power to take a dwelling away from a man who does not want to sell. I do not care whether it is only one case in 10,000; the basic principles of freedom belong to a man in ownership when he says that he does not want to sell. The department can then negotiate elsewhere with someone who does want to sell.

The Hon. F. D. WILLMOTT: I previously reserved the right to make up my mind after listening to the debate. I support the amendment moved by Mr. Williams for the reasons already enunciated. If this provision is inserted in the Act it will affect negotiations for the purchase of land because the vendor will know that the land can be resumed under the Public Works Act. I do not agree with that because the bargaining power of the vendor will be weakened.

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

Ayes—15

Hon. C. R. Abbey	Hon. I. G. Medcalf
Hon. G. W. Berry	Hon. F. R. White
Hon. V. J. Ferry	Hon. R. J. L. Williams
Hon. A. F. Griffith	Hon. F. D. Willmott
Hon. Clive Griffiths	Hon. W. R. Withers
Hon. J. Heitman	Hon. D. J. Wordsworth
Hon. L. A. Logan	Hon. G. C. MacKinnon
Hon. N. McNeill	*(Teller.)*

Noes—10

Hon. R. F. Claughton	Hon. J. L. Hunt
Hon. D. K. Dans	Hon. R. H. C. Stubbs
Hon. S. J. Dellar	Hon. R. Thompson
Hon. J. Dolan	Hon. W. F. Willesee
Hon. Lyla Elliott	Hon. R. T. Leeson
	(Teller.)

Amendment thus passed.

Clause, as amended, put and passed.

Clauses 3 to 8 put and passed.

Clause 9: Section 63 amended—

The Hon. I. G. MEDCALF: I thank the Minister for his courteous reply in connection with the rather pedantic point I raised. As I assured him at the time, I have no intention of making anything of it. I merely wanted to draw attention—and, if necessary, correct—what I thought was a mistake in the wording of the section. I am quite satisfied there is as good an argument for his point of view as for mine.

The Minister went on to describe the number of times the word "where" appears in this clause. This illustrates, surely, that there is room for a considerable amount of improvement in the wording of some of our legislation.

The Hon. J. Dolan: Those words are in the original Act.

The Hon. I. G. MEDCALF: I have said on a number of occasions—and I am sure the Minister has, too—that it is desirable to make legislation easily understood, as far as possible, instead of obscuring meaning by a great deal of semi-legal language which is often not necessary.

I should now like to deal with a point of substance which I raised in connection with clause 9; namely, the date when interest is payable when a person seeks compensation. I suggested interest should be payable from the date of the resumption of the property rather than the date when the claimant serves notice of his claim on the Public Works Department. It seems to me the date of resumption is, in fact, the right date to take. The Minister has told us—and I am, in fact, aware—that this is merely a repeat of what appears in the original Act. We are talking about properties which do not produce any rents or profits. I refer the Committee to proposed new paragraph (e)(iii). This means that where land, which does not produce

any rent or profits, has been resumed and compensation is payable, interest shall only be paid from the date of the service of the claim on the Public Works Department. I make the point that interest ought to be paid from the date when the property is resumed.

The Minister said in his reply that in many cases the claimant continues to enjoy the property by residing on it or by making some other use of it until he serves a claim. Probably he could continue to live on the property even after he has served a claim. I still believe that if the land is resumed and interest is payable surely the relevant date for commencement of interest is the date of resumption. This is my point and I will not make further issue of it. It appears in the original Act and I do not propose to move an amendment but I do believe it is worthy of consideration for a future occasion.

The Hon. J. DOLAN: I shall draw the Minister's attention to this so that he may look at it when any further amending legislation is proposed.

Clause put and passed.

Clauses 10 to 13 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

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

STATE HOUSING ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [3.29 p.m.]: I move—

That the Bill be now read a second time.

This Bill amends the State Housing Act, 1946, in three important respects, namely—

The eligibility of persons seeking housing assistance under the legislation;

The amount which the commission may advance to an eligible applicant wishing to build or to purchase a dwelling;

Enlarging the Act so that the State can make financial advances to building societies and like institutions in accordance with the new housing financing measures unilaterally determined by the Commonwealth for the quinquennial period 1971-72 to 1975-76.

I wonder whether the word "quinquennial" is really necessary.

The Hon. G. C. MacKinnon: There is no law to make it mandatory.

The Hon. W. F. WILLESEE: The Bill also amends the Act to make rental rebates to tenant families whose limited means preclude them from paying assessed rentals without experiencing financial hardship.

It has become increasingly obvious over recent years that the existing income levels set for eligibility for State Housing Commission assistance are excluding more and more of the lower income group in the community from assistance through the commission. This has been brought about mainly through the present levels of income applicable, which are as follows:—

$2,956.28 per annum for the metropolitan region;

$3,468.39 per annum for the country regions south of the 26th parallel; and

$5,535.39 for that portion of the State north of the 26th parallel.

Despite the scope of eligibility being increased slightly through an increase in the basic wage and an extension of the additional allowance of $100 per annum for each dependent child under the age of 16 years to cover dependent children under the age of 21 years, the maximum levels of income have not kept in line with the upward movement of wages and prices.

It has been considered for some time past that the eligibility for State Housing Commission assistance should be reviewed annually, taking into account all those factors which influence a person's ability to obtain a home. Those factors would include the wide differences in prices which apply between the various geographic regions of this State. The main factors are—

The cost of the various types of housing built by government, local government, co-operatives, and private enterprise in any one region or part of the State;

the wage and income levels existing therein;

the socio-economic aspects which are likely to have a bearing on the question; namely,

the likely extent of funds likely to be available for public housing;

the waiting period compared with the time required for an applicant to be satisfied through other than the Government sector; and

interest rates and the term of repayment.

Briefly, it is considered that the geographic spread of costs in this State necessitates an annual review and advice

to the Government of the day regarding the level of income which should be set for eligibility for State Housing Commission assistance.

In undertaking such a review cognisance will be taken of the capacities and policies of the building society movement, the savings banks, insurance companies, and all other home-finance agencies. The effect of the operations of the Housing Loan Guarantee Corporation, the home savings grant, and the Housing Loan Guarantee Act will also be taken into account when considering the elimination of risk in high ratio loans to home buyers of moderate means.

Such consideration will ensure a more comprehensive review of demand needs and resources than has been the case in the past. The review will take into account the new home finance arrangements which have been finalised between the Commonwealth and the States for the five-year period from 1971-72 to 1975-76.

A further aspect of the question of eligibility is that the State Housing Act has been in existence in this State since 1947—it followed the Workers' Homes Board legislation which came into being in 1912—and it has always been accepted that a tradesman would be eligible for State housing assistance.

This long established and traditional assistance has been denied to tradesmen during the past few years. The Government has approved the principle of eligibility being restored to a tradesman and to those other workers with an equitable pay standard for a 40-hour week.

The Hon. G. C. MacKinnon: As you are enlarging the range of people who can apply, it must of necessity follow that you are going to enlarge the funds available to the State Housing Commission.

The Hon. W. F. WILLESEE: I think that is logical. Otherwise, we would just add to the numbers.

The Hon. R. F. Claughton: As wages have increased, the numbers have been diminishing.

The PRESIDENT: Order! Order! Would the Minister please address the Chair.

The Hon. W. F. WILLESEE: When the Commonwealth presented its new ideas on financing State or public housing it stressed that housing grants would have to apply to housing built and financed by State housing authorities as well as that financed by building societies and similar institutions which received State advances and consequential grants.

It has been stressed repeatedly by the Commonwealth that the grant was designed to assist with the provision of welfare housing, which it will be noted from the subsequent explanation, included advances made to building societies for the purpose of assisting those on a moderate income to obtain their own homes.

The Government and the commission, therefore, believe that a "tradesman" quite accurately comes within the scope of moderate income and should be eligible for both State housing and that financed by building societies operating under the State home builders' account scheme. In fact, this higher level of eligibility will assist the financial security of the societies and the commission.

It is appreciated by the Government and the commission that higher levels of eligibility for the three principal divisions of the State could bring increased demand upon the State Housing Commission. However, it is now apparent that today's home-seeking public are aware of the many avenues, particularly those of the building societies and savings banks, open to obtain homes on low deposits and longer terms, assisted by interest rates brought about through guarantee, indemnity, mortgage insurance, and interest subsidisation applying to a very much higher percentage of the community than when the State housing schemes emerged at the close of World War II.

It must be borne in mind, of course, that with the numerous avenues now available to satisfy a desire for improved housing, it will be open for a Government and its housing authority to consider, should circumstances so warrant, the introduction of needs criteria as a means of regulating the housing demand upon the public sector.

Over recent years it appears that about half of the metropolitan applicants who have been housed by the commission have constituted demand, the remaining 50 per cent. being real need and, at times, real and urgent need, which continues to be met promptly when proven.

As regards the increase in the amount which can be advanced or loaned by the commission on mortgage security, it will be apparent that the present level of building costs needs to be recognised.

At present the ceiling is $8,000, having last been fixed in the mid-1960s. As building costs of commission homes have been increasing by around 3 per cent, per annum, it is believed there is every justification to lift the ceiling to $9,000.

This provision has not been extensively used over recent years, possibly because of high land costs which have led applicants to look to buying a group house erected on commission land. Nevertheless, it is considered that the provision should be updated so that an eligible individual who has saved a substantial deposit and provided his own land can be assisted. The figure proposed equates that recently approved for war service homes assistance.

Before I deal with the provision of powers to establish a State home builders' account, I believe it is desirable to place on record an outline of the Commonwealth proposals

as presented at three separate meetings between the Commonwealth and the States before the State Grants (Housing) Scheme was accepted.

Between 1945 and 1971, housing finance for the States was provided by the Commonwealth after each State had indicated the percentage of its approved works and housing loan programme it desired for housing purposes. This money was made available over 53 years on equated repayments with interest, since 1956, being 1 per cent. below the long-term bond rate obtaining as at the date of borrowing. Under this arrangement, the Commonwealth was responsible for the whole of the sinking fund arrangements, whereas under normal loan financing these are shared between the Commonwealth and the State.

In late 1970, a conference—called by the Commonwealth Department of Housing—of experienced housing officials, discussed the essentials for a new housing agreement in view of the 1966 agreement of five-years' duration expiring on the 30th June, 1971.

Nothing transpired at that meeting which gave the States any lead that an entirely new approach was likely to be presented to the States in 1971. In fact, it seemed fairly certain that the States could expect the Commonwealth Minister to outline, or at least discuss, the Commonwealth's ideas at the Housing Ministers' Conference proposed for Hobart in early 1971, which never eventuated because of ministerial changes following the change of Prime Ministership.

As there were no imminent leads of any new concepts, this State—when presenting its 1971-72 loan programme for Commonwealth review prior to the Loan Council meeting—proposed, as it has done for many years, that it would only require $12,500,000 under the Commonwealth and State Housing Agreement, 1966.

After the agreement expired, the Commonwealth introduced "stop-gap" legislation which enabled it to make funds available to the States for housing purposes. At no stage did the Commonwealth write officially to this State and outline its new concept on housing finance, though it is understood that a very "broad band" explanation was outlined by the Prime Minister at the close of the Loan Council proceedings.

On the 27th August, 1971, the Commonwealth Minister met State Housing Ministers and their officers in Canberra, and released the Commonwealth's new concept that for a five-year period commencing from 1st July, 1971, the States would receive, firstly, a housing assistance grant, and, secondly, a rental assistant grant—provided the State allocated 30 per cent. of its advances for welfare housing to building societies, which were to receive also 30 per cent. of the housing assistance grant.

It was explained that the housing assistance grant would, in the Commonwealth's view and calculations, allow the States to reduce interest rates by at least 1 per cent. below the long-term bond rate applicable at the time the State borrowed.

As there had been inadequate time to study fully the ramifications of the new scheme, and the proposals had been unilaterally prepared by the Commonwealth, despite earlier appearances of co-operation with the States on any new housing financing, the State Ministers decided unanimously to walk out of the conference—an action which our Minister for Housing thought to be rather rude.

Western Australia had the further objection that the Commonwealth had fixed its share of the housing assistance grant and the rental assistance grant on the basis that its welfare housing—in Commonwealth terminology—was serviced by the advances made under the Commonwealth and State Housing Agreement.

Out of a budget provision of $20,500,000 which came within the ambit of the Commonwealth's definition of welfare housing, this State's share was based on $12,500,000 which meant that the resultant share of the housing assistance grant, when applied to interest reduction of funds allocated to both the societies and the commission, would be less than the minimum 1 per cent. benefit claimed by the Commonwealth.

The rental assistance grant was also adversely affected through the Commonwealth's incorrect assumption that this State's welfare housing programmes were financed only by Commonwealth and State Housing Agreement advances, and not as was the long-standing practice to use both Commonwealth-State advances and also loans from State loan funds by the issue of State Housing Commission debentures and domestically generated funds. Queensland was similarly disadvantaged when compared with the other States which substantially relied on Commonwealth-State funds for their public or welfare housing programmes.

At a subsequent officers' conference, much of the inequity to this State was eliminated. There followed a second meeting of State Ministers in Sydney with the Commonwealth Minister and this resulted in the States accepting the new proposal, albeit with some protest—despite the assurance of the Commonwealth Minister that the Commonwealth would not interfere with the States in the conduct of the new arrangements, where such arrangements were certified by the Auditor-General as being in accord with the basic requirements of the two grants which are, in effect, interest subsidisation on the one hand, and rental rebating on the other.

Apparently the Commonwealth also recognised that its earlier requirement of 30 per cent. of the whole of this State's loan funds being channelled into welfare housing was too demanding and, therefore, proposed that as there had been inadequate time, or notice, for altering its planned programme, that for the year 1971-72 it would limit the percentage to 24.1 per cent. which proposal was not objected to by the other States and consequently was accepted by this State.

Throughout the three conferences, the Commonwealth—through its Housing Minister and its officers—was adamant it would not accept any variation of its original proposed method of housing and rental assistance grants for what it constantly referred to in discussion—but not in its legislation—as welfare housing.

However, throughout the third and final meeting, apparently because of concern that the State might again refuse the scheme, the Commonwealth Minister often stated that the new arrangements were flexible and the States would be subject to the minimal Commonwealth interference.

In recent weeks it has been stated that this State's operation breaches the Commonwealth scheme because of the fact that 50 per cent. of the new State—not Commonwealth and State—home builders' account can be used by societies for financing housing for home purchasers on exactly the same terms and conditions as applied when societies received 30 per cent. of the Commonwealth-State home builders' account.

Simple calculation will disclose that after the first year, societies will receive advances at must the same level, and they may allocate these as they did under the 1956-1971 agreements.

In regard to the other 50 per cent. of the State home builders' account, attention is drawn to the fact that, for some years past, it has been recognised that, because of the tremendous growth of the building society operation and funds in this State enabling the movement to finance over two-thirds of metropolitan housing, the real unsatisfied housing need lay in the low or limited income groups which included migrants and many young marrieds, and had to rely heavily on the State Housing Commission provision of both purchase and rental housing.

Sitting suspended from 3.48 to 4.05 p.m.

The Hon. W. F. WILLESEE: It will also be recalled that the previous Government had rightly authorised the commission to increase its programmes during its later years in office so that this demand and need might be adequately met as well as help provide employment for builders and tradesmen who were looking for construction work through having met the demand and needs of the moderate and higher income market. This buildup of both applications and programmes for purchase dwellings of modest design but of sound construction was one which this State had to consider when the Commonwealth made known its unilateral but unalterable scheme.

Publicity as to programme intentions had to be taken into account as builders and the industry in general looked to the commission to continue to service the demand and needs of the lower income groups.

This situation was comprehensively conveyed to the Commonwealth by the State and resulted in approval of the State's scheme of requiring the building societies to finance from the remaining 50 per cent. of the State home builders' account houses built by the commission for eligible applicants under the State Housing Act. Without this arrangement, the commission would not have been able to continue to provide the volume of low-cost housing which was then in the greatest need and continues to be in the greatest need now.

Because of the need under the new arrangements to allocate 30 per cent. of nearly $21,000,000 to the home builders' account instead of the previous requirement of only 30 per cent. of $12,500,000, there is a diversion of a substantial sum away from Housing Commission operations. This would result in at least 200 applicants each year not receiving an offer of a purchase home, and that figure would of course accumulate over the five years of the arrangement.

The new policy of requiring 50 per cent. of home builders' account funds to be used in financing purchase by commission applicants is to overcome this lengthening of waiting time for purchase homes.

It will be seen that societies, which were consulted prior to this scheme being implemented, are in a better position than under the old Commonwealth-State arrangements, as they receive greater advances and grants than hitherto, and have a larger pool of clients—all of whom they can screen before approval.

For both arrangements the societies will receive their 30 per cent. share of the grant, which is all the Commonwealth legislation requires. This part of the scheme is no different from that of an acceptable client asking a society to finance a home built by a project builder and made available for sale through a selling agency.

An explanation of the background and reasons for this State's approach to the State home builders' account, and the housing assistance grant allied thereto, was considered desirable in order that members be kept informed. This would

not have been necessary had the Commonwealth fixed the size of the grants—particularly the housing assistance grant—realistically to the funds allocated by this State to welfare housing by consultation and not by unilateral action.

Continuing with the explanation of the housing assistance and rental assistance grants, due to sinking fund contribution considerations between the Commonwealth and the States, the first is in reality a rather complicated formula for reducing interest rates for housing finance and housing provided by State housing authorities, building societies, and approved institutions, for persons of low and moderate incomes.

This grant shows that the Commonwealth recognises the need to assist such home purchasers with what is in effect, an interest subsidy. Because it was to the benefit of the income groups which need such support most, the States finally accepted the Commonwealth's proposal, which results in this State receiving in each year a fixed percentage of 11.4 per cent. of the total grant of $2,750,000 fixed by the Commonwealth for each of the five financial years 1971-72 to 1975-76.

The Bill sets out in detail how the State home builders' account will be conducted to meet the requirements of the Commonwealth Act—The States Grants (Housing) Act, 1971—and to provide that protection and security for public moneys advanced under specific conditions from that account.

The protection and security powers parallel those contained in the expired Commonwealth and State Housing agreements, 1956-1966.

It will be appreciated that the creation of large scale housing estates can lead to delays in issue of individual titles for home sites. Therefore, where societies and other approved institutions operating under this State's approved employment of the housing assistance grant are unable to have title as required by the Building Societies' Act, authority has been given for the societies to make advances to low and moderate income families so that they are not delayed in taking occupancy of their new homes. Thus, societies will be able to lend without security of a first mortgage, but only where the title for the land built on is held by the commission pending the issue of a new title, which will issue to the society for security endorsement upon being available.

The rental assistance grant requires some explanation. The original Commonwealth and State Housing Agreement, 1945-1955, provided that rental rebates could be granted to tenants whose family income precluded them from paying the economic rent without undue hardship. The cost of the rebate was shared between the Commonwealth—three-fifths—and the State—two-fifths.

It was a significant aid to both low income tenants such as pensioners of all categories, deserted wives, or widows with dependent children, and to low income workers—particularly in difficult economic times. It materially assisted the States to provide housing without undue burdening of the States' limited finances so often required for other urgent social requirements.

In the 1956 and subsequent agreements, the Commonwealth terminated the rebate arrangements, and indicated that an interest subsidy of 1 per cent. should compensate the States for any rebates they might care to make.

This State continued to grant rebates, which are currently charged against the commission's revenue to the tune of $600,000 per annum. Because of the growing size of the cost of rebates through the spread of operations into remote localities and the increased number of unfortunate families which are housed by the commission, this State—with all others—has for many years been pressing the Commonwealth to revert to, or implement, a rebate system similar to that operated under the 1945 agreement.

At long last, the Commonwealth has responded to repeated representation and, in this case, has provided that this State will receive 11.5 per cent. of an annual rental assistance grant of $1,250,000.

This grant can be used to reduce rents of homes occupied by families unable to pay the rents fixed under the 1956 to 1966 agreements and under the new arrangements where the State Minister deems that such rebate is necessary.

As previous rebating was carried out under the authority of the Commonwealth and State Housing Agreements, which have now expired, it will be seen there is need for the Minister to have power to set criteria for granting rebates to tenants of commission homes.

As advances have been made from the State home builders' account already, acting in the public interest to assist the building industry and to meet demand from intending home purchasers, provision has been made in the Bill validating what has been done pending these proposed amendments becoming operative.

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

GREYHOUND RACING CONTROL BILL

Second Reading

Order of the day read for the resumption of the debate from the 3rd May.

President's Ruling

THE PRESIDENT (The Hon. L. C. Diver) [4.16 p.m.]: The Hon. A. F. Griffith has asked for a ruling as to whether this Bill requires a Message from the Governor.

Section 46 of the Constitution Acts Amendment Act provides that a Bill for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has been recommended by Message of the Governor to the Legislative Assembly. This section refers to appropriation from the Consolidated Revenue Fund.

Clause 16 of the Bill calls for the establishment of a greyhound racing control fund into which shall be paid all receipts, and from which shall be paid all expenses of the board. There are also provisions for borrowing and repayment of moneys.

I consider therefore that there is no charge on the Consolidated Revenue, and I rule that the Bill does not require a Message from the Governor.

Debate adjourned until a later stage of the sitting, on motion by the Hon. W. F. Willesee (Leader of the House).

TRANSFER OF LAND ACT AMENDMENT BILL

Second Reading

Debate resumed from the 2nd May.

THE HON. I. G. MEDCALF (Metropolitan) [4.18 p.m.]: This Bill seeks to appoint a deputy commissioner to act as the Commissioner of Titles and to have, in all respects, the same powers as the commissioner.

I think this is a very sound move and I note that it has the approval of the Commissioner of Titles. Over the years the Commissioner of Titles has been one of the most co-operative civil servants employed by the Crown. He has been co-operative to the general public as well as to members of the legal profession, to land agents, and to members of the banking fraternity who have had dealings with him.

He has placed the Titles Office on a very high plane, and has continued to maintain it on a very high plane. The deputy commissioner, whom the Bill seeks to appoint, will, I hope, be a man of the same calibre as the Commissioner of Titles. If we can find such a man I believe it will be very advantageous, because the work of the Titles Office has increased substantially over the past few years. Hence I believe this move by the Government to establish a deputy commissioner who will have the same powers as the commissioner is desirable, and I support it.

The Bill also contains an amendment to section 129C of the Act. This section gives the court power to cancel a restrictive covenant. Under section 129C, where land is subject to a restrictive covenant and the covenant is no longer of any beneficial use to the neighbourhood or to the persons who enjoyed it, and in certain other cases, the court or a judge has the power to discharge the covenant from the title.

The proposal in the Bill will allow the court to have power to discharge easements as well as restrictive covenants. A restrictive covenant—to give a concrete example—is where land contains a restriction on the type of building, such as a particular covenant providing that no building other than in brick and tile can be erected on the land.

The court already has power to discharge restrictive covenants where they no longer are of benefit to the neighbourhood and in the other circumstances mentioned in section 129C, which was agreed to in 1950 when the Act was amended. Now it is sought to include easements.

An easement is, for example, a right of carriageway or some positive right; whereas a restrictive covenant is a negative sort of right. Now easements are to be treated in the same light as restrictive covenants, and I support this amendment.

The circumstances in which a court can discharge an easement are where there are changes in a neighbourhood, or changes in the type of land use; for example, a right-of-way which has not been used for a period of 20 years. In those circumstances it would be perfectly legitimate for that easement to be discharged from the title or where all the persons of full age, who are concerned, agree that it should be discharged. This is an additional power, and no doubt it will be exercised carefully by the courts in accordance with normal practice.

In addition the Bill gives the Commissioner of Titles the power to lay down alternative forms, by the promulgation of regulations rather than by seeking the approval of Parliament whenever new forms are to be used. This change in forms will now be laid down by regulation, and the matter will simply come before Parliament in the way that regulations normally do. In the meantime the new forms can be put into use by the Titles Office.

Finally, the Bill proposes to amend sections 229A and 230. These two amendments also relate to easements and they will enable the commissioner himself, and not the court in this case, to discharge an easement when land is brought under the operation of the Transfer of Land Act. This is what is referred to as the old system of land, or land under the old system of titles, which for the first time comes under the Transfer of Land Act. Where there are easements, such as rights of carriageway or some other rights which have not been used for 20 years, the commissioner can leave the easement off the new title when he issues it. By leaving it off, the

easement cannot be restored again, as can other easements. In all respects I believe this is a beneficial amendment, and I have no hesitation in supporting it.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [4.24 p.m.]: I desire to do no more than thank Mr. Medcalf for his elucidation of the provisions of the Bill, and for the clear way in which he gave his explanations. I also thank him for his 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.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and passed.

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the 2nd May.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [4.28 p.m.]: First of all I would like to thank Mr. Logan, Mr. Medcalf, and Mr. Wordsworth for their contributions to the debate, and for the queries they raised in respect of the Bill. There seems to be a little divergence of opinion between some members.

Mr. Logan supported three of the amendments in the measure but he has doubts about the fourth amendment. I think I will be able to resolve those doubts to his satisfaction. As I proceed I will refer to the points which have been raised by other members during the debate.

Regarding the amendment dealing with variation of town planning schemes, with which Mr. Logan was not happy, the Minister in another place and I are not making the statement that many local authorities make amendments to schemes without knowledge of what they are doing. Both the Minister in another place and I wish to express the view that in many instances a number of quite minor amendments are proposed separately over a period of time to, say, a scheme map without the impact of such action being apparent to the contents of a scheme text.

Furthermore, the need for an amendment may not necessarily be appreciated or accepted by the administration whereas the landowners and developers may feel they have a perfectly reasonable amendment to request to scheme. Airing of the scheme by re-examination and objection should enable both parties to clarify the position to the advantage of the community.

As regards cost, a town planning scheme is a document setting out in writing and plan form the council policy for the administration of the land use and development of its district, and any administrative policy must surely be subject to re-examination and discussion if it is to be positive and help create a continually improving situation for the inhabitants of the area.

Among the objectives of a scheme are those of improving the health amenity and environment so the periodic re-examination of a scheme would not seem an unreasonable cost to pay if in the long term the community living, playing, and working conditions are continually improved.

It was not intended that a scheme amendment would be stopped, assuming of course that the proposal is based on sound town and country planning principles; rather the objective was to ensure that a landowner or person wishing to develop in a sector of the scheme which has not been amended by an amendment to part of the scheme, is periodically given the democratic opportunity to have his say about the council's administrative policy for the district.

The Hon. L. A. Logan: He is given that opportunity now.

The Hon. J. DOLAN: I think it will resolve itself.

Mr. Medcalf referred to some administrative difficulties arising from amalgamations. These difficulties do occur, of course, where the boundary is, say, across an important traffic artery like the Stirling Highway and the lots fronting that road are zoned for various uses. Difficulties can arise where minor variations of standards exist in town planning schemes resulting in a developer having to comply, say, over one half of a lot with one set of standards and conditions of approval and a different set of standards and conditions of approval over the other half of the amalgamated lot.

Services are frequently laid adjacent to a boundary and no provision for an easement shown in respect thereof on the title, and in some cases this is not necessary because development abutting a boundary is precluded because of setback lines.

I think that clarifies quite a number of the difficulties which may occur. Very often an easement is not necessary because, I repeat, the development abutting a boundary is precluded because of setback lines.

However, on amalgamation the setback line protection disappears and it is a fact of life that developers frequently prepare development proposals without first ascertaining all factors affecting the use and

development of lots. Approval of amalgamation would enable the Government instrumentalities to either arrange for the relocation of the services or for the appropriate easement to be registered on amalgamation.

So there is a choice. The board and instrumentalities concerned deal as expeditiously as possible with applications. This has reference to the statement that too long a delay occurs. I think Mr. Logan referred to 28 days and some members thought this was too long, but I think this explanation is quite reasonable. I repeat that the board and instrumentalities concerned deal as expeditiously as possible with applications and whilst the mere making of an application inevitably results in some delay in the long term, it is better to have the matter of easements, services, relocation and conditions relating to land use and development clarified and known before a developer considers acquiring a parcel for use. It is much better that he know the situation before he acquires the parcel, than find himself confronted with difficulties which perhaps a delay of a week or two might help to settle.

By making an application to amalgamate, the one central authority obtains the advice and comments of the appropriate authorities before determining the application. If the purchaser of two lots has to clear with the individual instrumentalities the factors affecting or relating to use and development it could take appreciably longer to do and might even result in a negative situation which would render abortive all the hard work done by the prospective developer. Conditions imposed would relate to creation of amalgamated title and would be in the community interest.

The question of whether or not there should be endowment in the form of land or money has not yet been considered from the policy viewpoint by the board and it obviously is a matter which will require careful examination and consideration if Parliament agrees to amend the Act. However, it is conceivable that situations will arise where on amalgamation the resulting site could be put to a use which would result, say, in a greater density of population on the land than would have otherwise been possible on a greater traffic-generating-use being created and in circumstances such as these, particularly where the capital value of the land or development potential has increased to the advantage of the developers—such as would be the case in the building of flats or something of that nature—it is suggested that the community should be able to ask that some of that value be returned by the developer to the community.

Determination of whether or not cash is paid in lieu of land is intended to be the responsibility of the board and not the local authorities. The 10 per cent. figure is not specified in the Act; it has been determined by the board after many years of working the legislation and in relation to the estimated needs of the public. I think that everyone concerned considers that 10 per cent. is a reasonable amount to take, and over the years this provision has worked extremely well and very little disputation has occurred.

Endowment is normally required to be paid on any new lots created, and whilst the board has still to consider the policy to be followed when requiring a contribution in respect of lots of less than two acres, or where 10 quarter-acre lots will be created, it will no doubt decide that the contribution should be in respect of only the new lots, and not a balance lot containing a residence. If the residence is dismantled and the land is used to create new lots for town houses or flats, or something of that nature, it is felt it would be reasonable in those circumstances to impose the 10 per cent.

I reiterate that the amendment is intended to give the board the right to decide whether or not cash will be paid on subdivision but where the board agrees, the local authority may then specify the period within which the money shall be paid to it.

The subdividers of small lots are creating new lots and when developed the new owners require facilities, and it is fair and reasonable that the small subdivider should contribute, just as the subdivider has always done, towards the provision of open space.

In regard to clause 4, the intention is that the money will be paid by the local authority to the owner of the land at the time. If the subdivider is still the owner he will receive the money; if on the other hand he has sold all the new lots his selling price will presumably cover the original cost of providing the land for the road reserve as well as the cost of constructing the road and drains. In the latter event, the money will be paid on a *pro rata* basis to the new owners of the new lots. I believe it is fair and reasonable that it should be done.

Regarding the comments of Mr. Wordsworth, the intention to require cash in lieu of land is not a new tax in the sense that the board can already require the provision of land for open space but for administative reasons it has not in the past asked subdividers of small lots to provide a tenth of their land as an open space contribution. If it had done so, the metropolitan region could have been dotted with tiny recreation reserves, of perhaps with quarter acre blocks or something like that, which are virtually useless to the community and expensive to develop and maintain as far as the local authorities are concerned.

When I became a member of Parliament, I think one of the first jobs I had to do in connection with subdivisions involved a contradiction of that very statement, but that was one of the exceptions. In the instance to which I have referred the Cockburn Shire, which it was then, required one particular block for drainage purposes to serve the rest of the subdivision and the shire was inclined to insist on having the particular area it desired. However, generally, the local authorities are quite happy to accept the 10 per cent. and use the money to provide open space elsewhere where it is more suitable because it is more central and is available.

The Hon. L. A. Logan: They must still be in the vicinity.

The Hon. J. DOLAN: Oh yes, and they must be convenient to the people in the subdivision.

Nevertheless, the new lots created by the subdivision of small lots have been quite substantial and no doubt will continue to be. The intention by amending the Act is to enable the local authority to receive a contribution from these subdividers and so acquire a piece of land of reasonable size properly located in relation to the overall development proposals to serve the recreational needs of the future population.

I think that covers the point Mr. Logan raised. A number of local authorities have, in fact, incorporated this sort of provision most successfully in town planning development schemes. The board has not yet determined with local authorities the best location for the open spaces to be acquired by a council but the past practice has been to have an overall plan prepared to an area and plan for up to 10 per cent. of the area to be reserved for open space. No doubt a similar procedure will be introduced if the amendment is included in the Act so that there will be no question, in normal circumstances, of more than 10 per cent. of the land being taken for recreation use.

The matter of how the money taken in lieu of land is used is already taken care of by virtue of the provisions of section 20(6) of the Act. I commend the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. J. Dolan (Minister for Police) in charge of the Bill.

Clause 1 put and passed.

Clause 2: New section 7AA added—

The Hon. L. A. LOGAN: The Committee is aware that I oppose this provision in the Bill. I thank the Minister for his explanation, but he has not allayed my fears one iota, because exactly what I said could come to pass. If a developer or speculator wants to do something which the council does not want him to do in an area, he can pressurise the Minister to get the council to amend its town planning scheme —and this to satisfy an individual.

The Hon. J. Dolan: They are hard people to pressurise.

The Hon. L. A. LOGAN: For 12 years pressure was exerted by these groups on me, as Minister, and I was able to say that it was the prerogative of the local authority as there was no provision for this in the Act. The Minister is making a rod for his own back by allowing pressure groups to approach him to put pressure on a local authority. Local authorities have the control of, and responsibility for, their districts; it is their prerogative, in my opinion, to handle town planning schemes.

The Minister has not allayed my fears one iota. I am not talking of past or present Ministers, but a principle is being laid down in this legislation which I neither like nor wish to see put into effect.

Clause put and passed.

Clause 3: Section 20 amended—

The Hon. I. G. MEDCALF: I listened intently to the Minister's comments to the remarks I made to the second reading debate concerning this clause. I appreciate he has gone to considerable trouble to obtain a reply from the department concerning the points I raised. I regret no additional reason has been raised in support of the contention that amalgamation should require the approval of the Town Planning Board in the same way as subdivisions. If an additional reason were raised I did not hear it. I understand the reasons given are exactly the same as the reasons mentioned in the Minister's second reading speech which I discussed further.

I maintain that, for two reasons, it is unnecessary for the Town Planning Board to approve of amalgamations. I emphasise I am talking only about clause 3(a), the purpose of which is to require the Town Planning Board to give its approval to any amalgamation of two titles. The Town Planning Board does not have this power at the moment, but it seeks the power to approve of amalgamations in addition to the many other matters it has to approve at the present time, to which I do not object.

To justify the approval which is now sought, the Minister said there will be difficulties where the boundary of a local authority runs in between two lots which it is proposed to amalgamate. In other words one lot is on a piece of land in, say, Claremont and the other lot is in, say, Nedlands with the local authority boundary running in between, as it happens. The Minister referred to Stirling Highway, I think, as the boundary of certain local authorities.

The Hon. J. Dolan: I took that as an example.

The Hon. I. G. MEDCALF: We are not considering amalgamating one lot on one side of Stirling Highway with another lot on the other side. I think this example is somewhat confusing.

The Hon. J. Dolan: Could they not be both on the same side of the road with the line going through?

The Hon. I. G. MEDCALF: Yes, it does not matter about the road; we are talking about a boundary which coincides with two adjoining lots.

Let us imagine that the same person who owns two adjoining lots wants to put them on the same title and combine them into one. Mr. X may own a piece of land—Lot 1—which happens to be in the Nedlands municipality and alongside it is Lot 2, which he also owns, but this happens to be in the Claremont municipality. He is now able to amalgamate those two lots into one and to obtain a title for the two. At the moment he merely asks the Titles Office for a new title and that office draws the two lots on the one title, whereas previously they have been on two separate titles. There is no problem at the moment.

The Minister said the problem arises if a municipality boundary happens to run between the two lots. I cannot see how that could present a problem because both the municipalities are governed by the same uniform building by-laws. These by-laws cover all local authorities, and the whole of the area, irrespective of local authorities, is governed by the zoning provisions of the regional plan.

If the zoning for one block happened to be quite different from the zoning for another, a person could not defy the zoning regulations. It is most unlikely that two blocks alongside each other would be zoned "industrial" and "residential" respectively. If this happened a person could not build industrial premises in a residential area simply because he had amalgamated two blocks that happened to be together. All developers know this. There is no real problem at all nor is there a problem for the local authorities. They know perfectly well whether, say, Lot 1 or Lot 2 is in Claremont or Nedlands. They know the land in their areas because they rate it. In the case of farming properties, however, nobody really knows where some of the boundaries run.

The Hon. N. E. Baxter: If they are amalgamated on the title they would not be Lots 1 and 2, would they?

The Hon. I. G. MEDCALF: In many cases shires cannot say where boundaries run in relation to the paddocks of a farm. In many cases the boundaries simply cross the middle of a farm. The shires know that portion of the area is in one municipality and portion in another.

The Hon. N. E. Baxter: They have the location number.

The Hon. I. G. MEDCALF: Perhaps I could go back to Mr. Baxter's first question, if he would state it through you, Mr. Deputy Chairman (The Hon. F. D. Willmott) because I did not quite hear what he said.

The Hon. N. E. Baxter: If they were amalgamated on a title they would not remain as Lots 1 and 2. They would have another number.

The Hon. I. G. MEDCALF: No, they would remain as lot 1 and lot 2, and they would be amalgamated on the title exactly as before with their original numbers. However, if a developer wished he could conduct another survey and the lots would be given a new diagram number completely, but that would be on a different plan. The boundary in between could be deleted with a new survey, and this is the point of the honourable member's comment. Thus a new lot 3 would be shown on the new plan registered in the Titles Office.

The Hon. N. E. Baxter: How would the local authority rate that?

The Hon. I. G. MEDCALF: The local authority boundary would remain as it was. That cannot be altered. I do not quite see where the difficulty arises. The Minister said that the delay is only 28 days.

The Hon. J. Dolan: That is a maximum, of course.

The Hon. G. C. MacKinnon: Not necessarily—it depends how busy the Town Planning Board is.

The Hon. I. G. MEDCALF: This is not necessarily so.

The Hon. J. Dolan: It could be quicker.

The Hon. G. C. MacKinnon: It could be longer too.

The Hon. I. G. MEDCALF: Mr. Logan mentioned a period of 28 days during which time the local authority could send back its requisitions. This means the local authority has 28 days after it leaves the Town Planning Board. However, in some cases the applications go from one authority to another in succession and this 28-day period could be extended because one authority wishes to know what the other authority has done. I have known of delays of many months while applications go backwards and forwards. I feel there is cause for concern over the further possibility of delay.

For some time people connected with land transactions have been concerned about delay in respect of subdivisional approvals, and the same course will presumably be followed with amalgamations. I assume these applications will be referred to local authorities, and if two local authorities are involved they will need to go to both. Also involved will be the water supply authority and other instrumentalities such as the State Electricity Commission. This will mean additional delay.

The Minister said that this delay may not be as great as the delay already occasioned to developers where they strike problems in connection with easements on boundaries.

The Hon. J. Dolan: I will read it to you again shortly.

The Hon. I. G. MEDCALF: The developer must ascertain the details of easements on boundaries, or if there is no easement, the water supply arrangement. Any person contemplating building must consult the water supply authority and obtain a plan of all water mains, and the rights of the authority. The authority will tell the developer what he can and cannot do. No builder would commence building without ascertaining the water arrangements. Therefore, I cannot see how the developer will benefit by referring this to the Town Planning Board.

The Hon. J. DOLAN: I will repeat what I said. This is a very wise provision even though it means delay. Developers get a little impatient over delays and they must learn greater patience. It is much better to iron out problems before development commences. I have known of occasions when developers have run into difficulties and they always lament the fact that they did not look into things sufficiently beforehand.

I will repeat the advice of the department—

> The Board and instrumentalities concerned deal as expeditiously as possible with applications and whilst the mere making of an application inevitably results in some delay in the long term, it is better to have the matter of easements, services, relocation and conditions relating to land use and development clarified—

It is quite possible the developers may not have to do any of these things but it is far wiser to make certain of everything before development commences. To continue—

> —and known before a developer considers acquiring a parcel for use.
>
> By making an application to amalgamate, the one central authority obtains the advice and comments of the appropriate authorities before determining the application.

This provision will expedite procedures and obviate the delay that concerns the honourable member as the board dealing with the application will be the negotiating party with the two local governing bodies. The department further states—

> If the purchaser of two lots has to clear with the individual instrumentalities the factors affecting or relating to use and development it could take appreciably longer to do and might even result in a negative situation which would render abortive all the hard work by the prospective developer.

I feel all Ministers have experienced the situation of a member approaching them for assistance after which the Minister must refer the matter to his department, wait for a reply, and advise the member concerned. A direct approach to the department would be much quicker. The Town Planning Board is the proper body to negotiate between two local governing authorities and deal with a prospective developer.

The Hon. G. C. MacKINNON: I am impressed by the arguments put forward by Mr. Medcalf, and singularly unimpressed by the arguments of the Minister. It appears to me that virtually no community benefits will prevail from the proposed amendment.

Community benefits do prevail from the necessity of having to submit subdivisions because the overall picture can be looked at. At times the delays are unacceptable, although I am sure we have all experienced instances when delays in this field are acceptable. Strangely enough, it is usually on the subdivision of the smaller lots that delays occur. A subdivider may wish to subdivide an acre north and south and after 28 days he will receive the plan from the Town Planning Board only to find that the subdivision has been switched to east and west. On many occasions the members of the board have not even visited the location, and when the subdivider points out the lay of the land they will agree to the original subdivision. It appears to me that these amendments are purely and simply to make it easier for the Town Planning Board—

The Hon. J. Dolan: Not necessarily.

The Hon. G. C. MacKINNON: —to cover up its inefficiency. Surely it is part and parcel of town planning to do this in the first place. Most of the arguments put forward by the Minister have been adequately answered—indeed, they are no longer tenable. As Mr. Medcalf mentioned, the subdivider is still governed by the zoning by-laws and this is the only answer necessary.

I presume the board still meets once a month, and to say there is a 28-day delay is not true. We have all experienced delays longer than 28 days, and particularly in the country areas it is difficult to obtain the representation necessary to speed things up. Therefore, I hope the Committee has paid due attention to Mr. Medcalf, and I indicate my support for Mr. Medcalf's submission.

The Hon. CLIVE GRIFFITHS: I also support the suggestion made by Mr. Medcalf, because the arguments advanced to support the proposition—that local authority boundaries could be involved and that it is desirable to obtain easements on properties for services, etc.—do not carry any weight. I consider it is another restriction on those who are trying

to do business as quickly as possible. To suggest that this proposal should be placed before the Town Planning Board would only add to the burdens the people already have to carry. The number of amalgamations is relatively small, anyway, and certainly the number of amalgamations that will involve local authority boundaries will be few and will be those that will require some sort of recommendation from the board because of future needs for obtaining easements. Therefore the need to introduce legislation based on those arguments relate to only a few occurrences, and I do not want to inflict further conditions on anybody who desires to amalgamate land. Therefore I support the remarks made by Mr. Medcalf.

The Hon. J. DOLAN: I think it would be advisable if I read the remarks made by Mr. Logan, a former Minister who dealt with these cases. He outlined his 12 years' experience in this particular field and what he had to say is well worth noting. He said—

> For some considerable time while I was Minister for Town Planning, the Town Planning Board dealt with all amalgamations as well as with subdivisions. It was not until someone challenged this practice that the Town Planning Board said, "We are not fussy whether or not we deal with them; we will not deal with them any longer." Before very long, problems arose with amalgamations in some areas which, in effect, were getting away from zoning or town planning schemes which were in vogue. Many submissions were made to me that amalgamations should be brought back where the overall picture could be looked at. After examining the problems that had arisen, I was in favour of the Town Planning Board having control of amalgamations as well as subdivisions. I therefore support this proposal.

After quoting those remarks of a former Minister with 12 years' experience, I feel I have nothing else to say, except to add that I think other members of the Committee should also support the proposal.

The Hon. I. G. MEDCALF: I also heard Mr. Logan make the speech referred to by the Minister, and I am really touched by the comment he made that Mr. Logan was an excellent Minister for Town Planning, because I made a close study of his work and I agree with that statement. However, I notice that the Minister does not agree with Mr. Logan in regard to clause 2, despite his 12 years' experience, because Mr. Logan did not feel that he should accept that clause.

The Hon. J. Dolan: I do not have to agree with him on everything.

The Hon. I. G. MEDCALF: If the Minister said that he had magnificient judgment—

The Hon. J. Dolan: I did not say he had magnificent judgment; I said he had experience of this particular problem.

The Hon. I. G. MEDCALF: The Minister said that Mr. Logan also had experience of the provisions contained in clause 2. Rather than prolong this unseemly discussion—

The Hon. J. Dolan: The words are yours.

The Hon. I. G. MEDCALF: Rather than prolong this unseemly discussion, I just want to make one further point; that it is not advisable to give the board power to make amalgamations. If we do, we authorise the board to lay down conditions as it sees fit. It is under this power that the board takes 10 per cent. of the land for public open space, so there is nothing whatever to stop it from taking 10 per cent. of the land for recreational purposes.

The Hon. G. C. MacKinnon: Or cash in lieu thereof.

The Hon. I. G. MEDCALF: As the law now stands it cannot take cash in lieu, but if we insert this amalgamation provision in the legislation the board will be able to lay down the conditions relating to any amalgamation of land. It has this power under section 20 (1) of the Act. The Minister may say that the board will not do this, but we should not fool ourselves; we are seeking to give the board power to do so. There is no reason that the board should adopt this paternal role of supervising developers who at present must necessarily go to the local authority for a building permit, and to the Water Supply Department to find out where the mains are, before building can be commenced.

There is another reason. The board can impose conditions, one of which could be the imposition of a 10 per cent. requirement of land for public open space. I would like the Minister to comment on that.

The Hon. J. DOLAN: In this particular case I feel that even developers themselves welcome the opportunity to pay instead of handing over portion of their land. This applies particularly to the small men.

The Hon. I. G. MEDCALF: I was not referring to the second part of the clause. I was referring only to amalgamations. If we grant the board power to approve of amalgamations under section 20, then the board will do so only under such conditions as it lays down. It will use the power it now uses for subdivisions, and one of the conditions is that an owner or developer has to donate 10 per cent.

of the land for public open space. Therefore, why will not the board require a donation of land for public open space in the case of amalgamations? There is nothing to stop it.

The Hon. J. DOLAN: I think we have reached a sorry state of affairs if we are to lose confidence in these boards, especially in regard to this board after what it has done in relation to subdivisions. As a member of this Chamber, I would feel most perturbed if I thought it would abuse its powers in regard to amalgamations. The board has operated for a long time, and I have heard members speak well of it on various occasions. Therefore I would feel most perturbed and upset if I thought any body of this stature would act in the manner suggested.

The Hon. CLIVE GRIFFITHS: I think that, once again, the Minister is missing the point. What Mr. Medcalf says is perfectly true. We are seeking to insert a provision in the Act to enable the board to approve of amalgamations subject to conditions that will be imposed by it. We are not suggesting that we are losing confidence in the board. We are merely suggesting that the conditions attached to the approval of amalgamations could be the same as those which the Act already provides in the case of subdivisions; that is, a developer or owner must donate 10 per cent. of the land for public open space. The point raised by Mr. Medcalf is one that has been raised in many quarters, and the Minister should appreciate this.

The Hon. J. DOLAN: The purpose of an amalgamation is to make a subdivision. I thought I made this point very clear when I spoke previously. The purpose of an amalgamation—

The Hon. Clive Griffiths: Is to make a large lot.

The Hon. J. DOLAN: In the circumstances I suggest that this board would not insist on such a condition.

The Hon. CLIVE GRIFFITHS: In the explanation he made earlier in regard to paragraph (b) of clause 3, the Minister said that one of the reasons that the board should have this particular power—that is, being able to require 10 per cent. of any land that was to be subdivided for public open space—was to enable people to subdivide areas of land of less than 2½ acres for the purpose of building town houses and so on. Therefore, any person who wished to subdivide a block of land in order to build a block of flats, would probably be subject to the same conditions; he would have to contribute some of the land for public open space. If the Minister agrees with that situation, he should accept that if a person amalgamates two half-acre blocks of land into one acre for the purpose of building a block of flats, it would automatically follow that the board would want 10 per cent. of the land to provide public open space.

The Hon. I. G. MEDCALF: Is the Minister prepared to give an assurance that the Town Planning Board would not require the dedication of any land for public open space where an amalgamation is required?

The Hon. J. DOLAN: It is very difficult for me to give the guarantee for which the honourable member asks. I will certainly speak to the Minister responsible for town planning and submit to him the honourable member's request, and ask whether he is prepared to give such a guarantee. If he is I will let Mr. Medcalf know.

I should think there would be circumstances in which the Town Planning Board would not give the guarantee asked for. While it is possible that the board might be able to give such a guarantee on small lots I am not sure whether it would be prepared to do so as a general rule on large lots.

I will, however, refer this matter to the Minister concerned and ask whether he can guarantee that the Town Planning Board will not insist on taking its 10 per cent. of open space.

The Hon. G. C. MacKINNON: Perhaps the Minister would consider reporting progress and ask leave to sit again. If he is not prepared to do so I will be constrained, on the arguments I have heard to date, to vote against the clause.

The Hon. J. Dolan: I am quite prepared to do that.

Progress

Progress reported and leave given to sit again on motion by The Hon. J. Dolan (Minister for Police).

STAMP ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd May.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.18 p.m.]: I have here a considered reply to the remarks made by Mr. Medcalf which I propose to read to the House. I will begin by thanking the honourable member for his contribution to the debate and for his qualified support of the Bill.

I am of the opinion that the situation in respect of the proposal concerning collateral duty imposed on mortgages, is not as unfair as his remarks appear to imply.

This is because what the Bill seeks to do is only to restore the original position and so place the purchaser, who is being financed by a vendor of the property concerned, in the same position as the majority of purchasers of property who are financed by some other person or institution, such as a bank or a finance company.

Before I embark upon further explanations concerning the Government's proposal, I think it would be appropriate to

make clear the history which led to the introduction of the amendment concerning securities contained in this Bill.

Although I have already given some details of this history, I wish to elaborate on them to clear up what I believe may be some misconceptions. Let me hasten to add that the history, as given by Mr. Medcalf, is correct, but I am concerned with the interpretation which may be placed upon it.

It is quite true that since stamp duty was imposed on mortgages in this State—and I think Mr. Medcalf mentions since 1882—there were two rates of duty; a higher one for what is called the primary security and a lower one for what is known as the collateral security. This latter security is an additional security to the primary security covering the same moneys which have been lent. Currently the rates imposed are—

> For primary securities, 25c per $200; and for collateral securities, 5c per $200.

That is, collateral securities attract one-fifth of the amount payable on primary securities where both secure the same sums.

When the duty was first imposed in Western Australia, many years ago, all primary mortgages attracted this duty. This was irrespective of whether the money secured had been financed by the vendor of the property or by some other person, such as a bank, insurance company, or other financial institution.

However, several years later, in 1963, the English courts handed down a decision which classified primary mortgages given to vendors of properties which had been sold under contracts of sale, as collateral securities and, therefore, under the English stamp legislation, they then attracted collateral duty only.

This particular decision was drawn to the attention of the then Stamp Office in this State by a member of the legal profession, no doubt during a discussion on the assessment of a document of this kind, and it was then decided to apply the English decision to these documents.

However, what apparently was not known to the Stamp Office of those days was that in the same year the United Kingdom Inland Revenue Commissioners immediately arranged the enactment of a similar provision to that which is now before the House, so that, in the United Kingdom, the original method of assessment would be continued and there would be no revenue loss to that country arising from the decision made by the English courts.

In simple terms, the Inland Revenue Commissioners arranged an amendment to the law to overcome the court decision and continued the imposition of duty at the rates which, prior to that decision, had always been charged.

As I said, unfortunately the Western Australian Stamp Office was not aware of this change in the English law and did not take corresponding action.

As Mr. Medcalf correctly observes, perhaps had it done so, there would have been little argument about the change.

The assessing practice continued in Western Australia until, in recent times, it became evident, as Mr. Medcalf has observed, that it was spreading rather widely and beyond contracts of sale, with a corresponding increase in the loss of revenue. In addition, as has already been explained, it is beginning to produce a flow-on effect into the area of stamp duty imposed on discharges of security.

In my opinion the amendment clearly proposes not to break new ground but to simply restore the position to that which obtained before the judgment was given by the House of Lords.

I would now like to give explanations of the sorts of results that have been flowing from the application of this legal decision, because they do give rise to discrimination between taxpayers.

Let us suppose that there are two persons —A and B—both purchasing a property—be it a house, a farm, a commercial building, or any other form of property attracting conveyance duty. They both enter into contracts of sale with the respective vendors and the price paid for each of the properties is identical; namely, $20,000. Each of these purchasers will pay stamp duty of $275 on the conveyances.

However, "A" arranges for the vendor in the contract to finance his purchase in the following way: He pays the vendor $10,000 as a deposit, obtains a transfer pursuant to the contract, and executes a mortgage in favour of the vendor to cover $10,000 to secure the balance of the unpaid purchase price.

On the other hand, "B", who is dealing with a vendor who is unable to finance him, obtains a loan from his bank. He also has paid $10,000 deposit, and he, too, obtains a transfer of the property pursuant to the contract, but in his case he mortgages the property to the bank to secure the balance of the purchase price, which has now been financed by that bank.

As matters now stand, "A" would pay $2.50 stamp duty on his mortgage, because, under the application of the English decision, his mortgage is treated as collateral to the contract of sale.

However, "B" would pay $12.50, because he was not sufficiently fortunate to find a vendor who could finance his purchase.

I would point out, from these simple examples, that obviously the application of this legal decision discriminates between taxpayers, because it means that the tax rate to be applied to a primary mortgage is governed by the source of finance and not the type of document to be stamped.

In simple terms it therefore means that where a person deals with a wealthy vendor who is able to carry the unpaid part of the purchase price, that person pays a lesser amount of tax on the same documents than that paid by another person who deals with a vendor who is unable to do this, and the purchaser, therefore, has to have recourse to some financial institution to find the balance of the purchase price.

Quite apart from the loss of revenue which results from this method of assessment, the acceptance of the amendment proposed would perpetuate discrimination between taxpayers.

I would add that the vast majority of transactions involving the sale of property attract primary duty, because the normal source of finance is not usually the vendor.

With respect, I believe that a continuation of the existing practice, brought about by the English decision—which has been overcome in that country—would perpetuate undesirable discrimination between taxpayers.

For these reasons, I cannot support the proposed amendment and I believe that the Bill should be allowed to proceed without the introduction of the discriminating concession which Mr. Medcalf wishes to write into it.

Question put and passed.

Bill read a second time.

WEST KAMBALDA RAILWAY BILL

Second Reading

Debate resumed from the 4th May.

THE HON. D. J. WORDSWORTH (South) [5.29 p.m.]: I rise to support the Bill. As members know it is a small Bill to enable five miles of line to be constructed from the proposed standard guage railway line in the Kalgoorlie area via the Kambalda-Lake Lefroy route to the mill site.

I remind members that the Bill now before us is complementary to earlier legislation extending back to the Nickel Refinery (Western Mining Corporation Limited) Agreement Act of 1968. At that time the Western Mining Corporation had spent $7,000,000 on exploration and the construction of a mill at Kambalda. The Bill which was introduced in 1968 was for the construction of a refinery at Kwinana at a cost of not less than $45,000,000. At that time it was agreed the company would investigate the possibility of building a smelter at Kambalda. The 1968 agreement referred to railways, but only to the construction of rolling stock and a discount of 10 per cent. on freight.

In 1970 the agreement was amended to provide for the construction of the smelter, and it was in that amending Bill that provision was made for the construction of railway lines, one of which is the subject of this Bill. That Bill provided for the introduction of legislation to allow the construction of a standard gauge railway line from a point near Kalgoorlie to Lake Lefroy and that measure was introduced into Parliament some three weeks later, on the 8th December. The 1970 legislation also provided for the introduction of a further Bill to allow for the construction of a railway to the smelter site. However, to date that Bill has not been brought before Parliament. A further provision of that legislation was that a Bill be introduced to permit the construction of a railway line to the mill site. That is the Bill we now have before us.

The agreement also provided for the standardisation of the line from Lake Lefroy to Esperance but I gather from the Minister's introductory speech, in 1970, that a Bill was not required for the standardisation of that line because a line already exists.

When I read the Bill I was somewhat amazed to find just how small it was. It does not even mention the fact that the line will be standard gauge. The Bill contains no reference to who shall pay for the line, and it does not refer back to the original legislation. I must admit that I looked up a similar Bill introduced by the previous Government and I found it to be exactly the same; so I suppose one should not be too critical. Perhaps on that occasion there was a different Opposition.

The Hon. J. Dolan: Do not tell me that Homer did not nod sometimes!

The Hon. D. J. WORDSWORTH: It does seem rather odd that the present Bill contains no reference to the previous Bill, from whence it came.

The carrying out of the works in conjunction with the standardisation of the railway line will be of great importance to the people of Esperance. As is known, we have been fighting for the construction of this line for some time. Last week we saw the opening of a second land-backed wharf at a cost of $2,500,000. It was at that opening the Premier announced that a contract had been let to the value of $3,250,000 for earthworks concerned with the standard gauge line, and the extensions to the whole system. A sum of $14,000,000 was to be spent on the construction of the new line, and 1,000 people were to be employed.

The line will be used for other than the carting of nickel and salt to Esperance. An advantage of the Port of Esperance is that ample room is still available for the export of other bulk commodities. The wharf space which is available reduces freight rates below those which apply in the conventional ports of Western Australia because goods can be conveyed directly onto the ships.

The construction of the standard gauge line will enable Esperance to retain its contracts for the supply of oil to the goldfields. The oil is back-loaded and is

important because the town of Esperance, itself, would not use sufficient oil for the port to be able to remain a bulk fuel port. If fuel oil were transported from Kwinana to the goldfields Esperance would lose that trade. We hope that the Port of Esperance will eventually become a bunkerage port.

I am a little disappointed that a Bill will not be introduced for the standardisation of the line from Esperance to Kambalda because I would like to observe the route which the line will follow.

The Hon. J. Dolan: I think I will be able to supply the honourable member with a map showing the route.

The Hon. D. J. WORDSWORTH: I am anxious to see the map because it is very important to the township of Esperance that the standard gauge line does not follow exactly the present line. The present line cuts the town of Esperance in half and we have the embarrassing position of the high school and other facilities being cut off from the rest of the town by the old railway line. The removal of the line was a contentious point and the shire council did propose an alternative route to the previous Government. The then Minister for Transport (Mr. O'Connor) was persuaded that the land could be purchased and that no extra expense would be incurred if the line were shifted to the proposed new route. The people of Esperance are anxious that the present Government will continue to honour the previous agreement. The shire council has done considerable work in arranging for the transfer of the land involved and it is for that reason I bring the matter to the attention of the Minister.

It is with much pleasure I support the Bill now before us because the railway line to Esperance has been a controversial matter. The present Government was hesitant as to whether it would accept the job of standardising the line and, indeed, we have witnessed the reversal of a decision on two occasions. I am pleased to see that the line will now be completed by 1974.

THE HON. R. T. LEESON (South-East) [5.40 p.m.]: I rise to support this small Bill and in doing so I would like to make two comments. As we know, considerable work has been done over the last few years in relation to standard gauge railway lines in Western Australia, particularly in the northern part of the State. The present Bill will provide for the construction of five miles of standard gauge line in the Kambalda area, which is on the eastern side of the State.

I would like to mention two matters in the hope that the Government will give them some consideration. Firstly, one of the main problems I have encountered at Kambalda is the lack of public transport. At the present time the Eastern Goldfields Transport Board transports school children and, occasionally, it runs a tourist bus. Apart from that, the residents of the town have to provide their own transport in order to be able to travel to and from Kambalda. Consequently, if one drives from Boulder to Kambalda one sees dozens of hitchhikers on the side of the road. It is possible that some of the hitchhikers would not be able to pay their own way anyway.

With the construction of the standard gauge line perhaps consideration could be given to the commencement of a diesel rail service between the two towns. A lot of workers travel to and from Kalgoorlie and they must find their own transport. Apart from the workers, a considerable number of other people visit Kambalda. Also a number of young people have moved from Kalgoorlie to Kambalda and when mother wishes to visit daughter she cannot do so if a car is not available. The Eastern Goldfields Transport Board does not provide any regular service whatsoever.

The second point I wish to raise also deals with transport. With the completion of the proposed line I would like the Government to give consideration to eventually extending the *Prospector* service which runs from Perth to Kalgoorlie so that it continues on to Kambalda; perhaps not on six days of the week, but on two or three days. The extension of that service would mean only an additional 34 miles. A number of people who live at Kambalda travel to Kalgoorlie on the *Prospector*, and then find their own transport to Kambalda. I ask the Government to give consideration to the two points I have raised. I support the Bill

THE HON. J. DOLAN (South-East Metropolitan—Minister for Railways) [5.44 p.m.]: I thank Mr. Wordsworth and Mr. Leeson for their support of the Bill. I understood Mr. Wordsworth to say he did not know who would pay for the construction of the line. When I made my second reading speech I pointed out that the cost of the standard gauge line would be met by the Western Mining Corporation.

The Hon. G. W. Berry: That is not set out in the Bill.

The Hon. J. DOLAN: I gave the information during my second reading speech. I will take note of the two proposals put forward by Mr. Leeson, particularly the question of transport between Kalgoorlie and Kambalda, and the possibility some day of extending the *Prospector* service, or a similar train, not only to Kambalda, but also to Esperance. I commend the second reading of the Bill.

The Hon. A. F. Griffith: The honourable member does not want it some day; he wants it now.

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. J. Dolan (Minister for Railways), and transmitted to the Assembly.

CRIMINAL CODE AMENDMENT BILL

Second Reading

Debate resumed from the 4th May.

THE HON. I. G. MEDCALF (Metropolitan) [5.47 p.m.]: In general terms, this Bill seeks to reduce the penalties in respect of certain misdemeanours and to reduce the misdemeanours to the status of offences—lesser in scale—by allowing a summary trial before a magistrate. I will refer to the particular misdemeanours individually in a moment. I will also refer to the present provisions for punishment under the Criminal Code and the provisions proposed in the Bill.

The Bill gives expression to the principle that summary trial should take place before a magistrate alone or, if no magistrate is available and the accused consents, before two justices. It is important to note that the accused must consent before he can be tried summarily by justices.

The Minister indicated that the State owes a considerable debt to justices of the peace for the voluntary work they have done over the years in connection with criminal trials. Nevertheless, complaints have been made from time to time, particularly by some of the superior courts, in connection with the sentences which have been handed out by justices in certain cases. It has been suggested the sentences have been out of proportion to the offences committed; in other words, the punishment has not fitted the crime. On the question of sentences, criminal courts of higher status have in many cases overruled justices on appeal. It is therefore important that the punishment should fit the crime, and of course it is often a matter of opinion as to what is an adequate punnishment for a particular crime or offence.

Before dealing with the misdemeanours which it is now proposed should be tried summarily before a magistrate, I would like to refer to one or two other substantial amendments to the law which appear in this Bill. The first appears in clause 8, which deals with section 189 of the Criminal Code and relates to indecent dealings with girls under 16 years and also others. Indecent dealing is really assault of a sexual nature. The Bill proposes to allow a person to be convicted for the offence of inciting the assault where no actual physical assault has taken place but an offence has nevertheless been committed in that a girl under 16 or a woman has been the victim of a technical assault. It is proposed to make that a separate offence, which is a departure from the previous provisions of the Criminal Code.

Clause 9 introduces a new provision. It is a re-enactment of section 277, which refers to the offence of causing death by the negligent use or management of a vehicle. A crime is committed by causing death in a number of ways—wilful murder, murder, and manslaughter, which are already in the Criminal Code; and causing death by the negligent use or management of a vehicle, which is included in the Bill.

The point has been made that one can cause death in many ways other than by the negligent use or management of a vehicle. Death can be caused by the negligent use or management of other items of machinery, for instance. In another place, the question was raised why this Bill did not make it an offence to cause death in all the other ways. The reason is that for some time, because of the great number of vehicles on the roads and the number of people who are killed as a result of the negligent use of vehicles which is short of manslaughter, the Crown Law Department has had it in mind that there must be some lesser form of charge than manslaughter where there is negligent use or management of a vehicle. I therefore believe this is a worthy amendment.

Clause 10 is interesting, in that it seeks to abolish the misdemeanour of attempting to commit suicide. Section 289 of the Criminal Code, which prescribes one year's hard labour for attempting to commit suicide, has been repealed. It has always seemed to me—and no doubt to other members—to be a rather hard section, in that if one attempts to commit suicide and succeeds one has no further worries about the law, but if one does not succeed one is liable to one year's hard labour.

The. Hon. G. C. MacKinnon: Perhaps it would make one more careful.

The Hon I. G. MEDCALF: Members will no doubt support the Government in repealing that section.

Clause 15, dealing with assaults occasioning bodily harm, is one of the clauses which provide for a reduction in sentence or penalty where there is a summary conviction. This is a substantive clause which provides for a reduction in the penalty from a maximum of three years' hard labour to a maximum of six months' or a maximum fine of $500.

I point out that this summary procedure is at the option of the person who is charged. The person who is charged can elect to be tried summarily but the court has some say in it. The court must be of the opinion that the case is one which should be tried summarily, so a safeguard is provided. However, I do not think the court would be entitled to look at the character of the accused in coming to this conclusion, because the character or record of an accused person cannot be brought into consideration by the court until the question of sentence arises.

I therefore think that, without considering the record, the court would have to decide whether a case was fit for summary trial. In most cases I imagine the court would decide that if the accused person wanted a summary trial he was entitled to have one under this provision. That means a person with a long record of assaults occasioning bodily harm— and there are many such people in the community, unfortunately—could decide to have a summary trial because the maximum penalty would be six months each time instead of three years' imprisonment with hard labour if the trial went to the Criminal Court.

This is a considerable reduction in the penalty and, as a House of Parliament, we might well ask why we are reducing the penalty. Do we not regard assaults which occasion bodily harm as being serious offences; and is this offence not very prevalent? I have no statistics but it appears the offence is more prevalent than it has been in the recent past. However, it is easy to make statements like that when one does not have to back them up and when one has not the statistics to be able to do so, anyway. Perhaps because of the way the Press deals with them, we get an impression that things are now worse in this direction; I do not know. At any rate, I ask the question: Are we satisfied that in reducing the penalty we are doing the right thing?

Clause 18 provides for a summary conviction for burglary, housebreaking, and similar offences. It deals with sections 403, 404, and 407 of the Criminal Code. The particular offences with which those sections deal, and the maximum sentences for those offences, are—

> Section 403—Breaking and entering a building and committing a crime therein; the maximum sentence is imprisonment with hard labour for 14 years, which the Bill seeks to reduce to six months on a summary conviction.
>
> Section 404—Breaking and entering a building with intent to commit a crime; the maximum sentence is imprisonment with hard labour for seven years, which the Bill seeks to reduce to six months.
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> Section 407—Being armed with a dangerous weapon with intent to break and enter, being armed by night with the same intent or having housebreaking implements in one's possession by night, having housebreaking implements in one's possession by day with intent to commit a crime, having the face blackened or masked with intent to commit a crime, and being in a building by night with intent to commit a crime. All those offences are punishable with imprisonment with hard labour for three years or, if there was a previous conviction, for seven years.

Under the provisions of this Bill, a person charged with any of the offences under section 407 will be able to elect to be tried summarily by a magistrate instead of being tried by a criminal court. If the court considers it is a fit case for summary trial, and it does not look at the record—because I do not believe the court would be entitled to do so—the maximum sentence on conviction is six months' imprisonment with hard labour or a fine of $500.

The Hon. L. A. Logan: Do you agree with that?

The Hon. I. G. MEDCALF: I simply posed the question as to whether we believe this is desirable in view of the prevalence of crime today. I am aware that the Minister said this was recommended by a committee of legal practitioners including, I think, a representative of the university and of the Crown Law Department.

The Hon. L. A. Logan: That would not necessarily make it right.

The Hon. I. G. MEDCALF: Nevertheless, those people have a considerable amount of experience and I would hesitate to oppose them. However, I merely draw the attention of Parliament to this matter. I must be fair; there are certain limitations. In relation to section 403 there are certain restrictions in relation to the value of the property which is damaged, etc. The value of that property must not exceed $500. In regard to sections 403 and 404 there must be no allegation that the accused used or offered violence, or used a firearm, dagger, cosh, explosive, or other dangerous weapon.

One must bear in mind that whilst the accused may not have used a dangerous weapon, one might be a little chary of a person with a dagger in his belt, a cosh in his pocket, and explosives slung across his back. Whilst that person might not have an opportunity to use those weapons, nevertheless clearly he would be in possession of them. He would be entitled to ask for summary trial, with a maximum penalty of six months' imprisonment. Certainly, if I were that person I would ask for summary trial. However, all this

does not mean we are doing the wrong thing; I am merely drawing attention to the considerable reduction in sentences.

Once again, I have no statistics in relation to this matter, but I believe there has been an increase in the prevalence of crimes of breaking and entering. I am not prepared to say there has been an increase in the prevalence of assault occasioning bodily harm. Other members may have different views, but I believe there has been a considerable increase, even allowing for the increase in population, in relation to breaking and entering charges. I say so because I have talked to the police about this. When one speaks to the police at the scene of the crime one discovers some interesting things. The police will tell one exactly just what they believe is the situation.

I am sorry the Minister for Police is not in the Chamber at the moment because he might like to know what some of his policemen told me, and the views they expressed about the alleviation of sentences. One of the things which irk the police—and I have been told this by some policemen—is that they catch the same offenders time and time again in relation to the same offences. The offence usually is that of breaking and entering. The police will apprehend a person one day and he will be duly convicted after pleading guilty, but after a short time his sentence is reduced and he is out on parole. Before we know where we are the same person is back again. The policemen said that they know perfectly well that the person has committed another offence, and when they ask him about it he says, "Oh yes, I did that job."

In fact, the policeman to whom I was speaking at the scene of a crime a couple of months ago said that the increase in crime results from the actions of members of Parliament and other do-gooders who keep reducing the sentences. The policeman did not know I was a member of Parliament, and naturally enough I did not tell him. He said it is the fault of members of Parliament, lawyers, parsons, and such people.

The Hon. W. F. Willesee: May I ask you a question in all seriousness? Do you really believe this person would not be a recurrent offender, irrespective of the penalty? This is inherent in our nature; it is something we cannot control.

The Hon. I. G. MEDCALF: I think the Leader of the House has asked a very interesting and pointed question. I am actually quoting a detective, and I have not really given my own views. I am quoting somebody whom I believe would know something about this.

The Hon. G. C. MacKinnon: It would not recur if he were still locked up in gaol.

The Hon. I. G. MEDCALF: That is so.

The Hon. W. F. Willesee: It could not recur if you had him looking at four grey walls for the rest of his life.

The Hon. I. G. MEDCALF: I do not believe he should look at four grey walls for the rest of his life. I am not suggesting that. I would hope that a prisoner in this State is not in that situation. The particular place where this crime occurred had a model up-to-date and advanced prison. As a matter of fact, it is one of the newest in the State. It is a very good prison; certainly it is very easy to escape from it.

The detective was really saying that there are too many people on the side of the accused these days. As I said, he blamed members of Parliament—politicians, as he called them—lawyers, and parsons. Those were his very words.

The Hon. W. F. Willesee: The only group he missed is the publicans.

Sitting suspended from 6.06 to 7.30 p.m.

The Hon. I. G. MEDCALF: Before the tea suspension I was saying that I had had discussions with members of the Police Force, and they had given me their views about the comparative attitude of some people in the community who are able to influence the law, and they suggested that a little more consideration should be given to views put forward from time to time by the police.

I do think this is well illustrated by the reference of Mr. Willesee to the four grey walls. Whilst I know he made this reference in good faith I think it does illustrate the old attitude which formerly existed in the community. It was an attitude of being excessively harsh on criminals, and a belief that they should be incarcerated for life, or put away.

I think that we have clearly gone beyond that stage, and that there has been a reaction to this former attitude; but maybe the reaction has gone or is going too far the other way. However, I do not say it has. This is a matter for fine judgment. I would not like to say that I have reached any conclusion on this, but it is a matter which should concern legislators from time to time, as to how far we should go in relaxing the laws.

The Criminal Code in respect of some penalties may be excessively harsh. For example, the penalty which is prescribed for burglary, housebreaking, and similar crimes in section 403 of the Code is a term of imprisonment for 14 years with hard labour. It may be too great a sentence to impose for such offences. On the other hand it may well be that to give an accused person the option of being tried summarily with a maximum penalty of six months' imprisonment may be going too far the other way.

I would like to be more decisive on this; and no doubt if I were to answer the question directed to me by Mr. Willesee

I should be more decisive, but it is not always possible for one to be decisive about matters like this. The question of making the punishment fit the crime is one on which we should always be flexible. On the other hand we have to bear in mind the safety of the community.

The police carry out a most difficult task. Whenever people get into trouble they invariably call on the police for assistance. Even the most hardened member of the community will call on the police in times of need. That is why we should take more notice of the experience of the police in these matters, and perhaps why we should weigh the advice we receive from people who mean well but, have not had sufficient practical experience. So, we have to try to set a standard in between what we might term the old-fashioned idea of incarceration and the new idea of blaming society for all the mishaps that occur and letting the offenders off virtually scot-free.

This is illustrated by what is proposed in one provision in the Bill. If a person breaks and enters a building and is found to be in possession of dangerous weapons which he has not used, he may under that provision elect to be tried summarily; and if sentenced he is only liable to a maximum term of imprisonment of six months.

Should that person again commit a similar crime, the same procedure would apply and he could again elect to be tried summarily; and if convicted he would receive another term of six months, and so the process would go on. It might be that a different court hears the case on each occasion. Although the record of that person is relevant, it is only relevant at the time when the sentence is imposed. However, the maximum penalty is six months' imprisonment.

It is not possible to reform every criminal. It would be fine if we could devise an institution in which offenders could be reformed in all cases, but only the most ardent idealist will say that every criminal is capable of being reformed. Undoubtedly, society must accept some of the blame for their condition, and arising out of their condition their attitudes. Society must be prepared to do what it can to reform them; but society must, at the same time, be vigilant to ensure it does not expose the members of the community in an immature way to obvious risk.

There is one further point to which I wish to draw attention, and that is related to clause 30. This clause allows the Crown to do things which it has been doing unofficially for some time. It goes further than it should. I do think that a minor amendment to this clause is desirable. It deals with cases in which several charges may be joined; that is to say, where several people are charged with separate offences the charges may be heard together. In other words, they are on the same indictment although the offences are separate, but they are tried together. The provision in clause 30 prescribes this may take place if the offences arise substantially out of the same or closely related facts, or if a substantial part of the evidence is relevant to all charges.

This provision could well impose hardship and create injustice if we retained the last part. I agree to the provision as far as the word "facts". In other words, I am agreeable to permitting several people to be charged together for separate offences if the offences arise substantially out of the same or closely related facts. That is reasonable. If heard at the same time it would avoid a lot of expense and unnecessary work. If the charges arise out of the same facts it does not make any difference, because the same evidence is relevant to the separate offences; and trying the persons together would be quite fair.

I do not think it is fair to an accused person to add the last part of that provision "or if a substantial part of the evidence is relevant to all charges." That means some of the evidence is relevant to the charges and some is not. To my mind this is likely to confuse any court, magistrate, or jury. I am sure a court can be confused if there are a number of different offences being tried at the same time and the evidence is not relevant to all the offences.

To boil this down to a simple issue I believe that clause 30 should be applicable in charging several people for the same offence in the one indictment, provided the facts are the same, but not where only a substantial part of the evidence is relevant.

The Hon. W. F. Willesee: You want the provision to stop at the word "facts."

The Hon. I. G. MEDCALF: Yes. By so doing we would not cause any embarrassment to the Crown, and the Crown would be permitted to continue with what it has been doing. This would be entirely in line with some of the comments which the Minister made when he introduced the second reading of the Bill. He said—

> The present provisions of the Criminal Code do not include a specific section which authorises the joinder of counts against more than one person, but there are references in the Code which make it clear that this may be done. Although it has been done frequently very real difficulties have been experienced in the matter. The provision has been redrafted to overcome the problem.

I believe the provision is sufficient if it is drafted up to the word "facts." That will overcome the problem. If we retain

the last part of that provision we will work an injustice on some people, where the facts in their particular cases are not the same as those in other cases, and they are being tried together. I would ask the Minister to consider dropping the last portion of that provision.

My attention has been drawn to this aspect by a leading barrister. It is a matter which he has considered carefully. He is a man of considerable legal experience, and he brought this to my notice. The opinion I have expressed is simply in line with what he has submitted to me in writing. With those remarks I support the Bill.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [7.42 p.m.]: I think we have reached a point in this debate where we are dealing with one of the great problems of society—the problem of what we are to do in regard to people who have been chastised by the community. In essence it is this: Do we put them in an institution where they can uplift themselves, or do we put them in an institution where they are merely incarcerated?

The honourable member who has just spoken in the debate is obviously a humanitarian person, but he has not answered nor can he answer the question of what society is doing in these matters, or where society is going. I do not know either.

The legislation before us is an attempt to enable us to do something to bring about a better situation. I certainly have no quibble with the remarks which Mr. Medcalf has made on clause 30 of the Bill. I will gladly delete the words which he suggests should to be deleted. His proposal is well meant, and I think he spoke as a man with a deep knowledge of the subject.

Tonight I am speaking on this issue as one who is earnestly trying to do something which will not cause embarrassment to any individual. In the administration of my present portfolio I see great misery every day. I want to uplift the individual, if at all possible; and without doubt I am sure that is the wish of every member in this House. What is wrong with democracy today that we have so many failures in our society? It is not my fault. I am merely an instrument of democracy. Many earnest people are behind me and they want to do better. We should not have to amend the Criminal Code to uplift society, but we do so to deal with oppressive situations with which we cannot cope at present.

I accept everything Mr. Medcalf said and I will certainly have no objection to the deletion of the words to which he referred. I only hope that when this legislation is placed on the Statute book it will be an improvement on the present law because day by day I am worried about the future, not for my sake because I will be dead and gone.

Some of the members in this Chamber, and one in particular, have devoted a great period of their lives to the furtherance of the democracy to which we subscribe. If simple amendments such as those envisaged were the answer I would gladly acclaim them, but I am afraid they are not. We are moving towards a time when the responsibility on our shoulders will be greater than ever before. So I thank Mr. Medcalf for his acceptance of the Bill and will certainly welcome his amendment.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman (The Hon. F. D. Willmott) in the Chair; The Hon. W. F. Willesee (Leader of the House) in charge of the Bill.

Clauses 1 to 24 put and passed.

Clause 25: Amendment to section 486—

The Hon. N. E. BAXTER: I cannot understand the trend which the Government is following as evidenced in this Bill. I cannot understand why the lesser penalty for a more trivial offence is being deleted, but the greater penalty under subsection (1) is being retained.

The Hon. W. F. WILLESEE: Quite obviously I do not know the answer to the question. As I see it we are repealing subsection (2) regarding false statements and then we are inserting a new section 489A concerning general offences which may be dealt with summarily. I cannot understand the honourable member's reference to the trend being followed by the Government and therefore I cannot answer his question.

The Hon. G. C. MacKinnon: It appears to be a substitution.

The Hon. N. E. BAXTER: At a quick glance I feel the Minister may be right. It appears we are deleting the provision to which I have referred, but we are inserting the same provision elsewhere.

Clause put and passed.

Clauses 26 to 29 put and passed.

Clause 30: Amendment to section 586—

The Hon. I. G. MEDCALF I move an amendment—

> Page 14—Delete all words commencing with the word "or" where secondly appearing in line 7 down to and including the word "charges" in line 9.

The Hon. W. F. WILLESEE: Open confession is good for the soul. I appreciate the knowledge of the mover of this amendment and I accept his judgment. I am sure the Bill will be better for his action.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 31 to 36 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

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

STATE TRADING CONCERNS ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. J. Dolan (Minister for Police), read a first time.

PUBLIC WORKS ACT AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendment made by the Council.

JUSTICES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 4th May.

THE HON. I. G. MEDCALF (Metropolitan) [8.01 p.m.]: This Bill is really complementary to the Criminal Code Amendment Bill which we have just passed. I would like to indicate this measure also has my support and I will very briefly deal with the main provisions.

The first general provision seeks simply to extend the summary jurisdiction provisions in a manner complementary to the methods adopted in the Criminal Code Amendment Bill which we have just discussed. The second provision states that stipendiary magistrates, if available, shall on all occasions hear summary offences. If they are not available the offences will be heard by two justices but the accused must consent to trial by justices. The requirement that the accused shall give his consent is quite a new departure. It means that he must consent to having his case heard by the justices. Obviously there will be occasions when a magistrate is not available. If one is not available and the accused does not consent to trial by justices, he will have to await trial by a magistrate.

It is unnecessary to go into a number of procedural matters which are dealt with in the Bill. These are matters of detail only and I need not delay the House by referring to them.

However, there are some quite important provisions dealing with rehearings. The purpose is to make rehearings simpler without some of the formalities which at present attend them and which necessitate an appeal to the Supreme Court. Let us consider traffic offences. A decision may be made in the absence of the accused after that person makes a plea of guilty. Having entered the plea a decision can be made against him and a harsh decision handed down by the justices or magistrate having summary jurisdiction. Provision is made for an extension of 21 days in which the accused may apply for a rehearing.

It quite frequently happens that a person will plead guilty to what he regards as a minor offence. To his surprise he can discover he is fined a substantial sum—far greater than he anticipated. Had he known there was a possibility he might receive this fine it is believed in some cases the person would enter a plea of "Not Guilty." However, because that person regarded the offence as minor he might well plead "Guilty" and in some cases receive a punishment which is greater than the offence deserves. There is now provision to apply for a rehearing within a 21-day period if a person believes a sentence is harsh.

Provision is also made for rehearings in respect of minor errors in convictions. Errors do occur periodically in names, charges, and various other details. Whilst there is no intention to work an injustice, nevertheless this happens because a person who is, in fact, convicted wrongly —albeit on a minor offence—does not like the stigma of a conviction against his name. This happens in many cases. Some manage to shrug this off but others value their good reputation and should there be an error in the conviction, charge, or some other detail, it is desirable that there be a speedy method of having the charge reheard. This method is now prescribed and, in the main, these amendments should be pleasing to the public.

The Bill proposes to increase the value of goods which are protected against seizure under a warrant of execution issued when a person does not pay the penalty prescribed by the court. This is simply to keep in line with the inflationary tendencies of our times by allowing for changes in money values. Therefore, this provision is quite normal and deserves support.

Generally speaking I am sure the provisions of the Bill will be popular with the public and they are certainly pleasing to the legal profession. I have much pleasure in supporting the Bill.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [8.06 p.m.]: I wish to pay a tribute to Mr. Medcalf. He helps us immensely by his capacity to reduce legal phraseology in our legislation to simple terms. It will be of

great advantage to look into *Hansard* next week and clearly to see the unequivocal way that he has dispensed with the question before us. By supporting this Bill he has helped me immensely. I appreciate his remarks and I commend the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. W. F. Willesee (Leader of the House) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Amendment to section 4—

The Hon. J. HEITMAN: I was struck by the comments of both Mr. Medcalf and the Leader of the House when they said the public will be pleased with the provisions of the Bill. Certainly the magistrates and solicitors will be. I wonder what the reaction of justices of the peace will be, because they will be affected by this provision.

I have always thought that justices of the peace have a very good record but, in listening to the debate this evening, I wonder whether this is the case. Perhaps I could ask that question.

Justices have been dispensed with in a rather summary manner and nothing has been said about their usefulness at any time. I agree that indictable offences should not be heard by justices but in many cases they have been over the years. I must say justices have had a pretty good record over the years, too. Occasionally there may be one or two bad judgments, but this comment could also apply to others. Any person can make a mistake in an indictable offence or in a court of law.

I am surprised that no mention has been made of the work of justices over the years and also at the fact that they are being dispensed with. I agree they should not hear these cases, but sometimes this has been inevitable. On many occasions in the country I have had to carry out this duty myself. I have always inclined to the thought that a person could be remanded and heard by a magistrate or could wait for a different justice if he wished. I would like to hear both previous speakers make some comment on this angle.

The Hon. I. G. MEDCALF: I did not say anything really praiseworthy about justices, chiefly because the Minister, in his second reading speech, paid a compliment to the work that has been done by them over the years. I am particularly conscious of this myself. In fact, for a number of years after I was admitted I was secretary to the justices association which, as Mr. Heitman knows, is the Royal Association of Justices of the Peace in Western Australia. I came into very close contact with justices at that time. I did discover that justices of the peace in England are quite different from justices in Australia. In England justices of the peace who hear cases are magistrates in our sense of the word in that they are trained and qualified in the law, whereas ours are not.

I would like to crave the indulgence of the Committee for a few moments to answer the comments made by Mr. Heitman. Perhaps at times justices of the peace in Western Australia have been asked to do more than they have been given the assistance to do. I should think it would be a very difficult task for a justice of the peace to sit on the bench for the first time unless he has some expert guidance. Normally there should be a clerk who is qualified to help him. However, in some of the remote districts we know this does not occur. In fact, in some country districts—not necessarily remote ones—the clerk is not always available or is not always trained in the intracacies of criminal law. Often he is the Clerk of Courts who has graduated from some other position. I am not being critical of Clerks of Courts, but this has made difficulties for justices.

On the other hand, justices of the peace have done a magnificent job over the years because, despite all the difficulties, they have carried out an honorary service for the Crown ever since we have had law courts in Western Australia. At one stage, apart from the judges in the Supreme Court, they were the only other members of the judiciary in the State. Their work has all been entirely honorary. This fact is often forgotten, particularly in these days of professionalism where everyone is paid. We should not forget that justices have never been paid any money for the services which they render, simply out of their sense of duty to the public.

I personally am deeply conscious of the debt the State owes to justices. I do not want anything I said about replacing them with magistrates to be taken in a critical sense. I believe this provision will relieve justices from some of the more onerous criminal trials over which they have been asked to preside in the past without proper professional assistance.

The Hon. W. F. WILLESEE: I appreciate very much the point raised by Mr. Heitman. I thought his comments were apt. It is quite possible we have glibly passed over the great services which have been rendered by justices of the peace over the years.

In a country town a justice of the peace is generally a stalwart of that town. Everyone recognises him for what he is. He is a man who has lived in the town, grown up with it, and is part and parcel of society. We should never detract from

the capacities of justices of the peace, but professionalism must move in as it is doing.

I thank Mr. Heitman for giving me the opportunity to say—quite apart from my remarks at the second reading stage—that we owe a great debt of gratitude to justices of the peace for the services they have given throughout the State. In my opinion justices of the peace are to justice what local government is to Government. They perform these honorary jobs with great circumspection, with great ability on occasions and, indeed, we would be in difficulties without them.

The Hon. A. F. GRIFFITH: It is of course obvious to members that there is nobody in the Chamber better suited to deal with legal matters such as amendments to the Criminal Code and to the Justices Act than is my friend and colleague, The Hon. I. G. Medcalf. It is for this reason that I asked him to take the adjournment of these two Bills. However, I am sure I remember correctly that the report of the Law Reform Committee which recommended amending these two pieces of legislation came about as a result of the terms of reference which the previous Government submitted to that committee. Therefore, I have some small knowledge of the matter.

The Hon. W. F. Willesee: Quite large, in fact.

The Hon. A. F. GRIFFITH: I am pleased that the Hon. J. Heitman raised the question of justices of the peace and it got me to my feet because I have always been a great champion of their cause. I know the enormous contribution made generally by justices of the peace to the administration of the law throughout Western Australia from as far north as one can go to as far south—from Wyndham in the north to Esperance in the south. Had it not been for these men, past Governments would not have been able to serve the community in the way they have over the years.

I would say that 99 out of 100 decisions made by justices of the peace are not challenged as to the correctness of the legal interpretation, but nothing is ever said about those decisions. It is unfortunate, however, that when a justice of the peace makes one mistake or says a single word out of place he gets pride of place on the front page of the Press.

I say again in this Chamber that we are all grateful to justices of the peace for the services they perform and I appeal to them to continue with their duties despite criticism which is likely to follow a decision subsequently proved incorrect. Of course, the justice of the peace is not on his own in this respect. The best magistrates, the best judges, and the best High Court judges in the world all make mistakes from time to time and we sometimes see judgments upset by superior courts.

Although it is no longer my responsibility, I rise to take this opportunity to participate in the vote of confidence in the justices of the peace. To some extent their jurisdiction is now lessened but I feel they will not shirk these lesser responsibilities and will carry out their duties as capably as they have done in the past.

The Hon. W. F. Willesee: Hear, hear!

The Hon. J. HEITMAN: I would like to thank the members for their remarks. I made my comments because of an omission on the part of the Government. Every member appreciates the past work of justices of the peace but it is very nice to have it recorded in this Parliament so that those people who have given this service will realise we appreciate the work they have performed.

The Hon. W. F. WILLESEE: I just wish to make one point: It was probably an unfortunate choice of words but I do not think there was an omission. In my second reading speech I paid a tribute to justices.

The Hon. J. Heitman: Yes.

The Hon. W. F. WILLESEE: I would not like it to be thought there was an omission. The honourable member has embellished what we wanted to say, but I assure members there was no omission.

Clause put and passed.

Clauses 5 to 16 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and passed.

QUESTIONS (6): ON NOTICE

1. DAYLIGHT SAVING

Committee of Inquiry

The Hon. G. W. BERRY (for the Hon. D. J. Wordsworth), to the Chief Secretary:

In view of the importance that daylight saving undoubtedly has on the life of women and children, particularly in the country, will the Minister consider making a place available to the Country Women's Association on the proposed Committee inquiring into daylight saving?

The Hon. R. H. C. STUBBS replied:

The Committee has already met and has decided to advertise in Metropolitan and Country newspapers, inviting individuals and organisations to submit views and information on Daylight Saving. By this means, it is hoped to get the viewpoint of such organisations as the Country Women's Association.

2. EDUCATION

"Little Red Schoolbook"

The Hon. F. R. WHITE, to the Leader of the House:

(1) Does the Government intend to take immediate action to ban the sale and distribution of the "Little Red Schoolbook"?

(2) Is the Government aware that at least two book shops in Perth have this publication for sale?

(3) In view of the Premier's statement on page 1 of *The West Australian* dated Tuesday, the 9th May, 1972, will the Minister advise why there is "no prospect of the publication being distributed in Government Schools in W.A."?

(4) Is it because he is confident that—

(a) book shops will sell only single copies to a restricted clientele; or

(b) radical groups will be prevented from distributing copies to schools as they have done in the past with other forms of undesirable literature?

The Hon. W. F. WILLESEE replied:

(1) It is the Government's intention to take what action is available to it to prevent the sale and distribution of the Little Red School Book.

(2) No, but the possibility is not discounted.

(3) Regulation 41 under the Education Act gives the Director General power to ban the use of any book which he considers unsuitable for school purposes and no teacher or pupil shall bring to or use in the school any book so banned. The Minister for Education has been assured by the Acting Director General of Education that such necessary action has been taken.

(4) Answered by (3).

3. EDUCATION

Kimberley Regional High School

The Hon. V. J. FERRY (for the Hon. W. R. Withers), to the Leader of the House:

(1) With reference to my question without notice on the 4th May, 1972, concerning a Kimberley Regional High School, and the Minister's reply to the effect that the establishment of a Kimberley Regional School would be dependent upon the growth rate of the area—would the Minister advise what he considers to be a growth rate to warrant a Regional High School?

(2) Because the current population growth rate in the Kimberley is 15% per annum, will the Minister limit establishments for education in communities with growth rates less than 15%?

The Hon. W. F. WILLESEE replied:

(1) and (2) The growth rate referred to in the answer to the Hon. Member's question on 4th May, 1972, applies only to the number of students at the secondary level. It was not intended that the reference should be to the overall population growth. The matter raised in question (2) is thus not applicable.

4. LAND

Reserve No. 14163

The Hon. F. R. WHITE, to the Leader of the House:

Further to my question on Wednesday, the 3rd May, 1972, would the Minister ascertain from the Minister for Lands whether—

(a) any approval has been given to any person or authority to use Reserve No. 14163 (Parkerville Lot 336);

(b) if the answer to (a) is "Yes", what type of use was authorised?

The Hon. W. F. WILLESEE replied:

(a) and (b) Authority has not been given to any person to use Reserve No. 14163.

5. SITTINGS OF THE HOUSE

Adjournment of a Fortnight

The Hon. I. G. MEDCALF, to the Leader of the House:

(1) What is the reason for Parliament proposing to adjourn for a fortnight?

(2) Does the period of adjournment coincide in any way with the school holidays?

(3) If so, why should there be any connection between the Parliamentary session and the school holidays?

The Hon. W. F. WILLESEE replied:

(1) An early indication was given that it was proposed to adjourn Parliament on the 11th instant and that it would not meet again until July. Acting on this knowledge Ministers and a number of private Members made commitments of a firm nature. In the circumstances it is regarded as reasonable that Parliament should adjourn on the 11th instant.

(2) and (3) It is a mere coincidence that Parliament will be adjourned during the period of the school holidays and it does not appear that this is something to be deplored.

6. POLICE

Additional Staff at Kalamunda

The Hon. F. R. WHITE, to the Minister for Police:

(1) Is the Minister aware that "The Drop-in-Centre" operated by "The Kalamunda & Districts Youth Committee" has been forced to close due to the shortage of Police staff in the Kalamunda area, and that as a result 40 youths of the district have been denied organised activities for two nights each week?

(2) Is the Minister aware that the incidence of vandalism in the district supports an increase in Police staffing above the present staff of two?

(3) Will the Minister take immediate action to appoint additional staff, even though recent representations by the Shire Council have been unsuccessful?

(4) If the answer to (3) is "No", could the Minister take action to make a constable available between the hours of 8 and 10 p.m. on Tuesday and Thursday evenings outside "The Drop-in-Centre" so that unruly behaviour of those not associated with the centre may be controlled?

The Hon. J. DOLAN replied:

(1) The closure of the Youth Centre has been reported to the Police Department by its organiser within the last few days, and the matter is currently being investigated by the District Police Officer. The closure is said to have resulted from prohibition by the Shire of the club's activities if additional Police were not made available at Kalamunda.

(2) A previous Police Department survey determined additional staff was needed at Kalamunda.

(3) Additional staff is required at many centres and an increase in the authorised strength of the Police Force is awaited to alleviate the position. Kalamunda has high priority.

(4) The District Police Officer is aware of the position and is conducting investigations. He will deploy his staff to the best advantage of the community throughout his district.

GAS STANDARDS BILL

Second Reading

Debate resumed from the 3rd May.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [8.29 p.m.]: It is my intention to support the second reading of the Bill and I do not intend to use more than a few moments of the time of the House in doing so.

The introduction of this legislation has become necessary with the advent of natural gas for household use in Western Australia. I could probably employ the time of the House to considerable advantage by speaking on the merits of natural gas, but I do not intend to do that.

Under this legislation the State Electricity Commission is charged with the responsibility to test the purity of gas, the pressure at which it is supplied and its heating value.

The second reading speech notes of the Minister indicated how this would be carried out. Natural gas is a commodity different from town gas, because in the first place, town gas is manufactured with the use of coal and later by oil. Natural gas is now being fed into gas mains in the metropolitan area for domestic use, and to the extent to which it will be used in industry I think it has a great future in Western Australia.

Exploration efforts will continue in this State and it is to be hoped that more and more natural gas will be found. It has a calorific value of approximately twice that of town gas. It is cleaner and easier to use, and, by and large, it is a very good product.

The only unfortunate feature about natural gas in Western Australia is that it is a dry gas instead of being a wet gas and as a result very few by-products are obtained from it. In many other countries of the world gas is of the type that when treated it gives off a considerable number of byproducts, and they are of even greater value to the communities of the countries in which the gas is found than the gas itself.

Nevertheless the gas that was discovered in the Dongara area, whilst small in quantity, when comparing it with gasfields in other parts of the world, will at least make a valuable contribution to the State's economy. I therefore support the second reading of the Bill.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [8.32 p.m.]: I thank the Leader of the Opposition for his support of the Bill and I do not think I need elaborate any further.

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. J. Dolan (Minister for Police), and passed.

GAS UNDERTAKINGS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd May.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [8.37 p.m.]: This Bill also is one upon which I do not intend to spend a great deal of time. The amendment contained in it will enable a contractor or supplier of natural gas, under the provisions of clause 2 of the Bill, to be free from any obligations under the principal Act he would otherwise need to observe. Proposed new section 25(2) contained in clause 2, reads as follows:—

> (2) The Minister may, by notice published in the *Government Gazette*, declare that the provisions of this Act do not apply to a gas undertaker who is the holder of a pipeline licence granted under the Petroleum Pipelines Act, 1969, in respect of gas which is supplied or distributed through a pipeline the subject of that pipeline licence.

There is no need for me to read proposed new subsection (3) appearing in the same clause. As stated by the Minister when he introduced the Bill, the Minister for Electricity in the previous Government advised Western Australian Petroleum Pty. Ltd.—commonly known as WAPET—that the Government would support the introduction of legislation which would enable sellers of natural gas to fulfil their obligations under the proposed contract between the State Electricity Commission and the producers of natural gas. WAPET is a company which has a contract with the State Electricity Commission and it is desirable that a Bill of this nature be introduced to fulfil the undertaking given by the Minister for Electricity in the previous Government.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [8.39 p.m.]: Once again, I thank the Leader of the Opposition for his comments on 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 The Hon. J. Dolan (Minister for Police), and passed.

JUDGES' SALARIES AND PENSIONS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 9th May.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [8.42 p.m.]: A perusal of the Judges' Salaries and Pensions Act reveals that judges receive pension benefits according to a scale and subject to circumstances attached to the scale. On page 2 of his second reading speech notes the Minister indicated exactly what that scale was. However, the Act does lack a basis for an adjustment of judges' pensions as salaries rise from time to time.

An example may be given of a judge who is in receipt of $18,000 a year. I am not sure whether that was the figure mentioned by the Minister but we will take that figure to fit the example. If, on retirement, that judge is entitled to maximum pension benefits in accordance with his salary at the time of retirement, he would receive $9,000 per annum. Following his retirement he finds that the salary for the position which he previously held has risen to, say, $20,000 a year, but his pension, under the provisions of the Act at present, remains static on $9,000 a year.

Members will recall that a year or two ago similar anomalies were rectified in the Parliamentary Superannuation Act. Amendments were also made to the Superannuation and Family Benefits Act to achieve the same purpose, taking into consideration the increases in salaries and wages that occur from time to time. Therefore, under this Bill, the Government is seeking to adjust pensions payable to judges and their widows in a manner similar to that which was followed in regard to the legislation I have just mentioned. I think the proposal in the Bill is fair and there is no need for me to labour the matter. I accordingly support the measure.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [8.45 p.m.]: I think the Leader of the Opposition has hit on a very true point. I believe it can be said that there have been instances within the State of retired judges who have suffered the disability of inflation—in simple words that is what the honourable member was referring to.

I will certainly make a point of drawing the attention of the Attorney-General to the fact that when we do, in future,

establish a given rate of retiring allowance for one of our senior citizens, or one of our senior judges—in this case it is a senior citizen—that we ensure he does not suffer from a depreciated value in the money that is paid to him by the State in recognition of his services.

I thank the Leader of the Opposition for the point he made. It is well taken, and I certainly support it.

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. W. F. Willesee (Leader of the House), and passed.

House adjourned at 8.48 p.m.

Legislative Assembly

Wednesday, the 10th May, 1972

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

LIQUOR ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Mr. T. D. Evans (Attorney-General), and read a first time.

Second Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [4.35 p.m.]: In introducing this Bill to amend the Liquor Act I advise members that it is the intention of the Government to allow the Bill to remain on the notice paper for consideration until the August sitting. The Government expects response from the public, generally, to the provisions of the Bill and, indeed, invites that response. I am sure all members will receive some response from those persons interested. I move—

That the Bill be now read a second time.

Mr. Hutchinson: Will it be a party Bill?

Mr. T. D. EVANS: The question will be answered during the course of the speech about to be delivered.

The amendments proposed in this Bill are consequent on the consideration of submissions received from a number of organisations. The Liquor Act, which came into operation on the 1st July, 1970, gave effect to recommendations of the committee appointed to inquire into the sale, supply, and consumption of intoxicating liquors in this State. Since then there has been a period of nearly two years in which an assessment could be made of the effect of liberalising the law in this field to meet present-day conditions.

Experience shows that some amendments are warranted and this must be expected when substantial changes are made in any field of law.

This Bill, following the practice adopted in respect of the parent Act—and I ask the member for Cottesloe to take particular note here—we trust will be dealt with as a nonparty measure so that members are free to consider the amendments according to their own beliefs.

Mr. Hutchinson: Is that the first indication the Minister has had—when he read his notes?

Mr. T. D. EVANS: The provision dealing with the supply and sale of liquor with, or ancillary to, a meal has been one of the matters of discussion and comment since the Act came into force. Several prosecutions have been taken and these have tended to add to the difficulty of interpreting the intention of the relevant provision which was to allow persons to dine out in the same manner as they would in their own homes.

In order to overcome the problems, clause 4 (h) provides for a new subsection (2a) to be added to section 7 to provide that liquor may be sold within one hour immediately preceding the supply of the meal, and during and after the supply of the meal within the authorised trading hours of the relevant license.

Clause 24 sets out grounds of defence to a complaint of selling or supplying liquor contrary to the conditions of a license which allows the supply and consumption of liquor with meals. These amendments, we trust, will clarify the position of licensees and patrons.

The matter of juveniles on licensed premises has also attracted comment, and there have been many requests for amendment to the relevant provisions of the Act.

This question was the subject of much attention by the committee. Most of the present representations are from organisations which had the opportunity to present their views to the committee. However, experience has shown the desirability of restricting the bars where juveniles may enter and remain when accompanied by their parents or persons in authority over them.

A total ban on juveniles in bars would result in the undesirable situation which existed previously, where children were left in cars outside hotels for unduly long periods, or otherwise left unattended or completely uncared for.

Accordingly, it is proposed to amend the present provision to allow juveniles only in any part of licensed premises where