

Mr. A. A. LEWIS: —when giving answers to questions. In my school we did not gain a 98.8 per cent. pass for nothing. We had to work for any pass we gained.

Point of Order

Mr. J. T. TONKIN: I think it is time the new member started to learn a few lessons.

The DEPUTY SPEAKER: What is the point of order?

Mr. J. T. TONKIN: It is against Standing Orders to accuse a member of deliberately misleading the House; and that is the accusation the member for Blackwood has made against me and which I ask to be withdrawn.

The DEPUTY SPEAKER: I ask the honourable member to withdraw the statement.

Mr. A. A. LEWIS: If I did say that, I withdraw it.

Mr. J. T. Tonkin: You did.

The DEPUTY SPEAKER: Order!

Mr. A. A. LEWIS: I will withdraw it if I said it.

The DEPUTY SPEAKER: The honourable member has withdrawn the statement. Carry on.

Debate Resumed

Mr. A. A. LEWIS: I will, because it is obvious a certain gentleman leading the other side is getting touchy and is trying to teach younger members manners, and what-have-you.

Mr. J. T. Tonkin: I am not touchy. You have a few lessons to learn and I thought you might just as well start learning now.

Mr. May: He did not refer to young members. He referred to new members.

The DEPUTY SPEAKER: Order! I will respectfully ask the honourable member to address the Chair and then we will have no trouble.

Sir Charles Court: You will get a much more attentive audience, too. If the Premier does not believe there is a shortage, he should go to the country shows where they have only borrowed equipment to display.

Mr. Bickerton: I think the honourable member is getting touchy.

Mr. A. A. LEWIS: I do not think so. He seldom does.

Mr. Bickerton: That is misleading the Chamber!

Mr. A. A. LEWIS: I am sorry about that! Mr. Deputy Speaker, I actually thought you and not those on the front bench were in charge of the House. Am I at liberty to address you, Sir?

The DEPUTY SPEAKER: I suggest you address the Chair and ignore interjections.

Mr. A. A. LEWIS: Thank you, Mr. Deputy Speaker. Let me return to the tragedy of statements made in the House that there were no acute shortages. I think I

have proved fairly forcibly that acute shortages do exist. If the Government had any go in it at all it would be looking into this matter. However, with its total and utter lack of leadership which has been the case for 2½ years, it cannot be expected to do anything. The Government does not see the problems. It does not consider there are any problems, but that everything in the garden is rosy.

Nevertheless, the people producing the wealth of this State are being penalised because they are not being supplied with the tools with which to harvest our grain and with which to make hay and forage. While on the subject of hay and forage let me refer again to the Federal Budget. The two most important necessities in agriculture are water and fodder. We heard the member for Wembley discuss at length with other members the tragedy of the Federal Budget in relation to water.

Equally tragic is the lack of availability of hay sheds and silos, and the fact that forage machinery depreciation has been altered to a 10-year term. Those who know something about forage machinery would be aware of the fact that no forage machine would work efficiently for 10 years. The life of a highly productive machine like that is in the region of five to six years for a top producer.

Of course, in its usual way, the Federal Government could not care less about the farmer. It quotes arbitrary figures and could not care less about water in the country or whether machinery is available. I believe that if this trend continues, this State's agricultural production will fall dramatically, and whatever Government is in power in Canberra will be hit in its hip pocket. So I implore the Premier and Treasurer to study these matters and try to do something constructive before he goes out of office.

Debate adjourned, on motion by Mr. Grayden.

House adjourned at 5.37 p.m.

Legislative Council

Tuesday, the 30th October, 1973

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

PARLIAMENTARY COMMISSIONER'S REPORT

Tabling

THE PRESIDENT (The Hon. L. C. Diver): I wish to lay on the Table of the House the report of the Parliamentary Commissioner for Administrative Investigations for the year ended the 30th June, 1973.

The report was tabled.

QUESTION WITHOUT NOTICE**CLOSE OF SESSION: SECOND PART***Target Date*

The Hon. A. F. GRIFFITH, to the Leader of the House:

I have just heard the Leader of the House give notice of his intention to move two separate motions for the suspension of Standing Orders at the next sitting of the House.

In the light of the motions which the Leader of the House intends to put to the Chamber tomorrow, will he give the House some information, between today and the time he actually moves the motions tomorrow, as to when it is intended to complete the current session of Parliament?

I asked a somewhat similar question last week and I felt rather brushed aside by the Minister's statement to the effect that it would depend on circumstances and whether, in fact, one of the Bills which was before us was referred to a Select Committee, as an indication had been given that it was our intention to move such a motion. The date of the report of that Select Committee has been given as the 29th November.

Taking all these matters into consideration I ask the Minister to give us some indication tomorrow as to when the Government intends to end the present session of Parliament?

The Hon. J. DOLAN replied:

I will do my best to comply with the request of the Leader of the Opposition.

QUESTIONS (5): ON NOTICE

1. **TRAFFIC CONTROL**
Port Hedland Shire

The Hon. W. R. WITHERS, to the Minister for Police:

(1) In view of the statements by the Port Hedland Shire Council which indicate an alarming decline in the efficiency of traffic control in the Shire since the police assumed control, will the Minister review the current situation?

(2) (a) How many traffic officers and cars were employed full-time on Port Hedland traffic control in the 12 months prior to police take-over;

(b) how many hours per week were involved in traffic road patrol;

(c) how many policemen and police cars are employed full-time on traffic control;

(d) how many policemen and cars are employed part-time on traffic control duty;

(e) how many manhours per week are involved in traffic road patrol; and

(f) what has been the increase in car registrations in the Shire since police take-over?

The Hon. R. THOMPSON replied:

(1) Traffic control and licensing were handed over by the Shire of Port Hedland on 1st October, 1972, at which time three additional Police Officers were provided. Licensing work is carried out by the Clerk of Courts.

Information to hand indicates that there have been nine fatal accidents in the shire since control was transferred, and in a similar period prior to changeover there were eight fatal accidents.

A radar set has recently been sent to Port Hedland to increase surveillance of speeding offenders.

In the 12 months prior to the transfer of traffic control, there were 79 prosecutions for traffic offences by the shire, and in the first 12 months of Police control, there were 391 Infringement Notices issued and 354 prosecutions. In the 12 month period, 41,000 miles were covered on traffic patrols.

However, investigations are being made concerning the complaints of the Port Hedland Shire Council.

(2) (a) Three Traffic Inspectors, three cars.

(b) The Shire advises 124 hours.

(c) Nil; when handed over by a country shire, traffic control becomes a normal Police function of all personnel attached to the Station.

(d) 10 men, 2 cars, and 2 vans.

(e) 32 hours on specific traffic patrols, and 154 hours on mixed traffic and other duties.

(f) No reliable figures are available, but it is believed that while registrations have declined there is a greater volume of traffic through the shire.

COMPANIES*Registrations*

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

(1) How many public companies were incorporated locally during the undermentioned periods—

(a) the year ended the 30th June, 1970;

- (b) the year ended the 30th June, 1971;
- (c) the year ended the 30th June, 1972;
- (d) the year ended the 30th June, 1973;
- (e) the quarter ended the 30th September, 1973?
- (2) How many proprietary companies were incorporated locally during each of the same periods?
- (3) How many foreign companies were registered locally during each of the same periods?

The Hon. J. DOLAN replied:

(1) to (3)—

Year Ended	Local Public Companies	Local Proprietary Companies	Foreign Companies
30th June, 1970	53	2,404	508
30th June, 1971	57	2,046	589
30th June, 1972	33	1,591	458
30th June, 1973	15	1,713	389
3 months to 30th September, 1973	3	400	117

3. PRICES CONTROL

Remote Areas

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

- (1) Has the Government investigated the reason for bread price increases being three times more in Port Hedland than the approved price increase in the city?
- (2) What are the Government reasons for this increasing disparity gap between prices of goods in Perth and remote areas?

The Hon. J. DOLAN replied:

- (1) As the price of bread is not controlled in any form in country areas, the Government has not specifically investigated the level of, or the reasons for, the bread price increase in Port Hedland and the disparity with those in the Metropolitan Area. As the Hon. Member is aware, the Consumer Protection Bureau is conducting an inquiry into the consumer cost structure in the Pilbara Region. The purpose of the report is to establish differentials within the area and between this area and the Metropolitan Area and the reasons for these differentials. It is anticipated that it will serve to indicate to the Government what action can be taken provided a need is shown. Bread is one item that has been considered.
- (2) Answered by (1).

4. ESPERANCE HIGH SCHOOL

Enrolments and Classrooms

The Hon. D. J. WORDSWORTH, to the Leader of the House:

- (1) What are the number of students attending the Esperance High School during the year 1973?
- (2) What are the anticipated numbers for—
 - (a) 1974; and
 - (b) 1975?
- (3) Will three new teaching units for use in art, craft, and typing, be required for 1974?
- (4) Have tenders for these classrooms been called?
- (5) If not—
 - (a) where will these classes be taught; and
 - (b) when will these additions be completed?

The Hon. J. DOLAN replied:

- (1) 513 students.
- (2) (a) 588.
(b) 637.
- (3) Three new teaching units to provide for specialist usage are required in 1974 to enable the school programme to be implemented fully.
- (4) No.
- (5) (a) Additional demountable classrooms will be provided until the permanent rooms are built.
(b) It is not possible to indicate a completion date at this stage, but it is anticipated the additions will be available during third term, 1974.

5. HISTORIC WRECKS

Preservation of Materials

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

- (1) Does iron and wood which is recovered from an ancient shipwreck deteriorate rapidly when removed from the sea unless immediate restoration and preservation processes are undertaken?
- (2) Does this deterioration accelerate when the material is exposed to the weather?

The Hon. J. DOLAN replied:

- (1) Objects of iron and wood remaining under the sea deteriorate as a result of a number of complex and often interrelated environmental factors. Such objects may appear to be unchanged but, in the case of grey cast iron (the normal constituent of iron cannon) for example, the appearance conceals the fact that a metal object may

wholly, or partly, have ceased to be composed of solid iron, but consists of corrosion products held in position by carbon flakes forming a network throughout the corrosion products of the iron. Any change in the environment of the object, such as that resulting from movement under the sea, or removal into the atmosphere will immediately result in new corrosion processes operating. These will often destroy the appearance of the object unless it is made stable in its new environment.

When iron and wood are removed from an ancient ship-wreck as part of modern archaeological investigation, the conduct of the programme requires the inclusion of processes to stabilise and, if necessary, to restore objects recovered.

- (2) Yes. Upon first recovery it is necessary to place any object immediately in a stable environment until physical and chemical treatment can be applied to it to change its state so that it will be stable in normal atmosphere. In the case of wood, this consists of preventing it from drying out and inhibiting attack by moulds, etc. In due course, it can be impregnated in such a way as to make it stable for exposure to ordinary atmosphere. If this is not carried out, then irreversible cracking and shrinking of the wood will occur.

In the case of iron, the situation is much more complex. It has been our experience in W.A. that objects from the early Dutch wrecks suffer irreversible changes from the time they are exposed to a fresh source of oxygen. In the case of cannon, the result is exfoliation of the surface layers about 3 months after recovery but, in fact, the damage appears to have been done irreversibly well before this time. Once the surface layers have exfoliated down to the solid metal core, the remainder appears to be as stable as any other iron object. Experimental techniques for the treatment of iron are currently being developed in the Conservation Laboratory of the Western Australian Museum and in other laboratories elsewhere. Dr. C. Pearson, the Curator in charge of the Conservation Laboratory, was, in his former appointment with the Commonwealth Department of Supply, responsible for the development of techniques relevant to the treatment of the Captain Cook cannon recovered on the Barrier Reef.

Until such techniques are adequately developed for the iron objects recovered from Western Australian wrecks, it is the policy of the Museum to disturb and raise as few iron objects as possible.

Case histories of iron objects recovered by various parties, including amateurs, before the operation of the Museum Act are detailed in the records of the Conservation Laboratory and may be made available with illustrations to Parliament, if required. The fact that irreversible action takes place immediately after recovery of iron objects was not known to amateur marine archaeologists who, in the enthusiasm of recovery, were responsible for raising a few iron objects from Western Australian wrecks before 1964. No criticism is implied of their actions in this answer.

CONSTITUTION ACTS AMENDMENT BILL

Third Reading

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [4.49 p.m.]: I move—

That the Bill be now read a third time.

Question put.

The **PRESIDENT**: Honourable members, this Bill requires the concurrence of an absolute majority, and in accordance with Standing Order 308, a division must be taken.

Bells rung and House divided.

The **PRESIDENT** (The Hon. L. C. Diver): I have assured myself that there is more than an absolute majority of members present and voting in favour of the motion. I therefore declare the question carried in the affirmative.

Question thus passed.

Bill read a third time and returned to the Assembly with an amendment.

BILLS (2): THIRD READING

1. Censorship of Films Act Amendment Bill.

Bill read a third time, on motion by The Hon. R. H. C. Stubbs (Chief Secretary), and transmitted to the Assembly.

2. Pay-roll Tax Assessment Act Amendment Bill.

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

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 17th October.

THE HON. I. G. MEDCALF (Metropolitan) (4.54 p.m.): The purpose of this Bill has been adequately explained by the Minister. It has three objectives: Firstly, it seeks to increase the number of elected members of the Barristers' Board from five to seven. The reason for this amendment is that the number of legal practitioners now practising law in this State has increased considerably since the number was originally fixed at five; that is, five elected members of the Barristers' Board.

It is desirable that the Barristers' Board should have a majority of elected members. Although, in fact, Queen's Counsel are eligible to be members of the Barristers' Board, in practice not all of them attend. In addition, the Solicitor-General is entitled to be a member and he usually attends, but it is desirable that the business of the board should be largely managed and kept within the control of the elected practitioners because, basically, they know what the conditions of practice are and should be.

Therefore it is a sound principle that the number of practitioners should be increased from five to seven, because in the 1930s only about 100 practitioners were practising law in Perth. In the 1950s the number was round about 200 and now there are about 300 legal practitioners practising in the city of Perth. So there has been approximately a three-fold increase in the number of legal practitioners in the last 30 or 40 years. For that reason it is thoroughly desirable that we should support an increase in the number of elected members of the Barristers' Board.

The second amendment in the Bill seeks to lift the restriction on the number of articulated clerks who can be articulated to the Commonwealth and State Crown Law Departments. The position at present is that a private legal practitioner, in private practice, can have a maximum of two articulated clerks, so if there is a partnership of three or four practitioners they can have six or eight articulated clerks. The Solicitor-General of this State has been restricted to four articulated clerks, as has the Deputy Commonwealth Crown Solicitor who, of course, comes within the jurisdiction of the Legal Practitioners Act while practising law in this State so far as this type of restriction is concerned.

It is desirable to increase the number of articulated clerks who can be articulated to both the Commonwealth Crown Law Department and the State Crown Law Department and the purpose of the Bill is to increase the number at any one time from four to seven so that the Deputy Commonwealth Crown Solicitor and the Deputy State Solicitor-General can each have seven articulated clerks at any one time after the passage of this Bill. Of course there are many practitioners working in the Commonwealth and State Crown Law De-

partments so there is no problem in regard to articulated clerks being supervised; there are a great number of practitioners in both departments apart from the Solicitor-General and the Deputy Commonwealth Crown Solicitor. So I support those two amendments.

The third amendment seeks to give greater power to the Barristers' Board over certain legal practitioners who have been found to be incapable of conducting their practices. There are many reasons why a legal practitioner may be found to be incapable of conducting his practice. He may suffer illness, he may become very elderly or infirm, or he may absent himself from his practice and frequent the racecourse or some den of iniquity. Further he may suffer from a kind of disease which seems to afflict a number of people who do a good deal of book work. They seem to become incapable of completing their work on time. This is a curious malady which afflicts not only legal practitioners, but also accountants, and even public servants. It is due, I think, to the fact that they may have an academic training and are not, perhaps, sufficiently businesslike to attend to the requirements of their clients in an expeditious manner.

Their clients, of course, have engaged them to do a particular job and sometimes a legal practitioner is unbusinesslike and does not get the job completed in the proper time. He thereby causes his client loss, and if this situation continues for a sufficiently long time with a sufficient number of clients, obviously he becomes incapable of running his practice.

The Hon. J. Dolan: Was there not a case of this nature reported, I think, in the Press last week?

The Hon. I. G. MEDCALF: Yes, there was a case reported in the Press last week. It was the case of a practitioner being struck off the roll. If my memory serves me right he was a young man in his 20s and he was not attending to his work. He was, in fact, employed by another practitioner and therefore in his case this provision would not apply. The provision will largely apply to the independent practitioner who is running his own practice but who becomes incapable, for some reason or another, of effectively conducting it. This does happen sometimes to the great embarrassment of not only the clients of the practitioner concerned, but also of the members of the legal profession. For some time there has been a move in the profession to try to have this situation tightened up so that there could be some way of taking over the practice of the legal practitioner concerned so that attention may be given to his clients and their requirements.

However, problems have arisen in the past and the purpose of the provisions is to overcome them. Briefly speaking, the

way the provisions will work is that the Barristers' Board will appoint a practitioner to investigate the legal practitioner involved, and his practice; and the investigating practitioner will have access to the practitioner's files, bank accounts, and all his records. The bank will be bound to supply information as to the state of the trust account and other accounts. The investigating practitioner will then make a report back to the Barristers' Board on the state of that practice and the work of the legal practitioner.

If the board sees fit it will then apply to the court for an order to have a supervising solicitor appointed to take over the conduct of the practice of the practitioner concerned together with the handling of his trust accounts, the moneys in the bank, and the completion of the files; in other words, the supervising solicitor will generally run the practice. This I believe is in the interests of not only the public, but also of the legal profession; and I therefore support the Bill.

THE HON J. DOLAN (South-East Metropolitan—Leader of the House) [5.01 p.m.]: I thank Mr. Medcalf for his clear exposition of the amendments which are sought. When I interjected concerning a case I had recently read of in the paper all I wanted to convey was that whether a legal practitioner is old or young, he is still likely to make mistakes requiring an investigation, although not perhaps resulting in his being struck off the list.

I can only say that I am delighted the Bill has received the support we expected it would receive; and I commend it to the House.

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 (Leader of the House) in charge of the Bill.

Clauses 1 to 5 put and passed.

New clause 5—

The Hon. J. DOLAN: I move—

Page 2—Insert after clause 4 the following new clause to stand as clause 5—

Amendment to section 6. (Power to make rules.) 5. Subsection (1) of section 6 of the principal Act is amended by deleting the words "the five" in line two of paragraph (a).

As the Bill has been accepted by the Committee, it is obvious that the number in the Act must be seven in order to comply with the Bill's provisions.

The Hon. I. G. MEDCALF: There can be no objection to the new clause. As the Minister has explained, it is purely a formality following on the amendments in the Bill, and it should be supported.

New clause put and passed.

Title put and passed.

Bill reported with an amendment.

CHURCH OF ENGLAND (DIOCESAN TRUSTEES) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 24th October.

THE HON. F. D. WILLMOTT (South-West) [5.07 p.m.]: In introducing the Bill the Minister dealt adequately with its provisions. The land, which is the subject of the schedule to the Bill, is known to us as Cathedral Square and has been held under trust by the Perth Diocesan Trustees under several trusts, and it is proposed to merge those trusts into one under the Perth Diocesan Trustees. It is also proposed to widen the field in which surplus moneys from Cathedral Square can be distributed. In the past they have been distributed between the Cathedral Church and the Diocese of Perth. It is now proposed that disbursements can be made over the whole of the church province.

As I have said, the Minister adequately explained the provisions of the Bill. However, one point was not made quite clear. On page 4 of the Minister's notes is the following—

The format of the legislation is for all income derived by the Perth Diocesan Trustees from Cathedral Square to be applied in all normal outgoings of Cathedral Square and for the balance to be paid by the trustees to such one or more of the Cathedral Church, the Diocese of Perth and the Province of Western Australia of the Church of England in Australia as previously determined by a standing committee called the foundation.

That is quite correct. However, a casual reading of the Bill and the Minister's notes I have just quoted would lead one to believe falsely that on page 3 of the Bill the three references to the Deanery relate to the old Deanery situated in Cathedral Square. However, a more careful reading of the Bill makes it quite clear that this interpretation is not correct, because the key lies in subparagraph (vi) on page 3 of the Bill, which reads as follows—

(vi) the cost of the provision and maintenance of a Deanery whenever and wherever required; and

It is generally known that the old Deanery situated in Cathedral Square is no longer used as a residence by the Dean

and has not been used for this purpose for a considerable time. I think that his residence is now in the northern suburbs.

The Hon. R. H. C. Stubbs: Would not the definition of "Deanery" on page 7 of the Bill explain the situation?

The Hon. F. D. WILLMOTT: Yes it does, but the point is that the Minister's notes did not make the position clear that money is to be expended not only for the normal maintenance and so forth of Cathedral Square, but also for a Deanery situated outside Cathedral Square before any disbursements are made to the three bodies mentioned.

I just thought I would make the point because I was a little puzzled at first.

The only other matter I feel I should mention concerns the foundation which will act, in the main, as an advisory body. However, it will not act as an advisory body in the matter of the determination of disbursements of any residual money from Cathedral Square. The determination of the foundation in that matter is binding on the trustees. I am open to correction, but that is my interpretation of the provision. The foundation will act in an advisory capacity on other matters. I raise no objection to the foundation's determination concerning the disbursement of money being binding on the trustees.

I suppose one could speak at considerable length on the historical background of the land involved or about the development which could take place there in the future. However, I feel I should refrain from doing that when I consider what I can regard only as the very slow progress that is being made on what appears to be a fairly heavy legislative programme which is to be dealt with in the next four or five weeks. All members would better serve the purpose of the Chamber if they refrained from making remarks not completely necessary to the debate before the House.

With those remarks I support the Bill.

THE HON. R. H. C. STUBBS (South East—Minister for Local Government) [5.14 p.m.]: I thank Mr. Willmott for his support of the Bill. As members know, the amendments were requested by the Church of England as a result of a meeting of the Synod of the Diocese of Perth.

Mr. Willmott raised certain points. He must realise I am not familiar with the Bill, so if he will be happy about it we will pass the second reading now.

The Hon. F. D. Willmott: I am quite happy about it.

The Hon. R. H. C. STUBBS: The honourable member is quite happy to receive an explanation during the third reading debate?

The Hon. F. D. Willmott: No, not necessarily; I think I have fathomed it to my satisfaction.

The Hon. R. H. C. STUBBS: In that case I again thank Mr. Willmott for his support of the Bill which I commend to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

TOTALISATOR AGENCY BOARD BETTING ACT AMENDMENT BILL

Second Reading

Debate resumed from the 18th October.

THE HON. W. R. WITHERS (North) [5.17 p.m.]: This is a rather simple Bill which has been quite adequately explained by the Minister in his second reading speech. Accordingly, I do not think there is any need for me to explain the Bill clause by clause. This could be done at the Committee stage should any member wish to do so.

The Bill before us seeks to amend the original Act to allow for novelty betting; that is for novelty betting other than quinellas and double tote bets. The measure also allows for accruing T.A.B. funds to be paid to the Greyhound Racing Board, and it also covers an amendment which showed up in defective legislation in 1972.

I would like to comment on the fact that in his second reading speech the Minister said—

Like the Leader of the Opposition I did not know what the word "tierce" meant when I first saw it. I am told tierce betting is much the same as quinella betting and is in operation in those States which have greyhound racing. Where a small number of dogs is involved there is more interest in novelty betting.

The theory advanced is quite true; namely, there may be more persons interested in novelty betting where there are, comparatively, only a small number of dogs in each race.

Tierce betting is not in operation in other States of the Commonwealth. It is, however, used in many places on the continent; particularly in France where it is a very popular form of betting. It is also used extensively in Hong Kong, but, as I have said it is not used in Australia.

The reason that tierce betting has not been used in Australia in the past is that the other States do not have the types of equipment—such as computers, and so on—which are installed in Western Australia.

When the Western Australian computers were purchased the advisers to the T.A.B. suggested, in their wisdom, that Western Australia should buy rather sophisticated equipment which would be able to cope with this advanced type of novelty betting—and I refer to tierce betting.

As I have indicated the equipment in the other States is not as good as that possessed by Western Australia and, accordingly, the other States of the Commonwealth are not able to cope with tierce betting even though they may like to do so.

This is my understanding of the information I have received from the other States. I have spoken to the representative of the T.A.B. in New South Wales and he advised me that this is the case. I have also received information to this effect from the representative of the T.A.B. in Western Australia. I asked whether this information was correct and I was led to believe it was.

Tierce betting was rather roughly described by the Minister. Perhaps I should clear the matter up and say that in tierce betting there are two forms—one is straight tierce betting and the other nomination tierce.

In the case of the straight tierce betting, as the Minister has said, a bettor can select three horses and if those horses run either first, second, or third—

The Hon. A. F. Griffith: Or dogs.

The Hon. W. R. WITHERS:—then the bettor collects his dividend from the Totalisator Agency Board. As the Leader of the Opposition has said, this is also the case with betting on the dogs. In nomination tierce betting the bettor must select three horses, or dogs, and nominate that they will finish in first, second, and third place and should the horses finish in the order in which the bettor has nominated he again collects his dividend from the Totalisator Agency Board.

There is one point I would like to make in regard to nomination tierce betting, and that is if three horses or dogs regarded as outsiders—that is in betting parlance—finish in the order nominated, the lucky punter could collect a fantastic dividend for his 50c bet.

For instance in the Melbourne Cup there are a number of starters and if the bettor in nomination tierce betting is able to select the first three horses in that order—and they happen to be outsiders—he will be able, in that unlikely event, to collect tens of thousands of dollars for his 50c bet.

This is what makes tierce betting so attractive to the amateur, or the small punter—the man who has limited funds; the bettor who likes to attend the races and place a small bet without involving himself too heavily and yet have a possibly large dividend.

I do not think there is anything more I can add to the explanation already given by the Minister in his second reading speech; but before closing my comments I would like to congratulate the advisers of the Totalisator Agency Board who were farsighted enough years ago to install good and sophisticated equipment. As I have said this equipment is far better than the equipment in other States of Australia and it will now enable Western Australia to institute tierce betting.

THE HON. R. THOMPSON (South Metropolitan—Minister for Police) [5.23 p.m.]: I thank Mr. Withers for his contribution to the debate.

After the Leader of the Opposition interjected and asked me what tierce betting meant I took the trouble to fully acquaint myself with the ramifications of this type of betting. I do not think I need cover all the ground again, because Mr. Withers has explained the position in much the same terms as I would; indeed it is possible he obtained his information from the same source as I obtained mine.

Rules have been drawn up which I think will be found acceptable. They have not yet been forwarded to the Chief Secretary—though I have them in my hand—and accordingly I do not think it would be right to include them in *Hansard* at this stage.

I will, however, hand them to the Chief Secretary after the passage of the Bill and I am sure he will make them available to any member who might like to see them before they are tabled.

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.

AERIAL SPRAYING CONTROL ACT AMENDMENT BILL

Second Reading

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House [5.26 p.m.]: I move—

That the Bill be now read a second time.

The Standing Committee of Commonwealth and State Attorney's General, at the request of the Australian Agricultural Council, and in co-operation with Commonwealth and State departments, drafted a uniform Bill covering the activities of aerial operators. The draft uniform Bill has since been used as the basis for legislation in several States, including Western Australia.

In particular, the Act provides that aerial spraying with defined chemicals should not be commenced unless the

owner of the aircraft has lodged security by way of a contract of insurance for an amount of \$30,000, which indemnifies the owner against liability in respect of damage caused by aerial spraying.

At the request of the operators, some of whom move from one State to another, provision was made for insurance cover to be on an Australia-wide basis.

The Western Australian Aerial Operators' Association recently approached the Minister for Agriculture regarding economic difficulties confronting the industry associated with a substantial reduction in aerial agriculture in this State and increases in the insurance rate per aircraft.

The association contended that the claims ratio in other States exceeded that in Western Australia and requested that—

- (a) a reduction be made in the required minimum security of \$30,000, and the amount not be increased if a company operates more than one aircraft;
- (b) insurance on a State basis be permitted when required.

By this means it was hoped to obtain reduced premiums.

As a policy of uniform Australia-wide legislation was agreed to by the Australian Agricultural Council, the reaction of the council to the proposal was sought. At its meeting on the 5th and 6th of February, 1973 the council supported the Western Australian request that operators be permitted to restrict their insurance cover to the State in which they work. The Australian Aviation Underwriting Pool Pty. Ltd., the main company concerned, has indicated that it is prepared to review the premium in the light of claims experience in Western Australia but the likely reduction has not been disclosed. The original Australia-wide premium of \$250.00 per plane had increased to \$450.00 last year, with a further increase of possibly \$200.00 likely in 1973 because of extensive claims in Victoria and Queensland.

Under the draft Bill, an operator may continue to have a policy covering spraying activities throughout Australia, but has the alternative of cover within the State only.

The minimum security for compensating damage will remain at \$30,000; with no increase if a company operates more than one aircraft.

These relatively minor alterations to the legislation will reduce the cost to operators without affecting the protection provided and at a time when the industry is suffering financial hardship.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. C. R. Abbey.

RAILWAY (BUNBURY TO BOYANUP) DISCONTINUANCE, REVESTMENT AND CONSTRUCTION BILL

Second Reading

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [5.30 p.m.]: I move—

That the Bill be now read a second time.

There are two provisions in this Bill, the first of which seeks to obtain parliamentary approval for the construction of a new section of railway of a total length of approximately 5.48 kilometres which is designed to give direct train access from the Bunbury-Boyanup railway to the East Perth-Bunbury railway and also to the line serving the new inner harbour at Bunbury. The second part of the Bill deals with the closure of a short section—2.83 kilometres—of the Bunbury-Boyanup railway at Picton which will no longer be necessary when the new section of railway is constructed.

With regard to the new section of line to be constructed, this could be described as a new connecting line between the two railways rather than as a new railway. Consideration was given to whether the work required could be carried out within the limits of deviation of the existing railways but Crown Law opinion was that legislation should be introduced as this is a new connecting railway.

Presentation of legislation will establish railway land requirements in this area and, although there is no immediate plan to commence actual railway construction, the Railways Department will be enabled to make a commencement in obtaining the land which will be required for this work. I think it will be agreed that this will be a more satisfactory arrangement to land holders in the area as the precise land requirements for the new railway will be firmly established.

The particular requirements on which the proposed connecting railway is based are the outcome of approximately two years' planning in conjunction with other departments and authorities. In brief, these plans prescribe that eventually the railway alignments must permit bulk train movements to and from the inner harbour railway line for haulage of such bulk traffic as may develop.

I should mention here that it will probably be necessary, so far as the haulage of bulk consignments of wood chips is concerned, to route this traffic initially via Bunbury and the north shore route to the wood chips harbour berth. This would be an interim measure until such time as the planned railway development associated with the new inner harbour complex is completed.

It is also required that all these bulk trains pass through fuelling and trip servicing facilities. The planning of the new section of railway is designed so that these fuelling and trip servicing facilities can be provided. The existing servicing facilities are located at Bunbury and although these are adequate to meet present demands, they could not be extended to meet any substantial extra load which would be brought about by the introduction of bulk train working because of site limitations at the Bunbury location and also because they are remote from the bulk train routes.

The timing of re-establishment at Picton of the facilities for fuelling and servicing would be dependent upon the rate of growth of bulk traffic but, as I have already stated, the immediate requirement in presenting this legislation is to enable the Railways Department to acquire adequate land to satisfy location and configuration of the proposed railway without resort to repeated resummptions of contiguous areas—and possible improvements thereto—at ever-increasing cost to the department.

Another reason which favours the proposed railway work of realigning the railway connections at Picton to provide direct train access for bulk train movements is the change which has occurred over a long period in the origin and destination of railway traffic in the south-west district. Nearly two-thirds of the wagons now dealt with in the marshalling yards at Bunbury are wagons which are in transit through Bunbury.

The proposed connecting railway will permit direct traffic movements between Forrestfield and the lower south-west as well as preserving the direct access to Bunbury, and it is intended that in the work to be carried out at Picton provision will be made for lay-by sidings where loading may be attached or detached.

It seems certain that in the long term the growth of Bunbury and the probable establishment of industry, in accordance with the overall planning for future growth and industrialisation in the Bunbury area, will make Picton the centre of major activity and free the Bunbury yard for local traffic only.

The technical committee concerned with the approaches to the inner harbour at Bunbury comprises representatives of the Departments of Development and Decentralisation, Town Planning, Main Roads, Public Works, and Railways, the State Electricity Commission, and local authorities, and the proposals for this new connecting railway have been co-ordinated with the overall specification for the district whilst also satisfying railway requirements.

Members will note that provision has been made in the Bill for separate proclamation of the construction of the new

line and the closure of the section of the Bunbury-Boyanup railway. This will enable the Railways Department to make an early commencement on the land acquisition for the new railway whereas it will be necessary to continue to operate over the section of the Bunbury-Boyanup railway until such time as the alternative route via the new connecting railway is completed.

The Director-General of Transport has examined the proposal for the construction of this new section of railway and also the proposed closure of the small section of the Bunbury-Boyanup railway. I have tabled a copy of his report, together with a copy of Railway Civil Engineering Branch Plan No. 66142 which has the new section of railway shown in red and the section of line to be closed shown in blue, and the railway land to be reverted in Her Majesty as of Her Former Estate is coloured yellow. In his report the Director-General of Transport recommends both the construction of the new connecting railway and the closure of the redundant section of the Bunbury-Boyanup railway.

The Director-General and his staff have closely examined all aspects of this proposal and in making his recommendation he has pointed out that provision of this new section of railway will provide the W.A.G.R. with needed train working flexibility in order to handle additional export traffic efficiently in the future.

I commend the Bill to the House.

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

PERTH MEDICAL CENTRE ACT AMENDMENT BILL

Second Reading

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

That the Bill be now read a second time.

There are three amendments proposed by this Bill, the first of which is to subsection (1) of section 12 of the principal Act. Its purpose is to enable the trust to appoint to committees persons other than members of the trust in order to gain the benefit of such appointees' special experience.

The functions of the trust are to undertake the development, control, and management of the reserve. The Joint Planning Committee of the Perth Medical Centre should be a committee of the trust, which points to the necessity for persons other than trust members being eligible for appointment to that committee.

A new section 13A is proposed in order to give the trust power to purchase land and to use all land made up of the original reserve and also any future acquired land

for medical centre purposes; whereas, the trust is at present restricted by the Act to receiving land in the original grant and such other land as it may acquire by way of gift or devise.

Thirdly, the amendment to the schedule is designed to correct errors which occurred when the original schedule was prepared.

At that time, land described in part II of the schedule should have been included in part I; and portions of Swan Location 1715, on which there are certain houses, should have been listed in part II. Although these errors were noticed some years ago, the amendment was deferred until the present time in order that it could be included with the other amendments to the Act which are now proposed.

I am advised that the Bill is satisfactory to the senate of the university and its solicitors (Messrs. Parker and Parker).

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. R. J. L. Williams.

INDUSTRIAL ARBITRATION ACT AMENDMENT BILL

Second Reading

THE HON. R. THOMPSON (South Metropolitan—Minister for Police) [5.41 p.m.]: I move—

That the Bill be now read a second time.

This Bill is designed to fulfil an election promise of the Government, which was to ask Parliament to approve amendments to the Industrial Arbitration Act so that the emphasis in the settlement of industrial disputes would be taken from compulsory arbitration and placed on mediation and conciliation.

In designing the proposed industrial relations system, due regard was had for existing realities in this State, developments elsewhere in Australia, and standards adopted by the International Labor Organisation.

It is considered that compulsory arbitration is no longer an appropriate system for preventing and settling industrial disputes. The notion that disputing parties can take their differences to an arbitration tribunal is no longer relevant in today's industrial society. If the workers are dissatisfied with the tribunal's decision or become dissatisfied during the term of the award, no power in this State can prevent their taking industrial action. This is the reality of the situation. If there is one thing that can be said with certainty about the arbitration system, it is that, to the extent the system relied on sanctions to achieve its purpose of settling and preventing industrial disputes, it has failed dismally.

As the Australian Minister for Labour (Mr. C. Cameron) has said—

Workers go on strike whatever the law may have to say about it. That is the whole history of our arbitration system in Australia and our experience is similar to what happens in other countries such as the United States, England and other European nations. . . . Outside a totalitarian dictatorship, no Government has ever succeeded in suppressing concerted stoppages of work. In Czechoslovakia, Poland and Hungary not even the Red Army, which has no sympathy for workers of those countries, has been able to prevent great strikes for justice and better living standards, tanks and field guns notwithstanding—

The Hon. W. R. Withers: Is that why we are having so many strikes now?

The Hon. R. THOMPSON: The Australian Minister for Labour continued—

Much was said by the Opposition, when in Government, to the effect that the existence of sanctions was essential to the functioning of our conciliation and arbitration system. The fallacy of that claim is demonstrated by the fact that the previous Government saw the wisdom of not collecting the fines amounting to \$20,700 which had been imposed upon unions under the penal provisions which existed prior to 1970. These fines remain unpaid.

It was that Government which, whilst claiming that penalties for award enforcement were absolutely essential, prosecuted for only five award breaches in its last two years—five out of the 24,000 breaches uncovered by its arbitration inspectors.

I will check on that figure of 24,000. In our own State in the period 1959 to 1968, there were 321 strikes of 10 man-days or more lost. In this entire period penalties were applied only four times.

Union attitudes to penal provisions for strikes hardened following the Clarry O'Shea case in 1968. In the last two years of the previous Government's administration, despite 229 strikes of 10 man-days or more lost, not once were the penal provisions enforced.

A society that recognises unions—positively, legally—must recognise them for what they are: organisations of workers combined, primarily, for the purpose of advancing the economic well-being of their members. How that purpose should be achieved cannot be determined by reference to standards and values acceptable to all concerned at the turn of the century—or for that matter in the economic and political climate of 20 years ago—when a central, formal system effectively determined and governed industrial relationships. The determination must be made

within, and having regard for, the whole context of today's industrial and economic conditions.

It is with regard for all of these facts that the Government brings forward its proposals for amendments to the Industrial Arbitration Act. The Government does not claim to sponsor a panacea for industrial relations. What the Government does propose is a framework in which direct negotiation between parties to industrial disputes is recognised and the refinement of negotiating techniques is encouraged through a mediation service.

As a necessary part of this process, and subject to a new section concerning strikes deemed contrary to the public interest, the legal right of unions to strike and employers to lock out will be reinstituted. Thus all parties to disputes enter negotiations possessing a convertible economic power or sanction as their primary bargaining strength. Conciliation will be via the conciliation or compulsory conference procedures and arbitration will be "voluntary". An outline of the essential features of the system follows.

Mediation: A mediator will be an *ad hoc* appointment made by the Minister upon written request from all parties to a dispute in which they will name the person whom they wish to be appointed. If agreement on all matters in dispute is reached before the mediator he will draw up a memorandum of agreed terms and sign it. The parties may then register the whole of the memorandum as an industrial agreement, if it is otherwise capable of being so registered, or register part of the memorandum as an industrial agreement and have the remainder as a private agreement; or request the mediator to refer the whole or part of the memorandum to the commission for issuance as a consent award.

If agreement is reached before the mediator on only some of the matters in dispute, or on none of them, the mediator shall, if so requested by all the parties, refer the whole dispute or so much of it as the parties wish to the commission for hearing and determination; or any party may request the Chief Industrial Commissioner to appoint a commissioner as conciliator in the dispute.

In another place the provisions of the mediation sections were described by some people as being unworkable. Either those people have not studied the provisions or they lack the imagination to envisage the actual operation of the system, not only initially but in some years hence.

Firstly, with respect to the register of mediators, the question was asked: What if one of the nominating bodies, say the Employers Federation, because of opposition to the concept, refused to nominate anyone? Obviously the register would still

be established despite the non-co-operation of one of the nominating bodies. Both the Government and the Trades and Labor Council are committed to the establishment of a mediation system. The implication then must be that only the Employers Federation could nominate people acceptable as mediators to all employers in the State, and therefore the system could not get off the ground.

We strongly reject that argument. There are many employers who are not members of the Employers Federation; and, further, there is no warrant that the federation, if it adopted such an attitude, would speak for all its members. As the Minister has the right to nominate people to the mediator register, employers who support the mediation system could approach the Minister for the appointment of mediators acceptable to employer interests.

Now, the point could be asked: What if all employers opposed the establishment of a mediation system? The provisions of the Bill are clear: mediation will not operate unless all parties to the dispute agree. Those employers who oppose mediation do not have to use it.

However, because some vested employer interests oppose the concept they should not have the power to veto its use by other employers. The Government's proposal is not the establishment of another tier in the industrial relations system: it is the establishment of another avenue in the dispute settling mechanism; a service provided by the Government to those who wish to use it but which can at any time be discarded for one of the other avenues.

The point has been made that there must be an industrial dispute before the mediation system can operate; but an industrial dispute exists immediately there is a dispute as to industrial matters between a union and an employer. Therefore, immediately a union makes a claim on the employer for an extra week's leave, an extra 10 per cent. in wages, or whatever else, and the employer refuses the claim in part or in full, a dispute exists. A claim may be made for inclusion in a new agreement to take effect three months hence upon the expiration of an existing agreement. The fact that the claim is made for something to apply at a later date does not make it any less an industrial dispute. This is not an "envisaged" dispute; it is a real dispute coming within the definition of "industrial dispute". The advantages of a mediation system with respect to ongoing negotiations as submitted by the Deputy Premier in another place, are therefore very real.

Furthermore, industrial disputes can occur during the term of an award or agreement over a subject covered in the award or agreement. While aware of the arbitration court's decision in the 1938 coalminers' case, we reject the hypothesis that industrial disputes cannot occur during the

currency of an award over a subject matter dealt with by the award. However, to put the matter beyond doubt we have included a specific empowering section in clause 64.

Much has been said of the amateur status of mediators. Firstly, this argument has overlooked the fact that we have many experienced people who do not actively participate in industrial relations. Besides some knowledgeable academics and lawyers, there are other people who have had previous experience in industrial relations. Some of these experienced people have moved on from industrial relations into other areas of employment, such as management consultancy, and others have retired. But the point has to be made very clear: there are experienced people in the State who would be acceptable to all parties in some disputes.

The second point is that experience in industrial relations is not the all-important factor in mediation. The mediator has to develop trust between himself and each side so that the parties are more willing to divulge their positions to him, which they may be unprepared to communicate directly to their opponents.

A good mediator will increase the quality of communication and help the antagonists overcome the problem of selective perception. The mediator is not so much concerned with personally providing a solution, but more with managing the conflict so as to assist the parties in resolving the dispute themselves. Many people without experience in industrial relations have these qualities, which would make them suitable for engagement in the mediation process.

Finally, the argument only looks at the short term. In five or ten years this argument would no longer be relevant. Experience will be gained in both mediation and industrial relations by the people appointed to mediate disputes. Eventually we will have a situation of several people in any one locality experienced both in mediation and industrial relations, and acceptable to all disputants.

As problems develop parties will come naturally to approach a local, mutually acceptable and experienced mediator. We can see the situation outlined above developing within just a few years. We are looking further than the problems which may be struck upon the initial establishment of the system. We do not claim there will be no problems. If problems do arise which we have at this stage not foreseen modifications may very well be necessary. If the Opposition has any suggestions as to how our proposed mediation system could be improved, we would be happy to hear them. But the point must be made that the minor problems envisaged by the Opposition do not justify outright rejection of the mediation concept, even if it is only to be instituted for a trial period.

Conciliation: The conciliation process will be used when parties cannot agree on a mediator or when one or more parties are reluctant to negotiate. Accordingly, the conciliator will have power to require persons to attend conferences. He will have power to decide any matters in dispute if all parties so agree. If all matters in dispute, except for any matters of retrospectivity, are settled before him, he will have power to decide the question of retrospectivity whether all parties agree or not. If he is satisfied that a matter in dispute cannot be settled by conciliation he will have power to refer the matter to the commission for hearing and determination. Having acted as conciliator in the dispute, he will be precluded from arbitrating on any matter which he has referred to the commission unless all parties to the dispute agree to his appointment as arbitrator.

Arbitration: It is proposed that no industrial dispute can be referred to the commission except by a mediator or conciliator, or unless all parties to the dispute consent to the matter being the subject of a direct reference. In other words, no union or employer will be able to escape the obligation to confer unless all parties are agreeable to proceed direct to arbitration.

Public Interest: A situation may arise in which neither side in a dispute is prepared to move for mediation, conciliation, or arbitration. In some cases that may not be in the public interest. Therefore, it is intended that the Attorney-General, acting in the public interest, may apply to have the parties together at a compulsory conference for the purpose of preventing or settling the dispute.

Strikes and Lockouts: Section 132 of the Act which currently makes it an offence for a person to take part in a lockout or strike is to be repealed and re-enacted. The new section will empower the Commission in Court Session to declare a lockout or strike to be contrary to the public interest, but only on an application by an industrial union or association, an employer or the Attorney-General.

A declaration may be made by the commission in respect of a lockout, or a strike where the subject of the strike is a matter contained in an industrial agreement or award—either one in force by virtue of its term.

Protection of Unions from Civil Actions: It is proposed that the Act include a new section whereby acts done in furtherance of industrial disputes do not constitute torts, except where an act or omission directly causes death or physical injury to a person, physical damage to property, or where there is a threat to do such an act or omission; or a wilful act that constitutes a defamation.

A number of public statements have been made in recent months by various people in Australia on the subject of laws

intended to protect unions and union officials from civil proceedings for acts or omissions committed in contemplation or furtherance of industrial disputes. In some quarters the opportunity is being taken to create a scare campaign by suggesting that unions and union officials will be placed above the law, and then leaving audiences to draw their own conclusions as to what that will mean.

Those who do the suggesting really know better, but the potential for political mileage arising from the emotive appeal of the subject is strong enough to ensure the whole story is never told. Not surprisingly, no such statements are heard in Queensland, for the excellent reason that laws of this nature have been on the Statute book in that State for over 30 years.

As the subject is closely related to removing the penal clauses for strikes, it is an essential adjunct to our whole proposal for a new industrial relations system. Unions bargain with employers for their members' labour and the withdrawal of that labour—i.e. a strike—by its very nature carries with it the threat that the employer will suffer some material loss. If an employer is to be permitted to recover at law any loss that he suffers as a result of a strike, the right to strike becomes meaningless.

There are three torts which unions could commit by calling a strike—conspiracy, inducing breach of contract, and intimidation. By tracing the history and development of these unjust, judge-made laws in the United Kingdom, further justification for our proposal is apparent.

The Hon. G. C. MacKinnon: What do you mean by judge-made laws—common law?

The Hon. R. THOMPSON: Yes. I now refer to the three torts which could be committed by unions in calling a strike.

The first is Conspiracy: The Trade Union Act 1871 provided that the purpose of a trade union should not, merely because they were in restraint of trade, render any member of the trade union liable to criminal prosecution; and the Criminal Law Amendment Act 1871 by restricting the definition of "threats" and "intimidation" made a mere threat to strike no longer a statutory offence.

A threat to go on strike by some workers in 1872 resulted in a charge of criminal conspiracy. The judge decided that the common law had not been abrogated by the Acts of 1871 so as to permit an act done with improper intent and amounting to an unjustifiable annoyance and interference with the employer's business. The consequence was that a strike or a threat to go on strike might lead to a criminal prosecution for conspiracy to coerce.

The 1875 Conspiracy and Protection of Property Act overcame this decision by providing that a combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade—i.e. industrial—dispute shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime.

The reaction of the conservative courts of the time was to develop between 1880 and 1906 something not previously attempted—a new civil liability for conspiracy.

Any combination of workers—i.e. unions—formed to harm or injure, could be sued for damages by the aggrieved party if the judges refused to accept the defendants' objects as legitimate.

Although the courts accepted promotion of employers' trade interests—e.g. the circulation of lists of strikers and trouble-makers by employers' associations was held not tortious—the promotion of union interests at the time—e.g. blacklists of nonunion men, threats to strike to compel men to join the union, boycotts to procure the dismissal of non-unionists—was not considered legitimate purposes of unions.

The Taff Vale case of 1901 established that trade unions could be sued and that they were liable for liabilities in tort incurred by those acting on their behalf.

Unions were therefore liable for damages caused by their members withdrawing their labour in combination even though each individual worker would not be actionable for withdrawing his labour individually, assuming they were not breaking a contract of employment.

From 1924 to 1942—since the Crofters case—the more enlightened courts began accepting that unions had legitimate interests in calling strikes and other industrial action, and those interests constitute a defence.

This is the present common law position in Australia with respect to civil liabilities for conspiracies where the combination does not involve unlawful acts. Prior to these decisions, however, the British Parliament had already taken action to overcome the problem. The 1906 Trade Disputes Act provided that an act done in pursuance of a combination shall not be actionable if done in furtherance or contemplation of a trade dispute, unless the act would be actionable if done without any such combination.

Sitting suspended from 6.07 to 7.30 p.m.

The Hon. R. THOMPSON: The position of conspiracy which I have just outlined only takes into account lawful actions by individuals which are actionable if done in combination. It should be noted that the breaking of a contract of employment by an individual is actionable.

Although no case has been held, it has been suggested that liability for civil conspiracy might arise where a number of persons agreed together, in contemplation or furtherance of a trade dispute, to break their contracts of employment in combination since they would be parties to an agreement to do an "unlawful" act.

The second tort is inducement of breach of contract: Dating from a decision in 1853, to induce a third party to break his contract to the damage of the other contracting party without reasonable justification or excuse is a tort. In calling out workers on strike or in procuring them to take other industrial action—that is, blacking work—unions often induce inevitable breaches by the men of their contracts of employment and become liable in damages to the other contracting party—the employers.

The courts decided that "moral or religious grounds" provided justification but "a motive to secure a money benefit" did not. Therefore, such things as sexual corruption justifies inducing breach, but starving wages alone would not.

The 1906 Trades Dispute Act provided that—

An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only that it induces some other person to break a contract of employment or that it is an interference with the trade business or employment of some other person or with the right of some other person to dispose of his capital or his labour as he wills.

The third tort is intimidation: Since the 1906 Trades Disputes Act, especially considering the more enlightened attitude shown by the courts from the 1920s—that is the Crofters case—the union movement thought that it was fully protected.

The 1964 *Rookes v Barnard* decision introduced a new and previously unthought of tort—intimidation. It was law that a threat to do an unlawful act—assault for example—was also itself an unlawful act; but this had been established in criminal law, not civil law. The latest case, prior to 1964, involving civil intimidation was in 1793 and involved a threat of violence. A sea captain had to pay damages to a rival trader in Cameroon after firing cannon near native canoes to scare the natives from trading with his rival.

The House of Lords classified breach of contract as similarly unlawful to violence. It was found that threats to break contracts of employment unless employers conceded their demands was a threat to do something unlawful and constituted the tort of intimidation.

Once again the British Parliament was placed in the position of having to reverse a court-invented law to provide immunity

to unions. The 1965 Trades Dispute Act provided that immunity. Registered unions are now protected from civil action by the 1971 Industrial Relations Act which repealed the Trade Disputes Act.

An important point was made by the Minister for Labour in another place which members would do well to dwell upon; that is, the need for union immunity for torts is not only essential to our proposed system but also to the maintenance of the existing system. The Minister said—

The conciliation and arbitration systems in Australia have evolved under the pressures exerted by the conflicting claims of labour and capital. Civil courts have neither the flexibility of procedure nor delicacy of touch required for the solution of industrial disputes.

Under civil law once liability is established, it is not within the competence of a court to award less than the extent of damages suffered by the employer. If resort to the civil courts became general, the damages against a striking union in the electricity supply industry can hardly be imagined. Any general resort to civil action in industrial disputes would destroy the conciliation and arbitration system, and lead to industrial violence and anarchy.

The reason the conciliation and arbitration system has survived, notwithstanding the existence of union liability for torts, is because the industrial legislation in Australia has given the erroneous impression that the old resort to civil action was no longer part of the Australian law.

Employers either have not realised the existence of recourse to the civil court or have wisely refused to take such action. Civil action can only exacerbate an industrial dispute.

In his book *The Law of Torts*, Professor J. G. Fleming states—

In Australia, it is hardly presumptuous to say, the law is tolerable only because it is for all practical purposes ignored in favour of arbitration and conciliation.

The two recent civil cases taken in South Australia have now highlighted the need for union immunity for torts.

Now that employers are aware of these laws, civil action in lieu of the normal procedures will become more and more general. If one argues that the law ought to assist in resolving industrial disputes quickly and equitably with a minimum of disruption to the economy, then recourse to the civil courts is a clumsy and inappropriate tool and, accordingly, should be removed.

Having dealt in some detail with the central feature of the Government's proposals, attention will now be given to other issues forming part of the Government's election policy speech with respect to the Industrial Arbitration Act.

The point was made earlier that the arbitration system cannot be expected to resolve the basic issues of industrial conflict when these spring from factors that are beyond the reach of arbitration. That, it may be argued, is so self evident as to require no comment at all. However, it is plain that the Act in its existing form does not confer a power on the commission to settle disputes in relation to certain matters that are undoubtedly industrial matters, and having obvious potential for causing industrial dislocation. These shortcomings arise from the amendments of 1963 and are intended to consolidate the doctrine of employers' prerogatives.

Specifically, the matters are a lack of power in the commission to order reinstatement of a worker wrongfully dismissed from his employment; a lack of power to determine what days in the week or on how many days in the week an industry may carry on operations; and restrictions on power to prohibit shift work.

A further matter, not coming within the bracket just mentioned, is that the commission cannot make an order or award retrospective in operation. This arises from restrictions found in section 92. It falls into the same category as the other matters because it has potential for causing industrial disputes.

These restrictions and shortcomings are peculiar to the Western Australian Arbitration Act, and on that score alone can be roundly criticised as being unfair and discriminatory. But the real cause for change in these areas is much stronger than that.

It will be convenient to begin by saying that all restrictions on the commission's jurisdiction and powers in relation to industrial matters will be removed. That is essential if arbitration is to have any meaning at all as the tribunal of last resort in the determination of disputes.

But it will also be obvious to those who care to think about it that the removal of restrictions on the commission's power in connection with re-instatement may well obviate the need for further legislation in the areas of workers' redundancy and related questions which, as recent events have proved, are becoming more and more important on the local scene.

As things stand, a worker's protection against unfair dismissal is extremely limited—short of direct action on his behalf by his union. Awards provide for periods of notice to be given by either side in the event of terminating service, and for payment or forfeiture in lieu of prescribed notice. However, they codify rather than alter the common law position which remains the last resort for an

aggrieved party. The Industrial Arbitration Act expressly provides that the commission—

shall not by order or award—unless in certain circumstances relating to lockouts, union membership, and claiming benefits under an award or industrial agreement—require any employer to employ or continue to employ, or re-employ, any worker.

From the point of view of the common law, both parties are free and equal parties to the contract and are entitled to bring it to an end in accordance with its terms at any time.

If a worker is "wrongfully" dismissed he is entitled to claim the wages he would have been paid for the period of notice, less any amount he earned during that period. Beyond this the worker has no legal claim at common law, whatever hardship he suffers as a result of his dismissal.

At present, even if the way in which he is dismissed constitutes an imputation on his honesty and his ability to get another job is correspondingly reduced, he cannot, except through an action for defamation, obtain any redress.

The international consensus of opinion on the subject is represented by the I.L.O. recommendation No. 119. I.L.O. recommendation 119 is concerned with termination of employment at the initiative of the employer and requires—

That termination of employment should not take place unless there is a valid reason for such termination connected with the capacity or conduct of the worker, based on the operational requirements of the undertaking, establishment, or service.

Furthermore, the definition or interpretation of "valid reasons" should be determined through "national laws or regulations, collective agreements, works rules, arbitration awards, or court decision, or in such other manner consistent with national practice as may be appropriate under national conditions". In other words, an employer cannot, on a whim, dismiss a worker.

The recommendation goes on to provide that workers who feel their employment has been unjustly terminated should be entitled to appeal within reasonable time against the termination and, where the worker so requests, he shall be represented by a person before a body established under a collective agreement or a neutral body such as a court, an arbitrator, or arbitration committee.

These bodies should be empowered to examine the reasons given for termination of employment and the circumstances relating to the case and to render a

decision on the justification of the termination. Bodies hearing workers' appeals against termination—

should be empowered, if they find that the termination of employment was unjustified, to order that the worker concerned, unless reinstated, where appropriate with payment of unpaid wages, should be paid adequate compensation, . . . or granted such . . . other relief as may be so determined.

The British Government accepted this I.L.O. recommendation in 1964 and legislated the following year. The 1971 Industrial Relations Act further improved the position of employees wrongfully dismissed. Although an employer cannot be made to reinstate a worker unfairly dismissed, if he is not reinstated he is entitled to compensation.

This Act provides a right of appeal for employees against unfair dismissal. The reasons given by the *Employment and Productivity Gazette*, October 1970, for the inclusion of this provision in the Bill, being "because Britain unlike other countries, provides no redress in these circumstances", and because here—again contrary to the experience of other countries—dismissals are a frequent cause of strikes.

Conservative governments have recognised the need to legislate directly in this regard for the protection of workers, and by their actions they have said that it is not the employers' prerogative, and his alone, to decide policy on matters of this nature.

By adopting I.L.O. recommendation 119 the Government of the United Kingdom adopted a **minimum** standard acceptable throughout the world and capable of being varied where necessary and appropriate for local conditions.

The question is: What valid reason exists for the position to remain unaltered in Western Australia? This Government endorses the recommendation of I.L.O. and, further, asserts that it is the obvious foundational policy for an industrial tribunal to develop for application to situations as they may arise in Western Australia, requiring settlement by arbitration.

Viewed in a similar light the Government's intention to lift restrictions on other matters concerning the commission's powers will be readily understood. For example: Can a union be expected not to take industrial action on issues of vital importance to the interests of its members, when the same issues cannot be dealt with, and settled, at arbitration? Obviously not. Also, since the only justification for preventing such issues from so being dealt with is the quaint notion of employers' prerogatives—elsewhere in the world buried forever—there is every reason for

restoring all of the powers of the commission in order that arbitration becomes a true alternative available when deep-seated differences can be determined only by a third party.

It is true that these matters can be dealt with in arbitration proceedings instituted under section 173 "in certain circumstances". Section 173 is the provision in the Act whereby the parties, called together to a compulsory conference, can confer jurisdiction to the commissioner who called the conference, to determine their dispute. "The certain circumstances" are, of course, the willingness of the employer to confer the jurisdiction of reinstatement, retrospectivity, etc., to the commission. In a situation where a union is not only prepared to take industrial action but the employer is likely to suffer substantial material loss as a result, employers are likely to adopt a pliant attitude to the conference of jurisdiction. However, in any other situation involving an industrial dispute of this nature, employers are highly unlikely to limit, as they see it, their prerogatives by conferring jurisdiction under section 173.

I would now comment on the proposed alteration to the definition of "Worker". Many people working under a contract "for" service instead of a contract "of" service are really workers. Under the present Act, there is doubt if these people are covered by the definition of "Worker".

This is a situation which can lead to some fine distinctions where industrial fairness is in danger of being forgotten for the sake of legal principle.

In the annotations to the reprinted Act of 1955, Mr. F. T. P. Burt—now Mr. Justice Burt—described the situation as follows—

Whether the relationship between parties is that of master and servant or that of employer and independent contractor is a question to be determined on the facts of each particular case. The true test is to ascertain the nature and extent of the control and direction which is actually exercised or which may be exercised when the occasion warrants by the employer over the alleged worker.

The court will look beyond the terms of the agreement to determine the real relationship between the parties. The use of legal terms in an agreement designed to make the relationship between the parties that of lessor and lessee is of no avail if from evidence *de hors* the contract it appears that the true relationship is that of master and servant.

The new definition of "Worker" seeks to overcome the present legal distinctions. The wording follows that written into the Workers' Compensation Act by the amending Bill in 1970. On that occasion the legal distinction was held to be unreal.

There was a recognition of the advantages of a subcontract system of employment for various groups in the community, and a recognition that the system was practiced widely in the building trades. The following passages from the second reading speech of the then Minister for Lands (Mr. Bovell) are important because they clearly reveal the nature of the reasoning behind the recommendations adopted by the Government which led to an amendment—

The uncertainty can only be removed by legislating that such workers either are or are not, within the Act. In view of the fact that, as I mentioned, almost all such men are really workers anyway, and in view of the fact that they are all within the socio-economic group which most usually is unable to accumulate reserves to last through unproductive periods—and is the very type and description of which it has always been the object of this Act to protect—it is hardly surprising that the committee recommended that they be brought in.

Similar difficulty was experienced in the other States and action was taken to remove that difficulty. . . .

It will be observed that with all technicalities put to one side the deciding factors are the worker's status, decided not according to contract but by reference to his socio-economic position and the nature and purpose of the Act under consideration. Also, some weight is given to the fact that other States have overcome the problem by similar action.

Now the question is: If these are the proper criteria on which an amendment to the definition in one important piece of labour legislation are based, why then should they not be the criteria in the case of another piece of labour legislation?

Quite obviously the status of the worker remains unchanged, so the question depends for an answer on the nature and the purpose of the legislation. The Government's reasoning is that since the nature of the Act is industrial, relating, amongst other things, to the rights and duties of employers and workers, and its purpose is the prevention and settlement of industrial disputes, there is at least just as compelling a reason for including the proposed definition in the Industrial Arbitration Act.

The Government's reasoning is supported by the current position in other States. For example, in Queensland and New South Wales the definition of "employee" in the respective arbitration Acts provides that employment under contract for labour or substantially for labour shall not in itself prevent a person from being held to be an employee. The New South

Wales Act in another section specifically includes building workers in these circumstances but excludes owner-lorry drivers.

Notwithstanding the current exclusion of owner-lorry drivers as employees from the New South Wales Arbitration Act, further support for our reasoning is found in the recommendations for their inclusion made by the New South Wales Industrial Commission following an inquiry commissioned by the Minister for Labour on the desirability, or otherwise, of alterations to certain sections of the Act in the public interest. The recommendations have not yet been acted upon but nevertheless the conclusions are based on evidence and submissions by all interested parties and the principles expressed therein have equal application to other classes of workers beside owner-lorry drivers. The final conclusions are too lengthy to be fully dealt with here. However, the main theme can be demonstrated with a few passages taken therefrom—

Owning a truck soon fades as a badge of independence where an industry uses it only to the extent necessary to meet its fluctuating needs and at the same time requires the owner to drive and obey instructions like an employee.

In law they may be independent contractors but for all industrial purposes they are akin to employees.

It is illogical in every practical sense that within one section of industry and often within the one establishment work which is virtually identical should be done by employees subject to industrial regulation and owner drivers outside its scope.

The evidence in the inquiry has established that in a number of sections owner drivers have been in the past exploited as to rates and subjected to oppressive and unreasonable working conditions.

The truth is that an owner driver with one vehicle—on which there is a heavy debt load—and no certainty of work is in a weak bargaining position and the transport industry is not lacking in operators prepared to take the fullest advantage of his vulnerability. The main purpose rendered by section 88F of the Industrial Arbitration Act has been not in affording compensation in odd cases but in lifting the veil from a real social evil.

I am referring to New South Wales. To continue—

There is no difference in the public dislocation caused by these disputes compared with employer-employee disputes. There is no justification for provision of dispute solving machinery in one case but not in the other.

Attempting to solve industrial disputes involving owner drivers through the ordinary processes of law would be cumbersome and futile. These processes are too prolonged and technical to bring about speedy resump-tions of work.

In summarising the position of lorry-owner drivers the commission said—

In essence he has proved to be, in section after section, in the industry more closely akin for industrial purposes to an employee than to an employer, entrepreneur, or independent businessman.

We base this conclusion on our observation of a large number of owner drivers who gave evidence, but much more importantly on the nature of their work, the controls to which they are subject, the frequency with which they face problems indistinguishable from those occurring in employment situations and their inability, as individuals, to bargain on equal terms with prime contractors.

The theme, whether in these passages or in the passage from the speech supporting amendments to the State's Workers' Compensation Act, in 1970, is based on the simple fact of recognising that changing industrial circumstances demand a changed attitude to contractual arrangements between workers and employers. "All such men"—again to quote the Hon. W. S. Bovell—"are really workers any-way".

Another important provision we are seeking is the recognition of shop stewards as officers of unions. Unfortunately, through ignorance and lack of understanding, shop stewards have often been denigrated. By elevating their status we are only following a decision in Britain last year where the House of Lords determined that shop stewards were in fact officers of unions.

Shop stewards are—and have been for some time—a fact of industrial life. It is not possible, nor is it desirable, to ignore them. They should be encouraged to adopt responsibilities and assume the role of informed leaders in their particular groups.

With the growth in size of industrial units and the ever-extending lines of communication there comes a time when, in order to satisfy the demands of individual group attention, there must be delegation of responsibilities of organisation and representation at the plant or establishment level. Therefore, far from being a left-wing plot, the proposal formally to recognise shop stewards is part of the overall plan to improve industrial relations where it counts—at the

workplace. Only through recognition of shop stewards, and consequently their proper education, can this be done.

The importance of shop stewards was recognised by the previous Liberal-Country Party Federal Government. I refer to the agreement reached between the Federal Government and major parties in May of 1972, concerning a set of principles to avoid and to settle industrial disputes. This agreement, arrived at following discussions conducted independently of the parties' positions on sanctions, contains guidelines which are to be given effect to by individual unions and employers in one of several ways—

- (1) by incorporating the procedures in awards by consent;
- (2) by incorporation in agreements lodged with tribunals; or
- (3) by the formal exchange of agreed documents.

The agreement requires an effective means of consultation between employers and their employees and unions on all matters of mutual interest and concern, irrespective of whether these matters are likely to give rise to dispute, with particular emphasis being given to both the informal and formal means of consultation between management and employees.

The agreed procedures cover all matters in dispute at the plant, industry, State, and national levels, and the parties are obliged to make every endeavour to their effective functioning.

At the plant level, only accredited job representatives are recognised and are responsible in the first instance for dealing with matters arising on the job. Subject to there being no restrictions on an authorised paid official of the union making representation to the employer, job representatives of the union would be the only persons entitled to make representations on behalf of members of their union employed by the employers.

The real value of these national developments is that they are determined in a context free from the emotive and distorting influences that may arise when considering legislative amendments.

Undoubtedly a strong consensus of opinion favours the recognition of shop stewards as more than mere dues collectors and the reason for that recognition is very obvious. Shop stewards are already playing an important part in the work place and their importance will increase as the trend towards more informal work place orientated negotiations on employment conditions gather pace. Steps should now be taken to give these people full recognition.

Before we are accused of giving more power to the shop steward, I would ask members to closely examine the provisions

of this Bill. Power resides in the shop steward according to the support he receives from his work mates.

Nowhere in the Bill are we increasing that power; we could not do this if we tried. The workers determine the power of their elected representatives.

By elevating the status of the shop steward, we are placing him in a position where he can more readily deal with his employers. Instead of a master-servant type situation, a more mature employer-union official relationship will develop.

It is necessary, however, because of the special position of shop stewards, to remove some of the requirements placed on the other union officials. It would be a ludicrous situation for example, to require all members of a union to elect all shop stewards. Shop stewards are elected by their work mates for a particular work place or site. Obviously only those workers working on the site should have a vote. On the other hand the union secretary or organiser is a paid official with State-wide responsibility. Again, whereas the union secretary or organiser is elected for specified periods of time, because shop stewards are paid employees of employers, movement from employer to employer is not infrequent.

The office of shop steward therefore frequently changes hands, thereby making it inappropriate to apply the full requirements of the Act to this position.

Finally it must be remembered that shop stewards are subject to union rules. If one looks at section 9B (5) of the Act, the relevant provision reads—

The court may, upon its own motion or upon application made under this section, disallow any rule of a union that, in the opinion of the Court . . . is tyrannical or oppressive . . . or imposes unreasonable conditions upon the membership of a member or upon an application for membership, and a rule so disallowed is void."

Several provisions in the Bill were sought by the Industrial Commission to facilitate better industrial relations in the State. The Opposition in another place opposed two of these proposals although they do not conflict with basic Liberal or Country Party philosophy, or industrial relations policy. It is thought that as this opposition may have come from a misunderstanding of the provisions, a full explanation would be appropriate.

Clause 34 seeks to amend section 43 which provides the commission with the power to vary an industrial agreement that is inconsistent with an award where both instruments apply.

As awards can be in force not only by virtue of their term but also by the operation of section 93, many awards are 20 or 30 years old but nevertheless still in

force. Section 43 prevents parties from entering into an industrial agreement containing provisions inconsistent with an existing award, even though the term of that award may have expired many years previously and is no longer relevant or appropriate to modern industrial relations. The purpose of the amendment is to enable any employer and any union to negotiate freely for the purpose of entering into an industrial agreement if the term of an award has expired, even though the award may be in force at the time.

The amendment would not affect the position of any employer or union that wished to remain bound by the award, and the award would continue in force except in relation to any union or employer who entered into an industrial agreement.

Clause 40 seeks to provide the commission with the power to vary consent awards where it appears equitable to do so. Before I explain the reason behind this amendment I make the point that the word "agreement" appearing in the section has nothing to do with industrial agreements as defined under the Act—it is merely an agreement between the parties.

Section 65 deals with consent awards and, as it stands at present, it is mandatory that the commission certify the memorandum of agreement as an award. Because of section 85, the award applies to other employers and workers who are not parties to the award but nevertheless are bound by it. It could be that the agreement reached by a union and one or two employers, although acceptable to those parties, would be inequitable if applied to the whole industry. Although the proposal will enable the commission to vary the memorandum for the purpose of the award, it will not be able to do so with respect to the applicants unless they agree to the amendment.

A number of other clauses also are not related directly to the whole philosophy behind this Bill. Some of these are merely mechanical provisions designed to facilitate a better operation of the Act, whilst others, such as clause 79 dealing with employment brokers, are important in themselves and should be debated in isolation in committee.

When looking at the Bill, I ask members to consider our proposals objectively. Because many of the provisions contain proposals which could stimulate emotive statements, the opportunity for political posturing is all too obvious. Debates on this Bill, if applied for political purposes, will neither benefit industrial relations nor the State.

I commend the Bill to the House.

Debate adjourned until Tuesday, the 6th November, on motion by The Hon. G. C. MacKinnon.

CONSTITUTION ACTS AMENDMENT BILL

Assembly's Message

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

Second Reading

Debate resumed from the 16th October.

THE HON. CLIVE GRIFFITHS (South-East Metropolitan) [8.10 p.m.]: Members will recall that when I took the adjournment of this debate, I moved to adjourn it for one week. The purpose behind this was that I had received a letter from the Secretary of the Local Government Association of Western Australia indicating that the association was holding a meeting on Friday night, the 19th October, at which time the proposals contained in this measure would be discussed. I therefore sought the co-operation of the House to adjourn the second reading debate until the Tuesday following that meeting, and I am very grateful that my motion was agreed to. As it happened, no information was forthcoming from the meeting, and therefore there was no real need for the delay. I wanted to explain the circumstances to the House as some members may have been mystified about my motives, although I had mentioned this matter previously to the Minister.

We have been told that the main purpose for the introduction of this Bill is to make the necessary amendments to the Local Government Act to facilitate the adoption by Western Australia of the Australian Model Uniform Building Code. Indeed, on reading the measure, this is exactly what it is designed to do. I was interested, therefore, to read an article in this morning's copy of *The West Australian* under the heading, "Building code talks soon". The article reads as follows—

A meeting of Federal, State and local government representatives in Canberra next month was aimed at inaugurating moves towards a national building code, the Federal Minister for Housing, Mr. Johnson, said in Perth yesterday.

The meeting would be opened by the Prime Minister, Mr. Whitlam, on November 19. A meeting of unions would be held at the same time.

Mr. Johnson said that the Federal Government wanted the States to co-operate in unifying building codes. At present there were about 900 different codes throughout Australia.

A national code could save about \$105 million in building expenditure each year.

I was interested to read that this was an inaugural meeting called for the purpose of drawing up a uniform building code to operate throughout Australia. If members bear that fact in mind, they will understand my mystification at the remarks made by the Minister for Local Government in this House on Thursday, the 11th October, when he introduced this Bill. He said—

This Bill is presented as an urgent measure because its main purpose is to enable the Australian Model Uniform Building Code to be adopted in Western Australia. This code is the product of several years' work by the interstate Standing Committee on Uniform Building Regulations. The committee was instituted by the State Ministers for Local Government. It is representative of each State, the Australian Capital Territory, and the Northern Territory, and its secretariat is located at the Commonwealth Experimental Building Station.

On the 11th October the Minister informed the House that he was introducing this legislation to put into effect the uniform Australian building code which is the result of many years' work, and yet we have the Federal Minister for Housing saying in Perth yesterday that he was holding an inaugural meeting to call all the States together so that they could have a uniform building code throughout the nation. So it would seem obvious to me that here we have another example of a Federal Minister being completely out of touch with the industry that is one of the principal concerns of the department he is administering.

The Hon. A. F. Griffith: Seemingly a number of years out of touch.

The Hon. CLIVE GRIFFITHS: Yes, completely out of touch, and emphasis is placed on this if we are to take notice of what the Minister for Local Government said in this House when he introduced the Bill. Indeed, when Mr. Logan spoke on the measure on Tuesday, the 16th October, he said, "I can well recall the commencement of the mammoth task involving these by-laws." So Mr. Johnson should receive, perhaps, a telephone call or a telegram from the Minister for Local Government to inform him that this inaugural meeting he has arranged for the 19th November may be about nine years too late, because apparently the code has already been drafted.

I want to go a little further in regard to what the Minister said when he introduced the Bill. He said—

The code can truly be said to be an example of co-operative activity between the various States and the Australian Government, and it is believed the new building by-laws based on the

code will be welcomed by architects, engineers, builders, and municipal councils alike.

The code has already been adopted in the States of New South Wales and South Australia, and other States are in the course of adopting it.

This State has given an undertaking to have by-laws, based on the code, promulgated by the 1st January, 1974. The new by-laws will be in metric dimensions. Before the by-laws are finalised, it will be necessary to ensure that the legislation contains the necessary enabling powers and this is the main purpose of the Bill which is now submitted.

I cannot understand the information given by the Minister when introducing the Bill; it suggests that many years' work has been performed to obtain a uniform building code throughout the nation. He has told us the code has been completed and that New South Wales and South Australia have adopted it and we are currently taking action to permit Western Australia to do the same. Yet the Federal Minister for Housing apparently knows nothing whatsoever about this move, or else he must believe that the code which the Minister for Local Government in this State is speaking about would not do the job for the whole of Australia. That is the only conclusion I can reach.

I have been a critic for many years of the existing Uniform Building By-laws that apply in Western Australia. I have been such a critic because I have maintained they are not a set of uniform building by-laws. I have pointed out they are only a set of minimum building by-laws and that they are open to interpretation by one local authority and another; so that, in fact, builders do not know, between one local authority and another—in some respects—what is required of them when they are building; they do not know what is acceptable and what is not.

That is what motivated me and caused me to take an interest when the Minister started to speak on building by-laws. During the course of Mr. Logan's speech he mentioned it would be desirable to look at the proposed model by-laws that would be promulgated in Western Australia. He went on to say that obviously this was not possible, but he used words to the effect that he would look forward with great interest to the time when he had an opportunity to do so. Therefore it was very pleasing indeed to find that within one or two days the Minister placed on the Table of this House a copy of the proposed building by-laws. They were tabled on the 17th October of this year. So during the intervening period I have had an opportunity to study them.

One aspect of their tabling that I did not understand was I did not know whether or not they had been gazetted. The Minister did not give any explanation as

to why he was tabling these by-laws; he did not say that he was tabling them to allow members to look at them; he did not say that the purpose of tabling them was to allow all and sundry to look at them and comment on them. All that occurred was that on the 17th October this year the papers were tabled and that these papers related to the model by-laws, and that was that. I assumed that the model by-laws had been gazetted and that the tabling of them in this House was the final act in their promulgation. However on examination and investigation I found that this was not the situation.

The Hon. R. H. C. Stubbs: Do not the papers state that they are proposed by-laws?

The Hon. CLIVE GRIFFITHS: Of course they do.

The Hon. R. H. C. Stubbs: How can you promulgate proposed by-laws when they are not finalised?

The Hon. CLIVE GRIFFITHS: The point I am making is that when the Minister tabled the papers he made no comment in regard to them. I thought it might have been reasonable for the Minister to say, "I am tabling a copy of the proposed by-laws so that members can have a look at them." However, I am not arguing about that aspect; it is not a matter of consequence.

The Hon. R. F. Cloughton: Do you not know that you are allowed to look at the by-laws? They have been tabled for some time.

The Hon. CLIVE GRIFFITHS: Indeed I did look at them and I have been studying them ever since. Mr. Cloughton makes an interjection that has no bearing whatsoever on what I am talking about, as he usually does, but I do not intend to enter into an argument with him about that.

However I made an investigation into the situation and just for the interest of the Minister and for the interest of Mr. Johnson who obviously is not *au fait* with the situation in Australia in regard to building codes, the history of the matter is that at a conference held in Sydney in May, 1964, a resolution was passed in regard to building materials and fire precaution. Senator Gorton, who was then the Minister for Public Works happened to attend that particular conference.

The resolution was that an attempt should be made to unify building regulations throughout Australia. This was considered to be important to the building industry of the Commonwealth; to minimise difficulties in accepting materials and standards from State to State. Following the conference, Senator Gorton wrote to the Minister for Local Government in each State and requested that a committee be formed to draft an Australian model uniform building code. This committee

came into operation in June, 1964, and was known as the Interstate Standing Committee for Uniform Building Regulations.

The committee concluded a draft of the model building code and distributed a copy to each State which was then asked to adopt the model building code into the framework of its own legislation and, if considered necessary, to draft its own model building code on the one forwarded in accordance with local conditions. This has now been done in South Australia and the new regulations will come into force on the 1st January, 1974. Also, in New South Wales the building regulations will come into operation on the 1st July, 1974. In the case of Western Australia, the building by-laws are before this House now.

From observations made following comparisons of these three different State regulations, I would say that there is a certain uniformity, but on the other hand there is much discrimination and lack of uniformity in many sections of the proposed new building by-laws. Indeed, Mr. President, there exists some very grave doubt that we are in fact achieving uniformity.

The Minister gave us to understand we were achieving uniformity and that this was the purpose of the Bill. He has convinced Mr. Logan that this is what he is doing.

The Hon. R. H. C. Stubbs: I had no need, because Mr. Logan was the author of it.

The Hon. A. F. Griffith: If Mr. Logan was responsible for it so many years ago, how is it they are going to have an inaugural meeting to make a decision on this building code?

The Hon. R. H. C. Stubbs: Are you talking to me?

The Hon. A. F. Griffith: No, I was just interjecting in an unruly manner.

The Hon. R. H. C. Stubbs: I did not hear what you said.

The Hon. A. F. Griffith: You can hear when you want to.

The Hon. CLIVE GRIFFITHS: The Minister for Local Government will do Australia a great service if, tomorrow morning, he calls Mr. Johnson on the telephone and informs him of the situation in Australia, because obviously he will save many people a great deal of time by not attending this inaugural meeting to discuss something that Mr. Logan was involved in back in 1964.

However in making my comments I am not criticising Mr. Logan. I am simply saying that at that stage Mr. Logan had not had a look at the by-laws.

The Hon. L. A. Logan: They were tabled the next day.

The Hon. CLIVE GRIFFITHS: Yes, they were tabled the next day, and the Minister convinced this House—

The Hon. R. H. C. Stubbs: If I could convince this House I would be wearing wings and a halo.

The Hon. CLIVE GRIFFITHS: The Minister convinced this House that we would be receiving a set of by-laws that would become uniform throughout the nation. What I am suggesting is that uniformity will not follow as a result of what we have been presented with and shortly I will instance some of the South Australian and New South Wales by-laws and compare them with the proposed Western Australian by-laws as contained in the tabled document.

In clause 8 the Bill contains the various areas in which the local authority may make by-laws, and in this clause are provisions for declaring fire zones. As a result of my inquiries I do not believe sufficient time has been made available to the people of Western Australia, who are concerned in this set of building by-laws and this fire zone requirement, to make any comment or to have a say in the formation of these particular requirements. Certainly they have not had time to study the contents of the document because it has been available only on the Table of the House.

The Hon. R. F. Claughton: You do not think it should have been adopted?

The Hon. CLIVE GRIFFITHS: It has not been adopted.

The Hon. R. F. Claughton: You do not think it should be?

The Hon. CLIVE GRIFFITHS: I cannot get the point of the question.

The Hon. R. F. Claughton: I cannot get your point.

The Hon. CLIVE GRIFFITHS: The honourable member does not listen.

The Hon. R. F. Claughton: I am trying.

The Hon. CLIVE GRIFFITHS: I think we can assume that Mr. Claughton is not here and then we will make quicker progress.

It is essential for designers and builders to know the requirements of such fire zones. It is not feasible for an architect to design a building under the new by-laws without his having the knowledge. When the by-laws come into force the zones must be known and established by each council in conformity with the provisions in clause 8 of the Bill; otherwise the new by-laws cannot be applied.

In its preparation of the draft set of by-laws, the building advisory committee realised it was important to establish the fire zones and it suggested the councils do so within six months of the gazettal of the new by-laws. However, the tabled by-laws have been modified to the extent that no

such requirement is contained therein, and in fact the provisions in the by-laws suggest only that councils may declare an area as a fire zone.

This is an example of nonuniformity throughout the nation and this can be seen by studying the uniform by-laws adopted in the other States. I have a copy of the South Australian by-laws and the New South Wales by-laws. On page 16 of the South Australian by-laws, is the following, concerning fire zones—

The council shall, within six months after the commencement of these regulations, cause to be prepared a map and a register of the fire-zones established within its area.

An identical clause is found on page 14 of the New South Wales by-laws as follows—

The council shall, within six months after the commencement of this Ordinance, cause to be prepared a map and a register of the fire zones established within its area.

The Hon. L. A. Logan: Some local authorities may not have the necessary fire zones. This is the reason for it.

The Hon. CLIVE GRIFFITHS: The Western Australian model by-law says—

The Hon. R. H. C. Stubbs: I think you have been looking at models too much!

The Hon. J. Dolan: It is Miss Australia week!

The Hon. CLIVE GRIFFITHS: The Western Australian by-law says—

The council may with the approval of the Minister declare that any defined part of its area is a fire zone.

So in Western Australia architects and builders will be required to plan buildings based on the by-laws with various requirements in regard to fire zones when a local authority has not declared any of its zones. The other States have recognised this problem and based on the Australian Model Uniform Building Code, have built into their provisions the necessity for councils within six months after the introduction of these by-laws, to have declared and clearly shown their fire zones so that architects and others will know what kind of building they must design because the requirements in the various fire zones are completely different.

The Hon. R. F. Cloughton: You mean that once they are made they cannot be changed?

The Hon. CLIVE GRIFFITHS: I did not say that.

The Hon. R. F. Cloughton: I wonder what the material difference is between the two provisions.

The Hon. CLIVE GRIFFITHS: From inquiries I find that generally speaking architects do not agree with the provisions

in the document concerning fire zones. If more opportunity had been available for perusal and comment before the document was tabled in the House, or before it was drafted, a more acceptable set of rules could have been evolved.

As it is, we are commencing a new era in regard to Uniform Building By-laws with one of the main provisions relating to fire zones not being universally accepted by all bodies. This is a new innovation as far as our building by-laws are concerned and more opportunity should have been provided for constructive criticism as well as for suggestions.

To go a little further with regard to the fire code on which the by-laws are based, we are using a code principle adopted in certain American States such as San Francisco, because of the local conditions of extreme fire severity caused by the extensive use of timber in houses and multi-storied buildings.

What we should be doing is looking at local conditions with a view to determining a code based on the type of building and conditions which prevail in the particular area in which we are located. Such policy may well establish that we need not have some of the very stringent requirements which will naturally increase the cost of our buildings unnecessarily.

Those in the architectural profession are far from satisfied with the provisions. They believe they have not been given sufficient opportunity to comment. They believe that simply the tabling of a document in the House does not provide them with the opportunity to study it in the way they desire. They should be provided with a copy of the document so they can take it away and have a decent look at it.

One of the reasons for the necessity for uniformity was that architects and builders, and the suppliers of materials, throughout Australia, would be able to design their materials and buildings and construct their buildings more economically.

The mass producers of door frames would know that a doorway in Western Australia was the same as a doorway in South Australia and New South Wales. I cannot imagine that there would be any room for variation in that respect, but there always has been in the past. If we are seeking a uniform set of by-laws, I imagine one of the requirements which could be made uniform would be doorways.

The same applies to ceiling heights and I will use these as an example to indicate how much these new by-laws vary from State to State which indicates that in fact they are not uniform.

The South Australian by-laws state that the minimum height of a residence for habitation shall be not less than 2,400 millimetres for at least two-thirds of the

floor area. For the other one-third it makes provision for a ceiling which follows the slope of the eaves of the roof.

The New South Wales by-laws state that not less than two-thirds shall be 2,400 millimetres in height and no part of it shall be less than 1,500 millimetres.

In Western Australia the proposal is that the room height shall be not less than 2,400 millimetres and this applies to the full extent of the roof. So in a house in Western Australia if a builder wants to follow the slope of the eaves, as is the case with many of the modern dwellings, the lowest point must be 2,400 millimetres high, which is roughly eight feet. So, in a simple thing like a ceiling height there is a vast difference.

In the case of office buildings the South Australian regulations state that the ceiling height must be not less than 2,400 millimetres, whereas in New South Wales these provisions are covered under the Health Act. New South Wales has not even included them in its Uniform Building By-laws.

In Western Australia the proposal is that the height of office ceilings shall be not less than 2,700 millimetres. So, in South Australia the ceiling height in a block of offices is 2,400 millimetres; in New South Wales, under the Health Act, the height must be 2,400 millimetres; whereas in Western Australia, as soon as we adopt these by-laws all office buildings must have a ceiling height of 2,700 millimetres. This is another great variation.

The ceilings in shops in Western Australia shall be not less than 3,000 millimetres, while in other States the height for shops is the same as it is for offices.

So we have this area of nonuniformity in the building by-laws. However, there is another area of nonuniformity; that is, the fees which will be paid for building permits. For the purpose of mathematics, I have had to use this particular example. In the case of a multi-storied building with a value of \$9,700,000, which is a huge office building, the New South Wales regulation uses a different system to determine the fee. That regulation uses the value of the building rather than its size, which is used in South Australia and which will be used in Western Australia.

For a building which costs \$9,700,000 the building permit fee in South Australia would be \$11,140; in New South Wales the fee would be \$6,446 and, under the new Western Australian by-laws the building permit would cost \$8,000. Incidentally the building which is to cost \$9,700,000 would consist of about 370,000 square feet of floor space. So there is a great area of variation.

Under the existing uniform by-laws, under which we operate in Western Australia, the cost of such a building license

would be \$3,772. So under the new scheme the building license would cost \$8,000 in Western Australia and not \$3,772 as it would today under our present requirements.

Another area in which there appears to be some variation is contained in part 24 of the model by-laws. Incidentally one of the very few things I find are uniform in the three States are the numbers that are used—all the States use the same numbers. If one refers to part 24.29 the same numbers would apply in New South Wales and South Australia.

In so far as doorways are concerned, every doorway in a class 2 or class 3 building in Western Australia—and at this point I will leave out the unnecessary words—shall have a clear opening of not less than 2,000 millimetres in height, and not less than 750 millimetres in width. The same doorway in New South Wales shall have an opening of not less than 1,980 millimetres in height, and not less than 760 millimetres in width; and in South Australia the opening shall be not less than 1,980 millimetres in height, and not less than 790 millimetres in width. Two States have the same height specified—the height in Western Australia is greater—and the three States have different widths for their doors.

The Hon. S. J. Dellar: It seems that South Australians are fatter.

The Hon. CLIVE GRIFFITHS: Western Australians are taller. From those examples it will be seen that the sizes of doors for buildings vary from State to State.

The Minister said it was necessary to pass this Bill to ensure that we had uniformity throughout the country, but obviously this is not so because of the three examples I have given. Incidentally, it would seem that only three States have done anything about this matter; I understand that Victoria will not adopt the by-laws at all. If we can get uniformity why is it necessary to change the existing by-laws?

While I prefaced my remarks by saying I have been a long-time critic of the existing by-laws—because I feel they left too many areas in which they can be varied by local authorities—from my observations they are certainly far more uniform than the proposals contained in the document the Minister has tabled.

In talking about areas where differences can occur, the point I am trying to convey is that the present Uniform Building By-laws provide specific by-laws in regard to building requirements in Western Australia.

The new by-laws are not so specific and in many instances they provide for local authorities to approve or not approve as they see fit. For instance there are references to standards which are published as

codes by the Standards Association of Australia, whereas such codes are not necessarily adhered to by the manufacturers of building materials; simply because the codes are not statutory codes.

What I am trying to say is that these codes of the Standards Association of Australia are not statutory codes as they refer to materials; they are standards set by the manufacturers of the various materials; but there is no statutory requirement that all materials must adhere to the standard. The building by-laws say that concrete shall be of S.A.A. standard CA2. If it is impossible to get the concrete manufacturer to adhere to the specification of the Standards Association of Australia what can the builder do about it? The local authority says, "This is what you will have", but if the material is not available what does the builder do?

I understand there is another example which is current in the requirements of the uniform building by-laws, that roof tiles shall comply with certain specifications of the Standards Association of Australia. There is not a tile made that complies with this requirement. Accordingly, in fact, no roof in Western Australia would have on it a tile that complies with the uniform building by-law in question.

As I have said, throughout this particular document there is provision for local authorities to vary the standards as they see fit, so the chance of obtaining uniformity is very remote indeed.

In the interests of ensuring that we have a document which is acceptable to all sections of the industry and to the community I suggest that rather than have a copy of the by-laws only laid on the Table of the House, a copy be made available to the various sections of the industry so that they may be studied more closely and thus enable those sections of industry to make the constructive comments and suggestions I mentioned earlier.

I am pointing out that while we may have a uniform building code or philosophy we certainly have not a uniform set of building by-laws in all the States. I venture to say that we will have a less uniform set of building by-laws in Western Australia than we have at the moment.

What is needed, and what I am sure was required by the people who initiated the original move in 1964, is a set of uniform building by-laws all appearing in one volume to enable those interested in designing or constructing buildings throughout the Commonwealth to be able to refer to them. These should be in one volume; they should be nationwide by-laws in relation to building requirements, so that no matter where a person is the same rules will apply. This is what I

suggest was sought by those who initiated the original move in 1964, and this is what is required in Australia.

This would be far better than having some of the rules relating to building requirements contained in the Health Act, some in the Public Works Act, others in the Local Government Act, and yet others in the Uniform Building By-laws, with varying interpretations being placed on these by-laws by the various local authorities.

I stress we should have one standard set of building rules or regulations and these should apply equally throughout the nation. Minor modifications that are obviously necessary can be made in the different areas according to their climatic conditions.

Perhaps the Minister could answer, when replying to the debate, the questions I would like to pose to him. I ask the Minister when it is proposed to gazette this set of by-laws. I want to know from what date it is proposed the by-laws will become effective.

I would also like the Minister to tell me what consultation has taken place with individual organisations on the matter of the proposed by-laws. Does not the Minister think it would have been a good idea to explain to the House precisely what he was doing when he laid the papers on the Table of the House?

The Hon. R. H. C. Stubbs: What was the last point?

The Hon. CLIVE GRIFFITHS: I ask whether the Minister should not have explained to us what he proposed to do when he laid the papers on the Table of the House for members to peruse as a matter of interest.

While we in Western Australia have agreed to a uniform set of building codes, or such a philosophy, we have not in fact adopted this in Western Australia. Nor has this been done by the other States. The other States have adapted this code, which is an entirely different kettle of fish, and hence we have the nonuniformity about which I am speaking.

Accordingly I come back to what I said originally, that Mr Johnson either thinks that what the Minister has said to us here about uniformity is not right or he wants to be informed of what has gone on in the past. I support the second reading.

Debate adjourned, on motion by The Hon. D. K. Dans.

PAY-ROLL TAX ACT AMENDMENT BILL

Assembly's Message

Message from the Assembly notifying that it declined to make the amendment requested by the Council now considered.

In Committee

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

The DEPUTY CHAIRMAN: The amendment requested by the Council which the Assembly declines to make is as follows—

Clause 4.

Page 2, after line 15—Add the following proviso—

Provided however that the Treasurer for the purpose of encouraging decentralisation of industry and employment may in his absolute discretion after receiving an application from an employer certify as appropriate and allow any lesser rate or rates in respect of wages paid or payable by the employer in relation to work performed in an established place of employment more than seventy kilometres from the General Post Office, Perth.

The Assembly's reasons for declining to make the amendment requested by the Council are as follows—

- (1) It is not a desirable principle in taxation to make rates variable at the discretion of the Treasurer as it is inevitable that notwithstanding the utmost care inequities as between taxpayers will occur.
- (2) Rates of taxation should normally remain completely under the control of Parliament.
- (3) There are other and more equitable ways of providing incentives to decentralisation.

The Hon. J. DOLAN: I move—

That the requested amendment be not pressed.

The Hon. I. G. MEDCALF: The amendment requested by this Chamber followed on discussions which took place on the Pay-roll Tax Assessment Act Amendment Bill, and for constitutional reasons the amendment was taken out of the other measure and put into this Bill, which was recommitted for that purpose.

The amendment was to the effect that the Treasurer should have a discretion to allow a lesser rate of tax in respect of industries situated more than 70 kilometres from the G.P.O., Perth. The reasons for the amendment were fully discussed previously and I do not think much is to be gained by going through them again.

As the Bill imposes taxation, this Chamber was debarred under the Constitution from amending it, but in such cases the Chamber is permitted to request

the Legislative Assembly to make an amendment. Such a request was made and the Legislative Assembly has declined to agree to it.

Over the years there has been conflict between the Legislative Assembly and the Legislative Council in regard to the power of the Legislative Council to request an amendment. It was stated in the Press the other day that the Legislative Council could not amend money Bills. That is not quite the position but I suppose it does express the position in a way which most people would understand.

The Constitution states that the Legislative Council may not amend a Bill imposing taxation. This is a Bill which imposes taxation. The Constitution goes on to say the Legislative Council may request an amendment to any Bill which it may not amend, and that is precisely what this Chamber has done.

Over the years, going right back to the early days of responsible government, there have been arguments between the Council and the Assembly as to whether or not the Council could press a requested amendment. In fact, there was one such case two years ago when the Council pressed a requested amendment to the Stamp Act, and after the request was pressed a second time the Legislative Assembly accepted it. There have been occasions over the years when the Legislative Council has declined to press a request but has indicated that it believed it had the power to do so. On other occasions the Legislative Assembly has rejected a request which the Council has pressed and has asked for the matter to be determined by a judicial authority.

The matter has never been determined by a judicial authority, and this is one of the grey areas in the Constitution where there is no clarity and no provision for a judicial authority to decide the issue as between the Council and the Assembly. Members will recall that not so long ago an amendment to the Fire Brigades Act Amendment Bill was moved by Mr. Williams. A constitutional point arose between the Council and the Assembly and the Council requested that a judicial authority be appointed to decide the issue. The Assembly agreed to that but it has not yet taken place. No judicial authority has been appointed. There are difficulties in deciding who the judicial authority should be in these cases. In the past, the Privy Council has been regarded as being the judicial authority, but we need to have a very weighty issue before going to the Privy Council because of the cost and delay which would ensue.

I think this Chamber has sufficiently made the point that it wished to encourage the Government to decentralise by whatever means were open to it, including the Pay-roll Tax Act. The Government has declined to avail itself of this opportunity. I do not suggest it is a suitable case for

this Chamber to press its request. In saying that I want to make it clear that I believe the Chamber has a right to press a request and that this point has not yet been decided constitutionally.

I therefore indicate that I do not wish to oppose the Minister's motion that we do not press our request. I believe we have adequately indicated what we want and I reiterate that I believe this Chamber has the right to press a request in an appropriate case.

Question put and passed; the Council's amendment not pressed.

Report

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

INDUSTRIAL AND COMMERCIAL EMPLOYEES' HOUSING BILL

Second Reading

Debate resumed from the 16th October.

THE HON. G. C. MacKINNON (Lower West) [9.12 p.m.]: This Bill opens up a new field in housing assistance by the Government in this State. It is similar to the Government Employees' Housing Act in that it is designed to give assistance to a particular group of people. Members will recall that the Government Employees' Housing Act was designed to assist school teachers, medicos, and other Government employees who are scattered around in country towns, and after a few teething troubles it has met with reasonable success.

The Bill now before us is designed to assist in the housing of employees in industrial and commercial activities in the smaller country towns. It has the usual arrangement and it sets out definitions. The important definition is that of "employer", which means a participating employer; he participates in the scheme and is mentioned later in the Bill. The definition of "essential" is—

"essential", in relation to an employee, means essential to the enterprise or activity of, or the provision of services by, his employer;

An industrial or commercial employee is defined as one who, in the opinion of the authority, will be of significant benefit to the State; that is, an industry in the country requires such people to be employed and they will be of significant benefit to the State by virtue of the industry or the decentralisation they bring about.

Most country members will be aware that from time to time, even in the larger towns, considerable difficulty is experienced in securing accommodation for key personnel.

The State Housing Commission is loath to build houses in smaller towns because the houses may be left empty. The commission has a specific task to perform; that is, to supply low cost housing for people on moderate incomes.

The authority proposed in this measure will not be so restricted, and houses can be supplied by bringing the participating employer into the scheme on a guaranteed rental basis, and the rental will amortise the total debt. I think the idea is a good one and that it deserves a trial. No doubt some problems will be experienced in the early stages but I am sure these will be overcome.

Employers, other than Government departments or local municipalities, who in the opinion of the authority are carrying out this sort of enterprise or activity and are giving employment to people outside the metropolitan region may become participating employers in the scheme and may enter into an agreement with the authority guaranteeing the rents for the period they want the houses; and so the houses can be constructed.

Frequently employees of this type move from town to town and are not interested in purchasing houses. An employee might want to work in a small town for a couple of years to gain experience, and then move on. This is another reason for the establishment of the authority.

The composition of the authority is set out in the Bill. It will have a chairman, a person who is for the time being the permanent head of the Department of Development and Decentralisation, and three persons nominated by the Minister. Of those three persons, one shall be nominated by the Minister from a panel of names submitted by the Chamber of Manufactures, and the others shall be nominated by the Minister from panels of names submitted by the Perth Chamber of Commerce and the Trades and Labor Council, respectively. It seems that the authority will be reasonably well balanced, and I am sure those persons will be able to handle the problems they will encounter.

I notice that under clause 10 each member of the authority shall be recompensed only for his travelling expenses at the rates and in accordance with the scale and conditions applicable from time to time in respect of senior officers of the Public Service; and will not receive an attendance fee. In another place this point was picked up by Mr. O'Neil, and the Minister for Housing mentioned that it was an oversight. From my reading of *Hansard* I understand that Mr. Bickerton made a phone call and ascertained this was an oversight. I expected an amendment to be placed on the notice paper in this Chamber, but as that did not happen I have put one on myself, and we will discuss it in the Committee stage. The amendment is designed to ensure the members

of the authority will receive an attendance fee. If we are to have on the authority men who are prepared to do the work necessary to get this thing under way, it seems reasonable they should be recompensed for their effort. So, in the light of the remarks of the Minister in another place, I have placed an amendment on the notice paper.

As one would expect, the Bill includes the normal provisions for deputies of members of the authority, leave of absence, meetings of the authority, to make the authority a body corporate, and the like. The authority may appoint staff and delegate its responsibilities. The functions of the authority are set out in part III of the Bill, and cover all the things one would expect the authority to do; that is, to purchase and contract for the use of, or otherwise acquire, any land or houses; to erect houses, let or dispose of houses, and such other things as are required or permitted to be done by the authority under the Bill.

A participating employer who requires an essential employee to work for him will apply to the authority. The authority will consider the application and may allocate a house to that employer; but it is not required necessarily to allocate a house; it will allocate a house if the requirements of the employer and the employee are within the parameters within which the authority must work.

The authority is not required automatically to provide housing for occupation by essential employees. The Bill says that it may do that. It may also allocate a house to a person other than an essential employee. I think that is a reasonable provision because if the participating employer cannot find an employee to do the job and somebody else wants a house then the authority may allocate the house to the other person; so at least it will obtain rent from the house. This seems to be a perfectly reasonable and businesslike proposition. No doubt if the essential employee turned up he would be granted priority for the house, but that would be a matter for the authority to decide.

The powers of the authority are set out in the measure. It may lay out and subdivide land if necessary. Frankly, I cannot see the authority becoming a large-scale industrial housing enterprise. From my reading of the Bill and of the speeches made regarding it, it is not intended that the authority will become a large-scale housing enterprise. Indeed, when that sort of enterprise takes place it is generally the subject of an agreement between the company concerned and the Government or the State Housing Commission so that a large area may be planned and houses erected upon it. The Bill appears to be very definitely oriented to the smaller scale operations in respect of essential employees in small country towns.

The authority may accept gifts. I think that is a reasonable proposition. It may be that an employer who does not wish to put his capital into housing may require several houses; and if he wanted them to be of a slightly better standard or to be constructed a little more quickly he could make a gift to the authority. An employer may make a gift to the authority in order to obtain a lesser rent. It sometimes pays employers to reduce the rent paid by their employees rather than provide higher salaries, and this is attractive to many employees. I think the clause is reasonable.

The authority—I think wisely—is empowered to enter into agreements with the State Housing Commission, and the commission may act as the agent for the authority. I visualise that this is a wise move when one bears in mind the expertise the State Housing Commission has acquired over the years. I find very little in the Bill to cavil at. I think it is a plain, simple, and straightforward measure which seems to set out deliberately and honestly to do the things it is intended to do.

The Treasurer is authorised, on the recommendation of the authority, to provide guarantees for the borrowings of employers from non-Government sources to acquire land for the erection of houses for occupation by essential industrial or commercial employees. Again, this is a reasonable proposition and will ease the financial burden upon the Treasury. Funds for the authority will come from moneys appropriated by Parliament for the purposes of the Bill and moneys borrowed by the authority under the powers granted to it in the measure. The Treasury will set up a fund which will be known as the industrial and commercial employees' housing fund, and the necessary methods of recovery of those sums of money are set out in the Bill.

I notice that the authority must produce a revenue account and balance sheet at the end of June each year, and these must be forwarded to the Minister who will lay them upon the Table of each House so that members may follow the activities of the authority as it develops from year to year.

The authority is given power to determine the tenancy of any premises if the tenant is in default of payment of rent, or fails or neglects to comply with any of the conditions of the tenancy agreement. Finally, the Governor may make regulations in respect of the Bill.

That is my interpretation of the measure. I believe it sets out to cope with what most country members recognise as a problem with which we have had to contend over the years. Some members have contended with this problem frequently without a great deal of success,

because it is a risky venture to erect a house for key employees in smaller country towns. The measure seems to be one method of resolving the problem.

The Bill has my support. In the Committee stage I will move the amendment to which I have referred.

THE HON. R. THOMPSON (South Metropolitan—Minister for Police) [9.26 p.m.]: I thank Mr. MacKinnon for his summary of the Bill. I think it was in line with the comments I made in my second reading speech. Like the honourable member, I do not think this will be a large authority. It will fill a particular need in respect of small businesses which require housing for their employees in areas where housing finance has been unavailable in the past.

I remember Mr. Syd Thompson claiming in this House some years ago that had houses been available in his home town a certain industry could have expanded; but unfortunately at that time the State Housing Commission could not acquire the necessary housing. Had this proposed authority been in operation then, it could have made available the necessary housing and finance, and the guarantees that go with it.

Mr. MacKinnon has an amendment on the notice paper. He has rightly pointed out that it is in connection with an oversight. I thank him for his attention to this matter. I will not oppose his amendment because it is in line with the thinking of the Government.

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. R. Thompson (Minister for Police) in charge of the Bill.

Clauses 1 to 9 put and passed.

Clause 10: Allowances to members—

The Hon. G. C. MacKINNON: I have already explained the purpose of the amendments standing in my name on the notice paper. They make it possible for members of the authority to be paid the usual rates for attending meetings. I do not expect this would have an earth-shattering impact on the Treasury. The amendments have the blessings of the Minister in another place, and also the Minister in charge of the legislation in this Chamber. I move an amendment—

Page 6, line 14—Insert after clause designation 10 the subclause designation (1).

Amendment put and passed.

The clause was further amended, on motions by The Hon. G. C. MacKinnon, as follows—

Page 6, lines 17 and 18—Delete the words "other than attendance at meetings thereof".

Page 6, after line 21—Add a new subclause to stand as subclause (2) as follows—

(2) The members of the Authority, other than members who are officers in the Public Service, may be paid and receive such fees and allowances in respect of their services as such members as may be prescribed by regulation."

Clause, as amended, put and passed.

Clauses 11 to 29 put and passed.

Title put and passed.

Bill reported with amendments.

AUCTION SALES BILL

Second Reading

Debate resumed from the 25th October.

THE HON. J. M. THOMSON (South) [9.35 p.m.]: Any mention of a Bill with reference to sales by auction would have, to say the least, a rather familiar sound within the precincts of this legislative Chamber.

Speaking to the second reading of a Bill, No. 72 on the file for 1969, under the title of Sales by Auction Act Amendment Bill, which contained some of the provisions that are contained in the Bill before us, I expressed the opinion at that time that it would be appropriate to repeal the Auctioneers Act, the Droving Act, and if I remember rightly the Government Stock Saleyards Act, as well as the Sales by Auction Act, and to have a comprehensive Act as is the case in New South Wales, Queensland and Victoria—the Acts of which States at that time I had studied.

I am therefore very pleased, indeed, to have before us a Bill which proposes to do just that. The Bill contains provisions detailed in clauses 23 and 24, and more particularly set out in clause 25, aimed at putting an end to a suspect practice relating to *bona fide* intentions, under what is known as mock auctions. In recent years such mock auctions have taken place, much to the dismay of numerous vendees who have been taken in by these disputable methods on the part of people who sold goods. The protection afforded by the provisions in the Bill before us are indeed timely.

The particular points contained in clauses 8 to 31 relating to sales by auction of cattle and sheep are of much interest to me for reasons well known to members of this Chamber and in another place, because of my somewhat long association with a Bill which was introduced on several successive years; this was the Bill entitled the Sales by Auction Act Amendment Bill.

In the Bill before us I note there is no exemption of any area or place of sale by auction of any cattle and sheep. I support this provision. I am sure it will be effective in achieving what we desire to achieve. Because of instances which have arisen, and which have led to the introduction of legislation such as this into Parliament, it is desirable that the Bill should operate throughout the State, and that no exemption of any area or place should be granted. I say that for the reasons which I gave previously, and which caused the Bill before us to be drafted.

I do not wish to raise the ire of anybody by referring to the circumstances which led to certain court cases.

The Hon. R. Thompson: I hope you are not going to tell us about that all over again.

The Hon. J. M. THOMSON: I do not wish to weary the House or myself in that regard. All that has been recorded in *Hansard*. Before I resume my seat it might be appropriate for me to say this: Amongst the papers I looked at before I came into the Chamber today was a report which was submitted by a police inspector at the time I introduced my Bills. The report states—

In the Eastern States where Sales are conducted in Shire Yards, the Shire sees to it that there is a Shire Rep there to see that sales are conducted fairly. Here there has NEVER been anyone to police stock sales, so for two or three generations a set of "rafferty" rules have developed.

Of course, the Bill before us will rectify that situation. To continue with the report—

Men in the stock trade whom one would expect to be O.K., are ready to defend the things that are known to have happened at Albany, saying "This has always gone on—it happens at Midland and all over the State, and was so when I was first learning to be an auctioneer".

Members will note that I have an amendment on the notice paper which seeks to insert a new subclause, being subclause (4) to clause 30. My amendment is as follows—

Page 29, line 30—Insert a new subclause to stand as subclause (4) as follows—

(4) A person appointed as an inspector for the purposes of the Stock Diseases (Regulations) Act, 1968, shall not exercise, or be entitled to exercise, the powers conferred on him by subsection (3) of this section after the expiration of the day on which the sale is conducted.

This refers to a provision which was contained in the Sales by Auction Act Amendment Bill that I introduced in 1972. The provision in that Bill is as follows—

Any member of the police force of the State or any stock inspector may, at any reasonable time, inspect a register or book that is required to be kept pursuant to section three A of this Act.

The Bill before us indicates that stock inspectors, as well as police officers, are to be given the authority to inspect such books at any time. I do not think that was the intention in the previous Bill.

The comment has been made that the reason for the inclusion of the stock inspector is that he is always in attendance at sales by auction of cattle and sheep, and therefore if the police officer is not present then the stock inspector would be able to make notes of the transactions that take place. It should not be necessary to clothe him with the authority to inspect the books and records of stock firms. This right should be reserved solely to the police officers of the State.

For that reason it is abundantly clear that the amendment which appears on the notice paper is necessary. I have addressed myself to the matter of auction sales on many occasions. I support the Bill and I hope it will eventually be placed on the Statute book and be of benefit to those involved in auction sales.

Debate adjourned, on motion by The Hon. R. J. L. Williams.

METROPOLITAN REGION TOWN PLANNING SCHEME ACT AMENDMENT BILL

Second Reading

Debate resumed from the 24th October.

THE HON. CLIVE GRIFFITHS (South East Metropolitan) [9.46 p.m.]: This is only a short Bill and, consequently, my comments will also be relatively short. I suggest that most of the discussion on this Bill will probably take place during the Committee stage.

The purpose of the measure, firstly, is to increase the membership of the Metropolitan Region Planning Authority from 12 to 13 persons. This will be achieved by the inclusion of the Director of Environmental Protection. While I am not opposed to an increase in the size of the authority, or to the inclusion of a person from the Environmental Protection Authority, I do question whether the additional member ought to be the Director of Environmental Protection.

I have an amendment on the notice paper which indicates that I suggest the additional member ought to be a representative of the Environmental Protection Authority, but not the director. If the additional member is to be the Director of Environmental Protection any discussions

with the Metropolitan Region Planning Authority may well inhibit him in his position as director.

The next clause of the Bill does no more than increase from \$10,000 to \$25,000 the amount of money which the authority can spend without obtaining the approval of the Minister. That is fair and reasonable in view of the state of our economy and the inflation which has occurred over the years. We debated a similar provision, recently, in regard to the State Electricity Commission.

Clause 4 of the Bill sets out that a member of the authority should disclose any personal direct or indirect interest in matters under discussion. Under the provisions of the Act the amendment will make it necessary for a member of the authority to declare any such interest before a meeting. This provision is similar to that which appears in section 174 of the Local Government Act. It will also be necessary for the declared interest to be recorded in the minutes of the meeting, and the member concerned will not be permitted to be present or vote while discussion takes place.

Subclause (4) of clause 4 of the Bill states that a member shall not disclose any information acquired by virtue of the exercise of any function unless the disclosure is made in connection with the execution of the Act, or for the purposes of any proceedings arising out of the Act, or any report of such proceedings.

I understand the Minister intends to place an amendment on the notice paper in regard to this matter. It seems to me that the provision, as it appears, would inhibit the Director of Environmental Protection—or his representative, if my amendment is accepted—from disclosing to the Environmental Protection Authority any information he gains as a result of his position on the Metropolitan Region Planning Authority. I hope the amendment proposed by the Minister relates to this part of the Bill.

Subclause (5) of the Bill sets out that a member shall not make use of any information acquired by virtue of the exercise of any function to gain directly or indirectly an improper advantage to himself or to cause detriment to the authority. I am concerned with the words, "or cause detriment to the authority." I am wondering whether it would be classified as causing detriment to the authority if the representative from the Environmental Protection Authority made use of information gained as a result of his membership on the Metropolitan Region Planning Authority. I would like the Minister to give me some clarification on that point.

The Bill goes on to provide penalties for breaches of these requirements. I support the second reading of the Bill with the proviso that I intend to move the amendment on the notice paper, and subject to the Minister's proposed amendment.

THE HON. L. A. LOGAN (Upper West) [9.48 p.m.]: Quite frankly, except for clause 3, I do not think the contents of the Bill are necessary. I do not intend to oppose the measure but in my opinion there is no need for a representative of the Environmental Protection Authority to be on the Metropolitan Region Planning Authority. All the information which is required by the Metropolitan Region Planning Authority can be obtained from the Director of Environmental Protection without having him as a member of the planning authority. However, I am not strongly opposed to that provision.

The Bill will also increase from \$10,000 to \$25,000 the amount which the authority can spend without obtaining the approval of the Minister.

The matter of a pecuniary interest is a different thing altogether. The Minister implied that a similar provision exists in section 174 of the Local Government Act. However, local government deals with small areas whereas the Metropolitan Region Planning Authority deals with an area of 2,000 square miles, or more. I think it would be difficult to find anybody on the authority without some interest in that large area and, accordingly, the members of the authority will be placed in an almost impossible position.

If a member of the authority has an interest in, say, Rockingham he will not be able to take part in any discussion on an overall regional scheme. I think the measure goes too far. The members of the authority are responsible people and I think the Minister should again look at this prohibition. It will be very difficult to find members who have not some pecuniary interest somewhere in the metropolitan region, and that is the area with which we are dealing. Local government cannot be compared with the Metropolitan Region Town Planning Scheme. The work of the authority will be stultified. Before I am prepared to support this part of the Bill I suggest the Minister have another look at that provision.

Debate adjourned, on motion by The Hon. R. J. L. Williams.

House adjourned at 9.57 p.m.

Legislative Assembly

Tuesday, the 30th October, 1973

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

EDUCATION ACT AMENDMENT BILL (No. 4)

Message: Appropriations

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