The Ports and Harbours Act is a very short Statute, having only four sections which can all be printed on one sheet of paper. Its basic purpose is to empower the Governor to proclaim areas which will be a port or harbour for the purpose of the Shipping and Pilotage Consolidation Ordinance. Consequently the Ports and Harbours Act is really an appendage to the Shipping and Pilotage Consolidation Ordinance and this appears a good opportunity to consolidate these two pieces of legislation in the one Act.

This Bill therefore includes the following provisions:—

(1) Authority for the charging of pilotage and conservancy dues at the prescribed rates, and for the continuance of the present exemptions therefrom.

(2) Appointments of harbour masters and pilots, and their respective powers.

(3) Authority for harbour masters to—
  (a) direct berthing, mooring, and moving of vessels in harbours and generally to have the control of the movement of persons and vessels within harbours;
  (b) compel the removal of obstructions in and about harbours and approaches thereto at the owner's expense;
  (c) exercise within harbours such powers of control and direction of persons and vessels as are prescribed.

(4) Authority for making compulsory the use of pilotage and tug facilities, and for granting exemptions therefrom.

(5) Empowering harbour masters to require the removal or, in the last resort, the scuttling of vessels that constitute an immediate hazard to other vessels, property, or persons in and about the harbour, and empowering harbour masters themselves to effect the removal or scuttling if the master refuses or is absent.

(6) Creating offences of—
  (a) refusal to obey lawful directions of harbour masters;
  (b) unlawful interference with moorings, beacons, buoys, and other harbour facilities;
  (c) depositing or removing spoil beneath high water mark in navigable waters.

(7) The provision of a regulation-making power relating to—
  (a) the general control of harbours;
  (b) special precautions to be observed by oil vessels;
  (c) tide signals and signals for use in harbours.

(8) Imposing penalties of fines not exceeding $200 or imprisonment for three months for breaches of the Act or the regulations.

(9) Continue to empower the Governor to proclaim areas to be ports and harbours and provide for the continuation of ports and harbours already created under the Ports and Harbours Act, 1917, but exempts the Port of Fremantle from certain provisions of the Act which are already dealt with in the Fremantle Port Authority Act.

Members will appreciate that this is quite a short Bill. It consists of only 12 clauses. The repeal of the old legislation and the enactment of a new Statute will enable the provisions contained in the Act to be administered more efficiently and effectively and will provide a long-needed up-dating of many of the former archaic and outmoded provisions. I commend the Bill to the House.

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

House adjourned at 5.5 p.m.

Legislative Council

Tuesday, the 29th August, 1967

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

QUESTIONS (2): WITHOUT NOTICE

HOSPITALS

Television Programme, and Local Facilities

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

  (1) Did the Minister view the A.B.C. television production *Four Corners*, screened at the weekend, on the 26th and 27th August, with the segment showing dilapidated operating theatres and outmoded equipment used in some leading Eastern States hospitals?

  (2) If the answer is "Yes," will the Minister inform the House if there are any major hospitals in this State with similar bad facilities?

  (3) Will the Minister advise on the broad situation in respect of hospitals in this State?

  The Hon. G. C. MacKINNON replied:

  The honourable member was kind enough to advise me of his intention to ask this question. The replies are as follows:—

  (1) Yes, I did see the programme, once right through, and once partly through.

(2) No. I am reliably informed that the hospitals in this State are of a standard equal to the new buildings and facilities in the Eastern States, and far superior to the many large old hospitals in the other capitals; and this applies to theatre facilities, too.

(3) Although there is overcrowding in our major hospitals—that is, Royal Perth Hospital, which situation we are endeavouring to meet—the standard of hospital buildings and facilities generally is satisfactory throughout the State. In recent years there has been substantial expenditure on new building construction in all major metropolitan hospitals.

One example is the new operating theatre and X-ray block at the Fremantle Hospital, which is better than similar facilities elsewhere.

Mention should be made of new construction at King Edward Memorial Hospital for Women and the Princess Margaret Hospital for Children.

The regional hospitals recently constructed at Bunbury Geraldton, and Albany are further examples of first-class hospitals and indicate the advantage of being able to build on new sites.

In the metropolitan area peripheral hospitals have been established in recent years at Osborne Park, Swan—where planning is under way for further additions— Armadale, and Bentley; and at the present time major extensions are proceeding at the Osborne Park Hospital.

Associated with the Royal Perth Hospital, there has been continual improvement in the main hospital itself, and at the Shenton Park Rehabilitation Hospital there has been spectacular development, including new wards for paraplegics, hemiplegics, quadriplegics, and orthopaedic cases—the latter being accommodated in a new 60-bed block. In addition, the new para medical therapy blocks provide for occupational therapy, psysiotherapy, speech therapy and laboratory facilities. A new 60-bed ward block has commenced. This rehabilitation hospital is the most up-to-date in Australia.

In association with the detail I have mentioned, consideration needs to be given to the contribution made by denominational organisations in the new hospital services they have provided with Government assistance.

LICENSING COURT REPORT

Appointment of Royal Commission

2. The Hon. E. C. HOUSE asked the Minister for Justice:

(1) Has the Government received a report from the State Licensing Court which recommends a Royal Commission to consider rationalisation of hotel and other liquor licenses in W.A.?

(2) If so, does the report suggest a fund to compensate licensees whose premises might be delicensed?

(3) Will the Government take action and will the Minister table the report?

The Hon. A. F. GRIFFITH replied:

(1) to (3) I have received the report from the State Licensing Court. I do not know the extent to which the report has been circulated. I have it and have been studying it. It is of no small wonder to me that the honourable member is able to pose this question, as it seems obvious that he has not seen the report, yet he is able to surmise some content of the report.

The report does contain some mention of a suggestion regarding a Royal Commission for the rationalisation of cancelled licenses. I do not think it has been customary to lay the report of the State Licensing Court on the Table of the House. As far as I can recall this has not been done by me in recent years. However, I will look at this aspect of the matter; but whether or not, when the report is circulated the honourable member should then look at it to see what its contents are.

QUESTIONS (14): ON NOTICE

FAIRPLAY NEWSPAPER AND PRINTING WORKS PTY. LTD.

Purchase by Totalisator Agency Board

1. The Hon. H. K. WATSON asked the Minister for Mines:

(1) (a) Is it a fact that the Totalisator Agency Board has bought all the shares in Fairplay Newspaper and Printing Works Pty. Ltd.?

(b) If not, is it true that the said board has bought the business, plant, and goodwill of the said company?

(2) By what authority, or purported authority, did the T.A.B. make the said purchase?

(3) What was the purchase price?

(4) What was the cost of printing done for the T.A.B. in 1966-67?

(5) How does the T.A.B. estimate that the purchase of the *Fairplay* newspaper will save between $20,000 and $30,000 a year in printing costs, as reported in *The West Australian* on the 28th June, 1967?

(6) Does the T.A.B. consider that other printers cannot produce work of equal quality and at equal cost?

(7) Did the T.A.B. inquire whether other printing establishments or the Government Printer could do its printing?

(8) Is there any intention to install at Fairplay Newspaper and Printing Works, capital equipment which already exists in other printing establishments?

(9) Will Fairplay Newspaper and Printing Works do printing other than for the T.A.B.?

(10) Will the Minister lay upon the Table of the House, a copy of the latest issue of the *Fairplay* newspaper?

(11) Will racing selections or tips henceforth appearing in *Fairplay* carry a Government guarantee?

The Hon. A. F. GRIFFITH replied:

(1) (a) Yes.

(b) Answered by (a).

(2) Section 5, subsection (3) of the Totalisator Agency Board Betting Act.

(3) Whilst the board is prepared to disclose the price it is not doing so, at the expressed wish of the vendor.

(4) $108,000.

(5) From profits derived by Fairplay Newspaper and Printing Works Pty. Ltd.

(6) Yes.

(7) Yes, for certain items.

(8) Capital equipment purchases will be dependent on the needs of the business. An efficient establishment will be maintained.

(9) Yes, but no more than at present.

(10) Yes.

(11) No.

The paper was tabled.

SOIL CONSERVATION ADVISORY COMMITTEE

Meetings

2. The Hon. J. HEITMAN asked the Minister for Local Government:

(1) On how many occasions in each of the past 10 years has the Soil Conservation Advisory Committee held meetings?

(2) How many recommendations have been made to the soil conservation commissioner from these meetings?

(3) Has a full attendance of members been recorded at these meetings?

(4) If the answer to (3) is "No," who are the disinterested members?

(5) Is it thought that the enlistment of more members to the advisory committee could result in more practical advice and recommendations being given to assist the commissioner?

The Hon. L. A. LOGAN replied:

(1) The Soil Conservation Advisory Committee has held the following meetings during the last 10 years:—

1957—2.
1958—1.
1959—2.
1960—2.
1961—1.
1962—2.
1963—1.
1964—2.
1965—2.
1966—2.
1967—1; a second meeting will be held on the 14th November.

The committee at its last meeting resolved that meetings should be held three times per year.

(2) Arising from these meetings 18 recommendations to the commissioner have been made. Three of these were from the last meeting held this month.

(3) Meetings have been well attended but have attained full attendance on only three occasions during this period.

(4) The absentees at the meetings during the period under discussion were—

Public Works nominee absent on nine occasions; sent deputy on one of these occasions.

Agriculture nominee absent on eight occasions; sent deputy on two of these occasions.

Forests nominee absent on four occasions; sent deputy on two of these occasions.

Lands nominee absent on one occasion; sent deputy on this occasion.
A farmer member nominee absent on three occasions.

(5) The committee at present includes, in addition to the commissioner *(ex officio)* a nominee from each of the Departments of Agriculture, Public Works, Lands, and Forests, together with two persons engaged in agricultural pursuits in different rainfall zones of the State, and one person engaged in pastoral pursuits. Recommendations for the enlargement of the committee to include another representative from the wheatbelt areas and a nominee of the Main Roads Department are currently under consideration.

STOCK FROM THE EASTERN STATES

Off-loading and Inspection Point at Merredin

3. The Hon. C. R. ABBEY asked the Minister for Mines:

(1) Will the Minister ascertain from the Minister for Railways what provision will be made on the new standard gauge railway for the off-loading and inspection of stock from the Eastern States on arrival in Western Australia?

(2) As this matter is of vital importance to the many farmers importing stock in increasing numbers every year, will the Minister for Railways invite representatives of farmers and pastoralists organisations and the stock agents, to a conference to discuss the subject of new yards, shearing shed, etc., and the siting of same?

(3) Has the possibility of establishing such facilities at Merredin rather than Parkeston been examined?

(4) Would it be correct to say that more labour for shearing sheep would be available, and hay for feeding would be more easily obtainable, at Merredin?

The Hon. A. F. GRIFFITH replied:

(1) Decision has not yet been reached respecting location of these facilities. If sited at Parkeston, the existing stock facilities will be retained. If located elsewhere, provision will be made for loading and unloading together with an area for feeding, watering, and inspection.

(2) The siting of any new facilities must be allied to rail tracks. So far as the Railways Department is concerned liability does not extend beyond loading and unloading, but the Department of Agriculture and stock agents will be given the opportunity of determining the extent of the yards, shearing sheds, etc.

(3) and (4) Merredin has been considered in this regard but Department of Agriculture requirements are that inspection shall be carried out at the first available point in Western Australia.

The availability of feed or labour for this purpose is not seen as a major factor.

RAIL FREIGHTS ON GRAIN

Grass Patch-Esperance: Reduction

4. The Hon. F. R. H. LAVERY (for The Hon. R. H. C. Stubbs) asked the Minister for Mines:

(1) Does the Minister know that farmers can get grain carted from their farms in the Grass Patch district to Esperance, cheaper by road transport contractors, than from the farm to the siding, and by rail to Esperance, with additional charges involved?

(2) Will the W.A.G.R. and Co-operative Bulk Handling Ltd. give consideration to lowering freight charges on grain railed to Esperance from the Grass Patch district to compete with road transport costs direct to Esperance?

The Hon. A. F. GRIFFITH replied:

(1) Using known road transport charges as a guide it can be accepted that the throughout road movement would represent the cheaper method.

(2) It would not be practicable to reduce rail freight charges on short hauls as freight rates are based on the telescoping principle and if lowered for short hauls would ultimately have to be increased over longer distances.

The growers in the area enjoy the benefit of the telescopic principle as applied to goods sent from the metropolitan area.

It is essential that instances of this nature should not be viewed in isolation but examined as part of the overall pattern of transport.

NATIVE CHILDREN

Supervision of State Wards

5. The Hon. J. M. THOMSON asked the Minister for Child Welfare:

In relation to aboriginal and part-aboriginal children who have been made State wards and are returned to their parent or parents, is the Native Welfare Department or the Child Welfare Department responsible for their supervision?

The Hon. L. A. LOGAN replied:

The Child Welfare Department is responsible for their supervision but may request the Native Welfare Department to exercise supervision if the child returns to an area where there is no child welfare officer within easy reach, or in cases where the Native Welfare Department officers are already working intensively with the child's family. In cases where the Native Welfare Department is prepared to exercise supervision, regular reports are forwarded to the Director of Child Welfare regarding the progress of the child in question.

JUSTICES OF THE PEACE

Number on Roll, and Court Work

6. The Hon. F. R. H. LAVERY asked the Minister for Justice:

(1) How many justices of the peace were on the roll in Western Australia at the 30th June, 1967, for the following magisterial districts:—
(a) Perth;
(b) Fremantle;
(c) Midland; and
(d) Country?

(2) How many of the justices of the peace referred to in (1) (a), (b), and (c), are actively engaged on court duties?

(3) Is there a list available indicating those who are actively engaged on court duties and those who are not?

(4) How many of the justices referred to in (2) above, are over the age of 75 years?

(5) Will the Minister table a copy of the recently published list of justices of the peace for the information of members?

The Hon. A. F. GRIFFITH replied:

(1) All justices appearing on the Commission of the Peace for Western Australia have jurisdiction for the whole State. At the 30th June, 1967, there were approximately 1,880 such justices of the peace.

(2) to (4) Apart from the summary relief courts at Perth and Fremantle, where women justices of the peace sit with the stipendiary magistrates, justices of the peace are not now called upon to preside in courts of petty sessions in Perth and Fremantle, and only on odd occasions are they called upon at Midland.

Although the honourable member has not asked for information in respect of the Rockingham and Armadale courts, and country courts, it is mentioned that there are over 120 courts of petty sessions throughout the State and, should he require such information, it would be necessary to obtain it from each of the courts. However, information regarding the ages of justices would not be readily available.

(5) Yes.

The list was tabled.

GOVERNMENT COMMISSIONS, TRUSTS, AND BOARDS

Membership and Remuneration

7. The Hon. F. J. S. WISE asked the Minister for Mines:

Will the Minister submit to the House, in printed form, for the purpose of laying on the table, an up-to-date list of the personnel on all commissions, trusts, and boards, operating under State Statutes, together with the remuneration paid to each person?

The Hon. A. F. GRIFFITH replied:

The information sought in this question requires a considerable amount of work to compile. This will be done and the information will be made available to the honourable member as soon as possible.

HOSPITAL ADMINISTRATORS

Membership of Australian Institute

8. The Hon. W. F. WILLESEE asked the Minister for Health:

How many persons in Western Australia are qualified members of the Australian Institute of Hospital Administrators?

The Hon. G. C. MacKINNON replied:

Fifty.

LOTTERY AGENTS

Protection against Dishonest Purchases

9. The Hon. G. E. D. BRAND asked the Minister for Mines:

Where an agent for the Lotteries Commission is duped by a person purchasing a ticket, by that person taking a ticket to the value of $5.00 from a temporarily unattended table, writing on the butt a *nom de plume*, and then paying the attendant 25c only, implying the purchase of that type of ticket, will the Minister inform the House—

(1) Does the commission offer the agent any sort of protection if the ticket wins a major prize?

(2) Can the agent report the circumstances to the commission in order that the miscreant may be apprehended and dealt with in the event of

the ticket winning a major, or any, prize?

(3) If no protection is offered to agents, why not?

The Hon. A. F. GRIFFITH replied:

(1) Tickets should be displayed in such a manner as to be readily accessible to the general public with a maximum of security against loss or theft. Tickets once received by an agent become his entire responsibility.

Section 10 (1) (d) of the Lotteries (Control) Act states—

(i) The Commission may pay out the prize money payable in respect of a prize winning ticket on receipt of the ticket purporting to be endorsed by the person purporting to be the holder of the ticket with his signature and address;

(ii) The Commission is not obliged to satisfy itself that the person purporting to be the holder of the ticket is the lawful holder of the ticket, that the signature is genuine, or that he is not an infant or person under other legal disability.

(2) Where agents are satisfied beyond any shadow of doubt that a ticket has been taken and not paid for, irrespective of whether the butt is blank or not, the matter should be reported to the police and the Lotteries Commission office, when every possible step will be taken to protect the agent's interests.

(3) Answered by (2).

ROAD MAINTENANCE TAX

Exemption of Superphosphate and Grain

10. The Hon. F. R. H. LAVERY (for the Hon. R. H. C. Stubbs) asked the Minister for Mines:

(1) As road maintenance tax contributions are indirectly passed back to the farming community, is it possible for the cartage of superphosphate and grain to be made exempt under the Act?

(2) If not, why not?

The Hon. A. F. GRIFFITH replied:

(1) The Road Maintenance (Contribution) Act makes no provision for exemption of any area or class of loading from the payment of charges. High court judgments have made it clear that discrimination between vehicle operators by exemption or otherwise would infringe against section 92 of the Commonwealth Constitution and render the legislation invalid.

(2) Answered by (1).

NURSES AND NURSING AIDES

Bursaries and Remuneration

11. The Hon. J. M. THOMSON asked the Minister for Health:

(1) What is the bursary paid to young women entering the nursing profession?

(2) What is the remuneration for girls commencing a nursing aides course?

(3) In view of the acute shortage in both intakes for the nursing profession and nursing aides in all departmental and private hospitals—

(a) has a review been made and any consideration given to increase—

(i) the bursaries to those entering the nursing profession; and

(ii) the remuneration to nursing aides as an inducement to greater intakes; or

(b) is the present amount of bursary and remuneration considered sufficient?

The Hon. G. C. MacKINNON replied:

(1) Commencing salary of a trainee nurse is—

1st year—$21.89 per week.
2nd year—$23.82 per week.
3rd year—$25.88 per week.

Charged $8.38 per week for board and lodging if living in.

(2) Commencing salary of a trainee nursing aide is—

Under 19 years—$21.89 per week.

19 years and over—$25.73 per week.

Charged $8.38 per week for board and lodging if living in.

(3) It is not accepted that there is an acute shortage in all hospitals as stated by the honourable member. Some hospitals in certain periods are affected by shortages.

With regard to (a) (i) and (ii) and (b), the remuneration paid is a matter for determination by the Industrial Commission.

ROYAL PERTH HOSPITAL

Board of Management: Membership and Election

12. The Hon. W. F. WILLESEE asked the Minister for Health:

(1) Who comprises the Board of Management, Royal Perth Hospital?

(2) For what period are individual board members elected, and how are they elected?

(3) Is the system at Royal Perth Hospital consistent with other hospital boards?

(4) If not, what is the reason?

The Hon. G. C. MacKINNON replied:

(1) Mr. H. V. Reilly.
Mr. J. P. Ainslie, F.R.C.S., F.R.A.C.S.
Dr. D. D. Keall.
Sir Stanley Prescott.
Sir Alexander Reid.
Professor G. G. Lennon.
Mr. G. M. Bedbrook, F.R.C.S., F.R.A.C.S.
Mr. T. Sten.
Dr. W. S. Davidson.
Mr. J. J. Devereux.

(2) (a) There is no fixed period.
(b) Appointed by the Governor in Executive Council.

(3) No.

(4) The continuation of past practice.

CHILD GUIDANCE OFFICER

Appointment in Albany Region

13. The Hon. J. M. THOMSON asked the Minister for Child Welfare:

Would the Minister give favourable consideration to appointing a child guidance officer—preferably a female—to work within the Albany regional area on either a full-time or part-time basis?

The Hon. L. A. LOGAN replied:

The department has requested four new items of district child welfare officer in the staffing submissions for the current financial year. If these items are granted, two new officers will be located in the south-west area to relieve pressure on both Albany and Narrogin district offices.

ROYAL PERTH HOSPITAL

Deputy Administrator: Extension of Service

14. The Hon. W. F. WILLESEE asked the Minister for Health:

Is it intended that the term of service of the present Deputy Administrator at Royal Perth Hospital will be extended beyond the normal retiring age of 65 years?

The Hon. G. C. MacKINNON replied:

Yes.

MOSMAN PARK

Disallowance of Heights of Buildings By-law: Motion

THE HON. J. G. HISLOP (Metropolitan) [4.59 p.m.]: I move—

That the by-law relating to heights of buildings (Saunders Street), made by the municipality of the town of Mosman Park, under the Local Government Act, 1960-1966, published in the *Government Gazette* on Thursday, the 15th December, 1966, and laid on the Table of the House on Tuesday, the 1st August, 1967, be and is hereby, disallowed.

I bring this matter before the House at the request of a number of people who have been considerably disturbed by two by-laws which have been promulgated. The first one was in 1964. In order to give the House some idea of the situation which existed, and the feeling of the public who were affected, I will read certain paragraphs from a report of the first meeting—as I understand it—which occurred after the by-law of 1964 was proposed. The report reads as follows:—

> The purpose of the meeting was to enable the owners to present any other queries or objections to the proposed by-law (other than already submitted) for consideration by the Minister, Mr. Logan, before confirmation of the by-law is given.
>
> J.S. presented the case for Mon Repos and Sir Albert Woolfe.
>
> C. Robertson, representing Mr. Blain, described the proposed building height restriction as "nebulous and sinister" because no real or valid reason was given by the local authority except to preserve "the amenity of the locality." He asked what was the real reason behind the by-law. He also mentioned that should the by-law be implemented, the Government would have control of a section of very valuable land and would therefore avoid a considerable compensation payout to the owners. He suggested that the real reason be given, that the matter be brought out into the open, and due compensation be paid accordingly.
>
> Mr. McMahon advised that the verandah of his existing house would be only 10 feet from the boundary line mentioned in the proposed by-law and would, to a great extent, rob him of a most valuable section of his land. He also stated his doubts about the integrity of the local authority, having regard to lack of explanation or advice as to the real reason behind the proposed by-law, and furthermore mentioned that if the by-law was confirmed by the Minister he would immediately object legally and the matter would then be fought in court.
>
> Mr. Ackland, for Mr. Dobson, queried the reason for the meeting without the Minister's presence and commented that Mr. Dobson's previous correspondence and representations should sufficiently cover objections to the by-law. He also mentioned that the other owners had probably submitted their objections, etc., which should now be sufficient to warrant an early decision.

He stated two points:—

(1) That the by-law provision would not benefit or "protect" any of the owners.

(2) That the validity of the proposed by-law was extremely doubtful and legal proceedings would be taken by his client if implemented.

Mr. Clough could see no valid reason for the proposed by-law, which he described as a "prohibitive action" by the local authority, resulting in the owners being unable to use their own land. For two years he has attempted to arrive at a suitable planning design for his property for building and subdivision, but the matter has been nullified by the local authority requirements and particularly the proposed new by-law. Having regard to the general reason given by the local authority (that is, to preserve the amenity of the locality), Mr. Clough queried with such questions as:—

(1) Which ratepayers will benefit?

(2) What are the specific amenities referred to?

Answers given were that the by-law will—

(1) stop buildings being erected in front of each other; and

(2) preserve the cliff in its natural state.

These answers were considered to be irrelevant, misleading and generally unsatisfactory.

Dr. Carr asked if any people present had any thoughts to the possible use subsequent to the by-law being implemented. Answers given: picnic areas, walkway, tourism, Smith Promenade. Without being committal in any way, Dr. Carr appeared to be receptive and courteous and most conscious of the need for the overall situation to be amicably resolved as soon as possible.

That was the atmosphere in which this business started, and we now proceed to the latest change in the by-law. I shall quote a reply dated the 8th July, 1966, to a letter of mine dated the 1st July. It reads as follows:—

Re: Proposed Building Height Control (Saunders St.) By-Law Amendment.

I have for reply your enquiry of July 1st seeking information on the above proposed local legislation.

The purpose of the amendment is to extend an existing building height control area along the riverfront land in Saunders St., Mosman Park. In so doing a line of building uniformity will be achieved in lots backing upon the Swan River and whose rear boundaries are the several high water marks of the river. Under the present uniform Building By-laws nothing can prevent the superimposition of residences over the cliffface. Construction of this type can only impair the views of present landholders and destroy the natural beauty of the escarpment of the cliff.

It is my Council's intention to retain these aesthetic virtues both for the public and individual landholders and by the restriction of building height in this area no intrusive structures of this nature can be erected.

I trust that these comments will answer your query but if this is not the case please do not hesitate to contact me further.

Following that letter a reply was also sent to Mr. McMahon in which it was stated that it was intended to preserve the beauty of the area so that not only those who owned property in the area, but also other people, could take advantage of the beautiful sight from the escarpment.

This seems rather extraordinary, because if the by-law was introduced to make it possible for the public to have access to the area, either a roadway or a walk would have to be built. Such a roadway would follow on from the roadway to the institution, which is on top of the hill, and it would probably be some considerable time before such a roadway could be built.

I spoke to the Mayor of Mosman Park only last Wednesday evening, and at that stage I had an idea there was the possibility of a road being formed. My comment to him immediately brought forth the statement, "Please don't talk about this, because we cannot have it. It is too expensive." Therefore, we are left with the idea that a walk will be built. If a road were to be built, or if cars were to be permitted to drive down there, a considerable amount of protection for those cars, and the people in them, would have to be provided when they drove towards the base of the escarpment. I say that because I have had a look at the area, and the road would have to be built at about the same angle as Mount Street. Therefore, if cars were driven down such a road, and no protection other than the edge of the bank was provided, it would be very dangerous. However, apparently if anything is built there it will be a walk.

If that is to be the position, it will be somewhat difficult because, if the walk is to be of any use at all, it will have to be built for a considerable distance around the river bank; yet these people have been told that the by-law is to prevent anybody from building a house which will protrude in a cantilever fashion over the top of someone else's house and so destroy the view.

Looking at section 433 of the Local Government Act, I should say the local authority has all the power it needs to prevent such a thing happening. Therefore, what is behind the introduction of the by-law? All the people to whom I have

spoken have become very heated about the position and say they cannot get a definite statement as to the need for the by-law. Because of it, these people believe they are having taken from them a considerable amount of the value of their property. If members care to look at what has happened to the blocks owned by Mr. McMahon, Mr. Campbell, and Mr. Kent, they will find certain alterations taking place to the escarpment which I consider to be of very considerable value. I cannot see why the people concerned should not be permitted to retain the land they have.

Another aspect which disturbs the people in this area is that while there will be some cutting up of the land there will also be a call by the council for a certain proportion—on a 10 per cent. basis—to be given to it. From the look of it this will mean that some of the best and most usable land will be taken over by the council.

I do not want to speak at great length about this matter but merely to state the position. Not one of the people concerned is satisfied; but when I spoke to the mayor on Wednesday night he gave me the impression that most of those living on the other side of Mr. McMahon—away from the coastal side—are quite resigned to what is being undertaken by the council. Yet when I started to make inquiries in the last few days, I found that not one of them is satisfied. Therefore, we have no basis on which to work; because one person says the people are satisfied, and the people themselves say they are not satisfied.

This matter has been looked at very carefully by men of experience; and I have a document which I intend to read, a copy of which I will lay on the Table of the House if required. This document reads as follows:—

Municipality of Mosman Park
By-law Relating to Heights of Buildings (Saunders Street)

1. The by-law now laid on the Table of the House by the Municipality of Mosman Park for confirmation was made by the Council of Mosman Park under its by-law making powers relating to heights of buildings on the 28th April, 1966, and is in the form of an amendment to the by-law made by the Mosman Park Council on 19th December, 1963, and published in the *Government Gazette* (No. 51 of 1964) on 16th June, 1964, after approval by His Excellency the Governor in Executive Council on 14th May, 1964.

2. There is no change in the verbiage of the amending by-law now submitted but the schedule to the by-law now applies to a much greater area of river foreshore land. In 1964 the by-law applied to four (4) lots of land being sublots 1, 2, 3 and 4 of Lot 65 and directly affected 3 people. The amending by-law published in the *Government Gazette* (No. 106 of 1966) on the 15th December, 1966, now applies to a lengthy stretch of land from sublot 32 of Lot 55 to Lot 67 and Lot 68 all with extensive frontages to the Swan River.

3. In all some 50,000 square feet, or thereabouts, of land being the widest and most valuable and attractive part of the lots is now affected injuriously by this by-law. Protests against the introduction of the 1964 by-law were made but were not successful for it was evidently assumed that a by-law based on the enabling by-law making powers relating to heights of buildings (see subsection 8 of section 433 of the Local Government Act) was not an important matter of principle when applied to so limited an area as that of the four sublots shown in the schedule of the 1964 by-law but the question of legal right of the local authority to introduce such a by-law is considered to be a most important matter for although there may be no change in the verbiage of the amending by-law there is now an extending unrest amongst the residents not only because of the scope of this by-law and the methods adopted in its introduction and the extension of its scope, as well as the injurious effects of its terms.

4. I oppose the confirmation of the by-law now submitted and intend to move that it be disallowed not only because of the potential losses to land holders by the devaluation of their land but because of the manner in which the local authority has made the by-law appear to have the merits of legality by describing its purpose as relating to Heights of Buildings when in fact it does no such thing. I consider that Parliament should determine as to whether the by-law is ultra vires the enabling power of the local authority by making a by-law purporting to be made under its authority to regulate heights of buildings as described under subsection 8 of Section 433 of the Local Government Act 1960, when under the limitations of the by-law no lawful building can be built, and further there is no "regulation" in the by-law relating to Heights of Buildings but only the denial of all building.

5. The by-law states *inter alia* "no part of a building shall be more than six feet above the natural surface of the level immediately beneath such part." Also "the distance from the underside of any footing of a building to the top of building immediately above such part shall not exceed 8 feet."

Such limitations do not relate to heights of buildings but only to "parts of a building" and the only by-law making provision in the Local Gov-

ernment Act which enables the "Regulation" of "parts of a building" are contained in subsection 14 of Section 433 which reads *inter alia* "a Council may make by-laws for prescribing "the heights, sizes and dimensions . . . etc. etc. of the rooms and parts of a building." The form of the by-law for which the confirmation is sought is ultra vires the powers of the Council.

6. The manner in which the by-law has been described is wrong also in principle as the property owners within the area described in the schedule can be misled by the description of the by-law but more than this it is most unfair to the land owners affected.

The Mosman Park Council has given its electors directly affected no reasons for its by-law.

After a close inspection of the area covered by the by-law and discussions with land owners affected I have been given reasons for its introduction and terms of the by-law.

The personal explanations in a letter from the Town Clerk are not in conformity with the verbal explanation of the Mayor and this leads me to the belief that the real reason behind the making of this by-law was an attempt to deny the right of building on the land described in the Schedule for any useful purpose.

If the Council desire to build a road or a way for the public or create a Reserve it has an obligation to inform its electors and further to acquire the necessary land for the purpose by purchasing the land for same at a fair price.

The Hon. H. R. Robinson: How many owners are affected?

The Hon. J. G. HISLOP: Quite a number in the last instance. The plan I have before me shows the portions which are occupied, and the portions which are to be taken away. Members will be able to see from the plan that the best of the land is to be taken away. The plan also shows the bank, which adds considerable beauty to the properties. The owners should not be told by the council that they cannot do anything with the land, even though it belongs to them. When the time comes for the land to be subdivided the parts which back against the high wall will probably be taken from them by the council, without cost.

On the plan is shown the property belonging to Mr. Clough, who has been tormented by the council for about two years. He obtains access to his property by a road shown on the plan. The plan also shows the varying heights of the land, and much of it has to be levelled off before building can commence.

No one in the area to which I am referring is certain of what is taking place. The people concerned consider that, at least, they should be made aware of the intentions of the council, and that any proposal which is put forward should be in conformity with the Local Government Act. They claim that the relationship between the council and the landowners should be congenial, and that any action by the council should not result in what might be regarded as theft of their land.

The Minister would be wise in not proceeding with the by-law; it should be laid aside to see what transpires. If this by-law is to be implemented I feel certain that legal action will result. I am somewhat hamstrung when I speak of the landowners in the area which is affected, because some of them do not want to be involved; but I can assure members that they are just as much interested and irate as the others. I cannot see any reason for the by-law to continue in force, because the owners of the properties concerned cannot understand it. It should not be allowed to affect owners of property to the stage where it causes bitterness between them and the council.

The Hon. R. F. Hutchison: How long have these people had their properties?

The Hon. J. G. HISLOP: Some of them have had their properties for a considerable time. This land is near the Greenplace hostel for alcoholic women. The land stretches along the riverfront for quite a distance. I was told something like 50,000 square feet will be taken away from owners.

The Hon. R. Thompson: Their main objection is to the loss of their exclusive right to the riverfront.

The Hon. J. G. HISLOP: Yes. They can retain the land for the time being, but when they subdivide it they will lose that right.

The Hon. R. Thompson: It would mean that a person walking along the cliff face would be trespassing.

The Hon. J. G. HISLOP: Yes, to a very large extent. In the case of Mr. Clough, the really valuable part of his land has been marked as land which he cannot use.

The Hon. F. R. H. Lavery: In his case about 16½ links have been taken.

The Hon. J. G. HISLOP: The area shown on the plan is considerable. Most of the beautiful part of the land is covered by this by-law. A great deal of resentment and anger has arisen as a result of the action by the council. I suggest that some method of placating the landowners should be adopted. Steps should be taken to arrive at some agreement between the council and the owners.

Finally, I want to bring forward one of the major aspects of which the owners concerned disapprove. They consider that the mayor of the council has it firmly fixed in his mind that a roadway shall be built around the base of the cliff.

The Hon. H. K. Watson: Free of cost.

The Hon. J. G. HISLOP: Yes, completely free of cost.

The Hon. F. R. H. Lavery: Would you suggest the Minister have a look at this matter?

The Hon. J. G. HISLOP: The Minister has already done that. I was present in the Minister's office when the people concerned asked him to assist. He did assist in a small way, but he could not alter the picture. Much irritation was caused as a result of the position which arose in 1964, and the Minister made considerable alterations in respect of the properties in Mr. Clough's area.

The Hon. H. K. Watson: I thought in 1964 the whole question had been settled amicably.

The Hon. J. G. HISLOP: No. The owners feel that the mayor and the councillors are determined to build a roadway at the foot of the cliff. It will only be a walk, and it will encourage young people to use it for youthful activities.

The Hon. F. R. H. Lavery: Will not the law take care of that?

The Hon. J. Dolan: They could do that better at Point Walter.

The Hon. J. G. HISLOP: I cannot see the reason for this by-law, and neither can the owners of the properties concerned.

The Hon. R. F. Hutchison: Does not the sewerage main go along the foot of the cliff?

The Hon. J. G. HISLOP: I think it does, inside the edge of the escarpment.

The Hon. F. J. S. Wise: Would not the objection be to the depreciation of their properties, rather than to the building of the roadway? They would not object to the roadway, provided they were adequately compensated.

The PRESIDENT: Order! The honourable member will address the Chair.

The Hon. J. G. HISLOP: The owners realise that under these conditions they will lose the value of their land. I would like members to make an inspection of the area to see what has been done by the owners and what will have to be done by them. In the case of Mr. Clough, he contemplates a considerable amount of filling. Other properties, such as those belonging to Mr. McMahon, Mr. Campbell, and Mr. Kent, have been beautifully landscaped.

Before I conclude I wish to point out there is other land tied up under the by-law, because no definite conclusions can be reached. Having been pressed to assist by a number of the owners who have been affected, I ask that the by-law be disallowed.

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

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Third Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.30 p.m.]: I move—

That the Bill be now read a third time.

The last time this Bill was being considered, I gave members certain information in response to a question asked by Mr. Willesee. Upon checking that information I found it was substantially correct. However, it is conceded that Mr. Willesee's literal interpretation of section 10 of the Act is, in fact, a feasible one; but the Crown Law Department officers do not think any difficulty will be experienced in the interpretation of this section, because it has stood the test of time.

I understand the honourable member is much more satisfied than he was previously and is prepared to allow the Bill to proceed through the third reading stage. If I am incorrect, I am sure he will tell me.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

BILLS (2): THIRD READING

1. Clean Air Act Amendment Bill.
2. Physiotherapists Act Amendment Bill.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [5.34 p.m.]: I move—

That the Bill be now read a second time.

I could preface my remarks by quoting what The Hon. R. J. Hamer, M.L.C., Minister for Local Government in Victoria, said when giving an address on "The Changing Law of Local Government." It reads as follows:—

> If there is one "hardy annual" in the Victorian Parliament it is a Bill to amend the Local Government Act.
>
> Sometimes the Bill is comparatively small, sometimes it is about the largest in the session.
>
> But every year—sometimes twice a a year—the expected happens: The Minister for the time being rises to introduce yet another set of amendments to the Local Government Act. . .

and so it goes on. This is typical of what has transpired with the Local Government Act in Western Australia since it was proclaimed on the 1st July, 1961.

This Bill contains 24 clauses and is designed to provide a number of amendments which have been found desirable during the course of the last year. The Local Government Act, which was introduced in 1960, has been amended each year since its inception and this, of course, is indicative of the fact that local government is a virile part of our Government system and must be prepared to meet the needs of a continually changing and developing community. I might add that these amendments will bring the number of amendments to 200 which will have been made since the Act was proclaimed. I think members will agree that with 200 amendments to an Act of 694 sections, a reprinting of the Act will be necessary when, I hope, this Bill is passed.

Clauses 1 and 2 prescribe the title and will allow the measure, when it becomes an Act, to come into operation on a date to be proclaimed, and for several sections to be proclaimed to come into operation at different dates from the remainder.

Clause 3 provides for an amendment to the arrangement of the Act made necessary by subsequent amendments.

Clause 4 is an amendment to section 37 of the Act, designed to prevent persons who have entered into a composition or scheme of arrangement or executed a deed of assignment for the benefit of their creditors under the provisions of the Bankruptcy Act, being elected to a council.

Section 37 of the Act at present provides that a person is disqualified from being elected to the position of mayor, president, or a councillor of a municipality if he is an undischarged bankrupt.

Section 39 provides that where a member of a council, under the Bankruptcy Act, 1924, as amended, of the Parliament of the Commonwealth, has an order of sequestration made against his estate, or enters into a composition or scheme of arrangement with, or executes a deed of assignment for, the benefit of his creditors, his office of member becomes vacant.

The Municipal Corporations Act, which preceded the Local Government Act, included in sections 38 and 39 a provision similar to that contained in section 39 of the Local Government Act in respect of a person who wished to be elected to a municipality. It is considered undesirable that the distinction which exists between sections 37 and 39 should continue.

Clause 5: The Council of the City of Perth has requested this amendment to relieve the council of the necessity to include the valuation of each property on the electoral list. The reason for the request is that valuations are constantly changing by small amounts which are not sufficient to affect the voting entitlement. The council wishes to prepare its roll by an electronic data process and it cannot readily adapt its records to this system if valuations are to be shown. It is proposed that the Minister may, in writing, exempt any clerk of a council from including in a list any such particulars which relate to the unimproved value or annual value of land as he specifies.

Clauses 6 and 7 contain some minor amendments which are required to sections of the Act relating to absent voting. The first is in section 114 (1) (c) where at present it is required that a witness to an absent vote certificate should write the date on which he signs the certificate. The form prescribed in the twelfth schedule makes no provision for the date and no reference is made in section 117 (1) (d) to this requirement. There is, therefore, no apparent advantage in having the date on which a signature is witnessed included.

The second amendment is in section 117 (2) (a) (iii) where a returning officer is required to retain the "outer" envelope which contained absent voting papers. The outer envelopes bear the absent vote certificates and are referred to in section 117 (2) (a) (i) and it is obvious that the word "outer" in the paragraph in question, should read "inner."

Clause 8: Section 135 of the Local Government Act was amended in 1964 to provide that officers at elections who were required to attend after the closing of the poll should be entitled to payment at the rate of $1.20 per hour for each hour they attended. It is considered, however, that such overtime is not applicable to the returning officer who is paid a prescribed fee, who is a fully paid officer of the council, and whose main duties are performed accordingly with his position of clerk and which are not related to time in the same manner as other officers employed at the election.

The views of the three associations connected with local government were sought and the majority of members of each of these associations was in favour of the amendment. It is therefore provided that section 135 should be amended to exclude returning officers from the provisions for extra payment for attending the counting of ballot papers after the close of the poll.

Clause 9: The Council of the Town of Cottesloe has requested this amendment to provide for the impounding of surfboards used in a place and manner contravening council by-laws. The Country Town Council's Association, the Local Government Association, and the Country Shire Council's Association, have supported the proposal, and this clause amends section 193 to provide for the seizure of surfboards which are used contrary to the provisions of a by-law made under this section, and also for the impounding for a period of up to three months of any such surfboard which is seized. The disposal of surfboards so impounded is also provided for.

Clause 10: The Council of the City of South Perth requested this amendment which is similar to that contained in section 19 (1) and (2) of the City of Perth

Parking Facilities Act, in respect of responsibility for an offence concerning vehicles, deemed to have been committed by the owner of the vehicle at the time. The council has had experience of the by-laws in respect of street lawns being breached and finding it impossible to identify the offenders. The amendment varies section 221 of the Act under which a council is authorised to make by-laws relating to street lawns.

Clause 11: Section 274 of the Local Government Act requires that except in emergent circumstances, tenders must be called by a council for the provision of goods and services to the value of $1,000, and the Country Shire Councils' Association has requested that, because of changed money values, it would be more realistic if this figure were amended to read $2,000. The amendment complies with this request by substituting for the words "one thousand dollars" the words "two thousand dollars."

Clause 12: The Director of Agriculture has advised that community fruit-fly baiting schemes are administered by a committee appointed by the Minister for Agriculture upon nominations being received from either the local shire council or fruit growers' association, and this arrangement has proved to be most effective.

However, it is desired by some shire councils that the councils should manage these schemes through the normal shire administration by way of bookkeeping, collection of fees, etc. It is therefore proposed to amend section 277 of the Local Government Act to enable municipalities to carry out certain provisions of the Plant Diseases Act with reference to community fruit-fly baiting schemes.

The amendments in clauses 13 to 15 were requested by the Local Government Association and have been agreed to by the Minister for Lands and provide for the substitution of the words "Minister for Town Planning" for the words "Minister for Lands" in sections 287 (4) (a) (i), 288 (4) (a), and 295 (2). It is considered that it is a function of town planning to approve of narrow streets, and the amendment recognises this.

Clause 16: The Country Shire Councils' Association has requested this amendment to be made to section 329 to enable a municipal council to join an existing regional council without the necessity for dissolving the existing council and constituting a new one, which is the present procedure. The amendment is for an additional subsection which provides also for the removal of a district or portion of a district. Provision is also made for the adjustment of accounts of the county or regional council when such a variation is made in the constitution of the district.

Clause 17: Attention has been drawn to the fact that section 340A, which was enacted last session, provides that the order that unsightly commercial areas be fenced may be served on the owner or occupier of premises, and that the owner or occupier has the right of appeal. The final responsibility for the cost of erection of a fence under this section rests with the owner. It has been claimed that the owner might find himself liable for the cost of a fence for which he has received no notice. The amendment in this clause, therefore, provides that where an order is served on an occupier by a council, and the occupier is not the owner of the land, the council shall cause a copy of the order to be served upon the owner.

Clause 18: At present, subsection (1) (a) and (b) of section 373 reads as follows:—

> (a) This part applies to each district in the State.
>
> (b) The Governor may by Order apply all or any of the provisions of this part to any district or to portions of a district and the provisions apply in accordance with the Order but not otherwise.

The proposed amendment is to add after the word "apply," in line six in paragraph (b), the words "to the district or portion of the district," and thus eliminate any ambiguity.

Clause 19 provides for a new section 401A which enables a council or a building surveyor, with the approval of the Secretary for Local Government, to serve a notice in writing on a builder to stop all work specified in the notice as being done in contravention of the Act. A notice under this new section remains in force until it is withdrawn by further notice in writing given by the council or the building surveyor of the municipality, or until it is set aside by the Minister on appeal. The new section also provides for an appeal to the Minister by any person aggrieved by the notice, and the Minister may confirm, set aside, or vary the notice as he thinks fit.

This new section has been introduced to ensure that a builder may not continue with a building when his attention has been drawn to the contravention of the Act or by-laws.

Clause 20 amends section 411 which relates to orders for demolition of buildings following a conviction for building in contravention of the Act, and the amendment provides that notices should be served on the owner by registered post and affixed to the building, rather than published in the *Government Gazette* and a newspaper circulating in the district.

This amendment is similar to those which were made in 1963 in sections 408 and 409, and is designed to simplify the procedure.

Clause 21: This amendment is designed to provide for a mayoress, or a spouse of a member of a council, or a member of a

family of a member of a council being insured when accompanying the member at the request of the council on council business.

Clause 22: Section 533 is amended by this clause to provide that where a council of a municipality has adopted valuations other than those normally applicable to that type of municipality the Governor may, at the request of the council, revoke the order under which the council originally adopted the different valuations. This variation may not take place within five years of the revocation of the first order.

Clause 23: Section 637 of the Local Government Act provides that only half the cost of audits conducted by Government inspectors of municipalities of shire councils shall be met by the councils. Audits carried out by Government inspectors on the books and accounts of towns are charged the full assessed cost.

Originally shire councils or road boards were responsible for the expenditure of large sums of Government grants and had very little revenue of their own. Today, circumstances have changed and some of the largest municipalities are shire councils and there is little to distinguish their financial operations from those of towns. It is therefore considered equitable that there should be no distinction between charges levied against shires in the metropolitan area and towns. The three associations concerned with local government are not opposed to the proposal.

This amendment, together with that contained in clause 25, provides that the shires listed in the twenty-seventh schedule shall pay the full costs of audits conducted by Government inspectors of municipalities.

Clause 24: The Commissioner of the Shire of Exmouth suggested that honorary litter inspectors should be appointed with powers similar to those of honorary inspectors of flora and fauna, and the approval of all three associations representing municipalities has been obtained.

It has also been resolved to include in the Act provisions similar to those contained in the Local Government Draft Model By-laws (Deposit of Refuse and Litter) No. 16 so that these provisions will be applicable to all municipal districts. The proposed new section makes it an offence to break any glass, metal or earthenware, or to deposit or leave, except in a receptacle provided for the purpose, refuse or litter of any kind in any street, public place, or public reserve vested in or under the control of the council, or on any property of a municipality.

Clause 25 is the schedule of metropolitan shires referred to in clause 23.

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

DENTISTS ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [5.50 p.m.]: I move—

That the Bill be now read a second time.

This is a very simple Bill. It specifies—

1. That only qualifications obtained by examination are to be recognised by the Dental Board.
2. That the now outmoded expression "British Dominions" will be changed to "British Commonwealth of Nations or the Queen's Dominions."
3. That the board's rules will name qualifications of schools within the British Commonwealth which the board recognised for registration purposes, and in this connection it is intended to specify all Canadian schools.
4. That, in addition, section 44 will confer recognition on all schools of dentistry which are accredited by the American Dental Association: This will cover the majority of schools in the United States of America.

An amendment to section 51 adjusts a cross-reference to section 50. This makes good an oversight which occurred when section 50 was re-enacted in 1963.

Members will notice, by reference to section 44 of the Dentists Act, that the restrictions placed on persons who can practise dentistry in Western Australia are quite severe. Of recent years, other States of Australia have considerably extended their registration entitlements, and the time is now considered opportune for Western Australia to do likewise.

Although this measure would, no doubt, in its own right be acceptable to Parliament—that is, in the right of the Bill itself—it is considered desirable that this opportunity should be taken to explain why the extension suggested in the Bill is considered opportune at this time.

When a Bill was introduced to Parliament last year and it was decided that the public water supplies in Western Australia should be fluoridated, it was stated that this would form part of a dental health programme. It is generally accepted that the ingestion of fluoride reduces dental caries and thereby changes, to some extent, the dental requirements of the people taking this supplement. It was specified last year on a number of occasions that advantage would be taken of this, and that certain changes in the dental services of Western Australia would be implemented. This current Bill is part of that overall plan.

Publicity has already been given to proposals of the Government with regard to dental treatment in Western Australia.

The scheme envisaged, as honourable members are aware, includes the use of private dental practitioners wherever possible. It therefore becomes desirable to follow every course which could conceivably give us more dentists in Western Australia.

One of the most limiting factors in introducing any scheme with regard to dental care in any community is, of course, the shortage of trained dentists. This is more apparent in country areas than it is in the metropolitan region and, therefore, it is urgent that the scheme of local authority participation in placing dentists in country areas should be continued. The Perth Dental Hospital has done an excellent service with regard to placing dentists in country areas. The system whereby the hospital can take in dentists arriving from overseas and give them a certain amount of time at the Perth Dental Hospital in order to become familiar with local conditions, is working very well, and with the extension proposed in this Bill is expected to improve still further.

Whether or not one is enthusiastic about the advantages of fluoride, there can be little or no argument about the desirability of securing in Western Australia dentists of proven qualifications. With the rapid population increase and marked improvement in general standards, there is a desire on the part of the public to care for their dental health to the same extent as they care for their physical health. The one is indissolubly bound up with the other. It behoves us to make this as easy as possible to accomplish, and I therefore commend the Bill to the House.

Debate adjourned, on motion by The Hon. J. Dolan.

JUSTICES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 22nd August.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [5.54 p.m.]: As explained by the Minister, this Bill contains three amending provisions. It has been brought forward with a view to improving the Justices Act in the light of practical experience.

To my mind the surprising point brought out by the Bill is that, up until now, where there is a minimum fine imposed, that minimum virtually can become greater than the minimum if the situation arises whereby several people are charged with the one offence and a magistrate is left without any alternative except to impose minimums on each of those persons.

Under this Bill, that position will be remedied, and a minimum fine in total will be imposed in matters of this nature. Therefore, an anomaly will be removed when the provisions of this Bill become law.

The Hon. A. F. Griffith: It is still within the discretion of the court, of course.

The Hon. W. F. WILLESEE: The Minister points out that the provision is still left to the discretion of the court. It is the basic factor that there is no discretion at the moment and this must have caused the Bill to be brought before Parliament.

The second point I wish to mention is in connection with the position when a summons is posted to a person and the defendant does not become aware that it has been posted. On occasions, these summonses have been dealt with in the individual's absence and a decision has been given against him. Apparently up until now there has been insufficient provision in the Act to allow that person to appeal; because there is a time limit imposed on the period in which he can lodge an appeal which applies from the date when he should have received the summons. The provisions of this Bill will allow a rehearing of a case when such a happening does occur.

Machinery is provided in this Bill whereby, on a given day, the justices can agree to rehear a case if a person can prove that he did not receive the summons which was directed to him in the post. This position could apply possibly if a person changed his address.

When I first looked at the Bill, it seemed to me that this provision had a tendency towards being cumbersome; because a case is heard, it can be deferred or suspended, and then it is ultimately reheard. All of this takes place in the course of giving true justice and the opportunity for the defendant to present a case.

I suppose the officers in the department have looked into this question closely, but I do wonder whether there could not be a more simple method which would achieve the same result. I have in mind a service which I believe still operates, whereby registration through a post office requires the personal signature of the recipient, and the returning of that receipt to the sender indicates that the person purporting to be the individual concerned has actually received the document and has signed for it. In my opinion, this would tend to save the initial hearing of the case and thereby eliminate the probability of having to hear it again. Direct evidence that the summons which had been issued had, in fact, been handed directly to the person concerned would be available to the clerk before he called the justices together, and this would place the responsibility immediately upon the defendant.

That is my only thought on the Bill and I offer it to the Minister for his consideration. Probably he has looked into this aspect and might know of some further good reason why it cannot be done. However, I feel it would make the position more simple, because under the Bill as it stands the case would have to be heard

twice. If it were possible to obviate this position in any way, I consider it would be much better than going through the machinery of calling the justices together, hearing the issue in the absence of the defendant, notifying the justices that the case has to be called up again, as it were, and that the decision is set aside.

An entirely new case is then heard—even though the result might be the same—because the defendant, in the first instance, is disadvantaged by not receiving the summons, and because the clerk has had to act upon the assumption that he did receive it.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [6.1 p.m.]: You may recall, Mr. President, that when I introduced the Bill which sought to amend the Justices Act to provide for service of a summons by post there were some members in the House, including the Leader of the Opposition, I think, who suggested that the service of the summons should be by A. R. post. There was considerable debate on the merits of the proposal and at the time I explained that we did not favour such a proposition because the A. R. letter in itself would be an article which the defendant could be expecting and which, in fact, he did not wish to receive.

The Hon. J. Dolan: That is right; in other words, he would be dodging the issue.

The Hon. A. F. GRIFFITH: That is correct. It would be an article he would be expecting and did not want to receive. In the main one knows when one breaches the Traffic Act. One particularly knows that if one is apprehended by a police constable after the breach is committed. There may be occasions, however, when a traffic regulation is broken by a motorist and the offence is seen by a policeman without the motorist being aware that he has been seen. For example, I refer to a motorist who drives through a "Stop" sign, or who drives over a crosswalk to the danger of the public. He may think he has got away with the offence, but his breach has been seen by a police constable. In such a case the offender may wish to defend the action. However, with most traffic breaches, the offender knows he is guilty and does not bother to defend the action because his guilt is obvious.

In the other type of case I have mentioned, when the defendant has gone away, service of a summons has been made, and the case is then heard in his absence; the defendant, if he considers he is not guilty of the offence, should be afforded every opportunity—as is done now under the Justices Act—of appealing against the decision. Members will recall that when I sought to amend the Act previously, I explained that the amendment was desired because the conviction could be set aside. At the particular time a conviction had been recorded against a certain man and there was quite a feeling abroad that he should not have been convicted.

However, at the time the law did not provide for the conviction to be set aside. The amendment now sought to the Act will permit that to be done. The law provides that the action to set aside a judgment must be taken within 21 days. This represents the trouble spot, because a man does not become aware of the conviction until, perhaps, he returns home—that is, in those cases when he is absent when the conviction is recorded—and provision is sought to deal with such a situation. Nevertheless, I did not want the provision relating to a summons being sent by A.R. post to be introduced for the reasons I gave when we first dealt with the amending legislation in the session before last. These reasons are still valid.

I repeat what I said when introducing the Bill, that this exercise has been successful, but some cases do occur when it appears that injustice may be done to members of the community and we want to give them every opportunity to rectify that injustice if, in fact, it has occurred. I think the legislation is worth a trial because, in my opinion, I feel sure it will be successful. I am grateful to Mr. Willesee for his support of the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [6.6 p.m.]: In view of the state of the notice paper, I move—

> That the House at its rising adjourn until Tuesday, the 5th September.

Question put and passed.

House adjourned at 6.7 p.m.

Legislative Assembly

Tuesday, the 29th August, 1967

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

MEMBERS' SPEECHES

Correction and Return

THE SPEAKER (Mr. Hearman): I wish to draw the attention of the House to the matter of the correction and return of speeches by members. I have dis-