This is a very small Bill to amend the Nurses Act and I am certain that it will in no way be controversial. In 1968 a new Nurses Act was passed and under that legislation an autonomous board was created with the necessary powers to deal with the many complex problems of nursing in our community.

The Minister for Health advises that the new board has been duly constituted and is showing a determined attitude to the discharge of its responsibilities. This short Bill seeks to make two small amendments both of which have been requested by the board itself. Both the amendments relate to conditions under which the staff is employed.

The first amendment is dealt with in clause 2 of the Bill. At the time the Nurses Act was being prepared for drafting the Public Service Arbitration Act was not in force. Reference was therefore made to the Industrial Arbitration Act in section 15 of that Act.

It is generally known that it is uniform practice to treat staff of statutory boards and other Government instrumentalities as Government officers and to provide the same machinery for salary fixation and other conditions of employment. The Bill provides for the reference to the Industrial Arbitration Act to be deleted with a view to substituting a reference to the Public Service Arbitration Act of 1966.

The second amendment is dealt with in clause 3 and this will enable the board to extend to its employees the same superannuation benefits as are enjoyed by the State Public Service. The cost will be borne by the board and by the employees. The staffs of a number of other statutory boards and Government instrumentalities already enjoy this benefit and it is logical that this amendment should be made.

Both the amendments in the Bill are sponsored by the board, which has worked quite well in its endeavours to solve the many complex problems associated with nursing. I have much pleasure in commending the Bill to the House.

Debate adjourned, on motion by Mr. Bateman.

LOCAL COURTS ACT AMENDMENT BILL

Second Reading

MR. COURT (Nedlands—Minister for Industrial Development) [9.16 p.m.]: I move—

That the Bill be now read a second time.

In introducing this Bill on behalf of the Minister for Justice, I would advise members that the Chief Justice has suggested that the procedure for appeals from local courts to the Full Court should be the same as the procedure for appeals from a single judge.

The Supreme Court Rules are at present being revised and it is therefore opportune to give consideration to this legislative change in accordance with the suggestion which has been made.

Members are informed that appeals from a single judge to the Full Court are regulated by Order No. 58 of the Supreme Court Rules, whilst appeals from the local courts are regulated by section 107 of the Local Courts Act and the provisions of Order No. 33 of the rules made under that Act.

This Bill proposes the amendment of section 107 with a view to introducing a useful uniformity and simplicity in the matter of appeal procedures. I am advised that there is no valid reason why appeals from the local courts should not be dealt with under the Supreme Court Rules.

The amendment to which I refer is contained in clause 4 of the Bill. Clause 3 merely regularises a mistake in terminology introduced when a 1921 amendment to the principal Act was before Parliament. I commend the Bill to the House.

Debate adjourned, on motion by Mr. Bertram.

ADJOURNMENT OF THE HOUSE

SIR DAVID BRAND (Greenough—Premier) [9.18 p.m.]: I move—

That the House do now adjourn.

May I have your permission, Mr. Speaker, to suggest to members that because of the state of the notice paper it might not be necessary to sit after tea tomorrow.

Question put and passed.

House adjourned at 9.19 p.m.

Legislative Council

Thursday, the 9th April, 1970

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS (13): ON NOTICE

1. HOSPITALS

Kambalda

The Hon. R. H. C. **STUBBS**, to the Minister for Health:

(1) Does the rapid increase in population warrant the erection of a hospital at Kambalda?

(2) If so, when will hospital facilities be provided?

(3) Will the establishment of such hospital facilities improve the prospect of a doctor opening a practice in the town?

The Hon. G. C. MacKINNON replied:

(1) to (3) This matter is still under consideration.

2. *This question was postponed.*

3. LOCAL COURTS

Scale of Fees

The Hon. V. J. FERRY, to the Minister for Justice:

(1) In respect of the scales of fees and allowances laid down by the Crown Law Department, and appearing under Schedules A, B, C, D and E in the instruction booklet issued for the guidance of Clerks of Courts, from what date have the current rates been applicable?

(2) In view of the present day monetary conditions, will the Department review the fees and allowances particularly in regard to:—

(a) Schedules A, B and C which deal with remuneration to witnesses, jurors and medical practitioners; and

(b) Mileage allowances on service of summons vide Schedule D.

The Hon. A. F. GRIFFITH replied:

(1) Schedule A.

1. (i) 30th June, 1960.
(ii) 22nd November, 1965.
(iii) 30th June, 1960.

2. (i) and (ii) 30th June, 1960.

5. (paragraph 3)—Rate on last line from 22nd November, 1965.

11. Mileage rate in line 2 added 8th January, 1963.

All other rates in Schedule A effective from 5th May, 1952.

Schedule B.

6th February, 1966.

Schedule C.

1.(a) (i) $10.00 from 29th September, 1967.
(ii) $16.00 from 29th September, 1967.

(d) 25 cents Fremantle to Midland from 29th September, 1967.
30 cents all other places from 29th September, 1967.

(e) As for Schedule A.
Other rates unchanged from 26th November, 1965.

Schedule D.

2.

Item 9 mileage rate effective from 9th September, 1965.
Other fees unchanged from 9th May, 1957.

Schedule E.

1st January, 1965.

(2) (a) A review is not considered necessary, as sufficient authority is provided under Items 3 and 20 in relation to witnesses, Item 7 for jurors, and Item 3 for medical practitioners for increases when considered justified.

(b) Action to amend these rates has been taken.

4. COOLGARDIE SHIRE

Government Financial Allocations

The Hon. R. H. C. STUBBS, to the Minister for Local Government:

(1) What monies have been made available to the Coolgardie Shire Council by each Government Department in the 1969-1970 financial year?

(2) What is the specific purpose of the allocation?

(3) Is any money to be allocated in the 1970-1971 financial year?

(4) If so, for what purpose?

The Hon. L. A. LOGAN replied:

(1) and (2)—

Main Roads Department Grants—	$
Specific allocation for road construction and maintenance	16,650
Contributory Bitumen Scheme	5,000
Grids	2,500
General allocation	5,300
	29,450

Commonwealth Aid Roads Grant—	$
For specific road construction works approved by the Main Roads Department	14,567
For other road works decided on by the Council	14,567
	29,134

Tourist Development Authority Grant—	
Caravan Park	$3,000

(3) and (4) To the present time the only amount approved for the 1970-71 financial year is:

Commonwealth Aid Roads Grant—	$
For specific road construction works to be approved by the Main Roads Department	15,520
For other road works decided on by the Council	15,520
	31,040

5. SHIPPING

Containerisation: Carrying Capacity

The Hon. E. C. HOUSE, to the Minister for Mines:

(1) What is the container carrying capacity of the cellular container ships out of Fremantle?

(2) What is—
(a) the voyage time to Europe, and
(b) the turn round time Fremantle and Antwerp?

The Hon. A. F. GRIFFITH replied:

(1) Overseas: Normally 1,300 x 20 ft. containers, but can transport up to 1,500 if required.
Interstate: M.V. Kooringa 276 x 20 ft. containers.
M.V. Manoora 485 x 20 ft. containers.
M.V. Kanimbla 485 x 20 ft. containers.

(2) (a) Fremantle to Antwerp: 22½ days.
(b) Fremantle: 6 to 8 hours.
Antwerp: approximately 6 days.

6. *This question was postponed.*

7. *This question was postponed.*

8. MAIN ROADS

Kambalda Area

The Hon. R. H. C. STUBBS, to the Minister for Mines:

In reference to the road from the Nepean mine to Kambalda, which is used in connection with the cartage of Nickel ore—
(a) how many miles are not bituminised;
(b) when is it intended to complete the bituminising of this road?

The Hon. A. F. GRIFFITH replied:

(a) 24¼ miles between the mine and Spargoville.
(b) The road has been built by the Coolgardie Shire Council in conjunction with the mining company, and the Main Roads Department has no plans for sealing it.

9. EDUCATION

Bunbury Technical School

The Hon. V. J. FERRY, to the Minister for Mines:

In regard to the establishment of the new Bunbury Technical School—
(a) when may it be expected that the construction of the buildings will be completed;
(b) when will tuition for students commence;
(c) what courses of study will be available at the time of the first intake of students; and
(d) what additional courses are planned for later stages?

The Hon. A. F. GRIFFITH replied:

(a) The completion date under the contract is the 31st August, 1970. It is anticipated, however that the workshops and six classrooms may be ready for occupation at the beginning of the second term.

(b) Students will be transferred according to availability of workshops and classrooms.

(c) The courses of study will be those listed in the Bunbury Technical School Handbook. (See Tabled Paper No. 296).

(d) Future courses will be dependent upon the local requirements. It is anticipated that full time Certificate courses will be available and a further extension in engineering studies.

The handbook was tabled.

10. WATER SUPPLIES

Offensive Smell from Private Reticulation

The Hon. G. W. BERRY (for The Hon. G. E. D. Brand), to the Minister for Mines:

(1) Has the Minister noticed the repulsive sulphurous aroma given off by bore water used for gardening purposes and sprinkling of lawns in the Metropolitan area?

(2) Is he aware that water drawn from deep down in a bore hole does not emit this evil smell?

(3) Therefore will he ensure that in future householders installing a bore and pump draw from sufficient depth to eliminate this nuisance so offensive to citizens in the area?

The Hon. A. F. GRIFFITH replied:

(1) Water from domestic bores in some parts of the metropolitan area does have a sulphurous aroma.

(2) This aroma may also be evident in wells of considerably greater depth than those used for gardening and watering of lawns.

(3) There is no power to control the depth of domestic bores.

11. HEALTH

Rubbish Disposal: Perth Shire

The Hon. E. C. HOUSE, to the Minister for Health:

In view of the resiting by the Perth Shire Council of the rubbish dump from Hertha Road to Wordsworth Avenue, and the consequential indiscriminate dumping of rubbish by private citizens along road verges and reserves in the Western section of the Shire, will the Minister request the Shire to remove the rubbish which is unsightly, unhygienic and a breeding ground for flies?

The Hon. G. C. MacKINNON replied:

The matter has been brought to the attention of the local authority.

12. *This question was postponed.*

13. MILK BOARD

Deliveries to Noalimba Migrant Centre

The Hon. CLIVE GRIFFITHS, to the Minister for Mines:

Further to my questions on the 8th April and the 25th March, 1970, regarding milk deliveries in Melville district 98, would the Minister advise—

(a) has any authority other than the Milk Board, the power to authorise the delivery of milk to Noalimba by a milk vendor not licensed for this district;

(b) if not, is Sunny West Co-operative Dairies Ltd. contravening the law;

(c) if the answer to (b) is "Yes" what action is the Milk Board taking to ensure that Sunny West Co-operative Dairies Ltd. cease deliveries and that Noalimba be informed who are the licensed vendors for this district?

The Hon. A. F. GRIFFITH replied:

(a) No.

(b) Yes.

(c) The Milk Board has written to Sunny West Co-operative Dairies Ltd. with regard to this infringement of the Milk Act.

LEAVE OF ABSENCE

On motion by The Hon. E. C. House, leave of absence for 12 consecutive sittings of the House granted to The Hon. J. M. Thomson (South), on the ground of parliamentary business overseas.

ELECTORAL ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. A. F. Griffith (Minister for Justice), and read a first time.

WILLS BILL

Third Reading

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

PUBLIC EDUCATION ENDOWMENT ACT AMENDMENT BILL

Third Reading

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [2.48 p.m.]: I move—

That the Bill be now read a third time.

THE HON. R. F. CLAUGHTON (North Metropolitan) [2.49 p.m.]: Following the closure of the second reading debate I was prepared to let the matter ride, hoping that what was anticipated under this amendment would be achieved. However, the Minister, when replying, did not answer the question I raised concerning section 8. I realised this at the time the Minister replied, but did not do anything about it then. However, on reflection I realised that it is our duty as members of Parliament to ensure that legislation we pass is the best we can possibly draft.

A large number of the Bills we consider are concerned with amendments to the principal Acts. Therefore, if we can avoid the necessity for amendments at a future stage I think we should do so.

The question I raised was whether it would be necessary to amend section 8. It seems to me that an amendment would be necessary to cover the land mentioned in section 8 of the principal Act if it is necessary to make an amendment to cover the provisions of section 4. Section 8 states—

> The trustees may dispose of any real or personal property acquired by gift, devise, or bequest as they may think fit, subject only to the express trusts of any deed, will, or instrument under which such property is acquired by them.

There seems to be no question about the powers of the trust from the wording of this section. The same may also be said of the land which comes under section 4 of the Act; namely, endowment land which the Governor may grant or demise. Section 6 of the Act states—

> The trustees shall have the entire control and management of all real and personal property at any time

vested in or acquired by them; and may set out roads, streets, and open spaces, and erect and maintain buildings upon and otherwise improve any land or other property as in their absolute discretion they may think fit, and may apply any trust funds in their hands to any such purposes.

The relevant words are, "otherwise improve any land" and "may apply any trust funds in their hands to any such purposes."

If the amendment is necessary to section 4, in suggest it is just as necessary to section 8. The phrasing is slightly different, but if there is a doubt about the power of the trustees under section 4, there must also be a doubt about section 8 as well I think members deserve some further explanation than the Minister gave yesterday. It may have been that my exposition was not sufficiently clear and the Minister misunderstood what I was trying to say. However, I ask him to delay the passage of the Bill in order to provide members with a satisfactory explanation.

I think a similar position applies to clause 2 of the Bill which deals with the definition of Government schools which, I stated, did not cover bodies such as the Western Australian Institute of Technology. It is possible that we cannot at the moment foresee a situation where the funds of the trustees could be applied for this purpose. As the Bill is before Parliament, however, why not make certain of this point too? In this way, it would not be necessary to bring another amending Bill to Parliament in the future if the position does arise.

With those words, I again ask the Minister to delay the passage of the Bill so that a suitable explanation can be made to members.

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [2.54 p.m.]: Offhand, I cannot answer the question, but I am satisfied there is no need to alter the section in the way Mr. Claughton has requested. However, I will endeavour to make sure that the information which the honourable member seeks is given to him. I am sure there is a valid reason. I cannot delay the Bill at this stage, but I shall certainly obtain the answer to the question raised by the honourable member.

Question put and passed.

Bill read a third time and passed.

BILLS (3): THIRD READING

1. Metropolitan Region Town Planning Scheme Act Amendment Bill, 1970.

   Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Town Planning), and transmitted to the Assembly.

2. Interpretation Act Amendment Bill.

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

3. Coal Mine Workers (Pensions) Act Amendment Bill.

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

DISTRICT COURT OF WESTERN AUSTRALIA ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [2.57 p.m.]: I move—

That the Bill be now read a second time.

The Bill proposes to amend some of the procedural sections which, after further examination, it is considered can be improved. Other amendments are necessary consequent on the decision to appoint the present Chairman of the Third Party Claims Tribunal as Chairman of District Court Judges, and to provide further relief to the Supreme Court in civil matters.

Members are aware that the Act has been proclaimed and came into force on the 1st April last. Judges and necessary staff have been appointed and are already dealing with criminal matters in Perth. It is anticipated that the first sittings of the court in country centres will be held in May next.

The Government gave careful consideration to the appointment of the chairman of judges and decided that it would be in the best interests of the court and the Third Party Claims Tribunal if Judge Good were empowered to hold both offices. His long service as Solicitor-General provided a background considered desirable to ensure that the new court would function in the best interests of the community. The proposals included provisions empowering any district court judge to act as chairman of the tribunal. Details of these proposals will be set out when amendments to the Motor Vehicle (Third Party) Insurance Act are submitted. An amendment is considered necessary to prevent any legal right to a claim for payment of the salary for both positions.

When the Act was before Parliament it was considered that civil matters coming within the jurisdiction of the District Court which had been commenced in the Supreme Court would be finalised in the latter court. However, increased volume of work received in the Supreme Court makes it desirable that provision be made to enable the Chief Justice to make orders remitting these cases back to the District Court: This will provide relief for the Supreme Court and prevent delays in

hearings. It might be appropriate to refer to the absence of undue delays in having matters heard by the court when compared with the position in other States. However, there is no doubt of the growth of more contentious litigation involving lengthy hearings and, therefore, the provision enabling cases to be transferred to the court is desirable.

An amendment is considered necessary to authorise that the jurors' books, which are in operation or in course of preparation, are the jurors' books for the new court. This will obviate the preparation of new jury lists.

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

A minor amendment removes the function of Clerk of Arraigns from the registrar and enables the duties to be undertaken by judges' associates. This conforms to the practice in the Supreme Court.

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

It has been considered desirable to include a provision to determine priority of Supreme Court, District Court, and Local Court actions. The Local Courts Act already includes provisions in regard to Supreme Court and Local Court matters.

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

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [3.3 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to provide power for any district court judge to exercise the powers and functions of the Chairman of the Third Party Claims Tribunal.

Members have been informed previously of the decision to appoint the present Chairman of the Third Party Claims Tribunal to the position of Chairman of District Court Judges. Some time ago the chairman of the tribunal drew attention to the increasing demands on his services and requested consideration to the appointment of a deputy chairman to ensure that undue delay in finalising claims would not occur.

There is little doubt that the number of claims is increasing and this involved the chairman in work apart from the sittings of the tribunal. Section 16 (20) of the Act gives the chairman jurisdiction to hear and determine all interlocutory proceedings before the tribunal and, for that purpose, he has the powers of a judge and may sit in chambers and alone. The increase in such matters imposes a burden on him which can be reduced by the decision to empower any district court judge, at the request of the chairman, and with the consent of the Chairman of District Court Judges, to act in the place of the chairman. This provision will enable a district court judge to sit as chairman of the tribunal whilst the chairman sits in chambers. The position can be reversed if necessary. The new arrangement will also allow time for the preparation of draft judgments by the chairman for consideration with other members of the tribunal. There is no alteration in the jurisdiction of the tribunal, but the proposal will permit a better service to claimants.

The decision to allow any district court judge to undertake these functions required some consideration of the administration of the tribunal. It was thought reasonable, therefore, to transfer the administration of section 16 and complementary provisions of the Act in respect of the tribunal from the portfolio of Local Government to that of Justice.

Before I conclude I would like to comment that the administration of the third party tribunal Act comes under my colleague, the Minister for Local Government, and one would normally expect him to introduce any amendments to that Act. However, because of the arrangement that has been made in the interests of all concerned, Mr. Logan readily agreed that I should introduce this Bill; really it is not complementary to but goes hand in hand with the measure to amend the District Court of Western Australia Act.

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

WORKERS' COMPENSATION ACT AMENDMENT BILL

Second Reading

THE HON. G C. MacKINNON (Lower West—Minister for Health) [3.6 p.m.]: I move—

That the Bill be now read a second time.

This is a Bill to amend the Workers' Compensation Act, 1912-1967. This much amended Act has been before the House

a number of times in recent years, for minor amendments only or for increases of some of the payments to keep them in pace with general conditions. It has been felt for some time that a more extensive review was necessary and for that reason the Minister for Labour appointed a committee to consider amendments. The terms of reference given to the committee were as follows:—

(a) the rates of weekly payments, other specific monetary payments and allowances and the maximum total liability therefor, with particular regard to the relationships of these payments with those pertaining in other States of Australia, and

(b) the introduction of new provisions or the amendment of present general provisions of the Act thought necessary to provide reasonably adequate and just compensation to injured workers in this State.

The committee included the President and Assistant Director of the Employers Federation of Western Australia two gentlemen nominated by the Trades and Labour Council, one nominated by the Underwriters Association of Western Australia, and the Manager of the State Government Insurance Office. The committee was presided over by the Chairman of the Workers' Compensation Board. The committee went very fully into the subject and invited suggestions from as many outside organisations and individuals as possible.

In May of last year, the report, containing a large number of recommendations, was handed to the Minister for Labour. It was pleasing to note from the report that, generally speaking, the rates of weekly payments and other specific monetary payments, and the employers' maximum liability under the Act were, in general, comparable with what was provided for in the Acts of the other States, and it was not felt necessary to make any drastic suggestions in this regard. Many of the recommendations, however, touched important and even basic aspects of the Act which require attention and in respect of which we have fallen behind the Acts of other States.

I should make special mention of the fact that despite diversity of interests represented on the committee, it was found possible to hand to the Minister for Labour a unanimous report. This fact was found by the Minister for Labour to be particularly pleasing and, after consideration by Cabinet, the present Bill reflects the recommendations of the committee.

The Minister for Labour had hoped to present this Bill in the last sitting of Parliament but, unfortunately, insufficient time for consideration and drafting prevented him from doing so. Among the more important matters dealt with in the Bill is, firstly, the definition of "worker."

By far the worst source of confusion, difficulty, and misunderstanding for many years past has been the uncertainty as to whether men paid by results or piecework come within this Act. The obvious benefits to workers, employers, and the community generally, of this mode of payment had led to an increase of payment in this way, and difficulties have grown in direct proportion. The greatest increase is probably seen in the building trades—with bricklayers, plasterers, carpenters, and other trades.

The majority of men so paid are, both in fact and in law, workers. Where in such cases, through uncertainty, there is failure to insure, the result can be catastrophic to each of the parties involved when a serious injury by accident occurs. The uninsured employer could well be bankrupted, with effects spreading to his creditors and other workers. An insurer who has charged no premium for the particular class of worker involved obviously shows loss. The worker and his family usually lose their whole support with all that that tragically involves.

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 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 the Act to protect—it is hardly surprising that the committee recommended that they be brought in.

The same difficulty was experienced in the other States and action was taken to remove that difficulty. Indeed, similar difficulty was experienced in this State in connection with one of the earliest industries to pay at piece rates; namely, the timber industry, and Parliament took action as early as 1923, and has not had reason to amend it. We intend to extend to workers generally the same provisions that were formerly given to the timber workers.

It might be mentioned that the Acts of some of the other States have more elaborate and detailed provisions which appear to go further than that which is now proposed. Our proposal is, however, extremely simple, and this is important in an Act which is used by so many lay persons. More important, however, is the fact that the provision made applicable to the timber workers appears to have passed the test of time by giving general

satisfaction and we can do no better than extend its application to workers generally. Finally, and I think it important that I stress this point, the amendment will not, and should not, bring within the Act those persons, firms or companies who are not workers but truly independent contractors.

Principal and subcontractor—section 16: Until 1960, the Act contained a provision that where the principal employed a subcontractor to perform work on any project, then the subcontractor's worker could for the purpose of compensation, claim against either his direct employer, the subcontractor, or against the principal as he saw fit. The intention of this section was to provide protection for the worker where his immediate employer was not insured and had insufficient assets to meet a compensation claim. It imposed no hardship upon the principal as it gave the principal the right to be indemnified by his subcontractor; and, in any case, it is not difficult for a principal to insist that subcontractors with whom he has dealings are insured. In this way, there is double protection against non-insurance.

In 1960, the section was deleted in the expectation that new provisions providing for the payment of workers from an uninsured fund in the case of non-insurance would supplant its need and usefulness. Unfortunately, considerable administrative difficulties have been experienced with the uninsured fund, and it appears that this has caused the loss of compensation to some few workers, and considerable and embarrassing delays to others. Although much thought has been given, no satisfactory way has been devised to overcome these difficulties.

For this reason, it is thought necessary to re-enact the former section 16 which had been in the Act since 1912 and had already existed in the English Act. There is added reason for restoring this section in the fact that the principals in charge of some of the very large projects undertaken in this State of recent years have at times formed a separate company or agency to employ directly the men involved in the project. There are, no doubt, very good reasons for this which do not concern us but it appears obvious that the workers are entitled to recourse against the principal whom they genuinely think to be their direct employer.

Rehabilitation: Some provision is to be made for the rehabilitation of certain injured workers into useful and gainful employment. Members will be aware that there has been a rapidly growing interest in rehabilitation of the disabled over more recent years on a world-wide basis and it has even been suggested that this should be given an even greater emphasis than the provision of compensation itself.

The chairman of the board is a member of the State committee of the Australian Council for Rehabilitation of the Disabled. Although the board has no direct powers in this connection, it is empowered by section 29 (13) (9) to formulate recommendations and prepare estimates for the rehabilitation and re-employment of workers for the approval of Parliament, and to provide any such facilities as might be approved.

After considerable research and inquiry, the board formed the opinion that the direct provision of facilities for use by compensation cases alone—and the jurisdiction of the board goes no further—was impracticable. It was submitted to the committee, however, and recommended by it, that funds be made available to allow injured workers in approved circumstances to avail themselves of the facilities already available in this State. These comprise chiefly the Melville Rehabilitation Centre, the annexe to the Royal Perth Hospital at Shenton Park, and the institutes specifically assisting the blind and deaf. Arrangements with these institutions are already well advanced. Assurance has also been received of assistance from the medical profession in the selection of cases suitable for rehabilitation.

Attendance for rehabilitation must necessarily be paid for. In the case of married workers, compensation is required to keep the home going with little or no surplus. It is proposed that the Workers' Compensation Board Fund be increased so that carefully approved cases may be subsidised to attend an appropriate institution. Suitable cases are those who can be expected, with reasonable confidence, to return to work.

The extent of the need for rehabilitation cannot be accurately foretold. It is recommended that provision be made for 25 cases yearly. Whether this estimate is realistic, only experience can tell. Using as a guide averages of costs and length of treatment at the established centres, it is expected that the cost will be $1,000 each, approximately. The amount to be added to the fund annually will be limited by regulation and so will be under the control of Parliament. The initial limit is to be $25,000 and each year hereafter there will be recouped the amount only of actual expenditure in the previous year.

This innovation to the Act is regarded as being of great importance. Members should be generally aware that, according to the views of respected authorities both in Australia and abroad, and particularly in the United States of America, expenditure on rehabilitation is economic; it results in the saving to the community of many times its cost if properly directed. We will watch our own experience closely.

Allowance for children on death of worker: It is proposed that a different and more logical approach be made in

compensating dependent children on the death of their father. At present the Act provides that on death of a worker where there are any persons who were totally dependent on his earnings, compensation shall be $10,881, plus $240 for each dependent child. The allowance for each child is the same in the case of a newly-born babe as it is for a lad who, at the time of the death of his father, was about to commence work and become independent.

It is proposed that in lieu of a fixed amount or an arbitrary figure, there be allowed $3.50 weekly for each child or stepchild during dependency, and that there shall be no exception for ex-nuptial children. It is proposed that a more realistic view be taken of dependency which, as we are all aware, by no means terminates at the age of 16 in all cases. It is proposed that the payments be continued during dependency until the child reaches the age of 16 years and also until he reaches the age of 21 years if still a full-time student.

I think it will be generally agreed that this is a more logical approach than was formerly the case. At times, of course, it will increase the cost of compensation, but it should be noted that, whereas compensation for one only total dependant, if that dependant be an infant, is $10,881 plus $240, under the proposed scheme the compensation will comprise the specified payments of $3.50 weekly to be continued as described above, with a minimum payment in all of $2,537.

The weekly payments as proposed will entail some supervision. The administration necessary is to be undertaken by the Workers' Compensation Board according to rules which will be promulgated and put before Parliament. It is intended that payments will be obtained quarterly from insurers or employers and paid to the dependants by the board with continual supervision of continuing entitlement.

Dependants outside the State: Under the present Act, the definition of "dependants" excludes such members of a worker's family who do not reside permanently in the State at the time of his death or incapacity, if either occurs after a period of five years of his residing in this State. It will be noted that this provision applies not only to the families of deceased workers who come from abroad, but also to those who come from other States of Australia.

It is also provided that where the Governor is satisfied that the country of origin of the deceased worker has similar compensation laws to our own and would extend their benefits to relatives in this State of workers killed abroad, then he may, by Order-in-Council, extend the benefits under our Act to dependants in that country. Several of the countries from which we derive migrants have applied for, and been granted, reciprocity but these are in the minority. It is difficult to decide the extent to which the laws of a particular foreign country would confer benefits on persons in this State.

In view of our established immigration policy and the extent to which we rely on migrants—and will continue to rely on them—it is proposed to give to dependants of our migrants the same benefits whether or not they have, at the date of death, already reached our shores. Of course, persons claiming under these provisions will still be required to give adequate proof of their relationship to the deceased worker and of their dependency on his earnings as at the time of death.

Basic wage adjustments: It is at present provided by section 4 of the Act that each time one or more adjustments to the basic wage aggregates 2½ per cent., the benefits under the Act shall automatically be increased by a slight percentage without the necessity to amend the Act. This provision was brought into the Act at a time when basic wage adjustments were made quarterly, and when the wage level was fluctuating rapidly and the system worked quite satisfactorily.

Since that time, however, basic wage adjustments were for some time abandoned and even now are less frequent. It could be anticipated that they may not be made at less than 12-monthly intervals from time to time. This being so, workers could hardly be expected, where an increase fails barely to reach 2½ per cent., to wait several years for an increase in workers' compensation benefits. Accordingly, it is proposed that changes be made each time the basic wage is adjusted.

The second schedule to the Act provides specific lump sum payments for losses specified, depending upon the gravity of the loss. For instance, for the loss of a right arm, $8,705 is allowed, and for the loss of the right forefinger, $2,176 is allowed.

I am informed that, in practice, considerable difficulty is experienced in deciding exactly when entitlement to these amounts accrue due to the worker. Usually it is some time after the happening of an accident that the exact outcome of that accident is known, or when the injury is stabilised so that the extent of loss can be properly assessed by a doctor or a medical board.

The Acts of some other States provide that these payments should become payable at such time as the injured worker himself elects, it being understood by the worker—and in all cases explained to him—that from and after election to accept the lump sum settlement in respect of his injury, he should have no further right or claim to weekly payments in respect of incapacity or loss of work due to that injury.

Another way of looking at the matter is that it places him in much the same position as a worker on weekly payments who can apply to redeem the balance of future weekly payments due to him. In each case finality is reached. Experience elsewhere indicates that this system works satisfactorily, and it is proposed that it be introduced into our Act.

Industrial diseases—section 8: It was originally provided by our Act that, in the case of diseases notoriously due to contact with dusts or other deleterious substances in certain occupations, and where workers showed that they were suffering from the effects of these dusts or substances, they had the right to compensation against any employer who had employed them in an industry, to the nature of which the condition is due, within a period 12 months prior to disablement.

Subsequently, and in view of the length of time required for pneumoconiosis to develop, this period of 12 months was extended to three years, and, latterly, indefinitely in the case of pneumoconiosis. The section provides that the worker should claim from his last employer, but it also provides in subsection (5) that, in the case of a disease contracted by gradual process, the last employer should have the right to claim contribution from previous employers within the three year period. In view of the fact that it has been considered reasonable to expand the time limit indefinitely in the case of a worker claiming pneumoconiosis, it seems logical that we should also extend the time during which the last employer can claim contribution in similar manner, and the Bill makes this provision.

It is also proposed to include in the schedule of compensable diseases, a disease known as mesothelioma, which is a rare condition occasioned by substantial exposure to blue asbestos dust. There have been only 12 cases of this nature in Western Australia, and medical literature suggests a time gap of some 25 to 30 years between contact and neoplasm.

Compulsory insurance—section 13: Although the Act is based on a system of compulsory insurance of employers with approved insurers, there is also provision for employers under certain circumstances obtaining exemption from insuring, and becoming self-insurers. Self-insurance, generally, has worked very well in this State and it is not intended to discourage it in any way. It is, however, considered necessary that compulsory insurance be insisted upon in industries known to give rise to silicosis.

The chief risk in this direction arises from the mining industry. It should be realised that from the point of view of compensation, silicosis creates difficulties which are not experienced in regard to other injuries or diseases. These arise out of the fact that disablement from silicosis usually does not occur until a number of years after contact with dust, and periods of upwards to 25 years are not unusual. The person who has been in contact with the dust can proceed to the disablement stage even when there is no further contact with the dust.

It will be appreciated that over long periods of time the identity of an employer can be lost so that there is no-one against whom the injured man can claim. Usually the employer is a company, and the average life of mining companies is often not great. Difficulties and hardship arise where a company has gone out of existence, been wound up, or even changed its identity. Because of these difficulties, it has become necessary to restrict self-insurance where there is a silicosis risk.

Bankruptcy or death of employer—section 17: Section 17 already contains certain provisions for procedure in the event of an employer becoming bankrupt or making a composition or arrangement with his creditors, or, if the employer is a company, in the event of the company commencing to be wound up. Despite these provisions, workers have experienced some difficulties in their claims and it is felt that some further assistance should be given them. Where any of these events occur, a number of technical legal difficulties arise. We are not alone in experiencing these difficulties, and it is proposed to add to our sections some provisions borrowed from the Victorian Act, which it is hoped will provide some relief.

It is also proposed to enact that in the case of an employer dying and leaving no personal representative against whom claim can be made, then if he is insured, an injured worker can proceed directly against the insurer, because even where an employer is alive negotiations by an injured worker are almost invariably made not through his employer but through the insurer.

Procedure: The rule-making powers at present contained in the Act have proved inadequate in that the Workers' Compensation Board is unable to provide for such procedures as discovery, interrogatories, admissions, and production of documents. Each of these procedures is used by all other courts in the State with the object of simplifying procedure. By means of these procedures, information can often be obtained and brought before the board simply and cheaply, which could otherwise only be proved by the calling of a number of witnesses at cost of time and money. In fact, not infrequently after some of these procedures, the disputed facts are so clarified as to make it unnecessary to proceed further with the action.

Chiropractic: Although there are reasonable provisions in the Act providing for the cost to an injured worker of medical

treatment, physiotherapy, hospitalisation, chemists' items, etc., there is no provision for the costs of attendances by a chiropractor. Numbers of injured workers have attended chiropractors, and in many cases with undoubted benefit. Parliament having at some time past expressly legalised chiropractic, there seems no reason why its cost should not be allowed for under the provisions of the Workers' Compensation Act, particularly in view of the fact that the Chiropractors Board is now a functioning reality and a proper registry is in existence.

Total and permanent incapacity: Compensation for total and permanent incapacity is by weekly payment during incapacity at the rate prescribed from time to time but with the qualification that the total liability of the employer shall not exceed a fixed sum which stands at the moment at $10,881. The theory of workers' compensation has always been that payment should be maintained during incapacity and the limitation of the extent of those payments has been made on the ground that there must be a limit to the amount that industry can bear, although it has not been satisfactorily explained how one should arrive at that limit. Fortunately, there is not a great number of workers totally and permanently incapacitated, but the consequences are grave when compensation payments cease.

In most of the other States, and in the case of the Commonwealth, the arbitrary limit to payment of weekly payments has been removed in the case of totally and permanently incapacitated workers, and in several cases also in the case of permanent partial disablement of a major degree.

It is proposed that our Act be amended to lift the limit in the case of total and permanent incapacity wherever the board in its discretion is convinced that this is actually the case. There should, however, be a provision that where a worker applies for redemption of the employer's liability for future weekly payments, the board in the exercise of its discretion shall not in any case take into account any amount which might have become payable beyond the normal statutory limit. This, I feel, will prevent any abuses which could otherwise occur. It is felt that this provision should be added to our Act in order to bring it into parity with the conditions applicable in the rest of Australia.

Payments on death: From time to time it happens that death results from an accident, but not until after a considerable period of time has elapsed. Sometimes compensation benefits have been increased by amendment of the Act in between the time of the accident and the time of death of the injured worker. Where this has occurred considerable doubt is entertained as to whether the dependants are entitled to the amount of compensation provided as at the date of the accident, or to the amended amount provided at the time of the death. In practice, the former amount has always been paid, as it was generally held that this was the correct amount.

Last year a Victorian case went to the Privy Council and the decision therein indicates reasonably clearly that we should now regard and, in fact, should always have regarded, the date of death as the significant date. This being so, it is probably strictly not necessary to enact such a provision, but we feel that we should do so for the sake of clarity and certainty. Accordingly, it is proposed to provide that in circumstances as outlined above, the amount of compensation payable to dependants should be ascertained according to the Act as at the date of death.

Rate of weekly payments: Although the rate of weekly payments at present provided has, in general, been found to be comparable with those of other States, it is proposed that in one direction they be amended. In the past it has been provided that regardless of the number of dependants an injured worker may have, or the amount of his pre-accident earnings which he has lost through injury, there be a specific maximum weekly rate—the present maximum is $39.20—and it has been shown that hardship has arisen in some cases by this limit and, accordingly, it is proposed that the present specific maximum be changed and that the new limit be the previous average weekly earnings of the injured worker. It will be appreciated that this change will only be effective in the case of a worker whose pre-accident earnings were considerable and the number of whose dependants would take him beyond the present limit.

Other benefits: In addition to the foregoing provisions, it is proposed in the Bill to remove a number of anomalies which have been noticed and which it is felt were not in the first place intended. One example is the doubt which has occurred as to whether or not the worker is entitled to count as a dependant a child born after the accident or a wife married after the accident. It is suggested that neither of such events is associated in any way with the worker's accident nor occasioned by it, and that accordingly entitlement should follow. It is also sought to provide for the case of a wife who, while dependent at the time of the accident, finds compensation insufficient and decides to go to work to supplement compensation payments. It is proposed that she shall be regarded as a dependant and should not be penalised because of her willingness to shoulder added duties.

It is also proposed to add payment for contact lenses and for better provision for the repair of artificial aids. It will also be provided that where, in special cases, cost of hospitalisation exceeds the normal weekly rate allowed and this is out of the

control of the worker, then the Workers' Compensation Board can exercise discretion as to increasing the rate. Also, the present daily rate of allowance while a worker is away from his home to receive medical treatment will be increased to $4.

Finally, although I have informed the House, in view of the findings of the committee, that it was not proposed to make general amendments to the monetary benefits under the Act, members will notice in the Bill a complete re-enactment of the second schedule and of most of the other monetary amounts. I should explain that this has been done because of drafting requirements. In view of the fact that the amounts presently stated in the Act have already been varied several times subsequent to basic wage fluctuations, the inclusion of the revised amounts brings the Act up to date with the present rates of payment.

We believe that these submissions are in the interests of all those concerned in industry and that the passing of this legislation will confer benefits on people who rightly deserve them. I commend the Bill to the House.

Debate adjourned, on motion by The Hon. R. Thompson.

Sitting suspended from 3.39 to 4 p.m.

MINING ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.1 p.m.]: I move—

That the Bill be now read a second time.

Western Australia today is experiencing one of the greatest periods of mineral development in our time, and I believe that the 1960s will go down in history as one of the most interesting and important decades of our State. The list of companies now engaged in the search for minerals reads like a "Who's Who" of Mining organisations of the world.

This great surge forward can perhaps best be demonstrated by mentioning figures which indicate the value of mineral production. I think it is desirable that I mention these approximate figures of the value of mineral development in Western Australia over some years past. For instance, in 1953 the value of mineral production in this State was just over $38,500,000; in 1958 it rose to just over $41,000,000; in 1959 it was $44,000,000; in 1966 it was almost $76,000,000—nearly double the 1959 figure—in 1967 it rose to $148,500,000; and in 1968 it again almost doubled itself and increased to $259,500,000. In 1971 we anticipate that the value of mineral production in Western Australia will be in the order of $400,000,000.

The Hon. F. J. S. Wise: It is nice to be a Minister when that kind of history is being made.

The Hon. A. F. GRIFFITH: Thank you for that comment. Of course, I would be telling anything but the truth if I did not say that this has been an exciting time for me and, for that matter, for Western Australia.

Mr. Deputy President, you are aware that, in addition to the formerly recognised areas of mineralisation, exploration for minerals has been directed to many other part of the State. The south-west mineral field, which includes the metropolitan area and the near metropolitan area—in fact, it goes right down to Bunbury and Albany—has also become highly attractive to mineral exploration.

You are also aware, Sir, that pegging has taken place in many parts of the State previously untouched and, in fact, has inflamed the feelings of many of our citizens as a result. It is also true that our mineral development has brought us great benefit and has largely contributed to our general welfare and the economy of the State.

To give members some idea of what has taken place, I would like to quote some figures relating to the pegging of, or the application for, mining tenements over the past five years. In 1966 the number of applications was 1,656; in 1967 it rose to 3,982; in 1968 it was 8,298; in 1969, 24,084; and to the 31st March, 1970, 8,113. So this means that in the last 12 months almost we have had a very marked increase in mineral activity and in applications for mining tenements—mostly mineral claims and mineral leases.

In fact, the overall percentage increase for 1969, based on the 1966 figure, is 1,354.35 per cent. I know figures can be made to read whichever way one wants them to on occasions, but I am not stating these figures for that purpose. This is a colossal and unexpected growth, and when I hear people say that the Minister for Mines and his officers in the Mines Department should have been able to anticipate this state of affairs some years ago and avoid allowing these arrears to accumulate, then all I can say is that that is nonsense. I do not think that anybody could really be expected to have anticipated this upsurge.

It means that, in addition to the number of temporary reserves in existence, there are a further 40,000 mineral claims currently in some state or other; that is granted, being processed, or awaiting hearings before wardens' courts and that sort of thing. The 40,000 claims represent 12,000,000 acres of country. Again, anybody who says to me that I have stopped mining as a result of my imposition of a temporary ban on the pegging

of mineral claims needs to think again, because there is a great deal of work to be done with regard to these claims.

The pegging of claims and leases has been so heavy that it has not been humanly possible to cope expeditiously with all the applications received from companies, syndicates, and prospectors and, as a result, a considerable backlog occurred.

Very few people realise what is entailed in the processing of each application. The majority of the titles applied for are mineral claims and mineral leases of 300 acres each. Each one is approximately one-third the size of King's Park. The boundaries are measured out in various ways by applicants when pegging. Some use theodolites and tapes and are reasonably accurate. Others just use the jeep speedometer and many merely step out distances, and no two men take the same sized step.

In the areas of intense activity where pegging is adjacent to, around, and often over other peggings, one can imagine the difficulties experienced by our departmental officers in trying to transfer accurately onto our plans the boundaries of this varied assortment of peggings and accompanying descriptions. If this is not done meticulously, then our plans cannot show the public and ourselves what land is held and what land is available. Inaccuracies in the boundaries of a title could lead to subsequent trouble and litigation and some of these titles could contain significant mineral deposits.

Perhaps I could interpolate here to say that when I hear a person say, "Grant them all," I think it is a most irresponsible remark because we just cannot be that careless in our activities. This, while a most important part of our work, is not all, as each application has to be carefully examined in order to ascertain what roads, reserves, railway lines, water catchments, etc., may be affected.

Each application has also to be entered into head office and outstation title registers, and Government authorities such as the Railways, Water Supplies, Lands, Forests, and Public Works Departments have to be advised of encroachments so that any protective conditions they may require—in the public interest—may be inserted in titles at the time of granting. All these things must be in order before a title is granted. It is too late afterwards.

I record these matters in order to show the problems we are up against. Many of our trained staff, unfortunately, have been lost to mining companies which are prepared and able to pay very attractive salaries to trained and professional people, and replacements have been difficult to obtain. I want to make it clear that I do not wish to stand in the way of anybody who is able to obtain a better position. Nevertheless, the department has suffered considerably because its trained personnel have knowledge which is of great advantage to so many people who are anxious to employ them when they leave the service of the department.

The pegging of mining tenements reached such proportions that I was forced early in the year to close down temporarily on the pegging of claims and leases on Crown land, with the exception of prospecting areas and coal leases.

The Hon. R. F. Hutchison: Does the department study Aboriginal sacred grounds, etc.?

The Hon. A. F. GRIFFITH: The Mines Department and the Native Welfare Department have a working arrangement in relation to the interests of native reserves so far as mining is concerned. I regret that this matter has fallen down a little in recent times, but it has now been revived again. Frankly, I had hoped to be able to cause a cessation of pegging on private land, but there was doubt whether I had power to prevent applications for mining tenements in respect of private land in the State, so I was not able to do anything in this regard. Applications on private land have thus continued to be made.

Although I received some criticism for the action taken—which action, incidentally, had the backing of the Government—many people, including mining people, have expressed the view to me personally that the correct thing has been done. This "close down" period has enabled the department to concentrate on processing the accumulated applications; and I can say that, due to the untiring efforts of Mines Department personnel, that task, to all intents and purposes, has been completed, and I want to take this opportunity to thank them and acclaim their untiring efforts. The "close down" period has also enabled me to give some thought to certain urgent amending legislation to our existing mining law, in order to help to better control the position.

This Bill is now introduced as a starter to a more general revision of the Act to take place once circumstances permit. I will summarise its contents in the order in which it is drafted and will explain the reasons necessitating the amendments.

In the past, prospecting concessions of various sizes have been granted under the provisions of sections 276 and 277 of the principal Act. These sections are very brief and impose no statutory obligations on the holders. The Minister, if satisfied with the application, would temporarily reserve the area applied for and then authorise the applicant to occupy it for such a period, and on such conditions as he thought advisable, with the right to the applicant to apply for renewal. At the time, this was a satisfactory method of

encouraging the exploration of many isolated areas which earlier existed in the State.

I go back in my mind to the year 1959-60. I think it is safe to say that in those days the number of mining companies operating in Western Australia probably could be counted on the fingers of both hands. It is certainly no exaggeration to say there were very few indeed. It is equally true, however, to say that as a result of the policies that have been employed, Western Australia is now well on the world map from the mineral point of view. It is well known and well credited as being one of the highly mineralised areas of the world where excellent opportunities exist for mineral development.

I am quite satisfied that the use of sections 276 and 277 has been put to very good purpose and, in fact, has substantially assisted in generating necessary interest in many parts of the State, resulting in discoveries of major deposits of iron, bauxite, nickel, etc., and the consequent influx of companies and prospectors from all over the world, bringing with them mining knowledge. In connection with some of the agreements that have been introduced by the Government surrounding mineral exploration, mention has been made in debate of the great benefits that would be brought to Western Australia and, indeed, are now being brought to Western Australia, as a result of such agreements.

These companies have also brought with them capital and enthusiasm so necessary in the mining industry. I would like to say there are still a number of current dealings in temporary reserves and, in the future, I could well use these sections again.

At the same time, I think it is desirable to be able to provide a more appropriate prospecting title to encourage people to explore the more remote areas which, while prospective, show no obvious indications of payable deposits.

Accordingly, a new part VB entitled "Exploration Licenses" is provided for in the Bill. It will enable the Minister, by notice in the *Government Gazette*, to call for applications for areas not exceeding 100 square miles for a term of three years over available land as defined in the Bill. These licenses will bear a fee of $8 per square mile and the Bill details the qualifications and work required of successful applicants. Applications will be dealt with on their individual merits. Obligations detailed, together with any additional conditions thought necessary, and the area allocated, must be formally accepted by the applicant. At the end of each year, the applicant must furnish a complete report of operations and an audited statement, giving a detailed account of expenditure during the year.

Security for the due performance of the obligations and conditions can be required to be lodged at the outset. The license will give an exclusive right of search for all minerals, excepting petroleum, and will permit the holder to peg and apply for normal productive titles covering the deposits located within the license.

While the maximum area of any one license is 100 square miles, there is no set minimum, so that small syndicates or prospectors could apply for lesser areas. For that matter they can apply for the full area.

It is proposed that all such licenses will be on a rectangular basis on the meridian, so that there will be no difficulty or doubt as to the boundaries. This factor has caused us some trouble in the past.

The Minister has power to vary conditions, to cancel for non-compliance with obligations, and to resume any area required for public purposes without compensation. If, during the term of the license, any mining tenement or existing right of occupancy in relation to a temporary reserve, that was in existence within the boundaries at the time of granting expires, it may be incorporated by the Minister within the license.

Where necessary, for example in the case of a mineral occurring in laterites, the Minister could grant more than one contiguous license.

The next major amendment deals with private property. The discovery of bauxite and titanium sands, particularly in the south-west, resulted in farms and private properties being overrun by peggers and, as I have already said, this caused distress and embarrassment to many owners.

Clause 13 of the Bill clearly sets out the type of private land which cannot be granted or occupied for mining purposes without the written consent of the owner. The term "land under cultivation" is now defined and should help to clarify what was previously difficult of interpretation.

Before any miner can enter private land for the purpose of marking out a lease or claim, he will, as at present, have to obtain from a warden a permit to enter and, in addition, he will now have to provide the latter with information which will better enable him to identify the land before a permit is issued. The warden may now include such conditions in the permit as he thinks fit.

I propose to alter the state of affairs which exists at the moment in relation to an application for a permit. At the present time it is common practice for a person to present to the warden a permit to enter private land—there might be a large number of locations on that permit. In the future, however, individual

permits will be restricted to land which is held in one ownership, so that a miner who wants to enter private land will not be able to take a document along with him which permits him to wander over the entire district. In the interests of the property holder we will seek more information in this matter.

The Hon. R. F. Hutchison: Does that mean at present any person can go on to a farm?

The Hon. A. F. GRIFFITH: That has been the provision in the Act for 75 years; even when the Government which the honourable member supported was in power. I am now attempting to improve many of those conditions.

The permittee must hand a copy of the permit to the occupier upon the first entry on the land by him. If the occupier is absent, he must place a copy in a prominent position on the occupier's dwelling, if there is one. I think this is important, because sometimes there may not be a dwelling on the land. The permittee must also send by registered mail, within 48 hours, a copy to the occupier's last known address. If the occupier is not the owner, the permittee, in addition, must also mail a copy to the owner. This should ensure that private property owners and occupiers will early be aware of the presence of miners on their land and can then take such action under the Act as is necessary to protect their rights.

I daresay you have heard complaints in your province, Sir, of farmers who have said that they did not mind entry to their land because such entry might turn out profitable for them, but they did want to know about it. The provisions I am seeking to include will ensure that farmers do know about such entry.

Section 154 of the principal Act, clearly provides that copies of applications for mining tenements must be given to private owners and occupiers affected. This section is broadened in the Bill to provide that the local authority must also receive a copy, as it has certain powers under its own Act relating to quarrying, etc. Here I am fulfilling a request from many local authorities that they be informed of such activities in connection with private land. I cannot undertake to inform them in relation to Crown land because they have no power over such land; that power resides in the Minister for Mines.

Another worry recently experienced by private property owners has been the expense caused them in having to attend the warden's court in order to object to the granting of mining tenements affecting their land and improvements.

Clause 20 of the Bill authorises the warden, if he considers it proper so to do, to order the applicant to pay the objector, who is the owner of the land, such sum by way of costs as he thinks fit. In recommending a mineral claim to the Minister, the warden does not make a judicial decision, and my legal advisers tell me that, therefore, the awarding of costs does not come within the power of the warden under the present Act. Accordingly we propose to give him power to award such costs.

It has been inevitable in the mining rush that some indiscriminate pegging should take place and that areas, which should be held sacrosanct in the public interest, have been included. Clause 21 authorises the Minister to take protective action immediately this occurs by refusing the application without awaiting the outcome of a warden's court hearing. I think this is a matter which will interest conservationists, and it might be of some help if I were to read the appropriate clause. Clause 21, in seeking to add a new section 267A, states—

> (1) Where the Minister is of opinion that an area to which an application for a mining tenement relates, should not, in the public interest, be disturbed, he may, by notice served on the warden to whom the application has been made, refuse the application irrespective of whether the application has been heard by the warden.

In the past the Minister's hands have been tied. Anyone, for whatever purpose he had in mind, could peg a prominent piece of land in the community. Because it now has to come before a warden where evidence has to be adduced and the objections made, the matter is *sub judice* and I have not been able to do anything about it, although I know such an application should not be granted. In such circumstances, given the power to which I am now referring, the Minister for Mines will be able to put a stop to this sort of thing at a very much earlier date.

Clause 22 requires an applicant for a mining tenement, within a pastoral lease, to serve the pastoralist with a copy of the application within 48 hours of lodging same. Pastoral leases are Crown land under the Mining Act and miners have previously been free to enter, peg, and mine without reference to the owner. With the great influx of miners on these leases, improvements have often been affected and the service of this notice will enable an early approach by the pastoralist to the applicant and, if necessary the warden's court.

I mentioned earlier in this speech that, during this year, I reserved Crown land from occupation for mining purposes. This was done under the provisions of section 276 of the principal Act. At the same time I exempted from the reservation applications for coalmining leases and, in particular, applications for prospecting areas, so that people who were prospectors by livelihood would not be affected. I did

this purposely. I read a letter in this morning's Press from a gentleman from Como. He expressed the hope that I would look after the small prospector. It was the small prospector I had in mind when this was done.

Doubts were subsequenty expressed in some legal circles concerning these exemptions. Clause 23 of the Bill gives effect to my intentions and removes any doubt about the validity of the reservations.

The effect of clause 23 is to reserve from occupation all Crown land which was previously reserved earlier in the year, but to permit applications for mining tenements for coal and applications for prospecting areas.

Exploration licenses may be granted over the reserved land under the Mining Act in respect of areas of land not exceeding 100 square miles as are from time to time advertised in the *Government Gazette*. The holder of an exploration license may, during the currency of the license, apply for and be granted mining tenements in respect of all or part of the land within the license. No other applications in respect of the reserved land are of any effect.

The clause also enables me to release progressively the land from the reservation. This is done in the following ways:—

(1) The land ceases to be reserved on the expiration of an exploration license.

(2) Mining tenements granted in respect of the land within the exploration license to the holder of that license also cease to be reserved.

(3) In the event of the early termination of the exploration license, then the land concerned ceases to be reserved by notice published in the *Government Gazette* or, if another exploration license is granted over the same land, then on the expiration of that license.

Subclause (6) of clause 23 enables land that has been reserved, and which is not then the subject of an exploration license, to be released at any time from the reservation by notice in the *Government Gazette*.

Once the land is freed from the reservation by any of the ways outlined, the land becomes Crown land under the Mining Act and available for the granting of mining tenements pursuant to the Act. As Crown land it will, of course, still be available for the granting of exploration licenses in accordance with the provisions of the new part VB.

With the passing of this Bill into an Act, I am anxious that people interested in the mining industry should be able to return fully to exploration of the State's mineral resources.

I do not want these remarks to be misinterpreted. It does not mean that I intend to permit the whole State to be indiscriminately overrun. It does not mean that at all. It means exactly what it says, and I repeat that I hope no misinterpretation will be placed on these remarks.

The Western Australian Chamber of Mines has requested me not to lift the ban on pegging until this legislation has been enacted. I intend to follow this request because it is necessary and common sense that I do so.

There is a great deal of conjecture as to the process I will employ in order to reopen Crown land for prospecting. I propose to give some idea as to how this will be done.

There are certain areas of very intense activity in the State—where pegging has taken place on a scale never before contemplated. In these areas it is not possible to grant exploration licenses and I intend in the near future to release these areas and open them up for pegging of claims. I say it is not possible; and, perhaps, it is not desirable.

It is not possible because there has been so much pegging going on in these areas I call intense areas of activity that it is very doubtful whether 100 square miles could be segregated for the purpose. Perhaps it is not desirable because I have no desire to inhibit in any way regular and genuine practices of exploration and exploitation of the mineral wealth of the State. I am anxious, because of the advantages which accrue to the people of the State, to see this done to the best extent possible—certainly not to every extent; not to the danger of the people themselves, but wherever it is possible this should be done.

These areas are substantially the present known ultra-basic portions of the State and, in due course, maps will be produced for public scrutiny indicating the particular areas of interest.

These areas will, in fact, be considerable and will provide the incentive necessary for people to return to prospecting and pegging. The release of this land for pegging will, in due course, be notified in the *Government Gazette* and, of course, all mining registrars in the State will be notified.

Elsewhere on the land reserved by clause 23 of the Bill I intend to call applications —probably progressively—for exploration licenses in accordance with the new sections contained in this Bill. Perhaps here I should make another comment. I do not want the people of the State to gather the impression that with the exception of the ultra-basic areas the entire State is to be cast wide open to indiscriminate pegging. I think, as has been the practice over the years, it is very necessary that discretion be left with the Minister for Mines concerning the manner in which he administers

the Mining Act in relation to the new section providing for exploration licenses and in relation to sections 276 and 277 which, over the years, have been the main prospecting titles which so many people have held.

As I pointed out earlier, the basic difference between the new form of exploration license and the ordinary temporary reserve under section 276 is that section 276 gives no real title and implies no statutory obligation. It does not satisfactorily lay down the commitments of the holder in relation to the programme of work he has to do. When members examine the Bill they will see these obligations by the holder will become statutory obligations.

First of all the holder will be obliged to work. He will have to expend his money in exploration and report to the department, and his holding will, as in the case of a temporary reserve, be subject to cancellation if he does not fulfil his obligations.

So much for the Bill itself. I crave indulgence to make a few remarks in relation to the regulations because although they are not contained in this Bill it is a matter of particular public interest, I am sure, that I state my intentions in relation to one or two of those matters. I now want to say a few words on the matter of pegging mining tenements which come under the mining regulations.

I have been informed that there are instances of people who have continued to peg Crown land under the Mining Act, after the ban was imposed, in the hope of gaining advantages over others. The story has it that as soon as the ban is lifted these people will simply have to rush in and make application for such claims. In fact, all sorts of stories have reached my ears about this sort of thing, and perhaps they have reached the ears of members in this Chamber.

I want to say that the present method of pegging a claim is not entirely satisfactory and when the land I have referred to is released, I intend at the same time to revise the method of marking off claims. This means a revision of the requirements of regulation 147, which will be effected in the normal way by the production of a new or amended regulation. I intend also to give attention to regulations dealing with labour conditions. At the present time these are not realistic.

As I informed the House in an early part of my remarks, there are over 40,000 mining tenements in existence, most of which are mineral claims. The regulations at present provide that a mineral claim shall be manned by three men per 100 acres or part thereof, which means nine men per 300 acre mineral claim, and on the number of existing claims, even though some may now be amalgamated, there are not sufficient people in the industry to fulfil this provision.

There are regulations which provide for amalgamation of claims and for machinery being used to a stated value to offset some manning provisions, but these need attention. I intend to amend these regulations to make them more realistic. I intend to direct my attention to arriving at a composite proposition involving a combination of men, equipment, and monetary expenditure. I think members, particularly those in the goldfields, will appreciate the necessity for this to be done.

While I want to be realistic about the difficulties of labour conditions, I also want to make it clear that it is my intention to see that mining tenements are in fact worked in accordance with the new labour conditions, not forgetting that the provisions which exist for exemption from labour conditions will still prevail. Wardens in wardens' courts will be able to grant these exemptions in their discretion.

Before concluding, may I say that I am very grateful for the manner in which members have listened to my explanation of this Bill. I said at the outset, and I repeat, that I am attempting here to give attention to the things that I consider are necessary under the Mining Act, to take away to the greatest possible extent the aggravating sections in respect of private property, and to give greater credence to the rights of the property holder in relation to the occupancy of his land, bearing in mind that in this State the minerals on land alienated after the 1st January, 1899, belong to the Crown, and the Crown is the people. I must have regard to that.

I state again that my experience in the last 10 or 11 years has taught me that it is necessary to have elasticity of policy to be able to exercise some discretion, to be able to talk to people who have much greater experience in mining than I could ever hope to have. From a practical point of view, I have no experience in mining, of course. From these people I have learned a great deal. One of the things I have learned is that if we want our country successfully explored for the minerals that are in the ground—and there is no doubt that Western Australia is very fortunate as regards minerals—we must have a satisfactory partnership between Government and private enterprise, with the Government of the day giving the miner the right to explore under certain terms, conditions, and obligations, and the company in turn fulfilling those conditions and obligations, and running the risk of having the ground taken away from it if it fails to do so.

I repeat, I want to make it perfectly clear that whilst the labour conditions on mineral claims are now impossible of fulfilment, a revision of these claims brings

me to the point of saying that I do want to see more work done on them.

I say finally that perhaps this Bill will not be everybody's answer, and it may not give everybody the satisfaction they hoped for, but I think there are some major steps in the right direction in this piece of legislation. I commend the Bill to members.

Debate adjourned until Thursday, the 16th April, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

LOCAL GOVERNMENT ACT AMENDMENT BILL, 1970

Second Reading

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [4.49 p.m.]: I move—

That the Bill be now read a second time.

This Bill is designed to effect amendments to the Local Government Act, which it is considered desirable should be made forthwith. Local government in Western Australia reflects the progress and development which is taking place in the State generally, and the legislation must be subject to continual revision to meet the needs of rapidly changing conditions and increased demands on the services provided by municipal councils. Each year since the Act was passed in 1961, there have been amendments, but on this occasion only the more pressing items have been included. It is anticipated that further amendments will be submitted for the consideration of Parliament in the session to be held later in the year.

Clause 1 is designed to make the necessary adjustments to the title of the Act, and clause 2 is to amend section 41 which prescribes the order of retirement of members of a municipal council. The Supreme Court of Western Australia recently determined the order of retirement of councillors of the Shire of Perth following an election at which all the councillors of the shire were elected, to provide that seven councillors will retire in 1970, and six in 1971. This is contrary to the intention of the legislation, which seeks to fix the term of office of members by requiring one-third of them to retire each year.

However, the judgment resulted from the phraseology of section 41 of the Act, and it will be necessary, if the position is to be restored to enable as near as practicable one-third of the councillors to retire each year, for an amendment to give the Minister power to declare, prior to the nomination date of any election, the order of retirement from office of councillors to be elected at the forthcoming and any subsequent election. The amendment will not vary the determination of the Supreme Court but will provide for future retirements in accordance with the intention of the Act.

Clause 3 is included to provide a special basis of valuation for land held under a coalmining lease. It is believed that the operation of coalmines is so different from other forms of mineral leases that special provision should be applied. The council of the Shire of Collie recently drew attention to the fact that under the existing provisions the valuation of coalmining leases is the same as that which pertained in 1904. The rental of such leases has not varied since that time and as the valuation is based on the rental, the coalmining companies are paying less in rates with every increase in valuation of the remainder of the district.

The council requested that consideration be given to having the rating of coalmining companies based on the output of the mines or alternatively to rate the land on a similar valuation to that applied to agricultural land in the locality. Both these suggestions are considered impracticable, but it seems reasonable that the Act should ensure that the coalmining companies contribute a reasonable sum as rates to the council.

The shire clerk has advised that in 1959-60 the rates from coalmining companies totalled $1,815.75 of a total levy of $51,413.20, whereas in 1969-70 the rate levied on coalmining leases was only $382.68 of a total levy of $88,726.96. The amendment provides for coalmining leases being assessed on a valuation of $5 per acre. The amendment, if it had been applicable to the 1969-70 year would have resulted in a rate of $1,913.39 in lieu of $382.68. This increase is not unreasonable, and its effect on coal prices will be negligible.

Clause 4 is included to give effect to the proposals of a committee which was appointed to advise as to the proper method of valuation for the purpose of local government rating of leases and production licenses granted under special Acts and under the Petroleum Act. The purpose of the appointment of the committee was to seek some alleviation of the impost of rates which would apply under the existing provisions of the Act, because the valuation based on 20 times the rental value could produce an astronomical figure resulting in a rate impost out of all proportion to the services provided by a municipal council.

The committee recommended that because of the large size of many of the leases they should be valued on an area basis with the valuation descending in scale as the size of the area increased. The committee also recommended that those mining companies which have expended money in providing community amenities of a kind normally provided by a municipal council should have their rates reduced accordingly. The committee believed that

it would be necessary for the companies concerned to elect to have the land valued on this basis.

The reason for this provision is that most of the agreements which have given rise to special leases specifically provide that rating shall be on the basis of the unimproved value, except as to any area which is occupied by a permanent residence. It is felt that the agreements cannot be varied merely by calling the valuation which is arrived at under a new system "unimproved value."

The intention of the agreements in question was that the valuations should be effected in accordance with the principles which were comprehended by the term "unimproved value" at the time the agreements were made.

The proposals contained in this clause have been referred to the various associations connected with local government and to the individual councils in which mining activities are taking place. Whilst there has been some opposition expressed, no satisfactory alternatives have been submitted to remedy what, at present, is an obviously inequitable situation.

I have a copy of the report of the committee and if anyone is interested I am willing to make it available. I commend the Bill to the House.

Debate adjourned, on motion by The Hon. R. H. C. Stubbs.

COMPANIES ACT AMENDMENT BILL, 1970.

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [4.56 p.m.]: I move—

> That the Bill be now read a second time.

This small Bill amends the Companies Act in two respects. The first of these excludes from the definition of "corporation" any society registered under the provisions of the Building Societies Act, 1920.

Technically speaking, the definition of a corporation as at present existing in the Companies Act extends to and includes building societies. It is not, however, intended that the Companies Act should apply to these societies. They are covered by their own Statute, as proposed to be amended by a Bill presently before Parliament, which contains, or will contain ample provision for the regulation of building societies.

While, doubtless, the exemption now proposed could have been achieved by amendment of the Building Societies Act, the fact that other States and the Australian Capital Territory effected the exemption by an amendment to section 5 of the Companies Act is thought sufficient reason, in the interests of uniformity, for this State to amend its Statute in a similar manner.

The decision to effect the amendment at this point is prompted by the introduction to Parliament in this current sitting of extensive amendments to the Building Societies Act, 1920-1962; the general effect of which is to provide some further measure of control over the affairs of building societies. It is emphasised that the amendment of the Companies Act now before members applies only to building societies registered in this State.

The next amendment to be made by this Bill comes in division 4 of part IV. This division regulates the raising of capital from the public by companies, syndicates, and even individuals in certain circumstances. The division has particular importance currently in relation to syndicates engaged in real estate development schemes.

In a recent judgment delivered in New South Wales, the Chief Judge in Equity, Mr. Justice Street, was dealing with a real estate development scheme which involved the acquisition of land and buildings by the raising of a large sum from contributions by members of the public following Press advertisements by the promoters.

The legal nature of the scheme was held by Mr. Justice Street to be a partnership. Accordingly, the investors in the scheme did not receive the protection inherent in a scheme where the provisions of division 5 of part IV of the Act have been complied with. That scheme is essentially similar to many real estate development schemes being operated in this State.

The situation to which attention has been drawn by the judgment of Mr. Justice Street was considered at the December, 1969, meeting of the Standing Committee of Attorneys-General held in Adelaide. That committee decided to recommend, as an emergency measure, that the definition of "interest" in division 5 be amended to secure that any partnership entered into, by or through the medium of an advertisement to the public, will be caught by the requirements of the division.

It will be appreciated by members that this loophole—as it might be termed in this context—has been used for schemes for capital raising, whereas the exemption was intended to apply only to *bona fide* small partnerships and not to major development organisations seeking large scale financial support from the public in general and under the guise of a partnership arrangement.

Admittedly, by the passing of this measure, some small partnerships may be caught in the net. The restriction really means that funds for a small partnership cannot be raised by an invitation addressed to the public at large. Funds for a partnership will need to be obtained privately and

this is the normal way in which a partnership is arranged. It is certainly not considered that this prohibition of public invitation, as now proposed, will seriously inhibit the formation of small partnerships.

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

House adjourned at 5.1 p.m.

Legislative Assembly

Thursday, the 9th April, 1970

The DEPUTY SPEAKER (Mr. W. A. Manning) took the Chair at 2.15 p.m., and read prayers.

QUESTIONS (42): ON NOTICE

1. *This question was postponed.*

2. DUST NUISANCE

Swan Portland Cement Company

Mr. HARMAN, to the Minister representing the Minister for Health:

(1) Is he and the Air Pollution Control Council satisfied that the Swan Portland Cement Co. reduced dust emission by 60 per cent. by the 15th December last?

(2) Will he indicate rate of dust emission expressed in grams per cubic foot of the last six tests taken by the council and the dates of such tests?

(3) Can he advise when the electrostatic precipitators will operate?

Mr. ROSS HUTCHINSON replied:

(1) No.

(2) 26/11/69 (prior to reduction)—3.2 grains per cu. ft.
19/12/69—1.8 grains per cu. ft.
19/2/70—1.6 grains per cu. ft.
5/3/70—2.2 grains per cu. ft.

(3) First electrostatic precipitator installation should be completed by the end of this month and the second by the end of June.
An inspection this morning confirms that the construction of the first precipitator is very well under way. The only difficulty at the moment is that the driver of a truck carrying pipes and valves for the cooling tower has been taken ill in Adelaide, but every effort is being made to get a substitute driver.

3. *This question was postponed.*

4. TRAFFIC

Accidents: Number, and Modified Vehicles

Mr. GRAHAM, to the Minister for Traffic:

(1) What was the number of traffic accidents recorded last year—
(a) metropolitan area;
(b) elsewhere?

(2) Of the numbers how many were attributed to the factor of the vehicles having been modified or altered from the manufacturers specification?

Mr. CRAIG replied:

(1) (a) 25,583.
(b) 3,758.

(2) No statistical records of this type are maintained.

5. CARAVAN PARKS

Metropolitan Area

Mr. BATEMAN, to the Minister representing the Minister for Local Government:

(1) How many caravan parks are now operating in the metropolitan area?

(2) Does he consider the number sufficient to cater for the needs of caravan travellers?

(3) What legislation currently exists for the control, location and number of caravan parks?

(4) Have any applications been received from owners of rural land for such land to be gazetted for caravan parks; if so, how many?

Mr. NALDER replied:

(1) Nine listed in near city areas with the Tourist Bureau.

(2) This is very difficult to answer without a complete review of all the present caravan parks; whether they are being utilised to capacity, whether they have room or proposals for extension, and to what extent caravan travellers will increase.

(3) The caravans and camps regulations made under the Health Act. Councils may make by-laws under the provisions of section 200 of the Local Government Act for control of caravan parks and regulating the use of land for the parking of caravans. Local Government Model By-law (Caravan Parks) No. 2 may be adapted by councils. The number of caravan parks in a municipal district could be regulated by a town planning scheme or zoning by-laws made by the council.

(4) This information is not available.

6. *This question was postponed.*