Solicitor-General will enhance his status before the courts and ensure the State is represented in the best possible manner.

Might I in conclusion pay my own personal tribute to the work of Mr. S. H. Good, Q.C. Very few know how much work he has put into his office. He was in an extraordinary position, having been with the Crown Law Department when it was a small organisation of about four until it contained some 40 professional officers. Perhaps my judgment in respect of Mr. Good is coloured a little because when he was an articled clerk I was an office boy in the firm in which he served his articles. I do not know whether that was of benefit to him or me!

However, he has always been conscientious, honourable, and highly regarded in the community. I had the great privilege of working very closely with him when some of our earlier major agreements were negotiated. Although he did not have to negotiate matters of principle, which are essentially the preserve of the Government, on matters of law he was of tremendous value and showed great realism in his attitude to the drafting and general concept of those agreements, the framework of which has stood us in extremely good stead.

I know all members would wish him well in his appointment and express appreciation of the foundation he has laid in this very important department. I commend the Bill to the House.

Debate adjourned, on motion by Mr. Bertram.

House adjourned at 4.27 p.m.

Legislative Council

Tuesday, the 29th April, 1969

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

QUESTIONS (3): ON NOTICE

BALLET WORKSHOP

Subsidy

1. The Hon. R. F. CLAUGHTON asked the Minister for Mines:

Further to my question of the 23rd April, 1969—

(a) what other conditions would the Ballet Workshop have to fulfil before being considered for a Government grant;

(b) is this the same set of conditions with which any cultural body would have to comply in order to be considered for Government assistance; and

(c) if not, what other conditions may be set?

The Hon. A. F. GRIFFITH replied:

(a) It would have to demonstrate a high standard of performance and the need for the Government to assist a second ballet group in this State.

(b) In general terms, yes.

(c) There could be other conditions depending on the circumstances of each individual application for assistance.

2. *This question was postponed.*

TEACHERS

Native Schools

3. The Hon. R. F. CLAUGHTON asked the Minister for Mines:

(1) How many teachers employed by the Education Department are attached to the special native schools?

(2) Of these teachers, would the Minister indicate their years of service as follows:—

(a) newly appointed 1969, from—
(i) teachers' college;
(ii) other sources;
(b) one year;
(c) two years;
(d) three years; and
(e) more than three years?

The Hon. A. F. GRIFFITH replied:

These schools are in no sense segregated schools as enrolment is not racially restricted, but because of the problems staff is specially selected.

(1) 49.

(2) (a) (i) 6
(ii) Nil.
(b) 4
(c) 7
(d) 3
(e) 29

49

CHIROPRACTORS ACT

Disallowance of Rules: Motion

Debate resumed, from the 24th April, on the following motion by The Hon. C. E. Griffiths:—

That Rules 10A, 10B and 10C made by the Chiropractors Registration Board under Section 18 of the Chiropractors Act, 1964, published in the *Government Gazette* on 12th November, 1968, and laid on the Table of the House on 25th March, 1969, be and are hereby disallowed.

THE HON. C. E. GRIFFITHS (South-East Metropolitan) [4.44 p.m.]: I wish to thank all those members who have made a contribution to this debate, and particularly those who have indicated that they intend to support the motion.

From the remarks made by several speakers in this debate it is obviously important that I repeat the opening words I used when I introduced the motion: that I want to make it abundantly clear that this motion is not intended to interfere with the smooth working of the Chiropractors Act; on the contrary, it is to ensure the continued effective operation of it. Secondly, that I do not intend any disrespect to the board or its members: only that in the case of many of these rules, I disagree with them. Thirdly, I wish to make it clear that I definitely do not disagree with all the rules and, indeed, wholeheartedly support some of them.

However, it is only because of the complicated way in which they are set out that I feel difficulty would be entailed in separating those with which I agree from those with which I disagree. Therefore I am suggesting that we carry this motion with a recommendation to the board that after liaison with all registered chiropractors the board frame a new and more acceptable set of rules.

This, I feel, will achieve what is the wish of all those members who have spoken in the debate on this motion; that the board and the registered chiropractors all work in harmony for the general benefit of the public and of the profession.

It is not my intention to deal with each speech in detail. However, I will endeavour to cover the major points made in the speeches opposed to the motion, after which I feel that those who have spoken against it will, in fact, feel quite justified in supporting it. Dr. Hislop did not indicate whether or not he would support the motion. However, I was pleased to hear him make mention of some of the commendable work done by and actions of chiropractors. He also said he was in favour of the Act being allowed to continue to work effectively; and I would suggest to him that by supporting this motion he will achieve just that.

Most, if not all, of the speakers in this debate said that they would not favour the prefix "Dr." before the name of a chiropractor, but that they would be agreeable to the use of the words "Doctor of Chiropractic, U.S.A." after the name of a chiropractor. This would be acceptable to me, but the particular rule forbids that and, in fact, states clearly that the only word that can be used with the name is "Chiropractor." I do not think the Minister or anyone else can simply say that the board will not be unreasonable with this rule. This rule is the law, and nobody has the right to say that anyone can break the law. The only way to achieve what members have said they desire is to disallow this particular rule, and to have another one framed.

Both Mr. Ron Thompson and Mr. Dolan took me to task for referring to chiropractic as a profession, but I do not believe that my use of this description has any bearing on the merits or otherwise of the rules. However, I must point out that the dictionaries certainly do not disagree with me. If it is felt that a person who has no degree or diploma should not be registered, and that his calling should not be classified as a profession, I would point to the dental profession which still has registered dentists who qualified by virtue of the grandfather clause in the Dentists Act.

Nobody could suggest that this should not be referred to as the dental profession. I repeat, however, that the use of the word, "profession" should not influence members when they decide upon the merits or otherwise of this motion.

Section 19 of the Medical Act was mentioned by Mr. Ron Thompson. Unfortunately, he was temporarily out of the Chamber last Tuesday when I read this section of the Act for the benefit of members. I said then, and I repeat now, that on the basis of what is contained in this section members should support my motion because that Act, which was passed by Parliament, provides for special exemption for chiropractors which these rules made by the board contradict.

Mr. Dolan said I had suggested that chiropractors should be allowed to go along for some years before we clamp down on unethical practices. At that time I said by interjection, and I repeat it now: I did not make any such statement. I did not say that chiropractors should be allowed to carry on for some time before we clamped down on them. What I did say was that this profession is still in its infancy as far as registration is concerned, and that the public is not fully aware of the fact that there are registered and qualified chiropractors. Nor are many people fully aware of what chiropractors do.

On this basis some of the rules which prevent the education of the public by means of certain publications should not be implemented so stringently at this point of time. Having reassured Mr. Dolan on that point, and the other points I have dealt with, I believe he will feel free to support the motion because our aims are identical.

In his reference to chiropractors Mr. Ron Thompson, compared them with opticians. This, of course, strengthens my argument as no such stringent rules apply to their particular calling, and Mr. Ron Thompson can now certainly feel justified in supporting the motion.

Mr. Claughton simply said there was no way for the board to know what was wanted if we disallowed these rules. I

repeat: all that is required is some liaison with registered chiropractors, and for the board members to read the debates which have taken place in this House on the motion.

I now turn to the remarks made by the Minister for Health who implies that Parliament should not intervene when boards make rules and those rules are not clear. That was notwithstanding the fact that my research has led me to discover that the Minister himself, as a private member a few years ago, successfully moved in this House for the disallowance of some rules or regulations because he felt they were not in the public interest. However in this instance, as a Minister, he has an entirely different point of view.

Firstly let me deal with the Minister's point that the major component in the work of a board is to protect the public. This is one of the main reasons for my moving the motion. I believe the rules, in part, are not in the best interests of the public. The Minister then went to some length to downgrade the qualifications obtained by people who qualify for registration by virtue of having obtained a degree in the colleges stipulated by the board.

I wish to point out to the House that chiropractors sit for the same basic science board examinations—that is, physiology, anatomy, and pathology—as do the medical and dental graduates in most of the States of the United States of America and in a number of Provinces in Canada. It is also interesting to note that the chiropractic course as recognised by the Act is a longer course than that taken by a person endeavouring to obtain a Bachelor of Medicine degree at the Western Australian University.

For the benefit of members I will briefly detail to the House some facts to substantiate this statement. Before I do that I would remind members that the Minister, by way of interjection last Tuesday, suggested that it was up to me to prove that these particular qualifications and degrees had any substance whatever. I replied that it was up to the Minister to prove that they did not have any substance.

By reference to the Stanford report I presume the Minister attempts to give this proof, and I will speak on that point later. I would point out that I have gone to a fair amount of trouble to get the following information. To give proof that I feel there is some similarity in the academic qualifications of medical practitioners and people who sit for this degree in the various colleges in the United States and Canada, as laid down in the Chiropractors Act, I will quote from the 1969 handbook of the Faculty of Medicine, University of Western Australia. The handbook I have mentioned gives a complete and comprehensive outline of the subjects, the hours, the number of classes, precisely what the subjects are, and what is involved, for the whole six-year course for any medical degree.

On the other hand, I have a copy of a similar handbook from the Palmer College of Chiropractic which sets out the subjects and hours of study that are necessary in that college to obtain the chiropractic degree to which I have previously referred. I also have here a handbook from the Lincoln College of Chiropractic, which similarly sets out the subjects and the hours of study necessary in order to obtain a degree from that college. I have only just received the book from the Lincoln College. I will refer to it but I have not had time to get a complete dossier as I have with the other handbooks.

It is very interesting indeed to look at the subjects, and I have a copy of the details if any member is interested in looking at them. Firstly, I will read out the details for the first year of the four-year course at the Palmer College of Chiropractic. It entails 1,200 hours of study, which includes lectures and practical work.

Incidentally, in the first year at this chiropractic college about 20-odd subjects are studied and in the first year at the Western Australian University four subjects are studied, one of which is mathematics. I have set out the details under the headings of lectures, laboratory hours, tutorial instruction, and clinical instruction. The total for the first year at the Western Australian University is 696 hours, as against 1,200 hours for this other course. The subjects covered in the medical degree are, with the exception of arithmetic, all covered in the first year of chiropractic.

The second year of the college of chiropractic course involves 1,000 hours, and there is a similar number of subjects—some 20-odd. The second year at the University of Western Australia involves 676 hours. I do not know whether one of the items mentioned here is a subject or a name. It is a very long word.

The third year at the college of chiropractic covers 1,080 hours, whereas the third year at the University of Western Australia covers 709½ hours. The fourth year—which is the concluding year—at the the college of chiropractic involves 1,200 hours; the fourth year in the Faculty of Medicine covers 353½ hours, the fifth year 504 hours, and the sixth year 177 hours. That makes a total of 3,116 hours for the Bachelor of Medicine degree at the University of Western Australia, compared with a total of 4,480 hours at the Palmer College of Chiropractic. Similarly, the total number of hours at the Lincoln College is 4,560.

I think this goes a long way towards proving the point I want to make: that at least chiropractors obtain comparable

academic qualifications. The Minister took exception when I suggested this previously. I am certainly not decrying a person who takes a Bachelor of Medicine degree at the University of Western Australia, or any other course that is taken. I am merely pointing out by way of a comparison that it is not unreasonable for me or any other honourable member in this Chamber to assume that a person who has graduated from any of the colleges which are laid down by the board, and who is qualified to be registered as a chiropractor, has qualifications which are at least reasonably comparable academically with other professions of a similar nature.

I received an extremely interesting list —it arrived with the catalogue from the Lincoln College—which sets out the educational requirements for a license as at the 1st March, 1968. I think it lists all of the States of America, and shows the requirements necessary for a person to qualify as a chiropractor. It goes on to give the professional education required and the type of examination. It is a long list and I will not weary the House by reading it; however, I simply want to indicate that facts are available if a person wishes to make it his business to get hold of them.

Incidentally, I also received a handbook from the Faculty of Dental Science, and the number of hours required for this course, as compared with other courses, is too small for me even to spend any time on it today.

The college of chiropractic has a four-year course, and there are nine months in each academic year; whereas the course at the Faculty of Medicine at the University of Western Australia takes six years, and there are only 27 weeks in each academic year, or so I understand. I point out these facts merely to indicate that those who pass the course in chiropractic should be entitled to make the public aware of their qualifications. However, the rules do not permit this.

This has been proved by the flat refusal of the board to allow reference to qualifications to be made in the telephone directory, or any other references to anything apart from the word "chiropractor." Speaking of the telephone directory reminds me of another point. Members no doubt noticed that the Minister refrained from mentioning this subject at all during his speech; notwithstanding the fact that he made great play of it when I spoke last Tuesday.

Of course, the Minister ascertained in the meantime, that he, and not I, misinterpreted the rules. My interpretation, as I previously mentioned, was backed by two letters from the board emphatically forbidding the use of the pink pages, even in the manner in which chemists and general practitioners use them. I would have thought the Minister would have endeavoured at least to vindicate the interjection he made whilst I was speaking; but he said not one word. So I, and the House, can only take this to mean that the board intends stringently to impose this rule. I repeat: Members should support my motion on this ground alone if they want the Act to work in the best interests of the public.

The next point made by the Minister in attempting to suggest that the academic qualifications of a chiropractor who holds one of the degrees required by the board are not particularly high, was his reference to the report by the Stanford Research Institute, published by the Haynes Foundation. I understand that a report has been made—unfortunately, I have not had time to procure it—but I believe it indicates that the reliability and validity of the findings in the Stanford report are not acceptable, due to too small a sample, and for many other reasons.

It is easy to quote from a report compiled in America for reasons unknown to us, and by people unknown to us, and which reaches conclusions which at this time cannot be substantiated; and, of course, it suits the Minister's argument at this stage to have us believe there is no shadow of doubt about its accuracy. This reminds me of a report to which I referred last year, which can be substantiated, and which was carried out by people we do know, for reasons we know about, and they arrived at conclusions that could not be doubted. Yet, because it did not suit the purpose of those concerned, not one skerrick of notice has been taken of it. I refer, of course, to the report compiled by the Brotherhood of St. Laurence in Victoria on the ill effects of high density living on our families. However, the American report is a different kettle of fish; we have to take absolute notice of it.

So I suggest that although the Minister said he has not seen a school of chiropractic, and that he based his remarks on the Stanford report, we who wish justice to prevail need something more concrete before we can be expected to accept rules as stringent as these.

Whilst I have already dealt with the objection to the use of the prefix "Dr." before chiropractors' names, and said that what the chiropractors want is the right to use the words, "Doctor of Chiropractic" after their names, it is interesting to look again at what the Minister had to say about this. I quote from his speech—

> If chiropractors are so anxious to use the title "Dr." they should, of course, accept gladly regulations based on the code of ethics which governs medical practitioners.

What the Minister suggested is that chiropractors cannot use the title "Dr.," but they must gladly accept regulations which are far more stringent than the code of ethics to which he refers.

These chiropractors have already informed the Minister and the board that they welcome a degree of control; but surely not one more stringent than the control exercised over other similar professions in the healing arts. Also, for the information of the House, I understand that the New Zealand Chiropractic Board is still functioning efficiently, as are many others throughout the world; for instance, in the United States of America, Canada, and Switzerland. Those are three countries which come to mind.

The remark made by the Minister referring to the disenchantment of academics regarding chiropractic is clearly explained in the Royal Commission report which states most emphatically that a number of medical doctors had adverse opinions with regard to chiropractic, but they seemed to have little knowledge of the theory of chiropractic, or what chiropractors do. Other academics would be less likely to know more about chiropractic than an M.D.

Mention was made of a split in the ranks of the chiropractors. I simply say that this was the situation before the Act came into force, but it is not the case today. Some mention was made also of the members of the Western Australian Branch of the Australian Chiropractors' Association gaining some imaginary advantage over other chiropractors. If this was the case, would they invite other chiropractors to attend their local educational seminars? In fact, I understand that at the last seminar arranged by the A.C.A., most of the chiropractors who were registered under section 20 (2) of the Act attended. This does not sound like a situation which would exist if there was a split, and one section was trying to gain an advantage over another section.

What is wanted is the right to let the public know what qualifications, if any, a person has. Nobody has ever suggested that a medical practitioner should not place his qualifications after his name, such as, M.D., M.B., F.R.C.S., or F.R.C.P. Are we to believe that a doctor who uses such letters or qualifications after his name is endeavouring to gain an unfair advantage over his colleagues? I think not.

Finally—as far as the Minister's speech is concerned—the Minister said that all my arguments to date had been based on guesswork. Excluding other arguments which I have put forward, the main points I made were all substantiated by letters which I read to the House from the board to the members of the A.C.A., in answer to questions asked by members about these rules. The questions were precise, and the answers were definite. There certainly was no guesswork on my part.

The Minister did not cover to any great degree the restriction applying to radio or television appearances. However, he did confirm that it was not necessary for the board to meet more frequently than once every three months—or, he could understand why its members did not wish to do so. As I said before, that makes this rule far more stringent than any applying to the other similar healing professions, because if a controversy arises concerning chiropractic, surely a registered chiropractor has the right to make his point of view known if he is asked to do so. If permission has to be given by the board, in most cases this would be far too late.

Finally, may I suggest that if these rules are disallowed and the board, acting as reasonable men after liaison with all registered chiropractors, frames a new set of rules which are acceptable to all and in the interests of the public, justice will have prevailed. I therefore commend the motion to the House.

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

Ayes—6

Hon. C. R. Abbey	Hon. H. C. Strickland
Hon. C. E. Griffiths	Hon. J. M. Thomson
Hon. R. F. Hutchison	Hon. F. J. S. Wise
	(Teller)

Noes—20

Hon. N. E. Baxter	Hon. L. A. Logan
Hon. G. W. Berry	Hon. G. C. MacKinnon
Hon. G. E. D. Brand	Hon. N. McNeill
Hon. R. F. Claughton	Hon. I. G. Medcalf
Hon. J. Dolan	Hon. T. O. Perry
Hon. V. J. Ferry	Hon. R. Thompson
Hon. J. J. Garrigan	Hon. F. R. White
Hon. A. F. Griffith	Hon. W. F. Willesee
Hon. J. G. Hislop	Hon. F. D. Willmott
Hon. E. C. House	Hon R. H. C. Stubbs
	(Teller)

Pair

Aye	No
Hon. F. R. H. Lavery	Hon. J. Heitman

Question thus negatived.

Motion defeated.

AIR NAVIGATION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 24th April.

THE HON. R. F. CLAUGHTON (North Metropolitan) [5.19 p.m.]: The Acts affected by this amendment deal with the division of responsibility between the Commonwealth and the State. The Air Navigation Act, section 8 of which is to be amended by clause 2 of the Bill, transfers the powers of the State to regulate air navigation to the Commonwealth, and the Road and Air Transport Commission Act reaffirms, in division 4 part III, the State's power to grant a license within the State. Section 8 of the Act which is to be amended by the Bill before us reads—

> The provisions of this Act shall not affect in any way, and shall be deemed not to have affected in any way the operation of sections forty-five, forty-six, and forty-seven of the State Transport Co-ordination Act, 1933-1940.

The State Transport Co-ordination Act, 1933-1940, has now been repealed and its provisions are no longer in force. As a result of the amendment in the Bill, section 8 will read—

> The provisions of this Act shall not affect in any way, and shall be deemed not to have affected in any way the operation of Division 4 of Part III of the Road and Air Transport Commission Act, 1966.

There is very little else that can be said on the Bill. It is a simple machinery measure and I support the second reading.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Health), and passed.

POLICE ACT AMENDMENT BILL, 1969

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; the Hon. A. F. Griffith (Minister for Mines) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Amendment to section 16—

The Hon. A. F. GRIFFITH: When I replied to the second reading debate I made some comment about the question raised by Mr. Willesee with respect to the principle of onus of proof. I undertook to have a further look at the matter to see whether I could ascertain for the benefit of the Committee what would take place on a complaint being made against a person charged with impersonating a policeman. The information I have on this point is as follows:—

> A complaint for an offence of impersonating a member of the Police Force made pursuant to s. 16 of the Police Act would have to:
>
> (a) state the date of the alleged offence;
>
> (b) state the name of the defendant;
>
> (c) state that on the date referred to the person named as a defendant was not a member of the Police Force; and
>
> (d) state that on the date referred to the person named as a defendant did impersonate a member of the Police Force.
>
> The particulars in (c) above are clearly within the defendant's own knowledge. The proposed subsection (2) would relieve the Police of the expensive and time consuming procedure of proving a negative; but would leave the defendant the opportunity of proving the positive, if it were true, that he was a member of the Police Force.
>
> The proposed subsection (2) would not relieve the Police of the necessity of proving by proper evidence the particulars referred to in (d) above.
>
> It would seem unlikely that a person who is in fact a policeman but is being questioned about an alleged offence of impersonating a policeman would not be able to refer his questioner to some senior officer of Police who would verify that the person being questioned was a policeman; and, of course, the matter would not reach a court.

I think this is a pretty simple explanation. If the man concerned were a policeman he would certainly go out of his way to prove this fact to the satisfaction of whoever was questioning him—and this would probably be another policeman. I presume he would have with him his identification papers. The information I have continues—

> The proposed subsection (2) does not intend that, apart from the complaint, a written submission would be placed before a magistrate stating that the defendant was not a member of the Police Force; however, it is hardly necessary to impose such a burden on the Police of further written verification of a negative proposition when the opportunity clearly remains for the defendant to prove positively that he was a policeman. It is anticipated that in the unlikely event of the case of a real policeman actually coming before a court on a complaint of impersonation the opportunity would be taken immediately proceedings commenced to prove that he was a policeman; and the case would not proceed to proof of the particulars in (d).

As I have informed members, paragraph (d) refers to the fact that on the day in question the person named as the defendant did impersonate a member of the Police Force. The same comments apply to section 16A(2).

As I have already said, as a principle I am not in favour of the onus of proof being placed on a defendant. But this is surely a case of a man very simply being able to extricate himself from a position in which he might be questioned in relation to his *bona fides* on an assertion that he is not in fact a policeman.

He could find somebody quickly to prove he was; and, apart from the identification which he would make known in these circumstances, it would obviate the necessity for the police to send a senior officer

to, perhaps, a far-distant place to prove the man was not a member of the Police Force. This would prevent the situation that occurred in the case referred to by Mr. Willesee where, in fact, there was no case to answer. That plea was put forward by the defendant and the charge was dismissed. I hope the explanation I have given is satisfactory to the Committee.

The Hon. W. F. WILLESEE: I thank the Minister for his reply to me, although what he said was not completely clear. I want it to be clear in simple terms that in the case of a man charged with impersonating a policeman, as a result of averment by a letter from a senior official saying that so-and-so is not a policeman, the matter will rest at that stage and the case will be treated on its merits and the charge will have to be proved.

I agree that members of the Police Force are well known in country circles and have badges and other paraphernalia with which to identify themselves. If a man is not a policeman, the act of proving he is not could prejudice the basis of the onus of proof, because he starts off at a disadvantage. If that is the case, there is some doubt in my mind about this clause in the legislation. I understand the proposal—I understand its simplicity; and I understand its desire for speed and the saving of costs—but it could prejudice the case.

The Hon. A. F. GRIFFITH: I cannot go very much further except to repeat that in the case I referred to, no evidence was led that the man accused of the impersonation of a policeman was not a member of the Police Force, so the accused submitted there was no case to answer. In practice, I think the court would obtain some information. Possibly it would be by a letter; but the other night Mr. Willesee said that if this Bill meant a letter was going to be written, he would be satisfied. That is not the case, as there is no such provision in the Bill. It may well be that a letter will be written and the magistrate will become aware of the situation.

Nevertheless, the complaint would state that on the date referred to, the person named as the defendant had impersonated a member of the Police Force; and the particulars of the impersonation would be led in evidence. Therefore it would not be a matter of a *prima facie* case against the fellow merely because a senior police officer wrote a letter stating that so-and-so was not a member of the Police Force on that day. The police would lead evidence concerning the impersonation.

The important point is that if a man is a policeman and he is brought before a court for impersonating a policeman, he will have no difficulty in proving he is a *bona fide* policeman. On the other hand, if a fellow sets out to impersonate a policeman, knowing that he is not a policeman, it is reasonable that the onus of proof should be on that man.

The Hon. W. F. Willesee: That is the point; there the situation stops.

The Hon. A. F. GRIFFITH: The police would lead evidence surrounding the circumstances of the impersonation and the charge.

The Hon. W. F. Willesee: The rest of it is then a separate issue entirely. Having cleared this point, you then go on with what you might term the material part of the case.

The Hon. A. F. GRIFFITH: We must bear in mind that at that point, information has been laid that this person is not a policeman. However, if information is given to the effect that a person is a policeman, the Police Force could immediately check. A person would finish up in court only when a *bona fide* case was made against him.

Clause put and passed.

Clauses 5 to 9 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

TRANSFER OF LAND ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 23rd April.

THE HON. J. DOLAN (South-East Metropolitan) [5.41 p.m.]: I have gone carefully through the various amendments proposed in this Bill and can find nothing in them that would cause me to withhold my support of them. It is confidently expected that arising out of these amendments it will be possible to introduce a new system for the registration of various documents at the Land Titles Office.

I felt that the Minister could, in his speech, have gone further and given more information to let the House know just what a terrific increase in volume there has been in the handling of documents at the Land Titles Office.

The Hon. A. F. Griffith: Yes, I could have.

The Hon. J. DOLAN: I will fill in the breach.

The Hon. A. F. Griffith: Thank you.

The Hon. J. DOLAN: I notice in the 92nd annual report of the Office of Titles for the year ended the 30th June, 1968,

there were a total of 114,214 documents accepted for registration, being an increase of approximately 12 per cent. on the number accepted the previous year. This represents a daily average of 463 documents. As an increase has been experienced year after year over a number of years, one can see what a terrific volume of business is being performed at that office. I think it would be appropriate at this stage to express appreciation of the work being done by the Registrar of Titles and his staff in coping with such a large volume of work.

As I said before, under these amendments, a new system will be introduced which will streamline the handling of documents and consequenttly will enable the staff to cope with the large volume of business which has to be dealt with.

The Government initiated a survey by appointing a firm of consultants to examine the procedures in the office to see what could be done to overcome existing difficulties and it recommended that amendments of this nature should be brought down in order to make it possible to introduce a new system in the office. It is for that purpose that the amendments are before us. The measure in no way affects the security of documents, and from that point of view there could be very few complaints.

The Public Service Commissioner's Office came into the survey carried out by the consultants, who used its organisation and methods section, which is involved in the design of the new system, and which I feel is all to the good.

Perhaps the only thing I am a little doubtful about is the reference to the fact that because of shortage of space, and so on, the change of system is necessary if the work is to be contained until additional accommodation is available. If this system is as successful as we hope it will be, I would not like to see it changed simply because an abundance of accommodation becomes available. If the new system works well and cuts away a lot of deadwood from the operation of the Act, it should continue to function in any circumstances. I am satisfied the amendments will serve a very good purpose and I support the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

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

STRATA TITLES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 23rd April.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [5.46 p.m.]: At the beginning of the current period of the session I asked the Minister whether or not he was considering introducing amending legislation in this period in connection with strata titles so that people who had been inconvenienced in respect of strata titles would be able to obtain them. I asked the question in an attempt to overcome a difficulty which had arisen as a result of the amendment to the uniform building by-laws early in March, 1966, coupled with the fact that assent to the strata titles legislation was not given until October, 1966. Many applications had been submitted previous to the by-laws being amended and, under the old laws, a local authority could not issue applicants with the necessary certificate. In addition, single units were involved. An amendment was necessary to overcome the difficulties associated with home unit strata titles and, consequently, the present Bill is before the House.

The measure under discussion goes further than the question, as I have stated it. In addition, section 4 of the principal Act is now being amended along the lines of section 166 of the Transfer of Land Act to have effect on lease and mortgage land. Provision has been made to overcome the difficulties which have been prevalent until now because of the peculiar set of circumstances which applied. Most of the provisions of the Bill deal with this problem.

Reference is made to the transfer of lease, mortgage, and so on, and this will need to be approved or ratified by both the Town Planning Board and the local authority when the period involved is over 10 years. Members of this House heard some echoes of that last week.

I would think that clauses 1 to 7 of the Bill are desirable and necessary if the problem which currently exists in connection with strata titles is to be overcome. However, clause 8 proposes amendments to section 20 of the principal Act, and there seem to be some rather stringent appeal provisions included in this clause.

I would mention, however, that one part of clause 8 appeals to me very much in that its application will tend to force an expeditious reply to an applicant for a transfer when the application is placed before an authority, whether it be the local authority or the town planning authority. If there is no result, a direct approach for action can be made to the Minister. This procedure can be adopted in the case of a direct refusal, and I agree that the Minister should have the right to enforce some action.

However, I do have grave doubts in the case of an appeal coupled with the right of appeal. It is in this respect that I wonder how far we are going; because, under this amending legislation, the Minister for Local Government is being given the right completely to override the Local Government Act. Again, we give the Minister for Town Planning—it does not matter whether it is the same person or another person—the right, under the Town Planning and Development Act, to override the decision of the Town Planning Board. The Minister's decision will have complete effect. This will mean that if the certificate attached to an application has the Minister's endorsement, it will have the same effect exactly as if it had been stamped with the approval of the town planning authority or a local government authority. Therefore, it is an overriding factor and it would be equivalent to the authority concerned giving its approval, although in the set of circumstances the authority may not have given its approval.

I support the idea of right of appeal, but I wonder where we are going if we continue to load Ministers with work connected with appeals. Should a Minister be burdened with a number of appeals to which there is a considerable responsibility attached? Should we introduce this kind of thing into the Strata Titles Act, quite apart from the Local Government Act?

I would be inclined to think that if there is a necessity to appeal under the strata titles system, it would be a major operation, because obviously the situation could be very involved.

With respect to local government as it is referred to in the Bill, I consider that many of the obvious difficulties which apply under the uniform building by-laws could be covered by a more lenient regulation whereby those in authority could have some discretionary power. I am not suggesting that they should necessarily have absolute discretionary power, but a regulation could be framed to the effect that they could submit a case over their signature to an appropriate authority, which could be the Minister. In effect, that is what was done in connection with the uniform building by-laws prior to 1966. The local authority, through its executive officers, had the right to make a recommendation.

It is noteworthy to remark that provision is made in the measure to the effect that the Town Planning Board will not be responsible for the examination of plans. Instead, that department places this responsibility squarely on the shoulders of the local authority thereby admitting that, in the view of the Town Planning Board, it is competent for local authority officers to make these judgments.

If these men are competent to pass judgment when assessing the basis of a building which comes under the strata titles legislation, then it follows, in my opinion, that they should be given some discretionary power. They should be given this power with respect to giving or taking an inch or a foot on a building, on the measurement of a ceiling, or on a similar form of error which could be called human error and which creeps into the construction of buildings in many places. These errors would not occur with all of the buildings and, if a certain builder continued to make mistakes, the course of action would be obvious. However, when a human error is involved I think we should write a provision into the law—in this case the Town Planning and Development Act and the Local Government Act—that executive officers, because of their special skills, should have the right to suggest a discretionary factor. To my mind this is necessary because it has become such a major subject and because if it were done, it would relieve the Minister of great responsibility.

I am sure it is unnecessary for me to say this, but I stress that I take nothing from any Minister, and particularly from our present Minister, through the remarks I am making. However, I cannot see that it is the right thing to build up a system of direct appeals to the Minister, thereby loading upon him the entire responsibility for the minor case as well as the major one. There are now many appeals annually; indeed the figure is very high. I ask the question: Is this the duty, basically, of a Minister of the Crown in the administration of his office?

There has to be some right of appeal, and it has been believed in the past that a direct approach to the Minister is a cheap method of appeal. I have no grouch against that aspect. However, the State is growing and the Town Planning Board and the Local Government Department are the two most important departments associated with all the avenues of land growth in the State. Not only in the metropolitan area, but throughout the State, there is a tremendous impetus in land development and, indeed, building structures have an application to the concept of development, both in the metropolitan area and in country areas.

Consequently, a Minister who considered appeals in his own right, say, 10, 12, or 15 years ago probably found it was quite easy to do and did not interfere with the duties of his portfolio. Today, however, a Minister must find that the question of appeals bears a disproportionate responsibility to the responsibility associated with his office. Consequently, I think there is room for an in-between deliberation on the question of appeals.

To my mind we should widen the powers in connection with the administration and local government to the effect that the executive officers have the right of recommendation over the provisions of a by-law. After all, a by-law is only a minor law which is associated with a major law. If this is not done, the Minister might be faced with appeals daily. When, however, major problems occur, which involve technical men who disagree with one another —and, indeed, lawyers are sometimes brought into the issue—then I consider there should be some composite body which could sit for whatever period of time might be necessary. The members of this body could make whatever inspections were necessary and thereby relieve the Minister of much detail and responsibility, and the necessity to get all the technical knowledge which he must seek from others.

So I think we could write into this type of legislation—and the same applies to legislation covering local government and town planning—provision for a better system as regards appeals and, basically, that must result in the use of the tribunal system.

THE HON. I. G. MEDCALF (Metropolitan) [6.1 p.m.]: This is an important Bill because it clarifies a number of doubts which have existed since the Strata Titles Act was passed in 1966. The measure resolves some of those doubts, and it adds quite a bit to clarifying various aspects, particularly the appeal aspect and other provisions in the parent Act. Unfortunately, the Bill does not clarify all of the matters in doubt, and I suppose it would be impossible to expect that all matters which come up within a year or two of a new Act—one which is completely new and breaks new ground, such as the Strata Titles Act did—coming into operation could be resolved in such a short period of time.

We must admit that no matter how ingenious the activities of the draftsman may be, it is inevitable that there will be problems associated with new legislation. Our Strata Titles Act largely followed the Act of New South Wales, but even in that State people were faced with many problems, and they are still having their troubles. Unfortunately, we have inherited some of the difficulties, particularly with the insurance provisions in the Act.

The Bill before us seeks to cure some of the ills which have been discovered under the present strata titles set-up. The Minister drew attention to these in his opening remarks, as did Mr. Willesee when he spoke to the second reading.

I should like to refer to four particular matters and, firstly, I refer to clause 3 which amends section 3 of the principal Act. This clause supplies a new portion to the definition of "strata plan." Previously "strata plan" referred to a building with a horizontal strata, and the word "horizontal" was used. The new definition excludes the word "horizontal" and states that, among other things, a strata plan—

> (b) shows the whole or any part of the land comprised therein as being divided into two or more lots; .

There will be no reference to the word "horizontal" in the definition. We are now able to visualise that strata titles will be available where buildings are on the one plane, but not necessarily buildings elevated one above the other.

This is a big advance because there has been a delay in strata titles for town lots and various other buildings in the metropolitan area in the last two years; and it is hoped that this new definition will enable the problems to be resolved and the people concerned to get strata titles.

Difficulties are also associated with arranging for a strata title in respect of parking facilities. Parking facilities usually come within the common property; that is, not within the strata lot itself but within the common property—the property that belongs to all the owners who form the corporate body. It is hoped that with the new definition it may be possible to provide in the strata lots parking bays or garages which are on the same level as some of the other buildings, or even on a different level.

Whether this will be so or not remains to be seen because the local authorities may decide, on other grounds, that the buildings are not of a sufficient standard.

Clause 5 has the effect of greatly easing the task of people who apply for approval of a strata plan because it reduces the number of approvals required. The approval of the Town Planning Board will no longer be required. The Town Planning Board will bow out of having to give its approval to the strata plan.

The Hon. A. F. Griffith: Other than for the subdivision of the land.

The Hon. I. G. MEDCALF: The clause applies only to the approval for a strata plan, and the new procedure will cut down many administrative difficulties. Much time has been wasted by the present procedure and the board has decided that it does not want to waste any more time, or the time of the public, and as a result clause 5 is in the Bill.

In addition, the local authority's approval has been greatly abridged. Previously local authorities had to certify as to the compliance with the building by-laws. Under the Bill the authority will simply have to certify that in its opinion

the building is of a sufficient standard to be divided into lots pursuant to the Act. There will be nothing about by-laws in that part of the legislation.

This is really a tremendous advance because it will give quite a degree of flexibility to the local authorities. It means that Parliament is trusting the local authorities and saying to them, "We are not going to tie you down to very rigid and strict by-laws. We will give you a certain amount of flexibility and you can certify that in your opinion the building is of a sufficient standard to be divided into lots." As I said, it is a tremendous advance and I think it is a very good provision.

Section 10 of the principal Act is amended by clause 6 of the Bill, and this clause requires that in transactions such as a transfer or mortgage of the common property, or a lease or license, or a lease and license for 10 years—this amendment is similar to one we had in legislation we discussed last week—the approval of the local authority and the Town Planning Board is required. This is something new.

Sitting suspended from 6.8 to 7.30 p.m.

The Hon. I. G. MEDCALF: Before the tea suspension I was dealing with the clause in the Bill which seeks to amend section 10 of the Act. As I said, this refers to a transfer or mortgage, lease, or license for 10 years of common property. I am sure it is unnecessary to remind members that common property consists of the lifts, stairways, light wells, other parts of the building, and the land, which are not included in the particular titles known as strata titles.

Curiously enough, this common property is sometimes dealt with by the owners of the common property who are the various tenants or title holders of the strata lots. They own the common property, as tenants in common, in accordance with their various entitlements to the strata lots. Prior to the introduction of this Bill, that is, as the law now stands, these tenants—I use the word "tenants" in a technical sense—who are tenants in common of the common property may, by unanimous resolution, agree to a transfer of their own property.

It is perhaps difficult to conceive in what circumstances these owners would want to transfer their common property to an outsider, but no doubt there are circumstances in which they may wish to transfer common property, and there are certain circumstances in which they may wish to mortgage common property, because clearly, if funds were lent to them in respect of advances relating to the common property, or relating to their joint interests as distinct from their separate interests in the strata lots, anyone lending money to them would definitely want security or a mortgage over the common property.

Therefore one can quite easily see why they would want to mortgage the common property, but perhaps one could not as easily see why they would want to transfer it. One might easily see why they would want to lease the common property, because one of the difficulties with the Strata Titles Act is the inclusion of a garage as part of a strata lot, and the principal way of overcoming this difficulty is for the owners of the common property to grant a lease to one or other of themselves over, say, a parking bay or garage so that they lease it and that arrangement becomes part of the deal but is not shown on the strata lot.

Under the Bill all transfers, leases, and licenses of 10 years' duration, and mortgages, not only must be adopted unanimously by all the owners of the common property, as at present, but, in addition, the approval of both the local authority and the Town Planning Board is required to each transfer, lease, license, or mortgage. I am not altogther convinced that this is absolutely necessary. Technically speaking, I can see it is desirable for the Town Planning Board to have some control over this arrangement, which is the arrangement which exists at the moment under the Town Planning and Development Act. It is necessary at the moment, under the Town Planning and Development Act, for the board to give its approval to a transfer or lease for 10 years—that is, on an ordinary title, one might say—of a part lot. So, technically speaking, it seems desirable that the Town Planning Board should give its approval to transfer of a lease or license of the common property.

However, I feel that the number of occasions when the board would be asked to give its consent would be fairly limited except in the case of leases and mortgages. I could imagine that, with leases and mortgages, there would be a number of occasions when the board would be asked to give its consent for the reasons I have mentioned, but rarely would it be asked to give its consent to a transfer. One might well ask: Is this really a necessary power? I suppose, technically speaking, it is, but I think we must endeavour, as far as possible, not to add to the burden of the Town Planning Board. Already there are considerable administrative burdens on the Town Planning Board and on the local authorities, and I consider that these should not be added to without careful thought, because if we are not careful, we are by this Bill showing a tendency to clutter up the administration of the Town Planning Board and the local authorities, and I am just wondering whether that will prove to be altogether necessary.

I certainly wonder if it is necessary to obtain the consent of the Town Planning Board and the local authority for a mortgage of the common property, because this

is a perfectly routine transaction where the owners are borrowing money on the strength of their common ownership of certain assets.

The Hon. F. J. S. Wise: This is really a private matter.

The Hon. I. G. MEDCALF: I cannot see that the requirement for approval for a mortgage exists there, because it does not exist under section 20 of the Town Planning and Development Act. Nobody has suggested that one should ask the Town Planning Board for its approval to a mortgage under this section, which requires approval for transfer leases and licenses, but does not refer to mortgages. I am just wondering if we are unnecessarily adding to the burden of these overburdened areas of administration; namely, the Town Planning Board and the local authority. Why is it necessary to have the consent of both; that is, the local authority and the Town Planning Board? One would have thought that the board might have been sufficient because, after all is said and done, it is in a position to obtain the view of the local authority as it is under the Town Planning and Development Act, but it does not necessarily have to follow that view.

I would suggest that perhaps this is where one should pause and look carefully at the proposals and ask: Is this really necessary, or are we simply adding to the administrative burden without achieving any special result? As I have said, I can see that a technical requirement for approvals probably exists, but I wonder whether, after taking a longer look, we should bother about that and ask ourselves if we are not taking this too far. The fourth matter in the Bill upon which I wish to comment—

The Hon. A. F. Griffith: Before you leave that, is this of such importance that I should hold the Bill up tonight to make some further inquiries about it?

The Hon. I. G. MEDCALF: I feel it is. I was not going to suggest that, but I consider it would be in the public interest if the Minister would care to have a look at the suggestion I have made.

The Hon. A. F. Griffith: I would not care to do that, because the Bill has to go to the Legislative Assembly. I could have inquiries made and the answer given in that place rather than delay the Bill.

The Hon. I. G. MEDCALF: I do not propose to make an issue of it. I have merely made a suggestion, because I believe it is important; otherwise I would not have mentioned it. I am not at all convinced that we are adding to the facility of the law in this part of the Bill. I think, perhaps, we are cluttering it up without intending to.

The fourth point has to do with appeals. Section 20 of the principal Act already contains a similar method of appeal to that contained in the Bill. By that I mean that, basically, the appeal provision relating to appeals to the Minister is already in the Act.

Upon refusal of consent by a local authority or the Town Planning Board to issue a certificate, under section 20 a party may at present appeal to the Minister for Town Planning. The effect of this Bill is that we will waive the requirements to obtain a certificate from the Town Planning Board or a local authority in respect of a strata plan. As I have said, that is a very good thing, because it will cut out some of the administrative overburden. However, we have added the requirement that where there is a transfer mortgage or lease of the common property, the local authority and the Town Planning Board must approve, and section 20 of the Act now provides that in the event of the refusal of approval to one of these transactions affecting the common property, there still remains this right of appeal to the Minister.

The right of appeal is changed slightly—I know there are various details which have changed—but as I see it the main detail is that if one is appealing against a decision of the local authority, one now appeals to the Minister for Local Government instead of the Minister for Town Planning. That is a distinct improvement.

I regret the opportunity has not been taken to grapple with two other matters of some significance affecting strata titles. I do not know that these matters have been brought to the attention of the Government, but I hope that on some future occasion the Minister will give consideration to these matters to which, if you will forgive me, Sir, I will refer briefly.

The first one is the possibility of having provisional certificates for the issue of a strata plan, to be issued when the original plans are submitted, so that without waiting for the completion of the building, a provisional certificate can be issued at the outset. This would be similar to a provisional certificate which is issued for a hotel license when a person is applying to build a hotel. In the case of a strata title a person will then know in advance that if he commits himself to an outlay of money, mortgages, and so on, then at the completion of the project, provided he does everything he has promised, he will be issued with a final certificate under the Strata Titles Act. But there is no provision for a provisional certificate.

It adds greatly to the administrative problems of people who are erecting strata premises, because they have no certainty whatever that they will get strata titles. They have to wait until the completion of

the entire project, and the furnishing of the various certificates to the Commissioner of Titles before the strata plan is registered, and before they can obtain the strata titles for the various owners.

This has two effects. It adds to the uncertainty of the entire matter, and makes it far more difficult for both the developers who are building the strata premises and for the prospective owners of the lots. It makes it far more difficult and uncertain so far as commitments are concerned. Purchasers have to sign contracts, and these things cannot be done on the blind. Somebody has to sew up the project, so to speak. This does introduce all sorts of problems when strata lots are being sold, in that those concerned will not know whether they will have the strata plan registered, perhaps for technical reasons, until the completion of the project. That is one good reason for the issue of provisional certificates.

Secondly the present practice substantially increases the cost, because clearly, unless the developer can sell the titles effectively at the outset of the building project, or get in a large portion of the money, he has to borrow and his overheads are increased greatly. Therefore the total cost of the project and the total cost of the units to the ultimate buyers is increased, because the developer has to borrow the money and pay interest on it in the meantime. The amount of money required is often very considerable. These are two very good reasons for suggesting that provisional certificates should be available.

The Hon. L. A. Logan: Would there not be some danger? If the developer can raise money provisionally, and he has no control over the builder who might go haywire, he might not get the certificates eventually.

The Hon. I. G. MEDCALF: That could be said about hotels.

The Hon. L. A. Logan: They know what they are doing in the case of hotels.

The Hon. I. G. MEDCALF: There are people who would be more prepared to lend money on strata projects on the strength of provisional certificates. The second matter, which is a rather curious one, is what happens if one strata owner does not pay his rates? As soon as a person gets a strata title he becomes liable for rates, just as the owner of a suburban block of land is liable for rates to the local authority. If the strata owner does not pay the rates there is provision in the Act that the company which comprises all the other owners of the strata premises has to pay those rates. The corporate body, which is really all the owners of the strata premises combined, is the one to which the municipal authority looks for the payment of rates.

This is rather like having 10 houses in a street, and one of the 10 owners does not pay his rates. The other nine owners would be very cross if they were asked to pay the rates of the defaulting owner.

The Hon. A. F. Griffith: That is not a very good analogy.

The Hon. I. G. MEDCALF: It is a rather good analogy, because these people are supposed to have independent titles.

The Hon. A. F. Griffith: Independent titles in respect of the same area of land?

The Hon. I. G. MEDCALF: No, independent titles in respect of their own separate areas. They have green titles, or titles to the whole undivided interests in their respective areas.

The Hon. A. F. Griffith: That area of space, but not that area of land.

The Hon. I. G. MEDCALF: It is the same; it is an area of the building. These people have independent titles. If it is good enough for them to have independent titles there ought to be some other method of taking action against those who do not pay their rates. I merely suggest the Government might care to look at that aspect and ascertain whether there are anomalies in that direction so that they can be dealt with on the next occasion it is necessary to amend the Act.

Generally I think I have indicated that I firmly support this Bill. I consider that it is definitely a very wholesome measure because it is, in my view, seeking to transfer a lot of the discretion to the local authority. I believe this is an important step. It will transfer this discretion to the local authority and will cut out some of the formalism which now exists, due to the necessity to comply with the uniform building by-laws. For that, and for the other reasons I support the Bill.

THE HON. J. DOLAN (South-East Metropolitan) [7.50 p.m.]: I have only a few comments to make on this measure. I have purely an impersonal interest in it, because I can see another angle to it. I recall that in the first period of this session of Parliament I asked some questions relating to the payment of stamp duty, as between strata title units and company home units. Based on a unit value of $10,000, on the original purchase the strata title purchaser pays $125 in stamp duty; while the company home unit purchaser on the first occasion pays nothing, but on the first transfer the company owner of the home units charges $40 and there is another $125 on the strata title. So on the original purchase of the unit and on one transfer of it the Government is missing out on approximately $250. From that point of view alone I was interested in more strata titles being issued, and I think the Treasurer would be particularly interested.

Mr. Medcalf pointed out that considerable difficulties were experienced in New South Wales in respect of strata titles, and that the legislation of that State was the source of our legislation. By that I mean we took the legislation of New South Wales as some kind of model. Since the legislation was introduced in New South Wales I can safely say that from inquiries I made on other occasions a big percentage of the home units in that State today have strata titles. These have become very popular. Like all new legislation, New South Wales has experienced teething troubles with it, but many of these have been ironed out.

I have met quite a number of people who came from New South Wales but who now live in Western Australia. They have had a great deal of experience with strata titles and they were amazed that these were so difficult to obtain in Western Australia. I believe there were only three blocks of these units in Western Australia, but now the number is growing. If one were to read the advertisements in this morning's newspaper one would find only one strata title home unit advertised; but if one picked up *The Sydney Morning Herald*, particularly a Saturday edition, one would find the strata title home units being advertised for sale and divided into sections—northern, western and southern suburbs. In New South Wales one can find hundreds and hundreds of them being advertised. The base cost of such a unit in New South Wales is considerably less than the cost of one over here, but they are not confined to only poor suburbs of Sydney. One will find strata title units in suburbs like Elizabeth Bay, Rose Bay, and others.

I am pleased to see a Bill of this nature being introduced. From what Mr. Willesee and Mr. Medcalf have said, it will certainly improve things, and will make it possible for more strata title units to be built to meet the needs of the people. I was very interested in the remark of Mr. Medcalf that this Bill will give flexibility to local authority officers. That is long overdue. I think this measure should also be applied to local authorities in respect of the policing of the building by-laws. That is where I think some of the troubles, as between the local government bodies and the Minister, arise. There is no flexibility.

The local authorities have uniform building by-laws, and they stick to these by-laws if they want to dig their toes in. They can get nasty and point to these by-laws, and in so doing they do not attempt to be flexible. In this respect flexibility really means common sense. If that attitude were adopted in the administration of many of the Statutes of this State the position would be improved. On some occasions an application should be allowed to go through without quibbling about some minor detail. I think the purpose of the uniform building by-laws, and so on, is to lay down a pattern, and as long as one does not go too far one way or the other, everybody will be satisfied.

I can see the merit in the issue of provisional certificates, and the analogy between strata titles and hotel licenses, because the person who is interested is given the opportunity to make plans, whereas previously he was somewhat in the dark. This and the other points raised by Mr. Medcalf could be dealt with on the next occasion when amendments are made to the Act. I refer to matters like the issue of provisional certificates, and the responsibility for the payment of rates in the event of default.

A case which I handled a couple of years ago comes to mind. The tenant of a Housing Commission home in Maniana received an enormous bill for excess water. As I generally do I went out to look at the place to ensure that I was not being led up the garden path. The piece of lawn would not be bigger than the Table of the House, and the couple of shrubs on it did not look as if they had had a drop of water. How this person could have been billed for thousands of gallons of excess water I did not know.

To me that did not seem to be right, and I soon got the answer at the Metropolitan Water Board. I found that only one meter had been installed for the water supply to the whole row of houses. All the water went through that one meter, and this unfortunate tenant was billed for the reading of the meter. When the manager of the Water Board heard the facts he laughed and said that something was wrong, but he wondered why I had not pinpointed it. I can see a difficulty arising when a tenant of one of these other houses does not pay his rates. I wonder who would be responsible? In the case I have just mentioned the Housing Commission accepted the responsibility, because there was an agreement with the tenant for it to do so; as a result nobody suffered.

With those remarks I am pleased to support the Bill. There may, perhaps, be some comments I wish to make on the appeal clause at a later stage.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [7.56 p.m.]: I am very pleased with the reception of this Bill. Members will recall that when I introduced the original piece of legislation there was not a feeling of unanimity among the people who had considered the introduction of strata title legislation. I remember saying quite openly that one of the departments was not in favour of it, but nevertheless it was a modern trend for people to live in strata title units and they had been requesting this type of title. That was in 1966. At that time we expected teething troubles

and difficulties, and there were some. This Bill endeavours to sort out some of those difficulties.

The point raised by Mr. Willesee in respect of appeal has, to some extent, been answered by the remarks of Mr. Medcalf, because the question of appeal is covered by the original Act. An appeal must be made to somebody, and I cannot think of anyone more appropriate in these circumstances than the Minister for Local Government—whether he be called the Minister for Local Government or the Minister for Town Planning. It does not matter, because at present he is one and the same person.

I am sure the Treasurer will be interested in the remarks that have been made, should he be missing out on some stamp duty. I will certainly have a look at this aspect. The other two points raised by Mr. Medcalf, although not embraced by this Bill, will be looked into by me.

I do not want to have to hold up this Bill and I am grateful for the indication I have had from Mr. Medcalf that he does not intend to make an issue out of clause 6. I will try to throw a little light on this matter if I can. My colleague, Mr. Logan, and I arranged for our officers to meet—I refer to the officers of the Town Planning Department, the Titles Office, and Crown Law—with the object of arriving at some basis or conclusion upon which this present Bill might be introduced.

The purpose of the Bill is to make strata titles more easily available to those persons who are not able to get them for one reason or another, particularly on the question of by-laws where the main problem was the issuing of a certificate by a local authority that the building complied with the by-laws for the time being in force of that local authority. This is what we have provided for in the Bill.

I have previously told members in this House, and it has been repeated, that the Town Planning Board prefers to be written out of the Strata Titles Act altogether with regard to buildings and, in fact, that is what the Bill does. In respect of the disposition by way of a transfer, mortgage, lease, or license, the board felt concerned that it ought to have a say in this, and because the Act is silent as to whether any consent is required for the disposition of common property, or any part thereof, a provision was put into the Bill. The note I have on the matter states that the Act should be amended to provide that any such disposition should require the consent of both the Town Planning Board and the appropriate local authority.

The views now expressed by the Town Planning Board on this point will probably require a further amendment to the Act to provide for appeal where consent is refused by the Town Planning Board and the Minister for Local Government, and where consent is refused by the appropriate local authorities. That is about all the information I can give and I repeat: The board was concerned with the disposition of a transfer, mortgage, lease or license, and it thought that it should have a say in this respect.

Because the Act was silent on the point we have amended it to provide for this. I am hoping that Mr. Willesee will not pursue the question of appeal. An appeal must be made to somebody, otherwise a person who finds himself in the position of not being able to get past the local authority has no-one to go to. He must have somewhere to go and since the principal Act does not provide that he can go to my colleague, the Minister for Local Government, we are simply reiterating this.

I am glad of the support which the Bill has received and I venture to suggest that as time goes by it may be necessary for us to introduce even further amendments to this legislation. It is true that our Act was taken very largely from the New South Wales Act. The extent to which strata title legislation is used in that State is far greater, of course, than here. The disability that we originally suffered because we did not have any strata title legislation at all inhibited the possibility of people getting strata titles.

The only further comment I can make is on the point raised by Mr. Willesee. Mr. Logan tells me he has had only two appeals and it does strike me that with the amendments that are going into the Act the chances of appeal with respect to dissatisfied or potential strata title holders will be lessened. There will not be the same cause for appeal that there is now. Even with the existing section, as I have said, Mr. Logan has had only two appeals.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. A. F. Griffith (Minister for Justice) in charge of the Bill.

Clauses 1 to 7 put and passed.

Clause 8: Amendment to section 20—

The Hon. W. F. WILLESEE: In speaking to the question of appeals, I made my remarks on the basis that I thought it would be a better system than the present one, and I did not intend, of course, to pursue the question. I put the suggestion forward as something for the future.

There is some very confusing information about and it is surprising to find that only two appeals have been made to the Minister under the Strata Titles Act. However, that does not alter what I said. I believe in the right of appeal—let that

be clear—and I was not suggesting that we take the right of appeal away. I think the machinery for appeal in the future will provide for a tribunal. Such a tribunal should handle appeals instead of a personal approach having to be made to the Minister.

Clause put and passed.

Clause 9 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

COAL MINE WORKERS (PENSIONS) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 23rd April.

THE HON. R. H. C. STUBBS (South-East) [8.11 p.m.]: This short Bill is to amend the Coal Mine Workers (Pensions) Act. Its purpose is to allow a pensioner to earn $17 per week from any employment he may be able to obtain, without reducing his pension. The sum of $17 is the amount allowed under the means test for the Commonwealth Social Services Act. An amendment to the Commonwealth Social Services Act was made on the 27th April, 1967—just over two years ago—to increase the amount which could be earned by a single pensioner from $7 to $10 per week. For a married person, the amount was increased from $14 to $17 per week.

We on this side of the House agree entirely with this principle and, therefore, my comments will be brief. However, it is interesting to follow the early history of the Coal Mine Workers (Pensions) Act. It was first introduced in another place on the 3rd December, 1942. The Bill was read a third time on the 2nd February, two months later, and it came to this House on the same day. The third reading in this House was on the 30th March, 1943, again almost two months later.

On the 13th April, 1943, there was a conference of managers of both Houses and the result of the conference was that the Bill was lost. It was introduced again in the next session of Parliament, in the same year, on the 26th August, 1943, and the Bill then became law. The reason it was lost on the first occasion was that the managers could not agree on the surface worker being entitled to a pension, and also on the financial arrangement made by the company.

A similar Bill to this became law in New South Wales in 1940, in Queensland in 1941, and in Victoria in 1942. As a member representing the goldfields I was interested in comments made at the time by Mr. Patrick when he said that if such a scheme were to apply, perhaps it could apply to one of our main industries—goldmining. I am sorry to say that after 27 years we still do not have a pension scheme for the goldminers or the nickelminers. However, I am ambitious in this regard, and I hope that one day we will have it.

In 1942 the maximum pension payable was $8.55 per week, which was reducible by any income the family received in old-age or invalid pensions. The male old-age pension was $2.55, and the pensioner was allowed to earn $1.25.

When the Bill was discussed on that occasion one member said that the coalminers will stand out like an island in the middle of the people of Western Australia should they get the pension. The same gentleman went on to express an opinion that sectional superannuation was a complete mistake. In this House another member described the measure as a rotten Bill, ill-conceived, and ill-considered. One member invited another member outside onto the grass to settle their differences.

That Bill was lost but, on a happier note, the legislation became law in 1943. It has been improved progressively, since then, and with those few remarks about the history of the Act, I support it.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

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

LOCAL GOVERNMENT ACT AMENDMENT BILL, 1969

Second Reading

Debate resumed from the 23rd April.

THE HON. R. THOMPSON (South Metropolitan) [8.18 p.m.]: In 1960, when we spent many hours to make the parent Act workable for the Government and local authorities, and to give those authorities some standing and better protection than they had in the past, I do not think it was ever envisaged that the Minister should have the complete right to be the sole arbitrator in the case of disputes that arose; although section 374 does give the Minister certain rights. However, we find now that we have a set of circumstances with regard to uniform building by-laws,

and other laws with which local authorities must comply, and the Minister is asking, because of an adverse court decision—

The Hon. L. A. Logan: That is not right.

The Hon. R. THOMPSON: All right; in view of a Supreme Court action, I will put it that way.

The Hon. L. A. Logan: No, it was not an action at all.

The Hon. R. THOMPSON: A comment?

The Hon. L. A. Logan: Yes, that is better.

The Hon. R. THOMPSON: The Bill is introduced because of a comment by a learned judge to the effect that the Minister did not have the power to break the uniform building by-laws or the rules of a local authority. I agree entirely with this. I will agree further that this is a practice which has been developed and which has gone on in Western Australia under various Ministers. I do not know whether it has always been right that the Minister should have had this authority.

The Hon. F. R. H. Lavery: He kept a lot of people happy with some of his decisions.

The Hon. R. THOMPSON: I will deal with that in a moment. Probably we were not so sophisticated in those days, with our smaller population, smaller local authorities, and smaller annual revenue to local authorities. But now we find that most local authorities have engineers, and in the main are responsible bodies.

I think if we agree to this amendment we will be loading on to the Minister work which he can ill afford to take on. After listening to Mr. Willesee and Mr. Medcalf, I feel that something along the lines of the strata titles legislation, which was dealt with this evening, should be incorporated in the Local Government Act, for this specific purpose.

I can go along with many of the comments made by previous Ministers, and the present Minister, inasmuch as I suppose I have taken a large number of appeals to the Minister, and I think in the main he has dealt fairly with them. I think what the Minister said in his second reading speech is quite true: that some local authorities get down to the point where they will stick on half a link, a link, or two links. In one case I know of two perches on a block was sufficient reason for a council to refuse the plans for the construction of a home. The Minister upheld that appeal.

We have had other appeals. One that comes readily to mind was regarding a person who wanted to take his child home from the asylum, and so he had a small room built on. The local authority told him to pull the room down, and I think this illustrates that it is necessary for all circumstances of a case to be taken into consideration.

However, I do not think this should be the responsibility of the Minister, whose bounden duty is to protect local authorities and the laws and rules of local authorities. I am not reflecting on the Minister, or on his past actions in any shape or form. I have not always agreed with the decisions of the Minister. Sometimes he has refused appeals which I considered he should have allowed.

I consider a tribunal should be set up—one which would know the laws and rules—possibly along the lines of the Builders' Registration Board. It could even be made a function of the same body. Something along those lines should be set up whereby we would have independent inspectors. They could work without the political pressures which can be brought to bear upon a Minister, and without the personalities which are involved in some local authorities—and I know personalities have been involved in the operations of some local authorities. I could speak for possibly half an hour and cite cases where this has happened.

I feel these inspectors, or tribunal members, whatever they might like to be called—there would not have to be a half a dozen of them; there need be only two or three—could view the site involved more expeditiously than is the case with the present practice. Let us consider the Minister's duties: at the present time he is Minister for Child Welfare, Local Government, and Town Planning and, I think, he is also responsible for the—

The Hon. L. A. Logan: Next week I will also have Native Welfare.

The Hon. R. THOMPSON: —Motor Vehicle Insurance Trust and other various departments that go with his portfolios.

The Hon. L. A. Logan: Even the Dog Act.

The Hon. R. THOMPSON: So members can see that to do justice to his job, and in the best interests of democracy, it is unreasonable that a Minister should have the final say.

I would suggest that if the appointment of a tribunal was agreed to, the people who comprise it would have quite a levelling effect on some local authority inspectors and officers. I will briefly cite an instance which occurred in regard to a fence. The person concerned bought a house; he landscaped the entire yard at a cost of many thousands of dollars, and his block was rather high in comparison with the adjoining block which fell away sharply.

To beautify the house this gentleman removed a brand-new asbestos fence which had been erected by the builder. With the permission of the council, he excavated the block down to the road level. He put in concrete foundations and built a magnificent fence which went right around his house and fitted in with the terracing

he had provided. An upstart of a building inspector went out and saw that the fence was above the five feet stipulated in the council by-laws, and he put it to the council that the fence must be lowered by two feet.

The council committee dealing with the matter agreed that the gentleman had contravened a by-law. The council served an order requiring him to pull down the fence within 14 days, without even going out to have a look at it. Of course, the chap did not pull it down within 14 days and at the next council meeting this was reported and the council decided to prosecute.

In the meantime, the owner of the corner block came along and levelled his block in order to build a duplex home. Although the fence was rendered on both sides and was erected with the permission of the adjoining owner—he did not mind; he got a beautiful fence—the council decided to prosecute the person concerned. At this stage he came to me and, fortunately, on the day I went to the council office a committee meeting was in progress, and I got in touch with the president, the shire clerk, the deputy president, and two councillors and asked them to come out to the site with me.

We went out and we wandered around and they had a good look at it and said, "This is a credit to him. It is possibly one of the best, if not the best, in the district." I said, "This is the chap you are going to prosecute because of this fence." They said, "That is ridiculous."

Here we have the case of responsible men—I have nothing against the councillors; they are responsible people—who listened to an officer who told them that a person had contravened a by-law, and so they were prepared to prosecute.

This case would have had to go to a ministerial appeal if I had not been fortunate in getting the people concerned to go out to have a look at the situation. I could go on and cite many instances such as this. I do not think it is desirable that a Minister should be placed in a position of having to deal with a matter of common sense which a council officer can attend to.

Still dealing with local authorities, I can cite another case where the chairman of a health authority came to me and said his committee had decided on a certain course of action in connection with a particular person who was highly incensed about it. I was asked whether I could do something to help. On this occasion I went to the health officers of the council but got nowhere. I was told that the by-laws laid down certain conditions.

In order that members will not know the local authority concerned I shall refer to this person as the head of the local authority rather than give him his correct title. I took the head of the local authority out to have a look at the position and after he had done so he said the whole thing was utterly ridiculous and that they intended to prosecute the person concerned. I was in complete agreement with his views on this matter.

While we were considering the case of a man who was trying to rehabilitate himself after a serious accident I happened to glance into the yard next door. A building in this yard was pointed out to us; it appeared to be a garden shed which would normally be used for storing gear and garden equipment. At that time, however, three people were living in this shed.

Here we have a person who is crippled and who was not creating a nuisance in any way, but because his alignment happened to be three feet outside the limit the health inspector was prepared to prosecute him. At the same time he only had to look over the fence at the adjoining yard to see a glaring breach of the Health Act. This, however, was not mentioned to his council.

There is no doubt that we have some very good officers employed by local authorities but there are, of course, times when we run into the snags to which I have referred; when we find people who will not use their discretion and who will not report back to their responsible committees to enable them to use their discretion.

In 1960 the Minister said to us, "Let us accept this legislation as it is and if it requires amending we will amend it from time to time." For the life of me I am not prepared to stand here and support legislation which will permit a Minister to break his own laws. That is all it amounts to; it is the crux of the matter. If we carry the amendment contained in the Bill it will mean that Parliament will permit the Minister to break the laws he has introduced and of which he has sought our acceptance.

I think the Minister should take this Bill away; he should not proceed with it. I am sure members will feel a lot happier if the Minister brings down further legislation in four months' time when we will be sitting again; legislation containing discretionary powers. As the Minister mentioned, provision is made under section 190 for a local authority to frame by-laws to give itself discretionary powers. I do not know of any local authority which has done this; possibly the Minister might be able to enumerate some that have. I have no knowledge of this by-law being made use of.

I am sure there are any number of amendments that can be obtained from local authorities. On the other hand there is little point in asking the Local Government Association to provide the necessary amendments, because it has more or less fallen by the wayside.

The Hon. L. A. Logan: I would not say that.

The Hon. R. THOMPSON: There seems to be little doubt about it, particularly when one considers the argument that is ensuing between the Minister and the association, or between the Local Government Association and the Minister. From all the reports I have heard the City of Fremantle is moving in much the same direction and is not prepared to send a representative to the Local Government Association meetings. Some pressure should be placed on local authorities to carry out their responsibility in a sane manner. Before committees bring down recommendations which they expect their councils to accept, they should have a good look at the situation and not merely accept the recommendations made by particular officers to the effect that a by-law has been breached.

I do not intend to support the Bill at this stage. I hope I have not been unduly critical. I did not intend to be critical of the Minister's activities over the years, because I think he has done his job well in this respect. However, when we consider that there are 700 appeals a year—

The Hon. L. A. Logan: No, that figure is wrong.

The Hon. R. THOMPSON: Is it?

The Hon. L. A. Logan: Yes.

The Hon. R. THOMPSON: I once heard the Minister say that he had considered 430 appeals in one year, but I imagine these would not have all related to uniform building by-laws; they would have included appeals concerning subdivisions and so on.

The Hon. L. A. Logan: I gave the total figure over the years.

The Hon. R. THOMPSON: If the total figure over the years is 700, the Minister should try to get away from an onerous task such as this. Incidentally, both the Liberal Party and the Labor Party promised at the last election that if either party were returned, a tribunal would be set up to deal with such matters. We have heard reports of such a tribunal being set up but, to my knowledge, up to date one has not been appointed.

The Hon. L. A. Logan: There are problems attached in relation to it.

The Hon. R. THOMPSON: There are problems attaching to everything. There seem to be more problems attaching to the Minister taking unto himself responsibilities such as those I have mentioned. It certainly does not indicate clear thinking on the part of the Minister when he comes to Parliament and asks for permission to break a law which he has introduced, when he as the Minister should be upholding the laws of the local authorities.

I trust wiser counsels will prevail and that the Minister will withdraw the Bill and bring it down in a form acceptable to both Parliament and the local authorities; because whether we be learned judges or men in the street the effect is the same; the democratic institution must be upheld.

Without endeavouring to cast any reflection at all on anybody, I feel that unless we uphold our democratic principles the whole situation becomes dictatorial. I know that on many occasions, frivolous appeals are lodged by individuals in connection with the uniform building by-laws. It is possible that some person might start work without a permit and when the local authority catches up with him he runs screaming to his member of Parliament. The same thing applies in connection with applications to subdivide land. If a tribunal were set up a lodging fee could be paid to cover the necessary investigation. The fee could be from $3 to $5. If this were done only those who had good reason to appeal to a tribunal would do so. We may have the case of a person who feels he needs an ombudsman to correct a certain situation and, accordingly, he would not begrudge paying a $5 fee.

I do not want to vote against the Minister in relation to this aspect. I think he has got himself into a spot from which he is now trying to extricate himself. In fairness to Parliament, however, he should withdraw the Bill and bring down legislation giving more powers to local authorities and, having done so, he should set up a tribunal to hear appeals.

THE HON. I. G. MEDCALF (Metropolitan) [8.41 p.m.]: I approach this legislation from perhaps a slightly narrower and different field from the remarks made by Mr. Ron Thompson. I look at it from the point of view that here we have proposals which have been put forward in good faith whereby the uniform building by-laws of local authorities should be capable of amendment in particular cases where the Minister, in his opinion, considers that the circumstances warrant this.

As I have said, I believe this legislation has been put up in perfect good faith by the Minister who is very experienced in hearing appeals. I would like to approach the matter fairly briefly from the point of view of what by-laws are and the powers which any Minister should have in relation to such by-laws.

I do feel we should never forget matters of principle purely for reasons of expediency. We must always bear in mind the various functions which operate in the body politic. For example, we have Parliament which passes laws, either by formally passing such laws, or by not disallowing them. We then have the Executive, which includes the Ministers and

which is charged with the task of running the day-to-day business and the administration of the country. There is also the judiciary which has a separate function altogether and which is charged with the task of judging matters which arise between citizens, or between other groups in the community, be they local authorities or, on occasions, Governments.

So we have three separate functions, we might say, which operate in all democracies. I therefore approach this problem by trying to look at it from the point of view of what should be the ideal situation. Here we have a position where by-laws come into force and become part of the law of the land. They have the force of law after they have been duly recommended by the local authorities, approved by Executive Council, gazetted, and tabled in both Houses of Parliament.

They lie on the Table of the House for 14 days and unless otherwise specified, or unless either House passes a resolution to disallow them, they have the force of law. They have just as much the force of law as any Statute, because they derive their authority under Statutes, and they derive their authority under Parliament. Therefore, I think one should not too lightly or with too lighthearted an attitude view a situation where the Minister finds himself in the position that he has to overrule a by-law that is part of the law of the land.

I know there is no suggestion that a by-law can be altogether disallowed by the Minister in the case we are discussing. The by-law is simply disallowed in a particular case and for a particular purpose. I feel there must be a happier solution to this problem and that the Minister should not be cast in the role—I mean any Minister; and naturally my remarks cast no reflection whatsoever upon the present incumbent of this office—where he has not only to disallow the legislative function, but also has to put himself in the role of adopting a judicial function. This is a very difficult role for a Minister.

Therefore I feel there must be a happier solution; and perhaps it lies in more flexibility in the by-laws of local authorities. Of course, they have the power to provide for this themselves. They have the power to revoke or vary their by-laws. The power to make a by-law imports the power to revoke or vary; and they could provide for more fixible by-laws. They could provide for the case where there is a technical breach or where there is a breach by somebody acting in perfect good faith; and it is rather a shame that local authorities have not sought to use this power themselves.

However, I believe this is perhaps one of the solutions to the problem. Another solution might be a more continuing review of by-laws by Parliament itself. Here I am speaking from the point of view of principle, and perhaps I am going beyond the narrow confines of this Bill. Therefore, Sir, I ask for forgiveness for doing that; but I believe there are perhaps more satisfactory ways of working out this problem.

The reason I do not formally oppose this Bill—although I have indicated in principle that I disagree with the idea of it—is because I accept the assurance which has been given that this practice has been adopted by Ministers for Local Government from all parties from time immemorial, and because it is a practice of the community. This being so, I do not believe it is very appropriate that I should take an issue on the matter, but I do commend to the Minister the suggestion that a close examination be made of this problem and the question of by-laws generally; that there be a more flexible approach by local authorities who should perhaps revert to their proper functions and so allow the Minister a little more freedom to get on with the many tasks he has in his multifarious capacities.

I commend to him the suggestion that perhaps this matter might be investigated by himself and his department with a view to providing a more satisfactory and permanent solution.

THE HON. H. C. STRICKLAND (North) [8.50 p.m.]: I would like to make a few comments in regard to this Bill. I know that the Minister who is responsible for the administration of the Local Government Act is always in a most unenviable position. I can remember some few years back when for a period of one month I relieved a Minister holding that portfolio and there was quite a large number of appeals—and this was 12 years ago—to be considered and studied, and decisions had to be made. I can well imagine that today there must be a tremendously increased number of appeals and, as a result, the Minister must be reaching the stage where he is, more or less, a judge in chambers.

I say his is a most unenviable job because, on many occasions, one can make a decision which one feels is correct and on each occasion one has to disappoint somebody on one side or the other.

I would prefer to see a permanent tribunal of some kind set up to relieve the Minister of the tremendous responsibility which is placed upon him. Not always, when one makes a decision on an appeal case, does the person who was favoured by the decision act up to his responsibility. I can remember going out and viewing a site, which necessitated my spending a couple of days with a country road board. I had to make this visit in connection with a dispute over unsightly clay pits, and so on. The appellant gave verbal undertakings before members of the board, myself, and my sec-

retary, and finally he let us down by doing nothing at all about the matter. Nothing much can be done when men of that kind ignore the law, the Government, the Minister, the road board, and everybody else for their own selfish needs. However, that is the sort of case that crops up; and the Minister has my sympathy in regard to the undertakings and responsibilities which he has to face up to.

I feel there must be somebody to whom an aggrieved person can appeal. If the position in regard to the Minister is not clarified—and the Minister is trying to clarify it in this Bill—it means that local authorities may run riot. I do not think they will, but they may, because there would be nobody to whom an aggrieved person could appeal. I do not think we should allow that situation to arise. We should give the Minister the power which he requires—and apparently requires urgently. We should support this Bill to protect people from, say, an unsympathetic shire.

I would like to see the paragraph to be inserted in the Act by this Bill used simply as a stopgap, or as a deterrent. I would like to see the measure passed now because it must protect some people. However, in the future, when more parliamentary time is available—during the session commencing on the 31st July, or the second part of the session early next year—the Minister could introduce some amending legislation to set up some sort of a tribunal to deal with every appeal.

For the reasons I have stated, I intend to support the Bill and hope the Minister will give consideration to some sort of amendment or provision which will give the measure a limited life so that what I have suggested can be carried out.

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [8.57 p.m.]: I thank the three members who have spoken to this Bill. From my point of view, it is not an easy measure, but all I am trying to do is make plain what Parliament said in 1915 ought to happen and has happened ever since.

If members go back to a Bill which was introduced into this House by the then Minister (Mr. Angwin), they will see that this action was taken because of a disagreement between a man who was building and a local authority—the City of Subiaco. This person made an application to build and the council refused. He took the matter to the local court, which upheld the council. The matter then went to the Supreme Court which said that it had no power to overrule the by-law and must support the appellant. This was the position, because the court must obey the law, and that is why the law was altered in 1915 to give discretion to the Minister to hear appeals and vary decisions. This has been accepted in principle since 1915. It was confirmed again in this House when amendments were made to the Road Districts Act and to the Municipal Corporations Act; and again in 1960 when those two Acts were amalgamated.

This has been accepted in practice; and, in my humble opinion, I believe it is the law. If it was the law in 1915, it is still the law today. It is accepted in practice by every member of Parliament. Legal men in Western Australia, including Q.C.'s have accepted this as the practice in law. Had it been otherwise, they would not have appealed.

The Hon. R. Thompson: Were there any uniform building by-laws in those days?

The Hon. L. A. LOGAN: Local authorities had their own by-laws. I cannot understand the Press criticism at the moment. I thought I made it clear that all I want to do is to make sure that Parliament is obeyed, because somebody is disobeying Parliament at the moment. Parliament laid down these conditions and I believe Parliament should be obeyed. I do not mean this in regard to myself, because I am only Minister for the time being, but Parliament should be obeyed. The position was clearly stated in 1915 when the Municipal Corporations Act was amended, again in 1932 when the Road Districts Act was amended, and again in 1960, when those Acts were amalgamated.

It was considered on every occasion that there should be a right of appeal to the Minister who may uphold, reverse, vary, or make any such order as he thinks fit, and the decision is final. If that does not intend to convey that the Minister has the right to vary and to make such order as he thinks fit to override a by-law of a local authority, or a uniform building by-law, I do not know what does.

The Hon. R. Thompson: It did not include varying a by-law.

The Hon. L. A. LOGAN: It did not have to; because this has been the practice since 1915.

The Hon. R. Thompson: It just referred to the decision of the council.

The Hon. L. A. LOGAN: This has been the practice and the law since 1915.

The Hon. R. Thompson: It has been the practice.

The Hon. L. A. LOGAN: It was the law in 1915, and again in 1932. When two Acts are amalgamated the law follows on. This is what we were doing. If it was not the law, why was it not challenged a long time ago? It never was. However, practically every legal firm, including those with Q.C.'s, have appealed under section 374 (2) of the Local Government Act.

I refer to what was said at the time and the reasons which were given for the amending Bill. These are to be found on

pages 781 and 783 of volume 50 of the *Hansard* of that year—

> A Supreme Court Judge had felt himself bound to direct the council to approve of plans which complied with the then existing by-laws, notwithstanding that the plans were in fact quite unsuitable for the district. The converse case could apply where the plans do not comply in all respects with the by-laws in force, but nevertheless full compliance can be waived by the Minister on his upholding an appeal.
>
> A provision similar to that contained in Act No. 20 of 1915 appears in Act No. 35 of 1932, s.73(1)(b) amending the Road Districts Act then in force. It appears from *Hansard* debates on the Bill for that amending Act, Vol. 89 at p. 1787 that there was criticism by one member of the provision in question, on the ground that it gave too much power to the Minister, but there was no support for that criticism.

Again, this affirms what Parliament decided at that time.

I will now quote the opinion of a very eminent legal man in Western Australia. I do not want to mention his name because I do not think I should. He said—

> It is submitted that, as a matter of general principle, it is better for courts to be empowered merely to obey and apply the law and, if any authority should be empowered to waive compliance with the law (including regulations and by-laws having the force and effect of law) that authority should be some authority other than the courts, e.g. the Minister concerned.

The Hon. R. Thompson: I think you are missing the point, because you are denying the judge or the magistrate the right to disregard the by-law but you, as Minister, want to disregard it.

The Hon. L. A. LOGAN: Parliament did this; namely, Parliament took it away from the local court, and the supreme court, in 1915, because it was held by members at the time that the court must obey the law.

The Hon. R. Thompson: We should recognise this.

The Hon. L. A. LOGAN: I think Mr. Medcalf would agree with me when I say that the court must obey the law.

The Hon. I. G. Medcalf: I agree with that, but I do not like—

The Hon. L. A. LOGAN: As I have said, an eminent legal man made that statement and Parliament also made that statement.

The Hon. R. Thompson: This is Parliament today. Do not let us worry about Parliament in years gone by.

The Hon. L. A. LOGAN: All I am trying to put into effect is what Parliament said and approved. Because of certain circumstances I had to take the course of action which I followed. I did not want to take that course, but I had to do it.

The Hon. R. Thompson: Parliament is master of its own destiny.

The Hon. L. A. LOGAN: I know that Parliament is master of its own destiny. However, I am dealing with something which has current application. Why is there all this fuss when this has been standard practice since 1915, which is 54 years ago? Anyone would think that the Government was trying to bring in something new and fresh.

The Hon. R. Thompson: We are growing up as a nation.

The Hon. L. A. LOGAN: Perhaps we could grow up a lot more! As a Minister, I fully appreciate the number of appeals with which I have to deal. I do not want to deal with them, but I am only carrying out what Parliament tells me I must do. When Parliament tells me I cannot do it, I will no longer do it. To my mind, that is fair enough. I made the decision in regard to this appeal on the basis of standard practice which has applied for 54 years and which I consider is law under the Local Government Act.

The Hon. R. Thompson: I do not think we are debating or arguing that point.

The Hon. L. A. LOGAN: That may be but I have to state my case, and this is what I have been trying to do. Perhaps if I refer to the appeal which created the problem, members may appreciate why the decision was made. I think I should refer to it.

The Hon. R. Thompson: I think I can appreciate it without the Minister referring to it.

The Hon. L. A. LOGAN: But somebody else might not. Let us have a look at it. The person in question is Mr. Franconi. His name has been mentioned in the Press so there is no need to withhold it. Following his application, the Shire of Perth wrote to him as follows:—

> With reference to application of 19th August, 1968 including 2 Specifications and One Plan, for a Building Licence authorising the construction of additions to existing Residence on above property, you are advised of the following items which conflict with the By-laws:—
>
> 1. Plot Ratio exceeds permissible .30 (U.B.B.L. 204).

The Hon. F. J. S. Wise: The Minister may have to table that document if he is not careful.

The Hon. L. A. LOGAN: That is all right. There is nothing in it. Any mem-

ber may read the whole of it if he wishes. It continues—

2. Declared Building Line—41'-6". (S. of P. By-law 386.)
3. Foundations to existing structure incorporate limestone. (Under U.B.B.L. 1903(2) not permissible.)
4. Rear Escape Stairs—all steel construction. (U.B.B.L. 822(3).)

Let us have a look at the application and the appeal. First of all the plot ratio had been amended. I had signed the necessary amendments to the plot ratio. It was not exceeded, but the by-laws were amended, accepted, and approved by me. Surely with an application before me I was entitled to uphold Mr. Franconi's appeal on that count. With regard to the third matter of foundations, I have the reports from two engineers which prove that the shire was wrong and that the foundations did comply with the regulations. As far as the fourth matter was concerned—that is, the all-steel construction of rear escape stairs —the appellant was quite prepared to carry out the wishes of the council.

Let me refer now to the building line. The building already exists. It is a two-storey building with a flat top patio back and front with a balustrade.

The Hon. R. Thompson: Is it on the main road?

The Hon. L. A. LOGAN: It is on the main road.

The Hon. R. Thompson: On the left-hand side?

The Hon. L. A. LOGAN: The application was to put a roof over this. By doing this, Mr. Franconi would create a couple of rooms. Has this anything to do with the set-back by-law of 41 ft. 6 in.? Of course it should not have anything to do with it. As I have said, the building already stands and the person concerned is not altering the building below roof level, nor is he altering the structure on the building line He is putting another roof over what is already there. How can a building line of 41 ft. 6 in. apply in conditions such as those? It cannot, and it should not.

That is a summation of the position. I considered I had the right to decide the appeal and consequently I decided it. However, the shire refused point blank to give the man his license and that is why I was forced to bring the matter to Parliament in order to overcome the problem. Members should not forget that I am the Minister for Local Government and, as such, I have as much respect for local government as anybody else, but I do not think it is the responsibility of local government to override Parliament and I do not think that we, the members of this Parliament, can allow this to happen.

The Hon. R. Thompson: Some local authorities put themselves over Parliament.

The Hon. L. A. LOGAN: They try to. This is why the amending Bill is before the House. It is purely and simply for this reason. It was not my intention to bring down the amending legislation at this stage of the session. I intended to do it, through ordinary amendments, next session. However, I do not think we can allow this set of circumstances to apply.

Those are the conditions and if anybody can tell me that I am wrong in upholding the appeal under those conditions, I would like to know who he is. If the action had gone to a court, and the court had to obey a by-law, a different judgment might have been passed; I do not know.

I would like to refer to criticism that has been passed. When I introduced the Bill last Thursday, I made a reference in this House to the fact that the newspapers had incorrectly stated the situation. I emphasised that this was not a judgment of the Supreme Court on one of my decisions. Lo and behold, I see the very same thing in tonight's newspaper. Why cannot the truth be published? I would like to know why we are not entitled to have the truth published?

The Hon. R. Thompson: Was the matter tonight in connection with law reform?

The Hon. L. A. LOGAN: I do not know whether the Law Society was correctly reported, but it was stated in this evening's paper, "Last December the Local Government Minister was overridden in the Full Court." I stress that the Full Court was not dealing with any particular case or decision of mine. I have tried to make this perfectly clear. The Full Court was dealing with the decision of referees and said that it would not override the decisions of the referees as the court thought the decision ought to stand. However, the comment was made that the court did not think that the Minister for Local Government had the right to alter the by-law as he did originally.

That is fair comment, but it had nothing to do with the case in question. One has to consider the circumstances of the case and know those circumstances before one can make a decision. This person was given a concession only to go back to 20 feet. He went back to 18ft. 4in: but there was a 4-foot canopy on top of that. That was the situation. I have told the council this in no uncertain terms. The decision of the referees was made and a concession given because the referees said that the walls could stand but he would have to take the canopy out. I thought that was a fair concession and it was agreed to. The council cut him back, and finally said, "Well, let it go." As far as I was concerned, the referees had made a decision and the the Full Court had upheld that decision and, to my mind, the council should obey it as well. I did not think I could take any other action.

As I mentioned previously, the right exists for the local authority to have just discretionary power, if it wishes, under the appeal-making powers. I do not know whether it would be a good thing or a bad thing if all local authorities were to use discretionary power. In certain circumstances I think it would not be good.

I know suggestions have been made with regard to setting up tribunals, but it is not quite as easy as it might appear. I do not know whether local authorities would appreciate the fact that a tribunal could override them under those circumstances. I think local authorities, by and large, would prefer the Minister to have the say and not a tribunal. I can assure members that I do not deal with appeals in a vacuum; because no appeal is decided unless I go back to the local authority to ask why the application was rejected. I always know what the thoughts of the local authority are on the matter. One of my technical officers goes out, if necessary, and examines the area of the property concerned. He comes back and makes a report to me. If it is difficult I refer it to the B.A.C., which is the Building Advisory Committee, for a report and, if necessary, I go and look at the property myself.

By the time a decision is made I am aware of the thoughts of all the departments involved and consequently I consider that it is possible to pass pretty sound judgment on the matter.

In looking through the Victorian Act I notice that there is a reference to referees. Of course, certain sections of the Local Government Act allow referees to hear cases on certain appeals, but there have not been very many to my knowledge.

In Victoria appeals are made to referees, and the Victorian Act states—

> Where in the case of any particular building proposed to be altered or erected the referees, after consultation with the surveyor, are satisfied that any provision of the regulations or by-laws is inappropriate, or that a modification or variation of any regulations or by-laws might reasonably be made without detriment to the public interest, the referees on the written application of any party concerned may direct that such provision shall not apply to that building, or that any regulations or by-laws shall apply to that building with such modifications or variations as the referees determine.

So under the Act the referees in Victoria have exactly the same power as I am asking for by this Bill. Surely if it is good enough to give such power to referees it is good enough to give it to a Minister to help overcome problems.

Maybe I will follow suit with Victoria and instead of my hearing all the appeals referees will do this work in the future. I do not know. I will have to look at the matter but that may be a way out. I appreciate what all members have said. It is getting to be too much work. Under the Local Government Act, last year I heard 266 appeals, and I had approximately the same number under the town planning legislation. Members must realise, too, that probably in about 50 per cent. of the cases the local authorities say that they do not mind if I uphold the appeal. Quite a lot of them do that.

Surely it is not necessary to have all these appeals referred to a tribunal! How do we differentiate? Some of the appeals are of a minor nature only; only a few of them are of any major importance.

The Hon. R. Thompson: That is where the local authorities should use their discretionary powers.

The Hon. L. A. LOGAN: They have that right but many of them do not want to use it. Members must appreciate that many local authorities do not want the job that I am called upon to do, even though Mr. Medcalf objects to it. Local authorities do not want to have to say to Bill Brown. "You can do this": or to Tom Jones, "You can't do that." They do not want the responsibility because they are so much closer than anybody else to their ratepayers.

The Hon. F. R. H. Lavery: We had a classic example in the case of the Mosman council v. McMahon. That was debated in this Parliament.

The Hon. L. A. LOGAN: There are many cases. I have got into trouble because I have upheld appeals in certain instances. I had a case only last week. These people had owned a block of land for five years and they had saved and saved to get enough money to start building. Had they saved sufficient money 12 months ago their application to build would have been approved without question. However, in the past 12 months, so far as the shire is concerned, the conditions have changed. The block is almost half an acre in area and there is a big drain running down two sides. There are only about five blocks in the area left on which people can build. As I said, the people concerned have only just saved enough money and they submitted an application to build. This was refused.

There are four children in the family and they are all living under difficult and unsatisfactory conditions. But no court could override the local authority and in my view somebody has to make a common-sense assessment of the position as to whether these people should be allowed to build. I have taken the responsibility.

The Hon. R. Thompson: Why were they refused?

The Hon. L. A. LOGAN: Because of the health problem.

The Hon. R. Thompson: The drains?

The Hon. L. A. LOGAN: Because of the type of soil; it is not easy to drain. However, the block is almost half an acre in area and surely we can take a little risk in some instances. No court would override the local authority, but we have to take little things into consideration as well when making decisions in cases such as these.

Let me remind members that it is not the local authorities but the officers concerned who are trying to tell me that they do not intend to take my decision, but will ignore it. I will not be the Minister in charge of this department for all time and I certainly do not think Parliament should allow itself to be dictated to in this way.

I hope I can find the answer to the problem because I cannot go on hearing appeals as I have been doing in the past. I would not want my successor to have the job of hearing 266 appeals under the Local Government Act and 266 under the town planning legislation in one year. In addition, I have problems with child welfare and it is just too much for one person to handle. As soon as I can do so I will find some way out of the difficulty.

The Hon. I. G. Medcalf: Are you going to investigate a better solution?

The Hon. L. A. LOGAN: Yes. I am satisfied the present position cannot go on and I hope to overcome the problem I have at the moment. I may be wrong but I still think Parliament is the law and I think we have to overcome the situation where a decision of the Minister—in other words, the will of Parliament—is being overridden. I do not think Parliament should allow this to happen.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 374 amended—

The Hon. H. C. STRICKLAND: I move an amendment—

> Page 2, line 21—Insert after the word "Act" the following proviso:—
>
> > Provided that this paragraph will remain in force until the thirtieth day of April, nineteen hundred and seventy, and no longer.

I think I explained, when speaking to the second reading, the reason for this amendment, but since then I think it has become even more important that such a proviso should be included. The Minister has said that he is investigating an alternative to the present situation where the Minister hears appeals. The proviso will ensure that the proposal in the Bill will be brought back to Parliament in 12 months' time. By that time a solution to the problem may have been found and the legislation will simply repeal the provision in the Bill. In the meantime members will have had an opportunity to study the question much more closely.

The Minister has indicated that he intends to investigate the position but portfolios change hands. The Minister could be moved up the ladder and someone else could take his place and the problem could be forgotten. Therefore I think it would be wise to insert a proviso such as I have provided for in the amendment so that Parliament can have another look at the position in 12 months' time.

The Hon. L. A. LOGAN: I hope the honourable member will not pursue this amendment. I do not have any great objections to it because, as I indicated, I give an assurance that next session I shall introduce 10 to 15 amendments to the Local Government Act. I did not bring them forward this period because I did not want to clutter up the notice paper; also, there is a time factor involved. If the amendment is agreed to the Bill will have to be reprinted and it will not reach the other end of the building until late tomorrow night or Thursday, and we hope to finish on Thursday night. I hope Mr. Strickland will accept my assurance that something will be brought forward in the next session in the amendments to the Local Government Act.

The Hon. H. C. STRICKLAND: I know the Minister is sincere about this and so am I. The Minister has my sympathy but, as I have already pointed out, some other Minister may take over his portfolio.

The Hon. L. A. Logan: No Minister who follows would want to do it.

The Hon. H. C. STRICKLAND: There are some who love power and others who do not. I do not think the proviso would do any harm and I think it should be put to the test.

The Hon. R. THOMPSON: It is usual to have sufficient Bills printed, when they involve small and clear-cut issues, to cater for both Chambers. There is plenty of room on the bottom of page 2 to add the proviso without reprinting the whole Bill, and I cannot accept as valid the Minister's excuse that time is the essence of the contract. The Minister has given an assurance that he will do something about the matter, so what is wrong with us having another look at the matter in 12 months' time?

The Hon. A. F. Griffith: I wish I could convince you as easily as that with some

of the arguments I put forward at times.

The Hon. R. THOMPSON: The Minister may not be as persuasive as I am.

The Hon. L. A. LOGAN: I think Mr. Ron Thompson has missed the point. If the amendment is agreed to the Bill will have to go back to the Government Printer and it would not get to the other place for 24 hours.

The Hon. R. Thompson: We will not finish until Saturday.

The Hon. L. A. LOGAN: Do not be too sure about that. The intention is to finish on Thursday night, if possible.

The Hon. A. F. Griffith: If you are here on Saturday you will be here on your own.

The Hon. R. Thompson: I would rather sit until Saturday to make sure everything was done properly.

The Hon. L. A. LOGAN: I must oppose the amendment.

The Hon. W. F. WILLESEE: I hope the amendment will be agreed to. Every angle of the problem has been discussed and the Minister agrees that there should be some alteration to the present situation. He has said he intends to have a look at it. We merely ask that in his own interests we have an opportunity in 12 months' time to see what is being done. In this way the Minister has a dateline and in the meantime he will be able to do the very thing he wishes to do. I do not think there is anything of a problem in regard to the printing.

The Hon. F. J. S. Wise: No.

The Hon. W. F. WILLESEE: I do not think there is any difficulty in regard to a quick passage of the Bill to another place. I support the amendment.

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

Ayes—9

Hon. R. F. Claughton	Hon. R. Thompson
Hon. J. Dolan	Hon. W. F. Willesee
Hon. J. J. Garrigan	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. R. H. C. Stubbs
Hon. H. C. Strickland	*(Teller)*

Noes—17

Hon. C. R. Abbey	Hon. N. McNeill
Hon. G. W. Berry	Hon. I. G. Medcalf
Hon. G. E. D. Brand	Hon. T. O. Perry
Hon. A. F. Griffith	Hon. S. T. J. Thompson
Hon. C. E. Griffiths	Hon. J. M. Thomson
Hon. J. G. Hislop	Hon. F. R. White
Hon. E. C. House	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. V. J. Ferry
Hon. G. C. MacKinnon	*(Teller)*

Pairs

Ayes	Noes
Hon. R. F. Hutchison	Hon. J. Heitman

Amendment thus negatived.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

LAKE LEFROY SALT INDUSTRY AGREEMENT BILL

Second Reading

Debate resumed from the 23rd April.

THE HON. E. C. HOUSE (South) [9.35 p.m.]: It gives me a great deal of pleasure to be able to speak to this Bill, and I am pleased, too, that it is still on the notice paper, for which I must thank the Minister for Mines.

Lake Lefroy, which runs through the Boulder-Dundas electorate, is an extremely large area of approximately 200 square miles. One of the reasons it gives me a great deal of pleasure—in fact, it even creates excitement within me—to be involved in this debate is that Bills relating to various mining projects in the north-west come before the House at various intervals, but this is the first time I have been involved, in any shape or form, with a Bill relating to a mineral project in my province.

I know that my political neighbours, representing the electorate in which the base of this project is situated, will not object to my being excited over the thought that this project extends through my province. Mineral projects of a similar nature are very common to them; just as common as wheat and wool would be to us in that southern area. It is only when one witnesses the work that is associated with these great concerns that one fully appreciates the benefit that will accrue to the area and the State as a whole.

The Lake Lefroy salt project has not been an easy one to negotiate, because of the small margin of profit that will be obtained; in fact, it is minimal. As the Government insists that the Lake Lefroy salt company must spend $3,000,000 on the provision of its own housing requirements and other general facilities, and another $3,000,000 or $4,000,000 on the construction of a railway and provision of rolling stock, it means that the company's financial commitments are extremely heavy. Therefore the resultant net profit obtained by the company will be very small indeed.

The salt project is closely allied with nickel mining at Kambalda. This must necessarily be so, because the pegs marking the boundaries of the mineral leases for the mining of nickel extend into the lake itself.

Further, nickel has also been found on the other side of the lake at St. Ives, and a causeway has been constructed across the lake to link St. Ives with Kambalda. Therefore, as I have said, where

the salt is the nickel is: they are inevitably linked.

The 200 square miles representing the area of Lake Lefroy is so vast that it offers an inexhaustible supply of salt, especially when, in many places, the lake is two feet deep. One can imagine that if everything goes well with the project it should have a bright future.

The lease itself includes only 3,000 acres. I think this has been done purposely because the area of the lease can be altered at any time so that salt can be taken from any part of the lake. At the moment the company is stockpiling salt. It is obliged to do this before the rains come. This was the reason there was so much concern over the delay in signing the contract; that is, if the rains had set in, a whole year's work would have been lost.

The benefits that will accrue to the township of Esperance and its port are considerable. It has been estimated that the tonnage to be shipped will build up to 50,000 tons and this could, in fact, increase to 1,000,000 tons in a few years. In view of this prospect it is rather desirable that we should turn our attention to the port itself. When the salt has been taken from Lake Lefroy it will be stockpiled on the wharf at the port ready for transhipment.

The port of Esperance has an area of approximately 90 acres. On the eastern side there is a breakwater, and to the south there are high cliffs. The township is on the west. Therefore there is very little room for expansion or extension at the moment. Within this confined space we now have eight silos for grain each with a capacity of about 80,000 bushels, and there is under construction another bin for the storage of grain which will have a capacity of 4,000,000 bushels. There are also plans in hand for the construction of approximately another 24 silos and this could increase to 32 silos for the storage of grain alone.

In addition to this it is estimated that about 15,000 tons of nickel a month will be transported to Esperance for shipment over a period of nine months during the first 18 months, dropping back to about 9,000 tons a month for a period of nine months of the year. This will become the expected standard tonnage. At the moment wool is not being sent to Esperance for transhipment, because there are no facilities to handle it. There were about 5,000 bales of wool recently which buyers would have preferred to ship through Esperance, but the wool had to be railed to Fremantle for shipment to France. This wool was valued at about $1,000,000.

In addition, gypsum is a possibility and magnesite is mined at Ravensthorpe. It is also possible that other minerals may be found at some future date. The magnesite produced at Ravensthorpe, if produced in greater quantities, will have to be transhipped through Esperance. Therefore, it can readily be seen that as the production of salt increases, and as a result of the proposed great changes, a good deal of thought will have to be given to the extension of the port and berthing facilities.

It could well be that a transit shed will have to be constructed within the port area and it is certain that a railway will have to be constructed through the middle of the wharf area itself. This facility alone will take up a great deal of space. Members must appreciate the terrific volume and variety of products that will be shipped from the port of Esperance. The nickel produced will probably be shipped in small amounts of 400 or 500 tons. This means that small ships will call at Esperance frequently to load small tonnages of this cargo.

It is very necessary that an extension to the berthing facilities be made as soon as possible. It is only by thinking about these things now, with the knowledge gained of the development of the mineral resources and agricultural products which will be shipped through Esperance, that we will be ready when the time comes. The additional ships calling at the port will be of great benefit to the trade of Esperance. The seamen from the ships will spend their money in the town, and the vessels will be bunkered and victualled there.

In regard to the storage of wheat, if the additional silos are built they will have a capacity of about 7,000,000 tons. The shipment of salt through Esperance will bring about other advantages to the primary producers. The salt company has contracted with Co-operative Bulk Handling to permit C.B.H. to use the salt-loading equipment to load wheat. The charge will be ½c per bushel. At the present time the ships are loaded with wheat carted by trucks from the silo to the edge of the wharf, where it is tipped into an auger—and when I saw a ship being loaded there last Saturday there were five or six augers in use and about 12 trucks. The cost of loading wheat by this method is about 2½c a bushel. So the farmers will gain tremendously from the salt project, in having the use of the gantry provided by the salt company.

If we take into consideration the port charges on salt we find that on 500,000 tons they work out at approximately $80,000 to $85,000. This will be paid to the credit of the port authority. The revenue from the storage charges will increase proportionately as the shipment of salt increase to 1,000,000 tons. At the present time the finances of the port authority are in a very healthy state, and it looks as though the port will have a pretty bright future with the other commodities which will be shipped through it.

I would like to make reference to the railway line, because it is vitally important

to this development. On the insistence of the Government the company has to spend approximately $4,000,000 to upgrade the line. We are aware that eight-foot sleepers will be used, and heavy rails will be set. These rails can be moved at a future date and placed to standard gauge. I would like to make a plea that the standard gauge line be put down from the inception, as it will be of great benefit to the many industries in the area, especially the stock-raising industry. At present vast numbers of cattle and sheep are bought for the Adelaide market, for grazing, and for slaughter at the abattoir. Other sheep and cattle are sent from this area to Midland. If standard gauge equipment cannot be used on this line then the stock will have to be transhipped at Kalgoorlie, and their condition does deteriorate with too much handling and delay.

If the railway is left as a 3 ft. 6 in. line, it will be an orphan line. It will be cut off from all its relations in the 3 ft. 6 in. category, and that being the position great problems will arise. Without changing the bogeys there is no chance of getting the rolling stock on this line onto the other 3 ft. 6 in. lines. This is an important factor. The tonnage which will be carried over this line will make it a very economic section of the railways, because the majority of the money for its upgrading will be provided by the company.

Nickel, being a highly-concentrated and a low-tonnage product, can be transported by road; however, there is no doubt that the tonnage will be transported by rail. It would be a help to have standard gauge trucks to transport the nickel. It is a known fact that much of the nickel from Kambalda will be sent to Kwinana, and this aspect must be taken into consideration when a decision is made to establish a 3 ft. 6 in. or a 4 ft. 8 in. line.

In my opinion the route of the line is important. The proposed route cuts right through the centre of Esperance town. The trains will be three-quarters of a mile long at the beginning, and later could be up to two miles long. One can imagine a train of this length going into a country town, such as Esperance. Because the wharf and the town itself are interlinked—virtually they are one and the same—the train could be standing in the middle of Esperance between two schools, the shopping centre, and the housing settlement. This will create great problems and cars might have to wait at crossings. Pedestrains will be wanting to cross, and a great deal of noise in general will be created.

The Hon. J. Dolan: The trains will be kept out of the town. They will not be brought in to stop cars and people crossing.

The Hon. E. C. HOUSE: The town and the wharf are parts of the one thing, so that when a train comes into the wharf part of it could be waiting near the town.

The Hon. J. Dolan: A certain number of trucks will be brought in at intervals, to avoid cluttering up the town.

The Hon. E. C. HOUSE: The station is in the middle of the town.

The Hon. L. A. Logan: That station will be removed.

The Hon. E. C. HOUSE: It ought to be, because it is in the wrong place. I understand it will cost $120,000 to shift this line from Collier, around Pink Lake and the high school. This would be money well spent. On a short-term basis these things are established as cheaply as possible; however, if it is decided at a later stage to reroute them the cost would be greater than that to install them in the first place. If the line is left as it is proposed then underways or overways in some form or other may have to be provided. It would be more sensible to spend the $120,000 in the right direction in the first instance.

This railway line will be of benefit to the area, but eventually it will have to be converted to a standard gauge line. On present figures of the mineral and agricultural production of the Esperance region it is estimated that a population of 28,000 people can be supported within a short period of years.

The Hon. L. A. Logan: A few of the sandhills will have to be levelled.

The Hon. E. C. HOUSE: The State Housing Commission is doing the right thing; it is building homes between the sandhills, and it is not levelling them. It looks as though houses can be provided without removing the sandhills.

There is no better time than the present to give a great deal of thought to the upgrading of the railway line and to the storage of salt on the wharf. The salt company is developing what is an inexhaustible commodity, and with the transport and shipping facilities which will be provided the salt production could reach 1,000,000 tons per annum. That would be a tremendous asset to the trade of that area.

One cannot help but be intrigued by what is taking place in the production of nickel. This production will have an outlet through Esperance, in the main. I support the Bill and congratulate the directors of the Lake Lefroy salt company on their initiative in getting this project under way, on the work they have done so far and are still doing, and on the progress of its activities which must be ever increasing from now onwards.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [9.58 p.m.]: I am naturally very pleased with the reception which this Bill and the

agreement accompanying it have received. There is no doubt that this type of development at Widgiemooltha will be of general benefit to the Kalgoorlie area. Mr. House might be pleased to learn that the Government has already taken some steps in relation to the possibility of broadening the railway gauge from Kalgoorlie to Esperance. If he gets up in the morning and reads in *The West Australian* an announcement by the Premier that an investigation is being made on the possibility of the line being broadened, he should not be surprised.

The Hon. J. Dolan: That has been in the news a couple of times today.

The Hon. A. F. GRIFFITH: The Commonwealth Minister has shown some interest in the matter, but I cannot say any more at this point than that the Government has investigated the possibility. The proposal is at a very preliminary stage, but if it comes to pass an added benefit will be conferred on the district. Generally speaking this Bill has received support. I have, however, to answer a couple of questions that were raised by Mr. Stubbs and Mr. Garrigan.

I think those two members have formed some sort of opinion that there may be an independent town attached to this development. Let me say that this is not intended. There will not be a large work force attached to this project and any houses which the company builds will be built in Widgiemooltha as distinct from being built outside the town.

The Hon. J. J. Garrigan: It will be a real benefit to that town.

The Hon. A. F. GRIFFITH: It may be necessary to provide some accommodation near to the actual site of the operation but there will not be a company town in connection with this development.

Mr. Stubbs complained that he had been misled in a reply to a question on the condition of the Norseman-Esperance railway line, I am not going to take his remarks very seriously when he referred to people telling him lies. I will not harp on that except to say that I do not think anybody would deliberately tell the honourable member lies. Apparently he arrived at this conclusion because of some comment on the line by my colleague, the Minister for Industrial Development, when he was talking to the Bill and the agreement in another place on the 23rd April. Apparently this appeared to conflict with the information that I gave the honourable member in relation to a question.

I thought I should have a look at this and when the full text of both statements is collated one will see that there is really no inconsistency, and when both statements are combined, it will be found that no-one has been misled. The Minister for Railways said the general condition of the permanent way on this branch was not dangerous but proposals for ballasting the line were currently receiving consideration. The Minister for Industrial Development said the present railway is subject to very severe restrictions as regards speed and axle loading. This accounts for the fact that the Western Australian Government Railways and the company have not railed very high tonnages over the line in spite of the best endeavours of all concerned. The Minister went on to say that he could not see the situation deteriorating because of the extra tonnages of salt so far as wheat was concerned. On the contrary, he thought there was every reason to assume that, with higher axle loads and higher speeds, when the railway was upgraded, the position for wheat would be improved.

The Minister for Railways said that over the past two years there were five instances only of broken rails, but that no special speed restrictions were in force at the present time. He went on to say that work on upgrading the section would commence within the next three months and would proceed over a period of two or three years. The estimated cost of reconditioning the line between Widgiemooltha and Esperance is between $3,000,000 and $4,000,000.

In fact, there may have to be a reappraisal of this situation in the event of a change of attitude with respect to the railway line itself. I merely point this out: that nobody was telling the honourable member lies and when the two statements are read in conjunction they are not as misleading as we were led to believe.

The Hon. R. H. C. Stubbs: The Minister for Industrial Development and myself agree on the condition of the line.

The Hon. A. F. GRIFFITH: What the honourable member said indicated that he was being told lies about something. I am merely pointing out that he was not being told lies.

The Hon. R. H. C. Stubbs: Then I was given wrong information.

The Hon. A. F. GRIFFITH: That is what the honourable member thinks, and I have related the statements made by both Ministers in relation to the answer that I gave, and in my opinion they do not conflict.

May I say further to Mr. Stubbs, that whilst he obviously wants the industry in the area—and this is undoubted—he thinks that the Western Australian Government Railways has come out on the wrong side of the ledger in the matter of freights. In fact, those responsible for the economics of the Western Australian Government Railways are happy with the results of the negotiations and, as Mr. House indicated when he was speaking, the completion of this agreement was not easy.

Salt is a very low-priced commodity and, as Mr. Stubbs said, it is not in short supply in the world. We had very grave doubts, over a period of time, that this agreement would ever get off the ground. However, it is to the credit of the tenacity of the company, and the fact that the Japanese wanted a supply of salt from some other place in Western Australia which was not subject to cyclonic disturbances or tidal upsets, that this agreement was signed. That is the plain truth and had it not been for those special circumstances greater difficulties may have been encountered.

Further in answer to Mr. Stubbs, the normal freight rates paid on salt was on about 100 tons a week being railed to the metropolitan area. That is a very limited tonnage to be railed under condition, not favourable to all the services being provided by the Western Australian Government Railways. No special work saving is involved which would affect the economy of the operation when compared with the project at present envisaged. Of course, one can only compare like with like. According to the honourable member, the figure of $25,000,000 which he seemed to pluck out of the air, represented a present from the Western Australian Government Railways to the company.

The Hon. R. H. C. Stubbs: It is pretty good odds.

The Hon. A. F. GRIFFITH: The odds may be good if the facts were correct.

The Hon. R. H. C. Stubbs: You are dealing with 7,600,000 tons of salt over 15 years.

The Hon. A. F. GRIFFITH: The honourable member mentioned a 15-year period whereas clause 17 of the agreement specifies 10 years, or 6,000,000 tons, whichever arrives first.

The Hon. R. H. C. Stubbs: In your second reading speech it was 7,600,000 tons over a 15-year period.

The Hon. A. F. GRIFFITH: If the honourable member will have a look at the appropriate clause he will see that he has overlooked the provision of the formula for escalation that is set out in paragraphs (2) and (3) of that clause. If, while I am speaking, the honourable member will look at that he will find the explanation.

It has already been explained that salt is a marginal economy product and the Government is very happy indeed that it has been able to work something out which will assist this area of the country, and which is acceptable to the Government and to the company itself. The agreement commits the company to a considerable expenditure before the project can get off the ground.

Finally, the Director-General of Transport, in his report which is to be tabled in connection with the complementary Bill, expresses his satisfaction in relation to the rates to be paid by the company. Of course, there has to be a complementary Bill to provide for the construction of the railway line. The Director-General of Transport is satisfied because the freight rates will cover the operating costs. Only a small amount of capital will be provided by the State.

I think it is a very important provision in this sort of agreement that we are able to make arrangements with mining companies so that they provide a substantial part of the money, and I ask that members do not lose sight of that very important point.

I do not think there is any other point remaining for me to answer. I will not go back over the question raised by Mr. Stubbs, but judging by the expression on his face he does not seem to be quite satisfied. Perhaps I will have an opportunity to hear from him again during the Committee stage of the Bill.

I am appreciative of the remarks made by Mr. House, and other members who have spoken to the Bill, in support of the agreement, and I commend the second reading.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. A. F. Griffith (Minister for Mines) in charge of the Bill.

Clauses 1 to 4 put and passed.

Schedule—

The Hon. A. F. GRIFFITH: The note I have in connection with the comment I made about freight is that the freight for the first five years will be $2.20 per ton, rising to $2.25 per ton after five years. This latter rate is to apply until the end of the 10-year period, or 6,000,000 tons of salt have been transported, whichever shall come first.

Schedule put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

House adjourned at 10.14 p.m.

Legislative Assembly

Tuesday, the 29th April, 1969

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