notice of the scheme or amendment; or

(ii) more than seven days before the proper date;

(c) that a copy of the notice of that town planning scheme or amendment to a town planning scheme, as the case may be, was displayed in the offices of the responsible authority for a period, shorter, but not more than seven days shorter, than the prescribed period.

(5) In subsection (4) of this section—

"notice", in relation to a town planning scheme or an amendment to a town planning scheme, means the notice notifying persons of their entitlement to make objections to that scheme or amendment;

"prescribed period", in relation to a notice notifying persons of their entitlement to make objections to a town planning scheme or amendment to a town planning scheme, means the period prescribed by the regulations as in force at the time that notice was displayed;

"proper date", in relation to a town planning scheme or an amendment to a town planning scheme, means the earliest date that the Board could lawfully have specified as the date on or before which objections to that town planning scheme or amendment to a town planning scheme could be made. .

Mr RUSHTON: I move—

That the Council's amendment be agreed to.

This amendment conforms with the undertaking I gave to the member for Cockburn. Whilst I was not concerned with the Bill as it was presented, the member for Cockburn projected the view that a limitation should be placed on the number of days that should be permitted in respect of what I might term as transgressions of the past.

I referred the matter to the Crown Law Department, and the suggestion that has come forward is that a limit of seven days should be applied. That would take into account the conditions that might be applicable. I have mentioned to the member for Cockburn that a period of seven days has been decided on, and he is agreeable to it. This amendment gives effect to the point which was raised in this Chamber.

Question put and passed; the Council's amendment agreed to.

Report

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

House adjourned at 10.39 p.m.

Legislative Council

Wednesday, the 22nd October, 1975

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 4.30 p.m., and read prayers.

QUESTION ON NOTICE

TRANSPORT

Karawara Bus Service

The Hon. CLIVE GRIFFITHS, to the Minister for Health representing the Minister for Transport:

(1) Is it the intention of the MTT to provide a bus service into the new State Housing Commission development at Karawara?

(2) If so, would the Minister advise—

(a) when the service will be commenced; and

(b) what will be the route of the service?

(3) Are any problems likely to delay the implementation of such a service, and if so, what are they?

The Hon. N. E. BAXTER replied:

(1) Yes.

(2) (a) Not yet decided.
(b) At this stage still uncertain but expected to be decided in the next two weeks.

(3) Yes. Lack of availability of final road system in this area.

BILLS (3): RECEIPT AND FIRST READING

1. Securities Industry Bill.
2. Companies Act Amendment Bill (No. 2).
3. Evidence Act Amendment Bill (No. 2).

Bills received from the Assembly; and, on motions by the Hon. N. McNeill (Minister for Justice), read a first time.

BILLS (3): ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills—

1. Fauna Conservation Act Amendment Bill.
2. Door to Door (Sales) Act Amendment Bill.
3. Town Planning and Development Act Amendment Bill.

BILLS (3): INTRODUCTION AND FIRST READING

1. Church of England (Diocesan Trustees) Act Amendment Bill.

Bill introduced, on motion by the Hon. N. McNeill (Minister for Justice), and read a first time.

2. Education Act Amendment Bill (No. 3).
3. Murdoch University Act Amendment Bill.

Bills introduced, on motions by the Hon. G. C. MacKinnon (Minister for Education), and read a first time.

BILLS (2): THIRD READING

1. Metropolitan Region Town Planning Scheme Act Amendment Bill.

Bill read a third time, on motion by the Hon. I. G. Medcalf (Honorary Minister), and returned to the Assembly with an amendment.

2. Acts Amendment (Western Australian Meat Commission) Bill.

Bill read a third time, on motion by the Hon. N. McNeill (Minister for Justice), and passed.

WORKERS' COMPENSATION ACT AMENDMENT BILL

Report

Report of Committee adopted.

GOVERNMENT RAILWAYS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th October.

THE HON. N. E. BAXTER (Central—Minister for Health) [4.50 p.m.]: In replying to the second reading debate on this measure, I would like to refer to some remarks made by Mr Dans. It is a pity that he is not in the Chamber today—

The Hon. R. F. Claughton: He has been ill for the last few days.

The Hon. N. E. BAXTER: I am sorry the honourable member is ill. It is unfortunate that he is not here.

The Hon. S. J. Dellar: We will pass on your comments.

The Hon. N. E. BAXTER: Mr Dans said that this Bill was introduced to provide the Government with another taxing measure. This is not so. There was never any intention that the measure should become a taxing avenue at all. It was introduced for the express purpose of providing the Commissioner of Railways, through his Minister, with power to introduce by-laws to provide parking meters at the East Perth terminal. Later on Mr Dans gave the lie to the statement that the Bill was another taxing measure when he said that it would develop into the situation where, because of the administrative charges involved in applying fees for parking, it would have to be extended to other railway station parking areas to cover the cost. This is the answer to the problem. It will not be a taxing measure for the simple reason that it would not be worth while. It is purely to give the commissioner the power to control parking at the East Perth terminal.

Mr Dans said also that the Bill will give the commissioner certain powers in regard to a great many other matters. It is not fully comprehended what the honourable member was referring to in that particular aspect, because the Bill does not provide the commissioner or his officers with any other power than to recommend to the Minister the introduction of by-laws in matters prescribed and for those matters only.

The removal of a vehicle under paragraph (g) in clause 2 could not in any way be considered to be dealing with other than the control of parking, and then it could be considered only in isolation.

In regard to some of the other statements the honourable member made about the amount to be charged to the public, I would point out this will be set when the appropriate by-law is framed. At this time the proposed charge to the public is 10c for two hours or 20c per day, which is a pretty reasonable charge and would not amount to much of a taxing measure, if anything. This is a similar fee to that charged by the Perth City Council in other

city car parks. The fee sought to be charged to employees is 50c per week, as outlined in a letter to the union.

Parking facilities at suburban railway stations are being upgraded continually to further extend the park and train concept. I think everyone will agree this is so; every effort is being made to encourage people to use the railways. There is no intention on the part of the Railways Department to enact any legislation that would reduce the effectiveness of the scheme to encourage people to use the railways. In particular, the charging of fees for parking at various stations other than the East Perth terminal has never been contemplated.

It has been suggested that the charging of a fee may encourage people to park at their closest station and then use the public transport available to proceed to the terminal. That is not so, and I do not think it would have an effect either way.

It is quite probable that the Royal Automobile Club of WA is not fully aware of the contents of the Bill or the procedures necessary to have by-laws introduced, hence the presumption that this Act will enable the Commissioner of Railways to charge parking fees on all railway land where parking is permitted. Before that could occur in any area at all, the by-law would have to be promulgated and placed in the *Government Gazette*.

Mr Dans referred to the provisions for exemptions from complying with parking restrictions. It is necessary to include this provision in order that vehicles servicing the terminal and departmental—on duty—vehicles, for example, may be exempted from payment of a fee. This clears up the whole situation in that respect.

The honourable member referred to people who leave their vehicle parked for such a period that it could be towed away. Without this provision, the area concerned could become a resting place for abandoned vehicles. Somebody could abandon a vehicle in such an area, and therefore it is necessary to have this provision included in the legislation. The power would only be invoked as a last resort. Members can well imagine that a vehicle could be abandoned and left in the area for many weeks. If the commissioner did not have this power, the vehicle would have to be left in the parking area and it would be a pretty difficult situation to deal with.

Mr Dans referred also to the right of employees to use the parking facilities while on leave. For convenience the reduced fee payable by employees has been proposed at $1 per fortnight, deductible through the pay roll. To contain administrative costs, it is proposed that no rebate for periods of leave will be made and therefore allowance has been included for employees to park at any time during the currency of their ticket including periods of leave. So they are well covered in that respect. Mr Dans then said—

> The Government is creating a situation where, initially, only employees working at the East Perth terminal will be charged a parking fee.

Experience of other departments has shown that without adequate control, such as the charging of a fee for all those who use a parking facility, conditions will become chaotic. There are no two ways about it; unless there is some control and some fee charged, confusion would result. Mr Dans continued—

> The Bill does not tell us how much the parking fee will be, or what penalties will apply.

I have stated already what the parking fee will be. The penalties and recovery costs have not yet been prescribed and will be subject, as with by-laws, to Government sanction. Of course these by-laws are subject to scrutiny in this House and they can be disallowed. Mr Dans then said—

> . . . neither the Bill nor the second reading speech give any reason for imposing such a fee.

Penalties are proposed to encourage a better use of the parking facility provided. In so far as recovery cost is concerned, it is proposed that this will be the only actual cost incurred by the department. The concern of the WA Locomotive Engine Drivers', Firemen's and Cleaners' Union—which was put forward by the honourable member—can only be that parking fees could be extended to areas other than the terminal. It is reiterated that this is not intended at all.

The honourable member said also that there will be a claim for an increase in margin to cover the cost of parking, and this would be subtracted from employees' pay packets. Many thousands of people who currently drive cars to the city for their employment are required to pay a parking fee and it cannot be seen that extending this to employees at the railway terminal would provide any claim for a pay increase. That would be drawing a very long bow. I started work in the city as a young fellow, and it was my job to get to work. If I had a vehicle to park, I had to find the place to park it.

The Hon. D. W. Cooley: You would have been riding a bicycle back in those days.

The Hon. Clive Griffiths: Or a horse!

The Hon. N. E. BAXTER: Mostly it was a bicycle, but sometimes I drove the family's car when it was available.

The Hon. G. C. MacKinnon: Cars were invented about the turn of the century.

The Hon. N. E. BAXTER: Yes, we had cars then. Mr Dans expressed some fears that a parking franchise would be handed to a private company. It was never intended by the department that

anyone should make a profit from parking fees.

The object is only to provide control over the area and offset to some degree the costs in providing it. Administratively, the control will be kept as simple and inexpensive as possible and will require no additional staff, and therefore the eventuality outlined by the honourable member will never occur. It would not be a viable business for a private company.

Finally, the provision of facilities for employee parking to the extent now planned was in part due to the Perth City Council's concern that street parking would otherwise create many problems; it is only reasonable that the costs of providing these facilities should, at least in part, be recovered.

If members were to drive along Lord Street each morning, as I do, they would see that the streets adjacent to the terminal are choked up with parked cars and it is felt that rather than let people use this facility haphazardly, they should pay a reasonable fee.

Question put and passed.

Bill read a second time.

BUILDERS REGISTRATION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 10th September.

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [5.02 p.m.]: Several queries were raised by members during the second reading debate to which I should like to reply. I refer first to the remarks of Mr Claughton. The honourable member in his speech criticised the proposal that a person who has had five years' experience as a manager or supervisor of building construction work can qualify for registration.

The point which he overlooks is that it is not automatic registration as provided, for example, in the case of architects or engineers, or in the case of a person who has had practical experience for a period of seven years and has passed the prescribed examination. Any applicant under the new provision must satisfy the board that he is fit and competent to carry out building work. In other words, the board is required to make such inquiries and inspections as will convince its members that the person is competent to carry out building contracts.

In his speech the honourable member also referred to the Howard Smith report and read a table setting out the number of complaints over the period 1970 to 1973 and the percentage of such complaints relating to companies or firms employing a supervisor.

He incorrectly assumed that the supervisor referred to was in the category of those persons who could seek registration under the new provision V of section 10 of the principal Act.

Charles Howard Smith, Q.C., was referring to the supervisor as set out under section 10 (2) (b) (ii)—that is, a person who is a registered builder and is engaged to supervise building work for a partnership or company. In actual fact, Mr Howard Smith was relating to the practice of dummying by stooge builders when he highlighted the statistics to which the honourable member referred.

These figures accentuate an important point. They demonstrate that even though a person is a registered builder and is supposedly employed to supervise on behalf of a company or partnership, this does not ensure that a high standard of workmanship is maintained.

To the contrary, it indicates that it is common practice for a number of builders to hire out their licenses and do nothing about meeting their responsibilities which go with being a registered builder.

In this regard, clause 10 of the Bill is designed to grant to the board more power in controlling this type of person to ensure that a higher standard of workmanship is maintained.

In referring to the remarks made by Mr Clive Griffiths, I must say I have a great deal of personal sympathy for the views he expressed, where he made a distinction between the builder of large structures, such as the AMP building, and the builders of cottage homes or small dwellings. He suggested that there should be different categories of builders where on the one hand builders could be authorised to build large city structures and on the other hand, other builders could be authorised by limited registration to build small cottages, if that is all they desired to do.

I can see that in a sense, this is traditionally how the building industry has developed since days gone by, before we had a Builders Registration Board. Just prior to 1961, we had "A"-class and "B"-class builders; as the honourable member himself suggested the "B"-class builders who became journeymen builders are a dying race because they had to be in existence or training for their "B"-class classification in 1961. I believe he suggested we should now revert to a system where we have classes of builders who are licensed to perform various kinds of work.

The Hon. Clive Griffiths: That is right; that is basically what I said.

The Hon. I. G. MEDCALF: I also have a considerable amount of personal sympathy for the views he expressed concerning the need for a new Select Committee; that suggestion strikes a chord in me and I believe the time may well come when a

further inquiry must be undertaken into the Builders Registration Act.

Mr Griffiths referred to the problems which occurred as a result of which the Honorary Royal Commission was formed in 1961, when the Act first came into being, and he also drew attention to the number of amendments to the Act which have been made by Parliament since that time. About five major amendments have been made, at an average of about one every two or three years, and it is a cause for concern that there have been so many problems with this Act.

However, in respect of those considerations, I do not believe we are justified in doing as the Leader of the Opposition suggested; namely, scrapping the entire Act. I do not know whether he made the suggestion seriously, because he counteracted it by other comments. However, I do not believe it is reasonable or proper to suggest we should scrap the entire Act at this stage of our history.

The Hon. R. Thompson: I think I qualified my statement by saying the Act should be scrapped because it was not offering protection to home builders.

The Hon. I. G. MEDCALF: Yes, the Leader of the Opposition did make some qualifications to his remarks. Mr Griffiths raised a number of other matters which require a reply.

In relation to the matter of restricted registration, he mentioned that not every builder wished to contract to build a structure such as the AMP building, and at the present time the registration covered all builders from the person who constructed the modest cottage to the company that undertook major city office blocks.

The possibility of a restricted registration has been raised with the Builders Registration Board, and the board is opposed to such a concept. Records show that registration is not difficult. Of the 2 400 builders at present registered, over one-third of them obtained their registration by virtue of passing the necessary examinations. A vast majority of such persons commenced in the industry as apprentices, completed their indentures and then continued on with their studies at night school to pass the examinations.

To introduce a new level of registration which requires less knowledge and competency than at the present time would lower standards generally, which would be a retrograde step. Two types of registration would also increase the workload of the board enormously and could complicate the role played by local authorities in policing the issue of building permits.

All in all, the proposal has had to be rejected because it would have a tendency to permit less competent persons to obtain registration, which is not acceptable to the Government.

Likewise, the honourable member's suggestion that unregistered builders be permitted to build up to the value of, say, $15 000 also is not acceptable.

The aim of the legislation is to protect the public from incompetent operators; but to permit unregistered persons to undertake work up to the value of $15 000, which even with inflation is still a large sum, would do much to take the industry back to the old days when registration was not required and the public had to suffer the problems arising from unskilled persons with very little knowledge of the industry posing as builders.

The honourable member expressed some doubts in regard to clause 3. This clause is an attempt to overcome a problem which has arisen because persons lacking experience have constructed houses of two or more levels and then, exercising their right under the Act, after 18 months from the date they obtained the building permits, have sold the properties to persons who after purchase find that there are defects in construction, and there is no action which the board can take to rectify the situation.

The purpose of the amendment is not to frustrate the owner of a sloping block who wishes to build a home for himself with a garage, laundry, and games room in the foundations and living accommodation above. The honourable member's attention is drawn to clause 5 which relates the single storey building to the meaning given to that term from time to time by the general uniform building by-laws under section 433A of the Local Government Act.

Some members will be interested to read the reference, but briefly in considering how many storeys a house contains, no regard is had for areas which are not classified habitable. So, a person can have a ground floor or another storey, provided it is not habitable.

The final matter touched on by the Hon. Clive Griffiths was the board's right to take action against builders who have deviated from plans and specifications.

He is not correct when he states that the board does not seem to have any power to take action against builders who deviate from plans. The policy of the current board is that any builder who does not construct in accordance with plans and specifications provided to him will have to rectify the error if the owner so desires.

The Hon. Clive Griffiths: That is a new provision.

The Hon. I. G. MEDCALF: Yes.

The Hon. R. Thompson: But it is not written into the legislation.

The Hon. I. G. MEDCALF: I think that is open to question, but we can discuss that point during the Committee stage.

The Hon. R. Thompson: Yes, we will.

The Hon. I. G. MEDCALF: I refer now to the matters raised by the Hon. T. Knight. The honourable member objected to clause 6(a)(iii)(V) which in effect enables a supervisor of five years' experience to obtain registration. A point he overlooks is that such a person must satisfy the board that he is fit and competent to carry out building work.

I hasten to add that I do not know whether in fact he overlooks it, but I think the point should be stressed. Therefore, any supervisor with five years' experience in the work of building construction will not automatically be granted registration. The board will decide after being satisfied that he is competent to carry out the role expected of a registered builder.

I refer now to the comments of the Hon. I. G. Pratt. The honourable member expressed his concern regarding the proposed clause 3 which is to tighten up control of unregistered builders building multi-storey houses.

As already explained in reply to the Hon. Clive Griffiths, it is not the intention of the Act to prevent a person wishing to build on a sloping block or to put together a prefabricated two storey house providing the habitable areas are not on two levels.

Mr Thompson wished to receive an assurance concerning his former hairdresser, who is now operating as a builder through using a registered builder's license, as to whether he can obtain builders registration.

New clause 7 provides that a person who has had five years' experience in the work of building construction as a manager or supervisor and satisfies the board that he is fit and competent to carry out building work, may obtain registration. Therefore, if this person has either been a manager or supervisor for eight or 10 years in the industry and satisfies the board that he is fit and competent to carry out building work, he will be able to obtain registration. The tests which will be applied to a person seeking this type of registration are that he has been a manager or supervisor for the required period and that he convinces the board that he is competent to carry out building work.

The other point made by the Hon. R. Thompson is that there are many cases where the builder has not followed the plans and specifications supplied to him by the owner.

First of all, this would be a matter for the local authority which issued the building permit, but also the builders registration board takes action, when requested by the owner, if the plans and specifications are not complied with. This was not always the practice, but it is the policy of the current board to insist on plans and specifications being carried out unless the owner has otherwise been satisfied. In other words by some other adjustment —by the payment of damages or costs or in some other manner.

The Hon. R. Thompson: For how long have they been doing that?

The Hon. I. G. MEDCALF: I cannot really answer that question, but it is now the current practice. I do not know the date of the Leader of the Opposition's last case, but evidently it has been the practice since then.

I think that answers most of the points raised by members in the course of their second reading speeches; but no doubt there will be further opportunity to answer any other points which have not been specifically answered and this can be done in more detail in the Committee stage.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. I. G. Medcalf (Honorary Minister) in charge of the Bill.

Clause 1: Short title and citation—

The Hon. R. THOMPSON: This Bill deals with the Builders Registration Act. I am rather concerned that the Minister should reply to me and say that the Builders Registration Board can now take action if buildings are not constructed according to the plans and specifications stamped by the local authority. We know that people genuinely submit such plans in the hope that the finished product will conform with those plans.

Nowhere in the legislation can I find that the Builders Registration Board has the right to take action against the builder; and I will argue this when we get further into the Bill and when we deal with the Act itself. The Minister is not correct in saying what he did.

The board might be acting in this manner and taking the action the Minister says it is, but I would like the Minister to tell me which section of the Act gives the board the right to take this action. In the interpretation section there is no mention of plans and specifications. There is, however, mention in the Act of uniform building by-laws.

What action could the owner of a home take if the plans and specifications were not adhered to? What action could the Builders Registration Board take if, for example, the foundations were lower than the plan specified? Following the debate on this matter I asked the following question—

(1) What action can the Builders Registration Board take against a registered builder on complaint

from a person having a home constructed if—

(a) the house is not constructed in accordance with the plans and specifications passed by the local authority;

(b) the house is positioned incorrectly on the block or even if it is built back to front on the block;

(c) the foundations are of a lesser height than provided for in the specifications?

We have the unhappy situation where questions are now lumped together and a general answer is given. A specific answer is not given and I do not think it is to the Government's credit to do this. When a member asks a question he expects a reasonable answer. This, however, was the unreasonable answer I received to my question—

> The board, providing it is satisfied that the complaint is justified, can direct the builder to carry out alterations to the building so that it conforms with the plans and specifications.

Let us say that is correct; though I know and members of this Committee know it is not correct, because the board has not the right under the Act to force a builder to do these things in spite of what the Minister's answer states.

Let us say a person instructs a builder that he wants a house built on a block at a particular angle—perhaps it may be to enable him to park a caravan, or a boat, or to obtain access to the property —and he later finds the house is wrongly positioned. In such a case the Builders Registration Board cannot take any action at all.

Let us be honest about this. The Minister should look at the provision in the Act which states that the work will be carried out in a workmanlike manner. That is all the Act says.

The Hon. T. Knight: The local authority is the only authority that can act against the builder if he contravenes the plans and specifications it has passed.

The Hon. R. THOMPSON: That is quite correct. If we are to have a Builders Registration Act let us have one which provides that builders should be registered; one in which there is protection for the person for whom the house is being erected. The legislation was originally introduced to protect the people who were having their homes constructed. We find now, however, there is a complete departure from what the original legislation intended when it was passed in 1939.

This Bill will make the legislation a builders' protection Act. That is what it will mean. It protects the builder; it restricts the builder and it gives very little or no protection to the person who is having the house constructed.

The Hon. T. Knight: I agree it restricts the builder but I would not say it protects him.

The Hon. R. THOMPSON: It does, because it keeps the builders out of the industry; they cannot get registration and they may be quite honest.

The Hon. T. Knight: If they were competent they could take the necessary examination and get in.

The Hon. R. THOMPSON: I do not complain about that aspect; I merely say this legislation provides for a builders' protection Act; because there is very little protection for the person who is having a house constructed.

The Minster's answer to my question says that the board, providing it is satisfied that the complaint is justified, can make the builder carry out the necessary alterations.

Let us take an example and say that the plans and specifications indicate where a house must be positioned on a particular block and eventually it is not so positioned. Is the Minister trying to tell me that in such a case the Builders Registration Board will say to the builder, "You have made a mistake; you have built the house three feet closer to the boundary than you should have done; pull the house down and move it over a bit."?

The board certainly will not do that; we are merely fooling ourselves if we think it will. The answer I received was virtually a lie. It would have been far better if the three questions had been answered specifically and I had been told the truth, that the board could not take any action at all had the home been constructed contrary to the plans and specifications.

The Hon. T. Knight: It can deregister that builder, which means that if he wants to carry on building in the particular area he cannot do so without registration.

The Hon. R. THOMPSON: The Act is not broad enough; it does not cover plans and specifications—it merely covers building in a workmanlike manner.

The Hon. T. Knight: The local authorities ensure that the building is carried out in a workmanlike manner and the person concerned is covered on the question of plans and specifications particularly in regard to structural detail.

The Hon. R. THOMPSON: Then it becomes a civil action. The honourable member is only supporting my remarks when I say this is a matter for the local authority; it is the only body which can police this. I stress that the home builder has no protecton under the Act. If the

position of the house does not conform with the plans and specifications it is a matter for a civil action.

The Hon. T. Knight: By the local authority.

The Hon. R. THOMPSON: Or by the home builder. If the alignment of the house were not correct the local authority would not take action unless the building was endangering another property.

The Hon. T. Knight: Unless it was too close to the boundary.

The Hon. R. THOMPSON: I realise that, and there is provision for a penalty to be paid if the house is built too close to the boundary. However, genuine mistakes do occur and people are apt to move pegs from their positions. So if the house is incorrectly positioned on the block the Builders Registration Board can take no action; nor can it take action if the foundations are lower than the plans and specifications provide.

I know that such instances have occurred and, when they have been reported to the Builders Registration Board, the board has said it can take no action; and the Act has not been altered from that day to this—the situation has not been rectified.

The Hon. T. Knight: The Builders Registration Board knows that this is under the jurisdiction of the local authority and if the foundations are lower than they should be they know the building surveyor has fallen down on the job.

The Hon. R. THOMPSON: Unfortunately this is where the local authority building inspectors are not geared to carry out the necessary inspections, particularly with the large volume of building that is taking place in the rapidly developing suburbs. I accept that, too. They are not geared to measure everything in every building. However, I could take members to a couple of homes where, instead of the drop into the building being 1 in 12 or 1 in 13, it is 1 in 3½ or 1 in 4. This is my point.

I have no complaint with the Act providing the owner has some sort of cover under it. This was the initial intention of the legislation. It was not to protect the builder. A grandfather clause was included which brought in all builders, even the sugar bag builders, with their saw, hammer, and chisel in the sugar bag. I can remember some alterations being done to my parents' home and the builder on that occasion arrived in a sulky. That was not so many years ago, either.

I realise that we must have builders registered, but we must also provide protection for the person who is paying the money.

I believe that the answer I received to the question I asked was an insult. However, if anyone can show me the provision in the Act under which the board can take action, I will humbly apologise.

The Hon. T. Knight: What you are trying to prove is that the building standard in the metropolitan area where the Act applies is worse than it is in the country.

The Hon. R. THOMPSON: Do not put words into my mouth. I do not suggest that. The standard of construction of homes in Western Australia is better than it is anywhere else in Australia.

The Hon. T. Knight: Then you admit we have made some improvement by having the Act apply in the city?

The Hon. R. THOMPSON: I am not arguing that the Act is not a good thing. I have never said it was not.

The Hon. I. G. Medcalf: Last week you did suggest that the Act ought to be scrapped.

The Hon. R. THOMPSON: I did, but I clarified what I meant. I said that the Act should be scrapped unless some protection for the home owner is written into it.

From my experience, I asked straightforward questions, but in answer I was told a pack of lies because nowhere in the Act is there provision for the board to take the necessary action in the circumstances I outlined. If there is I would like the Honorary Minister to tell me where it is.

The Hon. I. G. MEDCALF: I am really intrigued by Mr Thompson's line of argument. During the second reading debate he complained about the board taking no action when a builder did not comply with the plans and specifications. In fact he complained strongly and bitterly. When I indicated today that the board does take action because it has changed its practice, he still complains quite strongly.

The Hon. R. Thompson: I want to see it in the Act.

The Hon. I. G. MEDCALF: He complained because the board did not take action, and then when I told him that the board does now take action he did not indicate that it was a good thing. I would have thought he would applaud the action now taken by the board.

The Hon. R. Thompson: I want to know the provision in the Act under which the board can take the action.

The Hon. I. G. MEDCALF: I will come to that. I am surprised the Leader of the Opposition did not say how pleased he was that the board is now taking action along the lines about which he complained two or three weeks ago.

The Hon. R. Thompson: I have no proof this action is taken. Have you?

The Hon. I. G. MEDCALF: I am quite satisfied it is being taken. I am quite sure the information supplied to me is not false. When I am told by the Minister in another place that the board is taking action and that that is its present policy, I am prepared to believe him.

The Leader of the Oppostion is basing his whole argument upon a fallacy. He has said several times there is nothing in the Act which indicates that the builder must adhere to plans and specifications and that therefore the board is unable to take any action in this regard. The board has said it is taking this action, but the Leader of the Opposition will not believe this because he has no proof.

The Hon. R. Thompson: I have had a fair bit of experience with the board.

The Hon. I. G. MEDCALF: He says that even if the board were taking the action it has no authority to do so under the Act.

The Hon. R. Thompson: That is my whole argument.

The Hon. I. G. MEDCALF: I believe that the authority is given in section 12A of the Act which perhaps has been interpreted far too narrowly by the board and the Leader of the Opposition.

If the Leader of the Opposition believes that a builder can carry out his work in a proper and workmanlike manner without complying with plans and specifications, he is in error, and serious error. Possibly in the past the board has misinterpreted this provision also.

Let us take a practical example. If the Leader of the Opposition took the plans and specification of, say, the AMP building to a builder—the plans and specifications would have been passed by the local authority, obviously—who agreed to erect the building and signed on the dotted line, and then two or three years later he was shown a cottage in the country, would he consider that the builder had erected the AMP building in a proper and workmanlike manner? Of course not. That builder in those circumstances would obviously have committed an offence. If a builder is to erect a building in a workmanlike manner, it must be in accordance with the plans and specifications.

I think I can understand where some confusion has arisen. Many people do not build with full plans and specifications. Some people will draw their own design, perhaps on a cigarette packet, and will give it to a builder who will indicate that he will fix everything up. A contract is drawn up but, as the honourable member would know, more often than not the contract would consist of only a few lines perhaps half a page, setting out what the building will be. When finally the owner inspects the house or whatever the building might be—

The Hon. R. Thompson: Now don't jump that one. These plans must be passed by the local authority. You cannot be as casual as that about it.

The Hon. I. G. MEDCALF: Of course the plans would be passed by the local authority. However, when the owner goes along to inspect the building, he finds it is nothing like he had in mind when he drew up his original sketch.

The Hon. R. Thompson: I will agree with you on those matters, but I am not following that line at all.

The Hon. I. G. MEDCALF: But this is perhaps an area which has caused confusion to many people.

The Hon. R. Thompson: It could.

The Hon. I. G. MEDCALF: Clearly the board cannot do anything about a builder who has built in accordance with the plans he produced himself and which were passed by the local authority. Those plans might not have been what the owner thought he was getting. This represents a difference of opinion. In those cases clearly the board would be right in saying the building has been erected in a proper and workmanlike manner even though the building was not what the owner thought he was getting.

The Hon. R. Thompson: I accept that.

The Hon. I. G. MEDCALF: This could be a reason many people have found that they have been unable to get the redress they thought they should get from the board.

I do not know what the policy of the board has been in the past. It might have been too narrow for all I know. However, the board has now stated that its current practice is as I have indicated. If someone came to me with a plan which specified that, say, the lounge room should be 13 feet wide, and it is only 11 feet or 12 feet wide, then it would be quite clear to me that the builder had not erected the room in accordance with the plans and specifications. Those actual words do not have to be included in the Act. Anything that is in the plans must be followed by the builder. If he does not follow the plans, he is not erecting the building in a workmanlike manner. The building may have beautiful walls, and a wonderful floor of jarrah or other good timber, but if the building is not in accordance with the plans and specifications it would not have been done in a proper and workmanlike manner. I believe this must have been the interpretation of the board, although I do not know. I think it must explain both the answer to the question asked by the Leader of the Opposition and the current practice of the board. This seems satisfactory to me and I therefore cannot understand why there should be further objection. The board has indicated its present practice, and it is on record in *Hansard*.

The Hon. CLIVE GRIFFITHS: Members will recall I indicated earlier this is an area which required attention and I am pleased indeed that the Honorary Minister has indicated that the board is now taking

action with respect to builders who do not comply with plans and specifications. If, as the Honorary Minister suggests, section 12A of the Act gives this authority to the board, I am highly delighted.

I just want to say that when I speak about compliance with the plans and specifications, I do not necessarily refer to the foundations being too high or too low, or to a lounge room or some other room being too narrow or too wide. The area about which I am deeply concerned and about which I have had some experience, involves plans and specifications which stipulate a specific type of material to be used in a building; for example, a certain type of brick.

Bricks are a very expensive item in the construction of a home, and there are various grades of bricks at different prices. I have had brought to my notice instances of builders, through a mistake or deliberate action, building houses with bricks of a type different from the type in the specification.

I hasten to say that over the last few years I have not had to take problems to the Builders Registration Board so frequently as I have done previously. I think the last time I made an approach to the board was about 12 or 18 months ago, in respect of faulty bricks and brickwork, and the board certainly indicated then that it did not have authority to do anything. I accept what the Honorary Minister says—that the board currently has such authority. I hope the authority extends to giving the board the power to ask a builder to rectify work which has been built with materials other than those stated in the plans and specifications, even though his work may have been carried out in a workmanlike manner.

In one of the instances I mentioned, the complaint concerned a very nice house except that it was built of bricks which would have been classed as second or third grade, whereas first-grade bricks of a certain type had been specified. The bricks actually used in the house were atrocious. The Builders Registration Board ordered the builder to remove the worst of the bricks, so they were chopped out and replaced by better looking bricks. However, the mortar used in replacement takes on a different appearance from the mortar used in the original brickwork. Therefore, when this house was finished—with half a dozen bricks removed here, a dozen there, and higgledy-piggledy pieces of mortar of an entirely different texture and colour—it looked as though someone had had a go at it with a double-barrelled shotgun or had run a motorcar into the wall.

The couple for whom the house was being built were very distressed and had reached the stage where their marriage was being affected by the problem. All their lives they had saved to accumulate sufficient money to build the house of their dreams, and the house looked as though it had been built of secondhand material.

The Builders Registration Board itself has had a rather checkered career in its own administration, one way and another.

The Hon. R. Thompson: I was going to make that point, too.

The Hon. CLIVE GRIFFITHS: On the occasion to which I am referring, the board said to me, "We have done practically everything we can do. We have told the builder to replace the worst of the bricks, and that has been done. We have checked the walls and the building is structurally sound." But in no way did that house resemble the house those people had envisaged from their plans and specifications.

This kind of situation is different from the situation where an offence is committed which would be challengeable by the local authority. The situation I have outlined has nothing to do with the local authority, provided the walls and measurements are in compliance with the building by-laws.

The Hon. J. C. Tozer: I think it is the responsibility of the local authority. I think the building surveyor must ensure the materials are in accordance with the specifications.

The Hon. CLIVE GRIFFITHS: Perhaps the local authority should do that, in which case local authorities are falling down on their responsibilities. If it is the responsibility of the local authority to ensure that a ceiling and cornices are in accordance with the plans and specifications, and to make the builder pull them down and do them again correctly if they are not, even though the structure is sound, I would be happy about that. But whether or not it is the responsibility of the local authority, it should also be the responsibility of the Builders Registration Board to take action in such cases.

I am quite happy to accept what the Honorary Minister has said, but it is an entirely new interpretation of the legislation as far as the board is concerned.

The Hon. T. KNIGHT: As I said earlier, the plans, specifications, and structural details are the responsibility of the local authority. I do not think we can change that because the local authority handles the licensing and inspection. The finish is the responsibility of the builder in a country area, but it is the responsibility of the Builders Registration Board in the metropolitan area. For this reason I have been advocating over the years the extension of the operations of the Builders Registration Board into country areas.

As far as specifications are concerned, contracts with the subtrades contain the words "to be finished in a workmanlike manner and satisfactory condition". So there is a responsibility within each trade to ensure the work is carried out to a satisfactory standard, and on this basis

I believe the Builders Registration Board should be more concerned about the finish of the job, over which the local authority has no control.

The Builders Registration Board should have more teeth to enable it to deal with these situations. The Hon. Ron Thompson said the board had not acted in regard to these aspects over the years and he was happy to have the Minister's assurance that it would do so now. I do not believe the board has acted on the provisions in the Act in regard to deregistering or prosecuting builders for faulty workmanship and finish.

I agree with Mr Clive Griffiths that materials should also be under the control of the board because they are an aspect of finish. I do not think the local authority should hold responsibility in connection with the material used. Local authorities abide by the uniform building by-laws, but it is not obligatory for them to ensure that work is finished in a workmanlike and satisfactory condition. The Builders Registration Board should be able to step in to bring a builder into line and make him use materials which conform to the specifications, but the local authority is the body to whom the builder is responsible for the structure itself.

Where a builder constantly steps out of line by erecting a building too close to a boundary or putting a house the wrong way on a block, over and above the conditions laid down by the local authority, the Builders Registration Board should be able to deregister the builder, otherwise if the builder loads the price of the job sufficiently to cover the anomalies he can carry on to the detriment of the building industry.

The Hon. I. G. MEDCALF: In answer to the question asked by the Hon. Clive Griffiths, I have no hesitation in repeating that the current practice of the board is to deal with that matter as a breach of the plans and specifications. In the case quoted by him, where the material used was not in accordance with the specifications, as I understand the ordinary meaning of the words the current practice would be to take action. I can only quote the information I have been given by the Minister, which I believe is to that effect.

I think one of the reasons there has perhaps been some misapprehension—and here I am speculating a little—is that people expect the board to do everything for them, forgetting that there are civil remedies as well as the local authority. In claiming against a builder in a civil action, exactly the same form of words would be used as in the Bill; but some people do not like to go too far so far as the board is concerned. If they get a refusal from the board they do not want to become involved in legal proceedings, and they more or less assume that if the board will not help them nobody will. Obviously the board's practice has changed, and perhaps that gave rise to the misconception.

In regard to the question raised by Mr Knight, if a builder puts a house the wrong way around on a block he will be guilty of incompetence or negligence. There would not be any shadow of a doubt about that. If a person has proper plans showing the front of the house facing the street, and the builder places it the wrong way around, he would be guilty of negligence or incompetence. But he is entitled to a hearing, even though he is a builder. We must not forget in our electorates we represent builders as well as the public. The builder may have some explanation as to why he did this extraordinary thing. So I would not like to say on the face of it that everyone who does such a thing is guilty of negligence; it is something that has to be looked at. The plans have to be studied.

The Hon. Clive Griffiths: His compass could have been jammed!

The Hon. I. G. MEDCALF: It could be due to an eclipse of the sun! Section 13 clearly states that the board may cancel or suspend registration of any builder who has been guilty of any negligence or incompetence in connection with the performance of any building work. I think that answers the query of the honourable member.

The Hon. R. THOMPSON: I am pleased to hear the comments of the Honorary Minister. However, he has not rectified what is wrong in the legislation. I am not so naive as to fall for the line that this is the policy, because the policy of the board is subject to challenge at any time unless that policy is written into the Act.

The Honorary Minister is a well-known and respected lawyer; and he would not tell me that if I went to him and said, "Read section 12A of the Act" he would say, "I think you are right; I will take your case against the Builders Registration Board." All he has given us is an explanation of the definition in the Act. It is all very well to say that this is the present policy, but the matter can be rectified by the addition of some words. I had hoped the Minister would obtain a Crown Law ruling to see whether we are right or he is right. If section 12A is not right we should ask for the inclusion of words to the effect that the building work be carried out in a proper workmanlike manner and in accordance with the plans and specifications. We could also include the words "specified materials" to cover Mr Griffiths' point.

A simple amendment such as that should be made to section 12A to cover the situation we are talking about.

The CHAIRMAN: Order! We are still on clause 1.

The Hon. R. THOMPSON: Yes, Mr Chairman. I am not speaking on section 12A, because this Bill does not propose to amend it. I raise this matter on clause 1 so that during the tea suspension the

Minister may make inquiries to ascertain whether or not it is legal for the board to adopt this policy. I do not believe it is, because it is not written into the Act.

I agree with the Honorary Minister that we also represent the builders in our electorates. However, I will give an example of a home built between two existing homes. It was built for a friend of mine from the plans of my home, but he did not engage the builder I engaged; he got another builder to construct it. My house has three-foot eaves all around it. My friend's house was built four feet from the boundary, which meant that the eaves were almost over the boundary. This occurred 10 years ago. We went to the Builders Registration Board and we were told, "Cut back the eaves two feet." I can take members to this house where they will see three-foot eaves all around except on the northern side where it has been cut back to one foot.

The board has had some problems. During the last 10 years it has had four registrars to my knowledge, and possibly more, and each time I have been to see the board I have been told it cannot take action because the building is constructed in a workmanlike manner.

I am not trying to create an argument or to be silly, because I have proof of everything I have said. The fact that the board may change its policy does not change the legislation. I think the legislation should be changed so that we all know where we are going.

Sitting suspended from 6.07 to 7.30 p.m.

The Hon. I. G. MEDCALF: Before the tea suspension Mr Thompson again asked, as he did at the beginning of this debate, whether the board had authority to consider the matter of a builder who builds and ignores plans and specifications. I have indicated what is the current practice of the board. I have also said that in my view the wording of section 12A is sufficient to justify the action the board is taking in its current practice. Whether the board had any legal opinion leading to this change in practice, I could not say.

I am quite prepared to make inquiries to find out why the board changed its current practice and that may answer the question raised by the honourable member. However I would not be prepared to give any undertaking of any sort in regard to this matter, because I have already indicated I believe the matter is adequately covered. I know the Leader of the Opposition disagrees with me. He went so far as to say he thought one of the officials had lied in answer to that point.

The Hon. R. Thompson: Oh, definitely.

The Hon. I. G. MEDCALF: That is a very serious allegation to make.

The Hon. R. Thompson: I believe it very definitely.

The Hon. I. G. MEDCALF: A person cannot lie unless he intends deliberately to tell an untruth, and in this case I do not believe that is so. I do not believe the officer deliberately intended to mislead the Minister, this Chamber, or anybody else. I do not want to make an issue of that, but I mention it in passing in fairness to whoever prepared that answer and to have it recorded in *Hansard*, because he may be rather outraged when he learns that the Leader of the Opposition has said he lied when he does not have an opportunity to defend himself.

The Hon. R. Thompson: If he writes to me I will read out the letter to him and show him where I think he has lied.

The Hon. I. G. MEDCALF: I will not delay the Chamber any longer in regard to that but I do not think it is right to make a statement that an official has lied when he cannot defend himself. For that reason and for no other I thought the matter should be cleared up.

I will be quite prepared to look into the matter and I intend to do so, but I do not believe it would be proper for me to give an undertaking that any other action would be taken, except to explain to the Leader of the Opposition why the answer was given in that form. I can see the Leader of the Opposition is all set to speak again and I will speak with some reservation because I do not want this debate protracted indefinitely, as I am not in a position to answer his queries in a manner that will satisfy him. However, I am prepared to look into the matter.

The Hon. R. THOMPSON: I think I have a sufficient degree of responsibility not to make an accusation unless I have proof of it. In many debates on this legislation over a number of years I think I have demonstrated that I have attempted to have placed in the legislation a provision that a builder should build in accordance with plans and specifications and uniform building by-laws. The uniform building by-laws came into the legislation in 1970, but the provisions in regard to plans and specifications have been conspicuous by their absence. The position has not altered just because the board has changed its policy over the last couple of years. Following inquiries, I have received letters from several people which show that the board was unable to act because the work was carried out in a proper and tradesmanlike manner in accordance with the provisions contained in section 12A of the Act.

I do not make accusations lightly. I accepted the answer and the Minister is responsible for it because he should check it. This is a sad reflection on the types of answers we receive to our questions. I qualified that earlier. In answering a question the three parts are grouped together and only one answer is given. We all know, of course, that the board cannot take any

action. I also pointed out that if a builder came to the Honorary Minister, as a solicitor in his own right, because the board intended to take action against him under its policy, and not in accordance with what is written in the legislation, he would probably advise that the board does not have the right to take this action.

Mr Medcalf is a learned man, and I am not, but I would say that any solicitor would say that the board does not have the right to take such action against the builder provided his work had been carried out in a proper and workmanlike manner.

The CHAIRMAN: I would remind the Leader of the Opposition that we are on clause 1 and he seems to be speaking on clause 11.

The Hon. R. THOMPSON: I am speaking on section 12A. The question is whether or not we should proceed with this legislation. I think the Committee has had this Bill before it so many times that we are sick and tired of it. The legislation is not providing protection for the person it is supposed to protect; it is protecting the building companies which will come within the ambit of this legislation. I can show in black and white the wrongs that have been committed against home builders and yet no action has been taken by the board. Just because the board changes its policy from time to time is not good enough. The provision in question should be written into the legislation so that everybody knows about it. Mr Medcalf, as a solicitor, has not said that this is a fact; that this could be defended in court.

I would say that the board could not defend this question in court if any builder cared to take action against the board. I have cited cases of where a home was built in Tonkin Road, Hilton Park, another in Forrest Road, Hamilton Hill, and a third at the corner of Phoenix Road in Spearwood. Those three cases were referred to the board, and I can name the builders concerned. Some of these homes were built about 5½ years ago. The board told us it could not take any action.

If the provision were written into the legislation there would not be any doubt. If the board does not change its policy in five years, and the Act has been in operation for 36 years, no-one can tell me that someone has not said it does not have the right. No-one can tell me that the board has not obtained an opinion from the Crown Law Department on what the legislation provides. We are dealing with professional men on this board, so it is of no use anyone trying to tell me that they would not obtain legal advice on this matter.

It is not sufficient for the Committee to say that, because the board has changed its policy it is good enough. I want to know whether the situation has been made watertight. I want to know whether a home builder has the protection which this Act should afford him. I maintain that the Act does not afford the home builder the protection he deserves. I make the assertion that lies have been told because this Act has not been changed, and if the board's policy has been changed I am not responsible for that. However, following investigations carried out by the board, complaints have been dismissed because it has been found that the work has been carried out in a proper and workmanlike manner. The fact that the work has not been carried out in accordance with plans and specifications has not been taken into consideration and it is our responsibility to see that this position is rectified. That is why I am persisting with this saga on clause 1.

I cannot see much wrong with the rest of the Bill, but I hope the Honorary Minister will report progress and obtain an opinion from the Crown Law Department to show that what I am saying is either right or wrong and, if I am wrong, I will accept the consequences. However, if I am right I would expect to see an amendment brought forward to provide that apart from the work being carried out in a proper and workmanlike manner the building shall be constructed in accordance with the plans and specifications and in accordance with some of the illustrations which have been given by Mr Clive Griffiths.

That is the reason I am speaking on clause 1 of the Bill for so long; namely, to elicit some sort of answer, because to date we do not know what the true position is. Policies change from time to time. There is nothing in the regulations and we have all the regulations in regard to this matter. However, I want a clear undertaking as to where we are heading with this legislation.

The Hon. I. G. MEDCALF: I think I have made it absolutely clear that not only has the board changed its practice and now accepts that that is—

The Hon. R. Thompson: Will the courts accept it, though?

The Hon. I. G. MEDCALF: I was about to say that not only has the board changed its practice, but it has accepted that work which is not in accordance with plans and specifications will now suffer the consequences of the Act.

Not only have I given that indication, but also I have indicated my own view, and I do not think it is reasonable for the Leader of the Opposition to persist and suggest that I would not say what I have said if I were consulted in a private capacity.

The Hon. R. Thompson: I did not ask you to do that.

The Hon. I. G. MEDCALF: I have given my opinion. I believe that to build contrary to the plans and specifications is not to build in a proper and workmanlike manner.

The Hon. R. Thompson: This is what the board has been saying for 30 years.

The Hon. I. G. MEDCALF: The board is now saying what I have said. If a person constructs a building that is not in accordance with the plans and specifications it is not built in a proper and workmanlike manner. That is what the board is now saying and that is what I am saying.

That answers the question raised by the Leader of the Opposition the other day. He said the board does not do this, but this is now its current policy. It has changed its policy, because it is now acting in accordance with what is the right opinion. I have already said that I am prepared to find out why the board has changed its opinion, but I am not prepared to make an undertaking that the Bill will be changed. Nor do I believe that this is relevant to clause 1, because even if we changed the Bill it would not make any difference to clause 1, which only deals with the short title and citation. I suggest that we make progress on the clause.

The Hon. R. THOMPSON: Let us deal with clause 12, the operative clause.

The Hon. I. G. MEDCALF: I would not be prepared to give any undertaking. We have argued this matter exhaustively. I knew that if we did not discuss this matter when considering clause 1, we would be discussing it under clause 12. Personally, I do not see that there is any need to hold up the Bill.

I am quite happy to say that the matter raised by the Leader of the Opposition will be looked at. If as a result of examining the Bill further something comes to light which indicates that the matter should be considered again by the Government, then I will provide the answer; however, I cannot give any undertaking as to what action might be taken. I am prepared to refer the point raised by the honourable member for further consideration by those responsible.

The Hon. R. THOMPSON: Clause 1 is the right clause to deal with this matter. I said earlier this evening this was an extension of the Interpretation Act in relation to the reply given by the Minister. This is now the policy of the Builders Registration Board. If there are to be amendments, then a definition should be inserted in section 2 of the Act.

This is not a political Bill; it is designed to safeguard people building homes or having homes constructed for them. Initially, in 1939 when this legislation was first introduced, it sought to achieve that purpose of safeguarding home builders, but in the past 36 years the position has changed considerably. Now the Act protects the people who are qualified as registered builders.

This legislation has been updated to a degree. The home builder is provided with some protection, and the board is not armed with sufficient power to do what I request. I have seen home builders, who had committed their finances to the full extent, robbed by builders of thousands of dollars. They were disadvantaged greatly, and they were unable to take civil action because of the lack of finance. They had no protection under the Act.

If we do not desire to provide the people with protection, let us repeal the Act and allow anyone to build houses, because if that applies the people will not be any worse off than they are now. It is essential that houses be constructed in accordance with the plans and specifications submitted to the local authority. It is up to the Builders Registration Board to take action if houses are not so constructed.

I have instanced the case of a house which was built in Tonkin Road, the eaves of which had to be cut back two feet because the house was too close to the boundary. On that occasion the Builders Registration Board terminated the builder's contract, then it engaged another builder to cut two feet off the eaves, so that the house would comply with the by-laws of the local authority. However, no compensation was paid to the person who was having the house constructed; he had paid a lot of money for his home. This was the fault of the builder, but the Builders Registration Board did not take any action against him other than to bill him for the cost of cutting back the eaves. That happened about 10 years ago.

I have brought many complaints before the Builders Registration Board, as have other members. Such approach to the board cannot be successful. I do not now make representations to it, because I do not receive satisfactory answers, and that is a sad reflection on this legislation.

Mr Clive Griffiths has referred to substandard bricks used in the construction of a house. Any builder would know whether a brick was substandard the moment he picked it up. Why should a home owner finish up with post holes in the walls of his house? That is what it amounts to when different colour mortars are used in the brickwork.

At the present time a half-completed house in Spearwood Avenue has this defect; and another in Lefroy Road also has this defect. The walls zigzag with bricks of one colour on one side, and bricks of another colour on the other side. All this happened in a wall about 35 feet long. These are the things which builders get away with and the board cannot take any

action because such houses might have been built in a workmanlike manner.

The Hon. T. Knight: It is a feature to have different coloured bricks in walls.

The Hon. R. THOMPSON: This is a house which cost about $45 000.

The Hon. T. Knight: I have seen houses with feature brick walls in a zigzag pattern.

The Hon. R. THOMPSON: This house has not been designed with walls in a zigzag pattern. The builder did not order bricks of the right colour.

The Hon. T. Knight: You know that in the manufacture of bricks the colour varies from one kiln to the next.

The Hon. R. THOMPSON: That is admitted. I should point out that ordinarily a person builds only one home in his lifetime. He has to save for this, and he has to pay a high interest rate. As far as I am concerned, the home should be constructed in the way he wants it constructed.

The Hon. T. Knight: Are you sure this house you looked at does not feature different colour brickwork to enhance the appearance?

The Hon. R. THOMPSON: It is not feature brickwork, because the builder is now pulling down the bricks. However, the owner has to bear 50 per cent of the cost for such rectification. The Builders Registration Board has told the owner that it cannot do anything about the construction of the house, because it is built in a workmanlike manner. The house is only half completed; I could give the name of the owner if members so desire.

We should determine this matter now, once and for all, otherwise in 10 years' time we will be still arguing the same matter, without any decision being made by the board. Many amendments have been made to this legislation. To every argument that has been raised there has been an excuse given, but excuses are not good enough. If there is a change in the policy of the board, I cannot see why a safeguard should not be written into the legislation. That is the reason I want the Bill to be examined by the Crown Law Department, to ensure that it meets our requirements. No doubt every member in this Chamber wants to see home owners protected; if not, let him stand up and say so.

The Hon. CLIVE GRIFFITHS: I share the concern of the Leader of the Opposition. However, I am also concerned that this Bill has been on the notice paper for many weeks. I am not very happy with the thought that the progress of the Bill will be delayed, because it contains some very important features which should be implemented as soon as possible.

The Hon. R. Thompson: The rest of the Bill is all right.

The Hon. CLIVE GRIFFITHS: Not the least of those important features is the provision whereunder the board will be given the opportunity to prosecute unregistered builders who undertake building construction. At the present time the only people against whom the board has power to take action are registered builders. It has no power under this legislation to take action against unregistered builders. The Bill contains a very desirable provision to rectify this, and it should be implemented as soon as possible.

The Bill also contains other important provisions which I shall not mention at this stage. The Honorary Minister has given us an explanation which at least ensures that the position is covered for the time being; namely, that the previous view of the board was incorrect when it contended that as long as the work was carried out in a tradesmanlike manner, it had no power to take action even though the construction of a house deviated from the plans and specifications submitted. The Minister tells me the board now considers that it has power to take action, even though the work may be of a tradesmanlike manner, where the construction deviates from the plans and specifications.

I have not had any experience of the board taking action. I instanced the case which arose about 18 months ago relating to the brickwork of a house. In that case the board intimated it could not take action.

I know of an instance where a person specially designed a carport on one side of his house so as to take advantage of some feature, but the builder decided to construct the dry wells on that spot. The owner who had paid extra to get a huge steel girder erected to take the roof of the carport was not allowed to build the carport where the dry wells had been constructed. At the time the Builders Registration Board said this matter was beyond its control. The Honorary Minister now contends the board has power to take action in such instances, and I am prepared to accept his assurance in the interests of getting the Bill passed.

The Hon. G. W. Berry: The board has had the power all the time.

The Hon. CLIVE GRIFFITHS: Obviously it must have had that power all the time, because we have not changed the Act in that respect.

If the Act has been misinterpreted that is unfortunate for the people who have been affected in the past. I would like the Minister to say he will complete the Committee stage of the Bill and report to us, at the third reading stage, the Crown Law Department opinion of the interpretation placed on section 12A of the Act. In the meantime, I suggest we get on with the Bill so that we can provide for the very important provisions it contains.

The Hon. R. F. CLAUGHTON: If the Minister were fair he would agree, if he were sitting on this side of the Chamber, it is exceedingly strange that the board should suddenly find it has powers which it thought it did not have over a period of many years. Had the Minister said this was a legal opinion given to the board we may have been satisfied much earlier. As that has not been done, I think the Minister will do the right thing by getting advice from the Crown Law Department as to whether the opinion which has been expressed is correct. Our objections will then be satisfied. If the advice given to the Minister states that the opinion is not correct, I am sure he will introduce a further amendment to ensure that the policy of the board is not affected by a deficiency in the Act.

The Hon. I. G. MEDCALF: In my opinion we have spent far too much time on this clause. I quite frankly welcome this Committee debating matters at considerable length. However, there is nothing I can add to what I have already said and I hope the Leader of the Opposition will accept my assurance.

If I believed the right thing to do was to report progress and hold up the Bill I would agree, but I do not think that is proper or reasonable. If I believed it was the right thing to do to postpone this clause I would advocate that, but I do not believe that would be right, because the clause has nothing to do with the subject we are discussing.

I am not in charge of this portfolio but I will refer the entire matter to the Minister in another place who is in charge of the portfolio. I will refer to him the points which have been made and ask him to examine them. I do not doubt that he will examine them.

At the third reading stage of the Bill reasonable opportunity will be given to the Leader of the Opposition to recommit the Bill, or to address us further. I will do what I can to clarify the issues that have been raised.

I cannot give an assurance that the Bill will be amended as a result of action by the Minister in another place. I hope the assurance which I have given will be acceptable.

The Hon. R. THOMPSON: I will accept what the Honorary Minister has said. This is not a political Bill, and two members from the parties opposite have spoken about the deficiencies of the Bill, and the practices which have been engaged in by builders over the years.

I acknowledge that members do not get up and speak idly; they only speak when they are dissatisfied with a Bill. This is a Bill which should be put in order for the benefit of all the citizens of this State. Were I to move an amendment to clause 12 the wording might not be acceptable and the Committee would be asked to vote against it. I do not want that to happen; I want to see the legislation put in order.

The Honorary Minister has given an assurance that he will approach the Minister who is responsible for the Bill. I would also like an assurance that if clause 12 does not meet the wishes of the Committee, it will be amended.

The Hon. I. G. MEDCALF: I want to make it quite clear I cannot give an assurance that if the clause does not meet the wishes of the Leader of the Opposition, what he wants will be written into the Bill. I cannot give that assurance. The only assurance I can give is that I will refer the matter to the Minister in charge of the Bill and draw his attention to the points which have been raised. If the Minister does not see fit to amend the Bill, the Leader of the Opposition will have an opportunity to recommit it, and submit his amendments as he sees fit.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Section 4 amended—

The Hon. R. F. CLAUGHTON: I have a number of amendments on the notice paper relating to penalties. I do not want to argue about them; I accept that the Government has examined them and will either agree or disagree with the proposal. If the Honorary Minister indicates that he agrees with the proposed amendments I will move them, but if he indicates he does not agree I do not intend to take any action at all.

The Hon. I. G. PRATT: During the second reading debate I questioned the change in the definition of "dwelling house" from a simple dwelling house to a single-storied building comprising one dwelling.

At that stage we were told the change was necessary to clarify a situation and we were almost led to believe that the situation had existed prior to the drawing up of the amendment, but could not be enforced. I went to great lengths to try to establish why it was necessary to change the definition if, in fact, that was the reason.

If we examine closely the wording of the original Bill, and the proposed amendments, it will be quite clear that that was not the original situation. It is quite clear that a new principle is to be inserted into the Act. In fact, that is readily established by making inquiries regarding two-storied buildings. Many of them have been constructed by owner-builders and building permits have been issued by local authorities without building inspectors. Declarations have been signed by owner-builders and it is a fact that owner-builders have been able to build two-storied homes. There may have been some attempts by the Builders Registration Board to stop that type of building,

but it appears the board has not been successful as building surveyors are issuing the permits.

During the second reading debate I raised a number of issues including those concerning pre-fabricated buildings, the normal type of building with a timber floor, two-storied buildings, "A" frame buildings, Cape Cod cottages, and Tudor-style houses. The answer I received in reply to the issues I raised is quite unacceptable.

The advice supplied to us by the Honorary Minister referred to the definition of a two-storied house, and we have been told that a builder who wants to place a garage under his house will not be stopped from doing so. That does not answer the queries I raised.

I want to know why it is necessary to stop an owner-builder from building a two-storied house. When I discussed this matter with the Minister responsible for the Bill I was referred to an officer of the Builders Registration Board with whom I discussed my problems. I was told there was only one significant problem; that was with regard to suspended concrete slabs—the type of floor construction which does not apply to any of the queries I raised.

It appears that if this clause is accepted people will be stopped from doing something which has been perfectly all right in the past, and this is simply to tidy up the administration of the Builders Registration Board. If that is the reason it is completely unacceptable. We should not apply restrictions simply to tidy up administration procedures.

We have been told that the provision will not restrict the construction of prefabricated buildings so long as no habitable rooms are situated on the ground floor. Just how ridiculous can that be? Buildings will be constructed with a load-bearing capacity to carry a first storey but the occupiers will not be allowed to put anything under the first storey. A builder will be required to put in the footings and a foundation capable of carrying a first storey but the occupier will not be allowed to use the area except for a garage or for a pool table. It will not be used as a habitable part of the dwelling.

I view this clause and the following clause very seriously because people should have a basic right to do things for themselves. We were told there have been cases where faults have been found in two-storied houses. Does not that happen in the case of single-storied houses? We do not try to stop the construction of those houses. The replies given to the queries I raised are unacceptable to the degree that this clause should be postponed until satisfactory answers are supplied. The answer completely disregarded the queries I raised.

The Hon. I. G. MEDCALF: I listened with interest when the honourable member made his speech, and subsequently I studied his speech in *Hansard*. I was very impressed with the force of his argument, and I still am. He referred to two-storied houses built by owner builders. This is usually a prefabricated type of house, a Cape Cod house, or another type of house—an "A" type building. Anyway, he referred to these types, and he said the spokesman for the board, to whom he addressed himself, said that the board had no objection to them. I do not doubt there was good reason for his saying what he said. However, the problem as far as the board is concerned is that unfortunately there are people who, although they may be owner builders at the date they get their permit from the local authority, later may sell the two-storied house they had built for themselves, and then apply for another permit after two years had elapsed. They then do the same thing all over again.

It is this practice that is upsetting the board—the owner builder turns out to be a spec builder. He is an unregistered builder, and the board has examples of defects that have become apparent after these houses have been sold. The board has no recourse against this owner builder because the Act exempts him as a person who is proposing to construct for himself the building to which the approval relates, and not for the purpose of immediate sale.

Members will note that the Act refers to "immediate sale" and not "subsequent sale". In other words, when he obtains the permit this owner builder has no apparent intention of selling the house, or at least, no-one can prove he has that intention. He is allowed to sell the house after he has lived in it for, perhaps a few months. It cannot be proved that he did not intend to built it for himself. He can then seek approval from the local authority to build another house. In answer to Mr Pratt, that is the reason put forward by the board for not adopting his suggestion.

The Hon. Clive Griffiths: Can the Builders Registration Board take action against a registered builder after two years?

The Hon. I. G. MEDCALF: Possibly, but we are talking about a man who is completely exempt from the Act.

The Hon. Clive Griffiths: You say that the board cannot take action after the fellow has sold it. However, what happens to a registered builder who has sold a house after two years?

The Hon. I. G. MEDCALF: The registered builder may still be guilty of incompetence, neglect, or negligence. This owner builder is not even a registered builder. He is just a man who happens to build himself a house.

The Hon. Clive Griffiths: I have had representatives of the Builders Registration Board say to me, "As this building is now two years old, it is too late to take any action."

The Hon. I. G. MEDCALF: Does the honourable member mean in relation to a registered builder?

The Hon. Clive Griffiths: Yes.

The Hon. I. G. MEDCALF: That is a different situation.

The Hon. Clive Griffiths: I am saying that while the board would not be able to take action against an owner builder, in the same circumstances it would not be able to take action against a registered builder. What is the difference?

The Hon. I. G. MEDCALF: I would have to check that out to ascertain whether there is any period of limitation in regard to proceedings under the Act. Offhand I do not know.

The Hon. Clive Griffiths: I am sorry, I did not want to interfere with what you were saying.

The Hon. I. G. MEDCALF: The honourable member may well be right. In any event, there is no period of limitation in regard to this provision—no action can be taken against an owner builder who builds a two-storied house for himself. If it falls to bits, the buyers cannot do anything about it.

I can see the point made by Mr Pratt only too well. He referred to holiday homes which people want to build as quickly as possible. In his well-reasoned comments to the Bill, he illustrated this point, and I have a great deal of sympathy with his view. I do not know whether or not there is any way around it. The person who built the house may have been quite happy with it as a holiday home, but the buyer may not like the gaps he finds in the walls.

The Hon. Clive Griffiths: He must have had a pretty cursory look at it before purchase.

The Hon. I. G. MEDCALF: This happens in some cases, and the purchasers cannot even bring civil proceedings against the seller because they have seen the house, and the spec bulider can use the argument that the purchasers were able to examine it. That is the reason the board put forward for adopting that view.

The Hon. I. G. PRATT: I cannot fault the reasons put forward by the Honorary Minister, but why do not the same comments apply to a single-storied house? The only difference in building a one-storied or a two-storied house is that one must have better foundations. Apart from that, when building a two-storied house, one must put in a stairway—not a great engineering feat and in actual fact many of them can be obtained precut, or even prefabricated steps built into brickwork. From memory I would say that for a span of more than 10 feet, floor joints would have to be strutted so that they do not bend and twist. So why should a house fall apart more readily just because it has a stairway, stronger foundations, and cross struts between floor joints?

The Honorary Minister asked for a way around this. There is a simple solution without any need to amend the Bill at all. The problem put to me was that of suspended concrete floors, and this matter could be covered by an amendment to the uniform building by-laws. All it would need is a provision that a man must have an engineer's certificate for suspended floors to do this work. It is as simple as that.

The Hon. T. KNIGHT: I feel we are beating around the bush. I do not agree with the provisions in this clause about a two-storied building. It does not matter who builds a house, the builder, whoever he may be, is under the direction of the building surveyor of a particular shire. There is a uniform building by-law to the effect that a builder must give 48 hours' notice to the building surveyor of a shire or council before a concrete slab is poured. The building surveyor must inspect the steel and formwork before any concrete is poured. Such a person should be trained in inspection and he should ensure that the work is done correctly. It does not matter who does the pouring, the inspector must say that it is all right.

If the inspector is in any doubt, he can call in the shire engineer to work out the computations, the way the steel is tied, and the way the concrete is poured. In nine cases out of 10 the builder puts in the form work and steel, then calls in a concrete worker to pour the concrete. The inspector ensures that the form work and steel work is structurally safe.

The Hon. Clive Griffiths: Who does the checking?

The Hon. T. KNIGHT: The checking is undertaken by the local building inspector. He must see that the builder has complied with the by-laws and complied with the structural computations for the steel work supplied by the shire engineer or steel supplier.

We are missing the point because the whole thing must be checked by the building surveyor or inspector before the job can continue. Really this has nothing to do with the Builders Registration Board. If a person believes he can build his own home, he is then under the instruction of the building inspector, and he must comply with the conditions laid down in the uniform by-laws which are enforced by the local authority through its building surveyor.

The Hon. R. THOMPSON: The Hon. Clive Griffiths raised a point, but he was off-beam so far as this clause is concerned. The limitation of proceedings is covered by section 21A of the parent Act which states—

> Where an offence is committed under this Act complaints may be made within twelve months from the time that offence was committed.

So that applies to the registered builders only. I go along with the Minister in what he says. Building a house for oneself and then selling it has become a bit of a racket. I do not know how we can overcome the situation, but I do not believe we will do it through this legislation. This is a rather restrictive provision. A two-storied building does not have to have a concrete raft—it could be like many of the beach homes we see now. Perhaps a carport, a bedroom, and a kitchen on the lower level and then living quarters upstairs. I will not have a bar of agreeing to a clause that would stop a person building such a house for himself.

Any handyman who owns a block of land may wish to purchase a pre-cut building and erect it himself. He will be prohibited from doing that if we pass this clause. I go along with the Government when it wishes to stop these people who are building houses for themselves, and then selling them. I know of three people who get together and build three houses. They are sold virtually as soon as they are finished, and they then start to build more houses. I think the minimum size for a house under the uniform building by-laws is for one of 8¾ squares. Is that right?

The Hon. T. Knight: The minimum home is something like about six squares because one must have only one bathroom of a certain size, a bedroom, a laundry, etc.

The Hon. R. THOMPSON: I think the minimum size for a two-storey beach home type of accommodation is about 8¾ squares. Some of these buildings are elevated to take advantage of a view. I do not go along with restricting a person from putting up a pre-cut home of the type one can purchase from Alco, Bunnings, or just about any other similar business.

However, if we were to stipulate that he could not build in bricks and mortar, I would agree with such a provision. I can see what the Government is trying to achieve, and I agree with it. But as far as I can see, this provision will apply not only to wooden dwellings, but also to dwellings using steel and other materials. After all, steel is used extensively in the construction of the second storey of the type seen in beach homes. What does "two-storey" mean?

The Hon. T. Knight: You have got split levels, multi-levels, and two storeys.

The Hon. R. THOMPSON: As far as I can see, these things are not spelt out in the Bill.

The Hon. CLIVE GRIFFITHS: I thank the Leader of the Opposition for pointing out to me the section of the Act which provides for penalties because that serves to prove the point I made by interjection when the Honorary Minister was speaking; namely, that the Builders Registration Board has no power to take action if a registered builder builds a house and, 12 months later, sells it.

For that reason, I fail to understand that this is a legitimate argument in support of the amendment to which Mr Pratt has taken objection. If the Builders Registration Board can take action against a registered builder only if a complaint is made within 12 months of the offence being committed, there is absolutely no difference in the board having no right to take action against an owner-builder.

The Hon. I. G. Medcalf: They have no power at all.

The Hon. CLIVE GRIFFITHS: I know. But the point I make is that the owner-builder cannot sell the house before the expiry of 18 months, which is six months outside the time the Builders Registration Act gives the board the power to take action.

The Hon. I. G. Medcalf: He can sell the house before 18 months have elapsed, but he will not receive approval to build another house for two years.

The Hon. CLIVE GRIFFITHS: In other words, he cannot build another house and immediately sell it. Is that the point the Honorary Minister is making?

The Hon. I. G. Medcalf: Yes.

The Hon. CLIVE GRIFFTTHS: The Builders Registration Board claims it has examples of people selling houses after 18 months or two years have elapsed, and the board has no power to take action for faulty construction. I say that even if the house were built by a registered builder, according to the Act the board would have no power to take action against that builder if the house were sold after 12 months had elapsed.

The Hon. I. G. Medcalf: They would have power to act within 12 months of the person moving into his new house and seeing what a terrible job had been made of it.

The Hon. CLIVE GRIFFTTHS: Section 21A of the Act states that a complaint must be made within 12 months of the offence being committed. As far as I am concerned, the offence is committed at the time the house is built.

The Hon. I. G. Medcalf: Then the new owner has 12 months in which to make a complaint.

The Hon. CLIVE GRIFFITHS: The more we talk about this the more convinced

I am that we should scrap the entire Builders Registration Act and appoint a Royal Commission to investigate the whole matter. The longer we talk about this, the more confusing the situation becomes.

I go along with the statements of Mr Pratt and Mr Knight that one cannot pour concrete floors, no matter whether one is registered, unregistered, or Mr Dellar, without giving the local authority 48 hours' notice. The concrete pour could be a failure only if the local authority's inspector did not do his job, and if he did not do his job there is nothing the Builders Registration Board or anybody else could do about it.

The Hon. W. R. WITHERS: I am becoming more and more concerned as we proceed with this debate. Originally, I had no intention of speaking at all because I was under the impression the Bill had no bearing on what happens in my electorate. However, when I look at the notice paper and see Mr Claughton's amendment to clause 7, I become concerned because, if that amendment is passed, this clause could vitally affect the people in my province.

From what I have heard during this debate, if we agree to this clause and to Mr Claughton's amendment to clause 7, and if the Governor extends his powers; it will mean that people in my electorate will not be able to do as I did six years ago; namely; build a two-storey house with a steel understructure. Admittedly, I did not build it physically but, theoretically, I was the builder.

The Hon. Clive Griffiths: Did it fall down?

The Hon. W. R. WITHERS: No; in fact, it has survived some very swift blows. I think it is very wrong for us to prevent people from contracting or subcontracting with other people to build a home and to say that that person must become the builder. In my province, a person does not have to be registered. However, if Mr Claughton's amendment is agreed to, under this clause he could be required to become registered. I cannot take the risk of allowing this clause to go through, just in case the House agrees to Mr Claughton's amendment to clause 7.

The Hon. T. Knight: Clause 7 will not affect you.

The Hon. W. R. WITHERS: It will, because if this clause is passed and the amendment to clause 7 is agreed to, my province may come under the provisions of the Act. I would be in real trouble with my constituents because I would not like to face up to their saying, "Why can't I build a house like you built six years ago?" I cannot go along with that possibility.

The Hon. I. G. MEDCALF: I have listened with a great deal of interest to the comments of members on this clause. I am quite sure that some members, particularly those who have actually built houses, know a great deal more about this subject than I do.

However, I point out that there has been a lot of trouble with two-storied houses. That is not just a figment of my imagination; surprising as it may seem, there appears to have been more trouble with two-storied houses than with single-storied houses in proportion to the number built. However, I leave that question for a moment.

Referring to the period of limitation during which time a person may make a complaint to the board, it is true that section 21A of the Act provides for a period of 12 months. But what it says is that a person has 12 months after a registered builder builds a house for him in which to make a complaint.

But that is a very different story from the person who buys a house from an owner-builder 18 months or two years after the house has been constructed. There is no recourse whatever against an owner-builder; absolutely none. Even if he managed the unlikely feat of building a house in two weeks, there would be no recourse against him.

The Hon. T. Knight: But there is no recourse against him because he is the owner-builder and is living in the house; he is not likely to take action against himself.

The Hon. I. G. MEDCALF: But the minute he changes his mind he can sell it; there is nothing to stop him from selling it immediately. The only proviso is that the local authority will not give him approval to construct another house within two years. That is the only way he can be brought to book.

This is where the trouble arises, because the owner-builder is outside the Act. We have exempted him by saying that he may build a house for himself. At the time he commences construction he may have no intention of selling it; however, there is nothing to stop him from changing his mind.

I have a great deal of sympathy with the very valid points raised by Mr Pratt; I believe it is a genuine case which warrants examination, and I suggest that we postpone clauses 3 and 4 in order to give a proper consideration to this matter.

The Hon. R. F. Claughton: How will this affect the amendment I have on the notice paper?

The CHAIRMAN: I suggest that we postpone clauses 3 and 4 now, and Mr Claughton will have an opportunity to move his amendment at a later date.

The Hon. I. G. MEDCALF: I move—

That further consideration of the clause be postponed.

Motion put and passed.

Clause 4: Section 4A amended—

The Hon. I. G. MEDCALF: I move—

That the clause be postponed.

Motion put and passed.

Clause 5 put and passed.

Clause 6: Section 9A amended—

The Hon. R. F. CLAUGHTON: I hope the Minister will also postpone this clause for the reasons I am about to explain, and which relate to the amendments we will be considering on clause 7.

These amendments—one in my name and one in the name of Mr Knight—affect the proposal that supervisors or managers of building construction with five years' experience should be entitled to registration. This is also a provision in clause 6 and I believe we should make the decision first on the amendment before we deal with this aspect, otherwise we pre-empt whatever we decide to do on clause 7.

In reply to the second reading debate the Minister said there was not an automatic provision for persons with five years' experience—as indicated in the amendment—to become registered builders; but if he reads this particular section he will find that in fact there is such provision. I am not sure after having read it again whether we should have moved an amendment on this clause. Section 9A of the Act provides automatic registration for the persons listed and states—

(a) A person who is a member of The Royal Australian Institute of Architects (West Australian Chapter);

(b) registered under the Architects Act, 1921;

(c) a member of The Institution of Engineers, Australia (Perth Division); or

(d) a member of The Australasian Institute of Mining and Metallurgy;

The words that follow are to be amended by the clause before us. All these people are automatically registered after they fulfil the conditions of the various organisations. If the Minister looks at the amendment in clause 6 he will see it says—

"and who applies to be registered under the Act shall be entitled to be so registered if and when—

(e) he pays the prescribed fee for such registration; and

(f) he satisfies the Board that he has had five years' experience in supervising building construction or in assisting in the supervision of building construction".

It does not say he has to satisfy the board about his standard of work; simply that he has had five years' experience in those occupations; and this would seem to contradict what is in the new item (V) of clause 7 (a) (iii).

Accordingly I would ask the Minister for those reasons to postpone further consideration of this clause until we have dealt with clause 7.

The Hon. I. G. MEDCALF: I really believe there is no conflict here. The fact is that under the existing Act members of the architects, engineers and metallurgists institutes have automatic registration as builders by virtue of their qualifications. Under the Act they get this automatically now.

The Hon. R. F. Claughton: What I am talking about is the amendment in clause 6.

The Hon. I. G. MEDCALF: Clause 6 deals with section 9A which in turn deals with architects, engineers and members of The Australasian Institute of Mining and Metallurgy.

The Hon. R. F. Claughton: And which is in the amendment.

The Hon. I. G. MEDCALF: I am explaining why there is a difference between this clause and the next.

The Hon. R. F. Claughton: The Minister is arguing about something on which we agree.

The Hon. I. G. MEDCALF: I am explaining why I do not think we should postpone consideration of clause 6, and we do not agree about that.

The Hon. R. F. Claughton: You are talking about the architects, engineers, and so on, and there is no disagreement between us on that.

The Hon. I. G. MEDCALF: I think the honourable member should let me finish my argument. As I say, at the present time architects, engineers and members of the Institute of Mining and Metallurgy are automatically entitled to become registered as builders.

This has been considered to be wrong because there have been a number of complaints against these people and for that reason it is considered desirable that they should have five years in the building industry in supervising building construction or in assisting the supervision of building construction. So these people who are already qualified must in addition have this five years' experience in the building trade.

The Hon. R. F. Claughton: I misunderstood the amendment and I agree that we can proceed with clause 6.

Clause put and passed.

Clause 7: Section 10 amended—

The Hon. R. F. CLAUGHTON: I have an amendment on the notice paper which seeks to delete the words in lines 25 to 35 of proposed new item (V). The ground on which I make this proposal is that

it is inconsistent with the intention of the Act that the quality of builders should be improved.

In clause 6 we have just said that architects, engineers, etc. should not only pass their examination but on top of that they should have a further five years' experience in supervising building construction.

We are attempting to revise the training course for registration. The Government is proposing to set up a statutory board to deal with apprenticeship training. We are doing all these things to improve the quality of the people who enter into the management of the building industry. It is not sufficient that we should say that any person can set up in business and employ a tradesman and become a builder.

All members of this Chamber have received complaints about the quality of work that is done and this has also been brought to the attention of the Builders Registration Board. Yet in this one provision we are attempting to dilute the very thing that we have made all this effort to improve in the building trade.

We expect people to spend long years in study: and this is not a thing that is taken on lightly—it means very often that after having gone through years of training as an apprentice the person concerned must study further again to acquire the qualifications that are acceptable to the Builders Registration Board.

Reference has been made to the Australian Institute of Building and the suggestion is this is acceptable, because the standard is higher and those persons that gain corporate membership should be able to become registered.

It is not reasonable that we should attempt to encourage people to give up their time and leisure hours for a good number of years so that they may achieve these qualifications, and then allow persons who have not had the ambition or incentive to undertake these courses to acquire registration after a few years by simply sitting pat in a job and accepting the direction of those about them.

In his second reading speech the Minister said that these persons must satisfy the Builders Registration Board that they can perform the work competently. This will be very difficult to assess because it would depend not just on the man himself but on the other persons involved in the building work.

If he is a supervisor on a job and he has above him a good manager who is watchful and sees that the supervisor does not in fact do his job properly then he is likely to give the impression of being a competent supervisor, whereas without that sort of management above him and with a less competent manager he would not, in fact, be in a position to satisfy the board at all.

The same also applies to managers and I think it would apply more strongly in this case if a building company employs good quality tradesmen and a good supervisor and manager, because then the company would probably coast along.

In the case of the person concerned he may not necessarily have much of an idea at all about the building process and when he goes off on his own and sets up business he could fail quite dismally and produce poor quality work.

I think this is a back-to-front way of improving the quality of the building industry. If we insist that people serve their trade and proceed to undertake suitable courses in training that fit them for the management side of business I feel the public would then be very well protected.

It would be very difficult for a person who spent a number of years in management with no likelihood of gaining any experience on the practical side of the trade, to become a satisfactory builder. He could be judged only as a satisfactory organiser of building tradesmen. He would not know whether his tradesmen were doing their work properly and would be dependent on the men he employed.

Again I do not intend to argue this point at length. The Government will have examined the proposition and decided whether or not to accept it in the light of its own view of the legislation. Failing the Government's acceptance of my proposition, I would accept the amendment proposed by Mr Knight.

The Hon. I. G. MEDCALF: I am conscious of the fact that Mr Claughton has indicated that he does not intend to persist with some of the amendments if he judges that the reaction is unfavourable. I have already indicated to him that the Government would not object to some of his amendments, some of which we have already postponed for other reasons.

I can assure him this particular point has been investigated because it has been on the notice paper for some time. I am conscious of the fact that Mr Claughton has indicated that if his amendment is not satisfactory, he is prepared to accept Mr Knight's amendment.

I am informed that the Minister in charge of the Bill in another place is quite prepared to accept Mr Knight's amendment if the Committee agrees. We must remember that the requirements of the board are very stringent. The Government is not prepared to agree to Mr Claughton's proposal.

The Hon. R. F. CLAUGHTON: I am disappointed that the Minister will not agree with the view I submitted. The Leader of the Opposition and I—and I think this view would be shared by Mr Clive Griffiths —believe that the Act does not sufficiently

cater for the needs of the building industry. We require a more flexible system such as that proposed in the Smith report and the proposal in the measure submitted by the Minister for Works (Mr Jamieson) in the Tonkin Government. If a conditional license were available, builders and tradesmen could undertake work at different levels, according to their ability. This would be a much more satisfactory arrangement than that which the Government proposes.

The legislation allows a registered builder to undertake work of any size or complexity. There is nothing in between, if we disregard the former "B"-class builders who will gradually disappear with the effluxion of time.

I express my disappointment at the view of the Government, but leave it at that.

The Hon. T. KNIGHT: I move an amendment—

Page 4, line 29—Delete the word "five" and substitute the word "eight".

I agree with some of the points made by Mr Claughton. The main reason for my amendment is that I know of several registered builders who spent seven to eight years studying to become registered. I am afraid I cannot agree to a supervisor gaining automatic registration.

Mr Claughton referred to manager-supervisors. Earlier in the piece I was not in favour of the term "supervisor". However, as the Minister has indicated that these supervisors must satisfy the board that they are capable of carrying out building operations, and as I believe the board to be of sufficient standing to do just that, I can accept the proposal.

I know that different people have various classifications of managers and supervisors. A supervisor is classified as a supervisor, but he can carry out managerial work, ordering, hiring and firing of staff, negotiating with subcontractors, and so on; and all these duties are necessary if a person is to be classified as being capable of carrying out the work of a building contractor.

I stand by the statement I made earlier that I do not want a person who has worked and studied for a period of seven or eight years to be accepted in the same category as a person who has had only five years as a supervisor.

The CHAIRMAN: Before we proceed, I must explain that this amendment has been printed in the wrong place on the notice paper and Mr Knight is now within his rights in moving it at this stage.

The Hon. I. G. MEDCALF: The points made by Mr Knight were made during the second reading debate and the Government has had time to consider them. It accepts the argument he has submitted and therefore accepts the amendment.

Amendment put and passed.

The Hon. R. F. CLAUGHTON: I have on the notice paper a further amendment to this clause. Contrary to what Mr Withers said earlier, the amendment will not disadvantage anyone in his electorate if it is accepted. If the provisions of the Act were extended to the northern areas of the State many builders there would appreciate the protection my amendment would give them. It is a grandfather provision to allow them to become registered without the necessity for their having to fulfil the requirements of the Act.

It is a continuing provision in that it states that after the proclamation of the amending Bill any area can be included under the legislation at some future date. It is a valuable provision to be included and it will not affect any of the amendments in the Bill or the existing provisions in the Act.

It is noteworthy to consider those who have supported the extension of the provisions of the Act outside the metropolitan area as defined in the second schedule to the Metropolitan Water Supply, Sewerage, and Drainage Act. These people made a submission in 1970 and their names are as follows—

Mr T. Knight, who was the President of the Forrest Division of the Liberal Party.

Mr H. A. Hammond, President of the Country Town Councils' Association of Western Australia, at Kalgoorlie.

Mr W. J. Carmody, Town Clerk, Town of Bunbury.

Mr R. W. Clohessy, State Secretary, Building Workers' Industrial Union of Australia.

Mr E. Tresize, Secretary of the Bunbury Regional Promotion Committee.

Mr T. W. Henley, Secretary, Building Trades Association of Unions of Western Australia.

Mr G. E. Mann, Secretary, Master Builders' Association of Western Australia.

This indicates that there is support for the extension of the provisions of the Act. If my amendment on the notice paper is to be included, then it is necessary for this grandfather provision to be accepted also.

The amendment I have placed on the notice paper still allows the Government flexibility to say where the Act will apply, but it works in reverse so that the Act will apply over the whole of the State and the Government must nominate those areas where it will not apply. The present provision says that the Act applies in the water supply area as defined, and it allows the Government to increase the area at some future stage; but it requires amendment of the Act. The proposal I have placed on the notice paper would allow the Government to extend the

application of the Act by proclamation. If the Town of Bunbury, for instance, wished to have the Act apply within its boundaries, that could be done quite simply and it would not be necessary for an amending Bill to come before Parliament.

Whether or not the extension of the Act is accepted, I believe it is quite sensible for members to accept this grandfather provision which would apply at any future stage where the Government decided the ambit of the legislation should be increased. I await the Minister's remarks before formally moving the amendment.

The Hon. I. G. MEDCALF: A considerable amount of ingenuity has been used by the honourable member in devising the wording of this clause and in working out a plan which would apply, whether or not we changed the area to which the Act now applies. At the present time the Builders Registration Act applies only to the metropolitan area as defined in the schedule to the Metropolitan Water Supply, Sewerage and Drainage Act but its application can be extended to any part of the State.

The amendment Mr Claugthon has on the notice paper proposes that the Act apply to the whole State but that parts of the State may be exempted. In other words, he would turn it around the other way and do it in reverse. If I understood the amendment correctly, it has been devised to operate in either case. If we reinstate the grandfather clauses as of now, instead of taking them out as we are proposing to do, irrespective of whether we turn the Act around and make it apply to the whole State, any person can claim to come in under the grandfather clauses in a similar form to that which applied in 1961. A new generation of grandfathers can come in; so it is really a new grandfather clause to bring in the next generation of grandfathers.

I compliment the honourable member on devising a scheme which must have taken some working out. However, if we were to bring in a new generation of grandfathers—that is, builders who claim to come in under the grandfather clause—we would not necessarily adopt the same criteria as were adopted in 1961. The criteria here are much the same as those in the original grandfather clause. In other words, a person must have been actively engaged in the industry for five years, during which period he has carried out building work of an average annual aggregate value of not less than $30 000, and he must be sufficiently competent as a builder to merit registration without the necessity to complete the prescribed course of training. It brings in the class of builders who were engaged in the industry.

I do not believe, with all the other requirements we now have and all the other ways of allowing people to enter the building trade, that it is appropriate to bring in a grandfather clause for all the people who might claim to come within it in the metropolitan area. That would be the effect of it. Therefore, we do not favour this amendment.

The Hon. W. R. WITHERS: Some builders within my province, on reading the amendment Mr Claughton has on the notice paper, would see some advantage in having it included in the Bill. However, if they really thought about it, I think they would see it is to their disadvantage because if we accepted this amendment I am quite sure it would give the Governor good reason to use his powers under section 3 of the Act to extend the Act into my province, and I do not think that would be a good thing at this particular stage.

As members will be aware, we already have a problem in finding builders in the north. We do not want to lose them to the city. In addition, we do not need the Builders Registration Act in the north at this stage because the people have contractual responsibilities and they know they can go to litigation, so they use those methods to protect themselves when they have building work done.

The Hon. I. G. MEDCALF: I think I said the amendment would apply inside the metropolitan area. I may have done an injustice to the Hon. R. F. Claughton. It would apply outside the metropolitan area.

The Hon. T. KNIGHT: I sincerely compliment the Hon. Roy Claughton on the work he has put into his amendment. I agree with many of his sentiments because I believe the Builders Registration Act should be extended to cover other areas of the State. I do not agree with Mr Withers that the north does not need it. I do not think he understands the full implications of the amendment, and if he would sit down and discuss it with me I am sure I could convince him it would definitely be of benefit to the builders and people in that area.

However, I am afraid I cannot go along with Mr Claughton's amendment at this stage because, after listening to the discussion on this Bill tonight, I think many things remain to be done to bring it into line. If and when the application of the Act is extended, as I hope it will be, I think a grandfather clause would then have to be introduced to comply with the situation in the areas to which the Act was extended. I believe it would be premature to bring it in at this stage. It is all-embracing, but I believe it should be brought in at the time the Act is extended to other areas.

I have fought with, talked to, and cajoled many people throughout the State to try to have the application of the Act extended. I have the backing of many shire councils in the great southern and the south-west. Everyone is looking at the

Act on the basis that it would give protection to the builder. I believe this Act will only work properly on a State-wide basis whereby all builders come under one set of rules which stipulate what a builder can and cannot do. The builder will then have a greater obligation to study and practise the uniform building by-laws. I believe that would be of great benefit to the public and to the workers in the building industry and that it would certainly improve the building industry as a whole. However, I am afraid that at this stage Mr Claughton's amendment is premature.

The Hon. R. F. CLAUGHTON: I accept the remarks made by members and I will not press my amendment. Apart from the persons in the south of the State and at Kalgoorlie who are supporting the extension of the Act, the Geraldton Building Co. is also very keen to have it extended. It is for the Government to decide whether the Act is extended to the extreme north of the State. Mr Withers used the term "Governor", which he knows means the Government, and I think he would say the Government would make a reasonable and sound judgment.

The Hon. W. R. Withers: I was using the terminology of the Act.

The Hon. R. F. CLAUGHTON: If it were felt to be unwise to extend the Act to that area, I presume the Government would not do so. I think it is quite clear there is great need for the Act to be extended to the large provincial towns—Albany, Bunbury, Kalgoorlie, Geraldton, and perhaps some others—because those are the centres where builders are generally located and which would support a number of builders.

Mr Knight mentioned the effect unqualified builders are having on the training of apprentices. It is very difficult for a building business which is not very large to support apprentices. If I had the reference handy I would quote from the report of the Smith inquiry into the industry regarding the number of apprentices who are currently being trained in this State. The number is appallingly low simply because of the fragmentation which has taken place in the industry and the lack of support by responsible master builders. Figures in the report also indicate the State's great dependence on the importation of tradesmen, which again is a reflection on the situation in regard to the training of apprentices.

I hope that as a result of the discussions that have taken place on this Bill the Government will take the matter very seriously. I do not think it is necessary to have a further inquiry because all the information needed is already contained in the report of the Smith inquiry. I trust during the next session we will see a totally rewritten Act to control the building industry in this State.

Clause, as amended, put and passed.

Clause 8 to 10 put and passed.

Clause 11: Section 12A amended—

The Hon. I. G. MEDCALF: I wish to offer an apology for forwarding the amendments proposed to this clause at such a late stage. However, they emanated from inquiries made through the Consumer Affairs Bureau. This Bill was deferred for two or three weeks in order to allow the bureau to study it and make suggestions. The result is these further amendments, which I commend to members. I do not think they will find anything with which to disagree in them. If any member feels he is being disadvantaged in any way, I will postpone the clause and place the amendments on the notice paper.

The Hon. R. Thompson: Will you give us a brief explanation of the amendments?

The Hon. I. G. MEDCALF: Certainly. The first amendment is a technical one. Clause 11 states that where the board is of the opinion that any building work carried out by an unregistered builder has not been carried out in a proper and workmanlike manner the board may order that builder to remedy the faulty or unsatisfactory work, in which case the provisions of section 4 of the Act do not apply to the remedying of the faulty or unsatisfactory work. The proposal is to delete the words "the provisions of section four of this Act do not apply to" and substitute a passage to say that nothing in paragraph (A) of subsection (1) of section 4 precludes that builder from doing that work. If the provision remains as it is at present the builder might claim that section 4 prohibits him doing the work, or allows him to do other things.

The Hon. R. Thompson: Because he is not a registered builder?

The Hon. I. G. MEDCALF: That is right. Therefore it is proposed to substitute these words to make it quite clear that he must do the work and cannot take refuge under section 4. I move an amendment—

> Page 5, lines 35 to 37—Delete the words "the provisions of section four of this Act do not apply to" and substitute the passage "nothing in paragraph (A) of subsection (1) of section four of this Act precludes that builder from doing such building work as is necessary for".

The Hon. R. F. CLAUGHTON: I am having a little difficulty in matching the amendment to the Act. Did I understand the Minister to say he would place the amendments on the notice paper?

The Hon. I. G. Medcalf: If you like I will postpone the clause and put them on the notice paper.

The Hon. R. F. CLAUGHTON: I do not think we need to do that, as the Bill will

come up for further consideration, and I can raise objections then.

Amendment put and passed.

The Hon. I. G. MEDCALF: The next amendment is also purely a technical amendment. Members will see that proposed new subsection (1a) (b) of section 12A states that one of the alternatives the board has available to it is to order a builder to pay to the owner the cost of remedying faulty or unsatisfactory work, and in that case any costs so ordered constitute a debt due to the owner and are recoverable by him in any court of competent jurisdiction. It is proposed to delete the word "owner" and to substitute the words "person for whom the faulty or unsatisfactory work was carried out". I move an amendment—

> Page 6, lines 1 to 7—Delete the passage commencing with the word "owner" in line one and ending with the word "owner" in line seven and substitute the passage "person for whom the faulty or unsatisfactory work was carried out such costs of remedying that work as the Board considers reasonable, in which case any costs so ordered by the Board constitute a debt due to that person".

Amendment put and passed.

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

> Page 6, line 10—Delete the word "and".

Amendment put and passed.

The Hon. I. G. MEDCALF: The next amendment is a very important one. I refer members to the proposed new subsection (6) on the sheet of amendments I have circulated. This proposed subsection becomes an amendment to the Bill and to the Act, and the reason for it is that a member of the Consumer Affairs Council became concerned that as a result of the additional powers being given to the board to order a builder to do certain things and to pay costs, etc., this might affect the civil remedies a person has against a builder.

A consultation was therefore arranged with the Crown Law Department, and the result was a recommendation to the Minister that this provision be included to ensure that no-one will lose his civil remedies; and the provision says that nothing in the section has the effect of limiting, restricting, or in any way affecting the right of a person to go to the court. It also says that when determining any matter the court should take into account any order made by the Builders Registration Board. In other words, the court when it made its award would weigh up what justice had already been done by the board. The object of the amendment is to prevent a builder claiming that because the board has taken action against him the way is not open for a person to sue in the court.

I move an amendment—

> Page 6, line 13—Delete the passage "(1a)"." and substitute the following—
>
> (1a)"; and
>
> (c) by adding after subsection (5) a subsection as follows—
>
> (6) Nothing in this section has the effect of limiting, restricting or otherwise affecting any right or remedy a person would have had had this section not been enacted but in hearing and determining any matter in which a builder and a person for whom building work has been carried out are parties a court may have regard to any order made by the Board under this section and any variation of such an order made by a magistrate under this section. .

The Hon. R. F. CLAUGHTON: These amendments are to section 12A of the Act, the section which was the subject of so much discussion earlier. After a quick study of this amendment, I can see no objection to it. Conceivably it does have the value the Minister claims it has. For that reason we will not object to it.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 12: Section 12B added—

The Hon. R. F. CLAUGHTON: I have given notice of my intention to vote for the deletion of this clause, because I am not satisfied the amendment is really necessary. The intention of the proposed new section is that the board may recover costs involved in the investigation of frivolous or vexatious complaints.

In my second reading speech I indicated that in 1974 the board received 504 complaints, and only 12 of those were judged to be of a frivolous nature in the opinion of the board. To the 27th August, this year the board has received 247 complaints, and of those only eight were judged to be of a frivolous nature. From those figures there does not really appear to be a necessity for the provision embodied in this clause. We must remember that the Bill also contains a provision in clause 13 which enables a builder to request the board to examine any building work performed by him.

So if the board believes the complaint is frivolous and made merely to annoy or delay a building because an incident has occurred between the owner and the builder, the builder can to go to board and say, "This man is holding me up. Come out and inspect the work, so the

matter can be settled." That is the essential agreement and not the fact that the board should be able to cover its costs, because it becomes a subjective matter. It is a matter of opinion whether a complaint is frivolous or vexatious.

The person making the complaint could view the matter very seriously and consider that his complaint is genuine, but some other person, not knowing all the details or the circumstances under which the complaint has been made, could consider it to be frivolous. It is for those reasons the clause is more likely to cause injustice than to achieve a satisfactory remedy for the builder, and therefore I do not think the provision is needed at all. The builder's remedy lies in the provision we are making for him to approach the board himself and ask the board to examine the work to determine the issue immediately. It is not for us to judge whether the board may be able to attend the work site immediately. If an objection is made that the board cannot attend a work site straightaway that objection can be taken by parties on both sides. If the complaint were frivolous the same delay would occur and the builder would not gain any satisfaction whatsoever.

I suggest to the Minister that this clause is not needed. Its most likely outcome is to aggravate what could be a difficult situation, because the builder really has a remedy under clause 13. The essential factor is that the inspector should arrive at the site of the work quickly to resolve the issue and not for the builder to have to wait some time before the inspector arrives.

The Hon. I. G. MEDCALF: The board has had cases of people making complaints merely to delay payment. Such cases are not unknown, not only in connection with building work, but in connection with many things where people put up a smokescreen in order to avoid making payment. The board has said that it has received what it considers to be unwarranted complaints made by people who merely wish to avoid the payment of money that is due under a building contract. It is difficult to prevent this sort of thing, and it is difficult to know whether or not a complaint is genuine. The remedy seems to be that a person should be obliged to put up some money as a token to show that he is making a genuine complaint. However this was considered to be unacceptable and the alternative was considered to be better; that is, instead of having to make a payment in advance before the board gave a decision, anyone lodging a complaint that was proved to be frivolous would have to pay the board's costs of investigating the complaint. This is considered to be quite reasonable.

As Mr Claughton has said, there are not many such cases but there are sufficient to justify some action being taken by the board to try to deter people from using this device to avoid paying for services or for something they may have already received.

The Hon. R. F. CLAUGHTON: I can only repeat that I doubt whether the clause will achieve the purpose that is being sought. If a person is seriously attempting to delay payment, is he likely to be deterred by this provision? The question is: how quickly can the board arrive on the work site to resolve the matter complained about? What sort of charges would the board make? What would it cost for a person to make an inspection of the site? Will it be $5 or $10, or how much will it be?

The Hon. I. G. Medcalf: It would depend on the cost of the investigation.

The Hon. R. F. CLAUGHTON: Surely the cost of the investigation would involve only the time of the inspector who made a visit to the site. It is not likely to be much more than that unless the board itself decides it is to be frivolous and vexatious and starts loading costs on itself to conduct unnecessary investigations. That is not a pleasant prospect, because, as I have said, the decision on whether a complaint is frivolous is subjective.

The person making the complaint can feel that his complaint is genuine and not made for the purpose of delaying payment. Anybody who is deliberately setting out to delay payment will not be deterred by this provision. If a person is of that nature he will continue to find ways and means to delay payment, even though the costs of the investigation are awarded against him. He could have good reason for doing that.

I do not consider the clause to be necessary. It is more likely to deter people who have genuine complaints than those who are being deliberately difficult towards a builder. I am firm in my belief that the clause is unnecessary.

The Hon. I. G. MEDCALF: Unfortunately some people are vexatious litigants and the courts know this. We have had Acts of Parliament to cover vexatious litigants, and some of them have to be suppressed from access to the courts.

The Hon. R. F. Claughton: This provision would not stop them.

The Hon. I. G. MEDCALF: In fact, some people spend all their time bringing proceedings against other people in the courts and they have to be stopped.

The Hon. R. Thompson: I can recall one builder quite well.

The Hon. I. G. MEDCALF: It is very difficult, because there are those who do abuse the processes and the amendment is designed to stop such people. I do not think the costs would be high, although these days costs are fairly steep for anyone who conducts any kind of investigation, so I do not suppose the costs would

be cheap. However, if the board were to charge more than it should that could be held against it because the words used are "reasonable costs", which mean the board has to justify its costs in case it is imposing penalties it is not entitled to impose.

If this provision were abused the board would be running a grave risk. It is a provision that is worth a trial.

The Hon. R. Thompson: Immediately a person receives a summons to appear in court he will run to his member of Parliament.

The Hon. I. G. MEDCALF: That is quite right; we will soon know about it.

Clause put and a division taken with the following result—

Ayes—15

Hon. N. E. Baxter	Hon. N. McNeill
Hon. G. W. Berry	Hon. I. G. Medcalf
Hon. H. W. Gayfer	Hon. I. G. Pratt
Hon. Clive Griffiths	Hon. J. C. Tozer
Hon. T. Knight	Hon. R. J. L. Williams
Hon. G. C. MacKinnon	Hon. W. R. Withers
Hon. G. E. Masters	Hon. V. J. Ferry
Hon. M. McAleer	*(Teller)*

Noes—7

Hon. R. F. Claughton	Hon. R. Thompson
Hon. D. W. Cooley	Hon. Grace Vaughan
Hon. S. J. Dellar	Hon. Lyla Elliott
Hon. R. T. Leeson	*(Teller)*

Pair

Aye	No
Hon. A. A. Lewis	Hon. D. K Dans

Clause thus passed.

Clauses 13 to 15 put and passed.

Postponed Clause 3: Section 4 Amended—

Progress

Progress reported and leave given to sit again, on motion by the Hon. I. G. Medcalf (Honorary Minister).

CONSTITUTION ACTS AMENDMENT BILL (No. 2)

Assembly's Message

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

House adjourned at 10.02 p.m.

Legislative Assembly

Wednesday, the 22nd October, 1975

The SPEAKER (Mr Hutchinson) took the Chair at 2.15 p.m., and read prayers.

QUESTIONS ON NOTICE

Postponement

MR O'NEIL (East Melville—Minister for Works) [2.17 p.m.]: Mr Speaker, I request that the House agree to the deferment of answers to questions until after grievances have been noted.

The SPEAKER: Is there a dissentient voice? There being no dissentient voice, leave is granted.

MUNDARING AND LOWER HELENA CATCHMENT AREAS

Public Access: Grievance

MR MOILER (Mundaring) [2.20 p.m.]: Mr Speaker, I propose to take the opportunity in the 10 minutes available to me to express a grievance in regard to the utilisation of a Government facility in the Mundaring electorate to which entry by the public is prohibited. I refer to the water catchment area immediately surrounding the Mundaring Weir and the Lower Helena catchment area.

This combined area is situated some 20 miles from the centre of Perth and at some future time it is sure to be used for passive recreation by many thousands of people resident in the metropolitan area. It is my opinion that the prohibition on public entry into this very beautiful area, which contains a forestry reserve, is nothing more than bureaucratic pigheadedness. I believe investigations by qualified people would reveal that the public should and could be reasonably allowed to enter this area under controlled conditions.

I am not in any way suggesting that private vehicles should be allowed into the area immediately surrounding the Mundaring Weir basin, which is one of the prettiest areas in this State. I am in no way suggesting that private vehicles should be allowed in the area. However, I suggest that it would be easy to have a bus service covering a circuit of five or six miles around the basin, through the pine forest established there, and the natural forest. These buses should be the only vehicles permitted to enter. They would travel on constructed roads, so there would be no spread of *Phytophthora cinnamomi* within the forest area. The demand for the bus service could be investigated and the system could then operate to meet the demand; perhaps on an hourly or a half-hourly basis. There would be little danger of the disease spreading into the forest from bus passengers traversing the area on foot, and certainly there would be no danger to the water catchment area or the area surrounding the basin.

Over a period of more than 12 months I have been in contact with the Public Works Department. I expressed my views on many occasions, and at one time the under-secretary said to me, "Would you like to send in a written submission about this matter?" I went to the trouble of sending in a letter and the reply I received said, in effect, "Thank you for your suggestion, but mind your own business." I take exception to this attitude expressed in the reply, and I believe every member of Parliament would feel the same way. I was told very politely that my views would be taken into account but that the people