Legislative Council

Tuesday, the 30th November, 1971

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

QUESTIONS (10): ON NOTICE

1. JETTIES

Mandurah Area

The Hon. R. THOMPSON, to the Leader of the House:

(1) How many jetties are in existence between the weir at Pinjarra and the Peel Inlet proper, including all of the Yundurup delta?

(2) How many of these are licensed?

(3) To whom is license fee paid?

(4) Under whose control are these jetties?

(5) What rights have the present licensees over privately licensed jetties?

(6) Are licences still being granted for jetties in this area?

(7) What is to be future Departmental policy in regard to private jetties in this area?

(8) Will the Government give consideration to eliminating private jetties in this area, and replacing them progressively with effective public jetties to allow the public more general access to this water recreation area?

The Hon. W. F. WILLESEE replied:

(1) A recent survey, made for the Peel Inlet Conservation Advisory Committee, indicates that there are 920 structures, including jetties, boatsheds, ramps, slipways, land-backed wharves, derelict remains etc. Of this number 739 are in the area in question and 181 are in the Mandurah-Serpentine area.

(2) Checking of licenses is not yet completed.

(3) License fees are paid to the Harbour and Light Department and are refunded to the relevant shires.

(4) By consent of all authorities, including the Harbour and Light Department, control and licensing has been left with the Peel Inlet Conservation Advisory Committee to make policy and recommendations.

(5) Under the terms of the Harbour and Light Department licenses, owners of private jetties have exclusive rights.

(6) Building permits (from relevant shires) and licenses are being withheld for at least twelve months so that a complete review may be made in the light of the survey.

(7) In future applications will only be considered where land title extends to the water's edge i.e. private jetties will not be allowed where a road or any reserve separates the property from the water.

(8) The suggestion that private jetties be replaced with public facilities is under consideration by the Peel Inlet Conservation Advisory Committee.

2. GOVERNMENT GUARANTEE

Mandurah Marineland Project

The Hon. G. C. MacKINNON, to the Leader of the House:

(1) In view of the Government's decision to guarantee the private land development programme of Miss Joan Watters at Yundurup to the extent of $1,700,000 will the Treasurer give further consideration to the request from the Mandurah Shire Council for assistance in the form of a guarantee to the extent of $100,000 for the community tourist and holiday attraction marineland project at Mandurah?

(2) In his consideration of the marineland project, would the Hon. Treasurer consider the following points which it is felt should encourage him to change his mind and agree to the request for assistance from the elected local authority for the area—

(a) the amount required to be guaranteed is $100,000 only, and can be raised within the Mandurah Shire Council's borrowing powers;

(b) the development would be located on Crown land, not privately owned, therefore should failure occur the facilities would become assets of the Crown;

(c) the benefits of a marineland complex close to the State capital and its tourist potential;

(d) the use of the proposed development by the general public and not just for a specific group of land owners;

(e) ancillary benefits associated with study of fishlife by the Department of Fisheries and Fauna and interested students; and

(f) contribution of employment to the building industry?

The Hon. W. F. WILLESEE replied:

This question is under consideration and a deputation is meeting the Assistant Treasurer on Monday, 6th December, 1971.

3. NATIVE WELFARE

Care of Aboriginal Children

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

(1) What happens to an Aboriginal child who is committed to the care of the Child Welfare Department by a children's court when the child resides in—

(a) the metropolitan area; and

(b) north of the 26th parallel?

(2) What residential or supervision facilities are available to a Native Welfare Officer in the towns north of the 26th parallel for any child committed to the Department's care?

(3) Are the same facilities available for non-Aboriginal children?

The Hon. W. F. WILLESEE replied:

(1) (a) The child is subjected to social and psychological assessment procedures and a placement or treatment programme is planned, in accordance with the child's needs.

(b) The child is dealt with in one of three ways—

(i) found suitable local placement, or

(ii) transported to Darwin for an assessment and treatment plan, or

(iii) transported to Perth for an assessment and treatment plan.

(2) None.

(3) There are no such facilities for Aboriginal or non-Aboriginal children north of the 26th parallel.

4. ROADS

Kwinana Freeway

The Hon. CLIVE GRIFFITHS, to the Leader of the House:

(1) Have the plans for the final route for the extension to the Kwinana Freeway been completed?

(2) If so, would the Minister lay the plans on the Table of the House?

(3) If not—

(a) at what stage have the plans reached; and

(b) how long will it be before the final route is determined?

The Hon. W. F. WILLESEE replied:

(1) No.

(2) Answered by (1).

(3) (a) Investigations are in hand to evaluate all aspects of alternative alignments.

(b) No indication can be given at this date.

5. YUNDURUP CANAL SCHEME

Drainage

The Hon. N. McNEILL, to the Leader of the House:

Concerning the Yundurup Canal Development project, I ask—

(1) What steps are taken to ensure that flooding of private and nearby land will not occur with the onset of high tide or estuary flood conditions?

(2) Whose responsibility, and at whose cost, is it that such circumstances do not occur?

(3) To what extent is, or has, the natural drainage of the area been affected by the development?

(4) What additional drainage outlets from adjacent land will be required with the completion of the development?

(5) At whose cost will such work, if any, be carried out?

(6) Considering the fact that development of the project area may require further development of drainage systems on adjacent lands, is it anticipated that such work will in any way be a charge on—

(a) the Government; or

(b) adjacent land holders?

The Hon. W. F. WILLESEE replied:

(1) The Public Works Department, through its Waroona office, keeps this project under close observation to ensure that flooding does not occur during the construction phase. Arrangements have been made at various times with the developers for banks to be opened and culverts and floodgates installed to ensure that drainage lines were kept open.

(2) The primary responsibility to avoid flooding damage and meet all the necessary costs of avoiding this rests with the developer, but as the project falls within the Pinjarra Drainage District and is operating with departmental approval, the Public Works Department has a responsibility in this matter also.

(3) The project has affected the natural drainage of the area in two ways:—

(i) A departmental drain and floodgate constructed to allow the escape of local drainage waters has been interfered with by the canal construction. The drain has been replaced by the canal system and the floodgate will be ultimately replaced on a road culvert when constructed.

(ii) The ill-defined, heavily overgrown swampy area through which major flood waters (resulting from overflow of the Murray River) escaped to the estuary has been filled by the project. This watercourse only operated at a relatively high level after most of the surrounding land was inundated.

Because the development would thus interfere with the natural drainage, the conditions of subdivision required the subdivider to provide at its cost suitable drainage outlet systems.

(4) No other drainage outlets will be required as a result of this development.

(5) Answered by (4).

(6) (a) No.

(b) Any development of additional drainage systems on adjacent lands to take advantage of the improved outlets to be provided by this project are considered to be entirely a matter for the owner of the land concerned as this opportunity to enhance the property did not previously exist.

6. EDUCATION

Country School Hostels

The Hon. S. J. DELLAR, to the Leader of the House:

(1) Are country school hostels subsidised over and above the present living-away (boarding) allowances?

(2) If so, by how much per child per week?

The Hon. W. F. WILLESEE replied:

(1) Yes.

(2) $1.50 per student a week.

7. CANNING RIVER

Salinity Content

The Hon. CLIVE GRIFFITHS, to the Leader of the House:

(1) Would the Minister advise whether regular salinity checks are still being made of the Canning River in the Kenwick and Maddington areas?

(2) If so—

(a) when were the most recent readings taken; and

(b) how do they compare with readings taken during the past three years?

The Hon. W. F. WILLESEE replied:

(1) and (2) There is no regular salinity sampling of the Canning River. In February, 1970, when abnormally high tides from Cyclone Glynis forced salt water above the Kent Street Weir, extensive sampling was carried out to examine the extent of the salt water intrusion.

Tests were discontinued after all the salt water had been flushed out and river salinity had returned to normal.

8. EDUCATION

Kindergarten and Primary Teachers

The Hon. V. J. FERRY, to the Leader of the House:

(1) What period of training does a trainee teacher receive before qualifying as—

(a) a primary school teacher; and

(b) a kindergarten teacher?

(2) What remuneration is paid to—

(a) a trainee primary school teacher; and

(b) a trainee kindergarten teacher?

(3) What remuneration is paid to a qualified first year—

(a) primary school teacher; and

(b) kindergarten teacher?

(4) If the remuneration paid to trainee and qualified first year primary school and kindergarten teachers is different, why is it so?

(5) Is it the intention of the Government to provide equal remuneration to these categories of teachers?

(6) If not, why not?

The Hon. W. F. WILLESEE replied:

(1) (a) From 1972, all new primary trainees will undergo a course of 3 years' duration.

(b) Three years.

(2) (a) Under 21 years living at home, 1st year $920; under 21 years living away from home, 1st year $1,240.

Under 21 years living at home, 2nd year $920; under 21 years living away from home, 2nd year $1,240.

Under 21 years living at home, 3rd year $1,083; under 21 years living away from home, 3rd year $1,403.

(b) Living at home $520.

Living away from home $720.

(3) (a) Three-year trained $4,182.

Two-year trained $3,673.

(b) $2,693.

(4) Salaries of primary and kindergarten teachers are fixed by different salary fixing and appeal authorities. Remuneration paid to trainees is a grant not subject to any award.

(5) and (6) Kindergarten teachers' salaries are fixed by an award over which the Government has no control. Trainee teachers' allowances form part of the annual grant to the Kindergarten Association. This grant was reviewed and increased for 1972.

9. ROADS

North West Coastal Highway, Carnarvon

The Hon. S. J. DELLAR, to the Leader of the House:

Will he ascertain if the Minister for Works is aware that a serious traffic hazard exists at the junction of Gascoyne Road and the North West Coastal Highway at Carnarvon, and if any action is proposed to reduce the hazard?

The Hon. W. F. WILLESEE replied:

Officers of the Main Roads Department have ascertained that the question refers to the junction of the Geraldton-Carnarvon Road and the North West Coastal Highway. The department is aware that a traffic problem exists in the indiscriminate parking of heavy transport vehicles close to the "T" junction. The attention of the local authority has been drawn to this problem and the Council is making arrangements to gazette a "No Parking" area at the approaches to the junction.

10. HOSPITAL

Denmark

The Hon. V. J. FERRY, to the Leader of the House:

(1) What improvements are planned or under consideration for the Denmark Hospital?

(2) When may it be expected that the improvements will be effected?

The Hon. W. F. WILLESEE replied:

(1) It is intended to provide a new operating theatre, outpatient treatment room and the relevant service rooms as a separate block linked to the existing hospital by a short covered way. To facilitate the project it is intended to provide this in the form of transportable units.

(2) Tender documents should be completed to permit calling of tenders in March, 1972.

QUESTIONS (4): WITHOUT NOTICE

1. ENVIRONMENTAL PROTECTION

Pacminex Agreement

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

(1) Has the Government submitted the proposed Pacminex agreement to Dr. Brian O'Brien for his consideration and report?

(2) If so, has Dr. O'Brien made a report either verbally or in writing to any Minister in the State Government?

(3) If the answer to (1) is "No," can the Minister advise the House whether Dr. O'Brien has ever perused the Bill and the agreement attached thereto and whether he has at any time visited the proposed refinery site?

(4) Does the statement made by the Premier on a number of occasions to the effect that the Pacminex agreement will not be signed by the Premier on behalf of the State until the Government's proposed environmental protection legislation has been passed by Parliament mean that the Pacminex agreement will be submitted to the environmental council to be set up under the proposed environmental protection legislation for consideration and report before the agreement is signed?

The Hon. W. F. WILLESEE replied:

The Leader of the Opposition was good enough to give me notice of this question. I have pursued the matter with the Premier and this is the reply:

(1) No formal submission for a report has yet been made.

(2) Answered by (1).

(3) Yes, Dr. O'Brien has perused the Bill and the agreement and has visited the general vicinity.

(4) The Pacminex agreement will not be signed by the Premier until the environmental protection authority has been set up and is operative.

2. ENVIRONMENTAL PROTECTION

Pacminex Agreement

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

To the fourth question I asked, the answer was—

The Pacminex agreement will not be signed by the Premier until the environmental protection authority has been set up—

The Hon. W. F. Willesee: And is operative.

The Hon. A. F. GRIFFITH: I repeat—

Is it the Government's intention, when the environmental legislation becomes operative, to submit the Pacminex agreement to the environmental council for its consideration and report?

The Hon. W. F. WILLESEE replied:

I would not like to commit the Premier on this occasion by replying to the question myself. The question that is asked is vital and I suggest that the Leader of the Opposition should give notice of his question to give me time to reply to it by tomorrow.

3. ENVIRONMENTAL PROTECTION

Pacminex Agreement

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

I regret having to pursue this matter, but I draw the attention of the Leader of the House to the fact that I have specifically asked in the question, in regard to which I gave the Government notice on Friday—

Does that mean that the Pacminex agreement will be submitted to the environmental council for consideration and report before the agreement is signed?

What I wish to know is whether the Government intends to submit the agreement—which is the schedule to the Bill—to the environmental council when it has been set up in order that it can consider the agreement in relation to environmental matters and make a report to the Government before the agreement is signed.

I accept the explanation by the Leader of the House that he cannot answer for his Premier, but would he be good enough to consult the Premier and give me a reply during the course of the evening because, as you know, Mr. President, the debate on the Alumina Refinery (Upper Swan) Agreement Bill is to ensue in the very near future and it is important that I have the answer to my question?

The Hon. W. F. WILLESEE replied:

I realise now the import of the suggestion made by the Leader of the Opposition because the Bill in question is item No. 2 on the notice paper. I do not know whether I will have any time available to me during the debate on item No. 1. However, I am prepared to postpone consideration of item No. 2 until a later stage of the sitting so that I may make an endeavour to reply in detail to the questions asked by the Leader of the Opposition, especially in view of the fact that he is of the opinion that the answers to the question are important to the passage of the Bill, because the passage of the Bill is important to me. If that be satisfactory, and if it is possible during the debate on item No. 1, I will endeavour to obtain a reply to the question from the Premier. If not, I would ask leave of the House to place item No. 2 further down the notice paper until after the tea suspension.

However, I am not very keen to postpone consideration of the Bill, because I prefer to make progress. Nevertheless, as it is important that I get a reply from the Premier I will make every endeavour to do so and will then submit it to the Leader of the Opposition.

4. ENVIRONMENTAL PROTECTION

Pacminex Agreement

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

I express my appreciation to the Leader of the House for his cooperation and ask him to accept the fact that if the reply from the Premier is not forthcoming at the moment we require it I would be perfectly satisfied to have him go on with consideration of item No. 2 because there may be other people who want to speak to the measure in the interim, and at some appropriate time we could adjourn the debate. I would point out that I only want an answer to the last part of my question. Therefore, what

I suggest is that we do not postpone consideration of item No. 2 but proceed as far as we can. I ask consideration of the Leader of the House to keep it as a question and I am prepared to leave the matter at that.

The Hon. W. F. WILLESEE replied:

I appreciate what the Leader of the Opposition means and I agree with him entirely. In fact, before I could do anything I would need to get a copy of the question asked by the Leader of the Opposition in order that I may submit it to the Premier. Therefore, there will be some time lag.

BILLS (9): RECEIPT AND FIRST READING

1. Justices Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. W. F. Willesee (Leader of the House), read a first time.

2. Mining Act Amendment Bill (No. 2).

   Bill received from the Assembly; and, on motion by The Hon. R. H. C. Stubbs (Minister for Local Government), read a first time.

3. Traffic Act Amendment Bill (No. 3).

   Bill received from the Assembly; and, on motion by The Hon. J. Dolan (Minister for Police), read a first time.

4. Poseidon Nickel Agreement Bill.

   Bill received from the Assembly; and, on motion by The Hon. W. F. Willesee (Leader of the House), read a first time.

5. Industrial Arbitration Act Amendment Bill (No. 2).

   Bill received from the Assembly; and, on motion by The Hon. R. H. C. Stubbs (Minister for Local Government), read a first time.

6. Land Act Amendment Bill (No. 2).

   Bill received from the Assembly; and, on motion by The Hon W. F. Willesee (Leader of the House), read a first time.

7. Cement Works (Cockburn Cement Limited) Agreement Bill.

8. Western Australian Institute of Technology Act Amendment Bill.

   Bills received from the Assembly; and, on motions by The Hon. J. Dolan (Minister for Police), read a first time.

9. Environmental Protection Bill.

   Bill received from the Assembly; and, on motion by The Hon. W. F. Willesee (Leader of the House), read a first time.

EDUCATION ACT

Disallowance of Amendment to Regulation 249: Motion

Debate resumed from the 25th November, on the following motion by The Hon. J. M. Thomson:—

That the amendment to subregulation (4) of regulation 249 made under the Education Act, 1928-1970, published in the *Government Gazette* on the 21st September, 1971, and laid on the Table of the House on the 5th October, 1971, be and is hereby disallowed.

THE HON. R. THOMPSON (South Metropolitan) [5.02 p.m.]: The Hon. J. M. Thomson has moved for the disallowance of an amendment to a subregulation of regulation 249, possibly because of a complaint he has received from a teacher in his province. No-one denies him that right.

However, as it is this Chamber that will make a decision on the disallowance of the amendment to the subregulation all members should take into consideration the seriousness of the action contemplated and the disadvantages occasioned to other teachers, not only in the present case, but in the future, if the amendment is hereby disallowed.

When the Minister replied to Mr. Jack Thomson's motion he dealt with the queries raised mainly from the angle of the Education Department. However, a further document from the State School Teachers' Union was to hand. It is dated the 19th November, 1971, and outlines the union's activities in its handling of the case up to that date. The report given to the Minister is as follows:—

1. The position of Officer-in-Charge, Albany Technical Centre, was advertised in the April edition of the Education Circular, 1970, as a Class I Centre for 1971.

2. Mr. H. Everett, then Officer-in-Charge of the Albany Centre which at that time was a Class II Centre, applied with a number of other teachers for the position advertised as Class I for 1971.

3. In July 1970 and before the closing date for applications for the position, a notice was published in the Supplement to the July Education Circular informing teachers that it was intended early in 1971 to amend regulations to alter the existing parities of Officers-in-Charge.

4. On the 10th July 1970, Mr Everett wrote to the Union concerning the proposed amendment to Regulation 249 (4). He expressed concern not only at the possible effects on those already appointed as Officers-in-Charge but he also expressed concern at his position should he be successful in gaining a promotion to a Class I Centre.

5. On the 30th July the Union wrote to the Director-General expressing concern at the possible effects of the proposed changes on Officers-in Charge already appointed but without making specific reference to the position of anyone promoted to a Class I Centre from the 1st January, 1971.

6. The Director-General replied on the 28th August, 1970, ref. 709/70, stating that it was intended to safeguard the rights of Officers at present holding appointments as Officers-in-Charge.

7. In the meantime the special case put forward by Mr. Everett was under consideration by a Union Committee.

8. The Director-General's letter of the 28th August was sent out to all Officers-in-Charge to obtain their opinion on the Director-General's proposals.

9. On the 16th September Mr. Everett wrote in pointing out that his position, should he gain a promotion to a Class I Centre, had not been covered in the Director-General's reply.

10. On receipt of Mr. Everett's letter of the 16th September the Director-General was contacted asking that positions advertised before the Supplement to the July Education Circular was published should be re-advertised. To this the Department did not agree.

11. An opinion on Mr. Everett's position was also sought from the Union's legal advisers.

12. An approach was then made to the Department to have the amendment to Regulation 249 (4) written to ensure that an Officer-in-Charge promoted to Officer-in-Charge Class I from the 1st January, 1971, would gain equivalent status with the Deputy-Principal of a Technical College. This was agreed to by the Department but when the regulation was amended the wording did not give this safeguard. Consequently the Department was again approached and Regulation 249 (4) was again amended this time to meet the Union's request. (Government Gazette No. 19 of 19.3.71.)

13. Other teachers who had applied for the position of Officer-in-Charge Class I, Albany, did not proceed with their application to the extent of appealing against Mr. Everett's recommendation because advice they had received from the Education Department through a Superintendent of Technical Education was to the effect that whoever received the promotion to Officer-in-Charge I, would not thereby gain status equivalent to the Deputy-Principal of a Technical College. When they found that Regulation 249 (4) was amended to give this status to the position they no longer had the right to appeal against Mr. Everett's appointment so they raised objections to the Union and the whole matter was re-opened. After long consideration including consideration of a legal opinion from a Queen's Counsel it was decided to make a further approach to the Department to request another amendment to Regulation 249 (4). This time the Union asked that the regulation be amended to allow only those appointed as Officer-in-Charge Class I, prior to the 1st January, 1971, to be equal in status to the Deputy-Principal of a Technical College.

To this the Department agreed and Mr. Everett who obtained a promotion to Officer-in-Charge Class I finds that this promotion left him in a position no greater in status than he held before the promotion.

The union is an unbiased organisation as far as its members are concerned. Sitting on the tribunal are the president, who is a fully paid officer, a departmental representative, and an independent member who I understand is a solicitor. To say the least it would be totally unfair for a person to be promoted to a position which he is not entitled to hold simply because of a mistake in the wording of a regulation. We must also take into account the wrong advice given at the time to other teachers who had intended to appeal against the decision. They did not appeal because they understood there would be some form of amendment to the regulations and that no gain in status would result from a successful appeal.

The Hon. A. F. Griffith: Did anyone other than Mr. Everett apply for the position?

The Hon. R. THOMPSON: I shall not bore the House by reading the whole case, but if the Leader of the Opposition cares to read it he will find Mr. Duncan approached the Education Department and was told by the Director of Technical Education—I think that is the correct term—

The Hon. J. M. Thomson: I think it was the superintendent.

The Hon. R. THOMPSON: Perhaps it was the Deputy Superintendent of Technical Education.

The Hon. G. C. MacKinnon: Is this on record or is it hearsay?

The Hon. R. THOMPSON: It is on record.

The Hon. G. C. MacKinnon: This fact that Mr. Duncan approached the department?

The Hon. J. Dolan: That was in my statement.

The Hon. R. THOMPSON: This fact was mentioned in Mr. Dolan's statement which is recorded in *Hansard*.

The Hon. G. C. MacKinnon: I get the impression it was hearsay evidence.

The Hon. R. THOMPSON: It is recorded in *Hansard*.

The Hon. G. C. MacKinnon: That does not make it other than hearsay.

The Hon. J. Dolan: It is the statement from the Education Department.

The Hon. R. THOMPSON: It is the department's reply.

The Hon. G. C. MacKinnon: We still would like some explanation as to why an insignificant regulation, such as this, had to be gazetted on three different occasions. We would like to know this without attaching blame to anyone.

The Hon. R. THOMPSON: Perhaps I should refer to the summary given by a Queen's Counsellor in an opinion to the Teachers' Union.

The Hon. G. C. MacKinnon: Mr. Williams read it out.

The Hon. R. THOMPSON: The last small paragraph reads—

> If blame is attributable to anyone in the matter, in my view, it attaches to the draftsman of the July supplement of the Departmental circular.

The Hon. G. C. MacKinnon: It is all his fault.

The Hon. R. THOMPSON: That is what a Queen's Counsellor says.

The Hon. A. F. Griffith: Is that the first or second opinion?

The Hon. R. THOMPSON: It is the second and was given by Mr. Howard Smith; the first was given by Mr. Dunphy.

The Hon. A. F. Griffith: The two opinions were the same.

The Hon. R. THOMPSON: Virtually. I have not read Mr. Dunphy's opinion, but this one is eight pages long and throughout the opinion reference is made to some error. Mr. Lloyd of the Teachers' Union was not aware that another person had approached the department with a view to lodging an appeal at the time he spoke to Mr. Dunphy and asked for an opinion. Therefore, Mr. Dunphy, through no fault of his own but through a mistake made by Mr. Lloyd, which is acknowledged in Mr. Howard Smith's opinion, was not in a position to know the full facts.

The Hon. G. C. MacKinnon: You admit to these mistakes which have nothing to do with Mr. Everett, but you hold Mr. Everett as the only one who is blameworthy.

The Hon. R. THOMPSON: That is not quite true.

The Hon. G. C. MacKinnon: It is the impression with which I am left.

The Hon. R. THOMPSON: Mr. Everett was the one to be advantaged through the wording at that time.

The Hon. G. C. MacKinnon: If taking advantage is a criminal thing, there are many naughty fellows around and we are all part of it.

The Hon. R. THOMPSON: By taking advantage of the position at the time; which, of course, he was perfectly entitled to do. Nobody is denying that, least of all me, because under the system everyone has the right to lodge an appeal.

The Hon. G. C. MacKinnon: If they do not they lose the right—period.

The Hon. R. THOMPSON: When I say everyone has the right to lodge an appeal I do not imply that they all have such a right. I say this because last Monday week there were about 18 deputy headmasters who were all subject to an appeal; each having several appeals against him. This is the type of thing that we must take into consideration when making a determination on such matters.

The Hon. A. F. Griffith: Can you confirm that there were four or five other teachers who applied for this position when it was first advertised?

The Hon. R. THOMPSON: According to the information I have in front of me there was only one person whose name was mentioned. Other people are referred to; but Mr. Dolan tells us that there are 30 people with equal qualifications; each of whom has the right to lodge an appeal.

The Hon. G. C. MacKinnon: But you have no right to presume they wanted to lodge an appeal, because not all of them might have wished to do so.

The Hon. R. THOMPSON: I think the honourable member will find that it is a pretty long and slow process to obtain promotion in the Education Department. Promotion is gained in two ways; firstly by seniority, and secondly by qualifications.

The Hon. G. C. MacKinnon: Can one get promoted on ability?

The Hon. R. THOMPSON: Not unless one has the necessary qualifications. If one possesses those qualifications that might be possible, because under the normal processes of teaching there are three special promotions given each year which place teachers about 14 years ahead of their counterparts; so this is considered a special promotion.

In this connection, however, I have before me a note of the course that must be followed and what must be presented to the tribunal. It is a statement which must be made by the person concerned giving (1) his seniority, (2) his status, (3) his qualifications, and (4) his administrative experience; together with the headmaster's positions he has held, the deputy headmaster's positions he has held, and what

he has done during his teaching career—and also outside his teaching career—in connection with the sporting activities of the schools within the towns in which he has taught. There is then a summary. This document to which I refer is a very small document; it takes up one complete page of foolscap.

Some of the people concerned, however, have used at least three foolscap pages in support of their cases. Each person who appeals to the tribunal against a particular appointment must make copies of such appeals available not only to members of the tribunal but also to anyone who might be appealing against the position in question.

I think I am possibly spending a little too much time on this aspect, but I would like to point out that it is a teacher's right to appeal against any person who might be appointed. Some of the people who appealed last Monday week had no hope in the world of ever gaining the position in question; but at least they tried. It is their right to appeal if they wish to do so.

In the circumstances I have outlined we generally find it is the people with the qualifications; those who have some experience and seniority in the department who usually get the position that might be advertised. If members would read the November-December issue of *The W.A. Teachers' Journal* they will find at page 411, appeal No. 5/71 in the matter of the appeals lodged against the recommendation of L. J. Mears to the position of Principal, Eastern Goldfields Technical School, by E. W. Lynch and H. R. Everett.

In this case we find that Mr. Everett exercised his right and lodged an appeal against the appointment of Mr. Mears. The last paragraph of the decisions listed states—

> When looking at all relevant aspects of efficiency, it is apparent that on all counts Mears can match the claims of the appellants and indeed in some aspects he can claim superior efficiency. For these reasons the Tribunal considers that neither Lynch nor Everett can establish the superior efficiency required by them to succeed and their appeals therefore are dismissed.

On page 412 of *The W.A. Teachers' Journal* for the same period we find listed appeal No. 6/71 in the matter of the recommendation of J. W. E. Chapman to the position of Deputy Principal (Colleges), Technical Extension Service, E. G. Hoare to the position of Deputy Principal (Grade I), Bunbury Technical School and D. J. Costello to the position of Officer-in-Charge (Class I), Albany Technical Centre; and the appeals lodged by H. R. Everett, C. P. Bennett and D. J. Costello against one or more of the above recommendations. In this case there were three people who appealed against the recommendations in question.

The Hon. A. F. Griffith: How many appeals were there in this case?

The Hon. R. THOMPSON: The confusion that took place is adequately summed up by Mr. Howard Smith's opinion, that if any blame is attachable it is to the wrong wording that was given.

The Hon. A. F. Griffith: In other words there were no other appeals.

The Hon. R. THOMPSON: I think I have already explained that. One person approached the department, and the union executive had no knowledge that an appeal was to be lodged. When the person in question was advised by the Deputy Superintendent of Technical Education that he would gain nothing in status by appealing he accepted this advice and did not appeal.

The Hon. G. C. MacKinnon: It is rough that we should change the law because the wrong bloke got the job.

The Hon. R. THOMPSON: In the next appeal Everett was not successful. As I have indicated it is the right of every teacher to appeal against an appointment if he so desires but that does not alter the fact that it is wrong to see one person gain an advantage over another person who might have superior administrative experience and longer service in the department. He might also have better qualifications; although I notice that in one of the appeals Mr. Everett's qualifications are shown as being higher than those of the person who got the job.

The Hon. G. C. MacKinnon: In the light of what has happened in the other one would not that lead you to think that Mr. Everett is under some disfavour?

The Hon. R. THOMPSON: Not at all; and I think it is shocking to suggest that Mr. Everett is in some disfavour.

The Hon. G. C. MacKinnon: You said he had higher qualifications and did not get the job.

The Hon. R. THOMPSON: I said he had higher qualifications than one of the people who was recommended for the job.

The Hon. R. F. Claughton: Is it not a fact that when the regulations were changed other teachers were denied the opportunity to appeal?

The Hon. R. THOMPSON: Of course, because Mr. Everett was happily placed in his position and there was no right of appeal in that case.

The Hon. R. F. Claughton: The conditions were changed.

The Hon. G. C. MacKinnon: The law did not state that he was the only one who could apply for the job—cut it out!

The Hon. R. THOMPSON: The law did not say that but I would point out that a man called Hoare acted on behalf of other school teachers—evidently there was a group of them at that stage; they had become organised to some degree. They were advised that nothing was to be gained by appealing against the decision. This of course was not quite right because the change in the regulation gave the position greater status than it enjoyed at the time.

It was the Teachers' Union that approached the department and asked that the regulation be amended, to which the department agreed. I do not think anyone can accuse the union of being opposed to Everett; nor do I think the president of the union can be accused of having favourites—he would certainly be a very silly president if he did have favourites. At the same time I do not think we can accuse the independent lawyer who probably does not know any of the people concerned, nor would I imagine that the departmental officer would have any bias.

Accordingly it would be ludicrous to suggest that Mr. Everett is out of favour. From what I have read Mr. Everett is a very highly qualified and capable man. This, however, still does not solve the problem, because any person who considers he has the necessary qualifications has a right of appeal against a decision. This is what the Education Department ultimately brought into being on the representation of the union, and this is how the position stands at the moment.

It would be wrong in the extreme if this House voted for the disallowance of the regulation. Many people who have been pretty close to me have been disadvantaged by the decisions of the tribunal. We have had a number of teachers in our family over the years, many of whom have been seriously disadvantaged by tribunal decisions.

The Hon. A. F. Griffith: Was this a tribunal decision?

The Hon. R. THOMPSON: No; I said it would be wrong if we altered the principle—and that would be the case if we disallowed this regulation—particularly if one person is appointed to the position without the tribunal hearing appeals from those who considered they had a right to appeal. As I have already said, Mr. Howard Smith's opinion is that the mistake was made at departmental level. The mistake was made obviously against union principle because if it were not against the union's principle it would not have asked for the opinion of two Q.Cs.

The Hon. G. C. MacKinnon: I think it had the opinion of three Q.Cs.—it was a question of "hope springs eternal."

The Hon. R. THOMPSON: I know only of two.

The Hon. R. J. L. Williams: Would you say it was departmental negligence that caused this?

The Hon. R. THOMPSON: Absolutely!

The Hon. R. J. L. Williams: How much will it cost the department if Everett sues them?

The Hon. R. THOMPSON: That is the department's business, not mine. I am considering the question of justice as it applies to the teaching profession; of the regulation and what I think it should be. I think it would be wrong to consider what it might cost the department. Firstly, we must appreciate that the person in question must be successful and, secondly we must ask ourselves what it would cost a number of other teachers who might be placed in a similar position.

The PRESIDENT: Order! Will the honourable member please address the Chair?

The Hon. R. THOMPSON: It would be unfair to place the remainder of the teaching profession in this position. What would happen if I tried to interfere with the industrial arbitration system as it is now constituted?

The Hon. G. C. MacKinnon: Cut it out! You are comparing the gazettal of regulations with the actual sitting of a tribunal or court.

The Hon. R. THOMPSON: The regulations are dependent on the sitting of a tribunal.

The Hon. G. C. MacKinnon: The crux of this matter is: why was this gazetted on three separate occasions?

The Hon. R. THOMPSON: The crux of this matter is the disallowance of the amendment to the subregulation, and nothing else. Therefore, I think if members vote for this motion they will be doing the wrong thing by the teaching profession, the Teachers' Union, and the Education Department—which is not blameless in this matter. Nobody has said the department is blameless; it must bear at least some of the blame. I trust members will not agree to the disallowance of the amendment to the subregulation.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [5.31 p.m.]: I find myself in a difficult position, and I think upon reflection other members will find themselves in the same position. My difficulty is brought about by the fact that I find I must cast a vote in connection with something which I consider to be an administrative matter within the Education Department. I feel that such matters should not be brought before the Houses of Parliament.

However, I appreciate that in some cases they must be brought here because they are the subject of regulations. I am concerned that we have listened to a case

made out against the disallowance of an amendment to the subregulation, firstly by way of prepared document from the Minister—and I appreciate he could do no more in the circumstances; that he must take a brief from the Education Department—and secondly, by Mr. Ron Thompson, who also had a brief from someone in relation to the merits and demerits of the case. I am concerned that the Minister for Police felt obliged to say, when speaking on behalf of the Government, that The Hon. J. M. Thomson had been misled, as many others have been, by certain statements made by Mr. Everett and, accordingly, he had been persuaded to move for the disallowance of the amendment to the subregulation.

I am concerned about this, because my understanding of the debate is that Mr. Everett gave incorrect information to Mr. Thomson which caused him to move for the disallowance of the amendment to the subregulation. We who vote with Mr. Jack Thomson must be equally misled by the statements made by Mr. Everett to Mr. Thomson. I think, Mr. President, you will agree that is an unsatisfactory state of affairs.

I have no doubt—or at least I hope it will be so—that when Mr. Jack Thomson replies to the debate this afternoon he will be able to clear the misconceptions held by the Minister in relation to the incorrect statements made by Mr. Everett. Mr. Ron Thompson has said that the fault lies with the department itself; that a mistake was made at departmental level. However, having listened to the debate I understand that the position was advertised. Mr. Everett and a number of others applied for it, and Mr. Everett was granted the position on merit. I think it is unmistakably the case that he was granted the position on merit.

Time went by, and the other people who applied for the position did not appeal. Later, however, one of these felt that, owing to the intended change of the status of the position by the department, he ought to appeal. So the department again altered the regulation; and not being satisfied with that, it altered the regulation a third time. This really astounds me, and I quite agree with Mr. Ron Thompson who said that, in his assessment of the situation, the fault must lie with the department.

Sometimes it is most convenient to blame the draftsman in these matters and to say, "Oh, the draftsman made a mistake." However, it is the job of the department to check the work of the draftsman to see whether he has put into effect that which the department wants put into effect. I do not think the department can justifiably say, "This is the fault of the draftsman, and we can place the blame for the situation on him." Ministers who sit on the front bench, after having gained experience in their ministerial offices, will find the draftsman does what he is told.

The Hon. R. Thompson: I did not blame the draftsman.

The Hon. A. F. GRIFFITH: No, I appreciate that.

The Hon. R. Thompson: I said that Howard Smith, Q.C., said that.

The Hon. A. F. GRIFFITH: That is correct; I am simply saying that I do not think it is necessarily the fault of the draftsman because the draftsman is required to put into effect the wishes of the Government of the day in respect of legislation—be it principal or subordinate legislation—which comes before this House.

I think it is a most unfortunate state of affairs that we must vote on a matter such as this. To my way of thinking the matter involves the ordinary principles of applications for promotions within the department, and the department should be able to handle it. But because the matter is subject to a regulation which we have passed by not raising any objection to it, we must vote when an objection is raised. In those circumstances, sorry as I am for the situation which has prevailed in respect of other teachers, I cannot see any advantage in taking away from Mr. Everett at this point of time something which the Minister for Police, on behalf of the Government, said he obtained on merit.

Therefore, if I vote against Mr. Jack Thomson's motion to disallow the amendment to the subregulation I will be saying in effect that the three regulations brought down by the department were all mistakes made by the department. In effect, I would be saying, "Forget about the fellow who was promoted in the first place by virtue of his merit, and let us have another go." As I said, I am concerned that I must vote on a matter of this nature and by so doing perhaps deprive others who have been mentioned by members of the rights they would have possessed had the department ensured that the regulation was gazetted and tabled in the form in which it was intended. Therefore, at the moment I can see no alternative to maintaining the *status quo*. I think the man who has been appointed to the job—I repeat, on merit—should stay there. If I must cast a vote, I intend to vote in favour of the disallowance of the amendment to the subregulation.

THE HON. J. M. THOMSON (South) [5.39 p.m.]: I would like first to express my appreciation to those members who have spoken to the motion, some indicating their support and others their opposition—which is the way it should be. Let me say it was a matter of grave concern to me to hear the Minister say throughout his

speech that I had been misled and persuaded to adopt a course of action in regard to a case which is not true and factual in its detail. In order to satisfy my mind I immediately resorted to the report of the conference which took place between Mr. Everett, Mr. Duncan, and the Assistant Secretary of the Teachers' Union (Mr. Lloyd) in the presence of Mr. Howard Smith, Q.C.

The report of the discussion that took place is a lengthy one. Mr. Howard Smith, after listening to the evidence of the two gentlemen concerned, and then the evidence of Mr. Lloyd, and having at his disposal all the documents, papers, and minutes of the previous meetings of the union executive, formed the opinion which has been referred to by the Leader of the Opposition and other members. Mr. President, I can conscientiously say on behalf of the person I am representing and, more importantly, in the interests of my own good name, that I have not allowed myself to be persuaded by irrelevant information, because I took steps to verify what has occurred.

I have read the legal opinions submitted to the union at its request by two legal gentlemen; first and foremost, by Mr. John Dunphy, of Dwyer, Durack & Dunphy, and secondly by Mr. Howard Smith. In answer to the question raised, I think, by the Leader of the Opposition, I would advise that a third opinion was obtained. This, however, related to whether Mr. Everett would succeed in suing the union executive for its failure in this matter. However, that opinion is of no consequence to the matter under discussion and, therefore, we should rely on the others.

The Hon. A. F. Griffith: There were only two legal opinions on the real matter?

The Hon. J. M. THOMSON: That is correct; and those two opinions substantiated and endorsed the ultimate decision.

Mr. Ron Thompson referred to Mr. Duncan and his contact with Mr. Walkington who, I understand, is the Superintendent of the Technical Education Division. I think I should read a portion of the opinion submitted by Mr. Howard Smith. Paragraph 3 on page 7 of the opinion reads as follows:—

> I am satisfied after questioning all parties to the dispute that Mr. Duncan was the only person who had any direct knowledge of the Director's intention prior to the receipt of this letter and that his informant was Mr. Walkington who had access to Departmental documents not available to the other parties.

When one reads the July issue of the *Education Circular* one finds it has a decided bearing on and is important to this matter. To continue with the legal opinion—

> It remains therefore to consider whether when read by informed laymen or lawyers the July circular makes the then intention of the Director apparent. There is no specific reference in the circular as to the date upon which the proposed amendment is to take effect. The sole reference to time is "the amendment will be gazetted early in 1971". It would be reasonable to assume that if the Director intended such an amendment to have a retrospective effect that he would have made some clear reference to this fact in the circular.

I would draw attention to the term "retrospective effect".

There is no need for me to remind the House of what appeared in the April issue of the *Education Circular* which indicated that in spite of the pending amendment the question of upgrading the Albany Technical Centre from Grade II to Grade I would be effective as from the following January. In view of the fact that applications were called for the position, and notification was included in the July issue of the circular which set out the relevant information, the public was made perfectly well aware of this matter by the official medium of the Education Department.

As a result of the information contained in the circular Mr. Everett justifiably submitted his application, which was received along with the applications of other people who were interested in the position. We also find that the closing date for applications was extended to the 14th August, 1970, and that five applications were received. I am pointing this out because the Leader of the Opposition has raised a query as to the number of applicants.

The five applicants were Mr. Everett, officer-in-charge, Class II; Miss Jackson, head of department, Grade A; Mr. Hoare, officer-in-charge, Class II; Mr. Duncan, deputy principal, Grade I; and Mr. Best, also deputy principal, Grade I.

At this point of time I consider it appropriate to relate what Mr. Dunphy of Dwyer, Durack and Dunphy, has set out as his opinion which was sought by the union executive. He said—

> We find in Mr. Everett a person who, having observed the vacancy notification, gave his mind to the full circumstances of the case, and these circumstances involved not only the provisions of Regulation 249 (4), but the circumstances of Regulation 249 (4) as indicated for amendment. In other words, Mr. Everett took a calculated risk, and when it appeared as though this risk was not going to pay off, the circumstances of his case were such

that it was impossible for the Director-General, faced with the situation under which Mr. Everett had done everything proper, should downgrade him by altering the status which he had already achieved. In my view it is clear that all other persons who had the chance which Mr. Everett had, were not prepared to take the chance, and risk the doubtful situation. That he has succeeded, and they have failed is something which they may, perhaps, regret, or live to regret, but they were in no way differently placed to Mr. Everett, they had an ability to go into the matter with their Organisation, and they decided that what appeared in print did not promise anything sufficient to cause them to involve the status which they then held.

Is it fair, is it reasonable, and is it just to penalise a person who has acted in good faith, as it was open to the other applicants to do? Surely this cannot be considered as taking an unfair advantage of a situation that had arisen.

I was quite concerned when the Minister said that Mr. Everett had acted unfairly, and he implied that Mr. Everett acted dishonestly. This is a very grave accusation to make against a person who desired to make an application and who was ambitious to obtain promotion—and I submit it is the right of every person to avail himself of such an opportunity. He should not be cast in the role of one who, through a fortuitous circumstance, sought appointment to a position to which he was not entitled. In considering this matter, the legal opinions must be all-important; and both legal opinions that I have mentioned substantiate the points I have made.

I think I should outline the facts to the House. While Mr. Everett was an officer-in-charge of Class II schools—which was the position he held in 1970—he was equal in status to the following teachers in the technical division:—

Three deputy principals of technical schools Grade I.

Five officers-in-charge of Class II schools.

Fifteen heads of departments, Grade A.

That was in 1970. This year, 1971, due to his appointment and promotion, he became officer-in-charge, Class I schools. Mr. Everett thus joined the ranks of those holding an equivalent position, and this is a routine procedure.

The amended regulation of March of this year relating to appointments and promotions on or before the 1st January, 1971, conferred on Mr. Everett the status equivalent to a deputy principal of a technical college. The result of my motion to disallow the amended regulation, gazetted in September of this year—that is, if the motion is agreed to—will restore Mr. Everett to that status. I feel that the determination made to differentiate between a situation involving a teacher in a similar position in 1969 to that held by Mr. Everett in 1971 is, to say the least, most amazing.

For the information of members I will refer to the amendment made to the regulation in March of this year. The regulation as amended states—

> For appointment as the deputy principal of a technical college, service as an officer-in-charge of a technical centre Class 2 if appointed on or before the 1st January, 1971, . . . shall rate as equivalent in experience and status.

This amendment conferred on Mr. Everett the status equivalent to that of a deputy principal of a technical college. This was exactly the same entitlement gained by Mr. Lynch in the year 1969, when that officer was upgraded from Class II to Class I while remaining at Geraldton. This precedent is rightfully claimed by Mr. Everett as being applicable to his case. Further, other teachers have remained in their own centres and have been upgraded. In each case, the teachers have experienced a status improvement. I do not think I need give the names of those concerned but there are three. In 1967 they held positions in Grade III, and in 1968 they were promoted to Grade II.

It is relevant for me to point out that of the four officers who originally applied for the appointment at Albany, apart from Miss Jackson, Mr. Everett can claim seniority over the other applicants. The others are junior to him, and cannot match his promotional history.

Mr. Everett joined the technical division in 1967, being then transferred from the secondary division. In that year he was appointed Deputy Principal of the Eastern Goldfields Technical School. It might be claimed that Mr. Everett's promotional history is better than that of each of the four mentioned by the Minister. In 1967 Mr. Everett was the Deputy Principal of the Eastern Goldfields Technical School; Miss Jackson was Lecturer Grade II at the Perth Technical College; Mr. Hoare was Senior Instructor at the Fremantle Technical College; Mr. Duncan was Senior Instructor at the Wembley Technical School; and Mr. Best was Senior Lecturer Grade III at the Leederville Technical College. These were the applicants who were interested in the position at Albany.

It is misleading for the Minister to suggest that the other applicants would probably have beaten Mr. Everett, because of their seniority. We should bear in mind that three of them were junior to him. Let me emphasise that a point has

been made regarding efficiency. The fact is that Mr. Everett is senior in service to all the others, excluding Miss Jackson. Surely that is sufficient justification for him to seek appointment to a post he desires.

The Hon. R. F. Claughton: Don't you think the tribunal is the proper body to decide this matter?

The Hon. J. M. THOMSON: In his contribution to this debate the Minister went on to say that people can be confused with promotions; and that Mr. Everett was not promoted above the other people. He was promoted to a higher position at Albany. I am of the opinion that the Minister is the one who is confused.

According to the Oxford Dictionary the word, "promotion" means a movement to a higher office or position. I would also say that promotion is relevant to other people as well. It would be appropriate to quote, as an example, the promotion of an army sergeant to the position of lieutenant. The sergeant would take off his stripes and put on his pips.

The Hon. V. J. Ferry: And then he buys everybody a drink.

The Hon. J. M. THOMSON: The sergeant, because of the entitlements attaching to his promotion to a higher status, would not remain in the sergeants' mess.

On more than one occasion, while speaking, the Minister stated that Mr. Everett would gain an advantage over 30 other teachers. I have checked the number of teachers to whom the Minister referred and I find there were three deputy principals of technical schools, grade I; five officers-in-charge of centres, class II; and 15 heads of departments, grade A. That makes a total of 23. However, some of those mentioned are junior to Mr. Everett, some are equal, and some may be senior. I have not been able to locate the 30 persons referred to by the Minister.

It would probably be found that of those who were senior or equal in rank to Mr. Everett many are content to remain in the metropolitan area where they enjoy their present status. The reason could be governed by domestic, financial, social, or property interests. I therefore cannot accept the Minister's criticism of Mr. Everett, and the attempt to demote him by objecting to the disallowance of the amendment to the subregulation which I now seek.

It appears that considerable backing and filling has occurred within the Education Department itself, and, to some extent, within the Teachers' Union executive. Also, there has been laxity on the part of the other interested applicants who did not avail themselves of the opportunity presented at the time to appeal against the decision.

It would be appropriate for me to again quote from page 9 of the legal opinion, to which I have already referred. The report is is follows:—

> Mr. Everett observed the situation, the situation on the face of it, was quite clear and simple, Mr. Everett took advantage of the situation as could every other person in his category have done, and he has made an investment which has paid off, whilst those others who have stood aside and failed to press their possibilities of improvement, have lost out.

I will now quote what Mr. Howard Smith had to say, as follows:—

> One can sympathise with Mr. Duncan in the situation in which he now finds himself but it must be remembered that there was no doubt in his mind as to the precise terms of the proposed amendment and that he elected to rely upon information given to him by a person in no way connected with the Union Executive. Further being in possession, as he thought, of accurate information as to the reference date he failed to check with the Executive in order to ascertain whether any other person had access to this source of information and was pressing the Union to take action to rectify the situation.

Much more could be said in support of the actions and the attitude of the person who acted in good faith when he sought promotion. The promotion was in accordance with the advertisement, approved regulations, and the law. The man was fully entitled and justified to apply for the position.

I feel it would be confusing to endeavour to further substantiate the *bona fide* of his claim by quoting from further statements, copies of minutes, dates, places, and the names of other people within the technical division associated with this matter.

I do not wish to take up any more time and I appeal to members to give the question serious consideration. A mistake has been made in this instance and I commend the motion standing in my name.

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

Ayes—18

Hon. C. R. Abbey	Hon. I. G. Medcalf
Hon. N. E. Baxter	Hon. T. O. Perry
Hon. G. W. Berry	Hon. S. T. J. Thompson
Hon. V. J. Ferry	Hon. J. M. Thomson
Hon. A. F. Griffith	Hon. F. R. White
Hon. Clive Griffiths	Hon. R. J. L. Williams
Hon. L. A. Logan	Hon. W. R. Withers
Hon. G. C. MacKinnon	Hon. D. J. Wordsworth
Hon. N. McNeill	Hon. J. Heitman
	(Teller)

Noes—10

Hon. R. F. Claughton	Hon. J. L. Hunt
Hon. D. K. Dans	Hon. R. T. Leeson
Hon. S. J. Dellar	Hon. R. H. C. Stubbs
Hon. J. Dolan	Hon. W. F. Willesee
Hon. Lyla Elliott	Hon. R. Thompson
	(Teller)

Question thus passed.

Sitting suspended from 6.13 to 7.30 p.m.

ALUMINA REFINERY (UPPER SWAN) AGREEMENT BILL

Second Reading

Debate resumed from the 24th November.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [7.30 p.m.]: There has been a great deal of criticism of this Bill on the grounds of the siting of the refinery, the probable effect on the water supply, the possible detrimental effect on the environment, and, to some degree, of the fact that the Government did not sign the agreement prior to submitting it to Parliament.

The passing of the legislation is now becoming more and more urgent. The Minister for Development and Decentralisation explained in another place that there was a degree of urgency with regard to the passage of this Bill. Pacminex had arranged a meeting for the 18th October with the proposed participants in the project who would be the ultimate purchasers of alumina. The company considered it desirable to go to that meeting and state that the Western Australian Government was prepared to enter into an agreement, which had the assent of Parliament, for the development of bauxite deposits.

As a result of the death of the Speaker, Parliament was prorogued. Pacminex immediately took action to defer that meeting, but it was not possible to defer it beyond the 12th November. That meeting has now been held. Because there was no parliamentary assent to the signing of the agreement by the Government it was not possible to reach any conclusions at the meeting. An agreement in principle existed and, subject to the company being assured it would be given an agreement, it is considered it will be possible to reach a satisfactory arrangement with the potential purchasers of alumina.

However, the decision cannot be delayed at a time when the demand for alumina is falling. The people who have been lined up by Pacminex could be attracted by projects in other countries. We can say, therefore, that the delay that has occurred has not forced the company to abandon the project but it has prejudiced its negotiations. It now becomes necessary for the company to know one way or the other whether it will have an agreement with the Government, and the agreement is required as soon as possible.

I am advised that one of the ideas put forward in debate—that a large industrial area would develop in the immediate vicinity of the refinery—is wrong. Alcoa has been established at Kwinana for nearly a decade, and its output of 1,250,000 tons of alumina a year is a very large operation by world standards; yet we find only one industry has been attracted to Kwinana by Alcoa. The firm concerned is N. B. Love Starches Pty. Ltd. which produces a starch used in the refining process. However, no other industry has been established at Kwinana as a direct result of the operation of Alcoa's refinery. Other industries in the Kwinana area have been established there for other reasons; such as the price and availability of suitable land, the availability of essential public services, in the form of power and water, the availability of deep, sheltered water for the development of wharves, the proximity of the ocean for the supply of cooling water, and access to materials supplied by another industry. None of these factors would apply to the Upper Swan area.

The Hon. G. C. MacKinnon: Surely availability of power would apply?

The Hon. W. F. WILLESEE: Yes, I think it could be said power would be available. A query was also raised about the $2,000,000 which has already been spent by the joint venturers on feasibility studies. At the end of October, 1971, Pacminex had spent in excess of $2,750,000. More than $900,000 has been spent on drilling, gridding, assaying, geological surveys, and pilot mine investigations. Drilling has covered over 170,000 feet, and more than 90,000 assays have been made. Over $500,000 has been spent on laboratory research in Australia and pilot plant trials overseas; 1,700 tons of bauxite were shipped to Europe for those trials earlier this year. The remainder of the expenditure has been incurred on land and water options, Mines Department fees, plant and site investigations, engineering cost estimates, feasibility studies, sales negotiations, and staff and administrative expenses.

One point put forward with emphasis was the possibility of an alternative location. I am advised that the joint venturers have examined this possibility and have stated it is not practicable to move from the present approved site. If the joint venturers were forced to go to Toodyay—as has been suggested—or to a site 10 miles north of the R.A.A.F. base at Pearce, which is the only other possible location, I am empowered to assure members there would not be an industry.

By world standards the joint venturers have limited reserves of low-grade bauxite, and the project will not carry the additional financial burden which would be imposed if the refinery were located other than at the site proposed. I think it should also be remembered that the site at Upper Swan was the third site considered by the company. It originally wanted to establish at Kwinana, which was the most economical site, but that location was not acceptable to the previous Government. The company's next choice was a site between the Geraldton railway line and the dual gauge railway line, which was also not acceptable to the previous Government.

The Hon. A. F. Griffith: I take it neither of those two sites was acceptable to the present Government.

The Hon. W. F. WILLESEE: I think that is a logical conclusion. The third site was the only available site a reasonable distance from properties developed for agriculture yet close to rail, water, and other facilities; so the extra establishment costs involved were reasonable.

The possibility of discharging red mud in the hills areas has been considered by the company and the appropriate Government departments. There is a major objection from the company's point of view because of the high pumping costs which would be involved. From the Government's point of view it would create problems because of the necessity to undertake further clearing of Crown land and State forests beyond that which would be required for the mining of bauxite.

Another point raised in the course of debate was the question of grade separation where the railway line crosses the Great Northern Highway. If we look at clause 29 (2) of the Bill we will see that if in the opinion of the Commissioner of Main Roads grade separation is necessary, the joint venturers will have an obligation to meet the cost involved.

In connection with the argument that the R.A.A.F. might not be entirely happy with the proposed siting of the refinery, I advise that meetings have been held which were attended by members of the Royal Australian Air Force, the office of the Co-ordinator of Development, and the Clean Air Branch of the Public Health Department. The R.A.A.F. has accepted the proposed site provided emissions from the refinery can be kept within the limits imposed by the Clean Air Act, which would not be hazardous to the flying operations carried on from Pearce.

I think I can give an assurance that all Government departments concerned with the proposal have had the opportunity to study the proposed agreement and so far, at least, there have been no objections.

Mention has been made of the concern of the shire in this development project. The shire in which this refinery will be built has, in essence, welcomed the proposal. I think it is worth repeating what Mr. Abbey said—that at a public meeting of ratepayers in the shire there was a majority vote in support of the proposal. In other words, it can be said that the people who will be most directly affected consider the benefits arising from the refinery will outweigh the disadvantages.

Mr. MacKinnon took issue about the nonsigning of the agreement. Because of the circumstances that have surrounded the proposal for so long, the Government felt it would be appropriate to submit it to Parliament and ultimately have the agreement signed after Parliament had made a decision on the matter. I do not think I have ever known a Bill before Parliament to receive as much debate as this particular agreement has received. In the long run, that might be a good thing. I do not say that future agreements will not be signed before they come to Parliament but, because of the width and divergence of opinion in this Chamber, there is no doubt there has been some dissatisfaction on the part of certain members who seriously believe this is not a good agreement and that the site for the refinery is not a desirable one.

I think the criticism has been mainly concerned with the site of the refinery, and secondly with the possibility of water pollution. I am inclined to rule out the possibility of water pollution. Many probabilities have been mentioned but I do not think we can say what effect the refinery will have on underground water supplies. One can assess something that can be seen, such as a dam site, but I do not think one can ever assess underground water supplies. To that extent, the pull on consumption must be taken on trust, bearing in mind that it is not all lost. A considerable quantity of that water is returned to the aquifers and is put back into the ground from which it is pumped.

With regard to the siting of this refinery, I think it should be noted that there have been two previous agreements—one in connection with an alumina refinery within three or four miles of Pinjarra, which I believe was unanimously agreed to by this House. We did not find anything wrong with the siting of that refinery.

In 1970 an agreement was ratified for an alumina refinery within three or four miles of the town of Bunbury. That agreement was unanimously agreed to.

Can it be said that all the people vehemently opposing this legislation are right? We must look at all the provisions and precautions which have been written into this legislation, and at the undertakings I have given only this afternoon. The joint venturers have bent over backwards to endeavour to have this agreement signed and get the project moving. I do not know of a company involved in an agreement which has come before this Parliament undertaking to do more than has this company.

The Hon. G. C. MacKinnon: I think it would be hard to better what Pinjarra did. They were very thorough.

The Hon. W. F. WILLESEE: I would be prepared to say these people are doing as much.

The Hon. G. C. MacKinnon: It would be hard to do better.

The Hon. W. F. WILLESEE: If I may say so, they are doing as much. I am perfectly in accord with all the provisions and precautions included.

I have here a document called "Occupational Hazards." It is dated April, 1970, and it sets out a total environment control

committee approach. Without taking up a lot of the time of the House, I want to point out to members that the Alcoa Alumina Company of America has a refinery which is situated closer to a town than this proposed refinery will be. There are still grass and cattle around the township; it might be said within the shadow of the refinery itself. The article goes on to state that there were problems, but this company overcame them. We can look to this experience and benefit from it.

I do not intend to speak on this Bill at great length—the subject material has been well debated. I support the agreement, and I hope it has the support of the majority of the House. I believe we will come to grips with some of the amendments on the notice paper this evening. I would just like to point out in all seriousness that the economic situation is such that I believe many people will be glad to have the opportunity of employment within the orbit of this industry in the near future.

I am reminded of a point I have missed up till now, Mr. President, and that is the question of housing. No housing provisions were raised against the company by way of agreement, as it was accepted that because of the venture's proximity to the metropolitan area, the work force would be drawn from the metropolitan area. However, I would like to add that the joint venturers paid $1,000,000 by way of additional royalties to the Government of the day. It will therefore be seen that the joint venturers do not wish to evade responsibility in that direction.

I hope that this legislation and agreement will be approved and carried by this House. Every Government project put forward to this House by previous Governments has been passed, irrespective of the party presenting the agreement. No agreement between the State and joint venturers has ever been rejected, and in my opinion there should be no objection to this one.

Question put and a division taken with the following result:

Ayes—24

Hon. N. E. Baxter	Hon. R. T. Leeson
Hon. G. W. Berry	Hon. G. C. MacKinnon
Hon. R. F. Claughton	Hon. N. McNeill
Hon. D. K. Dans	Hon. I. G. Medcalf
Hon. S. J. Dellar	Hon. T. O. Perry
Hon. J. Dolan	Hon. R. H. C. Stubbs
Hon. Lyla Elliott	Hon. R. Thompson
Hon. V. J. Ferry	Hon. W. F. Willesee
Hon. A. F. Griffith	Hon. R. J. L. Williams
Hon. Clive Griffiths	Hon. W. R. Withers
Hon. J. Heitman	Hon. D. J. Wordsworth
Hon. J. L. Hunt	Hon. C. R. Abbey *(Teller)*

Noes—4

Hon. L. A. Logan	Hon. F. R. White
Hon. S. T. J. Thompson	Hon. J. M. Thomson *(Teller)*

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. W. F. Willesee (Leader of the House) in charge of the Bill.

Clause 1: Short Title—

The Hon. F. R. WHITE: During the second reading debate I made certain statements concerning production in the Swan Valley, and I promised to obtain some figures for Mr. Dolan. I previously quoted figures for production for export. For the 1971 season fresh grapes for export totalled $374,264, whereas for the previous year the figure was $361,057, showing that the 1971 figures were higher. Fresh grapes for the local market for 1971 totalled $408,000, and for 1970 the figure was $405,000. Once again it was higher in the latter year. The production and sale of wines I quoted at $2,406,500 for 1971, whereas the figure for 1970 was $2,400,000. Dried vine fruits I quoted as $400,000, whereas the previous year the total was $300,000. The total figure for 1971 was $3,588,764, whereas in the previous year the total was $3,466,057. This gives a comparison and justifies my previous statements that this is not a dying industry.

By way of interjection Mr. Dolan queried how many people were present at the meeting at Caversham.

The Hon. J. Dolan: I did not query it, I just asked how many were there.

The Hon. F. R. WHITE: The Minister suggested that maybe only five or six people were present. To put the Minister straight I checked on this, and there were 57 vignerons present including myself, plus seven nonvignerons and one member of the Press.

The clause we are dealing with refers to the short title, and the fact that an alumina refinery will be built at Upper Swan. I have stated on previous occasions that I have no objection to such an agreement; my only objection is to the site. I stated that whilst the Bill included this site I would oppose it; and I did oppose the second reading.

I consider this to be a very undesirable site. I believe there has been a great deal of secrecy regarding the proposals to build a refinery at the Upper Swan site. When speaking on the Address-in-Reply in the previous session of this Parliament I made reference to the secrecy surrounding this particular project. On the 4th August, 1971, at page 18 of *The West Australian*, country edition, under the heading, "Disaster Warning by MLC," it was stated—

> Referring to the Pacminex refinery proposed for the Swan Valley, Mr. White said that the public was being hoodwinked by the apparent secrecy of the Government's decisions.

We saw an example of the Government's secrecy again last Wednesday, and on Thursday we saw the Minister for Development and Decentralisation on the television programme, "This Day Tonight." The statement was made that secrecy surrounded some of the proposals involved in this agreement and the Minister answered that it was a lot of poppycock and said all the information in the world had been supplied. On the following day, Friday, the 26th November, we find an article in *The West Australian*, under the heading, "Tonkin: No secrecy on Pacminex". It commences as follows:—

> The Premier, Mr. Tonkin, denied yesterday that the Government was keeping secret a report by the Director of Environmental Protection, Dr. Brian O'Brien, about the proposed $190 million Pacminex alumina refinery at Upper Swan.
>
> "There is no report yet to make public," he said. Yet, during my speech I said that *The West Australian* on the 19th May, published a report and, once again, I quote the heading and portion of that report, which reads—
>
> Govt. favours $150m. plan for refinery
>
> Mr. Tonkin said that the Cabinet had received a preliminary report on environmental aspects of the Hanwright-C.S.R. proposals from the director of environmental protection, Dr. Brian O'Brien.

As I asked during my second reading speech last Wednesday: What are we to believe? Are we to believe that those reports have been made, or not? Are we to believe there has been a degree of secrecy, or not? Either the Press is printing lies or the Minister and members of the Government are making incorrect statements.

The most important aspect of the Bill is the tremendous amount of irresponsibility that is being shown in connection with it. Any Government that can agree to a proposal without having investigated all aspects of it is acting extremely irresponsibly. In the *Daily News* of Thursday, the 25th November, the following article appears under the heading of " 'Secrets' annoy CP members":—

> Refinery Decision Soon
>
> The Metropolitan Region Planning Authority is expected to reach a decision by mid-December on its recommendations for the proposed Upper Swan alumina refinery site.
>
> The chairman of the authority, Mr. M. Hamer, said today that a report on the MRPA's decision was then expected to go to the Minister for Town Planning, Mr. Graham.
>
> Meanwhile, the Commissioner for Town Planning, Mr. J. E. Lloyd, would not comment on the question of a refinery site until the MRPA recommendation.

Fancy agreeing to a tremendous project such as this, which could have disastrous effects, without having made proper investigations and without waiting for a report from the Metropolitan Region Planning Authority which, as yet, has not been asked for a report on what detrimental effects this proposal would have on that site.

It would be proper for the water board, the Forests Department, and many other departments to be approached but apparently they have not been asked to report on the site. To me this is irresponsible action. If there is any proposal that may be contentious all investigations should be made before an agreement, such as the one before us today, is considered and ratified.

I point out that last week, in answer to a question, it was stated the agreement was to be signed after the draft agreement had been completed. We then find it was said that the agreement will not be signed until after the Environmental Protection Bill is agreed to, but at no time has any statement been made that the agreement will be signed after reports have been received from various departments. Further, no statement has been made to the effect that these reports must be favourable before the agreement is signed. Once again I say this is irresponsible action.

In my opinion there are better sites available than the one selected. The Leader of the House spoke very well in making his reply today, but he did not answer many important questions that have been asked. For example, he did not answer the question as to whether sufficient land has been acquired for the refinery itself in addition to the land that will need to be acquired for the red mud settling ponds. All we know is that 2,600 acres have been acquired and that over 200 acres have been taken up for the refinery itself.

Some people may think that my statement made the other day to the effect that 1,000 acres will be taken up every 20 years for red mud ponds will not be substantiated, but a member of Pacminex has verified this statement. In the *Daily News* of Thursday, the 10th June, 1971, the following article appears:—

> Firm Pledges to Preserve Wildlife
>
> Pacminex, the company negotiating for an alumina refinery on 4,000 acres north of Gnangara, has pledged to preserve bushland and wildlife.
>
> The Perth office manager for Pacminex, Mr. L. E. Shepherdson, said today the company intended to leave

a mile-wide green belt between the refinery and the eastern boundary of the site.

"Two-thirds of the site will remain untouched," Mr. Shepherdson said.

"We hope it will become a wildlife sanctuary. It could be fenced in, but we would need expert advice on this.

"The refinery buildings would occupy only 250 acres of the site," Mr. Shepherdson said.

Settling ponds would occupy 1,000 acres on the site's western boundary.

These would meet the refinery's needs for 20 years.

The Bill tells us that the expected life will be in excess of 63 years. I think this substantiates the statement I made the other day; namely, that there is insufficient land at the moment to cater for the potential needs of this refinery.

The Hon. A. F. Griffith: When you say that the Bill provides for a life of 63 years, I take it you are referring to the mineral lease?

The Hon. F. R. WHITE: I am referring to the fact that, initially, it will be 21 years, with two extensions of 21 years, and then an additional 21 years. This is provided under the agreement.

The Hon. A. F. Griffith: That is, the mineral lease.

The Hon. F. R. WHITE: If a refinery is built to treat the ore, is it not logical to assume that whilst the ore is being mined the refinery must be available to treat the ore, particularly in view of the fact that Pacminex stated that such low-grade ore could not be shipped out of this State and would have to be treated here?

The Hon. A. F. Griffith: If it has spent $180,000 or $190,000, surely the company should be entitled to know it has a life of more than 21 years, and that is all this does.

The Hon. F. R. WHITE: Does not the Leader of the Opposition think that the people should have a right to know that there is sufficient land to cater for the refinery itself, all the red mud settling ponds, and to establish this beautiful green buffer area which the Government says will be provided? We lack sufficient reports on the detrimental effect this refinery will have on the site. These reports have not been asked for with the exception of the report by Dr. Brian O'Brien which, on the 19th May, was supposed to exist but now does not exist, and apparently never has existed. To me, this is irresponsible action.

On the notice paper I have given notice of an amenment to clause 1. The amendment seeks to delete the passage "Upper Swan" in line 7. If that passage is deleted the Bill would still remain in its existing form, but the Government would have the flexibility of choosing an alternative site if we are shown that another site could serve the need just as well. If Pacminex, in carrying out a feasibility study, suddenly discovers that such a site will do just as well, the removal of these words will allow this flexibility to be used to select another site. However, it will not deny the Government or the company the right to fall back on the site already selected as a final resort. I move an amendment—

Page 1, line 7—delete the passage "(Upper Swan)".

The Hon. W. F. WILLESEE: The purpose of the Bill is bound up in an agreement which is referred to in the short title, and this makes specific reference to Upper Swan. Members are asked to envisage in the proposed legislation a developmental situation at that site.

Mr. White apparently has carried out a great deal of work and research in putting forward an argument that this location should not be selected, and to further his argument he has moved an amendment.

However, the whole purpose of our deliberation at this moment is that Pacminex is desirous that the site shall be on the location selected and nowhere else. If there were a change of heart it would be incumbent upon the Government to come to Parliament to seek agreement to an alteration in the site. Therefore I ask the Committee to vote against the amendment and to agree to the Bill in its entirety because this is what the company requires.

The Hon. A. F. GRIFFITH: First I feel obliged to say that I view with grave concern the effect of the statement made by Mr. White that a Press report published on the 19th May indicated that Dr. Brian O'Brien was about to make a report. If that Press report was incorrect I do not know whether it was corrected by the Premier or any member of the Government, and this is what concerns me.

I have made it quite clear—and I repeat—that I want to see this industry established. I granted the original temporary reserve to enable the search for bauxite to be carried out. I know the company has spent a great deal of money and effort to prove the reserve it has at present. So I make it quite clear that no action of mine should, in fact, do anything but give the company an opportunity to go ahead with this refinery.

What concerns me, however, is the site, because I do not know whether or not it is the correct one. I have not the professional qualifications to form a proper opinion whether the site proposed is the right one.

I want the environmental protection authority to first have a say in order that I and others who might be interested will know this particular authority has advised the Government on the matter. This afternoon I asked the Leader of the House some questions without notice, the first of which was—

(1) Has the Government submitted the proposed Pacminex agreement to Dr. Brian O'Brien for his consideration and report?

Considering the fact I gave notice of this question last Friday I thought the answer was rather skimpily written in, I presume, the Premier's handwriting. It reads—

No formal submission for a report has yet been made.

I must surely take that as a truthful statement coming from the Leader of the House on behalf of the Premier. However, I was concerned to hear from Mr. White some other statements which were made on the 19th May which, to say the least, would be the reverse of the information I was given today.

When I saw that reply, I wondered what I should read into it. It could mean that an informal submission has been made or that someone said to Dr. O'Brien, "You had better have a look at this." However, I am assuming the answer given was the correct one, and nothing I say is intended in any way to criticise the Leader of the House because he is, as was the case with me in that position, replying for another Minister. My second question was—

(2) If so, has Dr. O'Brien made a report either verbally or in writing to any Minister in the State Government?

The reply to that was—

Answered by (1).

That means no report has been made to any Minister in the Government because no formal submission for a report was made to Dr. O'Brien. My third question was—

(3) If the answer to (1) is "No," can the Minister advise the House whether Dr. O'Brien has ever perused the Bill and the agreement attached thereto and whether he has at any time visited the proposed refinery site?

The answer reads—

(3) Yes, Dr. O'Brien has perused the Bill and the agreement and has visited the general vicinity.

Why did he not go to the very spot where the refinery is to be established? Why visit the general vicinity? I do not know the answer. At least these three questions are open to some other questions; but once again I will accept the answer in the spirit in which it is given.

The fourth question reads—

(4) Does the statement made by the Premier on a number of occasions to the effect that the Pacminex agreement will not be signed by the Premier on behalf of the State until the Government's proposed environmental protection legislation has been passed by Parliament mean that the Pacminex agreement will be submitted to the environmental council to be set up under the proposed environmental protection legislation for consideration and report before the agreement is signed?

The answer was—

(4) The Pacminex agreement will not be signed by the Premier until the environmental protection authority has been set up and is operative.

Members know I pursued the matter further because I wanted to know whether or not the Premier intended to submit the Pacminex agreement to the environmental protection authority, obtain the benefit of its opinion and report, and then sign the agreement in the light of the report. Mr. Willesee was good enough to consult the Premier after which he handed me another reply which read—

Yes, it will be submitted to the environmental authority.

From the answers to my questions I understand that after the passage of this Bill as it is, or in some amended form, but before the agreement is physically signed—that is, before the Premier and the other party sign it—the agreement and its contents will be submitted to the environmental protection authority for consideration and report. I am prepared to accept that statement of the Minister.

I then become concerned about the future of the Bill because one member called, "divide," on the second reading. Those who voted against the second reading do not want any part of the agreement at all, although it was stated they do not want the refinery established at the proposed site.

The Hon. F. R. White: That is right.

The Hon. A. F. GRIFFITH: So we are not at cross purposes there. I repeat that I do not know about the site as I do not consider myself capable of saying whether or not the site is the proper one or whether, in fact, the industry will damage the environment. I am anxious to know whether or not it will, and I am anxious that the procedure to be followed now is as near to the procedure as the Government, of which I was a member, would have followed had it been successful in the last general election. At the risk of boring everyone, might I say we would have

signed the agreement, submitted it to the environmental protection authority for consideration and report, and upon being satisfied it was an agreement we could submit to Parliament for ratification we would have done just that.

I will not go over all the other stuff—excuse the use of that word—because members can repeat statements too many times. The Minister has made it quite clear that the important thing from the company's point of view is that it establish its industry on this site; and if it is not able to do so, it is being said that the industry will not be established at all because it would not be a viable proposition as the infrastructure in the agreement would become unbalanced in some direction or other if a change of site were made.

Whilst I do not like the Government's method of submitting an agreement of this nature to Parliament, I am prepared to say that at least it is being honest because it has named the place where the refinery will go. It has said that the industry will be established at Upper Swan.

Members will recall that the title of the Act relating to the other agreement which was akin to this one—that is, the Alwest Agreement—read—

> An Act to ratify an Agreement between the State and Alwest Pty. Limited for the establishment of a refinery at or near Bunbury to produce alumina and for incidental and other purposes.

So we knew that refinery was to be established at or near Bunbury. The previous Government used to first approve the site. It was stated that the refinery site would be an area of land approved by the Government. This meant the Government was in constant control of the situation. It could approve or not approve of a site. In fact the previous Government did not approve of the establishment of the refinery on at least one of the sites.

We did not approve of the site at Upper Swan in the first place because of the danger to the vineyards there.

What concerns me about Mr. White's amendment, which I studied for a long time while wondering what to do, is that the deletion of further words in the definition of "refinery site" will be necessary on page 6. If this amendment is successful "refinery site" will mean—

> The site on which the refinery is to be situated on such land as may be agreed upon between the parties from time to time.

It is conceivable the parties could agree that the site should be at Upper Swan and we would not know about that until it was too late because the agreement states that the Premier is authorised, on behalf of the State, to sign the agreement in this form or substantially in this form. The agreement would be substantially in this form if the parties to the agreement said that the site was to be at Upper Swan, or if they chose some other place. However, in the second case we would not know where the site would be.

I am therefore of the opinion we may be better served if we left the wording in the Bill and in the agreement; because it is certain to me—in the light of the assurances I have received from the Premier in relation to what he proposes to do in connection with this agreement and the environmental protection legislation—that if the environmental council reports unfavourably on the site and the Government signs the agreement, then it will be for the Government to accept the responsibility.

I am equally certain that should the Government receive an adverse report from the environmental council and the industry wants to establish itself elsewhere it would be possible for some other site to be chosen. I do not think we should lose sight of this possibility although I am told the likelihood is not great. In my humble opinion this would amount to a substantial alteration to the agreement and surely the Government would be obliged to come back in the March session of Parliament and advise that it had to change the site because of an adverse report, or for some other reason, in relation to the Upper Swan site. I know the variation clause is the one which has so many "big teeth" in it and, for this reason, I smile every time I read it, because until the Minister is of the opinion that an alteration to the agreement is substantial no-one will know anything about it. It is conceivable that could be the case but I think it is hardly likely. I am not prepared to accept the fact that the Government would do something like that.

I do not think we should make a decision on clause 1 at the moment; we should first wait to hear the Government's reaction to the amendment to clause 2 which I have on the notice paper. I know you will not permit me, Mr. Chairman, to talk about this at the moment, but the amendment will make clear what the Government, by way of question and answer, has said it intends to do. We will thus be assured the agreement will go before the environmental council when it is set up and operating and the Government will receive a report. The Premier is not authorised to sign an agreement until that happens.

For the life of me I cannot see how the Minister could give me any answer other than one in the affirmative. If that is so the Government's acceptance of the situation, as outlined in my amendment, would

mean that the Government's wishes were not unrelated to the wishes of the Opposition for the time being.

The Hon. W. F. Willesee: For about 20 years.

The Hon. J. Dolan: At least.

The Hon. A. F. GRIFFITH: At least, the Minister says.

The Hon. J. Dolan: I will get my grandchildren to make the alterations.

The Hon. A. F. GRIFFITH: I doubt whether I shall be a member of Parliament at that time. I will not mention the Minister for Police, because he looks much younger than I. I will not be drawn aside on this point.

As I have said, if this is done at least we will have the same desire. Perhaps the Minister could postpone consideration of the clause for a moment or two and tell me what he thinks about my amendment to clause 2. It is important I should know this before I make up my mind on the amendment Mr. White has moved to clause 1.

The Hon. L. A. LOGAN: I think I made it perfectly plain the other evening when I spoke on the second reading debate that few, if any, people had objected to a refinery. I voted against the second reading of the Bill tonight purely because the words "Upper Swan" are still in the agreement. It was for no other reason.

The other evening I said that if the Minister could come back with written assurances from five departments I would take their advice. It is most necessary for the Chamber to have the reports from those departments before making a decision.

Many well qualified people have expressed great concern at what might happen. I did not mention the environment the other evening; I left that to the experts who have expressed their concern in no uncertain manner. They have not said straightout that the refinery should not be located at Upper Swan; they want advice and information, which they have not received. The Minister has been asked for an assurance. If he could come back to Parliament with a qualified assurance from the Director of Environmental Protection (Dr. O'Brien) the Chairman of the Metropolitan Region Planning Authority, the Metropolitan Water Board, the Country Water Supply Department, and the Town Planning Commissioner I would accept the decision. When the Minister replied this evening he said those departments have had sufficient time to lodge an objection if that was their wish. What kind of a reply is this? Five important departments are involved but the Government has not gone near one of them for a report. At least, reputedly the Government has not because Mr. Graham said on television the other evening when Mr. MacKinnon was with him that no formal submission for a report had been made to Dr. O'Brien. This only supports the answer the Minister gave the Leader of the Opposition tonight. On the 19th May, Mr. Tonkin said—

> Cabinet had received a preliminary report on environmental aspects—

How could the Premier have received a preliminary report if Dr. O'Brien has not been asked for one? To continue—

> —of the Hanwright-C.S.R. proposals from the director of environmental protection Dr. Brian O'Brien.
>
> Dr. O'Brien was still working on his main report for the Government.

Two days later, on the 21st May, in effect the Premier said that the report by the Director of Environmental Protection, Dr. Brian O'Brien, on the effect the proposed refinery would have on the environment would not be binding on the Government but would influence it.

These statements were made within two days of one another. As I said the other evening, it seems obvious that the Government has either not asked Dr. O'Brien for a complete report or has not accepted any report that has been made because he was not in agreement with this particular site. This seems obvious.

The five departments I mentioned the other evening are closely involved with development in this area. For this reason surely any Government should ask for a report from those five departments. The Metropolitan Region Planning Authority was set up by Parliament. The present Premier established the department in 1957 to control planning in the metropolitan region. Why has it not been asked for a report?

The Hon. G. W. Berry: Whom did the Government ask?

The Hon. L. A. LOGAN: As far as I can ascertain the Government has asked nobody.

The Hon. F. R. White: The Government does not know whether it is good or bad.

The Hon. L. A. LOGAN: To my knowledge none of the questions raised by Environment 2000 have been answered. That body has only asked for information.

The attitude, "If the refinery is not established here we will not have one" reminds me of a schoolboy playing marbles. Because he does not get his own way he picks up his marbles and goes home. If the Government wants to act like a spoilt child that is the Government's business, but it should give us the information we want. Where are the other sites? What were the findings, economically and otherwise? We have not been told this information. This may be the only suitable site; I do not know because

I have never said I was an expert on the location. If the experts find it is the right location I am prepared to accept that. However we have not been told and the experts have not been asked. This much is very obvious. The only person who seems to know anything is Dr. O'Brien and obviously his report was not favourable or else it would have been tabled in Parliament.

I have made my position clear so far as the refinery is concerned. We cannot deny the disparity between statements by the Premier and the Minister. They cannot both be right; one must be wrong. Parliament is entitled to know who is right and who is wrong.

The Hon. F. R. WHITE: Many people have had second thoughts since this Bill originally came into being. Government and Opposition members in this Chamber have stated that the Swan Shire Council was unanimously in favour of the proposal. It was, but following on from the last ratepayers' meeting we find that a council meeting was held. I shall read a newspaper extract subsequent to the meeting. The article is headed, "Bid to delay refinery decision outvoted" and states—

> A group of Swan shire councillors has failed to get full council support for a further investigation into plans for a refinery in the Upper Swan Valley.
>
> The council voted out a motion that an urgent telegram be sent to the Premier, Mr. Tonkin, asking him to withhold the decision on the refinery till the investigation could be made.
>
> Crs L. Penn, W. P. Calnon, P. J. Johnson and J. M. Rakich voted for the motion.

A little later on it states—

> Cr. Johnson said that the council would have to alter its plan for a fifth corridor if there was no industrial development in the north of the shire.
>
> He said that ratepayers at last week's meeting had called for a public meeting with experts to discuss the refinery.
>
> "We must consider what's to be done about this. The ratepayers bothered to turn up. The least we can do is to take note of what they said," Cr. Johnson said.

Further on the article states—

> The council agreed unanimously to a motion by Cr. V. J. Pavlinovich that the council would not favour any development of the refinery south of the proposed site.

This represents a change of opinion on the part of members of the council. They have had second thoughts since taking the opportunity to do a little investigation. They have realised that many questions have not been answered, which is exactly what was said in this Chamber this evening and last Wednesday. We are expected blindly to agree to a refinery being established on a particular site. No reports have been asked for; no information of any value has been given. If reports favourable to the establishment of the refinery were available, I would have no objection. However, favourable reports have not been forthcoming and obviously will not be forthcoming before this Bill is passed in its entirety.

Mr. Griffith has stated that he has an amendment on the notice paper. He failed to say that his amendment will still not demand that a favourable report should be received.

The Hon. A. F. Griffith: I did not fail to say that at all. As a matter of fact I did say it.

The Hon. F. R. WHITE: The Leader of the Opposition's amendment does not state this.

The Hon. R. F. CLAUGHTON: The amendment relates to the site of the refinery and I would be remiss had I felt no concern over the problems raised by Environment 2000. I have felt it my duty, as a member of Parliament, to satisfy myself as far as possible on the validity of the statements made by that organisation.

On balance I find I can support the Government in its intention to locate the refinery at Upper Swan.

The Hon. F. R. White: You have no choice.

The Hon. R. F. CLAUGHTON: I have, but I feel it is my duty as a member of Parliament to voice my support for the legislation rather than sit here and do nothing about it. I would like to refer to page 9 of the report of the Public Health Department for 1970, which gives some readings of the fallout of sulphur dioxide at the location of 57 Murray Street, Perth, and at Bentley, Jandakot, and Medina. It shows that in Murray Street the figure is 1.1 part per 100,000,000; at Bentley the fallout is .07; at Jandakot .06 and at Medina .02.

These figures are significant when we relate them to the levels at which they become a hazard to vegetation and human beings. The standard laid down by the American Chemical Society is 100 parts per 100,000,000 parts for a one-year period. The levels experienced in the region in question at this time are well below those that would prove a danger to vegetation.

Medina and Jandakot are the sites most closely situated to the existing refineries and the levels are well below those that would create a hazard to the vineyards in the Swan Valley.

The report lists the levels that emanate from the brickworks. Fluoride levels are also given.

The Hon. F. R. White: Which brickworks are you talking about?

The Hon. G. C. MacKinnon: Midland.

The Hon. F. R. White: There are a number of them and they all have different effects.

The Hon. R. F. CLAUGHTON: The one using oil.

The CHAIRMAN: Order! Would the honourable member please address the Chair.

The Hon. R. F. CLAUGHTON: From the figures I have been able to obtain I have little hesitation in supporting the location of the site at Upper Swan. The location of the refinery is close to the existing residential area of Midland which means that people can commute from those residential areas in which are located all the necessary facilities.

If we locate the refinery further north new settlements must be built up and these could not possibly have the same facilities that are available at Midland.

The Hon. F. R. White: What a lot of rot.

The Hon. R. F. CLAUGHTON: The honourable member is entitled to his own opinion, but the people who work at the refinery would not find this to be a lot of rot. The facilities to which I referred are most important.

The direction of winds on this location was also mentioned. For the most part they are easterlies which I am told are very much lighter in force; they would allow the smoke emissions to rise almost vertically. The temperature of the air is higher and will therefore permit the emissions to rise of their own accord. I do not know whether Mr. White has considered this aspect.

The Hon. F. R. White: If you listened to my speech you would have heard me say I did consider this and I refuted most of the things you are trying to tell us now.

The Hon. R. F. CLAUGHTON: I was not able to find a great deal of reference to this aspect in the honourable member's speech, and he certainly did not refute my remarks. He appeared to have made a great deal of inquiry as to what would take place after the pollutants left the stack in the conditions that obtain at Upper Swan; conditions which are different from those that obtain at Kwinana.

It has been suggested that if there is a leak in the holding ponds this could contaminate the underground water supply. Mr. White and I were present at a meeting with members of the water board and I questioned the likelihood of this happening. The opinion given was that it was unlikely because of the grading of the ground water table which falls away from a crest and moves towards the south, south-east, and south-west, and that if there were a leak and the water became polluted the leak from the tanks would flow towards Ellen Brook; it would flow eastwards rather than westwards where it might cause concern to the water supply authorities.

The authority was certainly not concerned about the bores being operated at Mirrabooka. I do not want to labour the point; I only wish to make my views known to the people who have approached me in this matter.

I admit I am not 100 per cent. satisfied; that there are some questions in relation to these ponds on which I would like a further assurance. It has been suggested that they could be controlled by an electrostatic device to enable a 24-hourly check rather than the three-monthly check prescribed. A considerable amount of water does flow but the degree of contamination would depend on the extent of the leakage.

The Hon. G. C. MacKINNON: One site is currently being investigated and the other two sites that have been selected happen to be in the Lower West Province. There could perhaps be the suggestion that I made some fuss about the first site without raising any objection to the sites at Pinjarra and Bunbury. It will be recalled that I made no comment on the site at Upper Swan; my main concern was the form in which the Bill came to this House. And I still adhere to that.

From the point of view of environmental investigation it is my belief that the entire project, not merely the site, should be investigated by the authorities concerned. I have had little opportunity to say this in the past. I feel that on this occasion Mr. Claughton is absolutely right; that the people who should report on the particular site in question are primarily the clean air authorities and also the engineers, who should express an opinion on the clause dealing with ponding to ensure that the water will not get away.

Given the amount of thermal energy required by the plant, Dr. Maisey, senior engineer of the clean air section of the Public Health Department would be able to tell us in about two minutes flat what the fallout of sulphur dioxide and associated gases would be. He would be able to indicate how high the chimneys should be, and after taking into account the wind variations he would be able to prescribe the height above sea level and so on.

This was done at Pinjarra and Bunbury. I would take up Mr. Willesee on one point. I doubt very much whether the Pacminex refinery will be able to operate as efficiently as the Alcoa refinery at Pinjarra so far as

cleanliness and lack of fallout are concerned. I am not sure whether the Pacminex refinery will be able to use natural gas, as is the case at Pinjarra. Members will recall that the main smell from Pinjarra is a caustic smell, something like that which used to emanate from old-fashioned laundries.

The Midland Brick Company will improve considerably when it switches to natural gas. However, the problem of that company has not been in regard to fallout from the furnace gases, but rather the fact that when clay is baked one of the compounds of fluoride is released. This has an effect on any green vegetation in the area, and great care must be exercised in this sort of thing.

However, with relation to the extraction of alumina from bauxite, members are aware that it is not a baking process but a dissolving process. The slurry is stirred up and mixed with an acid which dissolves the alumina in much the same way as water will dissolve sugar from a mixture of sugar and sand. However, when baking clay we get nothing other than the actual flue gases from whatever fossil fuel is used to generate the heat. Therefore, I agree with Mr. Willesee that the site can be quite handy if it is cared for and controlled properly, particularly if the company is lucky enough to be able to use natural gas.

My other criticism is that this whole project could have been submitted to an environmental council and the fact that it has not is the fault of no-one but the Government. I believe the siting of the refinery is a matter of technical expertise which is beyond our scope. To bring an agreement like this before Parliament is an appeal from those who should know—that is, Cabinet—to those who cannot possibly know—that is, Parliament.

The Hon. A. F. GRIFFITH: I do not wish to be rude, but about an hour ago I asked a question of the Minister. Is there any chance of an answer?

The Hon. W. F. Willesee: I would like to get the chance to reply to it.

The Hon. F. R. WHITE: In view of the comments made by Mr. Claughton I feel I should speak again. I live in the Swan Valley and I have studied the position not only from other people's point of view but also from the point of view that I live within about three miles of the proposed site. I know what the weather conditions are. People in Kalamunda can look down on the Midland brickworks and see whether the smoke rises slowly into the air, as Mr. Claughton stated, or whether it snakes down and follows the Swan Valley. I can assure members that the latter is the case more often than the former.

I spoke very briefly last Wednesday. I condensed everything so that I would not bore members. Mr. Claughton said it appeared that I had not made much study. I can assure him that I could have spoken for five, six, or 10 hours and given him another "Herbie Graham" marathon if he so desired. However, I condensed my speech into half an hour.

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

The Hon. F. R. WHITE: I am trying to make the point that there is an obvious ignorance of the locality with regard to the environment and to the effect which may result if the refinery is established there. There is an ignorance as to what will be the effect no matter what site is used, because not enough research has been done by the Government or its departmental officers, and the appropriate reports have not been obtained. My amendment to remove the words "Upper Swan" will not deny the Government or Pacminex the opportunity to establish the refinery on that site. If passed it will be an expression of opinion that this Chamber doubts whether it is the best site. Therefore, if the amendment is passed the Government will be morally bound to ensure that favourable reports are received before the refinery is established.

The Hon. W. F. WILLESEE: Perhaps it will help if I foreshadow that I am prepared to accept the amendment of The Hon. A. F. Griffith in relation to clause 2. I believe this will achieve the result envisaged by Mr. White without stating specifically what the Government and the company must do. The authority will then consider the question in isolation. Under those circumstances I ask members to vote against the amendment.

The Hon. A. F. GRIFFITH: I wish to indicate briefly that we have arrived at the point where all sides can agree that it is the desire and the intention of the Government to refer this agreement to the environmental council when it is established. The report of the council will be received and considered before the agreement is signed. I must accept the categorical assurance of the Leader of the House that that is the intention; and it will be written into the legislation that the Premier is then authorised to sign the agreement.

I wish to put Mr. White right in one respect. I did not purposely leave out any reference to the word "unfavourable." I went out of my way to mention that if the Government received an unfavourable report the decision would be upon the head of the Government.

The Hon. W. F. Willesee: Yes, that is what you said.

The Hon. A. F. GRIFFITH: I do not need the sort of advice Mr. White wished to give me; that I had conveniently left

something out. That indicates that I purposely did something in order to mislead the Committee. Under those circumstances, and for the reasons I have explained—and in view of Mr. White's statement of a few minutes ago in relation to the site—I think we might leave the clause as it is. If the Government must choose another site at least it will have to come back to Parliament with an amendment, because surely that would be a substantial change in the agreement. Then we would know where the Government intended to site the refinery. If we agree to Mr. White's amendment the Government would be free to place the refinery on the present site or anywhere else, and we would not be consulted.

Amendment put and negatived.

Clause put and passed.

Clause 2: Execution of Agreement authorized—

The Hon. A. F. GRIFFITH: I move an amendment—

> Page 2, line 5—Add after the word "authorized" the following passage:—
>
> when the Environmental Protection Authority proposed by the Bill entitled—
>
> A Bill for an Act to make provision for the establishment of an Environmental Protection Auththority, a Department of Environmental Protection and an Environmental Protection Council for the prevention and control of environmental pollution and for the protection and enhancement of the environment, to repeal the Physical Environment Protection Act, 1970, and for incidental and other purposes
>
> has come into being and has considered and reported to the Premier on the project covered by the Agreement and the terms proposed so far as they relate to matters of environmental protection.

I think it is unnecessary to repeat everything that has been said. The Minister has indicated the Government is prepared to accept the amendment.

The Hon. W. F. WILLESEE: I wish to confirm that I accept this amendment for the purpose of giving the Committee the opportunity to have the siting of the refinery examined.

The Hon. G. W. BERRY: I support the amendment, but I am a little confused in regard to it. On page 323 of the current *Hansard* Mr. Ron Thompson is reported as saying—

> The only thing the amendment could possibly achieve is to hold up consideration of the agreement for at least 12 months.

I am now more confused than ever. What will happen if the report is not in favour, and the Government does not sign the agreement? What will happen if, as Mr. Ron Thompson said, it takes 12 months? What will happen to all the work which has been done or is proposed to be done if the agreement is not signed? How on earth will the company be able to go forward and enter into contracts if the matter is up in the air? Perhaps the Minister may enlighten me on these matters.

The Hon. W. F. WILLESEE: I do not think there is any need for confusion. This procedure will apply in all other agreements from now on. The authority which is set out in the new legislation will automatically take action.

The report will be considered by the Government in relation to any issue before it. There will be no undue delay. This will provide the machinery to put the organisation into orbit. In my opinion it will operate in all future cases where there is a need for the organisation to look at and to prepare a report on environmental protection matters.

The Hon. A. F. GRIFFITH: I do not wish to see any unnecessary delay, and I am conscious of the fact that by agreeing to the amendment some delay will be occasioned. It is up to the Government to act as quickly as it can on the environmental protection legislation now before us, and in the course of the next few days when it is dealt with some amendments will be made.

The Hon. W. F. Willesee: I am disappointed to hear that.

The Hon. A. F. GRIFFITH: Surely the Government must expect amendments. It has already wasted a great deal of time. I repeat again that in the policy speech of the Labor Party before the last election it was announced that one of the first steps the Labor Party would take, as a Government, would be to repeal the Physical Environment Protection Act introduced by the previous Government. The Labor Party said that legislation did not have any teeth, and if returned to office it would introduce legislation with big teeth. Here we are on the last day of November, but in this House we have just seen the Bill.

If the present Government had proclaimed the legislation which was introduced by the previous Government the director would have been able to get on with the job.

The Hon. J. Dolan: Why didn't your Government proclaim it?

The Hon. A. F. GRIFFITH: The Minister has been told the reason on at least three occasions, but I shall tell him again. When Dr. O'Brien was appointed to the position he had to take leave and return to the U.S.A. to complete some work.

The CHAIRMAN: The honourable member will please address the Chair.

The Hon. A. F. GRIFFITH: I am keeping one eye on you, Mr. Chairman, and one on the Minister for Police. The Minister ought to know that before we had the opportunity to place the man in the job and on the council, a general election was held; and the Minister revelled at the result.

The Hon. J. Dolan: Of course we did. A change of Government was long overdue.

The Hon. A. F. GRIFFITH: The Minister is trying to kid us that his Government will be in office for 20 years. The Minister knows as well as I the reason the legislation was not proclaimed by the previous Government. The reason was the inadequate time available. However, the present Government has had from February last to the end of November to proclaim the legislation or do something about the matter. All it can say is that it is getting rid of the previous piece of legislation and introducing something of its own. This Government could have amended the legislation introduced by the previous Government, and rectified any faults which might exist.

The Hon. J. Dolan: Who do you think has been preparing the legislation now before us?

The Hon. A. F. GRIFFITH: The other evening I was told it was Dr. O'Brien, but I did not know he was a draftsman. I thought the Parliamentary Draftsmen prepared the Bills.

The Hon. J. Dolan: They do, but they have to obtain advice, and on this occasion Dr. O'Brien advised them.

The Hon. A. F. GRIFFITH: If this Government moves as fast in other directions as it has in this, then we will see mighty slow progress in the future. I could ask the Minister for Police why the present Government did not proclaim the previous legislation.

The Hon. J. Dolan: We did not think it was any good; nor was it.

The Hon. A. F. GRIFFITH: The Minister's Government was not prepared to put it into operation, and if necessary alter it.

The Hon. J. Dolan: One does not have two mouthfuls of a bad egg to know it is bad!

The Hon. A. F. GRIFFITH: I do not eat bad eggs. Members must forgive me if I get annoyed at this constant muttering by the Minister.

The Hon. J. Dolan: I do no greater amount of muttering to my colleagues than you do to yours.

The Hon. L. A. LOGAN: I will not vote against this amendment, but I want to point out to Mr. Griffith that delay will be occasioned even if the Government signs the agreement tomorrow. The responsibility will rest on the Government, but I know what will happen at the end of the time. I need only refer to the statement made by the Premier to the effect that the report on the environmental effects of the proposed refinery by the Director of Environmental Protection, Dr. O'Brien, would not be binding on the Government.

The Hon. A. F. GRIFFITH: Is there any member in this Chamber who thinks that the answers I got to my questions this evening are of such a nature that the Premier will have any regard for the matters I have raised?

The Hon. L. A. Logan: I was pointing out what the Premier had said.

The Hon. A. F. GRIFFITH: If that is to be the result he would be out of order. I do not think any Government or any Premier would do that.

The Hon. W. F. WILLESEE: I have given the replies of the Premier to the questions submitted to him by the Leader of the Opposition, and they appear in the Premier's handwriting. I feel sure that we can all accept his word as being that of the Premier of the State; and that in his reply he gave a considered opinion. I was beside him when he wrote out the replies, and at the time the person he was talking to was Dr. O'Brien.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 3 put and passed.

Schedule put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [9.24 p.m.]: I move—

That the Bill be now read a third time.

THE HON. F. R. WHITE (West) [9.25 p.m.]: Before the vote is taken on the third reading I wish to say again that I oppose the Bill and I will vote against the third reading, although I know full well that that will not make any difference to the outcome. I repeat the statement I made that in my opinion the signing of the agreement without adequate information being supplied to the House will be a very irresponsible act on the part of the Government.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [9.26 p.m.]: Mr. White is quite entitled to the opinion which he holds. I regret

that he has seen fit to castigate the Government in the terms he used. By accepting the amendment we have shown a sense of responsibility, and we will look at all the considerations involved with the signing of the agreement. It is unfortunate that even at this late stage I cannot convince the honourable member.

Question put and passed.

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

BILLS (3): RECEIPT AND FIRST READING

1. Abattoirs Act Amendment Bill (No. 2).

   Bill received from the Assembly; and, on motion by The Hon. J. Dolan (Minister for Police), read a first time.

2. Reserves Bill.

   Bill received from the Assembly; and, on motion by The Hon. R. H. C. Stubbs (Minister for Local Government), read a first time.

3. Western Australian Marine Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. J. Dolan (Minister for Police), read a first time.

COMPANIES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 24th November.

THE HON. I. G. MEDCALF (Metropolitan) [9.30 p.m.]: This is a very small Bill and it has the effect of increasing the fees payable by companies under the schedule to the Companies Act. For many years we have had a uniform Companies Act in Western Australia; in fact, since 1961. The Acts are uniform throughout Australia.

It appears that the fees applying in Western Australia are not subscribing to the principle of uniformity. This is very sad and the Government believes the fees should be increased to achieve uniformity throughout Australia.

It is necessary, of course, to increase fees from time to time to cater for rising costs in the provision of services by Government departments, which services are so necessary. Hence, the increases in fees included in the present small Bill.

Although the Bill is small, the increased fees are not. They vary from 100 per cent., in some cases, down to about 20 per cent. There is an overall increase in fees. Some items have been completely omitted and I am pleased to see the registrar has been quite selective in the fees which he considers should be increased. I think he has put in a great deal of effort and time in deciding which fees should be increased and which fees should not be increased.

The fees for some of the documents which public companies lodge regularly have been increased by a fair amount, and some to just a small degree. There is not much point really in my analysing the fees in detail, particularly as I support the Bill in principle. I believe there is nothing much else which can be done.

I would like to say it is not a very good case in which to use the principle of uniformity. The principle of uniformity applies to commercial transactions where it is desirable for the law to be the same throughout Australia for the convenience of interstate firms. I do not think there is really much justice or principle in making the fees uniform. I do not know that that follows at all. However, that is the argument and there is nothing much more I can say about it.

The last increase occurred in 1969, but we have been told that the increase should have been operative since 1967. It was put off because companies then paid receipts duty. However, the receipts duty does not now have to be paid and so the company fees will be increased. No doubt this will compensate the Government for the handing back of receipt duties which is to take place in some cases.

It is a rather curious system when one considers the circular aspect of it. Receipt duties were imposed and so company fees stayed off. On came company fees, as off went receipt duties. It is a rather mixed-up system.

I would like to point out, in relation to company fees, that it is not only the question of fees which is relevant to companies. One must not kill the goose that lays the golden egg. I think that old-fashioned saying has application not only to the question of fees, but also to the question of some of the extremely restrictive laws which, I understand, are being proposed in some States of Australia and about which we might hear more on another occasion. With those remarks I support the Bill.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [9.34 p.m.]: I thank the honourable member for his remarks on the Bill. Basically, I think the fact that fees have not risen since 1967 is the point made in favour of the legislation and its application to certain sections of the Companies Act. There is a variation to which the honourable member referred. If we have uniform legislation throughout the States of Australia it is logical to assume that we should have uniform fees. However, I agree that that is not necessarily a complete answer.

It is worthy of note that this legislation will increase the revenue to the State by some $200,000 per annum. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

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

BILLS OF SALE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 24th November.

THE HON. I. G. MEDCALF (Metropolitan) [9.38 p.m.]: This is also an important Bill and it has the effect of increasing the fees payable under the Bills of Sale Act on the registration and renewal of bills of sale. Whereas the amendment to the Companies Act increased the fees by different amounts varying between 20 per cent. and 100 per cent., the measure now before us will increase fees by 150 per cent. in one bite. However, it is many years since fees were increased and I think that is a reasonable explanation for the present increase.

The Treasurer estimates that this increase in fees will bring in an additional $214,000 per year, a not inconsiderable amount of income for the Government. One might ask who pays the fees. The fees referred to are paid on the registration or the renewal of bills of sale, and the people who pay the fees are the borrowers from financial institutions. In this respect, the fees we are now discussing are a little different from those we discussed in the previous Bill because these fees are in direct relation to services provided by the Government in registering or renewing bills of sale.

I draw attention to the policy speech of the present Premier, which was delivered before the last election. On page 16 of the policy speech the Premier had the following to say—

> Labor is certain that it is possible to effect very substantial reduction in the cost of goods and services and proposes to inquire fully into all aspects of this matter, with a view to bringing about worthwhile savings.

This is one of the services provided by the Government for the registration of bills of sale. Unfortunately these fees have to be paid by the people least able to bear them: those borrowing money. I wonder whether this was taken into account when the Government decided to increase the fees.

Another aspect is that these fees relate not only to the initial registration of a bill of sale, but also to its renewal. A bill of sale is valid for only three years then it has to be renewed. Estimates of expenses are made based on the existing fees and if fees are suddenly increased the bills of sale which were taken out many years ago will be subject to the increase when they are renewed. This, of course, is rather significant and I wonder whether it was taken into account.

The Leader of the House also said that fees are to be increased for the registration of business names. Those fees are to be doubled from $5 to $10. It is necessary for every person who operates a business, and who does not use his full name or his initials, to register the business name. The fee will now be $10.

I feel that we have no option but to support the Bill. It is indeed a Treasury Bill and undoubtedly the increases have been taken into account in the Government's budgeting. In those circumstances I do not oppose the Bill.

I venture to predict that this is not the last increase which we will see during the life of the present Government.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [9.42 p.m.]: I thank the honourable member for his kindly remarks. He more or less paved the way for any future legislation we might have with regard to increased taxes which I feel he will receive favourably!

So far as this Bill is concerned I thank the honourable member for his support. It has application to a particular section of the public, but as was pointed out fees have not risen under this legislation for some time. The increase is deemed to be necessary.

It is worthy of note that the increase is expected to produce an additional $40,000 per annum. I commend the second reading of the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

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

RIGHTS IN WATER AND IRRIGATION ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [9.46 p.m.]: I move—

That the Bill be now read a second time.

The Rights in Water and Irrigation Act makes provision for the Governor to declare any part of the State north of the 26th parallel of latitude as an area to which the powers of the Act dealing with nonartesian water are applicable. Consequently those powers do not extend southward of that line. The main object of this Bill is to permit control of nonartesian ground water in any part of this State.

The existing authority to control these waters was written into the Act in 1962 at a time when the specific control needs related to areas in the north of the State, and particularly to the Carnarvon area where Government control of pumping from the bed sands of the Gascoyne River and adjacent areas was urgently required.

During the intervening period these provisions of the Act have been used to control the activities of the mining companies in the Pilbara region and also to ensure that pastoral water supplies were suitably protected. Control has been exerted to protect the Derby town water supply, which is drawn from bores located within the townsite. This control was necessary to avoid possible competition from adjoining landholders. Also it was desirable to prevent salt water contamination of the public supply resulting from uncontrolled pumping by adjoining landholders.

There are, however, 29 towns located south of the 26th parallel which are dependent on underground supplies of water. It is apparent that the supplies to these towns could also suffer from similar competition, and some problems are presently being experienced.

In particular, reference is made to Albany in respect of the south coast supply source where the position could become serious if controls cannot be instituted. Concern is also felt with regard to supplies at such towns as Donnybrook, Dwellingup, Esperance, Geraldton, Mullewa, Northampton, Three Springs, and other towns where supplies from underground sources are relied on.

In other respects there is need for control in areas south of the 26th parallel. Control measures are necessary to ensure the best use of valuable sources of underground water, and this applies in particular in the arid goldfields areas. The Wiluna-Meekatharra area which has some potential for irrigation development is in this category.

There are also extensive areas of coastal sand lands fringing the metropolitan area which are now being investigated and researched for water supply and irrigation purposes. Extensive private development of these areas could result in considerable competition for water. For this reason also the State must have means of control where control is justified.

Other examples are the new nickel discoveries, including Poseidon which, when established, will require substantial water supplies.

Generally these mining areas are located in arid areas south of the 26th parallel. It is essential that the Government should be able to exercise the same control over the nickel companies as has been possible over the major iron ore companies in the Pilbara.

A second and important object of the Bill is to allow the State to obtain information about the strata and water encountered in all wells sunk throughout the State. This information will be obtained by requiring people who sink wells or bores to send the data to the Government. The information received will be collated by the Geological Survey Branch of the Mines Department. It will assist the department considerably in its evaluation of the State's ground water resources. Consequently, the department will find itself in a much better position to advise individuals on the likelihood of finding water in any given locality.

Because of the uniformity of the strata in the metropolitan area, and as there is so much data already available in respect of that area, a provision is included in the Bill which allows the Minister to exempt certain areas from the provisions of the Act. It is intended immediately to exempt the metropolitan area for the reasons just mentioned.

The Bill also provides for an amendment to adjust an oversight which occurred in 1962 when the Act was amended to provide for "subterranean sources" to be included for pollution and right of entry purposes. At that time the section which deals with the Minister's powers to institute proceedings was not similarly amended and this oversight is now to be corrected.

Problems associated with the supply by the Government of the water necessary for mining ventures in the Murchison area and in other areas which have developed into large nickel fields are, I believe, of their nature apparent to members. Unless useful control measures are provided to ensure that the water is used to the best effect we could well be in trouble. I commend this Bill to the House.

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

RAILWAY STANDARDISATION AGREEMENT ACT AMENDMENT BILL

Second Reading

THE HON. J. DOLAN (South-East Metropolitan—Minister for Railways) [9.52 p.m.]: I move—

That the Bill be now read a second time.

One of the conditions on which the Broken Hill Proprietary Company Ltd. entered into agreement with the Government of Western Australia in 1960 in respect of the establishment of an integrated steel works was that the State Government also would enter into an agreement with the Commonwealth of Australia providing for the financing, construction, and completion of a standard gauge railway line from the terminus of the Commonwealth standard gauge line at Kalgoorlie to the works site at Kwinana.

The appropriate State-Commonwealth financial agreement was made on the 2nd October, 1961, and ratified by Act No. 26 of 1961 under the title of Railway Standardisation Agreement Act of that year.

The Railway Standardisation Agreement Act made provision for a completion date for the project and that date was the later of the respective dates on which regular services on the sections Kalgoorlie to Fremantle via Perth, and Koolyannobbing to Kwinana are commenced. The actual date, as agreed between the State and the Commonwealth, was the 14th June, 1969.

The completion date is of major significance in the agreement because it limits the amount to be contributed by the Commonwealth to expenditure actually incurred by the State up to 12 months after completion date—that is, the 14th June, 1970—and makes no provision for any reimbursement beyond 24 months after the date, and this latter date is of course the 14th June, 1971.

At the time the agreement was ratified it was reasonable to expect all financial matters to be concluded within 24 months of the date on which regular services commenced on the line. Because of increased requirements, however, a revised plan was agreed to by both State and Federal Governments.

This revised plan made it physically impossible to award all contracts by the 14th June, 1970, and it became evident that the project would not be completed by the 14th June, 1972, by which date under the agreement all expenditure had to be finalised and the Commonwealth contribution obtained. As a consequence the State, under the terms of the original agreement, would fail to qualify for at least $2,200,000 of Commonwealth contribution.

The supplemental agreement, the subject of this ratifying Bill, is designed to provide an extension of time for finalisation of claims after completion date and to enable the Commonwealth to reimburse the State for expenditure incurred on the project without the limitation imposed by the original agreement.

The supplemental agreement referred to also requires approval by the Commonwealth Parliament and appropriate legislation in that direction has already been introduced.

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

IRON ORE (MOUNT GOLDSWORTHY) AGREEMENT ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [9.56 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks ratification of an agreement made on the 26th August, 1971, between the State and the parties to the Iron Ore (Mount Goldsworthy) Agreement of 1964; namely, Consolidated Gold Fields Australia Limited, Cyprus Mines Corporation, and Utah Development Company. Throughout the agreement parties other than the State are referred to as "the joint venturers."

Under clause 11 of the 1964 agreement, the joint venturers were required to carry out certain exploration and investigational work following which they were required by August, 1971, to apply for a mineral lease in respect of mining area identified as "B" or any part or parts thereof, and similarly of mining area "C" or any part or parts thereof; also to submit full proposals to the State concerning any proposed development on mining areas "B" and "C." In the normal way, these proposals would deal with further port development, railway development, townsites, housing, and roads.

The agreement executed on the 26th August this year—known as the "first variation agreement"—and the subject of this Bill allows the joint venturers to make such proposals in respect of mining area "B" only. Mining area "C" has been excluded and provision made for an investigation of this area to proceed so that proposals for secondary processing facilities to treat material from this area may be submitted by the 31st December, 1974.

The Hon. G. C. MacKinnon: Will you be tabling a map?

The Hon. W. F. WILLESEE: Yes. Primarily the 1971 agreement amends the provisions of the 1964 agreement in so far as the secondary processing of iron ore is concerned and makes a major amendment to

the definition of "f.o.b. revenue." The f.o.b. revenue clause is of considerable interest, as it is the first time it has been included in a major agreement of this nature.

There are several consequential minor amendments and others which bring royalty clauses into line with similar clauses in later iron ore agreements, including agreements which have been amended since the original ratifying Acts were passed.

Under the 1964 agreement, the joint venturers hold three mining areas designated "A," "B," and "C," the former two being situated at Goldsworthy, Shay Gap, and Kennedy Gap, whilst mining area "C" is further to the south-east and adjacent to the Ophthalmia Range area.

The Goldsworthy venturers also hold certain temporary reserves not included under the provisions of the 1964 agreement, and these particular reserves have always been regarded as having been held in association with their agreement. One such reserve is number 3837H. Under the variation agreement this reserve becomes part of mining area "B."

Under clause 11 of the 1964 agreement, the joint venturers were required to continue their preliminary exploration and investigation prior to making a complete and thorough geological and, as necessary, geophysical investigation firstly of mining area "B" and secondly of mining area "C," with the intention that by August, 1969, their exploration and investigation would be completed with a view to providing iron ore deposits in those mining areas. By 1971, they were required to apply for a mineral lease in respect of those mining areas or parts thereof.

Despite systematic exploration, no significant tonnages of beneficiable ore have been located in the Goldsworthy-Shay Gap-Kennedy Gap areas and the joint venturers did not wish to proceed with the installation of secondary processing facilities to treat materials from these areas; apparently there was no point in their proceeding.

Because of the absence of suitable ore the joint venturers sought the waiving of the secondary processing provisions contained in clauses 12 to 17—inclusive—of the original agreement in so far as those clauses related to mining areas "A" and "B."

On present indications the bulk of the joint venturers' presently-known reserves are located at mining area "C." It is their intention to continue the investigation of that area vigorously and to finality.

Area "C" has an estimated 700,000,000 tons of high-grade iron ore, but unfortunately it is very high in phosphorous.

In most of the deposits it is as high as 1.2 or 1.3 per cent. As is known by the House, the Japanese are keen on having a maximum of .06 or .07 per cent.

In executing the variation agreement the Government has acceded to waive the secondary processing obligations in respect of mining areas "A" and "B," but subject to certain conditions which the joint venturers must meet. In summary, these conditions are—

(1) That payment be made to the State of $1,000,000 in total, by way of additional royalty, in each of the financial years commencing in 1970, 1971, 1972, and 1973. The additional royalty is not to be $1,000,000 each year, but a total of $1,000,000 spread over the four years mentioned.

(2) That an exploration and study programme of mining area "C" be undertaken and completed by the 31st December, 1972, with quarterly progress reports supplied to the State.

(3) That submission of acceptable proposals for secondary processing be made by the 31st December, 1974.

(4) That Goldsworthy forfeit mining area "C" if the joint venturers fail to comply with the State's requirements regarding the exploration programme or submission of satisfactory proposals.

(5) That annual export tonnages of iron ore from the mineral lease obtained from mining areas "A" and the new "B," be restricted to 3,000,000 tons per annum of direct shipping ore and 2,000,000 tons per annum of other types of iron ore as from the date Goldsworthy fails to comply with the obligations imposed on it in respect of exploration and submission of secondary proposals under the variation agreement.

It is emphasised that annual tonnages permitted for export would not be less than those necessary to meet contracts which the State had approved and which did not exceed the approved capacity of Goldsworthy's port facilities at Port Hedland. On the other hand, if Goldsworthy complied with our conditions but was able to demonstrate that it was impracticable to submit acceptable proposals for secondary processing which were economically viable then higher tonnages for export would be negotiated.

(6) That conditions for development of the mineral lease (excluding mining area "A") would be renegotiated if, after the variation agreement has been executed, it became apparent that there was a greater tonnage of iron ore available from the mineral lease

than the tonnage estimated to be available and agreed between the State and Goldsworthy at the date of the variation agreement.

Renegotiation would take place only if the tonnage subsequently found in the deposits proved to be 20 per cent. in excess of the agreed tonnage at the date of the variation agreement.

In negotiating the conditions for mining, transporting, processing, and marketing of this additional ore, we would have regard for the overall economics of such operations, additional to the tonnage estimated to be in the mineral lease. The joint venturers certainly would have to accept commitments not less than those applicable to the other iron ore in the mineral lease. These additional commitments to be negotiated could take the form of higher royalties, rents, wharfage, or other charges—or a combination of such charges—contributions to additional assets, processing, or a combination of all or any of them. If agreement could not be reached on these additional commitments then the matter would be settled by recourse to arbitration.

Under clause 12 the secondary processing obligations of the joint venturers remain the same as those required under the original agreement and provide for the establishment of a plant capable of treating not less than 2,000,000 tons of iron ore per annum by the end of the year 1982.

The progression to this maximum capacity is such that by 1977 the plant would process not less than 500,000 tons of iron ore per annum and by the end of the year 1978 this would be increased so that not less than 1,000,000 tons of iron ore could be handled.

The capital cost of the plant must be not less than $16,000,000. The agreement, of course, allows for the Minister to reduce the company's obligations if he is satisfied that the mining operations are not producing quantities of iron ore suitable for treatment at a rate of 2,000,000 tons of iron ore per annum on an economic basis.

The agreement provides that if, by the 31st December, 1974, proposals for secondary processing are not approved by the Minister, or if following arbitration the question is decided in the favour of the Minister, the State will not grant mining area "C" to any party other than the joint venturers until after the 31st December, 1975. After that date the State will not grant mining area "C" to any other party on terms more favourable on the whole than those available to the joint venturers until after the 31st December, 1979.

The agreement makes it quite clear that if the joint venturers do not carry out a satisfactory exploration and study programme or if they do not submit proposals by the 31st December, 1974, they will cease to have any rights to mining area "C" and will be restricted in the annual rate of export of iron ore after the 31st December, 1976.

As mentioned earlier, the restriction would allow them to export not more than 3,000,000 tons of direct shipping ore and 2,000,000 tons of fine ore, fines, or other iron ore per annum unless prior to the 31st December, 1978, the Minister had approved, in writing, of the joint venturers entering into a contract or contracts for export of ore after the 31st December, 1980, at an annual rate in excess of the figures quoted.

However, if the joint venturers had carried out a satisfactory exploration and study programme and could demonstrate to the reasonable satisfaction of the Minister that it was impracticable to submit acceptable proposals then there is discretionary power to permit the export of greater tonnages than those mentioned.

Adverting to my earlier remarks, I point out that the agreement also contains provision that if at any time it is shown that the iron ore deposits in the area of the second mineral lease—this means excluding the joint venturers' original mineral lease—are greater by 20 per cent. in the aggregate for each of the 48,000,000 tons of high-grade ore—60 per cent. and higher in Fe content—and the 79,000,000 tons of low-grade ore—minus 60 per cent. in Fe content—now estimated to be available, the conditions of this agreement in relation to the future mining of ore from the mineral leases shall be renegotiated by the parties with a view to increasing the obligations and commitments of the joint venturers to the State. It is intended that the renegotiation would be by mutual agreement, but failing this it would be determined by arbitration.

Earlier I mentioned that the opportunity has been taken to amend the definition of "f.o.b. revenue." The reason for this amendment is that there has been some doubt over the years concerning the charges to be deducted in arriving at a fair value on which royalty should be calculated. The previous Government was negotiating this f.o.b. revenue clause prior to the time it went out of office.

The new definition makes it quite clear that the allowable deductions are to be made from the price for iron ore which is payable by the ultimate purchaser or the person smelting the ore. Export duties, export taxes, and all costs and charges properly incurred and paid by the joint venturers to a third party after the departure of the ship on which the ore is

loaded from the joint venturers' wharf to the time the ore is delivered and accepted by the ultimate purchaser or the person smelting the ore are deductible.

In addition, the Minister will have the discretionary power to determine whether a cost or charge shall be deductible. This will allow the joint venturers to submit for the Minister's consideration any cost or charge which they feel should be allowed but which is not specifically covered by words contained in the definition of "f.o.b. revenue."

At the time that the joint venturers sought an amendment to their 1964 agreement they submitted proposals to the State for development of their areas at Shay Gap and Kennedy Gap, and these proposals have now been approved. Under the proposals the joint venturers were required to pay the State the sum of $900,000 as a contribution towards infrastructure costs in relation to water supply, hospital, education, and police facilities in the Port Hedland area.

The payment of this $900,000 is covered in the amendment to the 1964 agreement so that the sum involved may be paid as additional royalty commencing in the financial years of 1970 to 1973 inclusive. The arbitration clause in the 1964 agreement has also been replaced to bring it into line with similar clauses in later iron ore agreements, the main change being that the provisions of the Arbitration Act no longer apply in any case where the State, the Minister, or any Minister is given either expressly or impliedly a discretionary power.

A new clause has also been inserted in the agreement in connection with environmental protection. By virtue of this clause the joint venturers must comply with any requirement in connection with the protection of the environment arising out of or incidental to their operations under the agreement. In other words, they must comply with any requirement made by the State, by any State agency or instrumentality, or by any local or other authority or statutory body of the State pursuant to any Act in force from time to time.

Other clauses under the 1964 agreement which have been amended or replaced are—

> Clause 9 (2) (j) subparagraph (viii): Under the 1964 agreement this subparagraph provides for the royalty rate of 1s. 6d. a ton on fines and iron ore concentrates to be adjusted up or down proportionately to the variation of the average of the prices payable for foundry pig iron f.o.b. Adelaide.

In practice it has been found difficult to obtain the prices referred to and, therefore, this subparagraph has been amended under the variation agreement to allow adjustments to be made in accordance with any variation in the average of the basic prices of foundry pig iron c.i.f. Australian capital city ports as announced by the Broken Hill Proprietary Coy. Limited or any subsidiary thereof.

The existing clause 21 has been deleted and a new clause inserted. The main change in the provisions of the new clause compared with those of the old is that where in the opinion of the Minister an agreement made pursuant to subclause (1) of the new clause constitutes a material or substantial alteration of the rights or obligations of either party to the agreement, the Minister shall cause the agreement made under the variation clause to be laid on the Table of each House of Parliament within 12 sitting days of the date of its execution and be subject to disallowance.

A new clause 12A has been added which allows the grant of leases, licenses, reserves and tenements to be granted not only to the joint venturers but to a company nominated by them provided that company is approved by the Minister. For example, this would allow grants to be made to Goldsworthy Mining Limited—the operating company for the joint venturers.

Subclause (2) of this new clause, however, obliges the joint venturers to duly and punctually observe, perform and comply with all the covenants, agreements and obligations to be performed or observed by the nominated companies. Any default by the nominated company in the performance or observance of any such covenant, agreement, or obligation is acknowledged by the joint venturers to be a default by them under paragraph (1) of clause 10 of the first variation agreement.

I have here a plan of the proposed areas which I propose to table.

The plan was tabled.

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

FISHERIES ACT AMENDMENT BILL

Second Reading

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [10.15 p.m.]: I move—

> That the Bill be now read a second time.

The sole purpose of this Bill is to enable the Minister for Fisheries and Fauna to authorise payment of moneys from the Fisheries Research and Development Fund

for the purpose of assisting the fishing industry and any other organisation, the objects of which include assistance to and promotion of the fishing industry.

I am advised that the fund was established in 1965 consequent upon a meeting which took place between the then Minister for Fisheries and Fauna, the processors, and the fishermen engaged in the industry. Both the processors and the fishermen accepted the view that industry would need to contribute finance to enable the Government to undertake exploratory surveys and in general to encourage the development of new fisheries.

The fund is financed from license fees payable for licenses to operate fish processing establishments. The definition of "fish" in this connection includes all scale fish, rock lobsters, prawns, and marine animal life generally.

The fees payable in respect of processors' licenses granted or renewed under the Act are assessed as a percentage of the value of fish caught and the moneys paid for fish purchased for processing.

The percentage is presently set by the Governor at three-quarters of 1 per cent. The Act provides for a maximum percentage of 1 per cent. of the gross amount. The percentage of three-quarters of 1 per cent. currently in operation provides an annual income of approximately $120,000, which is paid to the credit of the Fisheries Research and Development Fund.

Moneys standing to the credit of the fund may be used and applied by the Minister only for all or any of the purposes of scientific, technological, or economic research in relation to fisheries, or in the investigation, exploration, and development of fisheries and the provision of extension services related to fisheries. It is this restricted use of the funds which the amendment now before members seeks to expand to enable further assistance to be given to the industry and to industry associations.

I shall now explain the association position. In 1965, when the Research and Development Fund was established, the fishing industry throughout Australia consisted of many small groups and associations, lacking co-ordination at either State or Federal level. Arising from the Australian Fisheries Development Conference, brought together by the Commonwealth and State fisheries authorities and held in Canberra in February, 1967, an industry committee was elected and discussions held with a view to the establishment of a Federal organisation of fishermen supported by State committees. A Mr. F. Pensabene, at that time Manager of Planet Fisheries in this State, was the Western Australian elected committee man.

Later in the same year, the Australian Fishing Industry Council was formed on a Federal basis and, towards the close of the year, the first meeting of the Western Australian Branch of the Australian Fishing Industry Council took place, with Mr. Pensabene's appointment as chairman. Apparently the Minister of the day expressed the State Government's support of the council and of the Western Australian branch, as it was felt that these organisations would assist the Government in solving a number of problems confronting the fishing industry. Discussions of policy matters with a united body representing the industry had become feasible. The Western Australian branch of the council is accepted by Government as representing the fishing industry in this State.

The branch has since run into trouble in financing its activities. Meetings are held in Manufacturers Building and the branch is serviced secretarially by the Chamber of Manufactures (W.A.) Inc. There are, of course, other administrative costs to be met in addition to its annual contribution to the Federal council. Branch revenue is restricted to subscriptions received from affiliated associations in the fishing centres of the State. This source provides about $1,300 per annum, which has been found insufficient for the efficient operation of the branch. Consequently, the branch has sought assistance from the Fisheries Research and Development Fund on the basis that its activities are in the better interests of the development of fisheries in Western Australia. This is agreed, but because of the restrictions which the Act places on the use of such funds the request cannot be accommodated within existing provisions.

As I have mentioned previously, the Bill seeks to amend the Act to empower the Minister for Fisheries and Fauna to authorise payment of moneys from the Fisheries Research and Development Fund for the purpose of assisting the fishing industry and any organisation whose objects include assistance to and promotion of the fishing industry.

I am advised that this type of assistance is provided for other primary industry associations established for the purpose of benefiting the primary producer. Those mentioned are the Potato Growing Industry Trust Fund and the Fruit Growing Industry Trust Fund.

It is believed that the better interests of the fishing industry would be served by granting the Minister the power which is now sought to assist the fishing industry association, and I commend the Bill to the House.

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

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [10.20 p.m.]: I move—

That the House at its rising adjourn until 2.30 p.m. tomorrow (Wednesday).

Question put and passed.

House adjourned at 10.21 p.m.

Legislative Assembly

Tuesday, the 30th November, 1971

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

GARDEN ISLAND

Public Access: Reply of Prime Minister

THE SPEAKER: I have for tabling a letter from the Premier's Department referring to a resolution passed by this House during last session in relation to a joint study by Commonwealth and State officials on public access to Garden Island. Attached to the letter is the reply of the Rt. Hon. the Prime Minister.

The letter was tabled.

QUESTIONS ON NOTICE

Tabling of Long Answers: Statement by the Speaker

THE SPEAKER: Before calling for questions on notice, I would advise members that due to the very extensive answers to some questions—and, in particular, I draw the attention of members to question 16 of last Friday, the reply to which involved two full pages of print in the *Votes and Proceedings*—I will direct that long answers be tabled and not included in the *Votes and Proceedings*.

QUESTIONS (31): ON NOTICE

1. DAY LABOUR FORCE

Public Works Department

Mr. HUTCHINSON, to the Minister for Works:

How many day labour employees (construction) were employed by the Public Works Department on—

(a) 1st March, 1971;

(b) 1st July, 1971;

(c) 1st November, 1971?

Mr. T. D. EVANS (for Mr. Jamieson) replied:

(a) March, 1971—1,342.

(b) July, 1971—1,355.

(c) November, 1971—1,354.

2. TRANSPORT

P.R.T.S. Report: Cabinet Subcommittee

Mr. O'CONNOR, to the Minister representing the Minister for Transport:

(1) When did a Cabinet subcommittee start work on the PERTS report?

(2) When is it likely their findings will be published?

Mr. T. D. EVANS replied:

(1) 16th March, 1971.

(2) The report is at present under consideration by the PERTS steering committee which expects to make its recommendations to the Cabinet sub-committee about the end of February, 1972.

Upon receipt of the steering committee's report, the Cabinet subcommittee will consider the recommendations and report to Cabinet.

3. ROAD MAINTENANCE TAX

Breaches: Non-prosecution

Mr. O'CONNOR, to the Minister representing the Minister for Transport:

(1) How many cases have occurred since the Government took office where it has been decided not to proceed with warrants against persons for breaches of road maintenance tax legislation?

(2) Do these cases include a candidate at the last general election?

(3) Without naming persons will the Minister advise the number of offences recorded against each person in question?

(4) Does the Minister know of other cases where actual breaches have been recorded but not proceeded against?

(5) If so—

(a) how many;

(b) for how many offences?

(6) Does the Minister agree that this preferential treatment is unfair to the person abiding by the law?

Mr. MAY replied:

(1) This information is not available and would require considerable research.

(2) This is not known. If the member can specifically name a person the information can be checked.

(3) Answered by (1).

(4) There are many instances where legal action cannot be taken due to lack of evidence or in some cases where the defendant is bankrupt.

(5) (a) Two.

(b) One person—12 complaints sworn and four in course of preparation.