

Sir CHARLES COURT:—from the atmosphere in which the Menzies Universities Commission was established. This worries us because the attitude of the present incumbents in office in Canberra is entirely different from the attitude of their predecessors who were committed to a Federal system and to consultation and co-operation with the States. The present incumbents make no bones about it that their ambition is to wipe out the States. We have heard utterances tonight and last night which frighten the daylights out of us because we have a State Government which confesses it wants to wipe itself out and commit itself to the ambitions of the Prime Minister.

Mr. T. D. Evans: No such thing!

Sir CHARLES COURT: The present Prime Minister has said on many occasions that it is the job of State Labor Governments to put themselves out of a job and wipe out State Governments. Thank goodness a constitutional majority would be needed to do that, even in this case, and the Government knows what chance it would have of getting that from us!

We are worried about the reasons for this amendment. It is not our intention to divide or oppose the amendment itself because we would not want to act irresponsibly and leave on the Statute book a Statute whereby the Government is obligated to pay \$500,000 because of that old provision which would now cease to be of any effect. We therefore have no intention of voting against that for what it is, but we intend to use this occasion, as the only occasion given us until we come to the Estimates, to protest about what is happening—this grab of the responsibilities of the States, and in a different atmosphere from that which prevailed when the Universities Commission was first mooted.

I want to say categorically that even when that commission was first mooted I was not happy about it. I was happy about our getting more money but I objected because the States had been traditionally starved from one Government to the other for funds with which to meet their responsibilities in health, education in all its branches, and every other field. Fortunately, we now have our Federal leader stating that when he becomes Prime Minister the first thing he will do is renegotiate our finances so that we will not go as mendicants but will get as of right our money to meet our responsibilities. It does not involve an alteration to the Constitution. It only involves a sensible, administrative decision. We hope we can somehow eventually bring it into a constitutional requirement. However, that is not primarily necessary because it can be done as an administrative action by negotiating between the Commonwealth and

the States for our fair share of the national cake. There is no major export or income-producing venture that was not initiated by a State. None was initiated by Canberra. The wealth of the country is initiated by the States, and we believe it must be spread on a more equitable basis so that we can receive this money as of right instead of as mendicants, having it given to us with a gun at our heads all the time. That is our objection.

We do not propose to vote against the clause itself; it would be foolish to do so. We use this occasion, until we deal with the Estimates, to record our protest.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 10.48 p.m.

Legislative Council

Thursday, the 11th October, 1973

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

BILLS (2): RECEIPT AND FIRST READING

1. Industrial and Commercial Employees' Housing Bill.
2. University of Western Australia Act Amendment Bill.

Bills received from the Assembly; and, on motions by the Hon. J. Dolan (Leader of the House), read a first time.

JURIES ACT AMENDMENT BILL

Assembly's Message

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

SHIRE OF ARMADALE-KELMSCOTT

Dissallowance of Health By-law: Motion

Debate resumed, from the 10th October, on the following motion by The Hon. Clive Griffiths—

That By-law 19 relating to General Sanitary Provisions made by the Shire of Armadale-Kelmscott under the Health Act, 1911-1972, published in the *Government Gazette* on the 20th July, 1973, and laid on the Table of the House on Tuesday, the 7th August, 1973, be and is hereby disallowed.

President's Ruling

The PRESIDENT (The Hon. L. C. Diver): At the last sitting the Leader of the House asked for a ruling as to whether the motion of The Hon. Clive Griffiths was in order.

In making this request the Minister drew attention to the section of the Health Act which provides that a disallowance resolution must be passed within 30 calendar days following tabling.

The Leader of the House pointed out that there is inconsistency between the Health Act and the Interpretation Act which sets down a period of 14 sitting days during which notice may be given, and claimed that the Interpretation Act could not apply to by-laws made under the Health Act.

I have read the speech of the Leader of the House and carefully considered the points he has made, and I would advise the House that in all recent cases of disallowance we have relied on the provisions of section 36 of the Interpretation Act.

Since the passing of this Act there have been a number of motions for disallowance of by-laws or regulations made under the Health Act, and as far as I can ascertain no consideration has been given to passing the resolution within 30 days.

There is an instance where regulations under the Act were tabled on the 29th September, 1949, notice of motion for disallowance was given on the 5th September, 1950—the 11th sitting day—and the resolution was passed on the 21st September, 1950.

A study of the debate when the Interpretation Act was passed reveals that emphasis was given to the safeguard provided by the period of sitting days, and it was then said that regulations had previously been presented to Parliament almost at the close of a session and in consequence there was no opportunity to question them. It seems to me that the framers of the Interpretation Act sought to overcome this situation by the period of sitting days written into the Interpretation Act.

The Leader of the House drew attention to two other Acts which prior to their repeal contained provisions similar to the Health Act, and it is interesting to note that legislation which has replaced them does not contain these sections.

I consider that the wording of the Interpretation Act, section 36(2) that "Notwithstanding any provision in any Act to the contrary, etc." was intended to supersede the then existing disallowance provisions in other Acts, and as notice was given within the 14 sitting days required by the Interpretation Act, I rule the motion to be in order.

Dissent from President's Ruling

The Hon. J. DOLAN: I thank you for your ruling, Mr. President, but with all due respect, I move—

That the House dissent from the President's ruling.

The PRESIDENT (The Hon. L. C. Diver): I point out to members that my ruling has been disagreed with. If any objection be taken to the decision of the President such an objection shall be taken at once and in writing and a motion moved, which, if seconded, shall be proposed to the Council and the debate thereon be forthwith adjourned until the next sitting unless the matter requires immediate determination.

The Hon. R. H. C. STUBBS: I second the motion.

Point of Order

The Hon. A. F. GRIFFITH: Mr. President, on a point of order on the question of whether this is a matter that requires immediate attention, I suggest that the mover of the motion may consider that it does require immediate attention in the light of the fact that the move he has made seeks to disallow an existing by-law under the Health Act. Therefore the longer the debate on the motion is delayed the more difficult the by-law may become. I do not want to press the matter, but I think it is a question that needs early determination. However I do not know who makes that determination.

The PRESIDENT: Has the Leader of the House any comments to make on the observations made by the Leader of the Opposition?

The Hon. J. DOLAN: Although I am ready to proceed I would be guided, of course, by what you consider is the correct procedure to follow.

The PRESIDENT: If the Leader of the House desires the House to proceed I see no reason to object. We are proceeding with the determination on the motion that has been moved to disagree with my ruling.

Debate (On Dissent from President's Ruling) Resumed

The Hon. J. DOLAN: Mr. President, in moving, with respect, to disagree with your ruling, I desire to make it quite clear that whereas the Government would strongly oppose the disallowance of the by-law, the subject of the motion by The Hon. Clive Griffiths, my taking a point of order on the regularity or otherwise of that motion is directed entirely by legal motives and a desire that the requirements of the Health Act be known and carried out in this Chamber.

You, Sir, will be aware, no doubt that until the amendment and consolidation in 1918 of the Interpretation Act, 1898, it was customary, and indeed a necessary requirement, that parliamentary practices in respect of the disallowance of regulations, rules, and by-laws be written into individual Acts—the 1898 Act merely acknowledging the power of both Houses of Parliament to disallow.

As previously noted, these procedures in respect of the Health Act are contained in section 347 and somewhat similar procedures were instanced by me in respect of the Veterinary Act and the Workers' Homes Act.

The 1918 Consolidating Act—while in section 36 wrote these procedures into the Interpretation Act as being applicable to other Acts in which these were not apparent—protected in section 3 the procedures already contained in existing Acts of which the Health Act is the present example under consideration.

Finally, to raise a point of order in such a matter may possibly be unprecedented, but this is not in itself an acceptable reason for its rejection. As I see it, the rejection merely confirms a precedent which is wrong in law and in my interpretation of the law I have the support of the highest legal advisers to the Government.

It is with a view to recognising the protection contained in that section of the Interpretation Act that I am obliged, with respect, to disagree with your ruling and to seek the support of honourable members accordingly.

The Hon. A. F. GRIFFITH: I say this with a little diffidence, but I am surprised to discover that following a ruling given by you, Mr. President, a copy of which I now have in front of me, no doubt prepared by you after careful consideration of the matter put before you, the Leader of the House is able not only to object to that ruling in writing in conformity with the Standing Order, but also to rise in his place and give a further opinion from a Crown Law officer in respect of a ruling which he must have anticipated you would give.

The Hon. L. A. Logan: Without knowing the reasons.

The Hon. A. F. GRIFFITH: Yes.

The Hon. W. F. Willesee: Be careful. You might be in Gilligan's place one day.

The Hon. A. F. GRIFFITH: I have been in the place where Mr. Dolan now sits and where Mr. Willesee sat for a long time. I suppose it would be true to say that while sitting in that seat I might have anticipated what ruling the President might give on a particular question, but may I congratulate the Leader of the House in his anticipation of the ruling given this afternoon.

The Hon. W. F. Willesee: A brilliant effort.

The Hon. J. Dolan: You make provision for these possibilities.

The Hon. A. F. GRIFFITH: I see. The Leader of the House is a man who appears on the platform and asks his audience what they would like to talk about, saying, "I have a 'No' speech in my left pocket and a 'Yes' speech in my right pocket." Having heard the President's decision the Leader of the House read his "No" speech.

The Hon. J. Dolan: It is something you have done often.

The Hon. A. F. GRIFFITH: No. It is not something I have done often at all. I am satisfied to let the matter rest there, but I still do not relieve myself of my amazement. I can only conclude that when taking the point of order yesterday the Leader of the House must have thought he was on extremely weak ground and that in case the ground fell away from under his feet he ought to be able to come along and try to bolster up the objection he took.

This House is the master of its own affairs and you have made rulings, Mr. President, from time to time some with which I have agreed and some with which I have disagreed; but, with the greatest respect, I say that the vote of the House finally determines when any honourable member disagrees with what you say when you give a ruling.

In my humble opinion the ruling you have given on this occasion is clear. I think that the Crown Law officer relied on section 3 (1) of the Interpretation Act as was quoted in the reasoning given by the Minister yesterday, but the operative section on which we have practised in this Chamber for as many years as I have been here and no doubt long before that, is section 36 of the Interpretation Act. That section is headed, "REGULATIONS, RULES AND BY-LAWS." You read that section to us today, Sir, and you dwelt upon subsection (2) which reads—

Notwithstanding any provision in any Act to the contrary—

That means the Health Act or any other Act. To continue—

—If either House of Parliament—

Not both Houses of Parliament but either House of Parliament. To continue—

—passes a resolution disallowing any such regulation of which resolution notice has been given at any time within fourteen days . . .

As you are no doubt aware, Mr. President, the subsection goes further than that, as follows—

This subsection shall apply notwithstanding that the said fourteen sitting days, or some of them, do not

occur in the same session of Parliament or during the same Parliament as that in which the regulation is laid before such House.

So the subsection even protects a situation such as the proroguing of Parliament which occurred in October, 1971, when the then Speaker of the Legislative Assembly passed away. The Governor prorogued Parliament and all the business on the notice paper lapsed and then most of it was reinstated.

So that section goes much more deeply into the problem by indicating that no matter whether it starts in one session and goes over into another, as long as notice has been given, this is all right. But, as I am sure you know, Mr. President, the section goes even further than that as follows—

(2A) Notwithstanding any provision in any Act to the contrary, if both Houses of Parliament at any time pass a resolution originating in either House amending or varying any such regulation or substituting another regulation or part of a regulation for that which has been disallowed by either House under subsection (2) of this section, then on the passing of any such resolution—

- (i) amending or varying a regulation or part of a regulation the regulation or part of a regulation so amended or varied shall, after the expiration of seven days from the publication in the *Gazette* of the notice provided for in the next subsection of this section, take effect as so amended or varied;

So, even if the time has expired, it is possible to have a regulation or by-law amended or varied in any way.

I do not propose to labour the point any further except to say that I believe your ruling is correct and is in conformity with the practice we follow of operating, in relation to regulations, rules, and by-laws, under section 36 (1) and the following paragraphs of the Interpretation Act, and not under section 3 of the Act which, after all, is the section which is headed, "APPLICATION OF THIS ACT."

To give emphasis to your ruling, Sir, you have been able to give us a precedent for action that the Council has taken in the past. Therefore I consider your ruling is correct and I disagree with the motion moved by the Leader of the House.

The Hon. J. DOLAN: I only intend to refer once again to section 3 (c) of the Interpretation Act. Section 3 (1) of the Interpretation Act says—

In the absence of express provision to the contrary, this Act shall apply to every Act of the Parliament of the

State, heretofore or hereafter passed, and to every regulation made under any such Act, except in so far as—

The Hon. A. F. Griffith: What about section 36?

The Hon. J. DOLAN: I will now refer to paragraph (c) of subsection (1) of section 3 of that Act which states—

any provision of this Act is inconsistent with any definition or interpretation contained in such particular Act or regulation—

And I gave examples when I asked you for a ruling yesterday, Sir—

—or in the case of a regulation, with any definition or interpretation contained in the Act under which such regulation purports to have been made.

I rely entirely on section 3 (1) (c) in support of the fact that I disagree with your ruling which I do with the utmost respect, Mr. President.

Question (dissent from President's ruling) put and a division taken with the following result—

Ayes—8

Hon. S. J. Dellar	Hon. R. H. C. Stubbs
Hon. J. Dolan	Hon. R. Thompson
Hon. J. L. Hunt	Hon. W. F. Willesse
Hon. R. T. Leeson	Hon. L. D. Elliott (Teller)

Noes—15

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

Fairs

Ayes

Hon. R. F. Claughton	Hon. C. R. Abbey
Hon. D. K. Dans	Hon. F. D. Willmott

Noes

Question thus negatived.

Debate (on motion) Resumed

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [3.06 p.m.]: In view of certain information that has come to my knowledge I feel that the Council should not make a determination on this matter at this point of time. I am told that the Shire of Armadale-Kelmscott—and I do not know whether the Minister for Local Government knows about this—proposes to introduce for consideration a further amendment to this particular by-law. I wonder whether the Minister for Local Government knows about this.

The Hon. R. H. C. Stubbs: I am frightened to lose my chance to speak on it.

The Hon. A. F. GRIFFITH: I want to be helpful to the Minister and if he nods to me that he has got a copy of the paper that I have in my hand it will satisfy me.

The Hon. R. H. C. Stubbs: You tell me what you have in your hand and I will give you a nod.

The Hon. A. F. GRIFFITH: I think what the Minister may have is a piece of paper with "Shire of Armadale-Kelmscott" written on it.

The Hon. R. H. C. Stubbs: That is right.

The Hon. A. F. GRIFFITH: I think we are at one on this. The Minister for Local Government would therefore know that the Armadale-Kelmscott Shire is contemplating a change to the existing by-law the disallowance of which we are seeking.

Accordingly I suggest the parties should be given the opportunity to get together. If an indication is given to me by somebody on the Government side I will ask Mr. Heitman, the Liberal Party Whip, to move that the debate be adjourned while the Shire of Armadale-Kelmscott, the Master Builders' Association, and the people affected by the by-law we are now seeking to disallow are given a chance to get together in an endeavour to solve what is undoubtedly a problem, not only in this particular local authority but also in other local authorities.

As Mr. Clive Griffiths has said, one has only to move around the metropolitan area to see the inevitable collection of builders' rubbish, empty milk cartons, and empty bottles and lunch wraps which accumulate on and around a building site.

It is extremely difficult for a builder to contain such rubbish and to prevent it from being blown onto somebody else's front lawn or block while the building operations are in progress.

Whilst I personally feel, from the explanation that has been given us by Mr. Clive Griffiths, that the situation is being overdone by the requirement of a six cubic yard or a 10-cubic yard container, I feel there could easily be some intermediate requirement which would satisfy both the Shire of Armadale-Kelmscott and the building operators. I believe that is what the Shire of Armadale-Kelmscott is trying to achieve.

I will say no more but I would like an indication from the Minister that he will be prepared to allow the debate to be adjourned in order that the matter may be concluded satisfactorily and in a manner which is mutually acceptable to the parties concerned, rather than make a determination on the disallowance of the regulation this afternoon. The Leader of the House has already spoken once on this matter, so I do not think he would be in a position to speak again.

The Hon. J. Dolan: I do not want to spoil any right the Government would have.

The Hon. R. H. C. Stubbs: I will give you a nod.

The Hon. A. F. GRIFFITH: A nod is as good as a wink to a blind horse. I will sit down to enable the Government Whip to move for the adjournment.

Debate adjourned, on motion by The Hon. L. D. Elliott.

OFFICIAL PROSECUTIONS (DEFENDANTS' COSTS) BILL

Second Reading

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [3.11 p.m.]: I move—

That the Bill be now read a second time.

It was the stated policy of this Government to review the laws which prevented legal costs being recovered by successful defendants of charges laid by the Crown, including statutory authorities.

This Bill has been drafted following a report of the Law Reform Committee, as it then was, and provides for financial relief to an accused in a trial held in a Court of Petty Sessions or a Children's Court who is acquitted or who has the charge against him withdrawn, or in cases where the charge is not proceeded with.

The scheme also includes appeals from summary trials, and the appellate court may award costs where the defendant is successful by reason of his appeal. The amount of the costs ordered, other than court fees, shall be in accordance with a scale to be prescribed. However, provision is made in the Bill to allow the court to make an order in excess of the amount prescribed where it is satisfied that the payment of greater costs is desirable.

Not all successful defendants are to be entitled to costs as prescribed, as the court may order that such a defendant is not entitled to full or part costs in certain circumstances. An example of this is where a charge is dismissed under section 669 of the Criminal Code: that is, the provision for first offenders. Members will be aware that in such an instance a judicial officer may be convinced that an offence has been in fact committed, having regard to the antecedents of the offender. However, because it is a first offence, the judicial officer may decide not to record a conviction and the charge is said to be dismissed pursuant to section 669 of the Criminal Code.

Another example is where a defendant does something which is unreasonable and which contributes to the institution or continuation of the legal proceedings; or where he has done something during the course of the proceedings which is calculated to prolong the proceedings unnecessarily or cause unnecessary expense. In that case the court has a discretion in determining its order as to costs.

The payment of costs ordered shall be made to the defendant upon a certificate of the Court being produced to the

Treasurer of the State where the public official who is a party to the proceedings happens to be a person falling into the following categories—

a Minister of the Crown;

a public servant;

a police officer;

or a person acting as an agent of these officials.

Where the public official, who is a party to the proceedings, is employed by a statutory body, other than a Government department or instrumentality, or is an agent of such a body, the costs shall be paid by that body. I point out that such bodies would necessarily include local authorities.

I interpolate here to indicate that in April of this year the Attorney-General asked the Minister for Local Government to draw to the attention of the many local governing authorities in Western Australia the intention of the Government to proceed with this legislation. He also asked the Minister to draw to the attention of the authorities the obligations which could arise under the legislation in certain circumstances to pay costs to successful defendants. In a circular letter dated the 13th April, 1973, distributed by the Local Government Department, paragraph 3 refers to the payment of costs to acquitted persons, and this would indicate that local authorities have had adequate notice of the intention of the Government. I understand that as at the 11th September last no comments or complaints from local authorities had been received and recorded by the Local Government Department pursuant to the distribution of the circular.

Attention should be drawn to the fact that where costs are ordered the public servant, police officer, or statutory authority employee is not by this legislation made personally responsible to pay the amount ordered. Costs awarded for which the State Treasurer is responsible shall be met from the Consolidated Revenue Fund.

In June of this year the Lord Chief Justice of England (Lord Widgery), when giving a practice direction in the Queen's Bench Divisional Court, enunciated examples of reasons for not ordering costs in favour of a successful defendant, and I am led to believe that the criteria adopted in England approximate those included in this Bill.

On numerous occasions over the past few years demands have been made for reform to end the injustice suffered by an acquitted person who has not been compensated. It is submitted that this Bill, which has been drafted as a result of considerable research and consultation with responsible sectors of the community, is a piece of legislation which is vital to

the protection of the personal rights and freedom of the citizens within our community. I commend the Bill to the House.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

Second Reading

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

That the Bill be now read a second time.

This Bill is presented as an urgent measure because its main purpose is to enable the Australian Model Uniform Building Code to be adopted in Western Australia. This code is the product of several years' work by the interstate Standing Committee on Uniform Building Regulations. The committee was instituted by the State Ministers for Local Government. It is representative of each State, the Australian Capital Territory, and the Northern Territory, and its secretariat is located at the Commonwealth Experimental Building Station.

The code can truly be said to be an example of co-operative activity between the various States and the Australian Government, and it is believed the new building by-laws based on the code will be welcomed by architects, engineers, builders, and municipal councils alike.

The code has already been adopted in the States of New South Wales and South Australia, and other States are in the course of adopting it.

This State has given an undertaking to have by-laws, based on the code, promulgated by the 1st January, 1974. The new by-laws will be in metric dimensions. Before the by-laws are finalised, it will be necessary to ensure that the legislation contains the necessary enabling powers and this is the main purpose of the Bill which is now submitted.

Clause 1 merely relates to the title of the Bill. Clause 2 provides that the provisions will come into force on dates to be fixed by proclamation.

Clause 3 is to repeal and re-enact section 373. The present provisions of this section are as follows—

(1) (a) Subject to the provisions of subsections (2) and (4) of this section, this Part applies to each district in the State.

(b) The Governor may, by Order, apply all or any of the provisions of this Part to any district or to portion of a district, and except while their operation is suspended under subsection (2), or except as provided otherwise by subsection (4), of this section, the provisions apply to the

district or the portion of the district in accordance with the Order but not otherwise.

(2) At the request of a council the Governor may by Order, from time to time suspend the operation of all or any of the provisions of this Part in its district or any portion thereof to which they apply for such period as he thinks fit.

(3) Where all or any of the provisions of this Part apply in a district or part thereof, the municipality shall appoint a building surveyor.

(4) Notwithstanding that an Order is so made, the provisions of this Part, shall not apply to buildings owned or occupied by, or under the control or management of the Crown in right of the State, or a department, agency, or instrumentality of the Crown in right of the State.

(5) During the operation of an Order so made, the provisions of this Part apply, subject to subsection (4) of this section, to a building, notwithstanding that its roof or covering has been removed or has fallen in, that the building has not been completed, or, having been completed part of the building has wholly or in part been demolished, removed, or become ruinous or that the building is a building of a type that has not a roof or covering.

This section was amended in 1967 in an endeavour to clarify the provisions, but nevertheless the phraseology is not very clear. The amendment will clearly provide that part XV will be applicable to the whole of the State except where an order is made exempting a district or portion of a district from its provisions. It is also believed that because of the provisions of paragraph (a) of subsection (1) of this section, paragraph (b) is quite unnecessary.

Clause 4 repeals subsection (4) of section 374 of the principal Act which at present is as follows—

(4) (a) When a plan and specifications in respect of a building proposed to be built are submitted to the council for its approval in accordance with the provisions of subsection (1) of this section, the person causing them to be submitted shall also deposit with the council, which shall retain it, a statement in writing signed by the person for whom the building to which the plan and specifications relate, is to be built, setting forth the purpose or purposes for which the building is intended to be used, and if particular parts of it are intended to be used as distinct from other parts and for purposes different from those for which another part is intended to be

used, setting forth the purpose or purposes for which each particular part is to be used.

(b) After the statement has been so deposited with the council no person shall use, or permit the use of, the building or part for a purpose other than that set forth in the statement in relation to the building or part, except by the written authority of the council, or of the Minister on appeal under paragraph (c) of this subsection.

Penalty: Maximum penalty, four hundred dollars and in addition a maximum daily penalty of sixteen dollars for each day during which the offence continues.

(c) A person who has applied for and been refused the authority by the council may appeal in writing to the Minister against the refusal of the council to grant the authority and the Minister may grant the authority in the name of the council, and the Minister's decision is not subject to appeal.

This subsection is at present designed to prevent a building from being used for a purpose other than that for which it was designed unless the council approves or the Minister grants authority on appeal. It applies, however, only to buildings erected after the commencement of the Local Government Act and if the control required by the Australian Model Uniform Building Code is to be effective, it will be required to apply to all buildings. The subsection is substituted by proposed section 374C detailed in clause 6.

Clause 5 introduces a new section 374B which is designed to permit building work to be undertaken in an emergency. The necessity for this amendment was recently demonstrated when a building was unroofed, and the restoration could not lawfully proceed until a building license was obtained. The new section requires written notice of the work performed to be served on a council as soon as practicable and provides that failure to comply with this condition is an offence.

Clause 6 provides for a new section 374C which replaces and expands the present section 374 (4) to ensure that the buildings are not used for purposes other than their correct classification. It enables a council to classify any building erected before the commencement of this amending Act and to ensure compliance with the purpose of that classification.

Clause 7 repeals sections 381 and 382 of the Act, which at present are as follows—

381. No person shall use for covering the roof of a building in a district of a municipality, a material other than slate, tiles, metal, glass, artificial

stone, cement, fire resisting shingles, or other material approved by the council as suitable for the purpose.

382. (1) No person shall build a building intended to be or capable of being used as a dwelling-house higher than the floor level of the ground floor, until the builder has satisfied the council or the building surveyor of the municipality in whose district the building is being built, that the ground floor is so constructed, or is raised to such a height, as to admit a free current of air passing under that floor or, where the floor is an impermeable concrete floor, that the admission of a free current of air passing under that floor is unnecessary and has received from the building surveyor or council a certificate that he or it is so satisfied.

(2) (a) Where a building, intended to be, or capable of being, used as a dwelling-house or for offices, or for occupation by persons for such periods as in the opinion of the council render filling desirable, is built or is about to be built, or is being built, in a low or damp situation, the council or the building surveyor may by written notice served upon him, require the owner to fill up the space between the surface of the ground and the ground floor level of the building with sand, cement, or other suitable material to such height, and within such time, as is specified in the notice.

(b) A person who does not comply with the requirement of the notice commits an offence.

(3) A person who is dissatisfied with the refusal of the certificate, or with a requirement in the notice may within fourteen days of the refusal of the certificate, or of the service upon him of the notice, as the case may be, appeal under Division 19 of this part in the manner prescribed by the regulations in respect of the matter with which he is dissatisfied.

The reason for this amendment is that similar provisions are contained in the Australian Model Uniform Building Code and it is more appropriate that this control should be exercised through the by-laws which will be made in accordance with the code.

Clause 8 repeals the existing section 433 which at present prescribes the various purposes for which a council may make by-laws. It provides for the re-enactment of the section to generally conform with the provisions of the Australian Model Uniform Building Code. The section is very similar to the provisions of section 61 of the Building Act of South Australia for which the regulations in that State have been made to adapt and adopt the Australian Model Uniform Building Code.

Subsections 1 to 40 of this proposed new section are self-explanatory and must all be included in the Act if the by-laws as prepared as an adaptation of the Australian Model Uniform Building Code are to be brought into force in time.

The final clause in this Bill is to overcome the necessity to prepare Orders-in-Council to apply amendments to the Uniform Building By-laws, to those municipalities to which the by-laws apply.

This clause seeks to repeal section 433A of the Local Government Act and re-enact it. Section 433A as presently drafted requires an Order-in-Council to be prepared to apply amendments to the uniform building by-laws to municipalities every time an amendment is made. This, of course, causes delays between the time amendments are made by one Order-in-Council, and their applications to municipalities by a subsequent order. This also causes confusion in municipalities relative to the date that any such amendments apply.

The proposal contained in this clause will automatically apply amendments to the Uniform Building By-laws to those municipal districts and portions of districts where the by-laws apply without the necessity for a subsequent Order-in-Council, thus overcoming the delays and confusion already detailed.

This will be achieved by applying the Uniform Building By-laws to the whole of the State, except where the Governor, by order, from time to time declares municipal districts exempt, or limits the extent of the application in specified municipal districts.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. L. A. Logan.

DAIRY INDUSTRY BILL

Second Reading

Debate resumed from the 10th October.

THE HON. G. C. MacKINNON (Lower West) [3.33 p.m.]: Last night when Mr. McNeill was speaking in the debate he gave a very detailed exposition of the industry, of its history and development. I shall endeavour to avoid many of the matters on which he touched.

Ever since I can remember there has been an argument with regard to the proper control of the dairy industry. As members are aware, there are in the main two branches of the industry. One branch supplies the whole milk; and the other branch which in the past was known as the butterfat section produced milk for the purpose of extracting the butterfat for the manufacture of butter. In recent years this division has become somewhat confused, because the milk produced by the butterfat section has been used for the manufacture of a wide range of products.

The dairy farmers who were producing potable milk alone also sold on the market which formerly was solely supplied by the manufacturing milk section. Any surplus in whole-milk production was used as manufacturing milk.

For many years the producers south of Busselton regarded this as a grave disadvantage, in comparison with the position of dairymen north of Busselton who were supplying the whole-milk market. Through the Milk Act, the whole-milk market has become very orderly and very well controlled, and these producers have become affluent compared with the dairy farmers who produce milk for butterfat.

Many of the producers felt this was an artificial division, and that it should be corrected. The only way to correct the situation was to organise the whole of the milk supply in the State and place the operations under the control of a single dairy authority. It was felt that the Milk Board which controlled the potable milk only should go out of existence.

In the early days when this proposal was put forward, there was a great deal of antagonism to it. The antagonism came mainly from producers north of Busselton; that is, from the predominantly whole-milk area. Over the years this antagonism gradually lessened, but it has not disappeared completely. Indeed, it is still apparent in some localities, and in certain individuals and groups.

It was hailed as something of a victory when the two sections of the industry came to agreement that there should be a single dairy authority. Ultimately this agreement resulted in the Bill before us—one to consolidate and amend the law relating to the dairy industry, and milk and dairy produce.

The Bill has been on the stocks for quite a long time. Its purpose is to replace virtually all the legislation governing the dairy industry. Clause 4 of the Bill repeals the Acts specified in the schedule to the Bill; they are the Dairy Industry Act, the Dairy Products Marketing Regulation Act, and the Milk Act.

This is an all-embracing piece of legislation. When one reads the Bill in detail one finds that nearly all facets of the industry are to be controlled, and are to be subject to regulations of one form or another, as both Mr. McNeill and Mr. Baxter have pointed out. Some of the controls which are proposed give me cause for concern. In different ways many of the controls worry members of the dairy industry. Some of them are of concern to the people engaged in the business of producing milk, others to the transporters of milk, and yet others to the manufacturers of milk products. I am sure that if the consumers of milk had a union, other aspects of control proposed in the Bill would also give them cause for concern.

It is impossible to frame a Bill of an all-embracing character which does not contain some aspects that are of concern to people. Clause 6 of the Bill provides specifically that the Governor may from time to time by proclamation in the *Government Gazette* declare any substance, not being milk, in the production or manufacture of which milk is used, or any substance produced or manufactured from milk is used, and which is ordinarily used as a food for humans, to be dairy produce for the purposes of the Act.

Those items can be declared to be dairy products for the purposes of this Act. In that situation I suppose that milk bread could be declared to be a dairy product. Of course, a number of other items can be so declared.

There are other aspects contained in this Bill which will bring the industry under even greater and more rigid control. One might ask, with some justification, why there is a need for such a rigid control of milk and milk products and why it was ever thought that such controls were necessary. One should examine the situation to see if these reasons still apply.

As members are aware, milk is a highly perishable product, and because of its highly perishable nature it can cause sickness if not rigidly controlled. It is also a product which can be diluted very easily by merely adding water. Of course, when milk was delivered to the door in a can and measured out with a dipper, many years ago, many were the stories of a vendor running short and having to add some water from a garden tap before going to the next customer.

The Hon. N. E. Baxter: I have seen it done.

The Hon. G. C. MacKINNON: It seems we have members who can claim their memories go back far enough to remember having seen it done.

The Hon. S. J. Dellar: One need not be very old; I can remember it.

The Hon. W. F. Willesee: It would not be done today.

The Hon. G. C. MacKINNON: Even Mr. Dellar, who is a reasonably young man, can remember it occurring. Mr. Willesee's interjection, that it would not be done today, is quite pertinent and I agree.

I think many aspects of the legislation now before us, and that contained in many other Statutes, stem from the fear of what happened 20 or 30 years ago. People tend to forget that tremendous advances have been made in technology which virtually make it impossible for similar events to occur today. Milk is now delivered in sealed containers under regulations which are clear and specific. It is relatively easy to carry out tests in order to determine whether milk is of the right standard, and to determine the bacteria count.

Regular sampling and testing of milk is carried out, and prosecutions do ensue. Therefore, I believe the rigid controls which applied in earlier years are no longer necessary. The standards covering hygiene and bacteria counts are all laid down.

Coming to standards, they were set at 8.5 solids-not-fat and 3.2 butterfat. At that time they were considered to be reasonable standards to obtain from a beast under reasonable pressure. We must remember that in years gone by the bulk of the herds consisted of Channel Island cows—Guernseys, Jerseys, and the like. Those types are richer producers, in terms of total solids, than some of the quantity producers which have been introduced in recent years. I do not think there is any need to change those standards. The standard was set in order to ensure that dilution did not occur through the addition of water to the product in order to bulk it and return a bigger profit.

The standard has caused some difficulties during the last year or so. During a recent severe season somewhere in the vicinity of 50 per cent. of the producers of potable milk ran into difficulties with regard to maintaining standards. The difficulties did not apply to all farmers. *Sitting suspended from 3.45 to 4.04 p.m.*

The Hon. G. C. MacKINNON: Before the afternoon tea suspension I was discussing the standards of 8.5 parts solids-not-fat and 3.2 parts butterfat, which have been set for the supply of milk. Incidentally, these are virtually all the nutriment in the milk and, to this extent, they are important.

Some farmers have the managerial ability or the land to enable them to maintain this standard apparently without a great deal of trouble but last year over 50 per cent. of dairy farmers did not do so because of the severe season.

It almost always follows that a person coming into the whole-milk industry has little or no trouble for the first year or so. This is because his cows have not been under stress; they have lactated for a reasonable period of time; they have dried off; and they have been put out to be mated, and so on, and to rest. This applies at first but is not the case after several years of being in the whole-milk industry. By then a dairyman's whole farm and all his cows are under some degree of stress. Frequently there is also the intrusion of quantity producers and, consequently, there is a drop-off in the standards. We frequently find that after several years in the industry such farmers have difficulty in maintaining the standards of 8.5 and 3.2 which have been laid down by law.

There appear to me to be sound reasons to examine the economics of these standards because it is no longer technologic-

ally necessary for these standards to be maintained through the milk of the cow alone rather than from any other source. For instance it is possible to produce milk pasteurised ex the factory at any particular standard that may be laid down.

My research indicates that there is at least one place in the world where milk of 10.0 parts solids and 2.0 parts butterfat is produced for sale. It is a simple matter indeed to put the necessary milk powders—there is nothing artificial about it—into the milk to build up any particular form of solid required. Furthermore there is no great difficulty in taking off any surplus cream or fat which it may be considered desirable to take off. Consequently, there is reason to examine the standards which are laid down in this State.

As Mr. McNeill said, we are \$10,000,000 worth of milk products short of our requirements in this State. Obviously we need quantity. If we produce quantity at a profitable margin to the farmer by virtue of milk which is at a slightly lower standard than that required under the various pieces of legislation there should not be any grave difficulty in bringing the milk up to the required standard if it is considered to be nutritionally desirable, and to have a ready sale.

Consequently there are reasonable grounds for examining the very basis that rendered necessary the original Milk Act, the regulations, and the laws affecting it as well as the very basis of that which has followed and led on to what is considered to be the need for this piece of legislation.

I believe another problem will confront dairymen with ever-increasing severity from now on. This problem is associated with the maintenance of the standards laid down for milk. I refer, of course, to the ever-increasing price of protein supplements.

We frequently hear the expression "sub-standard milk". Let it be clearly understood that milk is substandard only in accordance with the standards of 8.5 and 3.2 which have been laid down. In this sense, it is not necessarily bad milk and it is certainly not necessarily bad for anybody to drink it. Indeed, it could be a perfectly good nutritional product. It is substandard purely because the law states that the standards at the present time must be 8.5 and 3.2. Indeed, some nutritionists would tell us that we would be better off drinking milk with virtually no fat content at all. Personally, I do not like the taste of this type of milk and many people would join me in that. However, from a nutritional point of view we are assured that we would be better off drinking skim milk with virtually all the fat taken off. I used to drink it as a boy but I did not like it then and I do not like it now.

The Hon. J. Dolan: It used to be sold during the depression.

The Hon. G. C. MacKINNON: That is correct. It is a perfectly good product but, according to the law, it is substandard. I emphasise that it is not substandard in the sense that it is bad for one's health or makes one sick.

I was about to make the point that many farmers maintain their milk standards by feeding the cows supplements. The most popular one would be barley but a number of others are used such as, for example, the residue from the brewery. There are a number of others but they are very expensive. Soya bean is a rich source of protein but, on the world market it is bringing something over \$600 a ton. A lupin which is high in protein has been developed but pricewise it, too, is going through the roof. Virtually every other form of protein supplement must follow.

I was expressing my views last week to a dairy farmer with a comparatively small herd. He told me that his bill for supplementary feed last year was \$1,900 and this year he expects it will be \$2,500.

The Hon. N. E. Baxter: That would include mineral supplements, too.

The Hon. G. C. MacKINNON: Yes, protein and minerals.

The Hon. N. E. Baxter: The minerals are to keep up the fat content.

The Hon. G. C. MacKINNON: A friend of mine has undertaken some research on this subject. He has told me that it cost dairy farmers in this State approximately \$1,250,000 in the summer of 1972 to provide the necessary food for their cows so that the farmers would not be in trouble on the question of standards. They paid this amount to maintain the standards which had been laid down and to keep themselves out of trouble to the extent they did.

I was also told that it would have cost the farmers \$36,000 to bring their milk up to the Department of Agriculture recommendation had it been supplemented within the factory. I think this matter ought to be examined with a view to ascertaining which is the better method of doing it.

In short I believe some flexibility ought to be brought into the Act so that a farmer may be paid a commensurate figure to ensure profitability. It would have to be a payment on quality so that the farmer may produce in a way which is profitable to himself. If a dairy farmer is in the situation of being able to produce milk which is above the standard set by law he should be paid accordingly. If it is profitable for a dairy farmer to produce milk below the standard set by law, once again he should be paid accordingly—not prosecuted and put out of business. Of course, this would necessitate a change in the law in order

to ensure that products sold to the consumer were always and forever at a hygienic and nutritional standard. Technologically there is no great difficulty barring the way to achieve this.

I suppose there would be criticism that this would leave it open for companies to make more profit. I cannot see that at all. If the industry is to survive, of course companies must make a profit. Dairymen would have to buy milk at the set quality standard required and they would have to take out of it the required component necessary and put it into the bulk milk which they had.

Once again, technologically the difficulties are no longer as apparent as they were with regard to quality payments. More and more frequently bulk milk tankers are being used and a daily sample could be taken, properly assessed, and payments made on the quality. All of this would need to be examined.

It appears to me that a proper examination may reveal that we could reduce the controls over the milk industry rather than increase them. I go back to what I said about a quarter of an hour ago. I have a feeling that many of the controls are included in this type of legislation not because of difficulties encountered today, but because of difficulties facing the industry about 30 years ago. Many of these are no longer real difficulties with today's advanced technological development, speed of transport, and hygiene requirements which affect the industry generally. I believe our legislation should be more flexible.

I am not really worried about the concept of a single authority, but I am worried about the inflexibility which seems to be inherent in this type of legislation; many of these aspects have been touched upon by the previous speaker and also Mr. McNeill. As a Liberal, and one who believes in private enterprise—I always have, and I am sure I always will; because the more I see of other methods of economics the less I like them—I find it difficult to believe that such rigid control of any industry is necessary.

Difficulties appear immediately we turn to the establishment and constitution of the authority. Much debate has taken place in regard to its proposed membership. The Government itself moved an amendment to include a vendor representative, and it is becoming difficult to maintain balance on the authority. I have no doubt this will be further discussed in the Committee stage. However, I have several queries I would like to put to the Minister as we go through the Bill. Clause 20(2) reads as follows—

(2) No attornment to the Authority by a lessee from either of the dissolved Boards shall be required.

Is this really necessary or has the provision been lifted from the New South Wales Act with no real application here? Perhaps if we had an hour to spare, Mr. Medcalf could explain the provision in great detail.

The Hon. D. K. Dans: Don't wish that on us!

The Hon. G. C. MacKINNON: I thought if the provision was explained to us, we may be able to drop it. Clause 23(1) reads as follows—

23. (1) The Authority—

- (a) may determine and prescribe grades and minimum standards for the quality and composition of milk and dairy produce and those standards shall be in addition to, and not inferior to, those prescribed under the Health Act, 1911, for the milk or dairy produce;

So the standards can be set. The only thing that worries me is that the standards really have to be set from the cow. If we are to obtain the ever-increasing quantity of milk we need to meet our requirements there is reason to wonder whether the standards can be maintained.

The Hon. R. Thompson: Whilst you were speaking a moment ago I cast my mind back to the previous legislation, and I sent out for the 1959 Filled Milk Act.

The Hon. G. C. MacKINNON: The Minister has brought up the matter of the Filled Milk Act, and I remember at the time he referred to the wonderful market which would be available in Java. As they do not drink milk in Java, I thought then that we would have a lot of work ahead to change their dietary habits. Filled milk is brought up to a standard by an injection into the base of other than milk products.

The Hon. R. Thompson: That is right.

The Hon. G. C. MacKINNON: I am glad the Minister brought this up as there may have been confusion. I thought I had been clear enough—I was envisaging that the legislation referred to total milk products with nothing artificial added. Filled milk is a milk base with vegetable and other fluids added. I believe in South Australia and some States of America the standards are maintained, but they are standards ex the factory and not ex the cow and use milk products only.

The Hon. R. Thompson: One of the interjections was about protein solids. Once you start adding proteins to the milk, you are getting into the filled milk area.

The Hon. G. C. MacKINNON: When I talked about protein supplements, I was talking about adding proteins to one end of the cow in order to increase the standard of the output at the other end. In other words, it is a supplement fed to the cow.

The Hon. W. F. Willesee: By the time you finish with her, I would hate to be the cow.

The Hon. N. McNeill: It will come out the "udder" end.

The Hon. G. C. MacKINNON: The cow leads a very pleasant life.

The Hon. R. Thompson: Why don't you do a swap?

The Hon. G. C. MacKINNON: There are other details we may debate during the Committee stage. At the moment we are dealing with matters of principle, and certain ideas have been put forward.

The Hon. R. Thompson: I would appreciate your bringing up anything now.

The Hon. G. C. MacKINNON: That is what I am trying to do. Mr. McNeill made it clear that he does not consider the dairy industry prices tribunal is a necessary ingredient of the legislation. Indeed, quite a few clauses relate to the setting up of the dairy industry prices tribunal. Over the years it has appeared to me that the setting of prices in this industry could be an exercise to be given to an accountant. To my mind there seems to be little need for a prices tribunal. Indeed, I was a member of the Cabinet when the present Milk Board, under the chairmanship of Mr. Franklin, put up its submission—and a very excellent submission it was as all sections of the industry had been treated fairly. If we are to have a single authority—and I intend to vote for the second reading of this measure—it seems to me that every possible aspect of the industry should remain under the control of the authority. I really cannot see the need for a prices tribunal as well as the authority.

There ought to be some provision for price adjustments at frequent intervals as an accountancy exercise. I notice in today's Press that bread went up 1c a loaf this morning—without trauma. A submission was made to the previous Government for an increase in the price of milk. We were advised it was the first submission of this kind in five years, and this was regarded as something of a triumph. I thought it was far from that because I believe that little by little is the best way to increase prices. I would rather see a product go up 1c—if we had such a coin—rather than see it go up 2c or 3c at the one time.

At the present time prices must rise by at least 1c per item, but a frequent rise of 1c is better than a big rise occasionally.

The Hon. R. Thompson: Under the provisions of the Wheat Products (Prices Fixation) Act the bakers must justify any rise to a prices tribunal, and no hue and cry results from a price rise. Such an idea may be worth while considering.

The Hon. J. Heltman: There have been two rises this year.

The Hon. G. C. MacKINNON: At the time of the submission to the previous Cabinet, the Milk Board justified a 1c per pint rise. The other 1c was proposed because it was believed it would be necessary in the next month or two. This rise was not granted but it was intended that it would be within a few months. Unfortunately, a few of the electors in Mirrabooka decided otherwise, and so the matter was left to a Minister of a different political persuasion. The dairy industry has had to wait a fairly long time for a rise.

The Hon. W. F. Willesee: That is not completely true.

The Hon. N. McNeill: It has waited 18 months.

The Hon. G. C. MacKINNON: It has waited a long time, and the justification is no better in respect of bread. Bread prices rise almost automatically.

I have another query in relation to clause 62 (4) (c) which reads as follows—

(c) The court of petty sessions hearing an appeal under this section is not, for the purposes of that hearing, bound by the rules of evidence and may inform itself on the matter of the appeal in such manner as it thinks fit.

This matter was brought up in another place. I have read the Minister's reply, but I consider it is quite unsatisfactory, as it really said nothing. The Minister said, "We think this makes it easier, and therefore we will do it." I believe we are entitled to an explanation of how such a provision will assist the industry. I hope the Minister will give us that explanation.

I would like to raise a query in relation to Division 4—Vesting of Milk in the Authority. There must have been some reason that rigid controls were included in this legislation. I have read that the Farmers' Union believes they are necessary. However, no reason is given as to why they are necessary. The Farmers' Union believes it is imperative the milk should be vested in the authority, but we will need a lot more explanation when we get to the Committee stage of the Bill. Incidentally, I would like the Minister to look at paragraph (b) of clause 67 (5). The word "disposed" appears in line 14, and I believe it should be "disposes". This is a minor matter, but I feel it should be corrected.

It has been indicated that everyone is not happy with the measure, and it is interesting to note the answers given to some questions in relation to people trying to leave the industry, since the introduction of this measure in another place. Some 136 applications have been made to leave the industry in the last three years. This is a high proportion of the total of

600. It is also interesting that it has become increasingly difficult recently to obtain permission to sell a quota off to someone else. One would be entitled to wonder whether the Milk Board is concerned at the trend of people attempting to leave the industry. On many occasions the Milk Board is anxious about good farmers—and by that I mean those farmers who for one reason or another, perhaps managerial skill, have been able to maintain the standard of milk from the cows—wishing to leave the industry. This is an indication that under the provisions of this Bill, as well as those of the present Act, the authority has the ability to make it almost an economic impossibility for someone to move out of the industry.

The Hon. G. W. Berry: Are these farmers being replaced by others, or do they leave the industry altogether?

The Hon. G. C. MacKINNON: Obviously they are selling their quotas to other suppliers.

The Hon. R. Thompson: Is there much interest being shown by people in regard to buying whole-milk quotas?

The Hon. G. C. MacKINNON: Yes, there is always interest in buying whole-milk quotas. Very often what is entailed is a movement geographically. Whole-milk production may be centred in an area south of Busselton, because some quotas have been given, and many farmers in that area would like to be in whole-milk production. If the quotas were available to be sold openly there could be a geographical shift. For example, a dozen quotas could be moved from, say, the Harvey-Brunswick area to Cowaramup if that district were open and that was published accordingly. There is some resistance to this. The problem is that the holders of quotas try to sell them to people who want to buy. But sometimes they have some difficulty in trying to get out of the industry.

The Minister may, perhaps, have a look at clause 92 which is the inspectorial provision and let us know whether or not he thinks all the requirements in that clause are necessary. Mr. Baxter referred to this clause yesterday. I notice that, without warrant, fairly sweeping powers, will be granted to the authority for the calling of books of account, to which Mr. Baxter drew attention, and there are provisions that could perhaps bear some further examination. All these provisions give one cause to ask about the cost of implementing them.

I have studied the answers to questions on this matter and found them to be quite unsatisfactory, so perhaps the Minister may care to have a closer examination made of this aspect. I do not know how many committees are proposed.

As members well know, all such committees cost money to run, and the more committees that are in operation the greater the cost will be. One is therefore entitled to ask about the kind of rationalisation mentioned in this Bill.

In saying this, I refer to the control of transport envisaged by the proponents of this Bill. It is suggested that on any particular road or "pick-up run" only one truck will be used. No longer will more than one company be able to accept milk from such a run. Whether economies will in fact be effected could be a matter of dispute. Any economy effected would have to be offset against the cost of the committees, their administration, the extra inspections, and the like, envisaged under this legislation. Such administration must bring about increased costs which, inevitably, must be absorbed in the price structure, or if not, must be absorbed by some Government department such as the Department of Agriculture.

The Hon. N. McNeill: There is also the aspect of the loss of freedom of choice.

The Hon. G. C. MacKINNON: Yes, we seem to encounter this aspect with inevitable frequency. I have always had some doubt, not only in regard to the economy angle, but also concerning the wisdom of rationalisation under which somebody has to deal with a particular company which means, as pointed out by Mr. McNeill, there is the loss of freedom of choice. People prefer to deal with a company of their own choice and frequently this helps to increase the efficiency of the company that is being dealt with, because being anxious to obtain the trade its service is improved.

I can recall, at one time, talking to some theoretical economists in the ship-building industry in the United Kingdom. They told me that they had started off with about a dozen ship-building yards, but they reduced them to two and the following year they intended that there should be only one. However there were still 16 unions to be involved in the one ship-building yard, and these managers considered it was a marvellous set-up, but in my opinion "it was for the birds". If a client had an argument with the management of that company in regard to the building of a ship he was obliged to go right out of the country and take his business to, say, West Germany. Therefore I am not sure that rationalisation is wise because competition is the very lifeblood of trade.

The Hon. G. W. Berry: In this instance the company would be given quotas today.

The Hon. G. C. MacKINNON: Yes, that will all be within the power of the authority. These matters will have to be resolved, but none of them affect the principle of establishing a single authority. If we want a single authority to

establish those principles in the industry—and this has been the dream of many people engaged in the industry—we would need to break the difference between the person who used to be called the butterfat producer and the whole-milk producer. The difference has been worn away with the effluxion of time, because many whole-milk producers and manufacturing producers are in the same position as butterfat producers. This would allow for much happier relationships within the industry.

However, I would be dishonest if I did not say that I do not believe it will do much more than that. For the life of me I cannot see where there is another dollar in it for the whole-milk producer or the manufacturing milk producer. One would hope that such a move will lead to better relationships and better organisation of the industry, but this would be accomplished in a more satisfactory way by permitting a greater degree of flexibility than is envisaged in this Bill.

Nevertheless I intend to vote for the second reading and I hope that by intelligent discussion during the Committee stage, some of the clauses in the Bill which I believe would operate to the grave disservice of farmers engaged in the industry may be modified or removed and I sincerely hope, above all, that if the measure does become law it will be regarded as a measure to establish a single authority in the industry and by that I mean it will be formed from those who are necessary partners for the supply of milk; that is, in the taking of it from the farmers on the one hand the supplying of it to the consumer on the other.

Those people represent very essential components of a modern integrated industry; they include the farmer, the transport operator, the storeman, the factory operator, the salesman, and the consumer. All these people must operate profitably if the industry is to succeed and any business can only operate profitably in times of rapid change—such as we have now—if the Bill has built into it the necessary flexibility to achieve this.

I am convinced that the fundamental aim of any piece of legislation such as this should be to enable members to look forward to the happy day when it is repealed so that the industry can be so organised and conducted—because it is essential to the Community, and because everyone can work happily together—to ensure the individual and separate prosperity of all the different sections of the industry.

I believe there are sufficient checks and balances in a properly constituted system which will allow the control of greed or of malpractice in any form. So I will be interested in the Committee stages of the Bill and I await them with rapt attention because this is very much a Committee Bill, and I repeat my intention to support the second reading.

THE HON. CLIVE GRIFFITHS (South-East Metropolitan) (4.39 p.m.): There is no truth in the rumour that it is my intention to attempt to take from Mr. McNeill the title of the longest speechmaker in this House. Instead, my own speech will be like one of the products mentioned in the Bill—condensed and palatable.

The Hon. N. McNeill: There is no answer to that comment.

The Hon. CLIVE GRIFFITHS: Other than reiterating the fact that I am basically opposed to legislation of this nature at all times, I will cover the subject generally by saying that I share most of the views that have been expressed by The Hon. Neil McNeill. However, I would like to take one or two minutes to indicate my delight that vendors will be represented on the dairy industry authority.

I have never been able to understand why the chairman and members of the present Milk Board have displayed such hostility towards the prospect of having vendors represented on the board. In fact I was astounded to see that my colleagues in another place also object to the inclusion of vendors on the board. Vendors represent one of the three major sections of the milk industry and if the authority proposed is to be completely effective surely it is essential for all sections of the industry to be represented on the authority. The inclusion of vendors' representatives on the authority will ensure that harmonious relations exist between the various sections in the industry and this will remove any fears that may have been held in the past that the vendors' section was not receiving sufficient consideration.

Bearing in mind that the authority will have the power to issue, cancel, or suspend licenses, it should be reasonable to expect that vendors should be represented on the authority. We know also that unless the product is sold the producer cannot exist, which clearly indicates that one section of the milk industry cannot survive without the other sections. Therefore it is only fair that each section be represented on the authority.

I would think that to have an efficient sales section the vendor must be a salesman and not a serviceman. This means that the right type of person must be attracted to the industry. This type of person, of course, would be reluctant to invest a large sum of money in an industry in connection with which he had no say whatsoever. Efficiency means more sales at reduced cost, so who would benefit? The whole of the community, starting with the producer and finishing with the consumer, would benefit.

The Hon. J. Heitman: Would it not be preferable if the producer handled the product all along the line; that is, delivery from the cow to the consumer?

The Hon. CLIVE GRIFFITHS: I would certainly agree with such a move, but my remarks now fall into line with what I said earlier; that is, I am fundamentally and basically opposed to socialistic legislation such as this measure represents, and if we did revert to the situation such as that suggested by Mr. Heitman, it would be ideal because it would lead to the survival of the most efficient individual. This would mean that the product would be produced by hard-working individuals who survive only because of the efficient service they render to the community and not because of some licenses they were able to obtain.

As I have said before, I often wonder what the people of Australia will do in the future to earn a living, because as I have often pointed out, at present one has to have a license to do this, a quota to do that, and a permit to do something else. However, it was not my intention to divert my remarks to this aspect and it was only because of an interjection made by Mr. Heitman that I was diverted.

The representation of vendors on the authority will undoubtedly be a major step towards improving the sales section of the industry in order to make it more efficient.

Any move which will improve the relationships in and the smooth working of the industry should be considered and I think this provision is a step in the right direction.

Finally, in connection with my belief that vendors are perfectly justified in their desire to be represented on any authority which controls the industry in which they are involved, it is interesting to note that in the year ended the 30th June, 1971, producers subscribed \$86,000 to the board, vendors subscribed \$46,500, and the treatment plants subscribed \$42,200. In the year ended the 30th June, 1972, the producers subscribed \$92,995, vendors subscribed \$48,216, and the treatment plants subscribed \$45,239.

It is not an insignificant contribution these people are making. It is certainly a higher financial contribution than is made by the treatment plants which will have representation. I have no argument about that, but that section of the industry which subscribes more money to the board by way of licenses etc. is and has been vehemently opposed by the board for some reason which I fail to understand.

Today I spoke about this matter to a person presenting the case in support of the producers and I told him that I had no argument whatever with regard to his representations on behalf of the producers. I told him that he could die for his cause and I would shed my last drop of blood to help him. However, I told him that under no circumstances, while presenting the argument in support of the producers,

is there any necessity to preclude someone else. Nevertheless this is the attitude that has had to be overcome.

The original Bill as presented contained no provision for vendor representation, which is in line with the thinking of the present people in authority. Because they feel that they represent the one and only section of the industry, producers have fought tenaciously to preclude the very people who are the lifeblood of the industry; that is, those who sell the commodity—the people who are responsible for gathering the finance from its source, which is the consumer. Those people are the vital link in the industry.

The Hon. J. Heitman: They would not get very far if the producer did not squeeze the milk out of the cow.

The Hon. CLIVE GRIFFITHS: Which comes first, the hen or the egg?

The Hon. A. F. Griffith: Tell us.

The PRESIDENT: Order!

The Hon. CLIVE GRIFFITHS: The point I have tried to make over the years is that one cannot survive without the other.

The Hon. L. D. Elliott: Did you say the "udder"?

The Hon. CLIVE GRIFFITHS: I have no argument against representatives of plants, producers, or anyone else being on an authority. I believe everyone is justified in desiring representation. However, the producers are no more justified in seeking representation on an authority which will control the industry than are the vendors; and it was on the vendors' behalf that I took the opportunity which presented itself during this debate to say how absolutely delighted I am that common sense has prevailed and provision has been made in the Bill for vendor representation on the authority. I support the second reading.

THE HON. L. A. LOGAN (Upper West) [4.50 p.m.]: I was one of those who gave considerable thought to the benefits of a single industry authority and I could never understand why it would not have been possible for a single authority to handle all sections of the industry. I felt that some give and take would have had to prevail, but I believed that the ramifications of the machinery could be worked out so that a single authority could control the industry on behalf of and in conjunction with the producers.

That does not mean that I agree with the Bill. I can appreciate the producers wanting some action taken because of a fear of a decline in the industry, and they have some reason to fear a decline because of the Federal Government's action in abolishing the subsidies which have been

part and parcel of their livelihood for so long. However, I cannot see anything in the Bill which will rectify the decline.

What amazes me most is the letter we received from the Farmers' Union on behalf of the milk producers of Western Australia asking us to support the measure. The letter reads—

... the Bill was debated by the 1973 Annual Conference of the Dairy and Wholemilk Sections.

As a result, the following motion was carried unanimously by the Dairy Conference and by a majority of 41 to 2 by the Wholemilk Conference delegates.

The resolution reads—

That this Conference give its full support to the Executive and Joint Section Committee in securing the passage of the Dairy Industry to set up a Single Dairy Authority at this next session of Parliament and reaffirm its desire that the Bill be passed without amendment which would affect the main principles of the Act and thereby take from producers the ability to manage their own industry.

I emphasise the words "the ability to manage their own industry" because they represent the important portion of the resolution.

Let us look at the Bill. Clause 11 refers to the authority which shall comprise nine people of which only four will be producers. That is five to four against the producers for a start. How can the producers control their own industry when they start off with an authority of five to four against them? This is the start of the loss of their control. If we want further evidence, let us look at clause 45 which reads—

45. Notwithstanding anything contained in this Act, the Authority in exercise of its powers or the performance of its functions under this Act is subject to the control of the Minister and if any action or proceeding or intended action or proceeding by the Authority is not approved by the Minister, he may by notice in writing addressed to, and served upon, the Chairman of the Authority prohibit the action or proceeding or intended action or proceeding either absolutely or subject to such conditions as he thinks fit, and effect shall be given by the Authority to the notice.

So even if the producers did get control with a representation of five to four, the Minister could override it. Yet the producers are asking us to support a Bill which will give them control of their industry. This is what annoys me about the situation. It appears they are prepared to accept the Bill at any cost because over

the last three or four years this has been their ambition. They are justified in trying to achieve their ambition, but not at any price.

The Hon. R. Thompson: I think they have faith in the present Minister.

The Hon. L. A. LOGAN: Clause 32 reads—

32. (1) For the purposes of this Act a committee to be known as the Quota Appeals Committee shall be established.

The committee shall comprise three members one of whom will be a producer. Does that give the producers control? Let us look at clause 48 which reads—

48. (1) For the purposes of this Act there shall be established a tribunal under the name of the "Dairy Industry Prices Tribunal" . . .

The tribunal shall also comprise three members, but not one will represent the producers, so how will the producers have control in that direction?

I now wish to refer back to clause 22 (1) (b) (ii) which charges the authority with the regulation of the amount of supply and production so as to ensure a reasonable opportunity for profit. How are the producers to have any control over profit if they have no representation whatever on the prices tribunal? Yet, in their letter, talking about the tribunal, they say—

Experience in the past has shown that when the determination of price is left to the industry Authority, there is a danger of political interference in price reviews. It is considered that if an independent Tribunal is appointed to recommend prices to the Authority, that this would make future price reviews more acceptable politically and to consumers.

I thought the producers were concerned with looking after themselves and yet now their concern is for the consumers.

The Hon. N. McNeill: Prices tribunals generally are concerned with the consumers.

The Hon. L. A. LOGAN: Let us read the Bill further to see how the producers will have control of their industry. Clause 51 reads—

51. (1) For the purposes of this Division, the Authority shall request the Minister to cause the Rural Economics and Marketing Section of the Department to carry out surveys . . .

The producers will not be represented on the rural economics and marketing section of the department which will conduct the survey.

Producers ought to take particular note of clause 58 which reads—

58. (1) The Authority—

which is five to four against the producers in any case, plus the Minister if necessary—

—shall not issue any licence under this Act unless it has received a written notification from the Department—

That is the Department of Agriculture—

—to the effect that the premises and facilities to which the licence will relate comply with such requirements as are prescribed for that licence and that those premises are registered under this Act with the Department.

There is no thought about what the producers believe is satisfactory. They have no say. What is important is what some departmental officer believes is satisfactory. Right throughout the Bill the producers have no authority or control of the industry whatever. Clause 63 reads—

63. (1) Where the Authority receives from the Department—

That again is the Department of Agriculture through its inspectors. To continue—

—a written notification that any milk or dairy produce supplied or manufactured pursuant to a licence fails to comply with this Act or Division 2 of Part VIII of the Health Act, 1911, or the by-laws made thereunder, the Authority shall—

Not "may" but "shall"—

—suspend that licence for such period as is prescribed as the appropriate period according to the circumstances of the case.

What chance has the producer in any appeal he might make when there is one producer representative and two other people on the committee which hears the appeal?

The Hon. I. G. Medcalf: There are a lot of things he cannot appeal against.

The Hon. L. A. LOGAN: Clause 62 (2) states—

The Authority shall cancel a licence on the written advice from the Department that the registration of the premises in respect of which the licence is issued has been cancelled.

Clause 66 provides—

All milk supplied in the State . . . is by force of this section absolutely vested in and becomes the property of the Authority.

Whatever claim or say the producer may have had in his industry disappears once the milk is vested in the authority; he then has no control at all.

The Hon. S. T. J. Thompson: What about wheat?

The Hon. L. A. LOGAN: I am talking about the letter from the Farmers' Union which asks us to support this measure because it wants control of the industry. I am merely pointing out that the Bill before us does not give the Farmers' Union any control of the industry. Indeed, all it does is to take away from that union control of the industry. This is made clear right through the legislation and I would like members of the Farmers' Union to appreciate this point.

The Hon. F. R. White: They want it at any price.

The Hon. L. A. LOGAN: I have already said that. Clause 87 refers to the duties and functions of the Department of Agriculture and states—

For the purposes of ensuring the wholesomeness and purity of milk and dairy produce the Department is hereby charged with—

- (a) the control of the quality of, and the supervision of the supply, production and distribution of milk and dairy produce;

This is the Department of Agriculture to which I am referring. It is that department which under the Bill has charge of all these things that are mentioned. Where does the producer come in? Where is his control of the industry? This lack of control is evident right through the Bill. That is what I object to, and yet we are asked to support the Bill in its present form because the Farmers' Union wants control of the industry, in spite of the fact that every clause takes control away from the union.

I intend to support the second reading of the Bill because I believe a single authority can in the long run prove to be of some benefit to the industry. I think it is fair to say that the whole-milk producer in this State has been on a fairly good wicket through the bad years; while the wool producers were at their wits' end. Possibly the whole-milk producer was the best off of any of the primary producers. I daresay one cannot say the same about the butterfat producer because to some extent he has been the poor relation. This was not the case with all of them, only those who were unfortunate and unable to bring their farms to a proper stage of development to enable them to produce on a profitable basis. I know that in 1957 a number of dairy farmers who were put on farms under war service conditions never had a hope of making a decent living. Their standard of living was well below the basic wage. Accordingly I am very concerned about the industry.

In clause 27 we find the following—

- (1) Before the Authority considers application made under section 26 in respect of a quota year, the Authority

shall submit to the Minister a written statement setting out—

- (a) the quantity of milk or butter fat that will be required to be supplied and the quantity of dairy produce that will be required to be manufactured to ensure that consumers in the State are adequately catered for; and

To me this is a pretty static sort of instruction to the authority—that it will present to the Minister a report purely on the local market. Somewhere in the Bill there is mention of a promotion committee, but it is dealt with in a very off-hand manner, and appears to be a minor provision so far as the Bill is concerned.

However, the authority will recommend to the Minister quotas for the State for the whole-milk and butterfat sections based on the production of the State. If it is the intention of the Bill to help the industry advance with the increase in population of Western Australia, then I am afraid it will not get very far. I think we had better have a look at the question of export. It is necessary for us to build up to an adequate level our own local market. That is my opinion and attitude. I know we have been sending butter to England at a discount price, but the world markets have changed as has production in other countries.

The Hon. N. E. Baxter: Don't you think the Bill will help?

The Hon. L. A. LOGAN: What portion of this Bill makes it any better for the butterfat producer to make more money than he is making now? This concerns me greatly; our approach to the matter is purely a negative one. Rather than demand that the Bill be passed in its present form, I do not think it would hurt to wait a little longer, because the Milk Board has not done a bad job; I think it has done a very good job. The authority working under the regulations has not done a bad job; but the same people will be appointed to the authority. The Chairman of the present Milk Board will be the manager of the authority and some of the departmental officers will be running the industry.

So why should these people accept something they did not want in the first place? This was not the Bill they wanted initially. I defy the members of the Farmers' Union to say this is what they wanted in the first place; and yet they want us to accept it in its entirety. I think this is wrong. I think we should go further if we are to keep this industry going. I will not go into the argument of solids-not-fats, etc., because this has already been explained.

I rose to my feet mainly because of the attitude of the Farmers' Union. The union wants this Bill so it can get control of

the industry, but the legislation gives the union no control of the industry whatever.

THE HON. V. J. FERRY (South-West) [5.10 p.m.]: The dairy industry provides one with a tremendous amount of material and a great area that can be traversed. It is not my intention at this time to cover the many wide-ranging facets of the dairy industry. I believe the contribution made by Mr. McNeill last night, when he reviewed the industry in great depth, was outstanding as it applied to the debate before the House.

I would like also to express my personal interest in the contributions made by other speakers—namely, Mr. Baxter, Mr. MacKinnon, Mr. Clive Griffiths, and Mr. Logan—and I go along with most of, if not all, that has been said in the speeches they made.

However, it is my purpose to talk more generally at this stage of the passage of the Bill through the House. I will confine myself to generalisations with the intention of contributing more detail in the Committee stage. To my mind the Bill would lend itself to a more detailed study and scrutiny during the Committee stage. This has clearly been indicated by the contributions made by other members. We will have to view this Bill clause by clause during the Committee stage.

In making my general comments I would like to record my support for the dairy industry. It has been a pioneering industry. It has been the means by which lands in the south-west and the great southern have virtually been opened up for agricultural purposes; it has been the base from which the rural communities have grown, even though there have been many growing pains experienced; it has been the means, I suggest, whereby the people of this State have been nourished in many ways, both healthwise and from the point of view of viable communities.

I want to pay tribute to many of the people within the industry who have made a tremendous contribution, in their own personal way, at great personal inconvenience and cost; they have done this with the intention of furthering the cause of the industry.

The industry has a long history and its cause has been promoted by many stalwarts within it. More recently there have been negotiations leading to the present position and in dealing with this aspect we know the Bill alludes strongly to the establishment of a single dairy authority in the State.

Those who have been charged with getting negotiations to this point have had a thankless task, but of course this sort of thing happens in any endeavours which are made in connection with any industry. I appreciate the fact that the people in

question are doing their best for all concerned. They have managed to assemble their ideas into a form which is incorporated in the Bill before the House. It is extremely important that these provisions be given close scrutiny.

Lest the matter be overlooked or lost, may I say that this legislation has been in Parliament for over the last 12 months. It was introduced in the Legislative Assembly early in October, 1972, and only very recently has it been transmitted to this House for its consideration. Perhaps this situation could well be understood and acknowledged by the industry at large.

It is not unusual for the Legislative Council to be taken to task by some who appear to delight in indulging in criticism which is not always well informed or well placed. Accordingly I hope the industry will appreciate the circumstances in regard to this legislation, and be aware that in this House of Review it will receive its due reward. This House, of course, is called upon to review the legislation in the usual way, and I hope the industry at large will appreciate the circumstances in which we, as members of this Chamber, find ourselves at this point of time.

Let me say here and now that I support the principle of a single dairying authority to service the industry in this State. I say "to service the industry", and that is a fairly wide and all-embracing term. It appears to me it would be a sensible thing to establish a single authority. Nevertheless, what does concern me—and this concern has been expressed by other speakers—is the method by which a single authority will be established, and the detail in the many provisions contained in the Bill, which, when passed, assented to, and proclaimed, will become an Act. It will in fact become the bible for the industry in this State. The fine print is therefore all-important because, once the Bill becomes an Act, it will set the guidelines for the industry and all will have to abide by it.

I will not go into all the ramifications of the provisions in the Bill but I would like to mention some of the features which concern me, as they have concerned other speakers. One matter of concern is the role of the Department of Agriculture. Let me say here and now that I have a very high regard for the work done by the various divisions of the Department of Agriculture in this State, and I have a very high regard for the work of the department's officers in a purely advisory capacity. However, I strongly doubt that the Department of Agriculture should be given the responsibility and power to control an industry, which is what it seems to me this legislation proposes to do.

Mr. Logan quoted a resolution passed by the whole-milk conference. I will not traverse the same ground, except to say

the resolution passed by the conference rather shocked me. If the conference is trying to protect the industry for the producers I do not think it will get any assistance in that direction from the legislation before us which, to my mind, seems to do the reverse.

Other matters about which I am concerned are the prices tribunal, the functions of the authority, the vesting of milk, and the negotiability or lack of negotiability of quotas. In view of the time, I will limit my remarks at this moment, but I voice some concern and regard for the total dairy industry throughout Australia, of which the industry in this State forms part; but as a Western Australian I am particularly concerned about the future of dairying in this State.

I trust that as a result of the debate and discussion on this Bill, we will end up in due course with a meaningful piece of legislation—if it passes through Parliament—so that the industry can go forward and face the modern world of commerce and all its problems.

Debate adjourned, on motion by The Hon. R. F. Cloughton.

QUESTIONS (7): ON NOTICE

1. ROADS

Causeway Interchange

The Hon. R. J. L. Williams for the Hon. CLIVE GRIFFITHS, to the Leader of the House:

- (1) Has a final plan of the road system at the eastern end of the Causeway been prepared?
- (2) If so, would the Minister lay a copy of the plan on the Table of the House?

The Hon. J. DOLAN replied:

- (1) Yes.
- (2) Yes. With permission I hereby table the plan requested by the Hon. Member.

The plan was tabled (see paper No. 343)

2. KARRAKATTA CEMETERY

Trustees and Staff

The Hon. R. J. L. WILLIAMS, to the Chief Secretary:

- (1) Is there a representative nominated by the Australian Funeral Directors Association (W.A. Branch) serving as a Trustee on the Karrakatta Cemetery Board?
- (2) If not, why not?
- (3) How many Trustees are there on the Board?
- (4) (a) What are the names of the Trustees;
(b) what are their professions or occupations?
- (5) How were they appointed?

- (6) What is the date of each initial appointment?
- (7) What fees or remuneration do they each receive for acting as a Trustee?
- (8) How many permanent staff are employed by the Board?
- (9) What was the salary and wages bill for the permanent staff in the year 1971-1972?
- (10) Have there been any salary or wages awards to the permanent staff since the end of 1972?
- (11) What is the projected wage and salary bill for 1973 for the permanent staff?

The Hon. R. H. C. STUBBS replied:

- (1) No. Mr. Donald J. Chipper is a Funeral Director, but was not appointed as such.
- (2) All appointments are made by the Minister for Local Government. However, the Board feels it is not desirable to have any member with a financial interest in the Cemetery.
- (3) Eight.
- (4) Sir Thomas Meagher, Chairman, Doctor of Medicine.
Donald John Chipper—Funeral Director.
Cecil Lancelot Howard—Retired—formerly Public Relations Officer with West Australian Newspapers.
William McMillan Brown—Insurance Broker.
George Dickson Brown—Union Secretary.
George Hereward Dench—Union Secretary.
John Edward Skidmore—Union Secretary.
Rabbi Shalom Coleman—Jewish Orthodox Church.
- (5) All the appointments are made by the Minister for Local Government.
- (6) Sir Thomas Meagher—8th February, 1951.

- Chipper—10th February, 1949.
- Howard—15th March, 1965.
- W. M. Brown—14th July, 1972.
- G. D. Brown—14th July, 1972.
- Dench—14th July, 1972.
- Skidmore—14th July, 1972.
- Coleman—5th October, 1973.
- (7) Chairman—\$8.40 per meeting (12-15 meetings per year).
Members—\$6.30 per meeting.
- (8) Administration 6
Outdoor 44
Some are seasonal workers ... 20
Total ... 70

- (9) 1st July, 1972 to 30th June, 1973—\$245,762.41.
- (10) Yes. The ordinary cemetery worker's weekly wage has risen from \$51.50 at 1st January, 1973 to \$70.20 per week at 30th September, 1973.
- (11) Approximately \$286,000.

3. HISTORIC WRECKS

Legal Ownership

The Hon. V. J. Ferry for the Hon. W. R. WITHERS, to the Leader of the House:

- (1) Does any Federal Act or regulation deal with the ownership of wrecks—
 - (a) within territorial waters; and
 - (b) outside territorial waters?
- (2) If so, would not any relevant section of a State Act be invalidated under section 109 of the Federal Constitution which states "When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid"?

The Hon. J. DOLAN replied:

- (1) (a) Section 308 of the Commonwealth Navigation Act, 1912-1967, states that "the Commonwealth shall be entitled to all unclaimed wreck found in Australia". Other sections of that Act relate to that provision. However, by section 294 of the Navigation Act, there is a specific interpretation given to the word "wreck".
- (b) See (1) (a).
- (2) It is thought that the provisions of the Maritime Archaeology Bill do not relate to subject matter covered by the concept of wreck dealt with in the Navigation Act. If there were any inconsistency with the meaning of section 109 of the Constitution of the Commonwealth, then section 109 would apply.

4. KARRAKATTA CEMETERY

Crematorium: Anti-pollution Devices

The Hon. R. J. L. WILLIAMS, to the Chief Secretary:

- (1) From the 1st January, 1973, to the 30th September, 1973, how many—
 - (a) cremations; and
 - (b) burials;
 have taken place at Karrakatta?
- (2) How many furnaces are operative at the Crematorium?

- (3) What method of combustion is used?
- (4) What anti-pollution devices are fitted to the furnaces and/or chimneys?
- (5) Will the Minister ensure and direct that devices are fitted to eliminate the discharge of—
 - (a) wood ash; and
 - (b) black smoke;
 at all times?

The Hon. R. H. C. STUBBS replied:

- (1) Cremations—2,066.
Burials—1,738.
- (2) Four.
- (3) Oil-fired.
- (4) The two new furnaces have the most modern air ducts and valves to control pollution and smoke output. The two older furnaces are retained and used only for emergencies.
- (5) (a) Wood ash has never been a problem at Karrakatta. The chimney has however been screened.
- (b) Even the most modern crematoria of the United Kingdom and Australia experience trouble with smoke. At present, it can be controlled to a certain extent, but cannot be eliminated. The smoke emanates from the clothing of the deceased or plastic sheeting used to cover the body, the lining of the casket, or green timber in the casket plus the varnishing used. The smoke is there before the crematorium operator is aware of it. There is a warning light on the new retort, which enables him to reduce the nuisance in a few seconds, but by that time the damage has been done.

5.

HISTORIC WRECKS

Chinese Junk

The Hon. V. J. Ferry for the Hon. W. R. WITHERS, to the Leader of the House:

- (1) In 1966 was the Western Australian Museum notified of a wreck, suspected of being a 15th Century Chinese junk, 16 miles off-shore from Exmouth Gulf?
- (2) Did the Museum examine a vase purported to be from this wreck which was identified as a Sun Dynasty work of the 12th Century?
- (3) Was any further investigation made by the Western Australian Museum?

- (4) Is the Minister aware of any divers operating from a base in Singapore who have dismantled this wreck?
- (5) Is the Minister aware of any sales of items, purported to be from this wreck, to overseas buyers?
- (6) If the answer to (1) is "Yes", and the answer to (4) or (5) is "No", will the Minister advise if the wreck is still in its original position?
- (7) Does the Museum have any photographic evidence of this wreck?

The Hon. J. DOLAN replied:

- (1) A search of Museum files has revealed no record of such notification.
- (2) The Museum can find no record, nor has any staff member who can be questioned today any recollection of such an identification. However, a vase is believed to have been brought in by a fisherman for identification some two years ago, but the officer who may have identified it is overseas, and his assistant is currently working on a site at sea.
- (3) The question does not apply.
- (4) The Museum has no record of such operations.
- (5) The Museum has no record of such sales.
- (6) Not applicable.
- (7) The Museum can find no such photographs in the records.

6.

HISTORIC WRECKS

Phoenician Trireme

The Hon. V. J. Ferry for the Hon. W. R. WITHERS, to the Leader of the House:

- (1) Is the Museum aware of any wreck situated near the Buccaneer Archipelago which was reported in 1968 and purported to be a Phoenician Trireme 2,500 years old?
- (2) Did a museum officer refuse to look at this site to obtain supporting evidence at that time?
- (3) Has the wreck been investigated and identified?
- (4) Did the Hon. J. T. Tonkin receive a letter concerning this wreck in 1970?
- (5) What investigation was made into the details of any letters concerning this wreck?
- (6) Is the Minister aware of any divers based in Singapore who may be interested in this wreck?

The Hon. J. DOLAN replied:

- (1) No written record or notification of such a wreck can be found at the Museum. Museum records show that Mr. Alan Robinson mentioned verbally to two Museum officers in Derby on 26 August, 1968, that he was going to investigate a wreck he thought might be a Phoenician Trireme, but no further information was received by the Museum. One of these officers recalls that the possible position of the wreck was not the Buccaneer Archipelago, but King Sound.
- (2) The Museum officers were not in a position to accept such an invitation, at that time, even if it had been offered. There is no record of such an offer. The investigation of such a wreck would only have been carried out following a definite report of its finding.
- (3) No.
- (4) The Museum can find no record of such a letter.
- (5) The Museum has no letters on file relating to such a wreck.
- (6) The Museum can find no record of such a report nor have any of its staff who can today be questioned on this matter any recollection of such information.

7.

RING ROAD SYSTEM

Realignment of Northern Section

The Hon. F. R. WHITE, to the Leader of the House:

Further to my question 1 on the 11th September, 1973, referring to the realignment of the Northern section of the Freeway system, will the Minister advise—

- (a) how many existing homes will need to be demolished to provide for the new alignment;
- (b) how many homes would have been required to be demolished under the original proposal;
- (c) have the owners of—
 - (i) residences; and
 - (ii) vacant properties; affected by the new alignment, been advised individually that their properties are now within the Freeway reservation;
- (d) what were the anticipated re-sumption costs under—
 - (i) the original alignment; and
 - (ii) the new alignment;
- (e) who is to provide the finance needed for the cost of resuming the properties referred to in (c);

- (f) does the provision for "a more suitable area for development on the Maylands Peninsula" given as the reason for the realignment include the new "Tranby-on-Swan" residential development;
- (g) what additional residential projects are envisaged as a result of the realignment;
- (h) is any part of Hunt Reserve to be used for the new Free-way alignment?

The Hon. J. DOLAN replied:

- (a) 37.
- (b) 17 at the time of the recommended change.
- (c) No, but the Metropolitan Region Planning Authority consulted the local authorities and the District Planning Committee which advised support of the proposal before it was adopted and notified in the *Government Gazette* of 2nd June, 1972.
- (d) Detailed resumption costs have not been taken out since the proposed development is many years in the future and values change markedly in that time.
- (e) Finance is made available by joint agreement between the Metropolitan Region Planning Authority and the Main Roads Department.
- (f) Yes, but only coincidentally.
- (g) As the released land in the Urban Zone is in private ownership information is not available about development concepts which may be in course of preparation by the owners of individual lots.
- (h) There is no record of a "Hunt Reserve", but approximately one-third of the reserve in Richard Street is affected by the new route.

House adjourned at 5.29 p.m.

Legislative Assembly

Thursday, the 11th October, 1973

The SPEAKER (Mr. Norton) took the Chair at 11.00 a.m., and read prayers.

ALUMINUM REFINERY (WORSLEY) AGREEMENT BILL

Report

Report of Committee adopted.

INDUSTRIAL AND COMMERCIAL EMPLOYEES' HOUSING BILL

Third Reading

Bill read a third time, on motion by Mr. Bickerton (Minister for Housing), and transmitted to the Council.

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Report

Report of Committee adopted.

UNIVERSITY OF WESTERN AUSTRALIA ACT AMENDMENT BILL

Third Reading

MR. T. D. EVANS (Kalgoorlie—Assistant to the Treasurer) [11.06 a.m.]: I move—

That the Bill be now read a third time.

When addressing himself to the second reading debate last evening, the member for Moore asked me to clarify or augment the comments I made when introducing the Bill relating to the expenditure the State would be relieved of and the consequences.

When I moved the second reading of the Bill, I indicated that no saving would flow to the State at all in the short term. However, it is likely that a saving will be effected in the long term. I apologise to the honourable member for overlooking this point when I replied to the debate; it was not my intention to do so.

The explanation is that the cost of tertiary education over recent years has increased to such an extent that the proportion the State has been carrying has increased at a rate in excess—and I emphasise that point—of the growth rate in the financial assistance grants to the State from the Commonwealth. So in effect we are being relieved of an obligation, the cost of which has been increasing at a greater rate than the growth rate in our own resources. So it becomes clear that in the long term the State must benefit. I trust this explanation is accepted by the member for Moore.

Question put and passed.

Bill read a third time and transmitted to the Council.

JURIES ACT AMENDMENT BILL

Council's Amendment

Amendment made by the Council now considered.

In Committee

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.