

Mr. Jamieson: If you move for a period of 12 months, I will accept it, for the sake of going home.

Mr. HUTCHINSON: Perhaps the member for Floreat could withdraw his amendment.

The CHAIRMAN: The amendment before the Chair is to delete the words "two years".

Mr. Jamieson: I will do this on the understanding that it will be no less than 12 months.

Amendment put and passed.

Mr. MENSAROS: I move an amendment—

Page 51, line 14—Substitute the words "twelve months" for the words deleted.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 84 to 87 put and passed.

Schedule put and passed.

Title put and passed.

### Report

Bill reported, with amendments, and the report adopted.

House adjourned at 11.19 p.m.

## Legislative Council

Wednesday, the 7th November, 1973

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

### QUESTIONS (7): ON NOTICE

1 to 3. *These questions were postponed.*

#### 4. LAND

*"The Forts": Vesting*

The Hon. D. J. WORDSWORTH, to the Leader of the House:

- (1) Has the Government received an application from the Albany Town Council to have the area known as "The Forts" vested in the Council?
- (2) If so, what has the Government done in this regard?

The Hon. J. DOLAN replied:

- (1) The Albany Town Council has approached the Government for assistance in acquiring freehold Lots 7 and 19 of Albany Lot 869 with a view to its reservation and vesting in the Council.

- (2) Representations have been made to the Commonwealth Minister for the Environment and Conservation, who has indicated he is unable to assist in the acquisition of the land. It is known the Albany Town Council is investigating the question of the revestment of the land for non-payment of rates.

5. *This question was postponed.*

#### 6. TOURISM

*South-West: Report*

The Hon. D. J. WORDSWORTH, to the Minister for Tourism:

- (1) Has a report been printed on developing tourism in the South West region of the State by the Australian National Travel Association?
- (2) What is the cost of this report to the general public?
- (3) (a) Does the region chosen by this Association bear any resemblance to the regions referred to in the draft legislation being circulated to selected tourist authorities;
- (b) if not, would the Minister indicate the proposed regions of Western Australia?

The Hon. J. Dolan, for the Hon. R. THOMPSON, replied:

- (1) Yes. This report was prepared by ANTA without financial cost to the State.
- (2) \$50 a copy.
- (3) (a) The region covered by the report was defined by ANTA.
- (b) No action has been taken to define regions for future tourist planning purposes.

#### 7. LOCAL GOVERNMENT

*Building Code*

The Hon. W. R. WITHERS, to the Minister for Local Government:

- (1) Has the Government given drafts of the proposed Building Code to all members of the Building Surveyors Association?
- (2) How many pages are in the proposed Building Code?
- (3) When will officers of the Local Government Department meet the representatives of the Building Surveyors Association to discuss the suitability of the Building Code?
- (4) What is the proposed schedule for the meeting?
- (5) If the answer to (1) is "No", when will the Building Surveyors Association be given copies of the proposed draft?

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

- (1) No.
- (2) Approximately 425 with Appendix and Specifications.
- (3) On 30th November, 1973.
- (4) To inform Building Surveyors of the "style and philosophy" of the proposed new by-laws. It is hoped to have 12-15 copies of the draft by-laws for use at this meeting.
- (5) When the new by-laws are gazetted and printed.

## SHIRE OF ARMADALE-KELMSCOTT

### *Disallowance of Health By-law: Motion*

Debate resumed, from the 16th October, on the following motion by The Hon. Clive Griffiths, as amended—

That the amendment to 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.

**THE HON. C. R. ABBEY** (West) [4.39 p.m.]: As it is some time since this matter was introduced, I fear members may have forgotten the import of the motion. The intention of it was to disallow a regulation which requires builders to place on building sites a bin of sufficient size to hold waste material. I think that explanation will suffice to clarify the situation for the purpose of my argument.

Mr. Clive Griffiths, whether wisely or not, has moved this motion to disallow a by-law made by the Shire of Armadale-Kelmscott to protect its residents. The situation in Armadale-Kelmscott is that some builders showed a lack of appreciation of this matter and cement bags and various other materials were blown from building sites onto adjoining properties. Although this may not have occurred in many instances, the shire felt it should protect its ratepayers, and it brought forward a by-law which it hoped would fill the bill.

When Mr. Clive Griffiths moved a motion in this House to disallow the by-law, the matter was brought to the notice of the shire, and it was pointed out that perhaps it was overstepping the mark. The original intention of the shire was that a large bin be placed on the building site and removed when it is full. As was pointed out by Mr. Clive Griffiths, this could prove quite expensive and could perhaps add \$50 or so to the cost of the building. The honourable member made that point at some length.

When this was pointed out to the shire council, it realised that perhaps it had gone too far. At a subsequent meeting of

its health committee a motion was passed which requires only what virtually amounts to a 44-gallon drum, with an adequate lid, to be placed on the building site. Mr. Clive Griffiths has been advised of this, so I hope he will not proceed with his motion because it seems to me that he is using a 10 lb. hammer to crack a peanut; and this is quite unnecessary in the case of a responsible shire council.

I claim that the Shire of Armadale-Kelmscott is a responsible body. I have represented that area during my 16 years as a member of this House, and I have had a great deal of contact with the shire. I know that as a general rule it has adopted a very responsible approach to the public, bearing in mind that it has a duty to its ratepayers.

So I would ask the House to leave the by-law as it now stands, in view of the fact that the shire feels it has removed the objectionable part of the original by-law. I ask the House not to agree to the motion.

**THE HON. R. H. C. STUBBS** (South-East—Minister for Local Government) [4.43 p.m.]: My remarks will be very brief. I, too, ask the House not to disallow the by-law.

Mr. Clive Griffiths said that two points were involved in this argument, one concerning principle, and the other concerning the cost factor. I think the cost factor is not anywhere near as great as Mr. Clive Griffiths intimated. I think he made a mistake in that respect. As regards principle, the council certainly tried to entice all the builders along to a meeting, but only one builder and a representative from the State Housing Commission turned up. So I do not think the shire can be taken to task for having a lack of principle.

Perhaps we had better consider what the by-law states. It is as follows—

### PART I.—GENERAL SANITARY PROVISIONS.

#### Method of Disposal of Rubbish.

#### By-law 19 (3):

- (a) It shall be the builder's responsibility to ensure that an adequate rubbish disposal bin, approved by the Local Authority, is provided on all building sites during the period of construction.
- (b) It shall be the builder's responsibility at all times during construction to ensure that the building site is maintained free from waste building materials, by having the waste building materials deposited in the rubbish bin provided by the builder on the building site.

- (c) It shall be the builder's responsibility to ensure that any loose building materials are not permitted to be blown from the building site on to any road verges or other properties.
- (d) It shall be the builder's responsibility to ensure that on completion of construction the building site is completely cleared of all waste building materials to the satisfaction of the Local Authority.
- (e) At the completion of construction it shall be the builder's responsibility to ensure that the rubbish disposal bin is removed from the site and the contents disposed of in accordance with the requirements of the Local Authority.

The by-law does not specify the bin size. I received a letter from the Shire of Armadale-Kelmscott, in which it states—

Recommendation presented to and passed by the Health Committee meeting held on 9th October 1973 and passed to full Council for their consideration on 15th October, 1973:

I point out that it was adopted by the council. To continue—

#### WASTE BUILDING MATERIALS.

For the purpose of the Model By-law 19 (3) "B" of Health Act 1911-70 Gazetted on the 20th July, 1973, waste building materials shall be defined as:—

- (1) Cartons
- (2) Packages
- (3) Plastic and paper wrapping and bags
- (4) Drink containers
- (5) Any other materials liable to be blown from the building sites.

It is recommended a minimum of 7 cubic foot bin, with a tight fitting lid, be a Local Authority approved receptacle for building sites.

The Local Government Association is certainly in favour of the by-law. It wrote me a letter which I will read for the benefit of the House. It is as follows—

Referring to the motion for the disallowance of the bylaw made by the Armadale/Kelmscott Shire Council, may I, with respect, ask that you endeavour to have the motion defeated, and the bylaw preserved.

It is said that Armadale/Kelmscott is the only council to make such a bylaw. However, as you are aware from previous correspondence, this Association asked for a uniform bylaw under the building provisions of the Local Government Act along the lines of the bylaw made by the council,

and you gave the opinion that the building provisions did not contain sufficient power. At the same time, you referred to the bylaw made by Armadale/Kelmscott, and no doubt this will be followed as a model if the present attack upon it can be withstood.

The provisions may add very slightly to the cost of a building, but it seems very doubtful that it would add anything like the cost suggested. It should, in fact, add very little to the costs of the builder, and the amount should be capable of being absorbed in his overhead costs.

In any case, at present the cost of cleaning up the rubbish which blows from the building site onto the streets or on to the land of adjoining property-owners, is being borne by the sufferers, instead of by the person causing the nuisance. Quite apart from the cost to the community, the unsightly appearance when, for instance, plastic bags are allowed to blow around the streets, justifies the imposition of restrictions on the builder. Possibly the great majority of builders would not object to the provisions, as they do not want to be the cause of littering the streets or adjoining property, but the minority who are less cooperative, and who have no objection to "rubbishing Australia", will find objections in the way of cost "interference with the right of the public", etc.

The Government has approved the by-law, otherwise it would not have been gazetted.

It is therefore requested, please, that the Government support the by-law which has been approved, and endeavour to defeat the motion for disallowance.

Yours faithfully,

A. E. White,  
Secretary.

The Hon. J. Heitman: Did the Government look at this by-law and agree to it?

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

The Hon. A. F. Griffith: In view of what is stated in that letter it means this will be a uniform building by-law, and the type of receptacle envisaged will have to be provided all over the State.

The Hon. R. H. C. STUBBS: Not necessarily. This by-law is made under the Health Act. I should point out that every by-law made by a local authority must be tabled in this House. I have pointed out what powers are available under the Local Government Act, and I have passed on this information.

The Hon. A. F. Griffith: Did the Local Government Association say it wanted this to be adopted as a uniform by-law?

The Hon. R. H. C. STUBBS: I think it did, but the fact remains it is not being so adopted. It is up to each local authority to pass such a by-law under the Health Act.

The Hon. A. F. Griffith: If we do not disallow the by-law in respect of the Shire of Armadale-Kelmscott, then it is unlikely we will disallow it in respect of any other local authority.

The Hon. R. H. C. STUBBS: Why not? Each by-law that is made by a local authority must be tabled in this House. Having had this by-law placed before us, I do not consider the provision of a 44-gallon bin would be an imposition on builders.

The Hon. A. F. Griffith: It would not be so bad if what you have said is part of the by-law; but it is not. The by-law merely mentions an approved receptacle.

The Hon. R. H. C. STUBBS: The size has been approved by the council, and that appears in the minutes of the meetings of the council.

The Hon. A. F. Griffith: But that is not included in the by-law.

The Hon. R. H. C. STUBBS: In the by-law no size has been specified, but reference is made to an approved receptacle. However, at the council meeting a seven-cubic feet receptacle with a lid has been accepted.

The Hon. J. Heitman: You say the council has accepted the 44-gallon drum?

The Hon. R. H. C. STUBBS: Yes, a receptacle of seven-cubic feet capacity. I refer to a report which appeared in *The West Australian* of the 31st October, 1973, under the heading, "High Cost Rise Claim Is Denied". It is as follows—

The Armadale-Kelmscott Shire Council has denied an allegation made that its recently gazetted by-law on building site bins will add \$98 to the cost of a home.

Deputy shire president, said opponents of the by-law were wrong in thinking only six and 10 cubic yard bins were allowed.

"The by-law only says that a bin approved by the local authority must be provided. It does not specify size," he said.

Since then the size of the bin has been specified.

The Hon. A. F. Griffith: Because Mr. Clive Griffiths drew this matter to the attention of the Government, otherwise nothing would have been done.

The Hon. R. H. C. STUBBS: To continue with the report—

"If any of the builders come forward with a reasonable proposal, it can be put to the council. We made this by-law in an attempt to solve a very serious problem."

Rubbish blowing from building sites had been a particular problem in the Williams and Seventh roads area of the shire.

Some sites required bins holding between six and 10 cubic yards, but others needed only small bins for blowable rubbish. These could be used if the council approved them.

"I know of a firm in Perth which is selling 44 gallon drums with clip-on lids for \$2.50 each. I don't think they would prove a financial hardship to any builder."

"I take strong exception to the statement that the council has authority to control litter on building sites under section 675A of the Local Government Act, but has never used its powers."

"This enables us to control litter on property vested in the local authority, but not on building sites or other private land."

The council adopted its health committee recommendation that a seven cubic foot bin with an efficient lid to an approved container for building sites.

It also defined waste building materials to go into the bin as: cartons, packages, plastic and paper wrapping and bags, drink containers, and any other materials liable to be blown from building sites.

The Hon. A. F. Griffith: Can you tell me where I am able to buy a 44-gallon drum with a clip-on lid for \$2.50? That seems to be very cheap.

The Hon. R. H. C. STUBBS: I shall find out and inform the Leader of the Opposition tomorrow.

The Hon. G. C. MacKinnon: We could buy them in bulk and so reduce the cost further.

The Hon. A. F. Griffith: I would need a large one in which to place the rubbish which I often hear from the other side of the House.

The Hon. R. H. C. STUBBS: The local authority in question has done its job. It has framed the by-law through the proper channels, and it has advertised the by-law. Surely the by-law is worth a trial, and builders should be prepared to provide a seven-cubic feet drum on building sites.

Much of the material that is blown around finds its way into backyards and front lawns. Such material is sometimes dangerous to children. It is on record that children have picked up the plastic bags and put them over their heads, and in so doing they have been smothered.

I have not much more to say on the motion. The letters and the Press cuttings I have quoted speak for themselves. I

would point out that in any event a building site has to be cleaned up when the building is completed, so why should not the builder keep it tidy in the process of building? The materials should be placed in the bin, so that when the building is completed only the heavy stuff has to be taken away.

I hope that the motion, as amended, will not be agreed to.

**THE HON. CLIVE GRIFFITHS** (South-East Metropolitan) [4.57 p.m.]: As was pointed out by Mr. Abbey, this motion has been on the notice paper for a long time. It has remained on the notice paper for a long time because I as the mover of the motion, and other people who support the view I hold, were anxious that an opportunity be given to enable the local authority concerned to arrive at a compromise with the sections of the building industry which are affected by the by-law.

The debate on the motion has been adjourned again and again, in an endeavour to allow the local authority to meet the Master Builders' Association, the housing advisory committee, and similar organisations.

The Hon. A. F. Griffith: We understood that was to be the purpose.

The Hon. CLIVE GRIFFITHS: We even went further. We understood that was the situation. The motivating thought behind the proposal to adjourn the debate on the motion for such a long period was to enable what I have just said to be done.

We went further than that, and we contacted the local authority. A couple of the members of this Parliament approached the local authority to seek an audience with a view to discussing the proposition with the local authority and to arrive at some acceptable compromise.

Mr. Abbey said that I had moved the motion either wisely or unwisely, as one sees the position. I suggest that I have moved it wisely. One of the reasons I put forward at the time for moving the motion was that the council in defining what is an adequate rubbish disposal bin had decided on a six or 10-cubic yard capacity bin. It was said that this would bring about an increase in the cost of building a house. I did not say it would increase the cost of each house by \$98; some other member might have said that. I said it would increase the cost of each house by something like \$40. I indicated that taking into consideration the number of houses which are built each year in the metropolitan area the added cost will represent something like \$500,000 per annum.

Those were the figures I used. Other people may have used the figure of \$98; it might have come from someone else. The local authority has not denied that the figure I put forward as the increased cost

could be the amount involved. I think I demonstrated quite adequately that an amount of \$40 would be involved.

The Hon. C. R. Abbey: Surely the honourable member recognises that with the change this will not now be the case.

The Hon. CLIVE GRIFFITHS: Mr. Abbey said I was using a 10 lb. hammer to crack a peanut.

The Hon. R. H. C. Stubbs: The honourable member said that the increase could be \$95 to \$100. He was probably quoting someone else's figures.

The Hon. CLIVE GRIFFITHS: If the Minister wants me to repeat what I said, I said that the total cost involved in providing one of these bins for 21 weeks would be \$95 to \$100, or thereabouts. It might well be up to that figure but I deducted from that figure the amount of money which is currently spent on cleaning up a building site. In arriving at that figure I allowed something like \$50.

The Hon. R. H. C. Stubbs: The honourable member said it would cost \$97 for two removals.

The Hon. A. F. Griffith: Tell the Minister he is not allowed to allude to a debate which has just taken place.

The Hon. CLIVE GRIFFITHS: Obviously the Minister has not read my speech up until this minute because I clearly indicated that the increased cost would be in the vicinity of \$40. However, I will not argue any more because I am sure that everybody else is aware of what I said, even though the Minister is not. I will return to the 10 lb. hammer and the peanut, referred to by Mr. Abbey. Contrary to what Mr. Abbey might suggest, I think it is the local authority which is using the 10 lb. hammer to break the peanut. The local authority demonstrated that fact quite amply because the by-law stated the builder must provide an adequate bin. The definition of an adequate bin, which had been adopted by the local authority, was presented to the builder with his building permit.

At the bottom of the by-law it was set out that a six cubic yard or a 10 cubic yard bin was the type which the local authority defined as adequate. The fact that the local authority has now changed its mind from a 10 cubic yard bin to a seven cubic foot bin is a clear example that it was the local authority which was using a 10 lb. hammer to crack a peanut.

It was obviously clear that the local authority changed the definition after I moved my motion. The definition was changed from six or 10 cubic yards to seven cubic feet, which is going from the sublime to the ridiculous. The change amply demonstrates the lack of study given to the matter by the local authority before the by-law was introduced.

Of course, the Minister is implying that the local authority never defined an adequate bin as a six cubic yard or a 10 cubic yard bin. He completely steered his comments away from that fact and placed great emphasis on the fact that a seven cubic foot bin was acceptable, and implied that this had always been the situation.

The Hon. A. F. Griffith: He is very clever.

The Hon. CLIVE GRIFFITHS: He is, indeed, and I do not detract from that. However, it is important that I point out to members that this was the situation. The period of two weeks, which has been mentioned, is not quite right. On the Monday after I moved my motion the Armadale-Kelmscott Shire Council moved a motion to alter the definition. The fact that the Minister had a letter from the town clerk dated the day I moved the motion, indicating that the town clerk intended to do something about the matter, has no bearing.

The Hon. R. H. C. Stubbs: I did not say I had a letter.

The Hon. CLIVE GRIFFITHS: The Minister said action was taken on the day I moved my motion.

The Hon. R. H. C. Stubbs: It was recommended on the same day that the honourable member moved his motion.

The Hon. CLIVE GRIFFITHS: It was at the council meeting held on the Monday after I moved my motion.

The Hon. R. H. C. Stubbs: They adopted the health regulations.

The PRESIDENT: Order!

The Hon. CLIVE GRIFFITHS: I pointed out that the situation was not going to be resolved, and that I appreciated the problem which the council was facing. I suggested that if every local authority in the metropolitan area adopted this by-law, or a similar by-law, it could cost \$500,000 per annum out of the money which was available for home building in the metropolitan area.

The Hon. R. F. Claughton: Are not builders required to clean up building sites anyway?

The Hon. CLIVE GRIFFITHS: Mr. Claughton has brought up a point with which we finished five minutes ago.

The Hon. A. F. Griffith: That is not unusual.

The Hon. CLIVE GRIFFITHS: Anyway, I will ignore him again.

The Hon. R. F. Claughton: What the honourable member is saying seems to be confusing.

The Hon. CLIVE GRIFFITHS: Mr. Claughton is always confused.

The PRESIDENT: Order!

The Hon. CLIVE GRIFFITHS: At page 3695 of *Hansard*, on Tuesday, the 9th October, I had the following to say—

Perhaps it could be reduced by one-third, which would bring the additional cost down to, say, \$40 or \$50 per house.

The Hon. R. H. C. Stubbs: On the same page the honourable member also said that the increase would be \$97.

The Hon. CLIVE GRIFFITHS: To continue—

It can be seen from those two simple examples that it is blatantly obvious the cost to the home builder will increase by approximately \$50 per house.

That is what I said, and it is recorded in *Hansard*.

The Hon. R. H. C. Stubbs: So are the other figures.

The Hon. CLIVE GRIFFITHS: During the last day or two we have read in the Press that building societies have indicated the amount of money which will be available for home building in Western Australia during the next 12 months will be cut by something like \$50,000,000. That will be as a result of actions taken by the Labor Governments in Australia.

The Hon. A. F. Griffith: This will get them biting; say a word or two about it.

The Hon. J. Dolan: It is marvellous how he gets away with it.

The Hon. CLIVE GRIFFITHS: The reports in the Press are the facts of life for all of us to read. This further action—the introduction of the by-law—will remove a further \$500,000 from the source of funds available for home building.

We do not deny the fact that building sites need to be cleaned up and we have made allowance for that. We are suggesting that in the time it took the local authority to change its definition from 10 cubic yards to seven cubic feet another change could also be made. Whether or not this particular motion is defeated—or immediately it is defeated—the local authority can introduce another by-law just as quickly as it can call its council together.

I repeat, the local authority could introduce a by-law which would be acceptable, and such a by-law could consist of all the parts of the existing by-law with the exception of paragraph (a). In other words, the by-law could consist of paragraph (b) which is as follows—

- (b) It shall be the builder's responsibility at all times during construction to ensure that the building site is maintained free from waste building materials, by having the waste building materials deposited in the rubbish bin provided by the builder on the building site.

That would be acceptable to the industry. Paragraph (c), is as follows—

- (c) It shall be the builder's responsibility to ensure that any loose building materials are not permitted to be blown from the building site on to any road verges or other properties.

That, also, would be acceptable to the industry. Paragraph (d) reads—

- (d) It shall be the builder's responsibility to ensure that on completion of construction the building site is completely cleared of all waste building materials to the satisfaction of the Local Authority.

That would also be acceptable to the industry. Paragraph (e) reads—

- (e) At the completion of construction it shall be the builder's responsibility to ensure that the rubbish disposal bin is removed from the site and the contents disposed of in accordance with the requirements of the Local Authority.

That provision would be acceptable to the industry. If my motion is carried, it would take the local authority only one minute, at a meeting called for the purpose, to promulgate a new by-law. If my motion is not carried it need also take the local authority only one minute to alter the definition of what it considers to be an adequate bin. The local authority has already taken such action on one occasion because as a result of my motion the definition was changed from 10 cubic yards to seven cubic feet in an attempt to stop this House carrying my motion.

The Hon. R. F. Claughton: That decision was made on the same day.

The Hon. CLIVE GRIFFITHS: That is the action which was taken by the local authority and, similarly, if we are to take any notice of the letter which the Minister read to us from the Local Government Association, which suggested that every local authority desires to implement a similar by-law, every single local authority will have the power to decree the definition of a suitable bin.

The Hon. R. H. C. Stubbs: The by-law was adopted on the same day as the motion was moved.

The Hon. CLIVE GRIFFITHS: I am suggesting it was done on the Monday after I moved my motion, but it does not matter.

The Hon. A. F. Griffith: But if it was adopted on the same day, why were we not told about it?

The Hon. R. H. C. Stubbs: The Leader of the Opposition waved a letter and said he had received it from the Armadale-Kelmscott Shire Council.

The Hon. CLIVE GRIFFITHS: How often does Parliament move to disallow a regulation adopted by a local authority? I agree that local authorities are responsible bodies, and I am a great supporter of local authorities. But from time to time, it is necessary for Parliament to use its powers in the public interest. The powers are provided for that purpose.

If it is looked upon as some crime or some offence to take the action I am taking—to move for the disallowance of a by-law—then we ought to remove the provision from the Statute book.

The Hon. J. Dolan: No-one is blaming the honourable member.

The Hon. CLIVE GRIFFITHS: No-one is suggesting that I am being blamed.

The Hon. J. Dolan: Then what are you belly-aching about?

The Hon. CLIVE GRIFFITHS: I am not belly-aching to the Leader of the House because he has not said anything about this, except to interject rudely.

The Hon. J. Dolan: It was not a rude interjection.

The Hon. CLIVE GRIFFITHS: Any interjection is rude

The Hon. J. Dolan: It is a pity you do not practise that.

The Hon. A. F. Griffith: Interjections are also disorderly.

The Hon. CLIVE GRIFFITHS: They are rude and disorderly. Parliament has the power to move to disallow by-laws in the public interest. The local authority concerned has been given time, and more time, during which to consult and confer with the industry which is affected, but it refused point blank to do so. Indeed the local authority informed me it did not consider it should be expected to confer with anybody when formulating by-laws such as this.

In such circumstances I believe that if Parliament moves to disallow the by-law the local authority will then have the prerogative to frame a new by-law which will be acceptable to both industry and to Parliament. I certainly hope the House will agree with me.

One further point to which I wish to refer is that on receipt of his building permit a particular builder approached the local authority and received a copy of the by-law together with the definition indicating the receptacle had to be a six cubic yard or 10 cubic yard bin. Having received this information he then appealed to the Minister for Health against the provision which required him to provide a six cubic yard or a 10 cubic yard bin. On that basis the Minister for Health rejected his appeal in favour of the local authority.

I wonder how the Minister for Health felt when the local authority made a move overnight to change its definition of a bin from one of six cubic yards or 10 cubic yards to one of seven cubic feet; particularly after the Minister had rejected the appeal of the builder who had appealed to him against the necessity to have a bin of six cubic yards or 10 cubic yards? So here we have a situation where the Minister for Health upholds the provision that in no circumstances should a builder be permitted to have a rubbish bin under six cubic yards or 10 cubic yards; having done so he finds the local authority has amended its definition to read that the bin should be one of seven cubic feet.

The Hon. A. F. Griffith: A nice kettle of fish.

The Hon. CLIVE GRIFFITHS: It is certainly a nice kettle of fish, and it is a clear indication that my motion should be carried. I do not wish to prolong the debate, because all the points have been made, but industry is interested, aware, and keen to do something about the matter.

Industry is anxious to confer with the local authority to see what can be done about the matter. I have indicated the increase in cost that will be added to the already heavy burden which is being imposed on home builders. Apart from this I have indicated the amount of money that has gone out of circulation so far as home builders are concerned; and I have also shown the apparent lack of desire on the part of the local authority to confer with anybody when formulating such by-laws.

For these reasons I believe the House should support my motion.

Question put and a division taken with the following result—

#### Ayes—10

Hon. G. W. Berry	Hon. N. McNeill
Hon. V. J. Ferry	Hon. I. G. Medcalf
Hon. A. F. Griffith	Hon. R. J. L. Williams
Hon. Clive Griffiths	Hon. D. J. Wordsworth
Hon. G. C. MacKinnon	Hon. F. D. Willmott

(Teller)

#### Noes—13

Hon. C. R. Abbey	Hon. L. A. Logan
Hon. N. E. Baxter	Hon. T. O. Perry
Hon. R. F. Cloughton	Hon. R. H. C. Stubbs
Hon. D. K. Duns	Hon. S. T. J. Thompson
Hon. S. J. Dellar	Hon. J. M. Thomson
Hon. J. Dolan	Hon. W. F. Willsee
Hon. J. L. Hunt	

(Teller)

#### Pairs

#### Ayes

Hon. W. R. Withers  
Hon. J. Heltman

#### Noes

Hon. R. Thompson  
Hon. L. D. Elliott

Question thus negatived.

Motion, as amended, defeated.

### LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

#### Second Reading

Debate resumed from the 6th November.

**THE HON. S. J. DELLAR** (Lower North) [5.22 p.m.]: I think the debate on the Bill before us indicates the attitude of members to the work done by local government and the activities and financial expenditure in which local government becomes involved.

The measure is one of many that have been introduced since the original Act was first brought down in 1960. As one who has had approximately 14 years as an officer in local government I am well aware of the number of amendments that have been made to the Local Government Act.

As has been said by other members, this merely indicates the necessity and the intention of local government to keep pace with progress and the growing demands that are made on local government throughout Western Australia.

When the Bill was first introduced by the Minister for Local Government my attitude towards it was that it contained a series of amendments to the Local Government Act; and that the measure was worth introducing and properly based. Instead of considering it in this light, I regret that the attitude of the members of the Opposition to this Bill—as it has been in relation to other Bills that have come before the House—has been to launch a series of attacks against the Australian Government and the State Government with little or no regard for the contents of the Bill which would eventually be debated.

As Opposition members have taken this course I feel there is no reason at all why I should not speak for a short while on the points that have been raised, particularly in relation to the attitude of the Australian Government towards local government in respect of Commonwealth grants and other matters.

I hasten to say that in these matters the Australian Government has acted in accordance with its stated policy, which was indicated by Mr. Whitlam before the last Federal election, when he said it was his intention to give local government an increased status in Australia and to provide for representation for it on the Grants Commission. Mr. Whitlam also said there were three tiers of government in Australia—the Federal Government, State Government, and local government. We all know this is so and we all believe it should be so.

The Hon. I. G. Medcalf: There will be a lot more tears before he finishes!

The Hon. S. J. DELLAR: Does the honourable member mean tiers or tears?

I am at a complete loss to understand some of the comments made by members opposite when indicating their attitude towards local government participation in the Grants Commission.

I did not have time to peruse the Federal *Hansard* but from my recollection of what was said, and what I understood Mr. Whitlam to say at the time—and I will refer briefly to the notes I have made so that I may better indicate what was said by Mr. Whitlam—I feel there is little doubt that he clearly stated that the additional finance which is to be provided under the new set-up of the Grants Commission to assist local government is in no way to be a substitute for any existing revenue-raising activities which are now open to local government. The additional finance provided should rather be seen as a topping-up measure to assist local government.

As both Mr. Logan and Mr. Heitman have said, local government needs grants and not loans. I cannot agree with them more. I know the difficulties experienced by a number of local authorities throughout Western Australia; I know they have exhausted their loan-raising capacity and have reached the stage where they are not in a position to take out additional loans and, in some cases, they are unable to meet existing loan repayment commitments.

As I understand the position under the new arrangements connected with the Commonwealth Grants Commission local authorities which are in need of special assistance can apply for such assistance. It is also my understanding that there is no intention to interfere with existing arrangements.

At one stage it was suggested that these arrangements could interfere with the existing Commonwealth aid road grants, but this is a separate Act of Parliament and from my understanding of it I do not think it will interfere with any of the existing avenues which may be open to local authorities to obtain financial assistance; they will be able to obtain additional finance through representation on the Commonwealth Grants Commission. It is an attempt to provide additional aid to local government.

Local government naturally would have to indicate the need for further assistance and where a local authority has proved it needs additional finance the funds so allocated can be spent by that local authority as it sees fit, in the interests of the residents of the shire or town as the case may be. There is to be no direction as to how the local authority is to spend these funds; their expenditure is to be left purely to the local authority which will act according to its knowledge of local conditions and the needs of the local people. I understand the department, by means of a circular, has conveyed this information to all local authorities in Western Australia.

The Hon. N. McNeill: That does not agree with the circular I read out yesterday.

The Hon. S. J. DELLAR: I did not pay a great deal of attention to the circular read by the honourable member. I am merely stating what I understand the position to be.

The Hon. N. McNeill: I thought the circular specified the funds were not for these purposes.

The Hon. S. J. DELLAR: That is not how I see it. In the circumstances I cannot understand the apprehension of Opposition members to this matter.

The Hon. L. A. Logan: I said it should be done through the State authorities.

The Hon. S. J. DELLAR: We are not taking anything away from the State Government; we are merely ensuring that local authorities should have an additional say in regard to finance.

The Hon. J. Heitman: You are taking their additional finance.

The Hon. S. J. DELLAR: We are not. Does the honourable member think I am stupid? Perhaps he had better not answer that question. I just cannot understand the apprehension being shown by members of the Opposition who, I believe, are repeating the comments made by the local authorities who have approached them.

I have here a circular issued to all local authorities by Mr. A. E. White, Secretary, Local Government Association of Western Australia (Inc.); and the Country Shire Councils' Association of Western Australia. Mr. White has been in local government probably longer than I have been alive.

This circular was sent to all councils. It is headed, "Commonwealth Grants Commission and Regions" and it is a report by Councillor George Strickland of the discussions held on the 25th and 26th October with the Grants Commission. Most members will know that Councillor Strickland is a member of the South Perth City Council and he is the President of the Local Government Association of Western Australia. He was the delegate appointed to represent Western Australian local government at the Grants Commission hearing when the details of the proposal were outlined by a representative of the Australian Government. The report states—

Cr. Geo. Strickland has reported on the discussions with the Grants Commission held on the 25th and 26th instant as follows:—

- (1) Applications for Grants for 1974/75 must be submitted to the Minister of State (Senator Willesee)—

Of course, Senator Willesee is now the Minister for Foreign Affairs. To continue—

—by December 31st 1973, and the detailed submissions must be submitted in triplicate not later than 28th February 1974.

- (2) The Minister for Urban and Regional Development has approved of Regions as set out later in this Circular. These cannot be changed without a recommendation by the Minister for Local Government, and this may not be easy to secure unless there is an outstandingly good case. Requests for any changes should be made urgently.

I will leave the report for the moment. Mr. Abbey made a very good comment last night when he read a submission put forward by outer metropolitan authorities. These authorities indicated their desire to have a separate zone of their own, and I can see the point.

The Hon. J. Heitman: Do you think Mr. Uren will see the point, that is the thing?

The Hon. R. F. Claughton: He is a very reasonable man.

The Hon. S. J. DELLAR: I do not know. Applications can be made, as long as they are made urgently. I believe the shires to which Mr. Abbey referred have done a very good job in making their submissions urgently. The report continues—

- (3) The significance of being in one Region or another is not great at the present time. The Regions will be simply for administrative convenience and it is the affairs of the individual Councils which will matter.

The Hon. J. Heitman: Why the urgency for that if nothing is to happen until 1975?

The Hon. S. J. DELLAR: We said we would do something and we are doing it. However, it takes some time to work it out properly.

The Hon. J. Heitman: Why the urgency?

The Hon. S. J. DELLAR: We have to start somewhere. Let us not go back to the horse and cart days.

The Hon. R. J. Claughton: Mr. Heitman would prefer that we did nothing.

The Hon. S. J. DELLAR: To continue—

- (4) The Regions and their organisation should be set up as quickly as possible.
- (5) During the first year, the Commission will accept applications and submissions from individual councils, and the Regional organisation is expected to act only as a "Post Office" for the Region, and the Regional Organisation will not have to evaluate the applications from its constituent councils. The Councils in a Region should agree

for one of them to act as the "Post Office" for the time being.

The Hon. R. F. Claughton: Could we have it a little more slowly?

The Hon. S. J. DELLAR: Yes; it continues—

- (6) Throughout Australia, the Associations will act for the time being as the Secretariat for the Regions.
- (7) The Grants Commission hopes to visit each State to take evidence on applications, and hopes to visit some of the Regions.
- (8) At the hearings before the Commission, only one speaker will be accepted.

If I could digress for a moment, members may ask why one speaker only can be accepted. It has always been my belief that when a local authority, or in fact any organisation, supports a case as a body, the best way to present that case is to have it presented by one person. I can recall a particular occasion when a local authority invited a Minister to a meeting to discuss a problem—I will not say which authority and which Minister. The Minister, his under-secretary, and some other officers attended the meeting. The shire president outlined to the Minister the assistance being sought by the council. The Minister turned to his under-secretary and said something to this effect, "I cannot see any problems if we agree to that." The under-secretary replied, "I think we can help the council with its problem, Mr. Minister." With that a councillor jumped up and said, "But that is not exactly what we want—we want something else." What could the Minister say? He was happy to forget about a project which would cost a certain amount of money. He said, "When you make up your minds what you want, we will give you assistance."

The Hon. J. Heitman: That was rather nasty of the Minister.

The Hon. S. J. DELLAR: I am not saying this simply because he was a Minister in the previous Government. However, any Minister who is battling for funds would feel, and quite rightly feel, that he should not commit the Government to a project upon which a local authority could not agree. The local authority should have nominated one spokesman, and the project would have been completed years ago.

The Hon. J. Heitman: That is wishful thinking.

The Hon. S. J. DELLAR: The report continues—

- (9) The Commission will take special note of the differences between inner and outer

Metropolitan Councils, as well as differences between various zones of each State.

- (10) If there is justifiable delay in forming the Regions, the Commission will be prepared to receive applications direct from the individual Councils concerned.

If that is not co-operation, I do not know what is.

The Hon. J. Heitman: But it is not going to happen, that is the only problem.

The Hon. S. J. DELLAR: I do not know how the honourable member can say that. We have to try things—we must progress.

The Hon. J. Heitman: The idea has been altered since that screed was written.

The Hon. S. J. DELLAR: Then it must have been accomplished as speedily as the matter of the rubbish bins! The report is only a week old.

The Hon. J. Heitman: I have had this copy for six weeks.

The Hon. S. J. DELLAR: It is dated the 29th October.

The Hon. J. Dolan: Only nine days ago.

The Hon. S. J. DELLAR: It continues—

- (11) The Grants Commission or Department of Urban & Regional Development will be issuing further details, direct to all Councils within the next few weeks. The Secretary for Local Government will be advising as to the role which his Department will play in the arrangements and procedure.
- (12) The Commission expects to confine itself to matters concerning only the question of grants in accordance with the Act—

That is the Commonwealth Grants Commission Act. To continue—

—which are not for special projects—and will not be dealing with other matters. In particular, it will not be replacing the Bureau of Roads in respect of C.A.R. Funds.

- (13) All Local Government Delegates to the discussions were impressed with the obvious integrity of the Grants Commission, and do not doubt that it will function most properly in assessing the need for grants.

The Hon. J. Dolan: Hear, hear!

The Hon. S. J. DELLAR: This is the comment made by the Western Australian delegate.

The Hon. J. Dolan: George Strickland is a good officer—I know him well.

The Hon. N. McNeill: No-one has cast any reflection on the integrity of the Grants Commission.

The Hon. S. J. DELLAR: Whether or not Mr. McNeill cast doubts on the integrity of the Grants Commission, he was obviously querying its future function.

The Hon. N. McNeill: I did not cast doubts on its integrity.

The Hon. S. J. DELLAR: The report goes on to list the regions. As has been said by some of the other speakers to the debate, it may be that some of the regions do not fall into place. This was the first time I had a chance to look at them, and I am inclined to agree with Mr. Heitman and Mr. Abbey that some review should be made.

The Hon. R. F. Cloughton: It is a flexible arrangement. They can change from one region to the other.

The Hon. S. J. DELLAR: That is right. In view of Councillor Strickland's report, I cannot understand the concern felt by local government in Western Australia; because he was the representative in Canberra of the Western Australian local authorities.

I will now turn to the Bill. I do not wish to go through it clause by clause; other members have discussed various parts. However, I would like to refer to several provisions and I commence with clause 3 which seeks to add a new interpretation. The need for the inclusion of the interpretation of "town planner" is obvious as local government in Western Australia is becoming increasingly more involved in town planning matters. Many local authorities are employing their own town planners. In my view town planners are important officers in local government and should be granted the recognition which is extended to other officers.

Clause 4 refers to the appointment, the terms of office, and the removal from office of various officers of local government. It is now intended to extend this provision to town planners. At this stage I would like to refer to some notes I have made on this subject as I believe they give the complete picture of the position which arises when the shire council desires to terminate the services of an officer. They read—

- (1) Where a Council proposes to terminate the services of a person holding one of the following offices—

Clerk.  
Engineer.  
Treasurer.  
Traffic Inspector.  
Building Surveyor.

If this legislation is passed, my remarks will also be applicable to town planners. To continue—

it must either order that an inquiry be held or suspend him. (NOTE: This does not apply where a person's services are terminated on his reaching retirement age of 65).

- (2) If the Council decides to suspend the officer it must give reasons for the suspension.
- (3) Where an officer is suspended he may within seven days apply to the Council for an inquiry and the Council is then bound to order an inquiry.
- (4) Where an officer who is suspended does not apply for an inquiry within seven days, the Council may proceed to determine the matter.
- (5) Where an inquiry is required it must be conducted by a person appointed by the Governor (generally a Stipendiary Magistrate).
- (6) On completion of the inquiry, the person conducting it must send copies of his report to the Council, the Minister and the officer concerned.
- (7) The Council cannot come to any decision until the report is read in open Council.
- (8) Whatever conclusions are reached in the report, the Council may still proceed to terminate the services of the officer, but—

if the report is substantially in favour of the officer, the Minister may, on application by the officer within fourteen days of the termination of his services, direct the council to pay compensation not exceeding an amount equal to four weeks' salary for each year's service with the Council.

If the report is substantially favourable the officer is also entitled to the usual superannuation, annual leave and long service leave benefits which he would have received had he resigned voluntarily.

- (9) The person holding the inquiry may—
  - award costs or expenses against the council or officer
  - and shall determine—
    - whether the officer shall be paid his salary or part of his salary, during the period of his suspension.

This is the format which is followed when a local government officer is suspended and an inquiry follows. As I said before,

as a former officer in local government, I am probably leaning towards the officer, but I cannot see any reason for a person such as a town planner—and there have been cases where councils have had trouble with town planners, as they have had with shire clerks—not being the subject of an inquiry. In the last five years only three inquiries have been held into the dismissal of a local government officer as is provided in the Bill before us. In 1968-69 no inquiries were held; in 1969-70, none were held; in 1970-71 an inquiry was held into the dismissal of a traffic inspector as was the case in 1971-72; and in 1972-73 an inquiry was held into the dismissal of a building surveyor.

There may have been instances where the council terminated the services of a town planner or shire clerk, as a result of the council acting in accordance with the officer's desire to resign when he knew the council's allegations were valid and because of this he was not game to submit himself to an inquiry, knowing full well that the costs of holding such an inquiry would be awarded against him.

Clause 5 seeks to amend section 159 by including a town planner among those who are required to have the necessary qualifications for appointment. Clause 6 deals with the appointment of officers who are required to have the necessary qualifications, and seeks to set out in the Act itself the procedures a council may follow in regard to the appointment of such officers. The main purpose of the amendment in this clause is to include a town planner under these provisions.

The Hon. L. A. Logan: It also provides that he shall have the necessary qualifications.

The Hon. S. J. DELLAR: I mentioned qualifications. This is the point I was about to raise. The Local Government Act was assented to on the 20th December, 1960. At that time the Act contained provisions that local government officers should possess the necessary qualifications or obtain them, but when the regulations came into being exemptions were provided for local government officers who at that time occupied certain positions.

If a man was holding the position of shire clerk in a certain town in 1960 he automatically became exempt from meeting the requirements of having to qualify for the position by examination. The same applied to a treasurer or an assistant secretary of a road board of a fairly large size, who had been occupying such position for a period of five years. His eligibility as to qualifications was also governed by the revenue of the road board at the time.

I do not dispute the need to increase the status of local government and the requirement that officers in local government must obtain the necessary qualifications. Of course, a town planner or an

engineer would not be appointed in the first place unless he possessed the necessary qualifications. There is an anomaly inasmuch as in 1960, a shire clerk of a council representing 200 people would automatically qualify to become the town clerk of the City of Perth, but an officer who was appointed as shire clerk in 1962 to a shire representing 200 people would not have much time to study in order to qualify. He may have had previous local government experience, and could be a married man of 40 with five children, and being a shire clerk in a town consisting of about 200 people he would probably be holding the positions of health inspector, dog catcher, vermin inspector, and so on. Further, he would probably be a member of the local parents and citizens' association, a member of the local fire brigade, the local swimming club, and so on, and therefore he would not have much time to study.

The Hon. R. H. C. Stubbs: He would not have much time to study if he had five children.

The Hon. S. J. DELLAR: At 40 years of age he probably would have had the five children before he took up his appointment. The point I am making is that many officers in local government find it difficult to study. I know from experience it is very difficult in some cases for officers to study in order that they may pass the necessary examinations. In fact, I would say that although qualifications are vital and necessary, experience would be the greatest qualification that one could possess, particularly in the case of a shire clerk.

The only reason I raise this point is that many officers in local government have been shire clerks for 10 years, ever since the introduction of the new Act. Although such a man would like to improve his status he cannot, although the Minister has the authority to permit a council to appoint an officer who does not possess the required qualifications. I know of many shire clerks who are brilliant men and do excellent work in their own field, but they are debarred from studying in order that they may pass the necessary examinations. In many instances such men doubt whether it is worth their while to go any higher. They say, "I am in a good job now and I will stay where I am."

I mention that in passing, and I ask the Minister to look at that aspect in an endeavour to find some way to relieve an officer of the necessity to pass examinations to gain these qualifications should he be able to pass a "trade test"—for the want of a better name—and prove to the Minister that he is entitled to exemption from possessing the required qualifications. In many instances it would be the local authority that would decide whether such an officer should remain in the position he holds as one does not see many councils dismissing shire clerks merely because they do not possess the necessary qualifications.

Clause 7 deals with the attendance of a councillor in the council chamber and with his exercising his right to vote. That is a sound provision. If it is good enough for a councillor to be present in a council chamber, he should exercise his right to vote.

Clause 8 deals with the pecuniary interest of members in matters concerning a shire or a council. Other speakers have covered that aspect and therefore I will not go into any detail in regard to it. Clause 9 seeks to amend section 181 in order to include museums as areas in which local authorities can appoint managing committees. Many local authorities in Western Australia at present are opening historical museums and it is obvious that a function of this type could be handed over to a managing committee that is responsible to the local authority.

Clause 10 deals with the requirement of a local authority to publish an advertisement in a newspaper concerning the by-laws it intends to promulgate, together with a statement notifying members of the public that they have the right of appeal against such by-laws. Over the years I have seen councils following the provisions of the Act to the letter. The council publishes the necessary advertisement, has the necessary discussions, and does everything in accordance with the relevant section in the Act. The by-law is then promulgated, following which, in many instances, a member of this House will move to have it disallowed. Ignorance is no excuse and I am not saying that this statement applies to the case about which I have just spoken. In many instances the public are apathetic. They read in the newspaper where the "Shire of Tuckunurra" is to adopt a by-law in regard to the size of rubbish bins.

The Hon. Clive Griffiths: Are they adopting that by-law?

The Hon. S. J. DELLAR: There is no shire at Tuckunurra of course. I have merely cited the instance of a small town. As I was saying, the public reads in the newspaper that the shire intends to adopt a by-law in regard to the size of rubbish bins. One has 21 days in which to study such a by-law at the shire office, and then it is put through. People do not take much notice of such a publication in the newspaper because the council is not required to advise the public that they can appeal against any by-law. I think, therefore, that this clause will be an excellent addition to the Act.

Clause 11 seeks to amend section 217 of the Act to prevent the hawking of goods or merchandise other than during the permitted hours. I think Mr. Neil McNeill hit the nail on the head—without cracking the peanut!—when he referred to the fact that by-laws governing hawkers are designed mainly to protect business people and those businesses that come within the area of any shire. In the main,

I believe that this is the case. A local authority, with its association with the townspeople and its knowledge of the town and its requirements generally decides, "We have to protect our business people who are our ratepayers, and therefore we want to police, as much as possible, the activities of hawkers who mainly come from other districts and who spend little money in the town."

In the case of a hawker, of course, more than likely even his motor vehicle has been licensed in some other town. Probably he would be obliged to buy petrol in the town in which he was hawking his wares, but his contributions to the revenue of the local authority, apart from his hawker's license fee, would be negligible. On the other side of the coin we have the man who is entitled to earn his living in this manner. In regard to the permitted hours, I do not know whether we should provide that he should trade only between 6.00 a.m. and 6.00 p.m., or between, say, 10.00 a.m. and 4.00 p.m. A hawker, of course, can be out on the street by 8.00 a.m.

The Hon. L. A. Logan: Shops are generally open at that time.

The Hon. S. J. DELLAR: Well, let us say 7.00 a.m. It depends on which way one looks at the position as to which trading hours should be set down, and which person one is trying to protect; that is, the person who contributes revenue to the local authority, or the itinerant hawker who visits the town only once in a while.

The Hon. S. T. J. Thompson: He is rendering a service to the community.

The Hon. S. J. DELLAR: So is the storekeeper in the town. In my experience, over a period of 14 years, I can recall only one case where a person, who lived in the town, applied for a hawker's license to hawk wares or merchandise around that town.

The Hon. S. T. J. Thompson: We have a hawker who brings fish around to us.

The Hon. S. J. DELLAR: I do not believe he would be a hawker, but an itinerant food vendor under the Health Act.

The Hon. T. O. Perry: A hawker comes and goes, but the storekeeper has to remain in the town to conduct his business.

The Hon. S. J. DELLAR: That is so. I have no argument with clause 12 which deals with advertisements and hoardings. Clause 13 deals, once again, with the requirement of a shire or council to advise the public that they can appeal against any by-law the local authority intends to adopt. This is exactly the same as the requirement contained in clause 10.

Clause 14 has been dealt with by many speakers. It refers to the addition of a new subsection to section 360 which will enable rates or charges to be deferred if the

occupier of the land seeks such deferment. I admit that this provision will allow a local authority to defer the payment of rates on the same basis that rates payable by pensioners can be deferred. It has been said that this could be a dangerous move, but I do not believe it would be. I am of the opinion that many people do not take advantage of the provision that is in the Act at present. I know there are some, and I know of some local authorities that have been placed in an adverse position because people have taken advantage of that provision, but basically I think the average person is anxious to keep up the payment of his rates.

If he is an old-aged pensioner he has not long to go and he no doubt has a sense of duty to his children or other dependants and wants to leave them a property on which there are no outstanding payments. It could be that in some cases this will be a disadvantage to the person inheriting the property.

Clause 15 deals with the delegation of authority to building surveyors and town planners. I believe this is a desirable amendment because in many cases delays of three weeks can occur when a council meets monthly, while in some cases councils meet only every two months. If a building application is submitted to a council a day or two after a meeting at present unless the council directs otherwise, the building surveyor can approve certain types of matters. Many councils do this, but the provision in the Bill will make the procedure legal so that an officer can operate knowing that the council has agreed to delegate to him the authority to handle such matters as building applications or town planning matters if the applications conform with the requirements of the by-laws and the predetermined policy of the council. I consider that is a very good move. As I have said, it has been the policy for a long time, but the provision in the Bill will make it legal.

If we go a little further, the council can decide that up until a week before a council meeting the surveyor can approve applications, but if applications are received within the last week before a council meeting they should be dealt with by the council unless they are of a trivial nature.

Clause 16 was adequately covered by Mr. McNeill, and I am aware that problems have occurred with the impounding of stock.

Clause 17 contains an amendment to allow local authorities to sell houses to employees. The reasons for the amendment have been outlined and I will do no more than say I agree with it.

Once the Minister's proposed amendment is made to clause 18, the position concerning travelling and out-of-pocket expenses will be clarified.

I cannot help but mention clause 19 which deals with dangerous trees. I have no wish to debate the clause, but I do know of instances in the south-west where a seemingly healthy tree—just the same as a seemingly healthy person—has just fallen over.

Clause 20 is a tidying-up clause to correct an earlier amendment which it was not intended to make; and clause 21, dealing with the employment of deputies, is an extremely good one. Already a considerable delay occurs before a valuation appeal can be heard and if a registrar behaves like the trees to which I have just referred and falls over, then another registrar must be appointed before the hearing can be settled, and this involves additional delays.

Clause 22 contains a very good provision which has been outlined by other members. It will mean that local authorities will be able to obtain, by bank overdraft, working capital or bridging finance to carry on until such time as rates are recovered.

Clause 23 deals with the policy of parking. I agree with Mr. Heltman who said that when a local authority has a by-law in force from which it obtains revenue, only one authority should police it.

The Hon. Clive Griffiths: Before you sit down, will you tell me what you think of my proposed amendment to clause 19? You skipped over that one.

*Sitting suspended from 6.06 to 7.30 p.m.*

The Hon. S. J. DELLAR: Prior to the suspension I was about to conclude my remarks when I received a rude interjection from Mr. Clive Griffiths who asked me what I thought of his proposed amendment to clause 19. I have had a brief look at this and I consider that any cost involved in removing the dead wood from the amendment should be charged to the honourable member; the Minister for Local Government could claim the costs from him! Seriously, Mr. Clive Griffiths, proposals may possibly have some merit and could, perhaps, be considered. The Minister, in his own right, would be better equipped to answer the question asked by the honourable member.

The Hon. Clive Griffiths: On the contrary, I believe you would be better equipped.

The Hon. S. J. DELLAR: I thank Mr. Clive Griffiths for that remark. I would like to reiterate the points I have made. I believe the Australian Government is trying to implement a scheme under which local authorities will receive additional assistance and must, of necessity, benefit. I also believe that in time most local authorities will appreciate the additional assistance which is to be provided to them.

I compliment Councillor Strickland on his report and I know he will continue to represent local authorities in Western

Australia on the Grants Commission in the same manner as he has done up to date. I am sure he will continue to look after the interests of local government in Western Australia. With those concluding remarks, I support the Bill.

Debate adjourned, on motion by The Hon. D. K. Dans.

## CO-OPERATIVE AND PROVIDENT SOCIETIES ACT AMENDMENT BILL

### *Second Reading*

Debate resumed from the 6th November.

**THE HON. V. J. FERRY** (South-West) [7.35 p.m.]: The purpose of the measure is to increase the limitation of the permissible shares held under the Act from the present ceiling of \$5,000 to \$10,000. The co-operative movement is an important feature of our society today and such co-operatives play quite a role in a number of fields.

In fact, if one were to take the time, one could give quite a lengthy recitation on the role of co-operatives, but this is not my intention tonight. I wish to make one or two points which are pertinent to the measure.

The Minister, when he introduced the measure, indicated that the present limitation of \$5,000 for each shareholder is not realistic in this day and age, particularly when one has regard to the inflationary situation throughout the country.

The history of this legislation is one of amendment. It has been amended on several occasions since it was first enacted. The limitations have been progressively raised. I have no argument with that, except to say that inflation is, of course, a serious factor in our community and one which we recognise as being one of the major disabilities under which we suffer at the present time.

It is interesting to note that the measure has been introduced at the request of the Co-operative Federation of Western Australia. By way of example, the Minister made particular reference to the desire to diversify on the part of the Fremantle Fishermen's Co-operative. I do not particularly wish to comment on the operations of the Fremantle Fishermen's Co-operative but the example is a good one. The Minister explained that the co-operative, in this instance, wishes to diversify its activities so that it may, in fact, be more effective for its members. The co-operative wishes to explore and undertake tuna fishing in the Indian Ocean and to get away, perhaps, from the more specialised role of its rock lobster activities.

There is a place in the community for co-operatives along with other organisations and private enterprises. There is a need—as is practised in our community—for balanced trading, and co-operatives, of course, form one part of this balance.

Marketing is one of the two facets to which I wish to refer tonight. Marketing can be defined as the process of taking a commodity and adding maximum value to it at the minimum cost. This definition shows what marketing does; it adds value to the original product.

By way of example, I could perhaps instance a marketing organisation which could take a chicken from a farm, kill, pluck, and clean it, and deliver it to the supermarket. I could go further and say that the chicken could be cut up, partly cooked, flavoured, packaged, and be ready to put into the oven to be heated before serving.

This is a form of marketing, and marketing is a positive process. The marketer takes steps to add something to the value of the chicken.

Who recognises this value? Quite obviously the value is in the eyes of whoever buys the particular product. More often than not this person is the housewife. It is a well-known fact that in most major markets of the world today the housewife no longer wants to take home a live chicken.

Of course it can happen on occasions and I well remember earlier this year visiting a well-known place in Sydney called Paddy's Market—a place where a person can buy a live chicken and, thereafter, do what he wishes with it.

The Hon. J. Dolan: Generally a man would be interested in live chicks!

The Hon. V. J. FERRY: I suppose it depends on the colour of the feathers! Quite often a housewife wants a product which is almost ready to serve. This is attractive to her in our modern way of life and she is willing to pay for the commodity in this form.

As marketers, co-operatives, like any other selling organisation, must know what customers want; the form in which they want it; where they want it; and how much they will pay for it. As marketers, co-operatives must ensure there will be a reliable flow of the product onto the market place.

Many facets are involved in meeting the needs in this context. One could refer to the process of transporting the goods, storing, financing, processing, packaging, shipping, wholesaling, promoting, and retailing the goods. There is, in fact, a rather long chain of events.

In Australia, co-operatives perform some of the value-adding processes. If we think of the role which co-operatives play in Australia, we must come to the conclusion that they have an important part to play with almost every rural commodity of which we can think. While on the subject of rural commodities and by way of example of the effectiveness of co-operatives in this country, I point out that about

18 per cent. of our wool is handled by co-operatives. In addition, 50 per cent. of the liquid milk trade is handled by co-operatives as is 50 per cent. of the sugar industry. Rice production is almost entirely handled by way of co-operative methods. We well know of course the role which co-operatives play in the marketing of grains such as wheat, barley, and oats. Some 60 per cent. of the Australian cotton production is handled by co-operatives. Also, 25 per cent. of all wine is handled in this way. This rather surprises me but it shows the spread of the activities of co-operatives in the marketing of commodities. In addition, 40 per cent. of all vegetables is handled in this way and 50 per cent. of the Australian fishing industry is handled by co-operatives.

Agricultural co-operatives in Australia are big business and, in fact, are becoming bigger. It would be fair to say that Government boards or agencies have a role to play in the market place. Nevertheless, I believe their role is more in the line of laying down standards of quality. I use that example. Government boards or agencies may also provide information on world-wide trends in marketing.

However, co-operatives play their part when it comes to the sheer hard work needed and the imagination required to sell such products as packaged meat or fruit.

The Hon. D. K. Dans: Packaged meat?

The Hon. V. J. FERRY: Yes, packaged or prepared meat. I am referring to meat which is packaged for retailing in supermarkets. The same applies to fruit. These commodities must be put through the outlets of retailers around the world and in competition with the rest of the world and trading organisations. In this sphere the agricultural co-operative can, in fact, play an extremely important part.

It is well known that co-operatives are established in any number of countries. I refer briefly to the United States of America, France, Sweden, the United Kingdom, India, and Holland—to mention but a few.

So much for marketing as it concerns the role played by co-operatives—and this is the subject matter of the legislation before us. The measure seeks to allow co-operatives to be more effective in their activities, as well as in the part they play in the community and the industries they serve.

The second point I wish to make relates to taxation as it applies to co-operatives. It is well known that co-operatives, generally, are more favourably treated by way of taxation benefits than are private companies. In the major countries of the world the taxation provisions applying to co-operatives are somewhat more advantageous than the normal provisions of the law relating to the taxation of companies

in general. One must assume this is merely a reflection of the generally accepted view that one cannot make a profit out of dealing with oneself. In other words, the mutual concept applicable to income tax liability has been extended marginally into the co-operative company field.

The Australian income tax law provisions relating to co-operatives refer to only five specific types which are specified in section 17 of the Income Tax Assessment Act. There are some notable absentees, particularly in the field of finance, such as lending facilities. I think it is pertinent to this Bill to illustrate the type of business which may be carried out by a co-operative to qualify under section 120 of the Income Tax Assessment Act. They are set out in section 117 as follows—

- (a) the acquisition of commodities or animals for disposal or distribution among its shareholders;
- (b) the acquisition of commodities or animals from its shareholders for disposal or distribution;
- (c) the storage, marketing, packing or processing of commodities of its shareholders;
- (d) the rendering of services to its shareholders;
- (e) the obtaining of funds from its shareholders for the purpose of making loans to its shareholders to enable them to acquire land or buildings to be used for the purpose of residence or of residence and business.

That is the range of conditions applying to taxation benefits for the co-operative movement.

It is my personal opinion that although some concessions should be granted to co-operatives the concessions should not be such that they completely disadvantage private enterprises which, at great risk to themselves, give services to the public in perhaps the same fields. I think healthy competition is needed in all things. Therefore, we recognise that co-operatives offer competition to others trading in the same areas. I would not like to think that private concerns are taxed unduly harshly, thus putting them at such a disadvantage that they cannot offer healthy trading competition.

One is tempted to quote the result of a court case in New South Wales concerning the handling of milk by a co-operative, but I believe that case is more applicable to another measure on the notice paper.

I support the Bill. I believe that in the present-day situation it is reasonable to increase the amount, and I do not propose to enlarge on the matter any further. As I said at the outset, the range of material available on co-operative organisations is

enormous, but I do not think it is necessary to go into it at great length. However, the two points I have raised in respect of marketing and taxation provisions are worthy of consideration in connection with this measure.

**THE HON. J. DOLAN** (South-East Metropolitan—Leader of the House) [7.50 p.m.]: I thank Mr. Ferry for his support of the Bill. I refer to the example I gave in my second reading speech when I mentioned that the Fremantle Fishermen's Co-operative wished to use these provisions, if possible, in order to extend its operations into tuna fishing. On our coast tuna fishing is mainly confined to nationals of other countries, and it is encouraging to know that one of our own co-operatives will supply the necessary finance and expertise to engage in this industry.

I thank the honourable member for his references to the marketing and taxation angles. I do not intend to deal with them. The amendments seek only to change the word "five" to the word "ten" in about six places, and they will be dealt with in the Committee stage. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

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

## **PREVENTION OF POLLUTION OF WATERS BY OIL ACT AMENDMENT BILL**

*Second Reading*

Debate resumed from the 31st October.

**THE HON. R. J. L. WILLIAMS** (Metropolitan) [7.54 p.m.]: This is probably one of the most important Bills to come before the House in a very long time. After examining the Bill very closely, I find it is a pleasure to speak to it, because there is nothing in it which can be termed political, and that is a great change in this day and age.

The Government is to be congratulated on amending the original Act, which was introduced by the previous Government in 1960. I mention that because it proves that in 1960 we were well aware of oil pollution problems. Having said that, I say immediately that the Government can be taken to task over one portion of the Bill, and members will be aware of that portion from the amendments I have placed on the notice paper.

In trying to achieve the acme of administrative perfection, the Government has incorporated in the Bill what I consider to be a gross injustice, and I hope to convince members of it. Let me add that was not the Government's intention. Yet, however strenuously it was opposed in the other place, the Bill has come to us almost entire and with only one amendment. It is an important amendment. It indicates that the Minister responsible for the introduction of the Bill recognised the injustice of the portion to which I am referring. As I am not permitted to refer to debates in the other House during the same session, I can do no more than recommend that members have a look at it. It supports the arguments I will put forward.

On the 21st March there appeared in *The West Australian* an article by Mr. Don Scott. It was extremely well written and was headed, "Oil pollution is coming under heavy attack". In his second reading speech the Minister introduced the subject of the *Torrey Canyon*, which, as members will remember, was the tanker of 67,000 tons which foundered off the English coast in 1967. It eventually required the work of the Royal Air Force to sink the tanker out of sight. In his article, Mr. Scott mentioned what was quite apparent at the time; that is, although detergent dispersed the large accumulation of oil the ecologists were not sure which had done more damage to the marine life, the oil or the detergent.

It is unfortunate that ships, by their very nature, will pollute harbours and oceans. I defer to Mr. Dans in this matter, but I have it on good authority that it is no longer necessary for ships to clean oil tanks out at sea under the old method and discharge oil and water into the ocean many miles from land. Apparently that is now an outdated method. There is no control whatsoever over what is done by a ship, at the captain's behest, when it is in the middle of the ocean. The crew obeys orders.

Because it will lend point to the argument at a later stage, I think it is worth mentioning that in this Bill we are concerned only with the harbours and inland waters of this State, and with oil pollution up to the low watermark only. Lest anybody be in doubt about the fact that we have control of the seas only up to the low watermark, I suggest members read the case of *Bonser v. La Macchia* (1969), which appears in volume 43 of the *Australian Law Journal Review*. The judgment handed down by the High Court of Australia established that State rights extended only as far as the low watermark. Consequently, that is the area of jurisdiction which this Bill seeks to cover, as well as our inland waters; and the gross injus-

tice, as I have called it, in the Bill will be shown to be more unjust when we examine that fact.

I have it on good authority that everything humanly possible is done to prevent pollution by oil from ships in harbours. When I talk about ships, I stop at the Fremantle bridge, because I am talking about large ships.

The captains and crews—and Fremantle is a very busy port for this exercise—call here for bunkering; or, in layman's terms, refuelling. Now, the principal complaint I have against the Bill is this: Under the Bill it is not the captain and the owner of the vessel—who are in charge of that vessel in its entirety—who are considered to be the only miscreants; by some quirk of fate the ship's agent is lumped with this responsibility. I feel this is unjust because an agent has absolutely no control whatsoever over what a captain does on his ship. In point of fact, the agent need never set foot on board the ship; and the captain could even prevent him from boarding the ship. Yet he is to be held equally responsible and is to be liable to a fine of some \$50,000 maximum.

I ask members to bear with me when I say that, with one exception—South Australia—we are the only State in Australia which is introducing the term "agent" into its Statute. There is another provision to which I object—and I will explain my reasons later—and that is the inclusion of the term "charterer". That term is far too vague for the marine law situation, and members will be able to appreciate this as I develop my argument.

There is no doubt that ships do pollute waters. It is mostly accidental; everyone has accidents. One such accident occurred in Fremantle not so long ago when a ship was taking on bunkers—and I have checked with my seagoing colleague in this House that my terminology in this respect is correct. A safety precaution when taking on bunkers involves the ship's master giving an order that all scuppers be stopped; that is, a concrete block is placed in each scupper and this prevents any leakage of oil on the deck from flowing over the side of the ship and into the water.

In the case to which I refer, this process was duly carried out. However, a spillage of oil occurred on the deck. During the night it rained heavily and the amount of rain deposited on the deck was sufficient to float the oil over the level of the stops, and it flowed into the harbour. The master had taken reasonable precautions and the crew had taken reasonable precautions, and yet there was an oil spillage into the harbour. One could say that it was only a minimal spillage, but only the day before yesterday the master of a vessel was taken to court for the spillage of between six and eight gallons of oil into the water.

There is no doubt that even if only 10 oz. of oil is involved, it still pollutes the water. However, my point is that in the case to which I refer the agent could have visited that ship during the night and observed to the captain that the scupper stops were in place and then departed from the ship. But, during the night, due to what some people call an act of God, an oil spillage occurred. Under the Bill before us the agent as well as the captain would immediately become responsible for that spillage. I put it to you, Sir, in unequivocal terms that this is extremely harsh and unjust. What are we going to do with these agents?

In another case an agent was notified by radio that a vessel off Esperance had on board a sick man, and the best advice that could be given was to land the seaman at the Port of Albany where a launch would meet the ship and take him ashore. The agent had only two hours in which to arrange the whole procedure, and he arranged it by radio from Perth. What would have happened if when that ship was drawing into Albany harbour it was involved in some form of accident which caused an oil spillage but was not serious enough to prevent it putting back out to sea? In fact the seaman was picked up by the launch, but let us assume that an accident occurred and the ship proceeded on its way. In the morning the Albany Port Authority—which is mentioned in the schedule to this Bill—would have observed the oil slick. Let us assume the authority traced the slick back to the ship. In that case the agent, who never set eyes on the ship or had anything to do with it, would be held responsible because the ship had left our waters and he could be fined up to \$50,000, which is not an inconsiderable sum.

The injustice of it is that we are including in the Bill punishment of a person who has no control whatsoever over the incident which may have occurred.

We have ships calling at Fremantle under flags of convenience. These ships present a difficult problem because they may call here only once or twice, and if they are served with a summons the odds are that the owners will either never let that vessel come here again, or else they will ensure that the captain never reappears, in order that they may avoid prosecution. One can understand the anger of the harbour authorities and all others concerned when that happens, but it is still unjust to prosecute the agent under the terms of this Bill.

If an incident occurs while the ship is within the harbour then I think it is reasonable that certain other action should be taken. If the captain refuses to pay a fine then it is quite a simple matter for the port authority to refuse to grant the ship clearance, and it may not leave the harbour. If the captain is found guilty of an offence while his ship is still in the harbour and he refuses to pay the fine, it is

a simple matter in maritime law to nail a warrant to the mast and arrest the ship. Now, a ship is a most expensive piece of equipment.

Under this Bill, should the captain of a ship decide to shove off it is the agent who will be left facing the fine; and under the law if he is unable to pay the fine then his house, his car, and all his possessions can be taken from him. That would be a rank injustice.

When we examine the term "agent" we find it is a very wide term. In point of fact, the people who under this Bill may be held responsible for oil spillages are the owners, masters, and agents of ships, or anyone concerned with the husbandry or the loading and unloading of the ships. Therefore, we have a situation in which the stevedores at Fremantle could be held responsible if an oil spillage occurs.

We could have the situation of the person who does the ship's laundering being held responsible; and we could find that the ship's chandler, who supplies the ship with food and what-have-you, could also be held responsible. This is in the Bill. As I have been told in this Chamber before, it is of no use saying, "Ah, yes; but that is only in the Bill and when it becomes an Act we will not use that part of it." We in this Parliament make the law, and when we do that we merely make a skeleton. The flesh is not put on that skeleton until such time as it has been interpreted in the judge's mouth. That is the position, and in appeals to High Courts the question of what was said in Parliament and what was the intention of Parliament at the time is not taken into account.

So we have the position of one section of the community, which carries out work for the life of the community as a whole in the servicing of ships, being penalised when, as I say, they have no control whatsoever over the matter.

The Bill is also unjust in one other aspect. I ask members to wait until the Committee stage when obviously I will go into more detail; but in the meantime I would like to refer briefly to this aspect.

The Hon. G. C. MacKinnon: Would I be in trouble with the amount of oil I use in my burley when I am out after herring?

The Hon. R. J. L. WILLIAMS: Mr. MacKinnon is still polluting the water, but the oil in his burley is edible by fish and not damaging to them. However, I suggest that if he uses diesel oil he will be in trouble.

The Hon. A. F. Griffith: Obviously you don't know anything about the burley he uses.

The Hon. R. J. L. WILLIAMS: Well, from the fishing tales one hears, it must be pretty potent!

There is one other group of people I feel I must defend. These people are referred to in section 3 of the Act, which is to be amended. I refer to charterers.

I know the Minister responsible for the administration of this legislation is not in this House, but I am sure the Minister handling the Bill on his behalf will convey my remarks to him. I consider the Minister responsible for the Bill to be a reasonable man, sometimes. "Charterer" is defined under maritime law in three categories. I suggest to the Minister that if he wishes to use the term "charterer" then he should amend the Bill and use the term "charterer by demise" or the term "dead boat charterer". In the case of such a charterer, the whole ship is given to him as a vessel. He must crew, stock, and fuel it. He is then a demise charterer and becomes responsible for the ship. He is not the owner of the vessel, but he is the charterer by demise. The other types of charterer are voyage charterer and time charterer; and those terms are self-explanatory.

I wish to point out the danger of including these people in the Bill, and thereby including them in the Act. Many boats ply for hire on the Swan River, which is an inland waterway. Let us assume that a member of this Parliament organised a trip on the river for pensioners. He would hire or charter a boat; it could be one of those vessels which ply between Perth and Rottnest. He simply makes a contract with the owner to be on the pier at a certain time and to go for a trip up and down the river for a certain number of hours and for certain refreshment to be provided. He must pay a certain amount of money for that charter; but that is the end of his control over that vessel.

Should an accident occur whilst the boat is on the river—let us assume the worst and say that oil is spilled and pollution occurs—then under this Bill the charterer and the captain are equally responsible. Therefore, someone who hires the boat to take pensioners or Sunday school children on a trip down the river is equally responsible in law for the payment of the fine should pollution occur.

I think I have said enough for my second reading speech, because in the Committee stage much more detail will be discussed. I ask members on both sides of the House—because I do not regard this as a party Bill—to support the measure because I think it is laudable. However, let us in this Chamber remove the injustices which will occur to agents and charterers within the meaning of the definitions in the Bill. If we do that then we can say that all we have done is to update our legislation, which needed updating.

It is to act as a deterrent to the masters and owners of ships, to ensure that when the ships put into the Port of Fremantle sufficient surveillance will be provided, and that if carelessness takes place in bunkering or maintenance operations they will be liable to a fine of up to \$50,000.

In the Committee stage I shall make some suggestions as to how objections to the flags of convenience vessels can be overcome. I think it is worth while to note that in his second reading speech the Minister pointed out that Fremantle, Port Hedland, and other ports in this State are now supplied with anti-disaster equipment by the Commonwealth. I refer to detergents, and the like.

Let us not run away with the idea that such equipment is provided free; that is not so. Members may not be aware that as from the 1st October every vessel putting into the port will pay a fee based on 1c per ton gross to pay for the implementation of that programme by the Commonwealth. If a vessel of 67,000 tons enters the Port of Fremantle—of course the port is not able to accommodate a vessel of that size—then a fee of \$670 will be charged. When we take into account the large ore carriers which transport ore from Port Hedland we find that some of these are of 150,000 tons, and based on 1c per ton for the provision of the disaster equipment the fee will be \$1,500.

The idea of prescribing a heavy fine to act as a deterrent is a good one, but I leave the House with this thought: How does the fine act as a deterrent to a person who has absolutely no control over the vessel whatsoever? That person could be the agent or the charterer of the vessel.

I certainly support the second reading of the Bill, but when we deal with it in the Committee stage I shall debate these points at greater length.

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

## MINE WORKERS' RELIEF ACT AMENDMENT BILL

### *Second Reading*

Debate resumed from the 24th October.

**THE HON. A. F. GRIFFITH** (North Metropolitan—Leader of the Opposition) [8.18 p.m.]: This is a small Bill to amend the Mine Workers' Relief Act. It seeks to correct an anomaly which has arisen. Apparently beneficiaries under the Act—I refer to people who are members of the fund and who have been receiving benefits under the Act—have continued to pay their contributions.

What the Bill seeks to do is to remove the need for such contributors to continue paying while they are receiving benefits under the Act. I do not oppose the purpose of the Bill, although I find the reasoning not exactly easy to understand.

I suggest that if you, Mr. President, have a personal accident policy or are contributing to a hospital benefits fund, or if the Commonwealth Government succeeds in nationalising medicine in this country—I hope it will not succeed—you

will continue paying your subscriptions to the fund, whether or not you are receiving benefits from it.

In the case of the Bill before us it is provided that any person who is receiving benefits from the fund will cease to pay subscriptions while he is receiving such benefits. I repeat that I find this a little difficult to understand. It is one of the few policies—if we can term it as an insurance policy—in respect of which such a condition applies.

However, the proposition has been put to the Government that in order to remove the anomaly, which has been referred to as an inequitable provision in the legislation, we should support the Bill. I have checked with the Chamber of Mines, and it sees no objection to the Bill. While personally I find it a little difficult to understand, I am prepared to give the Bill my support.

**THE HON. R. H. C. STUBBS** (South-East—Minister for Local Government) [8.21 p.m.]: I thank the Leader of the Opposition for his support of this small Bill. It allows the early silicotic, under section 50 of the Act, who previously had to continue paying his dues to the fund to discontinue doing so while he is receiving benefits under the Act.

This move will not involve a lot of money, because only a few people will be affected by it. The Chamber of Mines and the Australian Workers' Union have given their blessing to the measure. It has been well received on the goldfields and elsewhere in this State. I thank the Leader of the Opposition again for his support of the Bill.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by The Hon. R. H. C. Stubbs (Minister for Local Government), and passed.

## **INDUSTRIAL ARBITRATION ACT AMENDMENT BILL**

*Second Reading*

Debate resumed from the 30th October.

**THE HON. G. C. MacKINNON** (Lower West) [8.24 p.m.]: This is a most difficult Bill. It is complex and it deals with a subject which is of vital concern to everybody. The shame is that this piece of legislation, which is of general concern and affects not only the industrial workers but the whole community, has not received the consideration of all interested parties.

To my mind it represents a coup d'état by the industrial wing of the trade union movement. Indeed, it gives every appearance of a coup d'état by the less moderate elements among the industrial unions.

In introducing the measure the Minister said the Bill was designed to fulfil an election promise of the Government, which was to ask Parliament to approve amendments to the Industrial Arbitration Act, so that the emphasis would be taken from compulsory arbitration and placed on mediation and conciliation in the settlement of industrial disputes.

That is a classic statement against which few people could argue successfully, but when the promise of the Government comes to be written in appropriate words and placed in a Bill for our consideration, we find it is far removed from what one might regard as a reasonable interpretation of the promise by the Government.

The Bill places considerable emphasis on the fact that it will introduce a new tier into industrial arbitration; and this is called mediation. Indeed, the long title of the Act is to be amended by deleting the words "Arbitration and Conciliation" and substituting the passage "Mediation, Conciliation and Arbitration".

So, we are to have interposed in our system this process known as mediation. So far as the world is concerned it is not a new concept, and indeed it plays a fairly important part in industrial affairs in some countries of the world. The United States of America has been quoted by some members, but generally those who quote that country as an example fail to explain that it has not a system of industrial arbitration, which seems to be peculiar to Australia. They also fail to explain that mediation is regarded as a top level matter, and it is of importance to note that the mediator is appointed at the presidential level.

The Bill seeks to amend the Industrial Arbitration Act which sets out a system that is supposed to settle industrial disputes, and to prescribe awards, wages, penalties, and so on as between employers and the employed. Interposed between these two groups in Australia is the set-up known as the Industrial Arbitration and Conciliation Commission.

In the main this system has worked reasonably well; and it has been able to do so because originally it was set up in a spirit of goodwill. It was set up initially, because there was a desire on the part of the community for it to be set up; and there was a desire on the part of most, if not all, people for it to succeed. I have no doubt there are elements on both sides against this system, but most people of goodwill approve of it.

As in most legislation dealing with agreements between two parties, goodwill is of paramount importance, but along the

way this aspect seems to be lost sight of. The other night when I was listening to a news broadcast I was shocked to hear that every second item referred to serious industrial disputation. This is not necessarily a strike; but I should say that two out of every three matters mentioned concerned strikes, and every second item on the news seemed to deal with industrial disputation.

Some sections of the Bill, dealing with certifying solicitors and rules of unions, have been found not to work and I do not think anyone could cavil at removing those provisions. I have placed a considerable number of amendments on the notice paper, and I have also added a considerable number of further amendments tonight. My amendments are unusual in that they are not amendments in the true sense, because most of them indicate to the Minister in charge of the Bill, and to the House, that it is my intention during the Committee stage to try to persuade members to vote against particular clauses. If we are to have a piece of legislation which is in any way acceptable to the different groups, and the different unions involved in this particular question, I can see no other solution. I am sure that you, Mr. President, will allow my amendments to appear in their present form because they give some indication and some warning of the sort of action to which I hope the Committee will agree.

The principles, of course, can be established very early because close to the commencement of the Bill in clauses 6 and 7—particularly in clause 7 and its paragraphs (a) to (e)—appear a series of definitions. The definitions cover a mediator, a shop steward, a strike, and a worker. Each of those definitions, in itself, provides ample scope for what one may refer to as a second reading speech. I will have to deal with them at some length at this stage because they are important.

This Bill does, indeed, involve a break into new steps of industrial relations regarding working conditions, how much people earn, their freedom of choice, and the like. Indeed, in some parts the Bill touches seriously upon what little scope is left to management. It has been said that this country is lacking more in senior management than in any other branch of industrial or commercial activity. It is a serious matter when Bills intrude into the area of management, and tend to restrict even the capacity of managers to run their own businesses. However, more of that anon.

I do not believe the new section dealing with mediation has any place in this legislation. Mediation is alien to this State and quite unnecessary. Even the advocates of this particular legislation—those whom I have met—admit that 93 per cent. of industrial disputes in this State are settled by conciliation. That means that seven

per cent.—only seven out of every 100—actually go to arbitration. If 93 per cent of disputes are settled by conciliation what is there a need to interpose a new tier? It is called "mediation"?

The parties to a dispute will be expected to be able to find a person willing to act as a mediator, and willing to set himself up to give advice and attempt to solve problems between an industrial union on the one hand, and an employer, on the other. The mediator has to be acceptable to both parties, but when he is appointed his powers are seriously limited. At any stage the parties to the dispute can say, "We do not like you, buzz off". Literally, in that manner, the parties can get rid of the mediator. That is not the usual method of selecting an arbitrator. In the case of an arbitrator he is appointed on the parties to the dispute must abide by his decision. If the parties to the dispute do not like the mediator, proposed in the Bill, they stop proceedings and go to the next stage. So, during the second reading stage of this Bill, we will deal in great detail with the term "mediator".

We then move on to a shop steward, another introduction into this country. When I was a member of an industrial union we had, more or less, a shop steward who was accepted by the blokes. He was supposed to assist the union secretary. As a matter of fact, in the shop in which I worked the shop steward used to let us know when the union secretary was coming so that we could duck out of the way. That was a long time ago when I had just come back from the war.

By way of interpolation, I say that after getting back from the war I was horrified when I went to a union meeting and I was confronted with a proposal that out of my union dues money was to be paid to the Australian Labor Party. I was a member of the Liberal Party.

The Hon. L. D. Elliott: It would have been a majority decision of the union to do that.

The Hon. G. C. MacKINNON: I do not care whether or not it was a majority decision. That is the attitude toward democratic processes which resulted in the Jews from Germany being placed in concentration camps. If it was a majority decision then a majority of the Germans must have been in favour of that action! Did that make it right? I do not believe in that sort of attitude.

At the meeting to which I have referred I stood up and proposed a motion that there should be an election by the members of the union, and I proposed that the members should mark their ballot papers with a tick against either the Labor Party, the Country Party, or the Liberal Party. There was no D.L.P. in those days. My proposal was that the money should be divided and allocated according to the way the members of the union voted.

The Hon. L. D. Elliott: Are the shareholders—

The Hon. G. C. MacKINNON: I did not get a seconder on that occasion, but outside on the footpath, after the meeting, a majority of the members agreed with me.

The Hon. L. D. Elliott: Would you answer me a question, Mr. MacKinnon?

The Hon. G. C. MacKINNON: Let me finish this story, Miss Elliott, and then I will answer all your questions. My proposal would have been a democratic one, because it is the right of democracy to look after the minorities, and as an active member of the Liberal Party I was one of a minority. However, I had my rights. I objected then, and I would object now. That occurred a long time ago and I am a lot more tolerant now towards the spending of my money. Yes, Miss Elliott?

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

The Hon. G. C. MacKINNON: My courtesy to women overcame my better judgment, Sir.

The Hon. L. D. Elliott: Are all shareholders in business firms approached as to whether they agree to money being donated to the Liberal Party?

The Hon. G. C. MacKINNON: I have never been a big shareholder, Mr. President, and had to make a decision on this sort of thing. I have never been in the situation, in the Liberal Party, where I collected money for the party. If someone comes along and asks me to accept some money for the Liberal Party I write out a receipt straightaway, and I see that the person concerned receives a letter of thanks.

The Hon. L. D. Elliott: Is that not the same?

The Hon. G. C. MacKINNON: I do not know. I think this is an unjustified analogy; I do not think the comparison is right at all.

The Hon. A. F. Griffith: Perhaps the honourable member could ask Miss Elliott if the same applies when money is donated to the Labor Party.

The Hon. G. C. MacKINNON: Of course, I was getting around to that question; it is the same thing. However, it is a different sort of analogy.

Through the provisions of this Bill shop stewards will be introduced into the system. I always understood that a shop steward was part and parcel of the United Kingdom system. It is the sort of thing which has just grown up in Australia, mainly because of the migration problem. Peculiarly enough, this Bill gives them a greatly preferred place in the system. They are not to be subject to the ordinary election of any union official. They do not get paid by the union; they are paid by the boss. If a shop steward were to be a

little unruly he could spend practically his entire time running around the shop on union business at the expense of the boss, and not be subject to any sort of discipline which applies to a properly elected union officer.

I know that these people have always been so-called shop stewards. From my memory the term always applied in the bigger shops. I was never employed in a big shop—employing 200 or 300 employees. I do not think they have played any major part in industrial relations until recent years, when one has begun to hear a great deal about them and if my information is accurate I understand that they are giving many thoughtful and considerate people in the Labor Party more headaches than they previously had. I intend to oppose this section of the Bill.

I also intend to oppose the proposal with regard to a strike. Some people consider that the only sort of an industrial dispute is a strike. Of course, it is not. Many industrial disputes occur which are not strikes but, nevertheless, a strike is the most serious.

This legislation breaks new ground in Western Australia in that it sets out to make certain strikes legal; or a strike legal but which can be declared illegal. At present all strikes are illegal. I must admit that from time to time the Liberal Party, in its policy arrangements, has looked at the problem of strikes. We have the situation that a strike is a fact of life; strikes exist. Therefore, the argument is that we propose rules under which a strike may be carried out, and under which it may be "legalised", and resolved as quickly as possible.

Some 10 or 12 years ago, when I was on the Industrial Policy Committee of the Liberal Party, I thought that was a very good move. However, that was only for a period. It is not the first time I have changed my mind, but I certainly have changed my mind with regard to this matter because the more one goes into it the more difficult the situation becomes. The proposed new definition of "strike" is as follows—

"strike includes any cessation of, or refusal to, work by any number of workers acting in combination or under a common understanding, with a view to compelling their employer or to aid any other workers in compelling their employer, to agree to or accept any terms or conditions of employment or with a view to the enforcement of compliance with any demands made by any workers on any employer;

Well, that definition leaves out a few things. It leaves out the refusal to work overtime, the possibility of go-slow proposals—which are strikes—and the refusal

to apply for work. The worst aspect of the strike situation, when one gets further into the Bill, is that the only way a strike can be declared illegal is if it is about a matter pursuant to an award in its term. It is commonplace in industrial matters that an award may run over its term and yet continue to be operative.

As I have said if it is out of term, any strike concerning any matter within that award cannot be declared illegal because the award is not in its term; it is out of its term.

What would happen in such a case? We would find the smart industrial union secretary, organiser, or whatever he may be called, would ensure as far as possible that his award remained in force, although it was out of term. It could be amended or altered; the conditions, pay rates, and the like could be altered by agreement and they could continue in force but be out of term. Therefore any disputation that resulted in a strike could not be declared illegal by the commissioner.

There is, however, a worse aspect than that; and it is a matter which has been bedevilling this country more and more. I refer to the political strike; the strike which has nothing whatever to do with industrial conditions; the strike which is an absolute impertinence to interpose within the industrial scene.

It is of course a fact of life that a percentage of members of any industrial union will vote for some other party, quite apart from the Australian Labor Party. That goes without saying: it is a proveable fact; and yet we see time and time again policy decisions of the Australian Labor Party being pursued, through an industrial disputation, to the point of a stoppage of work.

The Hon. L. D. Elliott: What policies?

The Hon. G. C. MacKINNON: I will mention a classic example; it is even written up in the law books.

This is a case that occurred when there was a war proceeding in Vietnam. The Government in this country at the time was supporting that particular conflict with troops, with advisers, and with materials. The Government ordered a boat to be loaded with materials which were to be supplied to Australian troops who were engaged in the conflict in Vietnam.

In pursuance of the open and avowed A.L.P. policy which was opposed to the war in Vietnam at that time an industrial union refused to load the ship in question and the Navy had to be brought in to send the material required by our troops fighting—in accordance with the orders received—a war in a foreign land. That was a political strike in pursuance of avowed A.L.P. policy.

The Hon. L. D. Elliott: It had nothing to do with the A.L.P.

The Hon. G. C. MacKINNON: It was open and avowed A.L.P. policy at that time; a policy which was being actively encouraged and broadcast by Dr. Cairns in the streets of Melbourne much to the shame of Australia.

The Hon. J. Heltman: They did the same thing in 1942. The dock workers went on strike and refused to repair the ships.

The Hon. J. Dolan: Dr. Cairns could not have been in that; he was at the war.

The Hon. G. C. MacKINNON: Mr. Heltman referred to a matter which reminded me of the time when I was in Darwin and we were about to be put on a boat and sent to Singapore. This eventually resulted in our being taken and cared for by the Japanese at a rate of \$40 a month and all found. I felt very much like Hopalong Cassidy getting \$40 a month and all found; except, of course, that the Japanese printed their own money.

I remember when loading the boat at Darwin it was necessary for us to take our Vickers machine guns and ammunition belts on board. The waterside workers decided, however, that they wanted danger money to load the ammunition. There was a little trouble and someone got away and sent a cable to Canberra. The net result was that the fellows who were engaged to load the boat sat on the edge of the wharf while we loaded the boat ourselves.

The Hon. L. D. Elliott: What has that to do with the Labor Party?

The Hon. G. C. MacKINNON: I did not say it had anything to do with the Labor Party; I was merely following on Mr. Heltman's interjection.

This was a disputation or a strike which was not really directed at getting extra money, although that seemed to be the excuse. The people the strikers inconvenienced most, however, were their fellow workers. This brings me to another point; that strikes today seem to be a completely outmoded industrial weapon.

At a time when I went through a stage believing that strikes were a reasonable proposition, I used to think also that a civil war was also a reasonable weapon; particularly in the case of people if they were being dictated to in ways they did not like. But I think that this too is outmoded in the present days of modern weaponry.

As I have said, strikes are outmoded weapons. Whom does a strike benefit the most? Whom does it harm the most? Initially the concept of a strike was that an employer, desperate to get his factory moving and desperate to obtain labour, would have to succumb to the demands. The right to strike arises, one would imagine, from the inherent right of an individual to refuse his labour to any employer; and one cannot cavil at that.

What I have always cavilled at is the right taken unto themselves by some people to refuse not only their own labour but to automatically refuse to permit any other form of labour to take a job.

As part and parcel of the Australian language we have the term "scab". Strangely enough I have always seen the word as a reflection upon those who created it and who use it, rather than on those on whom it is used.

The basic principle of freedom from slavery is that a man has the right to work and to my mind the shame of it is that the right to strike should be considered more important than the right to work. It is far simpler if a union executive says, "You will strike". One is at less physical risk while striking than while working.

The right of freedom is denied to hundreds of workers in any strike of any size, because I know for a positive fact that in every strike that is caused there are workers in the union concerned who want to work but who are not allowed to do so. They would be afraid to do so, and with some justification.

The Hon. L. D. Elliott: They always accept the increased wages the others get for them.

The Hon. G. C. MacKINNON: The philosophy contained in Miss Elliott's interjection is old hat. It went out with button-up boots; and Miss Elliott is far too young to remember what they looked like. More increased wages have been won for workers as a result of scientists and inventors working out better ways to do things than have ever been won for them by industrial and union secretaries. Let us make no mistake about that! So the question of some workers accepting increased wages that have been won for them by others is just old hat. As I have said, it is as old as button-up boots.

The only people who still believe that sort of nonsense are those steeped in the doctrinaire socialist dictum.

The Hon. L. D. Elliott: They do not mind taking what unions win for them.

The Hon. G. C. MacKINNON: What have the unions got for the workers? It is matters spiritual that are always most important; and it is of no use members laughing because a series of surveys have been carried out in what is claimed to be the most materialistic of countries—namely, America—and it has been found that job satisfaction has been rated as No. 1, while the amount of money rates about No. 8. So the concept enunciated by Miss Elliott is just old hat.

The point I am making is that strikes are outmoded as weapons because it is the strikers' fellow workers who are injured by such action. The whole philosophy behind a strike today is "Let us inconvenience our fellow man and bring pressure

on the Government—whether it be Federal, State, or local; let us bring pressure on the boss to make sure that the demand is met; let us bring pressure to ensure that the ship for Vietnam is not loaded, or that a sporting team from some country does not play its game against our team; let us bring pressure to ensure that the foreman is taken off and another put in his place; and let us do all this so that we may be given some pay increase."

The last mentioned is probably the most legitimate reason for a strike. But it does matter what action is taken against a boss, because we all know that in the process of a strike millions of dollars are certainly lost. Quite frequently, however, the boss can close down some section of his industry. In the ultimate who does lose? It is the nation that loses, tremendously.

I can remember when I was in England a strike was held at the Ford works at Dagenham. At this time Ford was launching the small Capri. The company lost millions of dollars in orders and 22,000 men were put off work. The net result was that the Ford Motor Company did not go on with the expansion that was in progress and there was serious talk about the company withdrawing from the United Kingdom. All this did the U.K. balance of trade a great disservice.

I ask the question: Whom does a strike on the railways inconvenience most? Does it inconvenience the Commissioner of Railways who, no doubt, drives to work in a motorcar?

The Hon. L. A. Logan: With a chauffeur.

The Hon. G. C. MacKINNON: Yes, probably with a chauffeur. Would such a strike inconvenience the staff of the railways? That would be doubtful. Does it inconvenience the people directly responsible—the Minister for Railways and his staff? That is unlikely. The people who are inconvenienced by strikes are the strikers' fellow Australians; their own mates. They hope that they can inconvenience the people to such a marked extent that pressure will be brought to bear on the Government which will, as a result, accede to the request that is made and thus the Government will bow to their will.

Accordingly I feel that this particular aspect of the Bill ought to be struck out. We are not past page 3 of the Bill; but these are serious matters—tremendously serious matters—which should have been discussed at great length with employer organisations and those who represent the public in general—in an endeavour to resolve this tremendous problem we are facing in this country; this problem of industrial disputation.

If serious concern had been given to the matter I think a good deal of the blame for the problem could have been sheeted home to the Government because I feel

quite a lot of the trouble is due to the tremendous increases in salary which have been given to top-level public servants by the Government right across Australia.

This has caused me grave concern for a year or more. The increases given to these people run on down the line, and ultimately to people with comparable positions in private industry. Workers in private industry then say, "My goodness, if my opposite number in a Government job gets \$X per year, I ought to at least get close to that." We then have private industry trying to chase Government salaries. When the salaries of public servants are increasing at this fantastic rate, it is no wonder we get a rub-off into private industry. I really believe that Governments are to blame for this increased expenditure.

I was talking to a man employed in the Government of another State a little while ago. He talked about the little bit of disputation between Mr. Hayden and the medical practitioners, and he said to me, "The doctors are asking for a 24 per cent. rise over a three-year period. I have received this increase this year working for my State Government, and yet Mr. Hayden is quibbling about this rise being spread over three years for medical practitioners." Members should look at some of the salary increases which have been granted. I am beginning to believe that in some ways the Commonwealth Government is setting about doing this as a deliberate policy. Look at the workers' compensation provision written into the Commonwealth Act—not the Workers' Compensation Act, as I said the other night—in relation to pay rates for civil servants.

I attended a meeting the other day at which two Federal members of Parliament were present. One man had returned here from Canberra a week ago, and the other man had arrived back that day. The member who had been back a week said, when he was addressing the group, "There have been 43 new committees appointed by the Whitlam Government". The man who had just returned said, "You are out of date—47 is the figure. Another four have been appointed this week".

The committee members are often being paid for doing nothing. Most of them spend much of their time in the air—they are busy flying from one State to the other. I estimate that 30 per cent. of these people are airborne most of the time.

The Hon. J. Dolan: You have a marvellous imagination.

The Hon. G. C. MacKINNON: This is why we have not seen any action.

It is proposed that subcontractors should be brought within the scope of this legislation. In my opinion this is a very bad move indeed. It may be that matters have got so out of hand, in, say, the T.W.U.,

that we have reached the stage where even the Government thinks discretion is the better part of valour. A problem of this type arose in Bunbury and civil action was taken against the union. At a meeting at that time it was pointed out that the people under attack then were carting as subcontractors, owner-drivers, and sometimes employers. Some people owned several vehicles which were used to cart oil and oil products from the depots to the different stations. I suggested at the time that it would not be long before farmers carting their own produce would be brought into line. I think it was exactly two weeks later that the unions tried to stop farmers carting their own produce. What happened then? The unions wanted the farmers to become honorary union members. There is no doubt about it, the actions of this union—the T.W.U.—are illegal in this regard. If members read the Act and the rules of the unions, they will find that a union member must be a worker. The word "worker" has always been defined as one who works for wages or is employed, and not one who subcontracts or works for himself. And yet these truck owners sometimes have to become honorary members of a union.

The Hon. V. J. Ferry: Strong-arm, standover tactics.

The Hon. G. C. MacKINNON: Yes, strong-arm, standover tactics. If I had said that I would have been accused of exaggerating. And yet there is no doubt that strong-arm, standover tactics were used.

The measure before us proposes to make such actions legal. It will break the subcontract system which has done so much for the building industry and the men who work in it. These men have a job in which they can earn extra money and work at the rate at which they want to work. In short, they have taken unto themselves the right to work, and as I stressed moments ago, this is so tremendously important. I therefore believe this provision should be deleted from the Bill.

I have prepared a number of amendments which are consequential upon the amendments already referred to. One clause in the Bill denies an employer the right to examine matters, even those which are of vital importance to him in certain awards and agreements. So many of the provisions in the Bill could be discussed at considerable length and certainly some of them should have been discussed with the two types of unions involved in industrial arbitration.

I agree with some of the clauses in the Bill. However, I would like to discuss one principle. It is proposed that there should be the ability to increase the number of conciliation commissioners, and I think this is a fair proposition. As I said earlier,

conciliation has been extremely successful. By consent agreements after analysis of the case, 93 per cent. of all the industrial dispute matters have been resolved by conciliation. It may be that disputes could be resolved more quickly if there were more conciliators.

I disagree with the inclusion of the reference to mediation. I trust that the Committee will agree with me when we come to a detailed discussion of the appropriate clause in the Committee stage. I agree with the proposition that as conciliation has been successful, there ought to be the ability to appoint more conciliators in order that conciliation can proceed as quickly as possible because speed is a very important matter.

This Bill proposes to introduce retrospectivity in regard to industrial awards and agreements. This is a very serious proposal. With the introduction of retrospectivity, the need for speedy decisions is lost. What does it matter if it takes six months to reach a decision about a pay increase if that decision is to be applied, retrospectively, back to the time the application was lodged? It may well be thought that the provision is fair and that employers can make due allowance for it.

Many small industries are established in the area I represent, and retrospective increases pose a tremendous problem for them. Every now and then, even with a consent award, these employers are advised that a salary for a particular trade has been increased by, say, \$8 a week, and the increase has to be paid retrospectively for three weeks. How do these people adjust the price of the sheds they have just delivered to the farmer and which were made during this three-week period? A car may have been spray-painted and paid for. How can this employer charge extra for the job? Possibly many people make a loss during these periods, and they are not big cigar-smoking industrialists as depicted in the comic strips. Most of these men have served an apprenticeship and then saved their money to start up in business on their own. They may employ from two to 12 workers. Talking to them I have found that retrospectivity of pay increases creates one of their major problems. They can be in quite serious difficulties when a pay increase must be applied retrospectively.

Most companies in this category operate on a small margin. The employers earn more than they would as journeymen, but they deserve this because of their greater responsibilities and worries. When business is bad they make every effort to keep their employees on the pay-roll. They deserve to earn more than a tradesman's wage.

I have always viewed retrospectivity of pay increases with a great deal of alarm. As I say, there is then no emphasis on

the need for speed in making decisions and in informing both workers and employers of the result. I have heard it said, "But most employers pay overaward wages anyway and the increase can be absorbed in that". In the main that is not so. Overaward payments have now become standard procedure for employers who wish to keep good men. Award rates are the minimum and very few employers do not pay extra. I am sure members who have employed tradesmen will know this to be a fact. Most tradesmen receive overaward rates and they expect this situation to continue.

It would be tedious in the extreme to go through this particular measure clause by clause at this stage. Suffice it to say, in my opinion a large number of the provisions in this Bill will do nothing to help bring about peace in industry. Indeed, it is probably impossible to draft a Bill or amend an Act to ensure such peace.

To return to the strike position, it has been argued that it is fair for the workers to strike under certain circumstances if the bosses are allowed to implement a lockout—the fair for one, fair for all principle. Strikes and lockouts are both illegal at present. However, I can think of at least a dozen strikes in the last few months but I cannot think of one lockout in the last few years. It is extremely doubtful whether this proposition to give the employers the right to lockout will compensate them for the workers' right to strike. It is extremely doubtful whether this represents a *quid pro quo*.

I hope that I have said enough in my speech to indicate my concern about this measure. The Industrial Arbitration Act was amended amidst a great furore around about 1964. Most disgraceful scenes occurred in another place, but, because of your control at the time, Mr. President, they were not repeated in this Chamber.

I notice that the provisions of this Bill are much harsher on the employers than was the 1964 Bill against the employees. I notice that this evening we have a remarkably sparse audience in the public gallery, with no-one in the gallery booing and yelling about the injustice that is being perpetrated by the present Government with the introduction of this present Bill which is directed against employers.

The supporters of the present Government did write some nasty things. At one time I thought I would wear a fairly large R.S.L. badge when someone wrote of me stating that they thought it was a disgrace that I wore my R.S.L. badge prominently and that it was supposed I would display it prominently when I opposed this Bill.

The Hon. R. H. C. Stubbs: You do not have it on now.

The Hon. G. C. MacKINNON: I have not, as a matter of fact; that is just to make a liar of me. However, it is purely an oversight. I can recall the election that followed the introduction of the 1964 Bill to amend the Industrial Arbitration Act. I can recall, in Forrest Place, representatives of the T.L.C. carrying a large coffin around with the words, "The Death of Arbitration". It must be admitted that the present system has worked extremely well and it is only towards the end of its term that the A.L.P. has seen fit to introduce an amending Bill to change the system. It is only since what virtually amounts to a campaign of industrial disputation that we have seen this Bill introduced to amend the Industrial Arbitration Act, and I believe it contains little which will relieve the situation; grim though it may be.

I think we are all aware of some of the new strike techniques that have evolved. One is the technique of holding a strike in a factory that is part of a manufacturing process, a component of which is, for example, a special sort of gear wheel. The men in the small plant manufacturing that gear wheel go on strike so that the major plant which manufactures the complete article gets loaded up with incomplete articles. When that strike is settled the men then start to produce the gear wheels, following which another strike is held, say, in the tyre plant which again holds up the manufacturing of the complete article in the major factory.

This is a technique which was cold-bloodedly worked out by industrial union management to confound and upset industry. It was cold-bloodedly worked out to inconvenience the people of this State and, of course, in turn, to do it great damage, and I contend there is nothing in this legislation that will ease that situation; it will not be eased by increasing the number of conciliation commissioners, or by the registration of the unions, the abolition of the certified solicitors, and a few like matters.

I will conclude my speech in the belief that I have not done this Bill justice; I have not dealt with it as fully as I should. I make no excuses for that because the Bill deals with a complex subject. I go so far as to say that there is only one man in the entire Parliament of this State who has a complete grasp of the subject; that is Mr. O'Neil who was formerly the Minister for Labour. That is no reflection on Mr. Harman who has not had sufficient time to make himself fully acquainted with the subject. The old masters of the subject of arbitration, such as Mr. Bill Hegney, have long since gone from the Labor Party.

The Hon. J. Dolan: They have not gone from the Labor Party.

The Hon. G. C. MacKINNON: The industrial experts have gone, because there is no-one in the Labor Party who would

know the Industrial Arbitration Act as well as does Mr. Des O'Neil. I only wish I possessed his knowledge, because I could really deal with the Bill as I should. However, I hope in dealing with the Bill as I have done I have demonstrated that there is need for concern and that my speech will cause members to read the measure with great care and be prepared to study its clauses extensively when the Bill reaches the Committee stage.

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

House adjourned at 9.21 p.m.

## Legislative Assembly

Wednesday, the 7th November, 1973

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

### QUESTIONS (36): ON NOTICE

#### 1. NATURAL GAS AND OIL

*Pipeline Authority Act: Validity*

Sir CHARLES COURT, to the Premier:

- (1) (a) Has he or his Government had the constitutional validity of the Commonwealth Pipeline Authority Act, 1973, examined further since the recent censure motion on this and other matters associated with the Commonwealth action in respect of the north-west shelf oil and gas;
  - (b) If so, with what result?
- (2) (a) Has he communicated with the Commonwealth Government on the matters;
  - (b) If so, with what result?
- (3) (a) Does he know that since the debate on the censure motion, additional legal opinion from reputable Queen's Counsel supports the view that the Act is unconstitutional;
  - (b) If he does not know of this additional opinion, will he please check the point with the Commonwealth Government?

Mr. J. T. TONKIN replied:

- (1) (a) No.
  - (b) Answered by (a).
- (2) (a) No.
  - (b) Answered by (a).
- (3) (a) No, but the probability is that additional opinions, for and against, have since been expressed.