Legislative Council

Tuesday, the 11th April, 1972.

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

QUESTIONS (2): WITHOUT NOTICE

1. SITTINGS OF THE HOUSE

Anzac Day

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

I observe that Tuesday, the 25th April, is Anzac Day. For the information and assistance of members, will the Leader of the House indicate what will take place that day in regard to the sitting of the House?

The Hon. W. F. WILLESEE replied:

It is not proposed to sit on the day in question. On the Thursday before Anzac Day I propose to move for a special adjournment of the House as we rise. We will probably resume at 2.30 p.m. on the following Wednesday, the 26th April.

2. DRIVERS' LICENSES

Pensioners

The Hon. A. F. GRIFFITH, to the Minister for Police:

I telephoned the Minister's office and advised that I would be requiring information on this question. I understand that he has the information and for that I thank him. The Leader of the House introduced a Bill, on behalf of his colleague (the Minister for Police), to amend the Traffic Act on the last Thursday that we sat. The Bill makes provision for the fee of a driver's license of a pensioner to be reduced from $3 to $1. Can the Minister tell me to how many persons will such reduction apply; or, in other words, how many pensioners will be eligible to receive the benefit of this concession?

The Hon. J. DOLAN replied:

I thank the honourable member for giving me some notice of this question. It is difficult to gain accurate information on it, so the information is based really on an estimate. At this stage an accurate figure cannot be made of the number of pensioners who will be affected by the proposed concession. A search of motor drivers' license records would reveal all persons over 65 years of age, but would not indicate whether they were in receipt of an old age pension, nor would the figure include those T.P.I., service, invalid or widow pensioners eligible to receive the concession under the Commonwealth Pensioner Medical Service Benefits.

Similarly the Social Services Department does not record the number of pensioners who hold motor drivers' licenses. However, it is estimated that approximately 33,000 pensioners will be affected by the proposed concession.

QUESTION: ON NOTICE

ELECTRICITY SUPPLIES

Geraldton

The Hon. L. A. LOGAN, to the Leader of the House:

(1) Will the employees of the Geraldton Electricity Supply with many years of service, retain their seniority on the take-over by the State Electricity Commission?

(2) If not, why not?

The Hon. W. F. WILLESEE replied:

(1) Service with the Geraldton Council cannot be taken into account in determining seniority of employees taken over by the State Electricity Commission.

(2) Seniority of employees of the State Electricity Commission is determined by Section 14 of the Government Employees' (Promotions Appeals Board) Act.

ABORIGINAL HERITAGE BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [4.41 p.m.]: I move—

That the Bill be now read a second time.

The preservation of sites and objects of Aboriginal origin is now recognised throughout Australia as an important aspect of providing Aboriginal citizens with the social environment that they need when they still retain partly or wholly their traditional religious beliefs. These sites, whether they are sacred or otherwise culturally significant, are regarded by Aborigines as being of supreme importance and connected with their traditions concerning the history of the land and its people. They are also of great significance in religious practices.

Australians of non-Aboriginal origin have learned that many sites, especially those with outstanding rock art, are of

very great historical and aesthetic importance to mankind. Their preservation is regarded as a matter of world concern.

It is recognised that high among the reasons for protecting Aboriginal sites is that they are often important records of the history of early settlement of Australia by Aborigines, Asians, and Europeans. In fact, in connection with the Aboriginal people who had no written language, the archaeological content of Aboriginal sites is the only historic record available to scholars, and it is of considerable importance that their excavation is strictly controlled so that valuable records are not destroyed. It is known that the archaeological deposits date back as far as 30,000 years ago.

Anthropological studies over many decades have repeatedly established the great significance of sacred sites and sacred objects, as well as the vitally important role that they play in the Aboriginal religious system. Today, at this time of changing circumstances for the Aboriginal people, this religious system provides stability which is of great importance to them.

Thus the preservation of Aboriginal sites, and the more unique examples of Aboriginal objects, must be a matter of prime concern when a Government is planning for Aboriginal advancement. All other States with Aboriginal populations have already legislated in this field—Victoria being the last to do so, having introduced a Bill earlier this year.

In recent years it has become increasingly difficult in Western Australia to find means to ensure the safety of Aboriginal sites other than by giving them legal protection. In past years the isolation of many sites has been sufficient to protect them. But during the last decade the intensive mineral exploration of even the most remote parts of the State, and the more intensive agricultural and pastoral development, have revealed many sites which were formerly unknown. The greatly improved ease of access by travellers to the most remote parts of the State has also resulted in considerable destruction of sites and the thoughtless removal of Aboriginal material from hiding places in the bush.

The problem became acute in the early 1960s when mining activity resulted in a number of difficult cases and fears for the safety of numbers of sites of importance to Aborigines. As a result of these fears, expressed in a submission to all State Governments by the Australian Institute of Aboriginal Studies in Canberra, a panel of five members was appointed by the Minister for Native Welfare in 1962 to advise the Government on the preservation of Aboriginal sites and relics.

This advisory panel has met on a regular basis since its formation. As a result of its recommendations steps have been taken to prevent the loss and destruction of many sites of Aboriginal antiquity. So far the advisory panel has operated without legislation through the goodwill of many major mining companies and landholders. It has been the experience of the panel that the majority of large mining companies and landholders have co-operated wholeheartedly and have gone to considerable lengths to avoid the destruction of sites and the alienation of public opinion.

However, experience has revealed that this responsible outlook is not shared by all people, and now that sites are becoming widely accessible, wanton damage and despoliation require proper statutory provisions for protection in the same way as it has been provided by other Australian State Governments.

Vandalism has become a major problem. A case in point is the internationally known Port Hedland engravings which, even though they are fenced, have suffered from the attention of vandals. Vandalism is only one of the issues, but because of it and other issues arising as a result of development of the more remote areas, it is considered desirable for Parliament to give a mandate for the work formerly conducted by the advisory panel, and to lay down the guidelines to be followed by both those responsible for preservation, and for the developers and other members of the public.

The Bill before the House has been designed to provide a means to protect and preserve Aboriginal sites by creating an appropriate authority with adequate powers to enable it to fulfil its purpose.

The authority will also be given powers to protect and conserve objects of cultural significance. The authority will do its work through the Western Australian Museum which, for the last 10 years, has provided the staff and services used by the advisory panel.

Turning now to the Bill itself, it will be the responsibility of the Minister—with the advice of the Trustees of the Western Australian Museum—to record all places of sacred and ceremonial significance and evaluate their importance with a view to their preservation and protection. The Minister's responsibility also extends to the preservation of Aboriginal and cultural material wherever it may be located.

Part V of the Bill provides for the Minister to appoint an aboriginal cultural material committee whose duty it will be to administer the provisions of the Act. The committee will comprise three *ex-officio* members, the Director of the Museum—or his representative—the Director of the Aboriginal Planning Authority, and the Surveyor-General. There will also be a number of appointed members, one a specialist in anthropology and the others having special knowledge which will assist in the recognition and evaluation of the

cultural significance of matters coming before the committee. The chairman will be appointed by the trustees. The committee may also, with the approval of the Minister, invite persons to act on the committee in an advisory capacity, but wthout voting powers.

The functions of the committee will be to evaluate on behalf of the community the importance of places and objects of Aboriginal association and, where appropriate, to record and preserve the traditional Aboriginal law related to such places and objects. It will be required to preserve, acquire, and manage places and objects of special significance to persons of Aboriginal descent, and carry out any such other activities as the Minister may approve.

In evaluating the importance of places and objects, the committee must have regard to any existing or former use or significance attributing under relevant Aboriginal custom, tradition, historical association, or sentiment. Other criteria include potential anthropological, archaeological, or ethnographical interest and aesthetic values. Associated sacred beliefs and ritual or ceremonial use is to be the primary consideration when evaluating sites.

The Act will apply to any place connected with the traditional cultural life of thc Aboriginal people—past or present —and any place, including any sacred, ritual or ceremonial site, which is of importance or of special significance to persons of Aboriginal descent; any place which in the opinion of the trustees is or was associated with Aboriginal people and which may be of historical, anthropological, archaeological, or ethnological interest; and any place where objects of sacred, ritual, or ceremonial significance are stored.

Protection is also given to natural or artificial objects—irrespective of where they are found in the State—which are or have been of sacred, ritual, or ceremonial significance or which were used for any purpose connected with the traditional or cultural life of the Aboriginal people, past or present, but excluding objects which have been made especially for the purpose of sale and are not of sacred significance or capable of being mistaken for same.

The Hon. G. C. MacKinnon: We will be dead unlucky if they find something when they dig up Hay Street.

The Hon. W. F. WILLESEE: Equally, we could be very lucky.

The legislation does not take away or restrict any right or interest presently enjoyed by persons of Aboriginal descent. Furthermore, such persons are exempted from the requirement to disclose information which might be contrary to any prohibition under any Aboriginal customary law or tradition.

Protection for sites is provided by Part IV of the Bill. Any person knowing of a site is required to report it to the Trustees of the Museum or to a police officer. Where the trustees consider that an Aboriginal site is of outstanding importance the Governor may by Order-in-Council declare this site to be a protected area. The right of excavation of such site is reserved to the trustees who may authorise entry and excavation subject to such conditions as they direct.

Where the site is located on privately held land, which includes the lease of Crown land and land subject to any mining tenement or mining privileges, the owner must give written notice when he desires to use the land for a purpose which may be deleterious to the preservation of the site. On receipt of such notice the trustees are bound within a reasonable time thereafter or such period as may be agreed upon to evaluate the importance and significance of this site and either recommend that the site be declared protected or give written consent to the owner to use the land as required.

Any aggrieved owner has the right to take his complaint to the Local Court, whereupon the trustees must show cause why consent to use the land should not be granted. Where the court is satisfied that the trustees have acted unreasonably or without due diligence, it may make an order for the trustees to meet the expenses incurred by the complainant in making his complaint. Where the owner gives notice of intent to use the land and protection is not considered appropriate, the trustees may, if it is practicable to do so, remove any object from the site to a place of safe custody.

Where it appears likely that upon evaluation a site may be of sufficient importance to be declared a protected area, or where a site of apparent importance is in danger of destruction, the Governor may by Order-in-Council declare that locality to be a temporarily protected area. Such order has effect for a period of six months but may be extended by a further Order. Any person affected by such an Order may appeal in writing to the Minister who may, if satisfied that the complainant has shown reasonable cause, direct the trustees to have regard to such representations and report thereon to the Governor-in-Council.

The owner of land or the holder of any interest in it prior to its vesting in the Museum is entitled to reasonable compensation for the extent to which his interest is prejudiced. Where compensation cannot be agreed upon, the Governor may apply the resumption provisions of the Public Works Act.

Protected areas may be delineated by the erection of suitable notices or enclosed by a fence. However, the fact that

no such marking exists is no defence for any person who interferes with a site where it is reasonable to believe that the site is readily recognisable as such.

Provision is made for the promulgation of regulations necessary to implement effectively the protective provisions of this legislation. A person holding an interest in any land on which an Aboriginal site is located may voluntarily enter into an agreement with the trustees prohibiting or imposing conditions on any development or use of the land which may have a deleterious effect on the preservation of the site, and a covenant may be registered on the deeds in the terms of the agreement.

The protection of Aboriginal objects is dealt with in Part VI of the Bill. These may be one of three kinds: an object of sacred, ritual, or ceremonial importance; one of anthropological, archaeological, ethnographical, or other special national or local interest; or one of outstanding aesthetic value.

Such objects may be declared to be Aboriginal cultural material by the Governor by Order-in-Council. Anyone in possession of such an object must furnish the trustees with a description of it and advice as to how it came into his possession. At the request of the trustees the object must be produced for inspection and may be retained by the Museum for a period of not more than 30 days for the purpose of photographing, copying, or otherwise recording it.

Aboriginal cultural material may not be sold, exchanged, destroyed, or disposed of without the permission of the trustees unless it is in accordance with Aboriginal custom or unless a person has offered it for sale to the trustees and the offer has been declined.

Where the trustees desire to acquire the material and consider the price asked to be excessive, they may apply to the Local Court at Perth which may determine a reasonable price for it. Should the determined price be greater than the price at which it was offered for sale to the trustees, the trustees shall within 14 days, in writing, either accept the offer or decline to purchase the object. Where the price determined by the court is less than the price at which it is offered to the trustees the offer is not deemed to have been made until the material is offered at the price determined by the court.

The court costs shall be borne by the possessor of the material where the price determined by the court is less than that at which it was offered to the trustees or alternatively where he fails within one month of the determination to offer the object for sale to the trustees at the price so determined. In all other cases the costs are the responsibility of the trustees.

To clarify the situation, once material has been offered for sale to the trustees and declined the restrictions as to its disposal under the Act no longer apply.

In the years of its operation it has been the experience of the advisory panel that the most difficult cases to deal with are those in which persons unlawfully take possession of Aboriginal objects, often of a highly sacred nature, which are hidden in the bush. In order to combat this problem the trustees have the right to take possession of any object of Aboriginal cultural material which has been acquired contrary to the provisions of the Act. Such objects shall be vested in the Museum. Persons aggrieved by the trustees' decisions under this provision may appeal to the Local Court, whose decision is final.

In any such proceedings the court may order that the provisions of the Evidence Act or any Rule of Evidence at Common Law shall not apply, thus giving it greater freedom for inquiry, akin to the proceedings in the United Kingdom of the Coroner's Court when examining cases of treasure trove.

Where the trustees are of the opinion that it would be in the general interests of the community to acquire material held by an individual, a notice of acquisition may be given by the trustees. Any dispute as to what constitutes a reasonable price can be referred to the Local Court for settlement.

The possibility that the trustees might use the power as the repository of Aboriginal cultural material to offend against Aboriginal traditions is resolved by providing that Aboriginal cultural material in their custody and under their control may not be exhibited in a manner not sanctioned by Aboriginal custom. The Governor may by Order-in-Council prohibit the copying of Aboriginal cultural material. The purpose of this is to protect traditional secrecy and the trustees have been given the discretion to direct conditions under which such material may be published.

To assist in enforcing the provisions of this legislation the trustees may appoint honorary wardens who shall be furnished with a certificate as evidence of their appointment. Any member of the staff of the Museum or any honorary warden may enter premises to examine any Aboriginal site or object, but in exercising these powers he must conform so far as is practical to the reasonable requirements of the person owning or using the premises.

The disclosure of any information obtained of trade secrets or of mining or prospecting operations is an offence, unless disclosed in the conduct of a legal proceeding arising out of the Act.

Where a person is convicted of an offence in relation to a place or object, and the court is satisfied that the offence was

committed knowingly and for the purpose of gain and with intent to defeat the provisions of the Act, the court may order the suspension or forfeiture of rights, titles, or interests, including mining tenements or privileges. Where a person is convicted of an offence against the Act the court may order any object to which the offence relates forfeit to the Crown.

It is especially provided that it is a defence for a person charged under the provisions of the Act to prove that he did not know and could not reasonably be expected to have known that the place or object to which the charge relates was a place or object to which the Act applies. Mr. President, I commend this Bill to the House.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [5.03 p.m.]: I move—

That the Bill be now read a second time.

Mr. President, I feel sure you will be aware of the fact that local authority boundaries and likely alterations to such boundaries is a matter of concern to both local authorities, generally, and the ratepayers constituting these authorities. My party has decided that it should seek a change in the law relating to the adjustment of boundaries, and I submit this Bill for the approval of Parliament.

Part III of the Local Government Act is headed "Constituting and altering the constitution of municipalities" whilst division 1 carries the heading of "Powers of the Governor." The purpose, in brief, of this amending Bill is to curb the powers of the Governor, which in effect means the Minister and the Government, in respect of the abolition, amalgamation, or alteration of local government boundaries.

As the Act—section 12—stands at present in relation to these matters, the Government can by Order-in-Council abolish a municipality without any petition from such municipality, or abolish it by uniting it with another municipality against the wish of the local authority involved, merely on the recommendation of the Local Government Boundaries Commission.

In addition, the Governor may by order, made after presentation to him of a petition bearing the common seal of only one of the municipalities which will be directly affected by the order, sever from a district a portion of the district and annex the portion to another district which the portion adjoins. In this way a municipality can be destroyed; by its being broken up and its remnants distributed to adjoining local authorities without the approval of the municipality vitally involved. These powers obviously should be curbed in the interests of all people, and the place for curbing them should properly be in the Parliament of the State. The method chosen is described in the Bill.

It will be seen that with the passing of this Bill the Government's powers conferred under section 12 in relation to the abolition of a municipality or alterations to boundaries cannot be exercised except as recommended by the Minister. The Minister, before making a recommendation to the Governor on the exercise of the power, will have to refer the question of abolition or alteration to the Local Government Boundaries Commission, and he then must cause the report of the commission, together with his proposed recommendation to the Governor, to be laid before each House of Parliament.

Either House may then pass a resolution rejecting the proposed recommendation within 14 sitting days of such House after the recommendation has been laid before it. Paragraph (c) of clause 7 tightens this principle in simple terms. In addition, the Bill in paragraph (b) of clause 2 makes it mandatory that the Boundaries Commission consult with the municipalities which will be affected by the exercise of the powers involved.

It is appreciated that alterations of or adjustments to boundaries of municipalities may have to be made, but these changes should not be forced upon an unwilling people.

If passed, this Bill will give the people affected the forum of Parliament to which to make their case through their elected members of Parliament. This will happen only after municipalities have been consulted by the Boundaries Commission as per the terms of the Bill.

In general terms, I dislike the tendency mooted in various States, and here in Western Australia from time to time, that in regard to local government the size of a municipality is a test of its value; that is, if it is big, it is good; and if it is small, it is of no account and should be annexed.

It is true that financial and administrative reasons are advanced in support of the proposition that local authorities must be bigger, but I feel sure that underlying these reasons, which are not necessarily valid in any case, lies the unspoken basis that large-sized local authorities have status, and the bigger they are the better they are.

Whether or not this is an underlying factor, I contend that size of itself does not afford any test of worth or value of a local authority or the desirability of its abolition. Indeed I agree with those who do not wish local authorities to be too big.

I believe they are at their best when they are able to keep in close touch with the ratepayers.

It has been said quite often that the bigger local authorities are more economic and better administered. This has yet to be proved, and I will be interested to examine any "proof" put forward. For the life of me I cannot see why Mr. Ratepayer in Peppermint Grove or Claremont is worse off in any way as a ratepayer than his brother ratepayer in, say, the Perth City Council area.

I believe that as a fairly tight general rule, any amalgamations should occur only as a result of negotiation and agreement, and not as a result of outside pressure or cavalier Government action.

This Bill does at least give a breathing and thinking time in the parliamentary sphere for rejection action to be taken if Parliament so decides. In matters which affect the municipal life of people, surely this is fair and reasonable.

Debate adjourned, on motion by The Hon. R. H. C. Stubbs (Minister for Local Government).

MAIN ROADS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 23rd September, 1971.

THE HON. N. McNEILL (Lower West) [5.10 p.m.]: This is the first of the Bills which were introduced into this House in the previous session of Parliament, to be dealt with in this session. As a result of the lapse of time I find it necessary and, I think, desirable to make some explanation of what the Bill is principally concerned with. However, rather than refer to the Minister's speech notes—which are still relevant—perhaps I might give some concise explanation of the main functions of the Bill.

It has three main functions. The first is to clarify the law relating to, firstly, the responsibility for control over main roads —and that includes the verges of main roads—and, secondly, to clarify the law relating to the control of outdoor advertising—which includes hoardings, advertising structures, and illuminated signs. The second function—and it is quite an important one—is to vest control of all materials, structures, and vegetation on Main Roads Department property in the Commissioner of Main Roads. Of course, here we are thinking mainly in terms of the verges. Previously ministerial authority was exercised over these structures and the vegetation; but admittedly it was not very precise. So the intention of this Bill is to clarify the matter and to vest all such materials in the control of the commissioner.

The third function, and the one to which I will probably devote the greater part of my time, is to introduce a new power to the Commissioner of Main Roads enabling him to make regulations for the control of all advertising. That function is a little different from that which I mentioned first, wherein there is a need for the clarification of the law. This third function is in fact to grant to the Commissioner of Main Roads the authority to promulgate regulations to control all advertising; not merely advertising on main roads, but all advertising on or in the vicinity of main roads. For the purpose of explanation, the expression "vicinity of" means "visible from." That definition is contained in the Bill.

I think it will be agreed that this is a most sweeping power which is to be granted to the commissioner and exercised by way of regulation. Those are the functions of this Bill.

I would like to deal now in a little more detail with the first function—that which deals with the clarification of the law relating to the responsibility for main roads verges. I do not intend to voice any opposition to this function. I think it is necessary. However, I do query whether what is proposed clarifies the law sufficiently. It has been stated by the Minister in his second reading speech that the matter was referred to local authorities, and they are agreeable to this amendment. I would assume—and, I think, not incorrectly—that the principal reason for local authorities being prepared to accept this amendment is because it appears that the Main Roads Department will in fact accept the full responsibility—and particularly the financial responsibility—for all those works required on main roads and main roads verges; in fact, on all Main Roads Department property.

I wonder whether the Minister will be good enough when he replies to clear up some queries I have. Firstly, does this legislation mean in fact that the Main Roads Department will accept the full financial responsibility for all works that previously had been carried out and which are still being carried out in conjunction with the local authorities and on a co-operative basis with landholders?

I refer in particular to culverts, crossings, and accessways serving private properties. Up till now the financial arrangements for these works have been the subject of an arrangement between the parties concerned. So if this Bill is designed to clarify the law then we should be told whether in future the full responsibility for these works will be accepted by the Main Roads Department.

I wonder also whether the legislation before us includes a provision for the acceptance of responsibility for the financial cost as well as physical implementation by the Commissioner of Main Roads for all widening of the main roads. I think this could apply in the urban and

built-up areas and I have in mind more particularly the country towns where there are declared main roads and where, according to my previous experience, all road widening of the full pavement widths plus the street kerbings and extremities of such pavements have been the financial responsibility of the local authority.

Accordingly, do the provisions of this Bill imply that in future the financial responsibility for this work will in fact completely rest with the Main Roads Department? If that is not to be the situation there will need to be some clarification of it because bearing in mind the details of the Bill in subsequent clauses I rather suspect that as the Commissioner of Main Roads has power delegated to him he, in fact, has power to delegate his authority and therefore his responsibility, and there may thus be an opportunity available to the Commissioner to delegate also the financial responsibility where it seems appropriate for him to do so, and that, therefore, we may not necessarily have a very different situation from that which obtains at the present time.

I think this point does in fact need clarification. The next query I have on this clause relates to the responsibility for the Main Roads verges, particularly in country areas because it relates to the exercise of powers under the Bush Fires Act.

I am prepared to be corrected in this matter if I am wrong, but in my experience it does not appear to be abundantly clear where the responsibility rests for burning off of main roads verges; particularly where these adjoin private properties.

Because these main roads verges constitute a fire hazard, or because they may do so, what happens in practice is that the private and adjoining landholders have the responsibility to conduct burning-off operations on those verges. I am not sure where the full and final responsibility for this work actually rests; nor am I completely clear, in the event of there being a traffic hazard constituted or any damage likely to occur to property other than through the fire itself who in fact bears the responsibility now.

I am prepared to think that this would in fact lie with the person in charge of the burning-off. But in the event of this power being granted to the Commissioner and being vested in him what would be the position in future in connection with this land and all the vegetation?

Does it mean that the Commissioner would be required to accept the responsibility for physically carrying out the burning-off operations? Will he delegate this power to somebody else, or, if the position is to continue as it is at the moment, does it mean that the adjoining landholders will have to apply to the Commissioner for Main Roads for permission to burn these verges?

All in all, in my observation I think this Bill is at least a little short in terms of clarification and I feel it needs to be tidied up; bearing in mind that the legislation makes it abundantly clear that all the structures, vegetation; the trees, and the like, shall in future vest in the Commissioner. From the very wide definitions given in the Bill it appears to me that where there are P.M.G. lines and poles or poles belonging to the State Electricity Commission these will vest in the Commissioner of Main Roads.

Even if there should be some provision for exclusion would an opportunity be taken by the Commissioner to delegate the authority and the responsibility in this field? If this is so then once again one of the main intentions of the Bill to clarify the law is perhaps a little lacking.

Another feature that comes to my mind relates to the material which covers the roadside and the road verges and which has been the subject of a great deal of activity, in my experience, by local bodies and local service groups, etc. I refer, of course, to the litter problem.

Does the provision of this Bill mean that all litter on main roads shall be the responsibility of the Commissioner? Does it mean he will be responsible for the cleaning up and the tidying of the main roads verges? If this is so I would like to sound a note of warning to the Commissioner. Having been involved in one of these campaigns to pick up litter I would say that the Commissioner will be faced with a considerable task and he will probably be very glad to leave the matter to the good office and the enthusiastic intentions of those who are carrying out this work at the moment—namely, the local authorities and more particularly the local service organisations.

However, once these materials are deposited on the roadside then they will probably become the property of the Commissioner of Main Roads. A further point I wish to mention again relates to the question of vegetation.

I concur with the Minister and the Government that there is certainly the necessity to do something about the preservation and conservation of our roadside verges; more particularly from the point of view of preservation and emphasis on that of which we are so justifiably proud—our Western Australian wildflowers.

I daresay the deterioration of our roadsides can be ascribed to two main agencies; the first of these could be the result of the activities of the Main Roads Department itself and its road improvement and road development programme.

I am not necessarily being critical, because most of this desecration of the main roads verges, if not all of it, is perhaps

inevitable; but, nevertheless, the desecration does take place. When this is necessary the roads are widened by machines which are put into operation to build up the foundations and the other necessary work in connection with the verges and, as a result, we have the destruction of all vegetation and materials growing on those verges. The net result is that in many instances we do not get a regeneration of the native or indigenous species.

The second agency which causes the deterioration in our roadsides is the burning-off that is done by various people. Once again it is necessary and inevitable that burning-off must be carried out. There are two seasons of the year when burning-off is carried out: These are autumn and spring. Because of the hazard involved and to prevent any possible destruction, burning-off operations are, in the main, carried out in the springtime. It has been argued, and it is claimed, that if it is done in the springtime that it will result in the complete destruction of the native species and will more particularly prevent the seed setting and the eventual flowering and, accordingly, there would be no opportunity for regeneration.

Having referred to the two agencies principally concerned in this aspect, perhaps I should acknowledge the fact that I am aware the Main Roads Department has in recent times, and probably as a result of the activities of the verges committee, done a great deal of work in redevelopment and regeneration—and I refer to tidying-up the verges, to burning, and in some cases to even the replanting of certain species.

I would, however, like to take this opportunity to refer to the fact that one of these species has become very prevalent, though not perhaps so much on the South-West Highway. This species is frequently and erroneously referred to as veldt grass, whereas it is in fact African Love Grass (Eragrostis curvula) which grows in tremendous profusion.

As members will see the specimen I have in my hand is not a very outstanding specimen of the species, but it does however grow to about four feet in height. Those who have not been along the South-West Highway in recent years will find that perhaps a quarter of the distance between Armadale and Bunbury will be almost completely covered by this species on both sides of the road. Those who might visit Western Australia and particularly the south-western area of the State for the purpose of viewing the Western Australian wildflowers would more than likely have a restricted view of wildflowers; they would see this African species—Eragrostis curvula—to the exclusion of other plants.

The Hon. G. C. MacKinnon: They could see another African species, namely the Watsonia.

The Hon. N. McNEILL: That might break the monotony. However, if one is sitting in a mini-sized vehicle, particularly where the verge happens to be higher than the main road pavement, one's view of the countryside of Western Australia would be completely restricted to a view of the African Love Grass or Eragrostis curvula.

It is completely useless as a pasture species because it does not stand grazing. It is very easily eaten out. It is quite green for part of the year and dries off at about this time. The species regenerates profusely after burning-off operations.

We should give attention to anything that is likely to destroy the native indigenous vegetation while permitting this particular species of African grass to flourish. Maybe insufficient attention is being given to the spread of this species. We should control its spread very rigidly, particularly in the south-western areas where it is replacing such species as kangaroo paws and leschenaultia. The grass to which I have referred is completely dominant and a great deal more attention should be given to ensuring that it does not regenerate when development work is being carried out on the roads and verges.

I turn now to what is possibly a more controversial provision in this Bill. I refer to the proposed control by regulation to be exercised by the commissioner in connection with advertising. Section 35 of the Act gives local authorities the right to grant concessions concerning advertising lights or beacons. Under this Bill that power will be withdrawn. In addition the Bill proposes to give power to the Commissioner of Main Roads to make regulations to restrict or prevent any advertising or to remove advertising which offends against the Act. It will be appreciated that any such power would cause a great deal of consternation, particularly in commercial circles and in the advertising industry itself.

I have discussed this legislation with those in the advertising industry, and also with the Outdoor Advertising Association of Australia and the Perth Chamber of Commerce. It is agreed that necessity does exist for control to be exercised and no objection is raised to control being exercised in a reasonable fashion. However the industry is raising objections to the wide powers proposed in this Bill; and I believe the objections are, in fact, quite valid.

The first point I make is that in 1966—and Mr. Logan will keep me well and truly on the rails in regard to this matter—the then Minister for Local Government established a committee the function of which we understood was to seek, examine, and report upon all ways by which control should be exercised over advertising and, in fact, to submit a uniform set

of controls and provide for a standardisation of control throughout Western Australia. For this purpose a number of people from departmental authorities, the industry, the Chamber of Commerce, the railways, and so on were invited to participate on that committee. I understand the committee has been functioning, and functioning quite effectively.

Members will recall that on the 10th December last year I asked a question of the Minister for Local Government concerning some of the activities of the committee. I asked him whether the committee was an official one and whether its report would in fact, be accepted by the Government as a recommendation. As a result of the reply, we learnt that the committee was regarded simply as an unofficial committee, the assistance of which was highly regarded in the preparation of certain draft regulations for the control of advertising; but we were given no indication that its recommendations would be binding on the Government. This in itself is cause for complaint by the advertising association. The association feels its views, together with those of all the other relevant and appropriate authorities, should have been heeded. The association also believes, in view of all the discussions which have ensued, there is little reason for the Main Roads Department to exercise its powers under a separate Bill which will virtually supersede the powers which were eventually to be contained in the Local Government Act.

I should explain at this point that control over advertising is effected under several Acts. One of these is section 53 of the Traffic Act which is a very lengthy section and I do not think it necessary for me to read it all. It is clear that the commissioner has power to exercise control over all signs and advertising proposed to be covered in this Bill. That is in the Traffic Act. He also has power to prevent or minimise any possibility of a traffic hazard.

In addition, powers for control over advertising are contained in section 218 of the Local Government Act which reads—

> 218. A Council may so make by-laws—
>
> (a) for requiring the use of hoardings, fences, lights, and other things for the preservation of safety where works are in progress in or upon land or premises abutting a street or other public place, or land under the control of the council;
>
> (b) for the prohibition or regulation of bills, placards, and advertisements attached to, or pasted, painted, or stencilled, on hoardings, walls, buildings, or structures, whether erected upon private property or upon a public place; and
>
> (c) for the prohibition or regulation of hoardings erected upon private property, and for the removal by the council, or a person acting under the authority of the council, of a hoarding, or of a bill, placard, or advertisement, which is attached to, or pasted, or painted, or stencilled, on a hoarding, and which, in the opinion of the council, is dangerous or objectionable, and for the recovery of the expenses of the removal from the owner of the property in a court of competent jurisdiction.

The Hon. L. A. Logan: What about the Town Planning and Development Act?

The Hon. N. McNEILL: I have not mentioned that. I want to make it clear that the Acts I have quoted are by no means the only ones with this power. The point I make is that it is the view of the association that control is already being satisfactorily exercised. No objection has been voiced by the Local Government Association or the Commisioner of Police, who is apparently quite satisfied as to his ability to interpret traffic hazards.

Nevertheless, under this Bill the Main Roads Department will exercise an exclusive power not only in relation to the property of the department, but also in relation to property in the vicinity of roads. This means that anything visible from roads will come under the authority of the Main Roads Department.

In complete fairness I want to say that in the discussions held between the association, the Chamber of Commerce, the Minister for Works, and the Commissioner of Main Roads, the commissioner has made his intentions known. He has prepared a letter stating his intentions in the event of there being agreement to this particular amendment. No exception is taken to the intention of the present commissioner. However, we must all realise that what he presented was his intention, but I do not need to remind this House that such intention would not be binding on any subsequent person who might find himself in that position in the Public Service.

It is fundamentally wrong that such a wide power should be reserved for a commissioner. It might not be quite so bad if the power were to be reserved for the Minister who is responsible to Parliament, but for the commissioner to have this power is, in my view, and certainly in the view of the advertising industry, most undesirable.

I repeat that those who are professionally and financially involved in this advertising industry have co-operated with all parties including the Department of Main Roads. They have co-operated concerning this amendment and in anticipation of its powers. However, having had time to realise how the provision could be interpreted, the advertising industry is now a little concerned.

I would like to refer to some correspondence which highlights this concern. It involves an application for the use of a neon-type sign in Albany Highway, East Victoria Park. The company concerned believed it was necessary to apply to the Perth City Council, which it did, and the Perth City Council, in a letter dated the 26th January, 1972, referring to the company which made the application for the sign, stated—

> The City of Perth Signs by-law No. 40 does not give this Council the power to enforce the requirements of the Main Roads Department even though, in this particular case, the approved plans carried a condition of approval requiring compliance with the Main Roads Department's requirements.
>
> It is understood however, that should this sign be declared a traffic hazard after its erection, your firm will undertake to remove the sign.

That in fact followed a letter written to the same company by the Secretary for Main Roads, on the 16th December, 1971, as follows:—

> I refer to your further letter of the 22nd November which had reference to the erection of an illuminated sign at 1032A Albany Highway, East Victoria Park.
>
> It is agreed that the colour alterations and the elimination of animation will to some extent reduce the potential traffic hazard aspects of this sign. However, because of its size—400 sq. ft. —it seems to us—

I emphasise those words "it seems to us". To continue—

> —that it will result in a virtual illuminated background for drivers approaching the adjacent traffic signal installation from the south-east along Albany Highway. In addition to this possible driver distraction at a critical stage in his travel, this background illumination will rob the signals of essential visual impact.
>
> Because of these points we feel that if your firm proceeds with the erection of this sign, there is every chance that it may prove to be a hazard to traffic resulting in this Department recommending to the Commissioner of Police that it be removed.

I read that quite deliberately to illustrate the fact that in the event of this Bill being passed, a further duplication of control will result. The letter indicates the assumption of power by the Main Roads Department to determine what is and what is not a traffic hazard. This information should be of particular relevance and interest to the Minister for Police and the Minister for Works as to who, in fact, does have the authority over traffic in Western Australia and who, in fact, is to be the final arbiter in questions of this nature. Is it to be the Commissioner of Main Roads or, as in this case, the Secretary for Main Roads; or is it to be the Minister for Police? I am not being critical of the secretary because I am sure he is exercising a power he believes is necessary, but it is significant that the objections are not in fact being made by the accredited person in relation to traffic matters; that is, the Commissioner of Police. This is one of the objections the industry has to this amendment.

The powers have been exercised quite adequately up to the present time. No major disagreements have occurred. The commissioner will have the power not only to prohibit signs, but also to remove them. I do not need to remind members that a tremendous investment is involved in this kind of advertising in Western Australia. It will be appreciated that the arrangements by which these signs are maintained and controlled is a contractual one between the parties concerned. In fact, lengthy terms of years are involved in the leasing of signs.

If the Bill becomes a Statute it will mean the commissioner has the right to exercise power to remove an offending sign. I do not think this should be so unless there is some opportunity for redress given to the parties concerned. There is no provision whatever for a right of appeal and, consequently, for any redress whatever in the event of the commissioner taking such action and removing a sign which he believes offends against the Act. In using the word "Act" I refer to the Main Roads Act although in fact, as we have seen from that correspondence, he would be exercising a power in relation to traffic hazards.

I do not wish to go on needlessly but there are very many unsatisfactory features to the Bill. The overriding point is the need for uniformity of control. There is also need for the standardisation to which I have referred, which the industry believes would be achieved through the operations of the committee working through officers of the Department of Local Government and through the Minister for Local Government. My inquiries on this subject indicate the committee came very close to making final recommendations on draft regulations. I also understand it would not be possible to proceed with those regulations until the Local Government Act is amended.

We should bear in mind that the Main Roads Department was represented on the committee and that department has seen fit to allow its representatives to withdraw certain powers which had been agreed to and were contained in those draft regulations in deference to the introduction of this measure. It is a completely unsatisfactory situation.

Let me return now to the question of redress and right of appeal. When the Bill is in Committee it is my intention to

move certain amendments. These will be distributed in due course and I apologise that they are not available at the moment.

The Hon. W. F. Willesee: Perhaps I could help you. We will adjourn and get it on the notice paper.

The Hon. N. McNEILL: I beg your pardon?

The Hon. W. F. Willesee: Instead of circulating the amendments we will adjourn after members have finished speaking and take the Bill into Committee tomorrow.

The Hon. N. McNEILL: I thank the Minister for that. However I shall explain the amendments. The first proposes to limit the power of the commissioner in relation to control over advertising to Main Roads Department property itself. I remind members once again the intention was that control should be exercised on "main roads or in the vicinity of." It is my intention to move to delete the reference to "in the vicinity of" and thereby limit the power of the commissioner to control over Main Roads Department property alone. I might add this will not satisfy the advertising industry. For the reasons I have given the industry would prefer to see the Main Roads Department without any authority whatever in excess of that contained in existing Statutes. However, it is my intention to move this as the first amendment.

The second amendment I shall move relates to a right of appeal. I indicate to members that the appointment of an advertising review committee has the full support of the advertising industry and those associated with it. I suggest this review committee should consist of a chairman who has no vested interest in the advertising industry and who would be appointed by the Minister. The other representatives of the committee would be the Commissioner of Police or his deputy, the Commissioner of Main Roads or his deputy, someone appointed by the advertising industry and someone by the Chamber of Commerce.

An advertising review committee constituted in this way would be able to examine, deliberate upon, and make recommendations upon any matters referred to it wherein any person has a grievance in relation to a decision taken by the Commissioner of Main Roads in the exercise of his control over advertising signs.

Perhaps that explanation will serve the immediate purpose. Members will appreciate the full impact of the amendments when they appear on the notice paper and I will have another opportunity to make an explanation in Committee.

I hope the Minister will take the opportunity to examine the other matters to which I have referred; namely, the need for uniformity and for one authority alone. Perhaps the Minister may even be prepared to reconsider the power which would be granted to the Main Roads Department under this measure. I consider it is unnecessary and will serve only to further embarrass the commissioner in relation to the already difficult situation of traffic control. I believe it all comes back to this and if we had a central traffic authority that would be the body to exercise this sort of control. I do not believe it helps to further delegate powers of control. This applies particulary since the interpretation would not be purely functional from the point of view of the Main Roads Department, but rather as an exercise and assumption of power to interpret traffic hazards.

With all those words and qualifications I am prepared to support the second reading, but I earnestly hope the Minister has noted the matters which I have queried, because I firmly believe they need investigation. I say quite definitely that I think the background work—the homework done—prior to the introduction of the measure was not quite sufficient. I feel more could have been done. If the background work was done, then the information which has emanated from it should have been made available to us when considering this measure. It is really quite a small Bill and perhaps does not stir the emotions very greatly, but it is of tremendous importance to a certain section of the community. It will have effect over the whole of the countryside as it relates to the erection and illumination of signs. Further, it will have a considerable impact on people who have a tremendous amount invested in signs and on others who use and take advantage of those signs. Everyone in these categories will be affected. In fact it will affect the entire commercial life of the people of Western Australia. Although it may be regarded as minor, the Bill is really of quite considerable importance to the many sections to which I have referred. With those qualifications I support the second reading.

THE HON. G. C. MacKINNON (Lower West) [5.54 p.m.]: In view of the recent discussions about the powers of the Legislative Council to review legislation, it is interesting that my views on this measure are not fully in concord with those expressed by my colleague, Mr. McNeill. I consider the measure is so insignificant it should not have seen the light of day. It has been born out of theory, sired by ambition, and will probably be trained and driven by duplication and triplication. I will try to explain the reasons.

I say it has been born out of theory because, although a lot of work has been done on verges to improve them considerably, the concept many have that road verges can be kept in a pristine state covered by indigenous flora is doomed to

failure because of the very width of the verges. My colleague, Mr. McNeill, has indicated that a South African grass grows over most. Most of the verges are also subjected to blow-off and run-off of artificial fertilisers which change the nature of the soil. It has been proven beyond doubt that any reserve of less than 50,000 acres in this country is not viable. Consequently verges must change from the indigenous state in which most people would like to see them. It is inevitable that they must alter and the best that can be done is that which is now actually being done in many cases, namely, to keep them tidy, clean, and to plant on them more trees which will grow.

I do not believe the measure is necessary to remedy this, because in some cases such action is already being taken. Often it is done with great effect by private individuals. The fact that the work is done means that the verges look different.

Clause 4 says, in part—

> No person shall cut, break, bark, root up or otherwise damage, destroy or remove the whole or any part of any timber, tree, sapling, shrub, undergrowth, or wildflower . . .

I doubt whether there is one member in this Chamber who has not removed the limb of a tree from a road because he has seen it as a hazard. Doubtless a person would not have been penalised for so doing. Sometimes it takes quite a deal of effort to remove broken limbs of trees or trees themselves which have toppled over because they have become shallow-rooted. It is often necessary to stop the car and take them off the road. However, a penalty will be imposed if the measure becomes an Act.

Anyone who travels in the south-west knows that trees left on verges do constitute a hazard. If there happens to be any wind one finds, right through the irrigation area, trees blown over, right, left, and centre. They become shallow-rooted. I remember a few years ago I went to a Miss Australia show at Boyanup hall, not very far from Bunbury. We had to wend our way around four trees on one road; and we had selected that particular road because there were five trees on the other. As I say, many private individuals shift fallen trees from roads.

My main objection, which is somewhat more deep-seated than Mr. McNeill's, also concerns the control of advertising. As the Bill reads, there would be centralisation. We all know the powers which the commissioner has at present and, under this measure, he would be able to stipulate the classes of advertising for different areas. This may well include hazards, but it also gets into the field of aesthetics. I remind members it is not many years ago that the Nedlands Town Council's building regulations would have prohibited the construction of the Parthenon in that suburb. That was the council's idea of aesthetics. Fair enough. If it is the council's idea let it go along with it. It is a fact that the Greek Parthenon could not have been built in a number of suburbs in Western Australia a few years ago because building regulations did not allow roofs of that pitch. As I say, it is entering the field of aesthetics to talk about much of this advertising, but we are living in an economy which depends upon advertising.

Mr. McNeill intends to move certain amendments to the measure. As the Bill reads, advertisements will come under the control of the Commissioner for Main Roads including all "within sight." From my inquiries this will be the toughest regulation in Australia. Let us have a look at the need for this sort of uniformity. The town in which I live, Bunbury, is a service town, because it is the regional centre for the area. It is also a fairly important stopover for travellers, tourists, holiday makers, and the like.

It seems reasonable that people who are offering a type of agency service which one normally associates with a metropolitan area ought to be able to advertise that the service is available in this town. Tourists would then know what services are available. It is reasonable that the proprietor of a motel ought to be able to advertise that he has accommodation available. He ought to be able to determine the type of sign he requires and at least be subject to no-one but the local authority. The local authority ought to be in touch with the local community and its feelings, and have its own ideas as to the reasonable requirements of that town.

The requirements might be totally different in say, Babakin, Gnowangerup, or a number of other towns. The local authority should make the final decision. As a matter of fact the views of the local authority at Harvey in our province are totally different from the views of the Bunbury Town Council. This is fair enough; they are different types of towns and yet they are only a few miles apart.

I see no reason for this particular power to be taken over by the Commissioner of Main Roads. There may be farmers who wish to put up signs advertising animals at stud, or other services which might be available to the public.

The Hon. N. McNeill: It does intend to delegate the power back again.

The Hon. G. C. MacKINNON: I know that is the proposition, but the honourable member knows what that delegation is worth. The power will be delegated with all sorts of requirements determined by the commissioner at the time. If we happen to have a commissioner who is sold on traditional art, I suppose all the signs would have to be prepared with old-fashioned lettering. Of course, we could have the reverse situation and have a commissioner who is very modern.

Members will have all seen paintings which are little more than posters. This is known as pop art. The standard required would depend on the views of the commissioner at the time.

This legislation is moving into the field of aesthetics and that is dangerous. This Bill ought not to have seen the light of day.

We have almost reached the stage of legislation by signs and I do not feel this is a bad thing. The very man who wants to control everyone else's advertisements tells us the point at which we must reduce our speed from 45 to 35 miles an hour, or where we may increase it to 50 miles an hour, or to 65 miles an hour.

Many people talk a lot of eyewash about the time taken to read a sign. Signs are read by visual retention—we flash our eyes over a sign and it registers in the back of our minds. Motorists do not drive along and say, "You must now only drive at so-and-so," "Fire lighting is prohibited," or, "Protect the Wildflowers." We do not read the signs aloud like a kindergarten child.

The Hon. W. F. Willesee: How do you get on if you stutter?

The Hon. G. C. MacKINNON: The person who stutters is in real trouble. This is how we read signs and they are framed with this in mind.

I remember many years ago we were told we would have cantilevered verandahs to obviate posts on the footpaths. If members glance down any street today they will see many more posts than there were when our verandahs were not cantilevered. There are posts which say, "Taxis Here," "No Standing," "No Parking after so-and-so," and "Clearway." There are many more posts on the average street today than there were in the precantilever days. Every member knows this is true.

The Hon. S. T. J. Thompson: It looks like a fruit salad.

The Hon. G. C. MacKINNON: Yes, it looks like a fruit salad because we are legislating by signs. Motorists driving in country areas look for signs. A motorist running short of petrol may see a sign, "Three Miles to X Service Station." If he still has enough petrol for 10 miles he thinks, "I will make it." When it is getting close to nightfall I might see a sign which says, "Stop at the motel in Wagin." I think to myself, "I have not been there for quite a time. I did not know there was a motel at Wagin. I might stay there."

I do not see the need for this legislation because our whole system is geared to signs. We no longer travel 20 miles a day in a horse and buggy. Even the road we travel on is signposted. Many local authorities have by-laws preventing signs being erected but we still find "For Sale" signs on properties. I believe there is a real need for signs and that we are too tough concerning their erection.

Let us look at what I like to call an occasional sign, or an occasion sign if you like Mr. President. We will deal with one which is very dear to the heart of everyone in this Chamber, and that is the electioneering sign. I believe electioneering signs are important in the interests of the people in this State. Any worth-while Act which attempts to deal with signs as this one purports to ought to include a section relating to occasion signs. Legislation should include a list of signs which are considered to be important. A provision could be included that a sign can be put up one month before an event and taken down within a week of the event's conclusion. It is unfortunate that in many places we cannot put up electioneering signs. I believe they are important as people are entitled to know the candidates in an election.

Voluntary organisations attempting to raise money ought to be able to erect signs for an occasion. A suggestion may be that the organisation has to lodge a bond which could be used to remove the sign after the occasion if the sign is not removed within a week. This Bill does not provide for anything of this nature; it sets no standard. The arbiter is to be the Commissioner. Although I know this gentleman I do not know whether he leans towards modern or traditional art.

There are many flaws in this Bill. Most of them have been dealt with by my colleague and friend, Mr. McNeill. However, I happen to lean a little the other way. After listening to his speech I feel he could just as easily have said, "I am opposed to the Bill." I have one or two firmer convictions on this matter than he has, and I am perhaps half an inch the other way. I believe this Bill ought not see the light of day because it accomplishes nothing.

The Hon. N. McNeill: I asked the Minister to reconsider the Bill.

The Hon. G. C. MacKINNON: I know the honourable member did. However, just a puff from a member on this side and the honourable member would have gone the other way. He damned it with faint praise, and any Bill which is damned with faint praise has no right to become law. If we do not have a need for this measure, let us do without it. We have too many Acts now and we can do without a Bill which accomplishes as little as this one. I intend to oppose the Bill.

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

Sitting suspended from 6.09 p.m. to 7.30 p.m.

PRESBYTERIAN CHURCH OF AUSTRALIA ACT AMENDMENT BILL

Receipt and First Reading

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

WESTERN AUSTRALIAN MARINE ACT AMENDMENT BILL

Second Reading

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [7.31 p.m.]: I move—

That the Bill be now read a second time.

This amending Bill is brought to the House, Mr. President, because of an anomaly which has become apparent in that part of the principal Act dealing with the carriage of radio telephone equipment on board certain fishing vessels.

There are requirements in the Act at present for the carriage of radio telephony equipment and a qualified operator on board the following vessels:—

firstly; coastal trade ships;

secondly; limited coast trade vessels; and

thirdly; those vessels licensed or required to be licensed under the Pearling Act, the Whaling Act and the Fisheries Act,

whenever they "go to sea."

I mention that phrase for the reason that it is defined in the Act to mean vessels proceeding on a voyage beyond the limits of any harbour or river in the State.

The obvious effect of this provision is that vessels in these categories which operate solely within the limits of a proclaimed port or harbour are not required to carry radio telephone equipment or a qualified operator on board.

There are, however, numbers of proclaimed ports along the Western Australian coast which contain within their boundaries extensive areas of unprotected water considered to be just as hazardous and dangerous to these types of vessels as the waters in the open sea.

Examples of these extensive areas of water encompassed in proclaimed ports are those within the boundaries of the Port of Esperance; the Port of Hedland (with limits extending 10 miles to sea); the Port of Walcott (comprising 40 miles of coast line and extending seven miles to sea), and Carnarvon Port—encompassing 100 miles approximately of coastline and extending 20 miles seaward of Carnarvon to include all the waters of Shark Bay.

As an illustration of the anomalous situation now existing, a fishing vessel operating some miles to sea in waters adjacent to and outside port limits is required by the legislation to carry radio telephony equipment and an operator. A similar vessel operating nearby, yet located within the port limits and in waters equally as hazardous and dangerous is exempt from these provisions of the Act.

On the other hand, the Act requires that vessels adapted for harbour and river service only, when navigated in unprotected waters within port limits, must carry radio telephony equipment.

In order to remove the existing anomaly which appears in the Act this amending Bill provides machinery for prescribing by regulation that radio telephony equipment and qualified operators be carried on board the vessels to which the relevant section of the Act applies when those vessels are operating within the limits of ports where the carriage of the equipment is considered to be essential for reasons of safety.

The exemption provisions of the Act will continue to apply to any vessels which are brought within the scope of section 68 by this amending Bill. If members would refer to section 69 of the Act it will be apparent that the Minister is empowered to exempt a vessel from compliance with the provisions of the equipment division of the Act, or those appropriate regulations made under section 72, when satisfied that it would be unreasonable or impracticable to require compliance with those provisions.

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

POLICE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 30th March.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [7.36 p.m.]: When this Bill was introduced it was explained to the House that its purpose was fourfold. At the outset let me say that, with some reservations, I propose to support the measure.

The Bill was introduced on the Thursday before Easter by the Leader of the House on behalf of his colleague, the Minister for Police. The first amendment will open up —if I may use that expression—amusement parlours on a Sunday, whereas now the Police Act strictly forbids them being open. In introducing the Bill, these words were used—

> Various deputations have been received from youth groups and businessmen seeking some relief to enable these amusement centres to remain open on Sundays and it is for this purpose that the present amendment has been formulated.

I think we are entitled to know what sort of youth groups would be in favour of having amusement centres opened up on

Sundays. I can quite imagine that businessmen associated with the conduct of amusement centres would be keen to have the trading hours of these places extended, but I wonder what sort of youth organisation would be keen to have amusement parlours open on a Sunday.

I would think that a person belonging to a youth organisation, as such, would employ himself much better on a Sunday by following the sport or activities of his youth organisation instead of whiling away his time in some amusement centre between 10.00 a.m. and 6.00 p.m. on a Sunday. On the other hand, I can imagine a young man who is not a member of a youth organisation; who is not disposed to following some form of organised sport and does not play on a Sunday; who does not follow some well-dedicated purpose which might include attending church, feeling that he desires more freedom so that he may enter these amusement parlours on a Sunday.

So in view of the fact that various deputations have been received from youth groups to have the Police Act widened in this respect, I am anxious to hear from the Minister as to who these youth groups are. After listening to the words I have quoted, we then find that the following words appear later in the speech introducing this measure:—

> It is intended that permission be granted to allow amusement centres to remain open on Sundays for the prescribed period from 10.00 a.m. to 6.00 p.m., but this does not include Good Friday or Christmas Day.

If we look at section 61 of the Police Act we will see that every owner of a public billiard room or place of amusement in any city or town is forbidden to open his premises on Sunday, Christmas Day, or Good Friday. That is the purport of section 61. The purpose of this Bill, however, is to delete most of the first five lines of section 61 and insert the following words instead:—

> Any person who, in any room or place, keeps by way of trade or business any billiard table or amusement machine, or any person having the care or management of any such room or place or in any manner assisting in conducting the business thereof who shall permit or suffer any person to play any game or machine on a Sunday except between the hours of ten o'clock in the forenoon and six o'clock in the afternoon, or on Christmas Day, or Good Friday.

I wonder what would be the attitude of a well-recognised youth organisation to an amendment of this nature? I know we often say that we live in modern times in 1972 and that this is a permissive society, and so on, and therefore we should extend this and that and make it freer and easier for individuals to follow the activities they wish to follow, but when we look at what an amusement centre or any room or place that is similar to an amusement centre could be, it may not be acceptable to many people, and I wonder whether we are doing the right thing.

The Hon. J. Dolan: They have to get a permit from the local government authority before they can open.

The Hon. A. F. GRIFFITH: That may be so, but the fact remains that such places at the moment are precluded from operating on a Sunday, but this Bill will allow them to operate on a Sunday. Am I right or wrong?

The Hon. J. Dolan: Yes, that is what is proposed.

The Hon. A. F. GRIFFITH: All the permits in the world would not do any good because at the moment the law says, "You shall not open on a Sunday", but the law now says, "You shall now be able to operate on a Sunday from 10.00 a.m. to 6.00 p.m."

The Hon. J. Dolan: Not yet.

The Hon. A. F. GRIFFITH: I wonder what Christian organisations will think of this sort of thing. I wonder whether the churches and the recognised youth groups will consider it is a good thing to encourage amusement parlours to open on a Sunday. After all, some of these centres leave much to be desired. We have had amendments to the Police Act in relation to some of these amusement centres where coins are placed in a slot and children are allowed to play the machines, and we made the amendments a little tougher so far as the operators of these places were concerned. So, frankly, I doubt whether this is a good or a progressive move.

On one occasion I asked the Chief Secretary whether the Government encouraged gambling, and the answer I got was, "No." That was a fairly good answer to give me, but we will find there will be other forms of gambling introduced before the session closes. However, I do not think gambling has anything to do with this piece of legislation, except that activity by young people in this sort of field can encourage gambling if they are allowed to indulge in it for seven days a week instead of six days a week.

If I say, "All right, I agree to the Bill" I will not do so very enthusiastically. Nevertheless I think the Minister should let us know what types of youth clubs want to encourage the opening up of such places on Sunday when, at the present time, they are precluded from doing so.

We then go onto the next matter dealt with in the Bill. The Bill seeks to reduce the period from 12 months to six months,

after which the Commissioner of Police may dispose of unclaimed property. Under section 76 of the Act the commissioner must at the present time hold unclaimed property for 12 months before he can dispose of it; the Bill seeks to reduce that period to six months, and this period is in conformity with another section of the Police Act. I have no objection to this amendment.

Another amendment in the Bill relates to the unlawful use of motor vehicles. We have been told by the Minister that the Government is concerned with the increased incidence of the unlawful use of or unlawfully assuming control of motor vehicles which is occurring in the State, and particularly in the metropolitan area.

I remember when we introduced a Bill in the last session of Parliament we sought to double the penalties for acts of vandalism. I recall Mr. Baxter saying that whilst it was all right to take such action, one of the real problems that came under the heading of vandalism had not been touched on at all, and that was the penalty for unlawfully assuming control of motor vehicles.

On this occasion it is to the Government's credit that it is endeavouring to do something about the unlawful use of motor vehicles—not about increasing the penalties—to enable the police to move in quicker than they are now able to do where they suspect that a person intends to take possession of a motor vehicle unlawfully. The amendment in the Bill provides that prospective car thieves with jumper leads or other vehicle starting implements in their possession will be dealt with by the police more effectively. At present when people are interviewed by the police and such implements are found in their possession the police have no power to act. With the inclusion of this amendment the police will be able to deal more effectively with this grave problem; and it is a grave problem.

Sometimes a young man takes it into his head to unlawfully assume control of a motor vehicle, and it does not seem to matter whether the vehicle be an old bomb—which is the expression I have heard being used—or a $6,000 or an $8,000 motorcar. In fact, some of these youngsters shun the idea of unlawfully assuming control of an old bomb; they are more attracted to the expensive motorcar. I think it is a fact that an expensive car is more attractive to such young people who consider that it is their right to go for a ride in the property of other people, and sometimes to cause irreparable damage.

I am disappointed the Government has not tried to tackle this problem by increasing the penalties. No better opportunity than the present exists for the Government to take such a step. It is proposed to widen the existing section in the Act to enable the police to be better equipped to deal with the unlawful use of motor vehicles, but no attempt is being made to increase the penalties. The Minister might tell us whether such an opportunity exists on this occasion. We know that the extent of theft or unlawfully assuming control of motor vehicles—which is the correct legal term—is very much on the increase. Indeed, it is becoming a serious crime perpetrated by people who consider that a nice looking motorcar in the street is theirs for the taking for a brief period, for the purpose of having a joyride. The vehicle might finish up in a ditch, a creek, or some similar places. It is not always damaged, but in very many cases when it is damaged the repair bill is very costly.

The remaining amendment in the Bill has been explained by the Minister as being a minor one. I am not sure it is. I think it is an important amendment. In regard to dangerous weapons that are found in the glove box of a vehicle or concealed in other parts of a car, at present the law does not permit the police to take action, because a person must be found in possession of the dangerous or the concealed weapon. If it is in his motorcar it is not considered to be in his possession.

The amendment in the Bill will strengthen the Act in this respect, and a police officer will be able to take action more effectively when such cases occur.

I do not think the Bill is of any great moment. I say again that I am prepared to support with very faint praise—even that is not the correct expression—the opening of amusement places on Sunday although I am not at all happy about it. There is nothing narrow-minded in my approach, because not many people will be advantaged by this amendment.

I am disappointed the Government did not take advantage of this occasion to say at least something about the question of unlawfully assuming control of motor vehicles because this is now becoming a serious problem.

I support quite openly the other two amendments in the Bill. With those remarks I content myself and hope the Minister will give us some further explanation in his reply.

THE HON. J. HEITMAN (Upper West) [7.52 p.m.]: I hold somewhat different views from those of Mr. Griffith about the opening of amusement places on Sundays to enable people to play eight-ball or pinball games in country areas. In many country centres roadhouses or amusement places provide tables for the playing of eight-ball or pinball games. Some of them also provide juke boxes.

There is a small percentage of youngsters who do not play active sport such as cricket, football, tennis, or similar games that require physical effort. They

prefer to hang around the roadhouses or amusement centres which provide entertainment for such young people. At least if the young people are in places engaged on these activities they are not getting into mischief anywhere else. For that reason I consider that in country areas it is not a retrograde step to permit these places to open during certain hours on Sunday. Perhaps in the metropolitan area it is a different matter altogether, as the youngsters might be encouraged to gamble. In many of these centres the youngsters can play the machines by putting coins into the slots, and if they are successful in, say, flicking the football through a gap they receive a certain amount of money.

The opening of these places on Sundays should be permitted in centres where the need is great to provide the youngsters with an opportunity to occupy their time. If the owners of these establishments have to obtain a permit to open on Sundays, that is fair enough

Recently I had occasion to ring the Police Department about the playing of the game of eight-ball. At a hotel or a club patrons may play this game on Sundays between 11.00 a.m. and 6.00 p.m. These establishments are inclined to lock up the machines except at certain times. However, in respect of the representations I made to the Police Department the boys were not permitted to play the same game in a roadhouse where they congregated. I was told by the police officer in response to my telephone call that as far as he was concerned the owner of the roadhouse could obtain a permit from the shire to enable this game to be played; and he said that he was agreeable to this.

That course of action was followed, and an application was made to the shire for a permit to enable the roadhoue to remain open from 10.00 a.m. to 6.00 p.m. on Sundays. To my knowledge the boys have been able to play this game on a Sunday for the last three or four months. I notice that the type of boy who frequents this centre is not the athletic type, or the one to take part in active sport. However, at least the roadhouse provides the boys with entertainment and keeps them off the streets. At the centre they are under the control of someone who can watch over their activities.

I now wish to comment on the third amendment in the Bill which seeks to reduce from 12 months to six months the period that must elapse before the police can dispose of unclaimed property. I read a report the other day about a person pulling a bike out of the river and taking it to the police station. The police said that they would advertise the article, and they would sell it after a certain time if it were not claimed.

On one occasion I found a .22 rifle on the road, and I took it to the police station. It was cocked and loaded, and how it managed to hit the road without exploding I do not know. I picked up the rifle and took the cartridge out before going to the police station. About six months later I asked the policeman what happened to the rifle. He said he had destroyed it, but what proof is there that he did destroy it? Furthermore, did he have the right to destroy it?

The Hon. J. Dolan: You should have got a signature for the rifle and checked later.

The Hon. J. HEITMAN: Such incidents do occur in country centres. People often find things and take them to the police stations. How do they know whether the articles are advertised or whether they have been returned to their rightful owners? If the articles are sold then they do not appear to be sold at the local police station. I am not accusing anyone of doing anything improper, but it often strikes me as strange that whatever is found usually finishes up with becoming the property of the Government or of the police.

Surely the finder of an article must have some right to claim that article, if no-one claims it within a certain time. I do not know the law relating to this aspect.

The Hon. J. Dolan: That only applies to money, and not to goods.

The Hon. J. HEITMAN: Perhaps many of these things are destroyed; I would not know. If they are destroyed there would not need to be a provision in the Act to enable the police to sell them by auction. If lost articles are sold or claimed by their rightful owners, then I consider the finders should be notified. The finders would be quite happy to know that they have been of service to the owners in finding their lost articles. Perhaps the Minister will tell us what takes place in such instances. That is all I have to say in the debate on the Bill. I hope we will hear something from the Minister about the matters I have raised.

THE HON. L. A. LOGAN (Upper West) [7.59 p.m.]: I do not altogether agree with the remarks of Mr. Heitman, when he relates them to only one section of the community which might wish to play pinball or eight-ball games in country areas. What he has said is perfectly true, but this Bill has not been introduced to cover the type of person he mentioned; it is intended to cover people who make use of amusement centres at Barrack Street and Luna Park, where the owners of the machines make money at the expense of human weaknesses. That is what it amounts to.

If one examines the Bill one will find it mentions amusement machines. These are the machines which one operates by pulling a handle. They are not unlike the poker machines used in New South Wales. These are games of chance played by children.

To my mind, on a Sunday children would be much better employed in playing some kind of sport out in the fresh air; that would be preferable to spending their time and money in amusement centres.

As far as I am concerned I do not think there is any need for this particular amendment. I can find nothing wrong with the other three provisions in the Bill. The police have been hampered in their investigations, and they have arrested certain people who have taken over the control of motorcars, or who have had certain material on their persons with which to steal motorcars. I think we ought to help the police as much as possible.

Regarding the penalties, I think it would be difficult to find alternatives. What is the good of fining a person who does not have the money with which to pay the fine? It is no good putting a person inside and increasing the penalty. That is not the answer. We have to find an alternative. Whether we should do as Mr. Baxter suggested and use the whip, I do not know. Certainly fining or gaoling is not the answer; that has been proved. The sooner we find an alternative method of punishment the better off we will be.

I appreciate that many people have themselves to blame when their cars are stolen. Cars are often left on the streets, and in public places and parking areas, with the keys in the ignition locks. This is asking for trouble. I know it is an offence to leave the ignition key in a car, but one must find the person who has committed the offence. Those people have themselves to blame. However, the fact that an ignition key is left in a car does not give anyone the right to take that car. Many people do lock their cars and still have them stolen and damaged. Only this week an almost brand-new car was taken and it was found next day burnt out and completely destroyed. What kind of penalty can we impose on the person, or persons, who steal and damage cars? Such a person is a man of straw and, in fact, is worth nothing at all. If he is put inside he is deprived of the opportunity to work and is unable to repay the damage done.

Stronger measures must be taken and an alternative penalty to those which we have at the moment must be found. The two penalties at the moment are fining and gaoling—or relegation to a place of correction. If the Minister does look at the penalties, as suggested by Mr. Griffith, it is no good his examining those which exist at the moment. He will have to look at some alternative.

Mention was made of stolen goods which have been in the possession of the police for a period of six months. I see no reason why police stations should be cluttered up with unclaimed goods. If a person cannot claim his goods within six months I do not think he deserves them to be held indefinitely. I think the police have every right to sell the goods after a period of six months. With the exception of the first clause, I have no objection to the Bill.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [8.04 p.m.]: I thank the members who have contributed to the debate and although I did not intend to I will take advantage of this opportunity to deal in detail with some of the points raised.

Several youth groups have approached me by way of deputations regarding their positions on Sundays. It will be noticed that I fixed the time between 10.00 a.m. and 6.00 p.m. Without wishing to be sanctimonious, I attend to my religious duties every Sunday and I had that in mind when I fixed the times.

The Hon. A. F. Griffith: The Minister is not on trial; we are not worried about your religious duties.

The Hon. J. DOLAN: I want to make the point in relation to these young people at whom some criticism has been levelled. They will also have their opportunity, if they so desire, to attend their churches before 10.00 a.m. and after 6.00 p.m.

There are certain groups of our youth today who do not enjoy some of the privileges which are available to other youth groups. It will be found that our beaches are usually crowded on a Sunday and when some of these people leave the beaches they usually travel in the family car, or in their own car. However, there are a considerable number of underprivileged youths in the community who live in outer suburbs and who like to occupy their time playing in these particular amusement parlours. Let me say that they do occupy their time in a very respectable and decent way. If anything untoward happens the police are in a position to control it.

What Mr. Heitman had to say about country areas also applies in the city, but this is not the intention of the Bill; it is to apply everywhere. I have also received requests from Kalgoorlie and Geraldton that these places should be allowed to open on Sundays, and I do not see any harm in allowing them to do so.

I might be a little unusual but this type of amusement did not go down with me when I was a boy. I found plenty to do without frequenting these places, but that is not to say that the people who do frequent them should be discouraged. I feel those people have as much right to visit the amusement parlours as other people have to go swimming.

The Hon. N. E. Baxter: They play the jukeboxes a bit loud at times.

The Hon. J. DOLAN: I think some members imagine a lot of these things. They do not go on to the extent made out, and it is about time we were a little realistic.

With regard to stolen property, as Mr. Logan has said we do not want police stations and their appurtenances to be used as storehouses in which goods should be held for a period of more than six months. Mr. Heitman mentioned the matter of somebody finding an article and handing it into a police station. A record can be kept so that at the end of a certain time such goods can be returned to the finder in certain cases. My colleague, Mr. Stubbs, has told me that he once found a tyre, tube, and rim which he handed into a police station. At the end of a certain period the police notified him that the goods had not been claimed and he was able to call and pick them up.

The purpose of the amendment is to bring the section into conformity with another section of the Act where a period of six months is considered quite long enough to hold goods.

The Hon. G. C. MacKinnon: Three months is the normal period. It is surprising the number of people who do not inquire about stolen goods.

The Hon. J. DOLAN: It seems that some people do not miss their goods. However, I can imagine that if my bike had been stolen I would have hot-footed it to the police station without waiting three months or six months. I think six minutes would have been a long enough wait for me if I thought something had been stolen.

The Hon. N. McNeill: If something were stolen and it were reported to the police, could not the police notify the person concerned when it had been recovered?

The Hon. J. DOLAN: That does happen. In all cases where goods have been stolen, and they are reported and described to the police, immediately they have been recovered the person concerned is notified. Plenty of bikes are found and owners are notified accordingly.

The stealing of motorcars is a problem which is worrying every Police Force in the Commonwealth. In this State up to 3,000 cars are stolen each year, and in Victoria the figure is up to 8,000 cars a year. Those who take the cars are no respectors of makes. I think a Rolls Royce would be a bigger challenge than an old bomb—to use a term which is applied to some cars these days.

I will give one example to show just how serious the situation is. It is the most serious case I know of concerning the unlawful assumption or control of a motor vehicle. The particular individual to whom I refer had 67 offences recorded against him for stealing vehicles. That was just the number of offences for which he had been caught. At times the police could not catch him because he was doing 70 miles an hour or 80 miles an hour through stop signs and red lights.

The Hon. J. Heitman: Was he up for unlawful use or for stealing?

The Hon. J. DOLAN: I think he was up for everything the police could throw at him. The lad was placed in homes—about six or seven—but he absconded from five of them. When the authorities spoke to the lad and suggested that he wake up to himself he said that as soon as he could get out he would take another car, and he wanted to know what the authorities would do about it.

The Hon. A. F. Griffith: How old was he?

The Hon. J. DOLAN: He was 13 years last January. When the case was reported to me last year he had had his 12th birthday in the previous January. Some of the offenders are only 10 years and 11 years of age and have committed a dozen or more offences. What is worse, when they steal cars they run them into the river and into the bush.

The Hon. A. F. Griffith: The Minister is only telling us what we already know.

The Hon. J. DOLAN: I am aware of these things because I have to examine such cases every day. Members want to know the remedy: I will tell them of two remedies.

The Hon. A. F. Griffith: The Minister is telling us what we have told him.

The Hon. J. DOLAN: It bears repetition; so many members have said it.

The Hon. A. F. Griffith: It is nonsense to say "so many people have said it." Two of us said it.

The Hon. J. DOLAN: Well, Mr. Baxter said it by interjection, Mr. Logan said it, and the Leader of the Opposition said it.

The Hon. A. F. Griffith: All right, that is three.

The Hon. J. DOLAN: There were only four speakers so three out of four is a fair average. I have suggested two remedies. A lot of these offences occur only at weekends between Friday night and Monday morning. I suggested there should be more establishments for weekend detentions where the offenders can be kept during the weekends. My second remedy is that there must be more obligation on the motorists themselves to do something about the problem. Firstly, of the 3,000 cars, approximately, which have been stolen, 30 per cent. have been left open and untended, and very often with the keys in the ignition. Those who take the cars can use a small piece of silver paper to start them. I have known of cases of young fellows of 13 and 14 years of age who will guarantee to get into a car which is locked. They are able to open the car within two or three minutes. There are different ways of opening different cars. I remember an occasion when I locked my keys in my car and I had to get a mechanic to open the car for me.

The Hon. A. F. Griffith: You should have got one of those boys to help.

The Hon. J. DOLAN: If I had been able to find one he would have done the job in a couple of minutes. The mechanic who opened my car would have made a good burglar because to get the keys out of my car he had to act like a safe-breaker.

As I have said, the first obligation is on the motorist himself. He should lock his car. In my own private car I have a U-shaped lock which is made from very hard steel. It could only be got rid of with a hacksaw, and that would attract too much attention. The lock which I use extends to the clutch pedal, and I have never had my car stolen.

When I made my second suggestion I came in for some criticism—to use the mildest word. I suggested that all cars should be fitted with steering locks.

The Hon. A. F. Griffith: The Minister brought one into the House.

The Hon. J. DOLAN: That is right. I did so in order to demonstrate the type of thing that could be put on a car to prevent it from being stolen. To illustrate how true is the statement I make; of the thousands of cars stolen every year, not one car with a steering lock has been stolen, and many people have had steering locks fitted to their cars since the beginning of last year. If that is not sufficient proof of the efficiency of that item, I do not know what further evidence is needed. It is an item of expenditure that should be undertaken by any car owner who prides himself on having a good car.

If we were to say to people, "You should fit your car with a steering lock," I do not think any car owner should reply, "I will not vote for you at the next election." Just imagine people coming to me and saying, "By jove, Mr. Dolan, what a good thing you did! My car has not been stolen yet." That is a vote catcher. If members want to catch votes they should suggest to all good citizens who are keen to prevent people from stealing cars that they fit steering locks to their cars. What a good insurance it is, for about $14, particularly for people who have lost two or three cars.

The Hon. N. McNeill: If you are suggesting they will not go to that trouble, I know of a case where a windscreen was taken out of a car.

The Hon. J. DOLAN: In some cases windows have been smashed. The honourable member was lucky if the thief only took the windscreen out.

The Hon. F. R. White: You say the first responsibility should be on the motorist. What about the parents?

The Hon. J. DOLAN: We are going back a long way. None of my children were ever in trouble because of stealing motorcars.

The Hon. Clive Griffiths: There were not any motorcars then.

The Hon. J. DOLAN: Yes, there were. The honourable member's memory is sometimes at fault. I do not know whether I could take the credit for bringing them up well but my children were never in trouble with the law, nor ever likely to be.

I agree with Mr. White; that the responsibility starts with the parents. We must realise that some of the people who engage in stealing and unlawfully using cars live in surroundings in which none of us would like our children to live. Consequently, the example given them does not encourage them to be good, law-abiding citizens.

The Hon. A. F. Griffith: Do you realise if you get over any further you will be sitting on the Chief Secretary's knee?

The Hon. J. DOLAN: He would be delighted to have me there.

The Hon. D. K. Dans: He is more glamorous than you are.

The Hon. G. C. MacKinnon: You must be nostalgic to become a private member again, the way you are going to town tonight.

The Hon. Clive Griffiths: Do you think increased fines would be a deterrent?

The Hon. J. DOLAN: If an offender has nothing, what is the use of fining him $2,000 instead of $1,000? It costs $7 a day to keep a person in prison. If we doubled the fine, as soon as he came out of prison he would again do the same thing. Such people tell the police openly that is what they will do. Yet the honourable member suggests increasing the penalties. That is not the answer.

The Hon. Clive Griffiths: I said: Do you believe they should be increased?

The Hon. J. DOLAN: I think I have indicated at least 100 times in newspapers and on television shows that increasing penalties is not the answer. I have mentioned two solutions. If the honourable member does not want his car to be stolen—I know it is a good one, and better than I can afford—he should have a steering lock fitted.

The Hon. Clive Griffiths: Mine already has one.

The PRESIDENT: Order, please!

The Hon. J. DOLAN: The honourable member was asking me what the answer was, when he already has the answer.

The final amendment relates to dangerous weapons found in a glovebox or concealed in other parts of a car. As the Act stands at present it specifically states "the offender has on or about his person". The addition of the words "or in his possession" is expected to cover that situation. If someone were going into a bank with a set of implements and he said he was

only going in to steal a blotting paper, one would have to believe him. The Police Department wants the law to be tightened to cover the case of someone found acting in suspicious circumstances and having on his person some articles which would enable him to open and start a car. It is only a minor measure but it will catch some people.

The Hon. A. F. Griffith: We will support it, too.

The Hon. J. DOLAN: Thank you. I was asked to say something about these items which are mentioned in the Bill and which are well worth while.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. J. Dolan (Minister for Police) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 65 amended—

The Hon. J. HEITMAN: In his reply to the second reading debate the Minister said one could be fined if one were found with certain items, which he mentioned, in one's car. Among those items were jumper leads. Many people who have automatic cars carry jumper leads in case the battery runs flat; they use them as a means of getting the car started again. I carried a set until someone borrowed them and did not return them. How far can this be policed?

The Hon. J. DOLAN: I do not think Mr. Heitman need have any worry about this matter. He is a law-abiding citizen. The man who took that item from his car and did not return it might be in trouble one day. He is the man for whom the provision is meant.

Clause put and passed.

Clause 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

GUARDIANSHIP OF CHILDREN BILL

Second Reading

Debate resumed from the 30th March.

THE HON. R. J. L. WILLIAMS (Metropolitan) [8.24 p.m.]: This is a Bill to amalgamate four Acts—the Guardian of Infants Act, 1920, the Guardianship of Infants Act, 1926, and the amendments to the latter Act of 1962 and 1965.

In researching this Bill it is interesting to note that the legislation was introduced into the House on the 9th November, 1920, by The Hon. James Cunningham, a member for the North-East Province, and in 1926 by The Hon. George Potter, a member for the West Province. Two other Acts were introduced into the House by The Hon. L. A. Logan, first of all representing Midland and then the Upper West Province.

I do not suppose I can equal the record created by Mr. Logan and the present Leader of the House (Mr. Willesee), in so far as the fourth Bill introduced took 12 minutes of the House's time from the beginning to the third reading stage.

The Hon. L. A. Logan: It must have been a good Bill.

The Hon. R. J. L. WILLIAMS: It was a very good Bill. When one reads the past debates it is obvious that a tremendous amount of thought was put into them by our predecessors, but it is pleasing to note that the same basic principles apply. The welfare of the child is of paramount importance.

Much has been said this evening about children who go wrong but I think we, as a Christian society, might be motivated by some words which appear in St. Matthew's Gospel, chapter 18, verse 6—

> But whoso shall offend one of these little ones which believe in me, it were better for him that a millstone were hanged about his neck and that he were drowned in the depth of the sea.

I think this was the motivation for the 1920 Bill, probably spurred on by the reading of Charles Dickens and his social reform.

If we are motivated in that way, we must also take care. In his work *Procus et Puella,* Erasmus said—

> *Innumeras curas secum adferunt liberi.*

In a rough translation that means, "Children bring with them innumerable cares."

It is the care taken by the legislator which will affect the future of the children of this State. The guardianship and custody of children is always an emotional experience for any party concerned with it. Emotive experiences such as death, divorce, separation, and adoption carry with them an amount of misery, and it behoves us to legislate to provide a protective shield around the children, guarding them from the overflow of the harrassing mental stress occasioned by any one or more of those human experiences. It is at such times that good law is needed so that the courts, in their method of adjudicating, can be fair to all parties.

This Bill contains nothing startling that requires any criticism by my party. I would like to quote from volume 172 of *Hansard.* On page 2314 the following appears:—

> Any moves which tend to lend efficiency to the conduct and administration of the law with regard to

> the guardianship of infants would have the approval of my party at all times.

I echo those sentiments tonight. Those words were spoken by The Hon. W. F. Willesee (North-East Metropolitan) at 2.40 p.m. on Thursday, the 11th November, 1965. It is only appropriate that the Minister, as he is now, should have introduced this Bill into the House.

There are one or two important additions to the existing Acts which I have already mentioned, and the Minister gave us a good outline of them in his second reading speech.

Despite what the Minister for Police just said, it is pleasing to see that the penalty for parents who abscond after being ordered to pay maintenance for their children has been increased. I suggest that the tightening up of this matter in clause 21 of the Bill will go a long way towards helping those mothers who have been deserted. The law needed tightening. We hear and read of harrowing cases of people thrown onto the charity—albeit the benevolent charity—of child welfare; of deserted wives and deserted mothers who do not know where to turn in order that they may bring up their children. It is pleasing to see that this has now been attended to in this Bill.

It has not always been the case that the mother has been regarded as a fit person to be a guardian for her children. In point of fact, if one reads *Hansard* Volume 63 page 1490, one finds a quote from Sir Edward Wittenoom, wherein he said—

> I question whether mothers are always fit to be guardians.

In point of fact, the first Act was introduced at a time when lady members were first introduced to this Parliament. It has been my bitter experience that, like it or not, too many mothers and wives in this State have guardianship thrown at them by the sudden exit of the spouse. More often than not the responsibility is too much and the mother has a breakdown—to use a polite term. The children are then fostered out, or guardians have to be found.

It is essential that members of this House be well aware that the guardianship or custody of a child is indeed a sacred charge. In legislating for the care of these children we are legislating for the future generations of this State and of the Commonwealth. From what the Minister for Police said tonight it is obvious that not even five or six different homes from which a boy had absconded were sufficient to correct that boy of 13. No-one can suggest a cure. No-one can suggest a cause, but I put it to you, Sir, in the most serious terms that the cause goes back always to the parental home. Too many cases dealt with by welfare workers in many respects emanate from the broken home.

I have it on good authority that we in Western Australia lead the field in the Commonwealth of Australia as far as care for deserted wives is concerned. I am sure those members who have had experience of child welfare—as has The Hon. L. A. Logan, who was the previous Minister—are sometimes revolted, sickened, and chastened; and when conscientious men like the present Minister and the previous Minister are involved they must be worried to death about whether or not what they legislate for will be the right thing. I believe in bringing this Bill to the House the Minister has obeyed that one principle which runs through every one of these debates: that it is the welfare of the child which is of paramount importance. I commend the measure to the House.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [8.34 p.m.]: I am deeply indebted to Mr. Williams for his remarks in connection with this legislation. It is true that the measure is built up from the existing legislation, which has been brought up to date in the light of the experience of the courts and the administration of the department, as well as the experience of all the people who have to look after children as guardians.

Mr. Williams repeated the theme which is the basis of the legislation: That the rights of the child and the welfare of the child shall be of paramount importance to the department concerned with this problem. The legislation also embodies a more modern concept of the equality of the rights of the parents. Mr. Williams is undoubtedly aware that in decisions of this nature one party is always disappointed and is occasioned great worry. This in turn causes a great deal of concern to the people who are required to adjudicate in these matters.

I came across an interesting point in this Bill which prompted me to make some inquiries. I refer to the term "next friend." I had not seen the term before, and I wondered what it meant. It appears that under old English law a mother cannot appear in court for the right of her own child; she must have someone who is termed "a next friend." This reference will now disappear from our legislation. It is interesting that it should have applied for so many years.

I see no point in speaking at length in view of the speech we have just heard and in view of the appreciation with which it was received by members of this House. I am pleased with the references made to my predecessor (The Hon. L. A. Logan) who performed a great job in this field for so many years. I hope this legislation

is the contemporary of, and equal to, the sort of measure he would have introduced had he been given the opportunity.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. W. F. Willesee (Leader of the House) in charge of the Bill.

Clauses 1 to 20 put and passed.

Clause 21: Orders for payment of money may be enforced by attachment—

The Hon. A. F. GRIFFITH: I think this is the clause which grants authority to garnishee a person's wages. Is the Government satisfied that this is the correct course to take? I think I can remember some representation being made to me at one time in relation to the garnisheeing of wages. If a man is employed by a firm and an order is made against his wages, his employer is required to deduct the specified amount and pay it into the court. Then, of course, the employer gets to know about the state of affairs of his employee's family. The employer may not be happy about this and the man concerned probably would not be happy about it. As a result, his employment is prejudiced, so he leaves that job and seeks employment somewhere else. He may seek another job for a different reason—so that he may evade his obligation by changing his job. Is the Minister in a position to inform us whether a close study has been made of the question of attachment to wages or salaries?

The Hon. W. F. WILLESEE: The notes I have in support of the clause do not indicate that a particularly deep study was made of this question. This clause, permitting enforcement of orders by attachment to a pension or income payable to the person against whom an order is made, reiterates similar provisions contained in section 8 of the 1926 Act. I feel the provision has been carried on because it has been found we cannot do without it due to the evasion by so many people of their responsibilities.

The point made by the Leader of the Opposition in regard to jeopardising a person's employment causes me concern. A person should not be placed in such a position. However, I do not think action would be taken against someone who was trying to meet his responsibilities. On the other hand, large sums of money are written off as a result of people not attempting to pay. It might be of interest to hear what the department has to say about this situation, so I would be prepared to elaborate on this at the third reading.

The Hon. A. F. GRIFFITH: I am relying entirely on my memory of events of a long time ago, so I am open to correction; however, I do not think the courts practise garnisheeing to a great extent. I do not even know whether this provision is in the present Act.

The Hon. R. J. L. Williams: No, it is not.

The Hon. A. F. GRIFFITH: I did not think it was.

The Hon. F. R. White: It is in the present Act.

The Hon. R. J. L. Williams: Yes. I am sorry, it is included in the 1926 Act.

The Hon. A. F. GRIFFITH: Then it is being re-written here?

The Hon. R. J. L. Williams: Yes.

The Hon. A. F. GRIFFITH: I do not think the courts practise to any great extent attachment to a man's salary.

The Hon. W. F. Willesee: I do not think I can recall it happening.

The Hon. A. F. GRIFFITH: I do not want my remarks to be misinterpreted. I have a great deal of sympathy for the woman whose husband is not prepared to support her or the children with which he has left her. I have no sympathy for the husband concerned. The man who does not intend to pay would go to all ends to avoid doing so, even to the extent of quitting his job and going some place where he cannot be found. This is particularly so if his wages are attached.

The Hon. W. F. Willesee: In many cases he ultimately leaves the State.

The Hon. A. F. GRIFFITH: There is of course a reciprocal agreement between the States which provides for the enforcement and the payment of a maintenance order. This is different from an order against a man in the court where the magistrate will say, "You shall pay so much." Not only does the legislation say, "You will pay so much," but it also provides for an order to be made against the man's wages or salary which will have the effect of a garnishee application by the person concerned. What is the experience of the department in relation to action of this nature? In my opinion it could prejudice the woman's chances of collecting her maintenance, but I do not known whether this is the case. I accept the Minister's proposition to tell us more during the third reading stage.

The Hon. L. A. LOGAN: The provision is actually in the present Act and is somewhat different from what used to be known as a garnishee order because under this Bill the court must give a person the right to be heard. If an order is made, it is only when the person agrees that it is applicable. At least that is so at the present time. It is then that the garnishee order goes into effect.

The problem that confronts us does not concern the decent fellow who admits his mistake and is prepared to pay; it concerns the man who does not admit his mistake or liability and who tries to avoid

his responsibility. I do not think this provision will do much good in spite of the increased fines mentioned by Mr. Williams.

There are, of course, those who stay in their jobs and who can be contacted whenever necessary; but a greater percentage move from State to State and change their names with monotonous regularity and in spite of the reciprocal agreement that exists quite often it is impossible to catch up with them; and the police in the other States might not be able to enforce the order.

There are many thousands of names of missing persons on the files of the Child Welfare Department. They cannot be traced even though they are responsible for the upkeep of their children.

There is not much wrong with the legislation. If a person agrees that the amount be taken off his wages it takes care of the problem because the wife will know that she will receive the money in question. It is however costing the State many thousands of dollars because of the people who are not prepared to meet their responsibilities and pay for the upkeep of their children.

The Hon. A. F. Griffith: Are you suggesting that if a person does not agree to his salary being attached this is not done?

The Hon. L. A. LOGAN: The court only makes the provision when the person agrees; and the court can do this if it so desires. The person must, however, be heard and be given an opportunity to put his case. I do not know how we can overcome the problem. It was suggested that everybody should have a taxation number. Many ideas have been considered but none of them has as yet proved satisfactory.

The Hon. A. F. Griffith: Do you know the present penalty for a man who neglects to pay money on an order pursuant to the court?

The Hon. L. A. LOGAN: It is generally imprisonment.

The Hon. A. F. Griffith: I wonder what it is in the old Act as it compares with the new.

The Hon. L. A. LOGAN: Under this legislation the penalty has been increased, and the man concerned must still pay. Many of the wives insist on the husband being put into a house of correction. No penalty has yet been discovered to overcome the problem.

The Hon. A. F. GRIFFITH: I do not know the section of the Act which deals with the man who does not obey the order of the court. I would refer members to clause 22 of the Bill which provides for a fine not exceeding $200 or a period of imprisonment not exceeding three months. Can anybody tell me what the present penalty is?

The Hon. R. J. L. Williams: It is $40 or two months.

The Hon. A. F. GRIFFITH: I recall the excited manner in which the Minister for Police told us about a quarter of an hour ago how useless it was to increase penalties in connection with people who stole motorcars belonging to other people. I wonder what the Minister might think about this.

The Hon. J. Dolan: The people concerned are probably entirely different.

The Hon. A. F. GRIFFITH: What more senseless situation can we have than to provide a penalty for a man who does not keep his wife and child and at the same time put him in gaol so that he need not keep them at all?

The Hon. J. Dolan: I was talking about something else; not about that aspect.

The Hon. A. F. GRIFFITH: I missed a great opportunity when another Bill was before us. I am told the penalty for stealing a bicycle on Rottnest Island is to be $150.

The Hon. J. Dolan: This has nothing to do with the matter before the Committee.

The Hon. A. F. GRIFFITH: I expected the Deputy Chairman to tell me that. I did however miss a great opportunity to express an opinion on the excited speech on penalties made by the Minister. Is it logical to put the penalties into the legislation and make it so that the fellow cannot keep his wife and family? I daresay that the only thing we can do is to threaten such people with gaol in order that they might realise their responsibilities and obligations.

The Hon. W. F. WILLESEE: The scope of the debate has widened somewhat since Mr. Griffith first took up the point. I will, however, endeavour to reply to the questions raised during the third reading of the Bill. At a glance I cannot see the matter of increased penalties to which reference was made but, as I have said, I will explain the position during the third reading.

Clause put and passed.

Clauses 22 and 23 put and passed.

Clause 24: Power of Court as to production of child and repayment of costs of bringing up child—

The Hon. F. R. WHITE: I refer members particularly to subclause 3. Throughout the legislation we make reference to court action. In order that the welfare of the child be preserved and considered I believe it is necessary for court action to be taken.

What happens prior to court action being taken in a situation where the welfare of the child is not being considered or adequately considered? No legal action

can be taken to protect that child's welfare without the benefit of court action being invoked.

In subclause 3 reference is made to two instances; firstly where a parent has abandoned or deserted his child and, secondly, where he has allowed his child or children to be brought up by another person at the expense of that person, thus making it obvious he is unmindful of his parental duties. There could arise a situation where the family caring for the children is not in the financial situation or otherwise capable of adequately looking after the child, and it might be difficult for that family in this voluntary capacity to continue to care for the child or children. Even though this might be the case it would be undesirable for the children to be returned to the parents when they were unmindful of their children's welfare and of their own responsibility.

The party who had borne the cost of caring for the child would have to take court action to get the problem resolved. This is the only weakness I find in the legislation.

If that party went to the Child Welfare Department, the department could do nothing for those children. It could itself possibly be forced, because of a threat that the children would be put out into the street, to take the matter to court. Under this provision the matter must be taken to court, but I believe provision should exist so that arrangements can be made legally without the necessity for court action.

The Hon. W. R. WITHERS: I was absent for part of the debate on this Bill, and possibly the error I have in mind has already been discussed. Clause 24 (3) refers to the masculine gender when, in fact, it should refer to the masculine and feminine.

The Hon. J. Dolan: That is provided for in the Constitution.

The Hon. W. F. WILLESEE: I have here some notes on clause 24 as follows:

> Sub-clause (2) of this clause restates the present law which requires the parent on having the child given up to him by a person who has been rearing the child to pay to such person the whole of the costs properly incurred in bringing up the child—See Section 11 of the 1926 Act.
>
> The remainder of the Clause restates Section 12 of the 1926 Act in giving the Court explicit powers of ensuring that where a parent has previously abandoned or neglected the child or left another person to bring it up—to the extent of the parent appearing unmindful of his parental duties—the parent must now establish to the satisfaction of the Court that he is a fit and proper person to have the custody of the child. In any event, Sub-clause (1) restating Section 10 of the 1926 Act, gives the Court complete discretion in the matter of returning the child to the offending parent. Person includes any school or institution.

The Hon. F. R. WHITE: The clause is quite self-explanatory in that regard, particularly when read in conjunction with clause 6. I was merely trying to point out that a weakness does exist because in the circumstances referred to it is necessary for action to be taken by someone in court. Therefore I believe it would be desirable in the future for the Child Welfare Department, the Mental Health Services, and any other department involved in this overall problem to study the matter carefully in an endeavour to devise some provision under which action can be speeded up and taken without necessarily going to court.

Clause put and passed.

Clauses 25 to 27 put and passed.

Schedule put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 9.05 p.m.

Legislative Assembly

Tuesday, the 11th April, 1972

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

QUESTIONS

Closing Time: Statement by Speaker

THE SPEAKER (Mr. Norton): I have received a request for a review of the time to which questions may be submitted to the Table on Thursdays. I have given the matter full consideration. In accordance with the latter part of Standing Order 107, instructions were issued to the Clerks at the Table to receive questions up to 2.15 p.m. on Thursdays. I wish to announce that I am now prepared to amend the instruction to read "3.00 p.m."

If at question time on a Thursday a member asks a question without notice and the Minister directs that such question be placed on the notice paper, I am prepared to allow such question to be so placed, if handed in immediately. Members must realise this is a privilege and, if abused, it may be withdrawn. This will occur, for instance, if a member deliberately asks a question in such a way as to leave the Minister no alternative but to direct that it be placed on the notice paper.