be adequate to deal with the situation. As a matter of fact the company's fear lies more with the tourists because they are responsible for the spread of the fruit fly. At one stage, 28 outbreaks occurred in Shepparton and they were all as a result of tourists bringing infested fruit into the area. I am sure that we should all learn a lesson from this information.

I can assure the member for Belmont that the reference to less than $500,000 is intended only if it is demonstrated that a plant which is technically just as capable and which has the same capacity can, because of some freak set of circumstances, be brought in for slightly less. In these circumstances it would be approved. However, it is felt that more money will be needed, not less.

With regard to the matters of law raised by the member for Mt. Hawthorn, I am sorry that time has defeated me. I am afraid that the honourable member will have to take the will for the deed; but I assure him that I would be only too delighted to discuss the points with him.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

As to Third Reading

MR. COURT: (Nedlands—Minister for Industrial Development) [6.12 p.m.]: I move—

> That the third reading be made an order of the day for the next sitting of the House.

I would explain that in view of the short time the Bill has been before the House, I feel it would be unfair to move the third reading today.

Question put and passed.

BILLS (2): RETURNED

1. Iron Ore (Dampier Mining Company Limited) Agreement Bill.
2. Iron Ore (Cleveland-Cliffs) Agreement Act Amendment Bill.

Bills returned from the Council without amendment.

ADJOURNMENT OF THE HOUSE

SIR DAVID BRAND (Greenough—Premier) [6.14 p.m.]: I move—

> That the House do now adjourn.

In moving this motion I would like to remind members that we will be sitting after tea next Thursday.

Question put and passed.

House adjourned at 6.15 p.m.

Legislative Council

Tuesday, the 21st October, 1969

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

BILLS (4): ASSENT

Message from the Governor received and read notifying assent to the following Bills:—

1. Licensing Act Amendment Bill.
2. Weights and Measures Act Amendment Bill.
3. Exmouth Gulf Solar Salt Industry Agreement Bill.
4. Church of England (Diocesan Trustees) Act Amendment Bill.

MINES REGULATION ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. A. F. Griffith (Minister for Mines), and read a first time.

QUESTIONS (3): ON NOTICE

1. MAIN ROADS

Lighting on Great Eastern Highway

The Hon. CLIVE GRIFFITHS asked the Minister for Mines:

(1) Is it intended to provide street lighting in the new section of Great Eastern Highway between the Causeway and the Rivervale subway?

(2) If so—

(a) when will the lights be installed;

(b) what will be the type of lighting used; and

(c) what is the estimated cost?

The Hon. A. F. GRIFFITH replied:

(1) The lighting of this section of road is the responsibility of the Perth City Council. It is understood that the council is at present negotiating with the State Electricity Commission with a view to arriving at a suitable standard of lighting.

(2) Answered by (1).

2. EDUCATION

Wiluna Primary School

The Hon. G. E. D. BRAND asked the Minister for Mines:

> As the primary school at Wiluna is locked during the lunch interval on school days, thereby compelling

the children to have their lunch outside, under all weather conditions and without the benefit of shelter, will the department urgently consider the possibility of erecting a structure which would enable the children to have their meal under reasonable conditions, and which could also be utilised for some other purpose?

The Hon. A. F. GRIFFITH replied:

The district superintendent will be asked to report on the situation at Wiluna.

3. EDUCATION

Leonora School

The Hon. G. E. D. BRAND asked the Minister for Mines:

With reference to my question of the 15th October, 1969, concerning the spare building situated at the Leonora School, and in view of the fact that—

(a) no one else in the district wants the building;

(b) the school needs it for the purposes already enumerated in my previous question;

(c) it has not been replaced;

(d) it can be repaired satisfactorily for the use intended; and

(e) there is more than enough playing area available—

would the department leave the building where it is and please the staff, the local branch of the parents and citizens' association and parents generally?

The Hon. A. F. GRIFFITH replied:

The situation is to be reviewed during first term 1970 when the points raised by the honourable member will be given full consideration.

LEAVE OF ABSENCE

On motion by The Hon. W. F. Willesee (Leader of the Opposition), leave of absence for 12 consecutive sittings of the House granted to The Hon. H. C. Strickland on the ground of ill-health.

STATE FORESTS

Revocation of Dedication: Assembly's Resolution

Message from the Assembly requesting the Council's concurrence in the following resolution now considered:—

That the proposal for the partial revocation of State Forests Nos. 7, 14, 16 and 51 laid on the Table of the Legislative Assembly by Command of His Excellency the Governor on 30th September, 1969, be carried out.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.39 p.m.]: I move—

That the proposal for the partial revocation of State Forests Nos. 7, 14, 16 and 51 be carried out.

The Legislative Assembly, on the motion of the Minister for Forests, has passed a resolution to the effect that the proposals for the partial revocation of State forests Nos. 7, 14, 16, and 51, which were laid on the Table of that House by the command of His Excellency the Governor, be carried out and that such resolution be transmitted to this Chamber for the concurrence of members therein. The proposed revocation of State forests now before members affects six areas of our State forests.

The first area which I would mention adjoins Sawyers Valley townsite and comprises approximately five acres, which contain no millable timber. This area is required by the State Electricity Commission for further development as a major substation link. In view of the expenditure envisaged on that project, the commission now requires a freehold title to the land which has been under forest lease to the commission since 1950.

The second area affected comprises about two acres also containing no millable timber. It is proposed that this area be released to the adjoining landholder and this will enable the boundary to be straightened out. This lot was excluded from Murray Location 1377 at the time of survey because it then formed part of a timber tramway but the tramway is no longer in existence.

The third proposal affects an area of State forest approximately 37 acres in extent and containing poor quality forest, mostly clear felled because of the incidence of dieback. This area is situated outside the North Dandalup catchment and has been requested for exchange by the adjoining holder of Murray Location 1149 for an equal area of his location which is situated within the catchment. This latter area is, incidentally, good quality forest country carrying marketable timber, free from dieback, and with an adequate stocking of regrowth. The exchange of land in this connection is supported by the Metropolitan Water Supply Board and, indeed, avoids the possibility of likely resumption at a later date for catchment purposes.

An area of land approximating 146 acres is contained in the fourth proposal. This is fairly flat country and contains no marketable timber. It was set aside for future pine planting needs, but the proposal now is to exchange this on an equal area basis for portion of Reserve

22672—a recreation and golf course reserve —which is considered to have greater pine-growing potential.

The area of State forest proposed for excision is to be used as a golf links. It is considered better suited for this purpose than the country contained in Reserve 22672 because of availability of underground water and its proximity to the Harvey River diversion. The proposed change of land will be of mutual benefit to the Forests Department and to the Shire of Harvey.

The fifth proposal for consideration affects country consisting mostly of flats and containing no commercial timber. This area of about 140 acres is to be exchanged for an equal area of adjoining private property, which is better suited to the growing of pines and the exchange would, incidentally, improve the State forest boundary.

The applicant for the exchange considers that the State forest area, which he seeks, is a more attractive agricultural prospect than the area which he holds. The proposal is, therefore, of benefit to both parties.

The sixth area referred to approximates 68 acres of land consisting mainly of gravelly slopes and carrying only two small groups of mallet trees. This land forms a salient into private property and its alienation would square up the State forest boundary. The application is made by the adjoining holder of Williams Locations 6900 and 2910.

It is my desire to table papers which will provide members with a detailed description of the lands concerned supported by clearly defined plans of the proposals the subject of the motion.

The papers were tabled.

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

TRANSFER OF LAND ACT AMENDMENT BILL (No. 3)

Second Reading

Debate resumed from the 14th October.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [4.45 p.m.]: This Bill is designed to repeal and re-enact section 145 of the Act, and in so doing it will make it easier for people who wish to have their signatures witnessed, because it will be possible for any adult person to be a witness.

The introductory speech of the Minister was, in itself, a complete explanation concerning the necessity for the Bill. The speedy passage of documents through the Land Titles Office has not been possible because those authorised to witness signatures have been too few in number. If it is necessary merely for a witness to attest that he has seen a person sign a document, I do not think we should be too stringent in regard to who may be a witness.

With regard to the position outside the Commonwealth, the Bill provides that a section of the Supreme Court Act—I think it is section 177—shall be applicable, and written into the Transfer of Land Act.

If I had any comment to make on the Bill it would be that I see no difference between signing documents inside the Commonwealth and signing documents outside the Commonwealth. The witness must see the person actually sign the document. However, as far as Western Australia is concerned this Bill is a step forward as it will facilitate the signing of these documents. I therefore support the measure.

THE HON. I. G. MEDCALF (Metropolitan) [4.47 p.m.]: I, too, support the Bill. It is a fairly small one and it is not necessary for me to make any lengthy statement about it. Generally speaking, it simply prescribes different provisions for the attestation of instruments and powers of attorney under the Transfer of Land Act. It maintains the situation in the existing section 145 of the Act in that it differentiates between signatures taken within Western Australia and those taken outside Western Australia but within the British Dominions, and, finally, those taken outside the British Dominions.

It provides one very significant change in that so far as particular witnesses are concerned in Western Australia, it will no longer be necessary to have any special persons as witnesses. It is a very broad Bill in that respect in that it provides that any adult person will be satisfactory for witnessing a document or instrument or power of attorney under this Act. All the witness has to do is to add his address and occupation; and, in those circumstances, any witness will suffice. I believe this is a forward step and it has been introduced because of the new type of forms the Land Titles Office will be using as from March next year.

Outside the Commonwealth but within the British Dominions, and outside the British Dominions, it will still be necessary for particular persons to act as witnesses.

One thing which has intrigued me when looking through this Bill is the continued use of the phrase "British Dominions." I have had some difficulty in deciding what was meant by the phrase, but I do not know that everyone would share my difficulty. Perhaps I am being too legalistic. The term "British Commonwealth" has passed into disuse, of course, and in certain respects, the term "British" seems to be passing into disuse, although we all know it refers to people who emanate from the British Isles. I wonder what "British Dominions" means. I am sure that those

in the Land Titles Office know and they, no doubt, have a list of these dominions; but they are probably the only people who do know what the term means. Even the "Commonwealth of Nations" is a doubtful term these days.

For instance, would India be classed as being in the British Dominions? I do not suppose it would, because it is not a British country any longer, although it recognises the special position of the Crown in the Commonwealth of Nations. I was going to say, "it owes allegiance to the Crown" but that might not be quite correct. There are all sorts of legal technicalities, and I suppose this is only a technicality. I am quite sure that the Titles Office would know what the term means although, legally, it may perhaps be a little vague these days. However some term has to be used and I suppose this is as good as any.

The only change I can see as far as witnesses are concerned outside the Commonwealth but within the British Dominions is that a barrister and a solicitor have been added. Formerly a person holding either qualification outside the Commonwealth was not a qualified witness, but now he will be.

Extensive change has been made outside the British Dominions in that, as the Minister said, the legislation more or less conforms with the provisions of section 177 of the Supreme Court Act. That section says that outside Western Australia—I think that is the phrase used—an affidavit may be sworn before any person qualified to administer an oath in that place.

The amending Bill proposes to include commissioners for oaths. It is notable that proposed new subsection (6) of repealed and re-enacted section 145 actually says—

> (6) Any person who is a commissioner of the Supreme Court for taking affidavits empowered and authorised to act in any part of the British Dominions or in a foreign country is a qualified witness . . . or in any foreign country in which, for the time being, he happens to be and has authority therein to attest instruments . . .

In that respect, the legislation is a little more limited than the Supreme Court Act.

However, I think it is a very sensible provision and that the Bill is an excellent one. Certainly it will make it easier to have documents signed without in any way imperilling safeguards in the existing legislation. I support the Bill.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [4.52 p.m.]: I am unable just now to elucidate further on the point raised by Mr. Medcalf in respect of the use of the expression "British Dominions." Mr. Medcalf experienced some difficulty in explaining the term, and I would experience the same difficulty. However, as a matter of interest I will make some further inquiries, because I feel there must be some historic reason for this. I cannot imagine the reason is legalistic but, perhaps, historic.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [4.54 p.m.]: I move—

> That the Bill be now read a third time.

I would like to say, Mr. President, that I have had an indication from Mr. Medcalf that he does not wish me to hold up the Bill until I make the inquiries necessary to answer the question raised by him. I suggested to him that the word "Dominions" could, perhaps, be changed to "Commonwealth." However, I do not think this would make any difference.

I will make inquiries and if some attention should be paid to this point, I can pass the information to the Minister representing me in the Legislative Assembly, as the Bill has to be transmitted to that House for consideration.

The Hon. W. F. Willesee: I doubt if it would have any material effect.

The Hon. A. F. GRIFFITH: I doubt it too, and I do not think Mr. Medcalf feels it would. However he has raised this point and when questions of this nature are brought up in the House I always like to find the answers for the edification of the honourable member concerned and also to assist my own knowledge of the subject.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

FREMANTLE PORT AUTHORITY ACT AMENDMENT BILL

Second Reading

Debate resumed from the 15th October.

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [4.57 p.m.]: There seems to be some misconception about the intention of the amending Bill. If members will look at the legislation they will realise that the effect of the Bill will be to take from the Act the words "for purposes connected with shipping" and insert, in lieu, the

words "for any other purpose approved by the Minister." Further, where it is deemed advisable by the Minister to increase the period of leasing from 21 years to a maximum of 50 he may do so.

That is the whole effect of the Bill. When listening to Mr. Lavery the other evening one would have thought that the intention of the Bill was for the port authority to make land available for all sorts of purposes. The amount of land which is not already allocated over which the port authority has jurisdiction is a very small area in terms of acres. The port authority has only 39 acres in the Kwinana area, which has been allotted recently as a base for the new public jetty erected for CSBP. This area of land is now under the jurisdiction of the port authority to enable it to build some warehouses which will be of benefit to the traffic using the jetty. There are only a few acres which have not yet been allocated which come under the port authority's jurisdiction.

The point has been raised—not only in Parliament but in other places also—with regard to what the port authority will do about the beaches. Everyone, I think, will appreciate that the Fremantle Port Authority is responsible for the two beaches which come under its control; namely, Port Beach and Leighton Beach. This responsibility has entailed the erection of kiosks, changerooms, and a lifesaving building. Also, the authority has put in all the access roads.

Could anybody reasonably say that the port authority now, or in the future, is likely to upset this type of development by leasing the area to somebody else for shipping or some other purpose? I do not think it is feasible even to think about such an action.

The Hon. F. R. H. Lavery: It is the wording in the Bill; namely, "for other purposes."

The Hon. L. A. LOGAN: Of course these words have been included and the reason for this was stated simply: Some of the land which has already been leased is no longer being used, in the main, for shipping purposes. It is necessary to take the words "connected with shipping" out of the Act and insert instead "for other purposes" if these people are to be allowed to remain and continue their business which, I believe, they have the right to do.

That is all that is entailed and is the only reason for the amendment. I do not think there is any need for me to elaborate any further, but I thought I had better correct misconceptions apparently held by some members that there is a great deal of land held in the Cockburn and Kwinana areas by the Fremantle Port Authority. That is not so. I am sure that, on reflection, no-one would ever think the Fremantle Port Authority would try to do away with Port Beach or Leighton Beach, because the authority was, in fact, responsible for these beaches being created and for providing all the amenities that go with them.

The figures I am about to quote relating to the beaches in the metropolitan region are rather enlightening. In effect, there are 95 miles of beach in the metropolitan region, of which 7.4 miles are occupied by industry or used for other purposes.

The Hon. F. R. H. Lavery: It is a fairly long stretch from Point Peron to City Beach.

The Hon. L. A. LOGAN: Only 7.4 miles of the total 95 miles of beach are taken up by industry. Therefore there are many beaches at which one can have a swim or sit on the sand with one's girl friend if one so desires.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Local Government), and passed.

HOSPITALS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 15th October.

THE HON. R. H. C. STUBBS (South-East) [5.4 p.m.]: Although the Bill before the House is not very large, its importance is very great. In his initial remarks, when moving the second reading of the Bill, the Minister stated—

> For a number of years the Commonwealth Bureau of Census and Statistics has supplied tabulated statistics of morbidity and mortality in the major hospitals of this State. These figures have proved a valuable tool in planning hospital development and guiding management.

These figures have proved to be extremely valuable in planning hospital development and in guiding management. The proposed new section 18A will require information and statistics to be supplied by the board of a public hospital to the Minister or his nominee. The new section also provides that such information shall be supplied within a reasonable time.

It is certainly essential to keep accurate statistics because they can be extremely important in the future planning of hospitals and for other medical purposes. I understand the Medical Department has for many years kept certain medical statistics. These statistics usually relate to the personal details of patients in public hospitals, and are compiled by the

staff of such hospitals. As I have stated, the statistics are of great assistance in regard to the efficient use of hospital beds and in planning the future requirements of hospitals in various districts.

Section 24 of the Commonwealth Census and Statistics Act, 1905-1949, forbids the statistician and his officers from divulging certain information to anyone. Hence it is important that the State, in its own right, should have power to acquire the desired information. I do not know whether anyone in the Commonwealth Bureau of Census and Statistics has awakened to the requirement or not, or whether the requirement has been observed at all times; nevertheless I think the break-up of statistics will assist considerably, especially in making people more aware of the prevalence of killer diseases among children. These killer diseases are particularly prevalent among Aboriginal children.

The Minister has informed us that Queensland has passed similar legislation and I am sure that Western Australia will be glad to do the same. From a statistician's point of view, morbidity is the ratio of the number of sick individuals to the total population. The morbidity rate is the number of cases of a specific disease in a calendar year, in a given place, per 100,000 persons of the actual or estimated population at the middle of the year. It is this type of information which the medical researchers require. These figures can be condensed into areas, diseases, age groups, and sex. Therefore, as the Minister has said, such statistics represent a valuable tool in planning hospital development and also for the guidance of management.

One can peruse the annual reports of the Commissioner of Public Health and the statistics of the larger public hospitals, such as Royal Perth Hospital, Fremantle Hospital, Princess Margaret Hospital, Sir Charles Gairdner Hospital, and King Edward Memorial Hospital. It will be found that each disease or sickness has an international classification for the various categories which probably reflects the work of the World Health Organisation.

I presume that the important factor now is for private and public hospitals in country areas to supply the required statistics so that the Minister will thus be supplied with up-to-date information from all hospitals within the State.

To the statistician the mortality rate is very important, too. There is the infant mortality rate, and the maternal mortality rate; both of which are very important. In addition, all causes of death should be tabulated so that such information can be classified in the various categories for the information of the medical researcher. I feel sure that this small Bill will get a swift and successful passage through the House. I see great merit in it and I have much pleasure in supporting it.

THE HON. F. R. H. LAVERY (South Metropolitan) [5.8 p.m.]: I support the remarks that have been made by Mr. Stubbs. In view of the rapid advances being made in medical science and in technological matters, the additional information that will be made available to the Minister through the Public Health Department will be of great assistance. I have in mind particularly the work that has been done in the field of muscular dystrophy.

Not so very long ago only a small room at Royal Perth Hospital could be made available for research into this disease, but as a result of the additional information that is now being supplied to the Minister it was possible for those who are conducting the research to be housed in a separate building—although only temporary—away from Royal Perth Hospital.

There is no doubt that the statistics which are forwarded to the Public Health Department must assist greatly with the planning of specific areas or sections within the hospital itself. I support the Bill.

THE HON. J. G. HISLOP (Metropolitan) [5.10 p.m.]: I would like to know a little more than we have been told about this Bill, because if my reading of it is correct we may find something that might cause us to hesitate. The Bill proposes to add to the Act a new section 18A, which reads as follows:—

> 18A. Where the Minister gives a direction requiring the board of a public hospital to furnish to him or persons nominated by him statistical or other returns or information on matters relating to the hospital and arising there or elsewhere and he fixes a reasonable time within which the returns are or the information is to be furnished, the board shall, within that time, comply with the direction.

I realise the Minister must have some way of accepting what has happened in the hospitals, but I would like to know whether members consider there is any disability in a person being nominated by the Minister to take evidence of what has happened within the boundaries of a hospital.

The question of money is well stressed in the Bill and if the measure is to deal only with financial matters I want to know whether it stops at that point, or whether the Minister can give directions to a person nominated by him. The difficulty that might be created could simply be due to some accident in a hospital, and I would like to know whether, under the Bill, any person nominated by the Minister would be eligible to make the necessary inquiries.

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [5.12 p.m.]: When I re-read the speech I made to introduce the second reading of the Bill I realised that perhaps I could have been a little more explicit. I think Mr. Stubbs touched on the nub of the matter. Members may recall that this State started the collection of hospital statistics. When we were collecting information on our own we always had the utmost co-operation from the Commonwealth department. At that time there was no great problem.

However, as other States followed suit, and applied to the Commonwealth department for similar co-operation, it was found that the section quoted by Mr. Stubbs—section 24 of the Commonwealth Census and Statistics Act, 1905-1949—did, in fact prohibit the Commonwealth Bureau of Census and Statistics from forwarding the relevant statistics to a third party. I understand that they are referred to as the aggregate statistics which are collected from the hospitals.

As so often happens, this was brought to the attention of various people and so Queensland and other States immediately inserted in their legislation the section proposed in this Bill. We have to follow the example of those States in order to overcome this handicap. Nevertheless, the relevant section in the Commonwealth Act is very proper because no third party should be able to obtain raw statistics whenever the occasion demands, and we have to overcome this. This procedure is not unknown to members of Parliament; it happens from time to time.

Therefore I am not altogether sure I understand the remarks that have been made by Dr. Hislop. As I understand the position, the details are extracted from the cards and other records of the hospital and placed in statistical form, and we nominate the third party which is probably the Commonwealth Bureau of Census and Statistics. The bureau sends them back to us forthwith to save a great deal of handling. This means that by having the information in our possession we can continue its tabulation and publicise the details in the form mentioned by Mr. Stubbs.

In these modern times, hospitals have found that this information has proved to be a valuable tool. So much so that several States have reached the point of using it. There is no question about the Commonwealth Bureau of Census and Statistics assisting us, but, nevertheless, there is always the impediment I have mentioned.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Health), and transmitted to the Assembly.

MINES REGULATION ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.18 p.m.]: I move—

> That the Bill be now read a second time.

Notwithstanding that amendments were made to the Mines Regulation Act last year, experience has shown that further modifications are necessary and some small errors and omissions were found which require correcting.

There are three main items in particular which this Bill covers—

- Second-class mine managers' certificates of competency.
- Hours of work permitted underground: An amendment was made last year to bring these hours of work into conformity with the relevant industrial award. However, legal advice has now disclosed a loophole in this section which could permit overtime to be worked underground.
- Regulations made under this Act: Legal advice indicates that many of the regulations which have been in force for years are not lawful, nor can new regulations be made allowing any discretion for inspectors of mines.

With your permission, Mr. President, I intend to enlarge on these matters.

Although hard rock and other quarries where explosives were used always came under the provisions of the Mines Regulation Act, the introduction of the interpretation of "quarry" in the amendment of last year brought the operators of all clay and sand pits under similar control for the first time. This caused some concern to members of the Extractive Industries Branch of the Chamber of Manufactures, who felt that many of the quarry operations extended into the manufacture of bricks, tiles, and earthenware products.

When the interpretation of "quarry" was introduced into the Act last year, it was not intended that such manufacture be classed as "mine treatment" or be subject to this Act. The intention was to provide for the safety and health of men working in a pit, or subsequent crushing and screening operations. It is essential, therefore, that a line of demarcation be made between mining and manufacture.

The Extractive Industries Branch also brought up other matters for clarification at a deputation to me in my office. These points were discussed and thoroughly investigated. They were considered reasonable and, as a result, some amendments to remedy these matters are proposed in this Bill.

It has been claimed that the interpretation of "quarry" should be specific in itself and not subjected to further classification "in writing by the Senior Inspector of Mines . . ." This claim is accepted and the interpretation should be amended to delete this phrase. If the Senior Inspector of Mines is required to declare in writing in relation to all works which excavate mineral or rock for commercial purposes, or for use in industry, he would have a full-time job writing letters. This is totally unnecessary, for whether or not a site is a quarry should be decided by the interpretation and not require to be declared in writing.

Another matter investigated has been the academic requirements for managers of quarries. It is clear that in quarries for clay or sand, where the operations are mainly digging, loading, and carting, the man in charge need only be an experienced, practical man; whereas in quarries where explosives are used, the man in charge should be more highly qualified. Hard rock quarries normally involve complex blasting techniques, crushing, screening, and dust control, and obviously the person in charge should be technically trained.

For managerial purposes, the size of the quarry must also be taken into account. In this respect, a mine—including a quarry —has always been classified according to the number of men employed in its operations. This method of classification has created a problem, particularly in regard to clay and sand pits where customers frequently enter to have their trucks loaded. These persons are not normal quarry workers.

The amendments proposed provide that, in determining managerial requirements, the matter of whether or not explosives are used, and the number of men employed by the owner, are taken into account.

As mentioned earlier, the necessity or otherwise for second-class mine managers' certificates of competency has been investigated and discussed with mine management, the Mining Division of the A.W.U., the Gold and Nickel Mines Underground Supervisors Association, the Acting Director of the W.A. School of Mines, and the Crown Law Department.

This action became necessary because of the shortage of men holding second-class certificates, which are required to be held by foremen and underground managers of mines employing less than 25 men underground. Since these certificates were introduced in 1962, only six have been issued and as this number is only a fraction of the number of certificates necessary, the statutory requirements of the Act can neither be observed nor enforced. It is now agreed by all concerned that the concept of this certificate and the attempted application of it have resulted in failure.

In addition, the situation became further complicated when the Western Australian Institute of Technoloy took over the administration of the W.A. School of Mines and subjects for the course became no longer available and the standard of entry to the school was raised, making it virtually impossible for the practical mining man to enrol.

It is therefore proposed to delete the necessity for these certificates, as experience has shown that good, practical men holding underground supervisors' certificates are capable of carrying out the duties presently prescribed for the holding of second-class certificates.

Another matter which has been criticised by mining companies, generally, is the requirement under the Act that all accidents occurring on mines must be reported to "the Secretary of the Mining Branch of the body known as the Australian Workers' Union, Westralian Branch, Industrial Union of Workers at Boulder." This requirement was reasonably satisfactory when mining in Western Australia centred mainly in the eastern goldfields region, but now, with mining operations extending throughout the State, there is no justification for insisting that all accidents be notified to the A.W.U. at Boulder. Members of many unions are employed in the mining industry, and it is the prerogative of each union to represent its own particular members. Consequently, in addition to a report being made to the inspector of mines, the secretary or local representative of the union, the member of which is involved in a particular accident, should be advised.

Further, the Act already provides that a representative of an industrial union of workers representing the worker concerned shall be entitled to investigate accidents and appear at inquiries. He can hardly do this if he is not advised of the accident. In order to ensure that the relevant union is advised, so that an on-the-spot investigation can be made to avoid unnecessary delays and to make the Act consistent, the section dealing with the reporting of accidents should be amended.

I now propose to deal with the section concerned with the maximum number of hours which a person may be employed underground. As mentioned earlier, an amendment was made last year to bring the hours to be worked underground in any one day to seven and a half hours in conformity with the relevant industrial

award. A case has since occurred where men worked underground for hours far in excess of seven and a half hours, which was not intended when the amendment was drafted.

Legal advice disclosed a loophole in that the relevant award referred to in the Act provides that a person may work, or be compelled to work, overtime. It was never intended that overtime should be worked underground on a normal working day, but provision was made for overtime to be worked by a person by way of working a sixth shift in a week, provided the worker gave his express consent to work the additional shift. It is now proposed to close the loophole by amending the Act to restrict specifically the hours in any day to seven and a half hours. Also, to ensure that this provision is enforced and observed, an amendment is proposed to place the onus of any breach on both the employer and employee concerned.

It is well recognised throughout the mining industry that a revision of regulations made under the Mines Regulation Act is overdue and this need has been accentuated by the upsurge in mining activities currently being experienced in this State. An initial draft of regulations to cover all classes of mining operations has, in fact, been prepared and is currently under review by the Chamber of Mines of W.A. and the Mining Division of the A.W.U.

However, the Crown Law Department has advised that many of the regulations, which have been in force for years and which have always been accepted by both mine management and the A.W.U., are not lawful because they give discretionary powers to the Minister for Mines, the State Mining Engineer, and inspectors of mines, without the discretion being authorised in the Act. Examples of this sort of thing are—

> Regulation 73: If required by the Minister to ensure the safety or good health of the workmen employed, additional rises, winzes, chambers, drives, or other workings shall be constructed.
>
> Regulation 64: Rises of more than 30 feet in height shall not be made in any mine unless the sanction of the district inspector of mines has been first obtained; the sanction shall be in writing and may impose conditions under which the work shall be carried out, and may at any time be cancelled or altered by the district inspector at his discretion.

The above are merely two of many examples of regulations made under the Act which are said to be unlawful because they allow a certain amount of discretion. The Crown Law Department has advised that only the Governor has authority to make regulations under this Act; and, as things stand at present in any regulations made, he cannot delegate any discretionary powers to the Minister for Mines, the State Mining Engineer, or inspectors of mines.

I am not sure how long the situation has prevailed, but I always believe that when this sort of thing occurs it is better to take it up and correct it as soon as knowledge of the situation is gained.

In effect, it means that unless this amendment is passed, all regulations made under the Act are rigid and inflexible and those giving discretionary powers are unlawful. It is therefore impracticable to rewrite and revise new regulations unless the Act is amended. Likewise, it will not be possible to make the necessary regulations which are required to control the various and changing conditions which are experienced in the mining industry throughout Western Australia and to provide for some discretionary power on the part of the inspector who is on the job.

It should be remembered that it is not possible to make regulations to cover every circumstance and eventuality which may occur in a mine. Therefore, in the interest of common sense in application, inspectors of mines must have authority to enlarge on regulations and impose specific conditions to meet a particular case. Apart from the foregoing, the amendment proposed to the Act will provide that regulations may be made to provide for certain matters to conform to progressively changing Standard Code Specifications or accepted standards in relation to health, safety, machinery, radioactivity, structures, etc.

It should be pointed out also that regulations must, of necessity, vary according to—

(a) mineral mined;

(b) method of mining; and,

(c) geographical locality.

For instance, a set of regulations will have to be made where a particular mineral such as uranium is mined. It is clear that these regulations could not apply to mining for other minerals. Regulations made for underground mining methods could not apply to quarrying and dredging.

The geographical location can also affect the application of regulations. For example, an inspector must have the power to prohibit electric firing in quarry blasting if, in his opinion, a danger exists because of the likelihood of electric storms in that particular locality.

For the reasons outlined, therefore, this amendment to the Act is necessary to ensure that regulations be made to cover all classes of mining operations and under the varying circumstances encountered therein throughout this State.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. R. H. C. Stubbs.

FIREARMS AND GUNS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 15th October.

THE HON. J. DOLAN (South-East Metropolitan) [5.33 p.m.]: The introduction of this Bill indicates the concern of the Government and, I would think, all members about two aspects at least: One is the number of firearm licenses which exist—I understand there are approximately 170,000 firearms in this State, which is about one to every five of the population. The second aspect on which concern is felt is the number of irresponsible people who hold licenses. This irresponsible attitude must be obvious to anybody who travels our roads, where it can be seen that almost every sign on the side of the road is a mass of holes caused by rifle bullets. Only irresponsible people fire rifles to the extent that I have indicated.

I am wondering whether this Bill is doing what is intended; that is, to try to solve this problem of too many guns, too many licenses, and too many irresponsible people. I would think that the two most lethal weapons with which we have to contend, are guns and motorcars. In a number of places firearms are classified as lethal weapons but we have not yet reached the stage where we would refer to motorcars in these particular terms.

Ours is not the only State which has worries of this kind. Every other State has similar worries and I hope the day will not arrive when we will have a situation similar to that which exists in America. The situation in that country—and the people believe in the principle—is that anybody who wants a gun is entitled to have one.

The belief probably goes back to the pioneering days when the settlers had to carry firearms because they could find themselves in danger of being attacked by Indians. Evidently, the possession of firearms in America is traditional.

Members have probably heard the story that dairymen in the United States of America are so perturbed by the actions of irresponsible shooters that on their cows, in big white letters, they paint the word "COW," and they put a big ring around it so that the cows will not be shot at. In America they also tell the story of the fellow who was walking in the forest when he heard some guns being fired. He was perturbed because he thought the shooters might think he was a deer and have a shot at him, so he climbed a tree. However, the shooters still shot at him and killed him because they thought he was a bear.

In this Bill, we are making provision for the issue of a license to a bank, and then to the officers of the bank, to enable the officers to use the pistols which are provided. I take it a pistol is a firearm which can be fired with one hand, although I think some fellows can fire a rifle with one hand. The provision in the Bill states that a person who applies for a pistol license must be at least 21 years of age. If we are to issue licenses to bank employees so that they may carry a firearm while on duty, then there are some points which I would like clarified.

First of all, do the employees have to be at least 21 years of age before they are entitled to carry a weapon; and, secondly, what experience would they have had? Would such employees know how to load a firearm, and carry it safely? Would they know how to unload the firearm safely?

I understand that in some banks—and I have known this to occur over the years—the officers go out and practise under the aegis of competent instructors, and they gain a good knowledge of the use of pistols. However, many young fellows in banks just would not have the ability to handle firearms. They would not know from which end the bullet was discharged.

The Hon. F. D. Willmott: They would if the gun was discharged.

The Hon. J. DOLAN: They might then, of course. However, such a person might discharge a firearm to the danger of the public. They are the people I am concerned about. It is of no use talking about irresponsible people handling guns if we are to give certain members of the public permission to carry weapons with which they are not familiar. I feel there is plenty of scope for instruction in this regard.

I would suggest that it should be the duty of a police officer attached to the firearms section of the Police Force to visit banks and to instruct those officers who go out on escort duty, and who carry pistols. Those bank officers should only be persons who have been approved by the Police Department. If that is not done, I can see a danger.

I recall the advice which was once given to one of our parliamentary members in another place. He worked for Thiess Brothers, and used to collect the payroll for that firm. Large sums of money were involved, and he was licensed to carry a revolver. The sergeant's advice to this young fellow was, "Do not carry a revolver unless it is loaded, and do not draw it unless you intend to use it." When the young fellow thought about the proposition he came to the conclusion that it would be better if he left the revolver at

the office. This he did, and fortunately never had any occasion to require the revolver.

Some of the other proposals in the Bill need some comment. I was concerned when I read in *The West Australian* of Friday last of a new type of sight. The sight incorporates a beam of light and it is almost impossible for the person using it to fail to hit the target. I saw on television where a young girl was brought into the studio. She had no experience of firing rifles. The new sight was fitted to a rifle and she knocked over tin after tin, just like the fellows in the old western movies who were able to hit bottles which were thrown into the air, and so on.

If weapons can be brought to the stage where it is almost impossible for users to miss the target, then I think there is a great danger in the use of this particular type of sight. There is danger in the use of telescopic sights, and I think we should have some form of control over these devices. A person who is issued with such a device should be required to obtain a special license, and he should also have a particularly good reason for carrying such a weapon.

Members will recall, of course, that a president of the United States—President John Kennedy—was shot by a person using a rifle fitted with a telescopic sight. This latest sight seems to make the hitting of a target a greater certainty.

The Hon. J. Heitman: That is, at closer range.

The Hon. J. DOLAN: Possibly, but with its extension it could become a certainty over the distance which such a beam of light could carry.

I can agree to most of the amendments in the Bill with the exception of the points I have mentioned. I notice a minor amendment will correct a mistake in grammar. I refer to the insertion of the word "who."

As I read through the notes supplied by the Minister when he made his second reading speech I could not help but think —when talking about grammar—that we should pay a little more attention to spelling. The Minister's typist is evidently of the same opinion as myself. The word "license," when used as a noun, ends with "ce," and when used as a verb, it ends with "se." When the word is used as a noun the typist, on each occasion, has spelt it correctly, and this has occurred no fewer than 14 times. However, the draftsman, when using the word "license," persists in using "se." The time is long overdue for us to set a standard not only in grammar, but also in spelling, by using "ce" and "se" correctly.

The Hon. E. C. House: Which is right?

The Hon. J. DOLAN: It is "ce" for the noun, and "se" for the verb.

The Hon. E. C. House: Who sets the rule?

The Hon. J. DOLAN: I would think that educationalists for many hundreds of years. I would refer members to the Oxford dictionary for authority.

The Bill clears up a few matters but I can see dangers. It provides for the issuing of a license to an employee of a shooting gallery. My experience of some employees at shooting galleries at country shows is not over-favourable. I have not been impressed by them. Because of the way the people who are going to have shots at a target handle the rifles, I feel that more should be done to tighten up the safety angle. It is all very well to say we do not want to hinder a person who has an employee whom he wants to do a particular job, and that he should be given a license to do it; but I feel that if we are to tackle this problem properly we must remember that those people are handling lethal weapons, and that if anything happened a fatality could result. We had the case only a week or so ago of a woman in the south-west who was accidentally shot whilst out shooting rabbits. She climbed through a fence and put the rifle down, or something like that. However, something happened which made the rifle discharge and she was killed. This situation happens all too frequently.

This brings me back to the point I was making that we are permitting—unless the Minister can advise me to the contrary—bank employees who are under the age of 21 years to carry a revolver.

The Hon. G. C. MacKinnon: Section 8 states that no license to have possession of a firearm which comes within the description of pistol shall be issued to any person under the age of 21 years.

The Hon. J. DOLAN: That is what I said; but these people are not issued with a license. The licenses are issued to the banks or the business firms, and they tell their employees to carry a pistol on escort duty. I want an assurance from the Minister that those people must be at least 21 years of age, as is the case with the ordinary person who goes along to obtain a license. I most sincerely commend to the Minister the suggestion that the people who are to carry firearms should receive some form of instruction before they obtain the approval of the Police Department to carry them.

The Hon. G. C. MacKinnon: I guess it would be a subversion of the Act if you obtained a general license and gave it to a boy under the age of 21.

The Hon. J. DOLAN: Nothing in the Act says that cannot be done; there is no restriction on age. I am not being difficult; I merely want these things clarified, and I think it is fair enough that they should be.

The Hon. A. F. Griffith: It is fair enough that a boy of 19 who is carrying a bag of money should be able to carry a pistol.

The Hon. J. DOLAN: Do not let us get away from the fact that he should know how to use it. If he does not, he is a menace to himself and the public at large. He might even pull the gun and shoot the fellow who is carrying the money.

I think it is quite reasonable that the partner of a man who is engaged in the business of making and repairing firearms should be covered by the license which is issued. I would point out also that if a business undertaking is issued with a license, it should, just the same as a bank, be instructed that nobody under the age of 21 should be allowed to carry a firearm; and, wherever possible, the persons who are to carry firearms should receive instructions in their use. I feel the points I have made are reasonable, and I commend them to the Minister. We are here for one object, and that is to lessen the number of fatalities which occur from the irresponsible use of firearms.

Every time there is an amendment to the Firearms and Guns Act, reference is made to the fact that there are many weapons which are not being used and that they should be taken into the Police Department. I know there have been occasions when an amnesty has been granted so that people would bring in their firearms. I think we have to be reasonable about this. I know of people who have paid high prices for their guns; some fellows may have paid £150 or more. Shooting is a pastime to some of these people and they are most reliable.

Others probably have not used their guns for years. However they have kept them, possibly bearing in mind that their sons or grandsons would use them some day. If one went into their homes one would find that every care is taken and the firearms are looked after properly. I feel if those people are persuaded to turn in their guns or rifles during an amnesty, they should receive compensation on a reliable valuation basis.

Not so long ago I read that 50 or 60 rifles were held by the Police Department. What is to happen to them? Are they to be sold to some other fellows who have licenses? Are they to be sold at a police sale or something of that nature? Or are they to be destroyed? Those firearms have been handed in so that there will be fewer lethal weapons about. Those are the points on which I feel some clarification is necessary. We do not want to be dealing with Bills of this nature every year because we find that the legislation contains provisions that should be tightened up. I think we all desire that the law should be tightened up so that the toll from these weapons is minimised. We can see the dangers concerned when people have weapons for which they have no use. They leave them lying about and we find they generally get into the hands of criminal types, and so on.

I was interested to find some statistics regarding firearms licenses. During a 12-month period, 121 people were refused licenses, 34 licenses were revoked, and 28 were cancelled by courts. The total number of firearms stolen during the same 12 months was 183; so the two figures balance out. There does not seem to be much sense in taking firearms off some people if a similar number of firearms is stolen. Probably, the people who have their firearms taken off them obtain others by stealing, and so they are still armed. In my view, these points have to be attended to.

If one walks down the street one can find many places which one could quite easily break into and steal rifles. I feel that firearms should be kept in special frames in those shops so that even if somebody breaks into the premises a firearm cannot be stolen easily. People are not prepared to run the risk of fiddling around too much lest they be caught.

The Hon. G. C. MacKinnon: I think those guns are without bolts.

The Hon. J. DOLAN: I feel it is time we brought in a regulation that any gun in a private home which is not in use should be broken in such a way that there is no danger of its being loaded. Most of the accidents we read about, and even sing songs about, are caused by ignorance —like the American woman who was charged with murder and found not guilty because she did not know the gun was loaded. How often have we heard that expression? There is only one way to overcome the problem and that is to break the breach whenever a gun is not in use and, perhaps, release the stock from the barrel. In those circumstances there would be no danger.

I would like the Minister to take note of the points I have made in relation to banks and private businesses to see whether something can be done to prevent a tragedy some day. With those comments I support the Bill.

THE HON. V. J. FERRY (South-West) [5.54 p.m.]: I wish to support this Bill and I do not intend to speak for very long in so doing. However, with regard to the point raised by Mr. Dolan, concerning bank employees handling firearms, perhaps I could throw a little light on the procedure. I am aware that most, if not all, banks and financial institutions do give reasonably satisfactory instructions to their staffs in the handling of firearms.

As we know, the firms concerned are responsible institutions and are not likely to allow their employees to have access to

weapons which could cause public discomfiture. During one part of my life, a reasonable amount of instruction was given to me in the handling of small arms by a banking institution. I venture to say that in my experience sufficient instruction in this regard has been given to all bank employees who may be called upon to handle firearms either within the bank premises or on escort duty without the premises.

It is usual that the employees receive instruction and practice within a term of, say, 12 months, depending on the regulations of the firm concerned. Employees are also instructed to test the firearms; and the weapons are regularly serviced, cleaned, maintained, and kept in tip-top condition. Ammunition is checked at regular intervals to ensure it is serviceable and has not deteriorated. Target practice is a must, and this can involve all sorts of targets.

I well remember going out to approved rifle ranges in some country districts and on one occasion we took our own variety of targets—whatever we felt was desirable for our particular moods. Notwithstanding this apparently light-hearted approach to the task, at all times strict precautions and procedures for the safety of those concerned were adopted.

So I feel that the banks and their staffs exercise a degree of responsibility not only to themselves and their customers but also to the general public at large. If a person is called upon, as an employee of a banking institution, to use a weapon, surely it is better that he has a reasonable chance of hitting a target, rather than missing it. There is no point in carrying a firearm if one cannot use it correctly.

In respect of the age of employees who may be called upon to carry a weapon, to the best of my knowledge it has been strictly laid down that the employees must be of the age of 21. No-one under that age is asked to carry a weapon, because of the Act as it applies. So I do not think we need worry that a minor in the eyes of the law would be called upon to carry out this type of duty when other members of the public are not allowed to so do. I do not wish to refer to any other points, and I reiterate that I support the measure.

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [5.58 p.m.]: I thank members for their support of the Bill. I will ensure that the various matters raised by Mr. Dolan are brought to the attention of the Minister. My reading of the Bill, indicates to me that a person has to be 21 years of age before he can obtain a small arms license. I would be very surprised indeed if, considering the overall control which the commissioner has, this would not be adhered to by those organisations which have the right to use weapons of this type. However, I will bring the matter to the notice of the Minister.

So far as shooting galleries are concerned, the purpose of this Bill is, in fact, to tighten up the present legislation, because it is felt that some shooting galleries have been perhaps a little lax. Up to date we have had to wait until someone has been hit before being able to do anything about it.

Purely and simply as a matter of interest, recently we were talking about statistics and I noticed that one city in America was quoted as having the best record in America in regard to motor vehicle accidents; that is, it has the smallest death rate and the smallest casualty rate. In other words, the statistics of this city in respect of violent injury from the use of motorcars is the lowest of any city in the United States of America.

Yet it is strange that for the same city the figure for injuries of violence, from knife and gunshot wounds, was the highest in the United States of America. This poses the question as to whether there is a relationship between the two—between guns and knives as lethal weapons and the motorcar as a weapon. This was a point raised by Mr. Dolan. On average, injuries of violence in this city work out about the norm, but there was a very low motor vehicle accident rate—the lowest in America. This was compensated for by the higher figure for knife and gunshot wounds.

I understand that sociologists are doing some work on this question to see just how many accidents on the road are, in fact, caused by violent acts—how many are caused deliberately and how many are committed subconsciously. I imagine it would be tremendously difficult to determine the figures in each case. However, it appears as though we tighten up on one thing at some risk to an outbreak of another kind, man being the eternal hunter. I thank members for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Health), and passed.

Sitting suspended from 6.5 to 7.30 p.m.

COMPANIES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th October.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [7.30 p.m.]: In my view the introduction of any Bill to amend the Companies Act warrants the most careful consideration. The Act is frequently amended in the light of happenings within its orbit; those happenings which have a far-reaching effect on a great many people not only in this State but in Australia as a whole.

The major portion of the provisions in the measure before us is significantly associated with the findings of Mr. Justice Burt after he investigated the activities of a particular company. In the structure of a company we find a pyramid which leads to responsibility at the top, and this responsibility at the top level is indicative of great power.

There is a tremendous privilege in that power—to look after the interests of those who believe in the company structure to the extent of investing their moneys within it. The fact that the basis of this legislation is the direct result of the Royal Commissioner's report on the activities of a particular company—an attempt to prevent a similar situation developing in connection with other companies in the future—places a responsibility upon Parliament, and we must take note of that responsibility.

I would have been the first to criticise the Government had it not done something about the recommendations of Mr. Justice Burt. Therefore, to be consistent I must look at the legislation before us and see how good and how efficient it might be in the light of the Royal Commissioner's remarks.

From some of the Press reports we have seen I daresay one could be pardoned for feeling that the Bill lacks the necessary controls suggested by Mr. Justice Burt. On the 17th October, 1969, there was, in fact, a heading in *The West Australian* which stated, "New trading bill good for a laugh." I suppose I might be expected to use that as a basis for my opposition to the measure before us.

The Hon. A. F. Griffith: The article itself was good for a laugh.

The Hon. W. F. WILLESEE: I considered the article in association with the Bill in an attempt to see what one would do in similar circumstances in relation to fraud. I came up with nothing better than the law which has obtained in this regard for so long.

In the Companies Act itself—and this point was made by Mr. Justice Burt—there is a provision which up to a point deals with reckless trading. It deals with the term "reckless trading" where a company is in the hands of a receiver.

My approach to this legislation is that it proposes to go a step further with reckless trading by companies which are in active operation. Accordingly I feel that the measure must be supported and given a practical opportunity to prove itself.

The basic situation of fraud and the attendant circumstances are referred to in *The All England Law Reports, 1886* to 1890, and I quote from the case of Derry and Other *versus* Peek, where the situation is defined as follows:—

> To sustain an action for deceit there must be proof of fraud, and nothing short of that will suffice. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, not caring whether it be true or false.

We then find many pages of law referred to. If it be difficult to define "reckless trading"—and I would say it is the third dimension of fraud—I contend that if a person, not caring whether it be true or false, can be capable of fraud, it is reasonable that his action of reckless trading could ultimately be linked with fraud.

If a person in a given situation does something in which he believes, there can be no suggestion of recklessness even though the situation might change within a short period of time. So having made a responsible statement in good faith in the circumstances of the moment, there is no possibility of being able to link the company concerned through its spokesman with reckless trading, or what that term involves.

Having in mind the searching inquiry which ultimately forced Mr. Justice Burt to make his recommendation one must accept the fact that there is a field within the Companies Act in which this Bill might be presented.

I believe the measure is warranted. It could have a twofold effect—it could have the effect of prevention, and prevent reckless statements while the company is in a weakened financial situation; and it could provide food for thought for directors of a company which might be running into difficulty. Of course it cannot help those people who will not help themselves, but the legislation must provide a deterrent for statements which are reckless in relation to companies trading with other respectable companies within the orbit of the Act.

The legislation must have some effect upon the situations that have occurred within the last week, though I do not intend to name any particular company or

any particular situation. Those who wish to take advantage of a situation are entitled to do so within the confines of normal trading and the use of good business acumen, but some action must be taken to curb the company which occasionally seeks to take advantage of the legislation or the confidence of the investing public.

So it would be idle for me to continue to say I support the Bill when it is obvious that I intend to do so. I place a great deal of faith in the case I have quoted. To my way of thinking it is an outstanding case in which fraud, recklessness, and reckless trading are clearly defined. We should make it clear that if there are any further cases of reckless trading or recklessness by responsible people, they will be subject to severe penalty. We hope that these amendments will provide some deterrent in the future.

If experience shows that the legislation is not sufficient to catch up with those who are not prepared to accept the responsibility reposed in them we should consider further amendments of a more drastic nature to cope with the situation.

THE HON. I. G. MEDCALF (Metropolitan) [7.45 p.m.]: I support the Bill, but I would like to make a few general comments about some of the proposed new sections it contains. Most of these are already in the Act but as they appear in the Bill they include certain amendments.

Most of the proposed new sections already appear in sections 300 to 305 of the Act, but they apply there in a limited way because, as the Minister pointed out, they apply now only in respect of a company which is being wound up. The amending Bill seeks to give these provisions a more general application so that they apply not only to a company which is being wound up, but also to any other company which has reached a state of financial solvency which is not adequate.

The various cases to which the new offences will apply are set out in the proposed new sections in the Bill. So, in effect, we might say that this Bill seeks to extend some of the already existing offences which are categorised in the Companies Act and to give the provisions a wider application to cover other companies, apart from those in the course of being wound up. I will refer in a moment to the particular classes of companies which are to be covered by the Act, subject to the passing of this legislation.

This Bill also adds some new sections and these are the ones recommended by the Royal Commissioner (Mr. Justice Burt) in his report on his findings as a result of the Royal Commission into Wool Exporters. The existing sections—namely, sections 300 to 305 inclusive—apply only, as I have said, to a company which is already in the course of being wound up; but under the proposals in this Bill the companies to be included are those as set out in clause 4, and later repeated in another clause. These companies are those in the course of being wound up; under official management; in respect of which an inspector has been appointed; or in respect of which a receiver or manager has been appointed either by the court or by an instrument—that is, a mortgage, debenture, or other security or some instrument which gives the power for a creditor or mortgagee to appoint a receiver or manager.

There is one further category of company which is to be included, and that is a company which has ceased to carry on business, or which is unable to pay its debts. There is a definition in clause 4 which defines what is a company which is held to have ceased to carry on business, and it is not the normal definition of a company to which we are accustomed. It is much wider and includes more companies than those previously classed as defunct.

The proposed new sections also apply, as members will note, to companies as distinct from corporations. Two definitions relevant to what I am saying are found in section 5 of the Act wherein "company" is defined and, also, "corporation" is defined. "Company" is defined as a company incorporated pursuant to this Act or pursuant to any corresponding previous enactment. In other words, it is pursuant to this Act or to a previous Companies Act.

"Corporation" means any body corporate formed or incorporated whether in the State or outside the State and includes any foreign company but does not include—

(a) any body corporate that is incorporated within the Commonwealth and is a public authority or an instrumentality or agency of the Crown; or

(b) any corporation sole.

We must bear in mind the distinction between a company and a corporation as defined in the Act. As I have said, the proposed new sections which create these new offences, and the proposed new sections which re-enact the old offences in a wider form do, in fact, relate to companies only; that is, companies formed or incorporated in the State under this Companies Act or any previous Companies Act, and which are in a certain state of, for the sake of brevity, financial solvency. Perhaps we should say "insolvency" although that is not strictly correct.

So these provisions apply to certain types of companies which have reached a certain stage in their financial history, and they do not apply to the wider element to which I referred; that is, bodies corporate, which come under the definition of "corporation."

As far as the new offences are concerned, I would like to refer to clause 2 of the Bill which purports to incorporate a new section 367A, which reads—

> 367A. (1) Where it appears to the Attorney General that any officer or former officer of a company to which this section applies, has conducted himself in such a way that the officer or former officer has rendered himself liable to action by the company in relation to the performance of his duties as an officer of the company, the Attorney General, or any person who is authorised in that behalf by the Attorney General, may apply *ex parte* to the Court for an order that the officer or former officer shall attend before the Court on a day to be appointed by the Court to be examined as to his conduct and dealings as an officer of the company.
>
> (2) Any examination under this section shall not be held in open court unless the Court otherwise orders.

This is an eminently fair protection in case the officer turns out to be not guilty. The proposed new section continues—

> (3) The Court, on making an order under subsection (1) of this section or at any subsequent time on the application of any person concerned, may give such directions as to the matters to be inquired into and as to the procedure to be followed in relation to the examination as it thinks fit.
>
> (4) The applicant and with the leave of the Court, any creditor or member of the company may take part in the examination either personally or by a solicitor or counsel.
>
> (5) The person examined—
>
> (a) shall be examined on oath;
>
> (b) shall answer all questions which the Court puts or allows to be put to him; and
>
> (c) is not entitled to refuse to answer any question that is relevant or material to the examination on the ground that his answer might tend to incriminate him,
>
> but if he claims that the answer to any question might incriminate him and but for this subsection he would have been entitled to refuse to answer the question, the answer shall not be used in any subsequent criminal proceedings against him except in the case of a charge against him for perjury committed by him in answer to that question.
>
> (6) A person ordered to be examined under this section may be represented by a solicitor with or without counsel . . .

So the proposed new rather stringent section contains certain protection to ensure some basic justice will be meted out to the person who is required to be examined on oath, who is required to answer all questions put to him, and who is not entitled to refuse to answer any question put to him. There are certain safeguards, and these are important. I think it is very commendable they are included because they are not contained in the sections dealing with the appointment of inspectors. As I say, I think the Government is to be commended for having included these safeguards which will protect a person's rights in case he is innocent.

Subsection (7) of proposed new section 367A reads—

> (7) Notes of the examination—
>
> (a) shall be reduced to writing;
>
> (b) shall be read over to or by and signed by the person examined;
>
> (c) may thereafter, subject to subsection (5) of this section, be used in evidence in any legal proceedings against the person examined;

The notes cannot, of course, be used in criminal proceedings against the officer. However he may receive a copy of them and so may any other person who is interested. If anyone takes action against him without reasonable cause such person may be required to pay the costs of the proceedings.

Proposed new section 367B is somewhat similar to the existing section 305 of the Act which is being repealed; but it has an extended application. Proposed new section 367B gives the court power to assess damages against delinquent company officers; that is, officers who have misapplied the funds of the company and become actionable for moneys, or who have been guilty of a breach of trust, or certain other offences. Under this provision such persons may be compelled to restore money or property with interest and to pay damages to the company if required by the court.

This applies to the receipt of money, whether by way of salary or otherwise, which appears to the court to have been unfair or unjust to the company or its members.

These are important safeguards as far as the public are concerned because in these very proceedings justice can be done without the necessity for further litigation subsequently in order to enforce payment from the delinquent officer or former officer of the company.

I have already referred to the subject matter of the proposed new section 367C which is contained in clause 4. This deals with the types of companies which are included in the Bill. There is only one further point I wish

to make on this; that is, the definition of a company which has ceased to carry on business includes a company to which the registrar has sent a letter pursuant to section 308(1). That existing section of the Act states that where the registrar has reason to believe that a company is no longer carrying on business—and under certain other circumstances— he may send a letter to the company requiring it to show cause why it should not be struck off the register.

The company has a month in which to answer and if by then the registrar does not receive a satisfactory answer, he can place a notice in the *Government Gazette* and the company will then, after a further period of, I think, three months, be deemed to be defunct and be struck off the register. However, under the provisions in the Bill, a company shall be deemed to have ceased to carry on business if the registrar has sent to the company a letter pursuant to the provisions of section 308. In other words, the registrar merely has to send to a company a letter on the ground that he has reason to believe it is no longer carrying on business.

Having sent the letter, he does not have to wait a month for the reply, nor does he have to advertise in the *Government Gazette* or wait a further three months. The company is then deemed to have ceased to carry on business and the provisions of the legislation will operate. One might say that there will be a certain speeding up in the processes with the inclusion of proposed new section 367C in the Act.

The Bill then deals with a number of provisions which are, in effect, simply the widening of offences to which I referred earlier. I will not go into all the details, because it is quite unnecessary. At the moment the offences concerned already appear in other sections of the Act which are to be repealed.

Proposed new section 374A refers to quite a number of different offences which may be committed by a person who was a former officer or who is an officer of a company. These offences are not fully discovering all the property of the company or what has happened to it; not delivering up to the appropriate officer the property of the company, including books, papers, and accounts which are under his care and control; concealing part of the property or fraudulently removing it, falsifying books, making false entries, and so on. Quite a number of offences are categorised in clause 5 of the Bill which deals with proposed new section 374A. As I have said, this is really an extension of some of the existing provisions.

Penalties are to be considerably increased beyond what they are now. There will now be a monetary penalty as well as imprisonment. Previously, imprisonment was the only penalty. The position now is that there will be a penalty of $5,000, or $2,500, depending upon the offence, as an alternative to imprisonment. Further, the officer who is conducting the investigation will be able to go back for five years, whereas previously he could go back for only 12 months in making his investigation. Consequently there is a considerable extension to the former provision.

Clause 6 of the Bill deals with proposed new section 374B which is really a recast of the old section 303 of the Act which is now repealed, because it deals with the situation which occurs when no proper accounts have been kept. The penalty has been increased from six months' to twelve months' imprisonment, or a maximum fine of $2,500.

Proposed new section 374C in clause 7 of the Bill is entirely new. It is the offence of reckless trading.

This provision has been based directly upon the report of the Royal Commissioner and, of course, is new to Western Australia. It reads—

> If an officer of a company to which this section applies was knowingly a party to the contracting of a debt by the company and had at the time the debt was contracted no reasonable or probable grounds of expectation after taking into consideration the other liabilities, if any, of the company at the time, of the company being able to pay the debt, the officer is guilty of an offence against this Act.

This matter is referred to specifically on page 84 of the report of the Royal Commissioner who recommends that this provision, which is taken directly from the Victorian Act, should be embodied in our legislation if Parliament sees fit. The Government has seen fit to bring it forward and I am sure it is a desirable provision to include in the Act.

I would like to quote very briefly from the Royal Commissioner's report. My reason for wishing to quote his reference is that, in view of the comments which have been made, I believe it is important to establish what the Royal Commissioner had in mind when he referred to reckless trading. On page 84 of the report he says—

> I have in the course of my report found it to be the case that in no one of the companies the subject of my inquiry was the business of the company carried on with the intent to defraud creditors. It is however my finding that Hewett did cause Wool Exporters to continue to trade and so to incur obligations and to contract debts, being the purchase price payable by that company to farmers for

> wool bought by it, at a time at which to his knowledge there existed no reasonable or probable expectation of the company being able to pay. This I would describe as reckless trading.

I consider this is almost all one can cover in a definition of "reckless trading" and I do not see how a definition could be more particular than that. It is quite impossible to name all the circumstances in detail with particular reference to situations which might occur and might constitute reckless trading.

The Hon. N. E. Baxter: Do you think the penalty under this section is sufficiently severe?

The Hon. I. G. MEDCALF: I think the penalty is adequate; it is really quite severe.

The Hon. A. F. Griffith: What the honourable member is saying is that it is difficult, if not impossible, to define "reckless trading."

The Hon. I. G. MEDCALF: I am saying that one cannot define all the circumstances which constitute reckless trading.

The Hon. A. F. Griffith: In other words, it cannot be defined in the Bill.

The Hon. I. G. MEDCALF: No, I do not think it is possible to give a concise definition, nor even a definition which takes three pages. If a definition were to occupy three pages, or any number of pages for that matter, one would get down to such fine detail that loopholes would be left and things which one cannot possibly foresee would be left out of the definition.

The Hon. A. F. Griffith: I hope the financial editor of *The West Australian* will read your remarks.

The Hon. I. G. MEDCALF: This is the great problem of codifying law. One of the criticisms which is always heard against legislation and the law generally is that there are loopholes. However, every time one goes to detail which is too fine one must necessarily omit another case; because, by getting down to one case, one leaves out another. If one tries to include still another case, sure as fate some other situation is found which one did not have in mind. In my experience it is far better to define an offence in general terms and leave it to the courts in their good sense to interpret the definition. There is always room for opinion in these matters, and there must be. There is room for opinion in all human affairs and I do not think it is possible or desirable to particularise all the cases which could occur and could constitute reckless trading.

I consider that this definition—if one can call it that—is about as far as one can go. My authority is none other than the Royal Commissioner, because he must have shared this view when he wrote the report. As time goes on it may be found that some other definition is better and I am sure the Royal Commissioner would be the first to admit that this could happen. It may even be that during the course of the passage of this legislation through the House a better definition will come to light. My own view, however, is that it is a fair definition to state the position in the way in which it is stated in proposed new section 374C (1) of the Bill.

I do draw one distinction, however, which is in connection with the matter raised by Mr. Willesee. I may not have fully understood his argument and, if so, I will be doing him an injustice. However, I believe there is a clear difference between cases of reckless trading and cases of fraud. Fraud implies all sorts of other elements and, particularly, the intent to defraud. The intent must be present in cases of fraud; otherwise, there is no fraud. So far as reckless trading is concerned, however, a person may have no intent to defraud but may, nonetheless, be extremely reckless when he knows he does not have the money to pay or that the company does not have the money to pay.

The Hon. L. A. Logan: It is a pretty fine distinction in my opinion.

The Hon. I. G. MEDCALF: I think it is a distinction which we must make in order to safeguard the rights of people who perhaps act recklessly without deliberately intending to defraud creditors. The Minister might say there is a fine distinction, but it is easy to be wise after the event. There are many cases where people who trade have to take risks in their business. I think the newspaper has made this point and, in this respect, I agree with the comment in the newspaper. I am not suggesting the Wool Exporters case is one of them, but there are cases where people have to take risks. I think there are borderline cases and there is a distinction between the two. At any rate, I will not labour that point any more; suffice to say that I believe there is a distinction between fraud and reckless trading. I say this without in any way wishing to suggest that the activities referred to in the Royal Commissioner's report do not constitute reckless trading.

The Hon. A. F. Griffith: One of the distinctions can be, of course, whether one is using one's own money to be reckless or somebody else's money.

The Hon. I. G. MEDCALF: It is still reckless trading.

The Hon. A. F. Griffith: There is a distinction, though.

The Hon. I. G. MEDCALF: There are people who are reckless with their own money and others who are reckless with other people's money.

The Hon. A. F. Griffith: It is much easier to be reckless with other people's money.

The Hon. W. F. Willesee: I think there is a big difference between the two.

The Hon. I. G. MEDCALF: There is a difference.

The Hon. W. F. Willesee: I would much rather be reckless with the honourable member's money than with my own.

The Hon. I. G. MEDCALF: If a person is reckless with company money then, as Mr. Willesee has pointed out, it is quite proper that he should be subjected to the Companies Act, because the person who is a shareholder has limited liability. It is the shareholder who would make the profit if a deal came off, but a shareholder has limited liability in respect of obligation. While a shareholder can receive the profit, he has only to contribute to the unpaid calls on his shares and his obligation is discharged. That is the distinction and the reason for putting this section in the Companies Act. I quite agree, however, that morally it is worse to be reckless with other people's money than it is to be reckless with one's own money.

The Hon. W. F. Willesee: And particularly when a person accepts a position of responsibility in a company.

The Hon. I. G. MEDCALF: The court will have very extensive powers under proposed new section 374D which is in clause 8 of the Bill. This provision will give the court the power to follow the money or the property. It will be able to follow the property after it has left the hands of the particular person who is being investigated. The court may, if it is thought proper to do so, declare that the particular person is personally responsible without any limitation of liability. It will take away the umbrella of limited liability from that person and will allow the court to declare the person—whether he is a director, manager, or employee of the company —to be personally liable for the reckless trading which he has been carrying on.

Under subsection (2) of this proposed new section it may give such further directions as it thinks proper for the purpose of giving effect to that declaration and may order that the liability of the person under the declaration is a charge on any debt or obligation due from the company to the officer. This means that if the company owes the person some money, or if he claims that some salary, allowance, long service leave, or something of that nature is due to him, then the court may impose a charge on that fund for the benefit of the person who has suffered as a result of his activities. The court may also follow the money into the hands of an assignee so that if an officer of the company should assign the property to someone else then the property can still be followed by the court for the benefit of the people who have suffered damage.

However, in subsection (3), as far as an assignee is concerned, a person who is a *bona fide* purchaser for value is excluded. He is a person who has given value and, without knowing what has transpired, is, in fact, a *bona fide* purchaser. The creditors cannot follow the property into his hands, nor should they be able to, because such a person is a completely innocent party provided he can prove he has paid for the property and has acted in good faith.

Mr. Willesee will have noted that this valuable consideration does not include consideration by way of marriage; a point he raised during an earlier debate when he expressed his surprise that consideration could include marriage. In this provision marriage is not included and no doubt he will be pleased to see his opinion that it was doubtful it should include marriage has at least been vindicated by the draftsman of this Bill.

The Hon. W. F. Willesee: Why do they give such accreditation long after the Bill has been dealt with?

The Hon. I. G. MEDCALF: Proposed new section 374E again defines the company to which this section applies. In this instance, the reference is to the offences in the later sections and the definition is exactly the same as I outlined previously. Again, we are dealing only with a company which is formed or incorporated in this State under this Companies Act, or under a previous Companies Act, as a company which has reached a certain stage in its financial history which shows clearly that it is in trouble; when it is in the course of being wound up; when an official inspector has been appointed to take over its affairs, or one of those cases which I mentioned before.

Proposed new section 374F, set out in clause 10, is somewhat similar to the old section 301 of the Companies Act. It creates the offence of inducement; inducing someone to be appointed a liquidator or official manager, or inducing one's self to be appointed a liquidator or official manager. If one commits such an offence one is liable to imprisonment for two years or a penalty of $5,000, which is as it should be.

Under clause 11 it is proposed to add new section 374G. This new section deals with offences by officers and is similar to section 302 in the existing Act.

One further point of interest upon which I think I should comment is that these sections are to apply to officers or former officers of a company, and an officer of a company is defined in section 5 of the Companies Act. This is rather interesting, because we are not dealing only with directors. The definition of "officer" is as follows:—

> "officer" in relation to a corporation includes—
>
> (a) any director, secretary or employee of the corporation;

(b) a receiver and manager of any part of the undertaking of the corporation . . .

Therefore, we could be dealing with the office boy. The section includes every employee of the company, and is therefore very wide in its application.

The Hon. A. F. Griffith: When the Companies Act was first presented we argued that the definition of "officer" was rather wide.

The Hon. I. G. MEDCALF: Yes, it is, and perhaps it can be restricted, but I do not know that this would serve any particular purpose. However, probably it has now gone further than was originally intended by including every employee of the company.

The Hon. W. F. Willesee: Would an office boy carry much responsibility?

The Hon. I. G. MEDCALF: Not normally, but he is included in this provision and is liable under it. I have tried to indicate that the new provisions relating to reckless trading, and the other offences which are created by the Bill, do not apply to corporations; they apply merely to companies. They apply only to companies to which these sections apply when such companies are in a particular state of financial difficulty.

A corporation includes all bodies corporate, except corporations sole, public authorities, and bodies corporate which are agencies of the Crown. So the definition of "corporation" is fairly wide, and I feel that attention should be directed to the fact that it is extremely wide.

As I have stated, the Bill before us creates offences by companies and not by corporations, but the second schedule to the Bill contains a reference to corporations. Items 7, 8, 19, 38, 39, 40, and 42 of that schedule all refer to fees which are payable by corporations as distinct from companies, and therefore bring into focus the question of what is a corporation. When we talk of corporations, we should bear in mind that we are including a very wide group of bodies, perhaps more than most members realise, by the use of this term. For instance, a body corporate would include a building society, or a friendly society which has incorporated. It would include associations under the Associations Incorporation Act. It includes other bodies corporate. It has been suggested to me that it may even go as far as to include local authorities which, under the Local Government Act, are bodies corporate.

I am sure it was never the intention of Parliament that some of these bodies should be made subject to the Companies Act. However, that is the present situation. In briefly referring to some of these bodies, I would like to suggest that the appropriate place in which to legislate for them—that is, for those bodies corporate which are not companies, but to which part of the Companies Act can apply—is under their respective Acts. Every one of them has its own State Act. I have already mentioned that certain Crown bodies corporate are excluded, and public authorities that come under Commonwealth law. The appropriate places under which the others should be dealt with, are their own separate State Acts.

The Hon. J. M. Thomson: Would the banking company that was involved in the recent Royal Commission come under this Bill? I was a little confused between a corporation and a company.

The Hon. I. G. MEDCALF: Yes.

The Hon. A. F. Griffith: Does the honourable member mean: Was the banking company concerned a company under the Companies Act?

The Hon. J. M. Thomson: That is what I want to know.

The Hon. A. F. Griffith: Of course it was.

The Hon. I. G. MEDCALF: Banks are included under the definition of "company."

The Hon. A. F. Griffith: And so are corporations.

The Hon. I. G. MEDCALF: Corporations are not included under the definition of "company," but banks are included under the definition of "company" and, therefore, are included under this provision. Bodies corporate have their own separate Acts, and include building societies and friendly societies. Associations under the Associations Incorporation Act are all bodies corporate. Because of the wide definition of "corporation," there is good ground for saying these bodies are included in "corporation" in the Bill.

The Hon. W. F. Willesee: Is not what we are trying to do a good thing in the public interest?

The Hon. I. G. MEDCALF: The proper place to legislate for these corporations is in their respective Acts, and not in the Companies Act. As they have separate Acts they should be legislated for in those Acts, and we should not seek to bring them within the ambit of the Companies Act, and then fail to invoke the Companies Act because we regard them officially as coming under their own Acts.

The Hon. W. F. Willesee: How would one extend this coverage under their own Acts unless they brought forward amendments themselves?

The Hon. I. G. MEDCALF: They are already covered under their own Acts.

The Hon. W. F. Willesee: But how would you get this coverage in their own Acts unless they asked for it themselves?

The Hon. I. G. MEDCALF: Do not let us assume that this particular coverage we are discussing refers to them, because it does not. The particular offences we are creating under the Bill do not relate to corporations, but only to companies. The other bodies corporate are not affected by the legislation we are talking about.

The Hon. S. T. J. Thompson: Why would not they be affected?

The Hon. I. G. MEDCALF: They are not affected by it because they are corporations as distinct from companies. All the other bodies which are the subject of separate Acts are not companies.

The Hon. A. F. Griffith: We are including corporations under this Bill, are we?

The Hon. I. G. MEDCALF: Yes, so far as we prescribe fees for corporations, and that is the reason I have made these further comments.

The Hon. A. F. Griffith: And it is a complete revision of the second schedule to the Companies Act.

The Hon. I. G. MEDCALF: The second schedule to the Companies Act prescribes new fees, and some of these fees are applied to corporations as distinct from companies.

The Hon. L. A. Logan: And corporations are not affected by the reckless trading provisions.

The Hon. I. G. MEDCALF: That is quite correct; corporations as such are not affected by the reckless trading provisions. I thank the Minister for making that quite clear, because it has taken me quite a long time, apparently, to make it clear to the House. I am quite prepared to elaborate further if the Minister for Justice so desires.

The Hon. A. F. Griffith: What I understood you to say is that a corporation that committed a breach under the present Bill would not be liable to the penalties under the Bill if it became law.

The Hon. I. G. MEDCALF: A corporation cannot commit a breach of any of the sections of the Companies Act we are talking about this evening, unless it is also a company. The word "company" is limited in its meaning to a company incorporated in this State. A corporation not only includes a company; it includes also a foreign company, and all other bodies corporate which come under separate Acts, such as building societies, friendly societies, and associations under the Associations Incorporation Act.

The Hon. A. F. Griffith: We have nothing to worry about, then.

The Hon. I. G. MEDCALF: The Registrar of Companies has, according to my belief, never seriously regarded building societies as coming within his jurisdiction in respect of many of the offences under the Act. I think this is fair comment. It is really not appropriate for me to say what the registrar thinks, but it is my honest belief that he has never regarded building societies as being subject to his jurisdiction in so far as certain parts of the Act are concerned.

The Hon. A. F. Griffith: But they are.

The Hon. I. G. MEDCALF: But they are, as the Minister says, because they come under the definition of "corporation," and truly this is a matter that needs tidying up. Only companies are affected by these particular offences of reckless trading, but corporations include other bodies corporate as well as companies, and they are affected by the schedule of fees which deal with corporations as well as companies, so there is a distinction.

Nevertheless corporations are still liable under other sections of the Companies Act —but not the particular ones with which we are dealing tonight. They are liable under part IV of the Act which deals with advertising.

The registrar has adopted a sensible view in this matter in that he has not sought to invoke the Companies Act against those bodies which are all subject to their own respective legislation, governing building societies and other bodies. He has been quite content, so long as they obeyed their own legislation, to let them be. Nevertheless, technically speaking, these corporations come under the Companies Act for certain purposes.

Many of the other States have already tidied up this matter; for instance, New South Wales and the Australian Capital Territory. New South Wales has passed legislation which specifically excluded building societies from the definition of "corporation." That Act goes a bit further; instead of only certain bodies corporate being excluded, it excludes Crown agencies, corporations sole, and also building and provident societies. The same applies to the legislation passed by the Australian Capital Territory which excludes these bodies in the same way as the New South Wales legislation has excluded them. In fact, the Australian Capital Territory followed the New South Wales legislation.

In Tasmania the legislation has also excluded these bodies. The South Australian legislation went a step further; it has excluded from the definition any bodies corporate which come under any other Act. The definition which applies in South Australia is—

> "Corporation" means any body corporate formed or incorporated whether in the State or outside the State and includes any foreign company but does not include—
>
> (a) any body corporate that is incorporated within the Commonwealth and is a public

authority or an instrumentality or agency of the Crown;

(b) any body corporate (not being a company) incorporated by or under any Act, other than this Act or any corresponding previous enactment

. . .

Building societies were excluded from the Western Australian Companies Act of 1943, which was the one which was in force before the 1961 Act. To me it would seem logical for us to tidy up this situation and to legalise the attitude that has been adopted, quite properly, by the persons charged with administering our Companies Act.

The Hon. A. F. Griffith: If this Bill becomes law in its present form and a body corporate, which is a building society, trades recklessly it will not be liable?

The Hon. I. G. MEDCALF: It will not be liable under the reckless trading section. Building societies have not been included; but companies formed or incorporated under the Companies Act, which are in a certain state of financial insolvency, are included.

The Hon. W. F. Willesee: Do you propose to include building societies?

The Hon. I. G. MEDCALF: No. I am merely saying that these societies are included for other purposes in our Companies Act, but not for reckless trading.

The Hon. W. F. Willesee: If this piece of legislation is not to become part of the Companies Act, what is it to be?

The Hon. I. G. MEDCALF: I am not suggesting that it does not become part of the Companies Act. It will, because this is an amendment to the Companies Act. If it is passed it will form part of the Companies Act, but it does not apply to corporations as defined. It applies only to companies formed or incorporated in Western Australia.

The Hon. A. F. Griffith: So a corporation will be able to trade with reckless abandon, and a company will not be able to so trade?

The Hon. I. G. MEDCALF: That will be the situation after the Bill is passed. These sections do not purport to apply to anything other than the strict definition of a "company" in certain circumstances.

The Hon. L. A. Logan: The corporations are covered by their own Act.

The Hon. I. G. MEDCALF: The corporations have their own Act. I should make this point: There are other sections of the Companies Act which apply to these bodies corporate, although they have their own Acts. I am suggesting we ought to legalise this situation and take the building societies out of the Companies Act, so that only the Act covering building societies would apply to them. Perhaps this should apply also to the other bodies corporate I have mentioned; for example, those under the Associations Incorporation Act.

The position in general needs tidying up. It has already been done in New South Wales, South Australia, the Australian Capital Territory, and Tasmania. I believe the same should be done in Western Australia.

The Hon. W. F. Willesee: When you say the position has been tidied up, do you mean those States have included those provisions in their Acts?

The Hon. I. G. MEDCALF: They have excluded the building societies.

The Hon. W. F. Willesee: They have brought in legislation complementary to their Acts?

The Hon. I. G. MEDCALF: I understand that the Acts of those States are perfectly satisfactory for dealing with their own requirements. They have their Acts, just as this State has its own Act.

I crave your leave, Mr. President, to refer to this matter briefly: I have given notice of an amendment which I have placed on the notice paper. It is designed to exclude building societies from the definition of "corporation." I believe it is relevant to this Bill in that the second schedule includes fees which apply to corporations. If fees are to be charged against corporations, then we must know what corporations are involved.

However, whether or not this is the right occasion for taking the step which I proposed is debatable. It seems apparent to me that other people may take a view different from the view I have taken, and that perhaps this is not the right occasion on which to move an amendment of that nature. I do not say that building societies should not be covered by legislation; what I say is that the right place to deal with building societies is in the Act governing them. We should not allow a situation to exist where building societies are half governed by the Companies Act. I do not want to make an issue of this rather debatable matter as to whether or not an amendment should be moved during the debate on this Bill. I therefore propose not to proceed with my amendment, but I would like to think that the Minister is satisfied that some tidying up is necessary in this area.

The fact that at least four other States have already done this, and the fact that Western Australia has permitted a situation to exist in which for all practical purposes these bodies corporate have been excluded from the Companies Act, points to the need for legalising this situation.

I hope the Minister will consider what I have had to say and will consult the Minister for Housing, because he must be very concerned with the position of the building societies in view of the contribution they are making to the housing needs of the State. I hope the Minister will take what I have said seriously, but which I am afraid I have rather inadequately attempted to convey. I hope he will accept this in the spirit in which it is intended so that light will be thrown on the problem area which exists. This matter should be investigated and tidied up as soon as possible. Whatever amendments are found to be necessary should be introduced under the appropriate Acts. The respective Acts should be tidied up to such a degree that this matter is placed beyond any doubt, so that the activities which are taking place in our community with the full sanction of the community and for the benefit of the State will be legalised.

THE HON. E. C. HOUSE (South) [8.40 p.m.]: I would like to express my appreciation to the Government for bringing down this Bill to amend the Companies Act, in view of what has happened to many woolgrowers as a result of the failure of Wool Exporters. There is no doubt that this Bill has been introduced as a direct result of the findings of the Royal Commission into Wool Exporters, and that it is based mainly on the suggestions made by Mr. Justice Burt as to what should be done to close the gaps that became evident in that case.

Although the financial editor of *The West Australian* has declared this Bill to be a big joke I doubt whether anyone who has the brains, the knowledge, and the experience of Mr. Justice Burt would make suggestions and virtually create this Bill unless he was fairly confident that it would have some telling effect, or at least would provide some brake on those people who tend to trade recklessly.

The farming community is very pleased that the Government saw fit to proceed with the appointment of a Royal Commission into Wool Exporters. I am aware that at the time doubts were expressed on the need for and the expense of this exercise. Although it has not been a complete success, what has been done proved to be very worth while. It brought out many very interesting facts which will stand for all time as a result of the investigations that were undertaken. That it was not a complete success was not brought about by the failure of the Royal Commission to extract all the evidence; it was simply because the bank concerned virtually declared itself to be guilty and committed itself into saying that it had traded recklessly by not being prepared to come forward to supply the evidence.

I doubt whether any other bank would have got into the situation which the Commercial Banking Company of Sydney got itself into. The average bank is very well conducted, and is very cautious in its financial operations and in making loans. Obviously the Commercial Banking Company of Sydney is a bank with which Hewett happened to transact business.

Mr. Medcalf has left us fairly confused as to what field this Bill does cover. No matter what penalties are set down there will always be a few shrewd people who know their way around so well that they are able to circumvent the provisions of the Act in some way or other. As has been mentioned in the debate tonight, perhaps the penalties are not stiff enough. No matter what penalties are set down there will always be the people who are prepared to take the risks.

The disturbing feature about the Royal Commission—and this was proved quite conclusively—was that Hewett virtually had no fear that he would be charged in any way, because I understand he was trading as a proprietary company. On one occasion when I was listening to the proceedings, from the questions which Mr. Justice Burt put to Hewett he virtually completely exonerated Hewett from any responsibility. This is the sort of thing we should be investigating.

I just cannot understand why a company like this should be permitted to trade recklessly, when the only people to suffer were those who were, virtually, the clients of the company. Today Hewett is trading in a way nearly as big as previously, and earning the same amount of money. He is free to start up again.

The PRESIDENT: Order! I request the honourable member to connect his remarks with the Bill before the House.

The Hon. E. C. HOUSE: I am sorry, Mr. President. I realise that this Bill is a result of the Wool Exporters Royal Commission and I apologise if I got carried away and was a little over-enthusiastic about the matter.

An interesting point made by Mr. Medcalf was that banks could be included in this reckless trading provision. There is no doubt that in the case of Wool Exporters the bank should have been made just as responsible as anyone else. That point proved our legislation was not strong enough. I wonder whether there could not be some reason to believe that the reckless practices were allowed because the bank was as keen to get its money through trading as in any other way.

I compliment the Minister, and the Government, for at least attempting to provide an answer to this sort of problem. It will not apply only to firms like Wool Exporters. Companies which are dealing in shares, or with public money in any

form at all, come under the provisions of this legislation. The Government should be complimented because I believe it is the Government's responsibility to try, wherever possible, to protect the individual, and not just big businesses or big companies. It will not matter what industry is involved or what company is concerned, they will all come under this legislation. For that reason I have much pleasure in supporting the Bill.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [8.49 p.m.]: I have been interested in the comments made by members and I am pleased with the general reception that this Bill has received. I think, perhaps, those of us who were drawing Mr. Medcalf—by way of interjection—were a little unfair to him. I think we were trying to arrive at his explanation with respect to the question.

The Hon. F. R. H. Lavery: And he probably could have taught the lot of us.

The Hon. A. F. GRIFFITH: Mr. Lavery often tries to help me make my speeches.

The PRESIDENT: Order!

The Hon. A. F. GRIFFITH: We tried to draw Mr. Medcalf out and he told us what he thought in relation to building societies. I am pleased that the honourable member does not intend to carry on with the amendment he has on the notice paper, and I would like him to know I am not unaware of the situation so far as building societies are concerned, in the context in which he was addressing the House.

However, that really has nothing to do with this Bill. I explained when I introduced this measure that the real purpose of it was to deal with the question of reckless trading in conformity with the recommendations made by the Royal Commissioner who inquired into Wool Exporters. I also explained that advantage is taken of the opportunity to include a revision of the scale of fees. We in Western Australia have lagged behind the majority of the other States with regard to this revision. It will be remembered I explained also that the question of fees was a budgetary matter which the Treasurer was dealing with in another place.

If you would be so kind, Mr. President, as to permit me to move a little outside the ambit of the Bill, I will give the honourable member an undertaking that I will look at the question of building societies in relation to the Companies Act. The point that is worrying the building societies is in regard to the other sections of the Companies Act which cover them; particularly in regard to money-raising efforts, the advertising the societies have to do, and the question of the possible non-fulfilment of some sections of the Companies Act.

I want to be perfectly satisfied, however —and this can come under the category of reckless trading—that before I ask Parliament to remove building societies from the interpretation of a corporation there is, in fact, proper control over building societies.

My colleague, the Minister for Housing, handles legislation which controls the activities of building societies. One of the functions of the Registrar of Building Societies is to administer the activities of the building societies. As I said, I want to be sure that if we take building societies out of the definition of corporations, as such, a situation does not arise where the door is left open and building societies are left without proper control.

I am not satisfied—I am not saying I cannot be satisfied at some future time—that the restrictions which apply to companies raising money for the purposes of their operations should not, in fact, apply to building societies in some way. It is perfectly true that the Registrar of Companies has followed the provisions of the Companies Act without any intention of hindering the activities of building societies.

I must say that when I see some of the advertising which is carried on by building societies, in a limited way, I am not too sure that some of it is not a little flamboyant to say the least. However, I will have a look at this aspect with Mr. O'Neil, but I am quite sure this is not the appropriate Bill in which to put forward a suggestion of this nature. I will leave it at that. I will not guarantee that legislation will be produced during this session of Parliament. This is a matter which requires close examination, and no decision will be made in a hurry.

I again thank Mr. Medcalf and Mr. House, and first of all, of course, Mr. Willesee for their contributions to the debate and their support of the Bill. Finally, I might mention that this measure is intended as a deterrent. I could draw issue with the financial editor of *The West Australian* but I will not do that. He pointed out that he regards the Bill as being good for a laugh, and he suggests that the stable door might well be closed after the horse has gone. Well, of course, all forms of penal legislation are intended to act as a deterrent. One does not catch the thief before he commits the crime; and one does not punish the criminal before the event. The purpose of this legislation is to deter other people who might act in a reckless manner in their trading.

When an offence, which is covered by the terms of this Bill, is committed then the offender will become liable to the punishment set out in the Bill. I think that it is a fair enough situation and, I repeat, this legislation is intended to act as a deterrent in exactly the same way as any

other penal clause in any other piece of legislation. The Bill states that if something is done wrongly then that offence is liable to punishment in the manner set out.

There it is. I do not draw any further issue with the financial editor of *The West Australian*. I simply point that out to him.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Justice), and transmitted to the Assembly.

BUSH FIRES ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. G. C. MacKinnon (Minister for Health), read a first time.

CITY OF PERTH PARKING FACILITIES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 15th October.

THE HON. R. F. CLAUGHTON (North Metropolitan) [9.2 p.m.]: Before dealing with the amendment to the City of Perth Parking Facilities Act I would like to draw the attention of members to the financial statement for 1969 in respect of the City of Perth Parking Facilities Act. This was tabled in the House, but the statement has not been audited as required by section 9 of the Act where it states—

> (1) The Council shall, on or before the expiry of two months after the termination of the Council's financial year, in each and every year submit to the Minister a report of its activities under this Act which were carried out during the preceding financial year . . .

and, (2)—

> The report shall be supported by such accounts, duly audited, and such statements as may be required by the Minister.

The question is whether this statement should be tabled without the certificate from the council's auditors.

I would like to preface my remarks on this Bill by reading a quotation from the, "Overall Review of Transport in Western Australia" prepared by Mr. Wayne, the then Commissioner of Railways, in June, 1966. At page 36, under the heading, "City Parking" he had this to say—

> Finally, the question of city parking: As I have said, action that is taken here reflects itself into the realm of public transport—the two cannot be looked at separately. The control of, and policy in regard to city parking now rests with the Perth City Council; however, the community would be better served if this control and policy determination were to pass from the Council to the proposed Transport Authority.
>
> The Transport Authority would, amongst other things, have the responsibility of co-ordinating and controlling transport, public and private, entering the City of Perth. To do this effectively it must have jurisdiction over the operation of the various forms of public transport—trains, buses, taxis and ferries—and in the case of private transport, jurisdiction over the determining factor in private transport movement insofar as the city is concerned, i.e., vehicle parking.

The Bill before us seeks to amend the Act by removing the restriction on the borrowing powers of the Perth City Council. This restriction limits the council to borrowing a maximum of $894,000. Proposed new subsection 8A(2) states that money so borrowed shall be paid into the fund, and all outstanding commitments on the fund must be paid from the fund. I cannot see why the amendment before us should not do exactly what the Minister has told us it will do. It allows the council to borrow moneys under division 3 of part XXVI of the Local Government Act, which deals with the borrowing powers of councils, other than overdrafts.

I question whether this provision is the right way to go about it. It has been suggested that by simply removing the limitation in the Act—that is, to remove the words which refer to the $894,000—we would be doing sufficient to allow the council to borrow whatever moneys it requires.

An amendment has been suggested by the Minister for Traffic so that the Bill would simply delete the words referring to the sum of $894,000. It has been suggested that this amendment might be brought forward in this House. If this is not done, I would appreciate some explanation as to why it is considered unnecessary to do so.

In my opinion, as indicated in the quotation I made from the report of the then Commissioner of Railways—we cannot look at the parking problems of the City of Perth without looking at the overall transport problems of the metropolitan region. I would like to illustrate this point by quoting some figures which are contained in a booklet entitled *Perth: Region and People* which was produced by the Metropolitan Region Planning Authority. This booklet was produced for a town planning conference which was held last

year, and we find that in 1968 the city work force was estimated at 70,000 people, and is expected to grow to 100,000 by 1986.

By 1980 the density of traffic is expected to increase four times. That is not very many years away. At the same time, the estimated number of parking spaces in 1986 is 40,000, and the remainder of the work force will have to enter the city by public transport. The booklet suggests the use of high-speed, air-conditioned trains to enter the city from the east and south-east, and the use of fast bus services to enter the city by the north-west and the south-west corridors of the region.

The Bill before us allows the city council to borrow money to provide parking spaces for the people who come into the city centre. However, this will only help to aggravate the problem we already have. Undoubtedly there will always be a need for parking facilities; but to my mind it would appear to be more sensible to make a greater effort to improve the public transport system.

The need to integrate the provision of parking with transport has been referred to by people who are eminent in the design of roads in the metropolitan region. For instance, Dr. Carr was reported by *The West Australian* as saying at the town planning conference last year—

> Decisions were needed without further delay on how to finance the most practicable road system for the region. A traffic management programme—with emphasis on buses—had to be implemented to ease congestion on existing highways.

In the same article Professor Kain was reported as saying that great benefit would be derived by increasing bus trip speeds and slowing down private vehicle speeds, thus making bus travel more attractive to people entering the city.

In the 1968 annual report of the Metropolitan Region Planning Authority, some reference to this problem is made at page 11. It is as follows:—

> The rapidly increasing build-up of traffic in the Region poses the question of whether it is not now time to consider a sophisticated traffic-management programme. This implies making the best use of existing road resources and the possible introduction of such measures as the selective use of freeways for public transport, tolls, and scaled parking charges.

It also indicates that these measures may not be popular. In *The West Australian* of the 28th June this year, an indication that perhaps the Perth City Council is moving in this direction appeared. The council has provided for a greater number of short-term parking places and suggests that there should be an increase in all-day parking charges.

Short-term parking would, of course, prove of greater convenience to people shopping, whereas those who want to come to the city and stay all day should be encouraged to leave their vehicles at home. However, the charges have not as yet been increased but perhaps it would be a better way to provide some immediate means of overcoming congestion on the roads than the seeking of more money to provide parking facilities.

Also, in the Press recently reference was made to an experiment conducted in 1958 under which passengers were given free rides on the buses. This, too, was an incentive for vehicle owners to use public transport. This is even more important in the light of the slow progress being made on the freeway systems around the city. Very little progress has been made on extending the freeway systems, and perhaps it would be better, in a limited way, to allow the freeways to be used by public transport to enable an express service to be provided from the suburbs to the city.

In *The West Australian* of the 28th March this year reference was made to the slowness of freeway development and the cost that is involved. This article is headed, "Freeway Scheme Short of Money" and goes on to state that according to some planners' estimates 10 miles of freeway costing more than $100,000,000 may be completed by 1980, which would leave a considerable length of the original 150 miles still to be constructed.

I would refer also to the annual report of the Director-General of Transport for the year ended the 30th June, 1969. There are some pertinent references on page 14 to urban transportation by road, rail, and bus. The comment made under this heading is most interesting. It is as follows:—

> Because the private car is the most convenient technology, it will continue to be used and indeed the use of it will increase at a greater rate than the use of the bus or the use of the railway. Almost irrespective of the quality of the bus and railway service there will be no major swing to these modes until, as the result of traffic congestion or parking problems, the relative convenience of the private car falls below the relative convenience of the bus and the railway.

Here is a shrugging off of responsibility and we are expected to wait until this situation grows before we start to introduce measures to overcome it.

This section of the report refers to a P.E.R.T.S., or a Perth Urban Transportation Study and the need for the appointment of a study director who will preside over a small team of representatives from the Main Roads Department, the Town Planning Department, and the Perth City Council. As regards the aims of this study group, the Director-General of Transport

goes on to list a number of questions for which the group will be seeking answers. A sample of these questions is to be found on page 15 of the report, as follows:—

> Do we provide better urban transportation by running more or less expresses, by cutting out some of the intermediate stops, or inserting new ones?

The DEPUTY PRESIDENT: I would ask the honourable member to connect his remarks with the subject matter of the Bill to amend the City of Perth Parking Facilities Act.

The Hon. R. F. CLAUGHTON: Yes, Sir. Clause 2 of the Bill increases the powers of the Perth City Council to provide parking facilities within the City of Perth and, as I illustrated with the quotation from the report of the Commissioner of Railways in 1966, the problem of parking facilities is interrelated with the problem of public transport. If we construct a system of roads which permits large numbers of cars to flow into the city, then we have to do something about parking facilities. Alternatively, we can go the other way and develop a public transport system so that we can make more efficient use of the existing roads to ensure that the city blocks are not cluttered up with cars and parking stations. In this way we are able to make better use of the available land around the city and we are not investing millions of dollars on freeways which will take thousands of vehicles carrying one individual only into the city, thus creating smog and unpleasant environmental conditions.

I was referring to the annual report of the Director-General of Transport and I had mentioned one question that would be asked by the study group. Other examples of the questions to be asked are—

> How do we best employ our buses and, in particular, make use of their ability to collect and distribute passengers throughout residential areas?

I could go through many more of these questions but all they would prove would be the ability of these gentlemen to ask questions when what we want are the answers to those questions, and those answers are needed urgently. The longer this situation is allowed to continue the greater will become the parking problem in the city itself.

The Commissioner of Railways referred to a transport authority, and so does this report of the Director-General of Transport. One of the questions to be asked by this study group is—

> Should there be a single urban transit authority responsible for integrating bus and rail so that each is used to the best overall advantage?

That question is a pertinent one.

The problem of parking is not just one confronting the City of Perth. We have the City of Perth Parking Facilities Act and we have, also, an Act governing parking in the City of Fremantle. However, there are several other local authorities around the city that are confronted with the same sort of problem. Do we introduce a similar Act for each of those authorities? Is the Act which this Bill amends necessary? Could we not make some amendment to the Local Government Act to provide for all local authorities?

For instance, section 525A of the Local Government Act gives local authorities the power to make by-laws to create a parking fund, to provide parking stations and facilities, meter zones, and so on—everything that is provided for in the City of Perth Parking Facilities Act. As far as I can gather the main difficulty is in regard to the policing by local authorities. We have been told that a draft by-law is to be prepared providing for the appointment of parking inspectors. However, if shire rangers are appointed, or are to be given authority under section 22 of the Traffic Act, and they have the power to police parking areas within their boundaries, perhaps individual Acts will not be necessary, and that includes the City of Perth Parking Facilities Act which we are at present amending.

I referred previously to the effect of cluttering up the city with cars. The No. 1 car park, to which the Minister referred when he introduced the Bill, and which is situated below Government House, does not add much to the aesthetics of the city, bordering the Swan River as it does. Something has already been said earlier on about the siting of the concert hall, so I shall not go into that argument again.

The question of car parking facilities, and the aesthetics of the city, are concerned in the widening of Riverside Drive. Dr. Carr referred to this in *The West Australian* of the 28th August—Riverside Drive being upgraded to a freeway which will separate the city from the river. We do not want to see this.

In conclusion, let me say that I do not see anything wrong with this Bill and I am sure it will do what the Minister has told us it will do. However, I question whether it is really necessary. Perhaps it would be better to make some amendments to the Local Government Act and it may be more practicable to set up a transport authority to control both transport and parking throughout the whole of the metropolitan region.

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [9.29 p.m.]: It is not my intention to engage in

a controversy on parking or transport, because it is a big subject and there are many and varied opinions upon it. One could discuss the proposition for quite a long time without getting anywhere at all.

The Hon. R. F. Claughton: Yes.

The Hon. F. R. H. Lavery: With many and varied committees.

The Hon. L. A. LOGAN: The Perth City Council has been given the responsibility of looking after parking in the City of Perth and I think the Minister for Traffic has been more than willing to give that authority greater autonomy and more power to control this part of its functions. I think we can say quite clearly that the City of Perth has stood up rather well to its obligations so far as its responsibilities are concerned.

Whether we should stop all parking and make everybody use public transport is, of course, a matter of opinion. I would not like to be the Minister who had to introduce legislation to provide that we must leave our cars at home and travel by public transport, because I do not think, in such circumstances, I would be a Minister for very long.

The Hon. R. F. Claughton: You would wait till it had to be done.

The Hon. L. A. LOGAN: Circumstances would eventually govern the matter. Reference was made to the plan for the metropolitan region. It was never intended that the public transport system should take more than 40 per cent. or 50 per cent. of the traffic. We must bear in mind that freeways are not intended merely to allow people to travel to and from the city; they are also to help them by-pass the city. We must also appreciate the fact that the State has a very limited amount of money for use on freeways. It can use only a very small percentage of the money it obtains from the Federal Government under the Commonwealth Aid Roads Grant, and as the population of the State is just short of 1,000,000 I do not think we do too badly at all.

One of the reasons the Bill has been introduced is that the City of Perth Parking Facilities Act has such great limitations. One only has to read section 7 of that Act to see what I mean. Under that section if the City of Perth wants to borrow money for the purpose of parking facilities it must first come to Parliament. It is also limited in the amount of money it can borrow—the limit being $894,000. Under this limitation the City of Perth could miss the opportunity to do something worth while. The Bill before us seeks to provide for just that eventuality.

If the amendments in the Bill were not framed as they are the City of Perth would be placed in a category different from all other local authorities whereby they are all obliged to submit their loan programmes to the Treasurer by the 30th March each year. This permits the Treasurer to examine the overall loan raising powers of the State in conjunction with the Loan Council of Australia to ensure that nobody is advantaged to the detriment of anybody else.

If we excluded the City of Perth and gave it scope to borrow without Treasury control we would be placing it in a category different from all other local authorities, and this privilege would also be sought by other shire councils and, indeed, they would be entitled to it. I do not think the City of Perth should be excluded from this category. The legislation before us merely places the City of Perth on the same footing as everybody else.

I do not propose to enter into a discussion on the other aspect raised, but in connection with the matter of the auditor, I would presume that the auditors of the City of Perth have, in the ordinary course of their auditing, looked at the particular aspect mentioned and have covered it. I imagine they must have looked at the matter but whether they have done so in accordance with the Act I do not know. I will, however, check the position.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Local Government), and passed.

MARKETING OF LINSEED BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

MARKETING OF CYPRUS BARREL MEDIC SEED BILL

Second Reading

Debate resumed from the 7th October.

THE HON. N. McNEILL (Lower West) [9.39 p.m.]: It is some little time since the Bill was explained in this House, but it proposes to establish a body to be called the cyprus barrel medic seed board of Western Australia for the purpose of regulating the marketing of that particular type and variety of pasture legume seed.

The Bill also provides for the constitution of the board, its membership, and the means by which that membership shall be achieved. It further provides the functions of the board in regulating the marketing of cyprus barrel medic seed and

states the powers and functions generally of the board—firstly, in respect of creating a compulsory pool for marketing purposes; and, at the same time, it relates to certain conditions which will enable the board or its officers to carry through the functions so outlined.

In the course of the debate some reference has been made to the fact that this particular seed represents only one of a great number of pasture seeds which are produced in considerable quantity in Western Australia. The question also has been asked as to why it has been found necessary to establish a board for this seed and not, perhaps, for all other pasture seeds or small seeds as they are collectively described.

Explanations were, in fact, given by the Minister during his second reading speech when he related the history leading up to this particular point. He referred to the efforts of the people in the industry, commencing from about 1964, to bring about the orderly marketing of both cyprus barrel medic seed and other types of pasture seed produced in Western Australia.

A number of years passed with little or no agreement being reached in the farming industry as to how orderly marketing could be arranged, but, as explained by the Minister, the efforts did culminate in a referendum. This indicated that there appeared to be a great deal of unanimity among the producers of cyprus barrel medic seed in connection with the establishment of a board.

I think it is fair to say—and the Minister also made some reference to this—that while some 36 ballot papers were distributed to the producers to determine their wishes, these ballot slips for the referendum—which was conducted under the direction and supervision of the Chief Electoral Officer—provided that to be entitled to vote a producer must, during any 12-month period in the preceding three years, have produced cyprus barrel medic seed to the value of $1,000. So there was some restriction placed on those who were entitled to vote for the establishment of the board.

The Hon. G. C. MacKinnon: What weight of seed would that represent?

The Hon. N. McNEILL: That is a question I cannot answer, mainly because of the price at which this seed could be sold. I think some reference has already been made in the debate to the variability of the price.

We heard the discussion that took place when Mr. Wise was addressing himself to the Bill some days ago. I regret, therefore, that I cannot answer the Minister's question, though it does give some point to the request from the farming industry and the producers for the need for some form of regular and stabilised price.

In the course of the the preparation of this legislation some reference was made to a number of enactments which are on the Statute book and, in particular, to the use of the Statute providing for the marketing of barley.

So we have the situation whereby many provisions in the Marketing of Barley Act of 1946, and its subsequent amendments, have been lifted out and inserted in the legislation before us this evening.

However, there are some important differences or variations. We are considering the establishment of a board—and I know that some people will say, "Yet another board!"—and it is as well to know that one of the requirements of a marketing board concerning an agricultural commodity is, very frequently, some exercise of constraint, not only with regard to marketing and its methods, but also in regard to production. In respect of the Marketing of Barley Act some control is exercised over the production itself; but in this particular Bill no provision is made for control of production. This Bill requires that all barrel medic seed produced in Western Australia shall be delivered to and marketed through this board.

It has been said that it is relatively unimportant to establish a statutory authority to meet the needs of some 36 growers of this particular seed, in view of the fact that we have such a vast production of pasture seeds of various types in Western Australia. Some reference has been made to the importance of this seed not only because of the agricultural production itself, but also because of its export value.

In this context it has been stated that perhaps a skeleton Bill—I think that was the expression used—should have been introduced by the Government because this would have enabled us to regulate the marketing of cyprus barrel medic seed and, at the same time, provide for other pasture seeds to be embraced later on.

I would like to draw attention to one particular point which is most significant and should be noted when we are considering the rather controversial step of establishing a board which will result in certain restrictions. These restrictions will, undoubtedly, be imposed for the benefit of those concerned.

One of the requirements in the establishment of such an authority is that the industry itself should unanimously—or at least very generally—accept it. No board can function effectively and adequately unless this situation prevails. Therefore, I say, in response to the remarks of those who consider a skeleton Bill should have been introduced to allow for the embracing at some time of the other seeds, that over the past four or five years those interested in and involved with the production of other seeds have had no desire for

the introduction of orderly marketing. In other words, there has been a great disunity in those sections and among those connected with the seeds concerning whether or not controls should be exercised in a statutory form.

This does not mean that there will not in future be some control exercised under voluntary pools and arrangements. These are possible and, in fact, some are in operation already in respect of certain agricultural seeds.

In view of the fact that these pasture seeds are important, I would like to make some reference to the *Journal of Agriculture*, March, 1969, volume 10, No. 3, in which some considerable emphasis is placed on, and explanation devoted to, the pasture situation in Western Australia. I would first of all like to read an opening quotation which appears on page 87 under the heading "Pasture Improvements in South Western Australia." The article was contributed by Mr. J. W. Malcolm, liaison officer, information section of the C.S.I.R.O., and the quotation was by Mr. E. M. Hutton, and reads as follows:—

> There is no doubt that Australia's enhanced prosperity in the last 30 years has been dependent in no small measure on the use of legume-based pastures.

Mr. Hutton is the assistant chief, C.S.I.R.O. division of tropical pastures, and past president of the Australian Institute of Agricultural Science. The quote was from his "Farrer Memorial Oration" delivered in June, 1968.

That quotation emphasises the importance of the industry and perhaps justifies the necessity for recognition by Parliament of the need for some measure of stabilisation within this important industry.

I would like to go some little bit further in terms of the value of the industry to Western Australia and its agricultural and commercial life generally as the result of the spread and development of important pastures in Western Australia and, more particularly, the barrel medic seed.

The expression "clover" has been used in relation to this particular seed. Cyprus barrel medic seed is not a clover. It is, in fact, one of the medicago species; but it is a legume, and an important pasture. It has been used in pioneering so much of our agricultural and eastern agricultural areas in the drier regions—particularly in some of the heavy soils—and, as the quotation indicated, it has added an enormous amount to the prosperity of Western Australia and to the Western Australian agricultural industry.

In the article to which I have referred, reference is made to diagrams which appear on pages 88 and 89. These indicate that over the past 15 years some 80 per cent. of all pasture, as improved, has advanced some 75 miles. In other words, the boundary of this improved pasture has extended 75 miles in that 15-year period. That may not sound a great deal, but in actual fact it works out at the rate of one yard per hour. This is in terms of pasture legume clover which is advancing into the agricultural areas.

I think Mr. Wise made reference to the production of seeds in Western Australia and there was some discussion between him and the Minister for Local Government in relation to the actual quantity of various types of seed produced. The statistics which were talked about at that time are included at page 99 of the journal from which I have been quoting. They reveal that with regard to pasture seed production for 1966-67, Western Australia is far in excess of any other State, with a production in that year, covering all pasture seeds, of 11,001 tons.

Of particular concern to us at the moment is barrel medic seed and the production of this seed in that year was 1,082 tons. The only other State producing any significant quantity of this seed was South Australia which produced 258 tons.

As I said, the total production for all pasture seeds in Western Australia was 11,000 tons, and the next nearest State in that year was New South Wales with a total production of 4,720 tons.

This Bill is important, because although at the moment it represents the wishes of only 30 or 36 growers, we must remember that a vast amount of country in Western Australia is yet to be developed and improved pasture-wise. An enormous potential remains and it is possible that this industry could well grow and at some time involve a great many other seeds as well.

The pasture seed production for the year 1967-68, covering all the medics introduced and cultivated in Western Australia, was, according to a graph on page 97 of the same journal, 532 tons, which is virtually only half the crop recorded in the previous year.

The Hon. L. A. Logan: What was the area for 1967-68?

The Hon. N. McNEILL: It does not give the area in this article, but only the actual production. I am sorry I cannot supply that information.

It must also be noted that this seed is valuable not only to Western Australia, but also to the other States and, to some extent, possibly overseas. In the same article, but under the subheading of "The marketing of pasture seeds," it is reported

that 80 per cent. of the seed produced in this State is subsequently planted by Western Australian farmers. This is of some significance, and I will make reference to it a little later in the course of further explanation of the Bill. But, I repeat, 80 per cent. is subsequently planted by Western Australian farmers.

The factors affecting this local outlet are of prime importance to the seed producer. The article to which I have been referring is headed "Pasture Seed Production in Western Australia," and was written by Mr. B. J. Quinlivan, Adviser, Seed Certification and Weed Control Branch of the Department of Agriculture. He commences his article with the following:—

> Pasture seed production in Western Australia is an industry with a somewhat turbulent past. Booms and slumps have been the rule rather than the exception. However, during the past few years there has been some degree of "stability"—if not in price, at least in terms of total production.

So, in an official document of the Department of Agriculture, reference is made to the variability which has occurred in the production and marketing of pasture seeds. Concluding his article, Mr. Quinlivan states—

> Up to the present the production of pasture seeds in Western Australia has not been subject to any regulation or control—the standard laws of supply and demand have been the main operative factors. At times this situation has led to wide price fluctuations within relatively short periods. Frequently, sound judgment in selling seed has been as important to the successful producer as his actual efficiency of production. However, moves are now afoot to regulate, in some form, the marketing of pasture seed.

Therefore, in March, 1969, the moves being made towards the establishment of a marketing board received a certain amount of support from the Department of Agriculture itself, and, more particularly it might be interpreted, from Mr. B. J. Quinlivan, of the Seed Certification and Weed Control Branch.

I would like to refer to the Bill, my support for which I have indicated in general terms. I do not wish to be misunderstood, however, because while I give the measure my support, I cannot share any great enthusiasm about the necessity for a statutory board at this point in our history.

Members will have noted that I have a number of amendments on the notice paper which I consider are designed to effect certain things. I have referred to the fact that commodity boards—or any boards for that matter—must have the acceptance of the people who are involved and interested in their activities. A board must have a general acceptance and confidence must be felt on the part of those who, in this case, would be the producers and who supply the raw materials for the operations and activities of the board. There must also be an acceptance of the board and confidence must be felt by all consumers and those who are required to share in the benefits or the disabilities of the operations of such a board.

The position arises sometimes in the operation of boards where the individual is not left to use his own judgment. I refer back to the article written by Mr. Quinlivan when he said that judgments exercised by producers have been terribly important to overall efficiency. Under the operation of a board so much of this control is taken away from the individual. This makes it all the more necessary that there shall be a high degree of confidence initially in the board and at all times during the operation and the life of the board. The amendments I have placed on the notice paper are designed to achieve this.

It will be noted that the Bill provides for a board of six people. Two of those are to be producers who are elected by producers. In other words, there would be two grower and producer representatives elected by 30 or 36 producers.

The third member is to be a producer nominated by the Minister. This means that, out of a total membership of six, three people will represent 30 or 36 growers, approximately.

Then there is a consumer representative who, I assume, would be another farmer who would purchase seed for the purpose of growing it on his own property. This representative is to be nominated by the Minister. There is to be another consumer representative nominated by the Minister who will, in fact, represent merchants, seed selling agents, and so on. The sixth person is the chairman who will be a person who is not connected with the industry in any shape or form. He will be nominated by the Minister and would only have a deliberative vote.

I refer back to some of the articles I mentioned in respect of the number of farmers who would be making use of pasture seed production. The departmental journal said that some 80 per cent. of Western Australian seed production is in fact used in Western Australia. Whether 80 per cent. of the production represents 500 tons or 5,000 tons, it means that the farmers in this State—our own people—will be the ones who will either receive a share in the benefits or suffer the disabilities of the decisions of the board. There could foreseeably be thousands of farmers involved as consumers, but 36 producers have a representation of three on the board; in other words, a 50 per

cent. representation of the board. The other 200 or 5,000 consumers of this product—whatever the number might be—are entitled to only one representative and he shall be nominated by the Minister.

If the board is to be accepted with confidence so far as the people generally are concerned, we should not prejudice it by weighing too heavily its constitution and membership. I would like to see the number of members on the board reduced by one so as not to include the producer representative nominated by the Minister. I believe this would be far more equitable.

The Bill also provides that the two producer members would be elected for a period of three years, although they could be available for re-election at the end of that time. However, the other four members of the board who are nominated by the Minister would be appointed at the Governor's pleasure. Once again, I believe this could lead to some dissatisfaction and some discontent being felt in the community if an issue arose. I know from my experience of the operation of many commodity marketing boards in this State that it becomes very difficult sometimes to pacify people who are discontented and to convince them that their affairs are being adequately cared for by the members on the board.

In fact, when members of a board are nominated for a term to suit the Governor's pleasure, it becomes extremely difficult and sometimes most embarrassing to try to change the membership. Generally speaking, the situation has to be very serious before the Minister is prepared to take action to remove any person from membership of a board. Consequently, we find this very rarely happens.

In the operation of some boards members will have noticed that growers themselves sometimes exercise the right to change the membership of the elected representatives if, in their view, the board has not been operating satisfactorily. We have seen this happen within the last few years in the case of one particular board which has received a great deal of publicity over some of its actions and, on occasions, has received the attention of members of the House.

The Bill provides, too, that the Minister shall determine the compensation. In other words, when the cyprus barrel medic seed has been delivered to the board or received by an agent of the board and is marketed, clause 26 of the Bill provides for claims for compensation. After receiving the recommendation of the board, the Minister shall determine the amount of compensation to be paid. Pending the determination of a claim, the board may, with the consent of the Minister, make, at such time or times and on such terms and conditions as the board thinks fit, advance payment or payments on account of the claim.

I have made particular reference to this because the question has arisen as to whether or not there is a need for a right of appeal to be included in legislation of this sort. I must confess I shared the view for some time that there should be a right of appeal, until it was pointed out to me that the principal item in this Bill under which some right of appeal could perhaps have been exercised was in respect of compensation; that is, the payment of money. However, the board would not be the authority which would determine the compensation; the Minister shall determine the amount of compensation to be paid. This throws the responsibility right back on the Minister. Under these circumstances the necessity for a right of appeal has been obviated and I would not pursue that aspect at all.

I would like to make some reference to one other matter in connection with which I have placed an amendment on the notice paper. I refer to the right of entry and the right of search which, I feel, are anathema to very many people in a society such as ours, but it seems to be necessary to some extent for the conduct of commodity boards, statutory authorities, and so on.

The Bill provides that a duly authorised officer of the board can enter and search premises where he believes seed may be found. He may search any place or vehicle. Also, under the provisions of this measure, he would have the right to examine all books of account and make all inquiries necessary to determine whether seed does exist and to take the necessary action if he found such cyprus barrel medic seed.

It would be difficult to establish a board, give it the necessary powers, and provide for it to be able to exercise the right degree of control to enforce what might be considered desirable practice without, at the same time, putting teeth into the legislation—to use an expression which is so frequently mentioned these days. One must allow the officers to exercise an adequate amount of authority so that the appropriate action can be taken if breaches of the law occur. However, I consider that some restraint should be placed upon this so that there is not simply a general right of search and of access.

The amendment on the notice paper states—

> Provided that before acting pursuant to such authority such person must be satisfied on reasonable grounds that an offence has been or may have been committed under the Act.

In other words, there would have to be a degree of assurance and a reasonable suspicion that an offence had been committed under the Act before the person could exercise the right of entry and search.

The legislation before the House is based very largely on the Marketing of Barley Act. However, in that Act provision is made for an officer of the Police

Force, authorised by the board, to exercise the power of entry and search where seed is thought to exist. Of course, the police have certain powers but certain restrictions are placed upon them; it is even necessary for the police to obtain authority before exercising this particular function. This Bill does not provide for the police to have this right but simply for an inspector of the board.

I think it will be appreciated that people sometimes express a little dissatisfaction over the operation of statutory authorities. Without in any way reducing the effectiveness of the legislation, I think it is highly desirable to consider at the same time the rights and freedom of the people, which should be respected. These people would be further benefited by the amendment.

With that explanation there is little more I need to say on the subject at this time, although after making reference to my notes perhaps I could make one further point. I noted that, in his second reading speech, the Minister made reference to this, and it comes back to the question as to whether or not there is any need for a board. I can be corrected if I am wrong, but I think the Minister pointed out that this may be regarded as being a pilot scheme, but I suppose it is a little more than that.

In actual fact, it is pioneering the orderly marketing of this type of agricultural produce. As it is designed to effect stability within the industry, I must give my support to the Bill, because stability can work both ways.

I hope the House will take note of some of the points I have made, because I believe they are important. In my opinion there is little justification for the setting up of authorities of this sort, particularly when the legislation is designed to benefit a small group and, quite possibly, will be to the detriment of a great many others.

It is essential that the board shall commence its operations with the greatest prospect of success, and to this end I would like to think that the amendments to the Bill which I propose to move might be acceptable to the House, because they may at least give the board some opportunity to operate free of controversy and conflict—instead of being placed in the same position as other boards—and so assist it to achieve its objectives. In themselves these objectives are worthy in an effort to bring about a more satisfactory situation than we have known with agricultural commodity boards over the last 10, 15, or 20 years. With those remarks, I support the Bill.

Debate adjourned, on motion by The Hon. E. C. House.

House adjourned at 10.18 p.m.

Legislative Assembly

Tuesday, the 21st October, 1969

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

BILLS (3): INTRODUCTION AND FIRST READING

1. Northern Developments Pty. Limited Agreement Act Amendment Bill.
2. Land Act Amendment Bill (No. 3).
3. Road Closure Bill.

Bills introduced, on motions by Mr. Bovell (Minister for Lands), and read a first time.

QUESTIONS (15): ON NOTICE

1. LAND

Reserves: Metropolitan Area

Mr. RUSHTON asked the Minister representing the Minister for Town Planning:

(1) What is the location, acreage and intended use of the reserves of 500 acres and over under the control of the Metropolitan Region Planning Authority and within the metropolitan region?

(2) What is the acreage of the metropolitan region?

Mr. LEWIS replied:

(1) (a) An area of 663 acres along the Darling Range escarpment, north of Kelmscott, and east of Gosnells, and

(b) an area of 2,131 acres at White Lake, Rockingham. Both these areas have been acquired for recreation purposes.

(2) 1,333,739 acres.

2. WORKERS' COMPENSATION

District Allowance

Mr. BICKERTON asked the Minister for Labour:

(1) In areas where a district allowance is paid in addition to normal wages, is this additional allowance taken into consideration when a workers' compensation rate is being calculated?

(2) If so, to what extent?

(3) If not, why not?

Mr. O'NEIL replied:

(1) to (3) No provision is made for a district allowance component in the calculation of weekly payments of compensation (which are