Legislative Council

Tuesday, the 16th October, 1973

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

QUESTIONS (5): ON NOTICE

1. KALAMUNDA ROAD

Perth Airport Extensions

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

(1) Are there any proposals to close portion of the Kalamunda Road, west of the standard gauge railway, for the purpose of providing extensions to the Perth Airport?

(2) If so, will the Minister supply full details of the proposals?

The Hon. J. DOLAN replied:

(1) The State Government is not aware of any extensions to the Perth airport which will require the closure of portion of the Kalamunda Road west of the standard gauge railway.

(2) Answered by (1).

2. MEAT

Inspection and Disease Control Levies

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

(1) Has the Department of Agriculture had a meeting with representatives of the meat producers of Western Australia for the purpose of determining their attitude to the proposed Federal inspection levies and disease control levies?

(2) If so, what was the attitude of the meat producers of Western Australia?

(3) Has this Government made any representation to the Federal Government in this matter?

(4) If so, what were the representations made on behalf of Western Australians?

(5) Is there any evidence to show that any levy on export beef would channel beef from the Kimberley exports to the metropolitan market?

The Hon. J. DOLAN replied:

(1) and (2) The Department has not met with producer organisations but is aware of their views and of the concern expressed by the organisations to the Federal Government.

(3) and (4) The Minister for Primary Industry was informed by the Hon. Minister for Agriculture of the concern which was felt concerning the possible imposition of the meat export tax. No specific mention was made of the proposed meat inspection and disease control levies.

(5) There is no evidence to suggest that the level of the proposed levies would have the effect that the Hon. Member has suggested.

3. MEMBERS OF PARLIAMENT

Staff and Offices

The Hon. R. J. L. WILLIAMS, to the Leader of the House:

(1) In view of the provisions of the Constitution Act and the Parliamentary Privileges Act, which appear to confer like and equal privileges on members of both Houses of this Parliament, will the Minister inform the House whether the published decision of the Government to provide electorate offices and staff for members of the Legislative Assembly infers that the same privileges will be available to members of the Legislative Council?

(2) If not, why not?

The Hon. J. DOLAN replied:

(1) and (2) The Government has decided to limit the provision of these facilities to Members of the Legislative Assembly, as is the practice in South Australia.

4. WELSHPOOL ROAD

Upgrading

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

What arrangements have been made by—

(a) the Main Roads Department; or

(b) the Local Authority;

to reconstruct or improve the Welshpool Road carriageway in the vicinity of Kewdale Road and Wharf Street, Welshpool?

The Hon. J. DOLAN replied:

(a) The Main Roads Department has assisted the local authority by preparing designs for channelised intersection treatments at Treasure Road and Kewdale Road/Hamilton Street. Estimates are awaited from the Council before the matter of financial assistance can be considered.

(b) The local authority is designing the section of Welshpool Road from Treasure Road westwards towards Mills Street for construction and widening,

including channelised intersection treatments at Treasure Road and Kewdale Road/Hamilton Street. The Council has included $35,900 in its 1973-74 programme for this work.

5. LOCAL GOVERNMENT

Kalamunda: Appeals against Valuations

The Hon. F. R. WHITE, to the Minister for Local Government:

(1) Is the Minister aware—

(a) that some appeals, against valuations within the Shire of Kalamunda, which were lodged during the months of October and November 1971, have not yet been determined by the Valuations Appeal Court;

(b) that those appeals were adjourned *sine die* on the 23rd February, 1972, for the purpose of awaiting a decision on the appeal Number 2263 submitted by C. and A. Mileti;

(c) that as a result of the Supreme Court finding on the 22nd November, 1972—which directed that the Valuations Appeal Court was competent to consider the Mileti case—the Valuations Appeal Court reconsidered the Mileti case on the 8th March, 1973;

(d) that the Valuations Appeal Court, on the 22nd June, 1973, allowed the appeal in favour of the appellants, C. and A. Mileti;

(e) that—as a result of the fact that those appeals referred to in (a) above have not yet been resolved—the Shire of Kalamunda has been prevented from legally adjusting its ratebook; from refunding overcharged rates; and has been compelled to request the payment of outstanding, unlawfully assessed rates for the 1971-72 financial year, from the appellants, who are in a quandary concerning their security under the provisions of section 588 of the Local Government Act which provides for the sale of land when rates are outstanding for a period of three years or more?

(2) Will the Minister take immediate action to—

(a) have the Valuations Appeal Court make determinations on all outstanding appeals referred to above; and

(b) authorise the Local Authority to adjust its ratebook and accounts to conform with the Valuations Appeal Court decision on the Mileti appeal?

(3) Will the Minister provide me with a copy of all details concerning properties which will require the refund or cancellations of rates for the 1971-72 year as a result of the Mileti decision?

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

(1) (a) to (e) Yes.

(2) (a) No, as this is not considered necessary as Council is making the necessary adjustments.

(b) Yes. The write-offs will be approved under the provisions of Section 575 of the Local Government Act.

(3) Yes, after the action mentioned under (2) (b) has been completed.

SHIRE OF ARMADALE-KELMSCOTT

Disallowance of Health By-law: Motion

Debate resumed, from the 11th October, on the following motion by The Hon. Clive Griffiths—

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

Amendment to Motion

THE HON. R. J. L. WILLIAMS (Metropolitan) [4.43 p.m.]: I wish to move the following amendment standing in my name on the notice paper in order to further clarify the motion—

Insert before the word "By-law" in line 1 the words "the amendment to".

Amendment put and passed.

Debate adjourned until Tuesday, the 23rd October, on motion by The Hon. D. K. Dans.

INDUSTRIAL AND COMMERCIAL EMPLOYEES' HOUSING BILL

Second Reading

THE HON. R. THOMPSON (South Metropolitan—Minister for Police) [4.45 p.m.]: I move—

That the Bill be now read a second time.

The post-war era in Western Australia has seen many efforts to foster local activity by new enterprises founded on the question of guaranteed housing for the required work force. In virtually all country centres labour is not available in sufficient numbers or required skills within the district and must be attracted from elsewhere. Understandably, workers have

been reluctant to accept engagement in the absence of housing for themselves and families in the near locality while existing arrangements for provision of housing have not permitted building in advance for employees of specific enterprises.

It would perhaps be useful at this stage to recall briefly some of the procedures which have been tried, and indicate why they have not given the complete answer to what is required. While doing so, it is pertinent to keep in mind the context of the problem now sought to be resolved. The basic concern is with the smaller enterprise without substantial backing, whose limited capital resources and repayment capacity are required for plant and equipment, and which desire to establish in a centre where consistent, actual, and potential demand for housing is not strong enough to attract private sector investment in rental housing. At the same time few, if any, employees would envisage a long term engagement warranting purchase of a home in a centre where sale could be difficult or involve substantial loss when they wished to go elsewhere.

In the early post-war years non-metropolitan housing was provided almost wholly by the Housing Commission, which, in addition to its normal clients, was expected to provide accommodation for Government officers, local government employees, key personnel for local enterprise, and some general employee housing. In general, housing in the special categories was provided to the employer as head tenant who was required to guarantee rentals with the right of selection of the actual employee tenant.

Although this was persevered with for some years the system was very unsatisfactory, often resulting in commission homes being occupied by ineligible tenants, the commission virtually losing control of part of its housing stock, and great difficulty being experienced with unsatisfactory tenants and recovery of the tenant-liability proportion of maintenance—mainly damage—beyond fair wear and tear.

So the procedure was eventually discontinued and rent guarantee housing phased out because of legal advice that such arrangements were beyond the statutory power of the Housing Commission, and were likewise not appropriate under Commonwealth and State Housing Agreements. In essence the Housing Commission is required to confine its operations to housing of eligible applicants only and must deal only with the individual tenant family. It cannot provide housing, under rent guarantee of an employer, which is reserved for employees of a particular enterprise.

Several moves have been made to fill the gap resulting from the Housing Commission's enforced withdrawal from specific housing support. The Government Employees' Housing Authority has been established to look after housing of government officers such as teachers, salaried public servants, police, and Department of Corrections' employees.

The Local Government Act has been amended to permit local authorities to borrow for the purpose of providing housing for rental, lease or sale, to employees and others. Some success has been achieved in using this source for employees and for some Government employee housing. At least one scheme is also proceeding with local government housing support to a local enterprise, even though on a limited scale. As a general answer to employee housing for industrial/commercial ventures this approach is limited through Loan Council constraints on local authority borrowing, and other demands on local government capital funds.

The building society movement has been actively promoted and emphasis given to servicing housing outside the metropolitan area. With guarantees available under the Housing Loan Guarantee Act and insured mortgage facilities, there is virtually no risk to the lender in supporting employee housing in country centres. However, lenders are reluctant to participate substantially, perhaps because of doubt that the enterprise will remain viable for sufficient time to allow repayment of the housing advances. Likewise prospective industry employers face some difficulty in raising the necessary 5 per cent. or 10 per cent. equity required for building society financing, or are doubtful of the capacity and willingness of employees to find the equity for individual houses.

From my preceding remarks it will be appreciated that there is still a major gap in the machinery necessary to attract and retain viable enterprises in country centres. Even essential servicing facilities —such as mechanics for vehicle and farm machinery repair—cannot be stabilised under the existing structure.

It is to fill this gap that the Bill now before the House has been introduced. Broadly, it proposes to establish an authority with power to raise funds to provide housing for essential industrial or commercial employees outside the metropolitan area. Employees of Government departments serviced by the Government Employees' Housing Act, or of municipalities under the Local Government Act, are specifically excluded.

To be eligible for housing provided by the authority, an employee must be engaged by an employer whose enterprise is accepted by the authority as being of significant benefit to the community wherein it is established, or to the State. Except in special circumstances approved by the authority he must also be within the income limit prescribed for eligibility under the State Housing Act.

The authority is to consist of five members. The chairman must have State-wide experience on a comprehensive basis encompassing planning, provision and management of housing. The Department of Development and Decentralisation is to be represented by the permanent head or his deputy. Other members are to be representative of the Chamber of Commerce, the Chamber of Manufactures, and the Trades and Labor Council. This composition will allow policy viewpoints, overall strategy, and the interests of employers and employees to be taken into consideration by the authority.

To extend the amount of housing capable within the finances of the authority, and to overcome the equity requirement in building society financing, it is also proposed to authorise the Treasurer to issue guarantees in respect of private loans arranged by employers from institutional financiers and to be applied to the housing purposes of the Act.

The authority will not be an autonomous body, but will be responsible to the Minister for Housing in the administration of the scheme. Apart from the purpose of its establishment, the classes of people eligible to participate, and the composition of the authority, provisions in the Bill follow broadly the Government Employees' Housing Act which has been operating satisfactorily for some years.

It must be emphasised this Bill does not propose to supplant any of the existing arrangements which have been detailed earlier. Contributions will still be expected from local authorities, and from employers through building societies.

This Bill is intended to provide complementary machinery which will overcome the shortcomings of present systems and provide a comprehensive coverage to permit a positive and practical contribution to the permanent establishment of viable enterprises in country areas as a stable base for their development.

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

UNIVERSITY OF WESTERN AUSTRALIA ACT AMENDMENT BILL

Second Reading

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [4.55 p.m.]: I move—

> That the Bill be now read a second time.

The need for this measure arises from the decision of the Australian Government to take full responsibility for financing tertiary education from the beginning of 1974.

The rate of expenditure on tertiary education being made by this State was greater than the rate of increase in our financial grant from the Commonwealth.

We are in fact being relieved of an obligation, the cost of which was increasing at a rate in excess of the growth rate of our resources.

The amounts of recurrent expenditure of which the State is being relieved are being deducted from the financial assistance grants otherwise payable and sums equal to capital expenditures which the State would have incurred from the 1st January, 1974, are being deducted from Loan Council programmes.

Although there is no immediate monetary benefit to the State from the transfer of these expenditures to the Australian Government, the future growth in expenditure in this State on tertiary education is likely to be greater than the growth in Commonwealth payments to the State and therefore the State should ultimately gain from the move. So it is clear that in the long term the State must benefit.

It may be said that it is tidier, administratively, to have a single authority responsible for assessing and financing tertiary education programmes.

The University of Western Australia Act provides for the payment to the Senate of the sum of $500,000 in every year together with such additional amounts as may be appropriated by this Parliament from time to time.

This provision will not be required after the end of this calendar year and the Bill accordingly provides for the required amendment from the 1st January, 1974.

Debate adjourned, on motion by The Hon. R. J. L. Williams.

OFFICIAL PROSECUTIONS (DEFENDANTS' COSTS) BILL

Second Reading

Debate resumed from the 11th October.

THE HON. I. G. MEDCALF (Metropolitan) [4.58 p.m.]: This Bill represents an entirely new departure from the previous practice in respect of the payment by the Crown of the legal costs of a successful defendant. In the past when anyone was accused of an offence and acquitted such person had to pay his or her legal costs and sometimes the costs could be quite considerable if a great deal of work had been performed in the preparation of the case, or if the case were protracted in some way.

I am pleased the Government has introduced the Bill, because I have felt for some time that its provisions are probably justified. Its introduction follows a report by the Law Reform Commission which considered this question and came to the conclusion it was desirable for the defendant or the accused to have his costs paid in certain cases.

The Bill will apply to an accused who is acquitted of certain offences or where the police, the Crown, or the prosecuting

authority withdraws a charge, or where the police, the Crown, or the prosecuting authority decide not to proceed with the charge. It will be noticed that I refer to the prosecuting authority. The measure applies not only to the Crown but also to a local authority. The local authority, for example, may charge a person with taking soil from the roadside or with some other offence under the Local Government Act and if the prosecution is unsuccessful and the defendant is acquitted, he will be entitled to claim his costs from the local authority which will have to pay the costs out of its general funds. This is set out in clause 5 (1) which reads—

> Subject to this Act a successful defendant is entitled to his costs.

The provision is kept very simple. It does not say he may be awarded costs at the discretion of the court, but that he is entitled to his costs from the Crown or the authority concerned. The question arises as to what is a successful defendant and this is answered on page 3 where it states—

> (2) A defendant—
>
> (a) is successful if the charge is dismissed, withdrawn, or struck out, or a conviction thereon is quashed;

The Bill also includes a definition of a partly successful defendant. If a defendant is partly successful he may get a proportion of his costs. For example, if a defendant is successful in regard to one charge, he may get part of his costs being those in respect of that charge, bearing in mind that sometimes a defendant is charged with a whole series of offences. He might be charged with five offences and succeed on one and fail on the other four, in which case he would be partly successful and would be entitled to part of the costs. Likewise the Crown might charge a man with a serious offence and with a less serious offence. Sometimes the Crown fails to prove the more serious offence, but proves the less serious offence. If the defendant is acquitted on one of those charges he may get part of his costs because he is partly successful.

I want to make it clear that the Bill refers only to Courts of Petty Sessions and appeals; that is, courts which deal with summary trials and appeals from summary trials. This means that an appellant before a superior court would be entitled to his costs, but a defendant in a criminal trial before the Supreme Court is not entitled to costs unless he is involved in an appeal. This is a defect in the Bill.

A scale of fees is laid down so that extensive costs will not be paid by the Crown; and certain exclusions apply in which cases the Crown or the authority concerned does not have to pay the costs. The first of these exclusions relates to an accused who has a charge dismissed under section 669 of the Criminal Code because he is a first offender. As members are aware, if an accused is a first offender and the charge against him is proven, the charge can be dismissed under section 669 on the ground that the accused is a first offender and the circumstances warrant the dismissal of the charge. In those circumstances the offender does not get his costs because, in effect, he is guilty, but is acquitted by virtue of clemency.

The second exclusion relates to unreasonable conduct of the accused which conduct contributes to the institution of the charge. We know that in some instances people give false information to the police as a result of which they are charged. However, subsequently the people concerned are acquitted because they are not guilty of the offence with which they have been charged. They are guilty of having given false information, but not of the offence with which they are charged. In these circumstances it is only just that the Crown should not pay the costs, because the accused gave false information which led to the charge being laid against him.

The third exclusion concerns the accused who does something to prolong the hearing and make it unduly protracted. For example, he could call a great number of unnecessary witnesses or, perhaps, in some other way protract the proceedings. I think we all agree that in those circumstances it would not be fair to make the Crown pay the costs. Those are the three exceptions.

I have only two brief comments to make. The first one is that I commend to the Government the suggestion that the provisions of the Bill should apply to criminal trials as well as summary trials. I presume this will be the case on some future occasion. I make this suggestion because if it is good enough for the provisions to apply to a man acquitted at a summary trial then it is good enough for them to apply to a man acquitted at a criminal trial in the Supreme Court.

My second comment is that I believe it is a good thing that the Crown and local authorities will in future have to appreciate what private citizens must appreciate now; that is, that if they bring proceedings and fail, they will be liable for the costs. This is a deterrent to unnecessary litigation and will now apply to the Crown and local authorities. In rare cases the Crown does institute proceedings without seeking proper advice from the Crown Law Department. For example, the police might institute a proceeding without first having taken complete advice. I believe the provisions in this Bill will be a safeguard to the public because in future before the police institute proceedings they will take

the advice of properly qualified legal officers to ensure they have a justifiable case because they know now that the Crown will have to pay costs if the accused is acquitted. The same will apply to local authorities. They will not enter into proceedings in a cavalier fashion because they will know before they commence that if they lose, the chances are that in nine cases out of 10 they will have to pay costs to the successful defendant.

I believe this will be a beneficial Bill, and in supporting it I commend the Government for its introduction.

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [5.07 p.m.]: I thank Mr. Medcalf for his support of the Bill which has received public commendation. The Bill involves a subject which has been under consideration for a long while and now that a move has been made it has been widely supported.

The honourable member has made two comments. He firstly suggested that eventually the principle should be extended to criminal trials, and this is a most worthy suggestion. It has already been mentioned in the Press and in other places, and the feeling is that this is a kind of natural corollary to what has been done already.

His second comment was that the passing of the legislation will mean that not only the Crown, but also local authorities and public bodies will give careful consideration to their position and will appreciate it before they institute proceedings which should have been more carefully considered beforehand. I will bring to the attention of the appropriate authorities the two points the honourable member mentioned. I again thank him for his support of the Bill which I commend 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.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

Second Reading

Debate resumed from the 11th October.

THE HON. L. A. LOGAN (Upper West) [5.11 p.m.]: As the Minister rightly pointed out, this Bill is designed to make provisions in readiness for the introduction of the Uniform Building By-laws which will be applicable to all States of Australia.

I can well recall the commencement of the mammoth task involving these by-laws. The problem was dealt with by the Ministers for Local Government at their conferences and I can remember that at that time the Commonwealth had given notification that it intended to close down its experimental building station. However the six State Ministers were successful in persuading the Commonwealth Government that such a move would be wrong in principle because the station was a very valuable asset and would be of great benefit in the future. This contention has been proved correct because the States, through the organisation established to deal with the code, have used the station many times; they have used it as a secretariat. Consequently it has played a very valuable part in the drawing up of the by-laws.

I do not know what the cost has been to each State, but I know this State has been involved in plenty. The Secretary for Local Government and one of his officers have had to journey to the east at least once every three months to attend the conferences held in various parts of Australia in an endeavour to reach agreement on the Uniform Building By-laws.

The first aspect involved the fire brigades and those concerned took about 2½ years to reach finality on it. For 10 years at least the States have been working on a uniform code for the benefit of everyone concerned and as far as I know this Bill is designed to amend the Act only to make provision for the adoption of the Uniform Building By-laws in Western Australia.

I understand that New South Wales and South Australia are already operating under the new code and I can see no objection to the legislation. Under the Bill section 373 of the Act is to be repealed and re-enacted and in the re-enactment one provision has been omitted; that is, the necessity for a council to engage a building surveyor in connection with the Uniform Building By-laws. The provision may be covered under the by-laws themselves but, unfortunately, we have not as yet seen a copy of the by-laws which, I understand, are pretty voluminous and would take some time to study. Perhaps the Minister might give some information as to why that provision has been omitted.

At the moment in section 373 of the Act it is the council who seeks the right in connection with an area it wants declared and where part of the Act need not be proclaimed; and particularly where the uniform building by-law does not apply to that part of the district.

In the provision contained in the Bill the council is not even mentioned. The provision in clause 3(2) states that the Governor may, by order, etc. I wonder whether the Minister can give me some explanation why the council's right has been removed from the Act and why the Governor is given this right of his own accord.

Clause 5 deals with new section 374B. It refers mainly to cases where there is an emergency. There was such an emergency recently when a storm unroofed a building and damaged it considerably and where urgent repairs were necessary.

Under the provisions of the old by-laws people could not proceed with their renovations or repairs until such time as plans and specifications had been submitted to and approved by the council. In such cases of emergency one can appreciate how stupid such a provision is and how difficult it would be to apply in a practical sense.

The provision in the Bill before us permits repairs to be made straightaway and for the council to be notified later in writing. I think this is a very good idea, but I do suggest that it would be of some advantage if provision were included for the town or shire clerk to be notified immediately by telephone—if this were at all possible—and later for him to be notified in writing of the damage that had been done and send the plans and specifications necessary for the ultimate repairs and renovations.

I think the council should be notified as early as possible so that its building inspector can inspect the building and prepare a report from the council's point of view. If this notification were done in writing a week could possibly elapse before the council had any knowledge of what was happening. I hope the Minister will give some consideration to this aspect.

Clause 6 adds a new section 374C to the present Act. This provides it is no longer necessary to notify building classifications. At the present moment when anybody applies for a building license it is necessary for him to show on his building plans the classification of the building or the intention for which it is to be used. As I have said, this will be no longer necessary; the council may zone and classify the building. The only restriction contained in the clause is that the council cannot classify a building for any purpose other than that for which it is being used. I see nothing wrong with that provision.

Sections 381 and 382 are to be repealed by clause 7 of the Bill. I now pass to section 433 which is repealed and re-enacted by clause 8. At first glance there may appear to be a great deal of difference between the old section 433 and the section as it is to be re-enacted. In effect, however, there is little difference. Under the present provision there are 36 by-law-making powers whereas the Bill before us provides for 40 new by-law-making powers, three of which apply to fire zones.

These fire zone by-laws are already in operation in Victoria. This was one of the earlier parts of the Uniform Building By-laws which the States eventually agreed to accept. Accordingly, although there appears to be some difference in the wording, the phraseology, the parts and the numbering, there is no real difference. It is apparent the new section as re-enacted will strengthen the provisions of the Act to some extent. It is necessary to strengthen these provisions because of the new Uniform Building By-laws which are to be introduced.

I now refer to clause 9 which seeks to re-enact section 433A. I have always thought this to be the law; that is, where the council had adopted a uniform building by-law and an alteration is made in the uniform building by-law I have always been of the opinion that it automatically followed that the council's by-law would have to follow suit without the necessity for an Order-in-Council.

Apparently, however, this has not been the case. The provision contained in clause 9, however, ensures that where an alteration is made—where an amendment is made to the Uniform Building By-laws—this would automatically apply to the Council without the council having to go through the rigmarole of all that is required in connection with a uniform by-law.

All in all there is nothing very much wrong with the Bill. As the Minister has said, it amends the present Act and makes provision for the model Uniform Building By-laws which will eventually apply to every State in Australia. I do believe that these provisions could be of some benefit to builders, architects, and others who may be responsible for buildings.

I would have liked to have a look at the Uniform Building By-laws as they are proposed, but I realise this may not be possible at this stage because they may not be ready. I am sure, however, we will have an opportunity to study these by-laws later, and I hope and trust they fit in with our line of thinking so far as such building by-laws are concerned.

I support the Bill.

THE HON. J. HEITMAN (Upper West) [5.23 p.m.]: Like Mr. Logan I also rise to support the Bill. I feel that the proposal to amend some of the provisions of the Act is well overdue. It is pleasing to see that some parts of the State will not need to comply with the Uniform Building By-laws.

Under new section 373 it will be possible for the Governor-in-Council or the Minister to say that areas in the north-west and those in outlying country districts may be exempt from particular building by-laws.

I am glad to see that provision is made in the Bill for repairs and renovations to be carried out immediately in cases of emergency, without the necessity for reference having to be made to anybody. This is most necessary. Mr. Logan did mention that perhaps the shire clerk could first be

notified by telephone of the damage that had been caused and that this could be followed up by a notification in writing.

I feel, however, that where serious damage occurs—where a house has been demolished or unroofed—it generally receives fairly wide coverage in the Press, and for this reason it may not be necessary to notify the shire clerk immediately; though I feel sure that the majority of people would do just that. I think the provision contained in subsection (6) of proposed new section 374C is a good one. It reads—

> (6) If as a result of any building work, the type or standard of construction of a building of a particular classification would cease to conform with the requirements of this Act for a building of that classification, the council may refuse to approve the building work.

I say this is a good provision because in many country districts it is possible to see a street of fairly reasonable houses and then come across one which is substandard —almost slum standard. In such cases the local authority has no chance of preventing the building of this type of slum house. Such houses can be built as long as the floor plans are right. The building surveyor will say, "Well, it has four rooms and the walls are right", but the general appearance of the place is usually substandard, and in many districts the shire clerk is not able to say, "This is not the type of house we require; it could be improved at the same cost." Such houses are, of course, constructed by mug builders. I feel these buildings should comply with a certain standard.

I think we should aim at all times to have decent houses constructed rather than be prepared to accept houses which are of a slum standard.

As Mr. Logan has already explained there are three new by-laws—11, 12, and 13—which refer to fire zones. This is a good provision and it is something which should have been included in the original Act. Many of these things, however, may have been overlooked from time to time as a result of our having had to consider long and innumerable clauses which go to make the Local Government Act. It is for this reason that certain provisions were overlooked at the time.

I will not hold the House up any longer. I think the Minister and his department have done a good job in bringing this Bill forward and I give it my support.

Debate adjourned until Tuesday, the 23rd October, on motion by The Hon. Clive Griffiths.

PAY-ROLL TAX ACT AMENDMENT BILL

Second Reading

Debate resumed from the 10th October.

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [5.27 p.m.]: First I would like to thank Mr. Medcalf and Mr. Wordsworth for their contributions to the debate.

Mr. Medcalf traced the history of pay-roll tax and raised the issue of other ways of solving the State's need to obtain sufficient revenue to provide the services the community requires. I do not think anyone would quarrel with his statements that there are better ways of meeting the State's needs than imposing a pay-roll tax. However, the plain fact is that we have no option but to raise essential revenue in this way, and I note that Mr. Medcalf, with his usual sensible reasoning, has reached the same conclusion, despite his obvious objections to the type of tax involved.

The other issue raised in his speech was that relating to decentralisation. This issue has already been raised previously in connection with this legislation and again in another place.

It is the firm view of the Government that the best way to promote decentralisation is by means of selective incentives. Incentives built into taxation legislation cannot by their nature be particularly selective and, therefore, generally do not completely attain their objectives. Quite apart from deciding on the best type of incentive to use, it is clear, in the current financial circumstances, that the State cannot afford to forego revenue and, therefore, if reductions in taxation collections are to be made, they must, of course, be recovered from some other source. In simple terms, this means that if some pay less, then the remainder must pay more. For these reasons the Government prefers to pursue its present policy of providing selective incentives for decentralisation, which is the basis of the incentives granted in Victoria, a State which has been quoted in other discussion on this legislation.

Mr. Wordsworth also raised the question of assistance to decentralisation but in his case he apparently takes the view that all of those who are beyond given limits should receive some relief on decentralisation grounds from the imposition of pay-roll tax. This illustrates the type of problem which has been mentioned, namely, that tax concessions, no matter how they are determined on a discretionary basis, will ultimately be non-selective in their nature.

I again thank members for their contributions and 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.

PAY-ROLL TAX ASSESSMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the 10th October.

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [5.31 p.m.]: This Bill follows on almost automatically from the previous measure. There is a proposed amendment which can be dealt with in the Committee stage.

I thank members who participated in the debate for their contributions and commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. J. Dolan (Leader of the House) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 7 amended—

The Hon. I. G. MEDCALF: I move—

That the Assembly be requested to make the following amendment—

Page 2, line 5—Add after the word "rates" the following—

> or at such lesser rate or rates in respect of wages paid or payable by an employer in respect of work performed in an established place of employment more than fifty kilometres from the General Post Office, Perth as the Treasurer in his absolute discretion after receiving an application from the employer shall determine and certify as appropriate for the purpose of encouraging decentralisation of industry and employment.

During the second reading debate I said I believed decentralisation was a good thing. I believe it is a good thing because it gets people out of the city into the country areas and minimises the conglomeration of people in the city. I think one of the worst features of modern life is the conglomeration of people, traffic, and vehicles in large metropolitan areas. This conglomeration of people creates problems of its own. For example, traffic is a problem because of the cost of roads and facilities, the pollution caused by traffic, and the agglomeration of people in one area. I believe crime and delinquency, generally, are accentuated by what is commonly referred to as "the concrete jungle".

For these reasons, I believe all members would agree we should stimulate the country areas and take every opportunity to encourage people to live in the country. All parties have in their platforms the concept that decentralisation is a good thing and we should therefore decentralise, but every time anyone tries to do anything about it he is met by a wall of resistance.

It is difficult for employers or industries to set up in the country. They face problems right from the beginning. Naturally, they want to become established in places where there are existing transport facilities and a ready market. Clearly, any industry coming to Western Australia would want to set up in Perth. Indeed, as we know, they all want to go to Kwinana, and successive Governments have endeavoured to persuade them to go elsewhere. As the Minister has said, it is sometimes possible to offer incentives to persuade them to go elsewhere.

I believe we must take every opportunity to encourage decentralisation, not only by giving incentives but also by fostering in people's minds the idea that it is proper to stimulate the country and rural areas and to decentralise rather than have all the development of Western Australia centred in the metropolitan areas of Perth and Fremantle. It is for that reason that I placed this amendment on the notice paper.

I believe we must do more than merely give lip service to the principle of decentralisation. Whenever an opportunity to decentralise comes up, there are always reasons why it cannot be done. It is the same when anyone asks for money; there are always reasons why it cannot be given. It is easy enough to find reasons, and it is also easy enough to find reasons why we should not in practice put something into legislation which will help decentralisation.

I believe it is important to stimulate country industries, to encourage the growth of our rural centres, and to encourage more people to live in the country and, by living there, to increase the amenities of country life. We should therefore accept this opportunity.

I would like to draw attention to the wording of my proposed amendment. It does not commit the Government to anything, and in some respects that is a bad thing. The amendment expresses a principle more than anything else but it does not commit the Government to 1c. However, it gives the Treasurer the right to do something without compelling him to do it. I think it would be wrong for us in this Chamber to introduce into this Bill any compulsion on the Treasurer. If we pass this amendment we give him the right, in his absolute discretion, to make a reduction in pay-roll tax to any particular industry in any country centre more than 50 kilometres from the G.P.O., Perth. He does not have to give a reduction. It is not an overall blanket approach. The Treasurer would use the discretion only in a deserving case.

Under this proposed amendment guidelines can be issued with which selected industries must comply before they become eligible to apply for a lower rate of tax. It would not be difficult to select the industries. It would not be a blanket approach under which all the large industries which happen to be established in the Pilbara at the moment would automatically receive the benefit. I do not believe that would occur. An industry would have to establish a case to the satisfaction of the Treasurer.

We do not seek to compel the Treasurer to do anything; we merely give him the right to exercise his discretion in an appropriate case. This method will be selective. It is already used in Victoria in an endeavour to encourage decentralisation outside the city of Melbourne, and I believe the method is worthy of our consideration.

Again I draw attention to the words of the amendment. The industry must be more than 50 kilometres from the G.P.O., Perth.

The Hon. L. A. Logan: That is 84.6 miles, is it?

The Hon. J. Dolan: It is 31.06 miles.

The Hon. I. G. MEDCALF: It is just over 30 miles. The industry therefore must be outside the metropolitan area. The Treasurer has an absolute discretion. The words are, "as the Treasurer in his absolute discretion after receiving an application from the employer shall determine and certify as appropriate". If the Treasurer is satisfied the industry comes within the guidelines, he can give a certificate stating that it is appropriate. The guidelines would be laid down by the Treasury. They would be very strict in order to ensure that the provision benefits only genuine cases. It cannot be used for any objective other than to encourage decentralisation of industry and employment. In other words, it cannot be used for political purposes or for anything but a bona fide reason.

I believe such a provision would enable the Treasurer to assist a small employer such as a shearing contractor or someone whose industry might fold up if he did not receive some assistance.

The Hon. J. DOLAN: I can appreciate much of what the honourable member has said about decentralisation. When I spoke to the second reading I outlined all the help which the present Government has given to industry over a number of years. In introducing this Bill it was made clear that the Government is already providing considerable selective concessions to decentralise industry. These were described in detail. It was also clearly stated that, in the Government's view, unselective tax concessions are not the best method of achieving decentralisation. Further, the House was informed that the current incentives were designed after careful investigation, including an examination of the possible use of tax concessions which was rejected as unsuitable.

There is little point in placing in a measure a concession based on the Treasurer's discretion—apart from it being an unsatisfactory way to promote decentralisation—when the current financial circumstances preclude him from using that discretion in any event. Quite clearly, when facing a deficit of $6,900,000 for the current year, there is no scope for the Treasurer to reduce income.

Reference has been made from time to time to rebates of pay-roll tax in Victoria. I should like to make it very clear that no rebate or refund of pay-roll tax is made by any State Government. The pay-roll tax legislation throughout Australia is uniform and the only exemptions and concessions are of the type now written into our own legislation. What, in fact, happens in Victoria is that there is separate legislation which is not administered by the Treasurer but by the Minister for State Development, and grants are made to certain industries under this legislation with reference to the amount of pay-roll tax which has been paid. The pay-roll tax law is not affected by the legislation which makes grants available to decentralised industries. In fact, to avoid any confusion with this issue, I understand Victoria has recently introduced a Bill to remove the word "rebate" from the title of the Act authorising selective grants to decentralised industries.

Some research has been done on the administrative effect of the proposed amendment. Members may not realise that outside the 50-kilometre radius there are currently approximately 1,100 employers paying pay-roll tax. Incidentally, this distance is equivalent to only 31.06 miles.

The amendment, if passed, would invite an application from every one of those persons. This would open the floodgates, and it does not seem to conform with the mover's expressed intention to take action in the case of new industries which may be persuaded to move into rural areas. There does not seem to be a clear incentive to decentralise when everybody is to be invited to apply. This underlines the undesirability of this type of incentive for encouraging decentralisation. The Treasurer would be inundated with applications. Obviously those applications will have to be processed, irrespective of the decisions. Also, presumably, reviews would be necessary from time to time. The processing and reviewing would be an administrative monstrosity.

Pay-roll tax is uniform throughout Australia and is simple and inexpensive to administer. No Act contains provisions of the kind proposed in this amendment.

Where other States have endeavoured to assist decentralisation of industry, they have all done so in other ways. It would be undesirable to disturb the existing uniformity and place pressure on other Governments to depart from the uniform application of the tax in this or any other way. Once this occurs, within a few short years the Acts would become as dissimilar as many of our other taxing laws. We should be working towards uniformity, and not in the other direction.

Under all the circumstances, and after giving careful consideration to the views expressed, the Government is still firmly of the opinion that a pay-roll tax concession is not the way to provide incentives for decentralisation and must, therefore, oppose the amendment.

The Hon. J. HEITMAN: Recently I read the report on the inland superphosphate works. I have always thought pay-roll tax was an iniquitous tax. It was resisted by local government for many years, and it is pleasing that local authorities are no longer subject to it. However, I was astounded to read that in the costing of the inland superphosphate works an amount of $28,728 has been estimated in respect of pay-roll tax for the workers; and an amount of $17,300 has been allowed for pay-roll tax, workers' compensation, and superannuation in respect of the management staff.

Those figures are based on pay-roll tax of 3½ per cent.; but with this increase of approximately 28 per cent. over that amount, it will be almost impossible to get the project off the ground. The people in the area must raise $2,000,000 in cash and must guarantee to purchase their super from the works, and the Government is willing to guarantee the project to the extent of $6,800,000. At the present rate of 3½ per cent. the project will be required to pay a total of $46,028 in pay-roll tax. An increase of 28 per cent. over that will kill the project.

It was mentioned in *The Independent Sun* last Tuesday or Wednesday that $80,000 had been raised in shares for this works, and it was said there should be a rebate of $7.30 a ton. In the report, it was stated it would cost $17.30 a ton to produce the superphosphate, but it is being sold at Kwinana for $15.20 a ton at the moment. The difference in cost would be due to freight. However, there is now no chance of that rebate because the extra pay-roll tax will kill the proposed industry.

The Hon. W. R. WITHERS: I support Mr. Medcalf's amendment for many reasons. I agree that we need to decentralise, and I must say that Governments of the past and present have mouthed the word "decentralisation" without doing anything about it and without even understanding what it means. Governments are intent upon creating disabilities where this benefits their Treasuries, but they are loath to give concessions to enable people to participate in decentralisation. This is the case in respect of the matter we are now discussing; the Minister has spoken against the amendment to allow assistance to those who wish to decentralise. I mentioned that Governments create disabilities, and I feel that requires some explanation. When I say "Governments" I refer to the present State and Federal Governments.

Let us take the question of water rates as an example. Kununurra has the cheapest dammed water in Australia, so the engineers tell us. But the people of Kununurra pay higher water rates than anyone else in the State because the valuations of their properties are so high. I have told the Chamber before that the valuations in that town are 120 to 160 per cent. above the valuations in Perth. In other words, it costs 120 to 160 per cent. more to build in Kununurra than it does to build in Perth. The Government takes advantage of these inflated values and assesses the water rate upon them.

So the Government has taken advantage of a disparity because it was to its advantage to do so. I have previously suggested that in order to provide some sort of parity the people in those regions with inflated values should receive a 60 per cent. reduction in their rates. That is one example in support of my argument.

I point out that the Federal Government also takes advantage of the people in the north, because it charges sales tax on freight. We all know that this occurs throughout Australia and that Western Australians are disadvantaged by it; but when we have Western Australians disadvantaged by a Federal tax upon goods that are made and sold in this State I think it is a supreme injustice. Let us take the case of a luxury item which happens to measure one cubic foot. When that item is sent to a person in Derby we find that the sales tax in that town is 58c, whereas it is 28c in Perth.

The CHAIRMAN: Order! I hope the honourable member will relate his remarks to the amendment before the Chair.

The Hon. W. R. WITHERS: Yes, Mr. Chairman. I said I would explain why I accused Governments of creating disparities, and give examples in support of my case. I have accused Governments of allowing a disparity to continue when it is to the advantage of the Treasury; and I am now saying they are not willing to create a precedent to give advantage to those participating in decentralisation.

The Minister said that some selected incentives for decentralisation are given to industries. I wonder how effective they are; because I have just pointed out how

Governments have taken advantage of the fact that decentralisation costs a great deal of money to private investors and those participating in it.

Another reason that we should support the amendment is the lack of water in the metropolitan region. I have mentioned before that we will run out of water for the further development of industry in Perth in the year 1989. This is a serious matter, and we must create incentives for decentralisation. If we do not do so, Perth will become larger and larger with less and less natural resources to cope with the expansion, and it will become an uncomfortable city in which to live.

That is an added reason to provide incentives to people to participate in decentralisation; and one way to do that is to provide the concessions suggested by Mr. Medcalf in his amendment. We will not do the right thing by the people of Western Australia unless we agree to the amendment, and the people are the ones who will suffer if we do not decentralise. I support the amendment.

The Hon. L. A. LOGAN: I see nothing wrong with the principle of the amendment. I realise it is merely a pious attempt, because the Minister has indicated that his Government will do nothing about it. The Government says that there is always a chance something may be done when legislation is introduced by this or some future Government.

I do not agree with the distance stated in the amendment. Fifty kilometres is 31.06 miles, and would include a great deal of the metropolitan area. To me that is not decentralisation, and the distance should be at least double if not more.

The Minister claimed that the Government could not give concessions because it is facing a deficit of $6,900,000; but if a concession is applied equitably in those few instances in which it is necessary I do not think the cost would be great. The Minister said that everybody will claim the concession. I think that is entirely wrong. In any case, people must justify their claims, and in many instances they could not do so. However, there may be instances in which a reduction in the rate of pay-roll tax would make the difference between whether or not a new industry is commenced.

Mr. Heitman has mentioned one instance; and this is the kind of thing which the Government ought to be looking at. The Minister has told us that this tax is applied uniformly throughout Australia, and no State has made any commitment to exempt pay-roll tax. Whilst in some cases uniformity is desirable, there is no reason why uniformity should be applied to everything. Industry would be pretty humdrum if everything were uniform.

I support the amendment, but I do not agree to the restriction of 50 kilometres. I do not regard a centre within 50 kilometres of the General Post Office, Perth, as being a decentralised area. It is still within the metropolitan region. If Mr. Medcalf is prepared to increase the distance to 100 kilometres then I shall support his amendment.

The Hon. A. F. GRIFFITH: I want to make a few observations on the amendment. We ought not to lose sight of the reasons for the presentation of this Bill by the Government. The main reason is that as a result of complaints by the States about the disparity in the disposition of moneys collected by the Commonwealth, the Commonwealth Government has decided to relinquish the field of pay-roll tax. As a result each State has decided to increase the tax by a percentage. I regret very much that publicity has been given to the fact that an increase of 1 per cent. has been proposed; whereas the increase that has been imposed is 1 per cent. on the 3½ per cent. According to my calculation that is an increase of about 29 per cent. on the existing level of taxation; and that is a very large increase. As the Leader of the House said when he introduced the second reading, this should raise $9,000,000 more for the State.

The Hon. J. Dolan: I think it is about that amount, but I do not know whether it is based on a full year.

The Hon. A. F. GRIFFITH: The example given by Mr. Heitman on the establishment of an inland superphosphate works is a typical instance of where the Government could assist decentralisation—a subject about which it talks a great deal, but finds great difficulty in implementing. This is a case where the industry concerned will undoubtedly labour under the heavy burden of the pay-roll tax; it is one of the main considerations for the establishment of such an industry. It is a case where the Treasurer might consider it worth while to render assistance by granting an exemption from the payment of pay-roll tax.

A plea has been made that exemption is not the right course to adopt, but if the Minister looks at the Act which the Bill seeks to amend he will find a considerable number of exemptions. In the first place, there is the basic exemption up to the level where the pay-roll tax commences to be payable. The tax does not become payable until the employer pays in total $20,800 or more in wages per year. So here is a basic exemption already.

Further, we find a whole list of organisations that are exempt from pay-roll tax, and that is covered by section 10 of the Act, which states that wages liable to pay-roll tax do not include the wages paid or payable by the various organisations mentioned therein.

Last year when the tax stood at 3½ per cent., and not 4½ per cent. as is proposed on this occasion, a similar amendment moved by Mr. Medcalf was set aside by the Government. On this occasion the Government is also brushing aside the amendment. All that the amendment seeks to do is to place in the hands of the Treasurer the power to enable him to consider and grant an application for exemption under the Act. This is not a power to grant an obligatory exemption, as is granted to the various organisations mentioned in section 10 and to employers paying less than $20,800 in wages per year.

If the Government is sincere on this question of decentralisation it should be glad to be given the right to grant in very special cases exemption from the tax. Across the board, the Government could give notice to the 1,100 people who, according to the Leader of the House, might deluge the Treasurer with applications for exemption, that they would not be granted exemption. However, in the case of an isolated industry which is worthy of special consideration, the Government should be given the power to grant an exemption.

After all, the 4½ per cent. is a heavy load for isolated industries to bear. If such industries could be granted exemption for a limited period it would be of assistance to them. By agreeing to the amendment a discretion would be conferred on the Treasurer; but it appears the Treasurer is loath to accept this discretion. This is indeed regrettable.

Sitting suspended from 6.07 to 7.30 p.m.

The Hon. J. DOLAN: There are some aspects of this Bill which I want to examine further so at this stage I will ask that progress be reported.

Progress

Progress reported and leave given to sit again, on motion by The Hon. J. Dolan (Leader of the House).

BILLS (3): RECEIPT AND FIRST READING

1. Alumina Refinery (Worsley) Agreement Bill.

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

2. Legal Practitioners Act Amendment Bill.

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

3. Housing Loan Guarantee Act Amendment Bill.

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

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

MENTAL HEALTH ACT AMENDMENT BILL

Second Reading

Debate resumed from the 4th October.

THE HON. G. C. MacKINNON (Lower West) [7.35 p.m.]: This Bill contains three amendments to which I have no objection and which I intend to support. Two amendments appear on the notice paper, under Mr. Medcalf's name, which, through his courtesy, I will move at the appropriate time.

The first amendment contained in the Bill will ease the situation where a person has to be taken to a hospital set up for the treatment of mental illnesses. Occasionally there is need for some degree of force when taking a person to such a hospital. It was found that there was a shortcoming in the parent Act regarding the responsibility of those involved in having to forcibly move a patient suffering from a mental illness. A great deal of care is taken to ensure that patients suffering from mental illnesses are treated with the utmost respect. There is an absolute reassurance given those people, and their families, that patients are not admitted to mental health institutions without proper reason, and with every prospect of their being able to leave the institution again when their illness has been treated.

The majority of patients who find it necessary to go to this type of hospital go there in a voluntary capacity. However, there are occasions when patients reach the stage where they do not know what they are doing and it is then necessary to obtain a special order to admit them to hospital.

Although the provisions of the Bill were tightened in another place, a further amendment which appears on our notice paper will provide additional protection for the patient and, at the same time, provide additional protection to those who assist in the moving of a patient. The amendment provides that any damages claimed against persons who have to assist in moving patients shall not lie unless the persons concerned were negligent or malicious. I have no doubt that members have read the amendment appearing on the notice paper which, as I have said, is aimed to protect the patient.

The previous Liberal Government changed the whole concept of mental health treatment, and reduced the difference between physical illness and mental illness. Whilst most people who suffer from a physical illness are only too anxious to get into hospital, the mental health

patient is not so anxious to receive treatment. Quite often the mental health patient does not understand that he is being taken to hospital for his own good.

I understand that the Government does not object to the proposed amendments, but the Minister will comment on them at a later stage. The second amendment results from the probation and parole legislation which was instituted by the former Minister for Justice (The Hon. A. F. Griffith). At present a patient can be ordered into a hospital for the treatment of a mental illness. The Act states that a person can be taken and returned to a hospital and held under strict custody, as the Governor may order. If a patient is ordered into a hospital his method of treatment is a matter for the doctor to decide, whether that doctor be a psychiatrist or any other type of specialist. This second amendment is acceptable.

The third amendment deals with goods which are left in a hospital by a patient who has either died, or who has been discharged and not taken his belongings with him. The provision in the amendment will make it easier for the staff of the hospital to dispose of such goods without taking advantage of the former patient. I believe the Government has no objection to this amendment also.

The purpose of the Bill is to tidy up the precautions and safeguards which apply to patients who, for the time being, are in the situation of not being able to assess what is happening to them. Adequate safeguards are provided to protect the patients and, therefore, I support the measure.

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [7.42 p.m.]: I thank Mr. MacKinnon for his support of the Bill. He has clearly stated the situation as it exists. The Bill will make it easier for mental patients to be taken to hospitals. As Mr. MacKinnon has said, there was a shortcoming in the Act. The relatives of patients can be assured that the patients will be treated with absolute respect.

I have spoken to the Minister in another place, who is in charge of the parent Act, and he is quite happy to accept the proposed amendments. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. R. H. C. Stubbs (Minister for Local Government) in charge of the Bill.

Clause 1: Short title and citation—

The Hon. G. C. MacKINNON: In view of the criticism which, from time to time, is levelled at some of the institutions in this State I thought it timely to mention a Press article which appeared in today's *Daily News*. The article stated that Mr. Reuben F. Scarf said that Perth was regarded as one of the leaders in the mental health field. He said there is an awareness of the problem in Perth which is not evident in some of the more populated States.

I consider it pertinent to point out that a person of some authority has stated that the services available in this State are second to none.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Section 37A added—

The Hon. G. C. MacKINNON: I move an amendment—

> Page 2—Delete new subsection (3) and substitute the following—
>
> > (3) No action or claim for damages other than a claim for damages for negligence shall lie against any person for or on account of anything done or ordered to be done by him and purporting to be done for the purpose of carrying out the provisions of this Division unless it is proved that it was done or ordered to be done maliciously or without reasonable and probable cause.

In another place an amendment was made to include a new subsection (2), the purpose of which was to make it obligatory to make a report to the director within 24 hours if any degree of force was used in conveying a person to—or in his being received into—an approved hospital.

The clause also states that no action or claim for damages shall lie against any person who assists unless it is proved that his actions were done or ordered to be done maliciously and without reasonable and probable cause. The purpose of my amendment is to alter clause 3 to the extent that there may be a claim for damages in the case of negligence. I think the amendment would tighten up the provision and improve it. The Minister has indicated that he agrees to the amendment but I thought it fitting to explain the purpose.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 4 put and passed.

Clause 5: Section 57A added—

The Hon. G. C. MacKINNON: I move an amendment—

> Page 3, line 19—Add after the word "prescribed" the following words—
>
> > "provided however that the Director shall not take any action to dispose of any such article or thing unless he shall have given

not less than one month's notice in writing to such person of his intention in that behalf".

I am informed that the procedure mentioned in the amendment is actually consistent with that which is adopted. This provision deals with goods which may be left behind when a patient leaves. The director cannot dispose of goods which are left unless he gives notice in writing. To this extent this procedure is actually followed at the present time. However, the amendment would set out the procedure specifically and state that this must be done. Once again, this is in line with the basic understanding of the rest of the parent Act; namely, full protection should be given at all times to the patient.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Bill reported with amendments.

BROKEN HILL PROPRIETARY COMPANY'S INTEGRATED STEEL WORKS AGREEMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the 2nd October.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [7.50 p.m.]: This is a Bill which I readily support. It has three objectives—two main amendments and one small amendment. It will alter the area of the lease which B.H.P. holds under its agreement to include an additional small area of temporary reserve. The Minister, when introducing the Bill, produced plans showing the reserve and those plans were laid on the Table of the House. I have examined them.

The other major amendment—if it can be called "major"—is to increase very slightly the rental payable by the company. The third amendment is merely to correct a typographical error which was picked up in the legislation. I see no reason to delay the passage of the Bill and I support the second reading.

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [7.52 p.m.]: I thank the Leader of the Opposition for his support of the measure. The honourable member made reference to the three amendments in the measure. I do not want to labour the matter and I again thank him for his support.

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.

WORKERS' COMPENSATION ACT AMENDMENT BILL (2ND)

Second Reading

Debate resumed from the 9th October.

THE HON. G. C. MacKINNON (Lower West) [7.55 p.m.]: This has proved to be a difficult measure and it has had a fairly difficult passage even this far. I think I should recapitulate its history to give some indication of the problems which have been associated with its presentation to this House.

The first Workers' Compensation Act Amendment Bill was introduced in another place by the Minister for Housing (Mr. Bickerton) on behalf of the previous Minister for Labour (Mr. Taylor). During the second reading speech the Minister said that, although he was presenting the Bill ostensibly as a Government measure which reflected the Government's views on workers' compensation, in fact, this was not the case. He said that the Government proposed to include a number of amendments because the measure did not reflect the Government's true desires with regard to workers' compensation. Perhaps the Minister would have been more factual at that time had he said that it did not truly reflect the desires of the Trades and Labor Council. Be that as it may, a number of amendments were actually brought down before the Opposition had even had time to examine the proposed measure.

Worse than that, at that time it was impossible to secure a clean copy of the parent Act. Indeed, at one time I had in my possession a copy of the parent Act which had been pretty well amended up to date. It was extremely difficult to follow and I was accused by certain people, who shall be nameless, of having lost that clean copy. I quite sincerely believe I was perfectly innocent of that charge which, in any case, was not levelled in a nasty way. Nevertheless, that copy was lost. Generally the loss of a clean copy of a parent Act would not occasion much heartburning. In this case it did because I think it was one of only two copies which were in existence.

The Opposition, in another place, brought this matter to the attention of the Government which saw fit to have the parent Act amended up to date and reprinted. This has been a great help in that we are able to follow the measure which is currently before us. The Government also withdrew the original Bill which, as I have said, did not reflect the Government's views as Mr. Bickerton admitted when he introduced it. That measure was withdrawn and another Bill was drafted, pretty well in the form of the legislation which is now before us. A couple of minor amendments were made in another place but the second piece of

legislation was brought down in substantially the same way as the measure which is now before the House.

That is not the end of the confusion. Even when the Minister introduced the second measure in another place he stated that we were to regard this as an interim measure—a "stop gap" and a "for-the-time-being" measure. Why? The reason is, of course, that Mr. Justice Woodhouse is currently inquiring into national compensation on a completely "no blame" basis. I refer to the sort of compensation one may receive if one is hit on the head by a falling star.

The Hon. R. Thompson: You always draw a long bow.

The Hon. G. C. MacKINNON: It is that sort of compensation. I have read the report on what Mr. Justice Woodhouse proposes to do. It is on a strictly "no blame" basis. Apparently the measure before us is to be regarded as an interim one until that inquiry is finished. I repeat that the fundamental basis of the Woodhouse report is that a person would receive compensation even if he were hit on the head by a falling star while courting his girlfriend.

The Hon. R. Thompson: You would be lucky enough to get Ringo Star!

The Hon. G. C. MacKINNON: It makes it even more confusing to say that this is to be regarded as an interim measure and I think there will be confusion worse confounded when I explain to members the extent to which this particular measure goes.

Very frequently we hear a member say, "I will not go into this very deeply at this stage because it is a Committee Bill." This legislation is certainly not a Committee Bill; the important debate will be the second reading debate. One's basic philosophy can be established during the second reading debate. If we establish the basis on which we believe that compensation ought to be paid, then the clauses will follow fairly automatically.

I would like to call the basic philosophy of this measure a "Rolls Royce" philosophy. Rolls Royce motorcars are regarded generally—although there is some argument about it—as the best motorcars in in the world. The thinking then follows: If they are the best motorcars in the world, everyone ought to have one. This legislation is based on that idea. If one accepts that philosophy, then all the clauses in the Bill will fall into place.

I happen to believe that the basic philosophy is not well-founded, and I will explain my reasons for this as I go along. However, I would like now to relate a little of the history of workers' compensation legislation. According to the encyclopaedias—although we find variations in some—workers' compensation or working man's compensation, as it was sometimes called, was introduced originally in Germany in the late nineteenth century. The Australian Statutes were based on the British Act which was passed in 1897. Western Australia was the first of the States to introduce workers' compensation legislation; and I think this was in 1902. The last State to pass legislation of this type was Victoria in 1914, and the other States introduced it between 1902 and 1914.

Slight variations appear in the legislation in the different States. The concept has changed with the years and has quite twisted around from the initial concept. Originally a worker could recover from an employer in the case of accident only by recourse to common law. Difficulties were associated with such claims because frequently workers were injured in situations which made claims under common law very hard to sustain. This could happen where a fellow worker was involved, or for many other reasons, and it was because of this that workers' compensation as we know it came into being.

It is interesting to note when we look at the Woodhouse concept—as already stated by Mr. Justice Woodhouse to be applied in Australia and already in force in New Zealand—that one or two points become very clear. He intends to adhere to the broad principles recommended in the New Zealand reports; one principle being that the scheme is to relate to the previous income of the claimant but it should not exceed a fixed and modest limit. Members will see that such an idea is in conflict with the present interim measure before us. The Government proposes that until the Woodhouse report is received by the Federal Government and is, or is not, adopted by it, workers' compensation will be governed by this present measure.

The second point made by Mr. Justice Woodhouse is that the scheme is to be limited to a proportion of the worker's income—say, 80 per cent. Contrary to this idea, the present measure provides for 100 per cent. compensation. Also, the limits to be provided for death, if we accept Mr. Justice Woodhouse's figures, would be modest in comparison with the present proposal.

The Hon. D. K. Dans: What does Mr. Justice Woodhouse think the compensation for death should be?

The Hon. G. C. MacKINNON: He has not yet brought down his report. I am speaking about his stated broad principles.

I mentioned earlier that the original proposal in regard to recompense to an injured worker was by recourse to common law. The principle adopted by Mr. Justice Woodhouse is that we should institute an overall scheme and therefore abolish all

other forms of compensation. One supposes that this will include all State compensation schemes and also compensation at common law.

It is strange how we often go full circle with our ideas. We started off with the provision that common law provided the only relief for the worker. I believe we are about halfway round the circle and that the idea is now to completely wipe out common law relief in relation to workers' compensation. If history follows its usual habit, I suppose as time goes by we will return to the idea of relief through common law alone, but this will take many years.

There is no surprise in the introduction of a measure of this nature in this Chamber, because Mr. Tonkin promised, in his policy speech, a full inquiry into workers' compensation. The pity of it is that the promise was not kept. It is important for us to appreciate that workers' compensation has always been regarded as an insurance-based deal between the employer and the worker, taking the place, as I have said before, of recourse through common law.

The Hon. D. K. Dans: Of every worker in the employer's work force?

The Hon. G. C. MacKINNON: For every worker to whom workers' compensation applies. I realise some workers are outside this category and I will deal with them a little later.

The Hon. D. K. Dans: An employer with 10,000 workers does not insure every single one.

The Hon. G. C. MacKINNON: The honourable member knows better than that.

There are two parties to the contract; there is the employer and his union on the one hand and the employee and his union on the other. In short, two unions—as defined under the Industrial Arbitration Act—are involved in an agreement of this type. It is a pity that this piece of legislation is the brainchild of one union—the Trades and Labor Council—except for all the provisions drafted by the learned member for Boulder-Dundas (Mr. Tom Hartrey).

It is unfortunate that the Premier did not keep his election promise and institute a full inquiry into workers' compensation. It is no good saying one thing and meaning another—one union was not involved in the discussion, and that is the union of employers, as defined under the Industrial Arbitration Act. That is a great pity indeed.

The Bill claims to give justice to workers. Obviously if only one party is considered, it does no such thing—it gives preference to workers. Here I state that I see nothing wrong—nothing immoral if one likes—as long as it is openly admitted that the legislation was not based on an agreement between the two groups involved. It is all right to bring such legislation here so long as it is admitted that it was dictated by one party.

The legislation does not give justice; it gives preference. There is little or no cover for employers. A classic example of this is in relation to the mining industry. I know there was a hell of a fuss in another place about the release of some figures which were provided to the Chamber of Mines—the "union" for some pretty big premium payers—by the State Government Insurance Office. I believe the Chamber of Mines was entitled to ask the S.G.I.O. what the premiums for workers' compensation would be. It turns out that the premiums will jump from $750,000 to about $2,250,000 for certain mining industries which, thanks to "Big Brother"—I mean the one operating in Canberra—are facing serious problems right now. Members may recall some kerfuffle about this in another place. This was a perfectly legitimate document requested by the Chamber of Mines and supplied by its insurance company, the S.G.I.O. The Chamber of Mines then made the figures available, because once it receives a letter it can publish the contents if it wants to—at least, this is my understanding of the law. So there should be no fuss about that.

It is essential we understand the employer is an important component of such an agreement, and that employers are not in a situation where they can charge precisely what they like when they are faced with increased costs. So the employers must be considered, and above all, it must be borne in mind also that not all employers are big companies making large profits. Many employers operate in a small way—I believe something like 50 per cent. of the employers in this State employ under 20 or 30 employees. Many of these employers find it difficult to meet increasing costs.

It is also important at an early stage to clear up the position in relation to one or two of the comparisons made by the Minister. In his second reading speech the Minister several times quite wrongly referred to the Commonwealth Employees' Compensation Act. That is not a workers' compensation Act and it has no right to be used as a comparison with the measure before us. The Commonwealth Employees' Compensation Act is based on conditions of service agreed to by the Commonwealth Government when it employs people. It contains no insurance component at all. It is not an actuarial calculation and has nothing whatever to do with workers' compensation legislation. It is a completely different set-up. It is as different from this legislation as an industrial union of workers is from an industrial union of employers. The Commonwealth Government came to an agreement with its employees,

and part and parcel of the agreement is in relation to remuneration of its workers in the event of ill-health or injury. It is a totally different concept and it had no right to be included in this debate.

I repeat: Our Workers' Compensation Act is based on insurance to cover injured workers. Workers' compensation insurance is not a good risk because I understand that the S.G.I.O. currently, even without the lift of payments, is some $750,000 in deficit, and I am sure it would love to withdraw from this particular field of insurance.

The Hon. D. K. Dans: It would like to get into some others too.

The Hon. G. C. MacKINNON: It has what is known as a monopoly.

The Hon. R. Thompson: You would not let it equalise and get into another field.

The Hon. G. C. MacKINNON: The Minister asked me a simple question, and through you, Mr. President, I will give a simple answer. I am quite sure that that legislation will be rolled up to us again and at an appropriate time. Mr. President, you would not allow me, under any circumstances, to take advantage of this situation to forecast legislation.

That well-known dignitary of the Government, Mr. Arthur Tonkin, a member in another place, who seems to speak with a fair deal of authority on a number of occasions, actually made a point, and I think a very cogent point, during the Committee debate of this measure in another place. He pointed out, and I agree with him, that the Committee, in its ordinary ramifications, was not in a position to really make a proper examination of this particular piece of legislation. It is not, and in this I agree with Mr. A. R. Tonkin, a member in another place.

It should have been subject to a great deal more discussion by the two parties to the arrangement; the employers and the employees. Mr. A. R. Tonkin said that on page 3421 of *Hansard*. If any member so desires he can check that statement by the honourable member by reading *Hansard*. This is one of the few times I find myself in complete agreement with that honourable member.

This is a cleverly written piece of legislation, and I have read practically all the arguments that were put forward in another place when the Bill was discussed. The provisions are clever and one has to be constantly on one's guard to ensure that one does not appear to be an ogre in arguing against them. The provisions, in a way, pose the question: If a wife is left on her own as the breadwinner would anyone deny her the necessary money to feed her children? The answer to that, of course, is one certainly would not.

I believe the Bill needs modification and alteration. One frequently hears the remark, "Surely if a man dies the total benefit under the Workers' Compensation Act should be increased to $27,000." This is what is proposed in the legislation; it will represent an increase of some $13,000. If one accepts the "Rolls Royce" philosophy one cannot argue about that. The fact is, of course, that the number of people who actually die in industry would not break any insurance scheme so far as the payment of compensation is concerned. As is so often the case in the field of health and industry, it is the minor ailment that costs money, and I do not think one should get too carried away with the fact that the total compensation payable to dependants on the death of a worker has been increased by over 100 per cent., because the compensation payable as a result of a worker's death is not the greatest charge upon any insurance scheme. I am certain that the greatest charge on any insurance scheme is brought about by the multiplicity of minor injuries which involve a worker being absent from work for one or two weeks.

It is difficult to find an answer when we have put before us all the emotionalism about the death of a worker, because as an ex-tradesman and an ex-member of an industrial union, I fully understand the dangers of personal injury. I have worked in a factory that has had circular saws, band saws and, worst of all, shapers. I am fully conscious, therefore, of the risk to which a worker is subject when employed in industry. Indeed—and I say this in all humility—I am more conscious of this than some of the members sitting on the other side of this Chamber and, as a result, I am fully aware of the true situation in regard to accident cases.

I still keep returning to the fact that the argument put forward is similar to the situation of deciding which car one prefers; one person may prefer a Mercedes Benz and the other may prefer a Rolls Royce. It is purely a question of the kind of philosophy a person follows.

The Hon. I. G. Medcalf: Mr. Whitlam prefers a Mercedes.

The Hon. G. C. McKINNON: I think it is fair enough to say that this Bill could be an open invitation to indulge in waste and, in some cases, could lead to a lack of initiative. I know a man who worked in industry and who suffered an injury. All workers in his industry were exposed to many dangers; in other words, they followed a hazardous occupation. This man that I know was not only injured but also, to some extent, he contracted one of the industrial ailments—he had a chest problem. By sheer determination and incentive —because he is a determined man—he studied and gained special qualifications which fitted him for a particularly skilled occupation. Further than that, he entered Parliament and eventually became a Cabinet Minister.

Had the provisions of this Bill been in force at that time it is possible that, following his injury, and being awarded compensation, he would have continued to receive an amount equal to 100 per cent. of the average national wage and he may have decided, "I will sit home and grow gladioli or tomatoes" and, as a result, he would not have made the efforts that he did make. If he had made this decision Parliament would have missed him and the State would have missed him.

I thought that anecdote worth telling because at some time the person concerned may read it and know about whom I am speaking. So I am not altogether sure that the basis set to enable an individual to be paid such high amounts of compensation —compared with those prescribed in the existing legislation—would always work to his advantage. I repeat it is difficult to argue this measure without appearing to be an ogre for the reason that, smartly and subtly, a piece of compensatory legislation has been turned into a piece of social welfare legislation. I think that is worth repeating. Subtly and cleverly the workers' compensation legislation is being changed from a straight-out insurance compensation measure, granting social justice to a marked extent, to a social welfare piece of legislation.

Even Mr. Justice Woodhouse talks in terms of a modest figure of 80 per cent.

The Hon. D. K. Dans: Eighty per cent. of what?

The Hon. G. C. MacKINNON: Eighty per cent. of a man's earnings. This piece of legislation provides that the dependants of a worker, upon his death in industry, shall be paid, by way of compensation, 100 per cent. of the national average wage, including overtime. I believe, to that degree, this legislation has gone beyond the realm of workers' compensation, in the strict sense of the word, into the field of social welfare. We will get nowhere by people, who do not have a real basic understanding of the history of workers' compensation, standing up and saying I am heartless, cruel, and inconsiderate.

The Hon. D. K. Dans: Keep on saying it and we will say it.

The Hon. G. C. MacKINNON: I know full well it will be said because I have been here a long time. We have to look at this legislation objectively. In this field there are two sides to the argument, and I would point out it is impossible to conduct an insurance scheme along the lines set out in this Bill. Insurance must have predictable liability otherwise it has to be funded from some outside source. This Bill, of course, will have to be funded from some Government source. As I mentioned a moment ago, the State Government Insurance Office is $750,000 in the red now as I understand the figures, so the expenditure will definitely have to be funded.

So much for the general concept. When one looks at the Bill itself its basic premise is that we lay down a prescribed amount. In the Bill the definition is—

> "Prescribed amount" means the amount ascertained by multiplying by two hundred and sixty the amount specified in the last estimate, published by the Commonwealth Statistician before the date of injury or the date of death, as the case requires, of the seasonally adjusted average weekly earnings per employed male unit throughout Australia in respect of the last period of three months that ended before that date in relation to which he published such an estimate. ;

That definition is set out in paragraph (e) of clause 3 of the Bill. I have no argument with the basic concept of that provision.

As those members who were here at the time will recall, that is the way the prescribed amount was previously amended by the former Minister for Labour (Mr. O'Neil). He made endeavours to determine that the total amount would not be altered by having to bring an amending Bill to Parliament, thus ensuring that the adjustment would be automatic. We must now disregard most of the figures in the parent Act because they have been subject to adjustments that have been made over a period.

The Hon. R. Thompson: That has been the position for many years.

The Hon. G. C. MacKINNON: The concept of introducing a formula to fix the adjustment is necessary because of the constant periodic adjustments.

The Hon. R. Thompson: The amount prescribed was tied to the basic wage.

The Hon. G. C. MacKINNON: That method has not proved to be efficient because the amount prescribed has not kept in line with increasing wages. Therefore I believe the principle of laying down a formula is sound, but I am not prepared to concede that the prescribed amount as determined in this measure is an acceptable prescribed amount, because it has not been determined following agreement between the two parties concerned—the employers and the employees—who should have discused the question initially. The amount has been determined quite unilaterally by the unions—I suspect by the Trades and Labor Council—submitted to the A.L.P., and agreed to by that body before submission to Parliament.

So when one looks at all the clauses in the Bill one finds a number of strange provisions. For example, under this Bill when a man is injured there will be a complete

change in the way he will be paid for holidays—public holidays, annual leave, or long service leave. The current situation is that he would receive payment for all his holiday entitlements and would then be paid compensation. If a public holiday intervenes while he is off work he would be paid the amount he would normally receive for a public holiday instead of the amount he would receive as compensation. Under this Bill he will be entitled to receive payment for all holidays including overtime payments.

This is a sort of "double payment" arrangement, and a complete departure from the existing legislation. According to the philosophy that one follows so one would agree or disagree with this measure. It would be difficult for me to convince the Minister who introduced the Bill that he was doing the wrong thing—

The Hon. R. Thompson: It is a wonderful piece of legislation.

The Hon. G. C. MacKINNON: —just as it would be difficult for him to convince me it was right. Mr. Ron Thompson has interjected by saying that this is a wonderful piece of legislation. Of course it is a wonderful piece of legislation if a person works during the whole of his entire lifetime as an employee and never starts up a business of his own and so takes upon himself the obligation of having to pay insurance premiums!

It may indeed appear to be wonderful legislation. Of course it could easily mean the difference between the employment or the unemployment of 100 men in a goldmine because it could tip the scales between profitability and nonprofitability, bearing in mind that the premium rates for undergrouud mining will increase from approximately $750,000 to at least $2,250,000. This could spell the difference between profitability and nonprofitability, between employment and unemployment. Consequently the legislation is not necessarily in the best interests of employees in that category.

The Bill contains a number of changes which I believe should be carefully examined. Perhaps some changes are necessary, but they should certainly not go as far as is envisaged in the Bill.

The whole attitude to the earnings of a worker has been changed as is also the concept of dependency. Under the Bill a person not dependent in any way financially is still regarded as a dependant if he is dependent for moral support, for a roof over his head, or for various other reasons. The dependency is no longer purely and simply financial. It is absolutely true that many members of a family are dependent on the breadwinner for reasons other than finance. A son can be dependent for guidance and a mental defective child can be dependent on a parent for protection. The fact remains that the provision in this regard in the Bill is a departure from the basic concept of workers' compensation up to this stage. It is no good members of the Government saying that this concept is accepted in the Commonwealth Act, because that is not workers' compensation legislation. It has also been stated that a similar Bill is at present before the Parliament in South Australia. Lots of Bills appear before Parliament, but do not become law, as members know.

The Hon. R. Thompson: The way you are speaking it sounds as if this could be one of those which comes before Parliament and that is where it will stay.

The Hon. G. C. MacKINNON: Not necessarily. I believe there is room for certain improvement in the Act. The last amendment was made in 1970 and over a period of time the concept of adjustment to the basic wage has fallen by the wayside. Areas of the legislation need examination. Year by year our concept of what is a fair and proper thing changes. We must bear in mind the old adage—three generations from shirt sleeves to shirt sleeves. Many of us have children who will be paying in one generation to enable their children to reap the benefit in the next. As members know, that does happen in this country. Thank God it does.

Marked changes are to be made in the old to-and-from provision. Members will recall that the to-and-from provision was included only recently; and it is now to be extended.

The Hon. R. Thompson: We had the worst in Australia; it should be.

The Hon. G. C. MacKINNON: We were actually the first in Australia, so at that stage we had the best. At times in between we had the best, and at other times it could be said we had the worst.

The Hon. R. Thompson: But when we tried to update it in this House it was emasculated as you know.

The Hon. G. C. MacKINNON: That might be in the Minister's opinion.

The Hon. R. Thompson: It is true.

The Hon. G. C. MacKINNON: There was not that much difference between the States. Now it is proposed that the to-and-from provision will cover not only the journey from camp to work or from home to work, but also travel all over the place on week-end leave. This is a dramatic extension.

Another distinct departure concerns a provision which I am jolly sure owes its inclusion to the efforts of Mr. Stubbs. I am referring to the provision dealing with noise which will pose some very real problems of definition and determination. As members who have read anything about the subject would be aware, it is extremely difficult to differentiate between deafness which has gradually developed because of age and deafness which is

industry caused, both of which forms affect the earning capacity of the employee.

Despite all the debates I have read on the subject, I am still not positive why the word "where" in section 8 has been changed to the word "whenever" and I have no doubt we should check on this amendment.

I can see nothing wrong with the proposed change in the board as envisaged in clause 6. I will not weary members by reading out the composition of the present board and that of the new board. It is not very much different and I do not think it is worth arguing about. It seems to be fair, but by the same token so is the present provision, and I heard no criticism of the board when I was interested in compensation.

It is stated that no member of the miners' medical board except the chairman shall be disqualified by reason only of his having previously reported on the worker, but I cannot find out under what circumstances he can be disqualified or what the machinery is. Perhaps we can ascertain further information on this.

I do not want to go through the Bill clause by clause. I repeat that this is a Bill in regard to which we need to debate our basic attitude to compensation. We should decide whether workers' compensation should be compensation for some degree of loss of earnings or whether it should be a total generous social service payment.

I understand that most small employers insure their men against loss of earning power by injury and they insure themselves generally with an insurance company. I have yet to learn of an employer of, say, under five to seven employees, who would ever consider employing himself for the amount of money proposed to be paid in weekly compensation under the Bill. The general rate of a working man who works with his employees is about $80 or $90 a week. The premium is reasonable and he can get by on that. About five years ago they insured themselves for $60 a week and it has gone up by about $10 a year since. This is the rate at which the average working employing man—if I can put it that way—or an employing tradesman insures himself.

If he insures himself personally for death I suppose the amount would range between $20,000 and $30,000. The amount included in the Bill is about the amount to which the employer would run if he were a small employing plumber, carpenter, electrician, or similar tradesman.

It is reasonable that we should study these provisions in relation to the scale of compensation that is expected, but under the Bill the rates have been put up higher than any others in Australia. For example, the amount for a child dependent on an employee is to be $9, while the average in Australia is $5.76.

The Hon. R. Thompson: You cannot keep a child for $9.

The Hon. G. C. MacKINNON: Of course it is possible to keep a child for $9. We do not put a child in a house on its own and provide it with food. A child is one of a family, and as one of a family it certainly can be kept for $9. Depending on the age of the child, it is possible to keep a child for $5.76, if it is one of a family of several children.

The Hon. D. K. Dans: I think that would be a hypothetical question.

The Hon. G. C. MacKINNON: I did not raise the question. The Minister did.

The Hon. D. K. Dans: I did not say you did.

The Hon. R. Thompson: I purposely raised it.

The Hon. G. C. MacKINNON: We have heard this argument before concerning how many it is possible to keep on a certain sum. I recall talking to some pensioners some time ago and at that time between them they were receiving $30 a week. I pointed out at the time that a married man with four children was at that time getting $90 a week working in the same trade. The six in that family were getting only three times as much as the pensioner couple so individually the pensioners were well paid compared with the tradesman bringing home $90 to keep himself, his wife, and four children. However, the tradesman could feed himself and his family because they formed a big group. This is why more money is given to a single pensioner. A complete economic survey would be necessary to ascertain how much it would cost to keep four children. I have no doubt it would cost more to keep one.

The Hon. D. K. Dans: Do you really believe that two can live as cheaply as one?

The Hon. G. C. MacKINNON: It depends on whom one marries! I do not know whether this is the right figure. The figures in the other States average out to $5.76, and I do not believe that the members of the other Parliaments are heartless ogres. I do not believe that every employer is a heartless ogre grinding the workers into the dirt.

The Hon. D. K. Dans: No-one said that. You must have a hang-up.

The Hon. G. C. MacKINNON: Someone has just said it. However, $5.76 is the average of all the other States, but we jump to not much short of double that amount—$9—and I am not sure where that figure came from or how it was arrived at. I do not know whether it is the correct figure.

I believe the Act does need revision. The problem is that the revision which has been made is a completely one-sided revision, and I hope I have convinced members of that fact.

I notice in this Bill it is mandatory for the employer by whom a worker was originally employed to find light duties for the worker or to continue to pay him full compensation.

Again this seems to me to be unreasonable. In a small factory there may be no possibility of finding light duties for such a man; none whatever. It would seem reasonable to me that if that man could be found duties somewhere else, possibly out of the town, he ought to be permitted to take advantage of that fact.

I do not believe enough research has been done in this particular field. It is for these reasons I have decided that at the appropriate time I will move that this Bill be considered by a Select Committee.

Had the Premier done what he promised to do—that is conduct a full and proper inquiry—I am sure it would have produced a much better-balanced piece of legislation.

The amount may have risen to the amount to which I have referred—I do not know. There may have been agreement on a number of the clauses here—I do not know. The fact remains that for one reason or another the Premier was not able to keep his election promise; in fact he did not do so, because this piece of legislation has not been considered in detail by the employers or by the industrial union as defined in the Act. Accordingly it is a one-sided piece of legislation.

The Hon. L. D. Elliott: It would be interesting to know how much legislation the former Government discussed with the Trades and Labor Council before it was produced.

The Hon. G. C. MacKINNON: It would, and the honourable member would be surprised to know that that eminently fair gentleman (Mr. Des O'Neil) did in fact submit this matter and there was a committee looking at it.

The Hon. L. D. Elliott: Not all the legislation.

The Hon. G. C. MacKINNON: Of course not, it was not necessary. This is the sort of legislation that was a matter of agreement between two groups of equal force before the law. The Industrial Arbitration Act makes no difference between an industrial union of employers and an industrial union of employees. It defines them both as unions. We have these two groups who are equal and who come together by agreement under the Workers' Compensation Act. It is a contract between two groups and, of course, both groups, or both unions, must be considered. Each is equal before the law; each has the same standing; and each is governed by the same set of rules and has the same impositions placed on it and the same benefits granted it.

The Hon. D. K. Dans: I take it the Employers' Federation does not agree with this Bill.

The Hon. G. C. MacKINNON: It may have done had it been given the opportunity to agree; but the Employers' Federation was given scant opportunity to agree on this matter. I do not know who overrode Mr. Tonkin, because he is an honourable man; he would not have stepped aside from his election promise had not some degree of pressure or force been brought to bear upon him. I cannot understand why this Bill was not submitted and discussed fully and comprehensively as it should have been.

It is for this reason I believe that if we agree to the second reading of the legislation it ought then to go before a Select Committee and be examined in depth.

The Hon. D. K. Dans: Just define that. Do you think Mr. Arthur Tonkin was right when he was talking about examining legislation?

The Hon. G. C. MacKINNON: I have made it clear that this is the only occasion on which I find him to be correct.

The Hon. D. K. Dans: On any Bill?

The Hon. G. C. MacKINNON: On this Bill. I happen to agree with what he said when the Bill was in the Committee stage in another place. He said that that Committee was not in a position to examine a complex piece of legislation such as this. It is one of the rare occasions that I have agreed with Mr. Arthur Tonkin. It is as simple as that.

The Hon. D. K. Dans: He talked about a proper committee system.

The Hon. G. C. MacKINNON: I have read what he said. I can quote it. He would like to hand this legislation over to a committee which would go into another room, get people before it, and take evidence. This is akin to the American system.

The Hon. D. K. Dans: What is wrong with the American system?

The Hon. G. C. MacKINNON: I am not wrapped up in the American system. I like the system we have. I suggested that we should take this legislation to the employers and the employees, compare all they have to say, and come up with a better interim measure than this one; that is if it is going to be an interim measure. Let me hasten to add there is no guarantee it will be an interim measure. The Minister made reference to this on page six of his introductory notes.

I think he is quite wrong in saying what he did, because he does not know whether the Woodhouse committee report will be acceptable to the Commonwealth Government; nor does he know whether the Commonwealth Government will introduce the

legislation, or whether it will get past the Senate; indeed he does not know whether the Commonwealth Government will be there at the time the Woodhouse committee's report comes in.

The Hon. D. K. Dans: I assure you it will.

The Hon. G. C. MacKINNON: I have left my crystal ball at Bunbury, but I will take Mr. Dan's word for it.

The Hon. D. K. Dans: I have been listening to what Snedden has had to say.

The Hon. G. C. MacKINNON: It cannot be an interim measure for the simple reason that there is no guarantee as yet that Mr. Whitlam or Mr. Cameron—or whoever has the final say—will accept it. How silly I am to say that because it is, of course, Caucas that will have the final say as to whether this is meant to be an interim measure or a final measure, because there is no guarantee that the Woodhouse committee's report will indeed be adopted, particularly when one considers the problems associated with State jurisdictions in Australia as opposed to the Commonwealth. This was a problem, of course, that Mr. Justice Woodhouse did not have in New Zealand.

Earlier in my speech I said that as distinct from a number of other Bills I did not believe the legislation before us was a Committee Bill. I believe it is a Bill on which one makes one's philosophy clear, if I can use that phrase, during the second reading debate, after which one would either accept or reject the other clauses. It is important for us to have our minds clear as to what sort of Bill we ought to have.

The Labor Party has decided it should change this legislation to a piece of social welfare legislation and, on that basis, the clauses in the Bill are reasonable—they are generously reasonable; but we will call them reasonable on that basis. That is the way the Labor Party sees the Bill and that is all right as far as it goes.

I do not see it in that light, however. I see it as a business arrangement between a man with skills, with labour, and work to sell and an employer with money to pay for these services. The employer has jobs to offer and work opportunities available. It is a contract between these two parties, with a third party being involved, namely the insurance company. I know that this is an oversimplification of the position.

The Hon. R. Thompson: Very much so.

The Hon. G. C. MacKINNON: Of course it is an oversimplification but, nevertheless, basically that is how I read it.

The Hon. R. Thompson: You are losing sight of one point, namely the injured worker.

The Hon. G. C. MacKINNON: No, I am not losing sight of that one point. I believe the Bill needs looking at and that it ought to be examined in detail not only for the consideration of the worker but also for the employer's benefit, for productivity in this State and the fact that work continues to be available in this State and that our compensation legislation—desirable and all though it may be—is not so outrageously more generous in its provisions than that in any other State, the Bill should be further considered because it militates against both the economic development and the job availability in this State; because we must bear in mind that whatever the case the injured worker is a worker in the minority.

The Hon. R. Thompson: Of course.

The Hon. G. C. MacKINNON: The workers in the majority also deserve looking after. Those in the greatest minority are, of course, the workers who are killed on the job. I made the point quite early in my speech that we should not get carried away by the fact that the dependants of the worker who is killed on the job should have more than double the present rate. I have always considered that to be an unwarranted argument for the simple reason that such a worker is so much in the minority. People will say, "You will break the fund because the dependants of a worker will get $30,000 because he happened to be killed at work." There are so few of them in this category. We know that tragedies occur in a number of industries; for instance in the mining industry with which Mr. Stubbs was so closely associated. I have seen reports of some terrible tragedies which have occurred in this industry.

The Hon. R. H. C. Stubbs: I have pulled three of them out.

The Hon. G. C. MacKINNON: I have heard of this from a great friend and admirer of the Minister but I do not think we should get carried away. I do think there is a necessity for this matter to be considered by a committee and, consequently, I intend with the agreement of this House to move that the matter be considered sympathetically and speedily by a Select Committee in order that the workers of this State may benefit from what can be managed within this State in the way of reasonable workers' compensation.

I have deliberately avoided going into great detail on the clauses in the Bill; I have tried to stick to general principles so far as it has been possible to do so.

If this Bill secures a second reading—and I intend to support the second reading—I will move at the appropriate time that it be referred to a Select Committee.

Debate adjourned, on motion by The Hon. S. J. Dellar.

House adjourned at 8.58 p.m.