Mr. H. D. EVANS: I will give my reasons in the course of the Committee stage. I feel we should take the amendments *seriatim* in the Committee stage to see which are useful amendments to the parent Act.

The member for Wellington has foreshadowed suggested alternatives for the present waybill. I would agree with those who have spoken that the present system is unworkable. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

ADJOURNMENT OF THE HOUSE: SPECIAL

MR. J. T. TONKIN (Melville—Premier) [10.25 p.m.]: I move—

That the House at its rising adjourn until 2.15 p.m. tomorrow (Wednesday).

Question put and passed.

QUESTIONS ON NOTICE

Closing Time

THE SPEAKER (Mr. Norton): I wish to advise members that questions for Thursday will be received up till 3.45 p.m. tomorrow.

House adjourned at 10.26 p.m.

Legislative Council

Wednesday, the 18th October, 1972

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

QUESTIONS (5): ON NOTICE

1. *This question was postponed until Tuesday, 24th October.*

2. WATER SUPPLIES

Rates: Assessments

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

(1) What is the method used by the Metropolitan Water Supply, Sewerage and Drainage Board to calculate "annual value" for the purposes of assessing water rates in the metropolitan area?

(2) What basis is used for rating in country areas?

The Hon. W. F. WILLESEE replied:

(1) The calculation of "annual value" for the Metropolitan Water Supply, Sewerage and Drainage Board, as provided under section 74 of its Act, is made by the Valuation Section of the State Commissioner of Taxation.

(2) Section 48 of the Country Areas Water Supply Act provides for the estimated net annual value to be calculated on the following basis:—

(a) the current net annual value adopted by the Local Authority in the district of which the land is situated; or

(b) a sum equal to the estimated full fair, average amount of rent at which the land may reasonably be expected to let from year to year, on the assumption (if necessary to be made) that the letting is allowed by law, less a deduction of forty per centum for all outgoings; or

(c) an amount not exceeding six per centum of the capital value of the land.

3. BUSSELTON HOSPITAL

Alterations and New Structure

The Hon. V. J. FERRY, to the Leader of the House:

(1) (a) Are any structural alterations and improvements being planned for the Busselton Hospital; and

(b) if so, what is the nature of the proposed work?

(2) At what stage are negotiations for the purchase of all the land required for the establishment of a new hospital on a site known as "Lilly's Mill" at Busselton?

(3) (a) At what stage is planning for the new hospital; and

(b) what facilities will be incorporated in the new hospital, such as number of beds, accommodation for permanent care patients, community health facilities, and other features?

(4) As the matter of providing Busselton with a modern and more suitable hospital has been under consideration for a considerable time, is the Government now in a position to give an assurance that ground work on the new site will commence at a certain date and that the new hospital will, in fact, be completed within a certain period of time thereafter?

(5) Has consideration been given as to the future use of the land and buildings comprising the present hospital?

The Hon. W. F. WILLESEE replied:

(1) (a) and (b) The provision of a transportable building to house new X-ray equipment required to replace worn out items, is being investigated. Consequential minor

structural changes are likely to make effective use of vacated space pending completion of the new hospital.

(2) Negotiations are in final stages for acquiring the last area required.

(3) (a) Preliminary sketch plans have been prepared for the ward block area.

(b) Complete new hospital including 44 beds and Community Health facilities.

Provision will also be made for a Permanent Care Unit of 16 beds, but it is doubtful whether this can be included in the first stage of building.

(4) No.

(5) Decision is unlikely until the new hospital is in course of construction.

4. COMMONWEALTH AID ROADS FUND

Grants to Western Australia

The Hon. J. HEITMAN, to the Leader of the House:

(1) (a) What was the total of the Federal Road Aid Grant received by Western Australia for the year 1971-72; and

(b) what is the estimated Federal Road Aid Grant for Western Australia for the years 1972-73 and 1973-74?

(2) Of this grant, what amount attracts matching moneys from either the State or local authorities?

(3) To what type of roads is the use of these funds restricted?

(4) What percentage of all Federal Government road grants comes to Western Australia?

(5) What restrictions or conditions are placed on the spending of these moneys?

The Hon. W. F. WILLESEE replied.

(1) (a) $39,250,000;

(b) (i) 1972-73 .... $43,910,000;

(ii) 1973-74 .... $48,030,000.

(2) In accordance with the formula set out in the Commonwealth Aid Roads Act 1969 the proportion of Commonwealth grants related to the quota funds (matching money) is as follows:—

1971-72 $3,996,274;

1972-73 $4,999,000 (estimate);

1973-74 $6,046,000 (estimate).

(3) (i) Urban Arterial or Sub-Arterial Roads;

(ii) Rural Arterial Roads;

(iii) Rural Roads other than Rural Arterial Roads.

(4) Under the Commonwealth Aid Roads Act 1969 Western Australia receives 16% of the funds distributed under that legislation.

(5) The Commonwealth Aid Roads Act 1969 requires that moneys be expended within the road category on the construction and maintenance of rural roads but only on the construction of urban roads and planning and research. The Commonwealth does not permit expenditure of Commonwealth funds on such items as the following:—

Street lighting (power costs);
Departmental housing;
Office buildings;
Suspense accounts;
Payments to the National Safety Council;
Sinking Fund payments.

5. MINING

Bauxite: Mitchell Plateau

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

What are the total estimated tonnages of bauxite at the Mitchell Plateau covered by the Alumina Refinery (Mitchell Plateau) Agreement Act—

(a) proven as a result of drilling;
(b) inferred tonnages?

The Hon. W. F. WILLESEE replied:

(a) The company advises it has proven reserves in excess of 200 million tons of washed and screened ore.

(b) Details of the exploratory work have been lodged as confidential progress reports with the Mines Department and enquiries will be made to see what information can be released on the latest position in regard to proven and inferred reserves.

BILLS (4): RECEIPT AND FIRST READING

1. Youth, Community Recreation and National Fitness Bill.

2. Environmental Protection Act Amendment Bill.

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

3. Totalisator Duty Act Amendment Bill.

4. Totalisator Regulation Act Amendment Bill.

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

TRANSPORT COMMISSION ACT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

LOTTERIES (CONTROL) ACT AMENDMENT BILL

Report

Report of Committee adopted.

ACTS AMENDMENT (ABOLITION OF THE PUNISHMENT OF DEATH AND WHIPPING) BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [4.43 p.m.]: I move—

That the Bill be now read a second time.

This Bill is designed to abolish the punishment of death and whipping from the Statutes of Western Australia. These provisions were written into the Criminal Code of Western Australia when it was first introduced in 1902—70 years ago—and, apparently, they were held to be in balance with community standards prevailing at that time.

The Government believes that this is a most appropriate time to introduce this Bill. As far as I am aware, no person is at present under the sentence of death with the consequence that the matter can be raised in an atmosphere devoid of undue emotion. More importantly, the Government is convinced that public opinion, to which every consideration must be given in each review of legislation of this nature, overwhelmingly reflects the revulsion of society with the continuation of the death and whipping penalties.

It is an appropriate responsibility for the Government to acknowledge and foster a regard for personal dignity by our society. If we disregard the situation in war, effronteries to human dignity equal to execution of the death and whipping penalties are hard to imagine.

Capital punishment and whipping are forms of punishment which are not consistent with human dignity or with a respect for the other rights that the offender, as a human being, retains.

The controversy over the death penalty is an old one and its resolution must ultimately depend upon public opinion. Nevertheless, the arguments used against earlier proposals for its abolition will no doubt be raised again and accordingly I feel they should be answered.

Punishment is an emphatic denunciation by the community of a crime, and the reasons for penalties have been the subject of considerable thought and research. Broadly, the elements of a penalty have been defined as retribution, rehabilitation, and its deterrent effect.

Retribution in this context must be clearly defined as excluding any element whatsoever of vengeance, as not to do so would be found intolerable by every member of this Parliament as indeed it would be by our society. We believe that our society does not wish to see more by way of retribution than an assurance that safeguards in our criminal law are adequate.

The evolving standards of decency within our society demand that still more emphasis be given to rehabilitation. Rehabilitation of the individual offender is now regarded as an important function of punishment.

Our society has long since acknowledged the need for rehabilitation, and this has been successfully applied through various agencies such as the Department of Corrections, the Probation and Parole Office, and the Departments of Community Welfare and Education.

It is incongruous that a State which allocates a considerable proportion of its funds for the care and the treatment of the less fortunate within the community should be burdened with a Statute that denies help to individuals who are among the most in need.

To those who would argue that murderers cannot be rehabilitated, the answer lies in the findings to the contrary of numerous inquiries, one such being the Royal Commission appointed in the United Kingdom and chaired by Sir Ernest Gowers in 1949-1953. On page 18 of its report the Commission said, *inter alia*, and I quote:

> Not that murderers in general are incapable of reformation: the evidence plainly shows the contrary. Indeed as we shall see later, the experience of countries without capital punishment indicates that the propects of reformation are at least as favourable with murderers as with those who have committed other kinds of serious crimes.

If we mean by rehabilitation the eventual re-entry of an offender into society as a useful citizen, then surely the ultimate success in rehabilitation is impossible while the death penalty is enacted and exacted.

The other element of punishment which is given undue prominence is its value as a deterrent. It is argued that capital punishment is a unique deterrent; more effective than protracted imprisonment or other alternative penalties.

Capital punishment, clearly, is not a uniquely effective deterrent. It is fallacious to assume that potential murderers calculate the consequence of execution and long-term imprisonment before or at the moment of killing.

The Hon. G. C. MacKinnon: I have never known of a murderer committing another crime after he has been hanged.

The Hon. W. F. WILLESEE: He would be good if he could.

It is obvious that at the moment of killing, the offender is devoid of reason or logic. This fact is borne out by the experience of those countries which, having suspended or abolished capital punishment, have no evidence of a resultant increased rate of murder.

No submission for the abolition of the death penalty would be complete without reference to one of the most horrific aspects of the practice—its irreversibility. It has been argued that the processes of law are such that every opportunity is given to establish the guilt or innocence of the offender.

It is not the type of event on which the normal responsible citizen wishes to dwell; nevertheless it is his duty to reflect fully on the part he has to play in ensuring that such mistakes do not occur.

It will be recalled that in New South Wales in 1947, a man by the name of McDermott was convicted of murder and may well have been hanged had the Labor Government lost the State election of that year. Five years later a Royal Commission decided that McDermott had been wrongly convicted. He was released and compensated.

We are all aware of the infamous United Kingdom case of one, Timothy Evans, illiterate and mentally backward, who was charged with the murder of his child. He was hanged on the 8th November, 1949.

One of the prosecution witnesses, whose name was Christie, was later found to have murdered seven women. There was grave doubt about Evans' guilt, its being almost universally accepted that Christie had been responsible. A posthumous pardon and reburial in consecrated ground in 1966 could have done but little to salve the conscience of the people. Without doubt, innocent individuals have been executed. Nor is there any doubt that we, as a society, must ensure that such mistakes cannot be made in this State.

In New South Wales there has not been a hanging since 1940, and the death penalty was abolished in that State in 1955. The penalty is still legal in Victoria. Queensland abolished capital punishment in 1922, and there has been no attempt to re-introduce it since. I think it is significant that a Liberal-Country Party coalition Government has been in power in Queensland for many years now and no attempt has been made to restore the death penalty in that State.

The Criminal Code in Western Australia is based largely on the Criminal Code of Queensland and this aspect is one of the very few departures.

In Australia no informed person would postulate that the quality of life or security enjoyed by those who live in States where capital punishment has been abolished is any less than in those retaining it. The Government recommends the adoption of this Bill to abolish the punishment of death and whipping.

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

COMPANIES ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. I. G. MEDCALF (Metropolitan) [4.51 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to give the Attorney-General the power to exempt unit trusts from the necessity to enter into certain covenants in their trust deeds.

The amendment is considered necessary because property trusts cannot comply with Stock Exchange listing requirements if they comply also with the requirements of the Companies Act.

It is a requirement of section 77 of the Companies Act that all trust deeds be approved by the registrar, and section 80 (1) (b) (iii) stipulates that the deed must contain a covenant by the management company—the company which issues the units—that it will repurchase the units at a price calculated in accordance with the provisions of the deed.

The Stock Exchange rules for listing of units require that the provisions of the deed in respect of repurchase be suspended while the units are quoted on the exchange. The reason for this is obvious as the negotiability and sale of the units on the exchange could not operate otherwise.

Section 88(1) of the Act authorises the Minister by notice in the *Government Gazette* to exempt any company from complying with any provisions of the particular division of the Act, and it has been the practice of the Minister in New South Wales to grant the necessary exemption I have mentioned.

It is not known whether this practice appertains in other States or whether any similar applications have been made in any State other than Victoria. However, it is understood that some little time ago the Minister in Victoria, no doubt on the recommendation of his registrar, declined to grant such an exemption on the ground that section 88 only authorised exemption from any provisions of the division and not from anything required to be included in a deed to be registered under the provisions of the division.

It is considered that this reasoning is somewhat technical and there would be no doubt of the original intention of the Legislature.

The Victorian Companies Act was recently amended to give the Minister the necessary power and this Bill, which is in

like terms, will make a similar amendment to the Companies Act of this State and enable unit trusts to have their units listed on the Stock Exchange provided the Attorney-General exercises his discretion to exempt the trust deed from the requirements of section 80(1) (b) (iii). Without this amendment it will be difficult to form new property trusts.

A property trust is controlled by a trustee and the trust deed must be registered with the Registrar of Companies. This gives unit holders a much higher degree of security than they can obtain through holding shares in a public company.

It is most important that property trusts have listing on the Stock Exchange, thereby allowing a free market. Under the existing Companies Act in Western Australia, it is necessary for the trust deed to have buy-back provisions if the trust deed is to be approved by the registrar. Naturally the Stock Exchange will not allow listing to a security which has buy-back provisions and two prices as one would have two markets. The Registrar of Companies, following the Victorian ruling, will not at present register a trust deed which does not have buy-back provisions, thereby precluding the floating of listed property trusts in Western Australia. It will be of interest to note that due to reciprocal arrangements between the Companies Office registries of New South Wales and Western Australia, at least one Sydney-based trust has been registered as a foreign company in Western Australia before the Western Australian registrar became aware of the deficiency in the Act.

Therefore, at the moment, Western Australian investment is going into a New South Wales property trust. Support for this Bill will ensure that Western Australians will be able to invest in property trusts set up to operate in Western Australia.

I would like to say that if we, in this State, are to have a situation where people can readily invest in property development on the terms and conditions which are most attractive to an investor, it is essential that property trusts be listed on the Stock Exchange.

The registrar is obviously hamstrung by the interpretation of the Act. It is fairly essential, therefore, that he should be able to exercise his discretion knowing that he has the power to do so and cannot be challenged.

For this reason I trust members will give the Bill due consideration. It is something which the various investors in Western Australia want, not only on their own behalf but also on behalf of the State, which is crying out for investment.

Provided the Attorney-General exercises his discretion, under the section I have quoted, to exempt the management company of the unit trust from the buy-back provisions which are required under trust deeds, it would then be accepted by the Stock Exchange as a security. Therefore, it would be listed on the Stock Exchange provided this Bill passes. I commend the Bill to the House.

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

INDUSTRIAL LANDS DEVELOPMENT AUTHORITY ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [4.57 p.m.]: I move—

That the Bill be now read a second time.

This Bill is designed mainly to reconstitute the Industrial Lands Development Authority to ensure that, in future, any change of title of a member of that authority, or any vacancy in the office of a member, will not result in the authority being unable to continue to operate.

There has been a repetition of a previous occurrence which, during 1971, made it necessary to introduce a Bill to alter the title of one of the members of this authority, following a department re-organisation, as Crown Law Department advice was given that the authority could no longer exist if one of its constituents could not be provided.

Because of further reorganisation within the Department of Development and Decentralisation the title of the office occupied by the Deputy Co-ordinator (Industries) has been amended to Executive Officer Industries and it becomes necessary again to amend the Industrial Lands Development Authority Act.

The Bill provides for this change of title to enable the Development Authority to continue to function, other action having been taken to postpone formal use of the amended title pending consideration of this Bill.

Provision is also made in the event that if such circumstances again arise in the future, the Development Authority will continue to operate without the necessity to approach Parliament again.

The Bill also makes provision—

For the secretary, who is the authority's executive officer, to be a member of the authority.

For any one of the five members to be capable of being appointed chairman. For appointment of a deputy chairman, and

for appointment of deputies by the Town Planning Commissioner, the Under Secretary for Lands, and the Executive Officer Industries of the Department of Development and Decentralisation.

Experience in the operation of this Act has indicated the desirability of the secretary becoming a full member of the authority.

The authority is a small body, with four part-time members, all of whom occupy positions at or near the top level in the Public Service, the secretary being responsible for performance of all action resulting from decisions of the authority in connection with its functions.

Because of the knowledge and experience acquired by the secretary in carrying out the detailed work of the authority it is considered that besides facilitating the work of the authority, he could contribute further to its operations by being admitted as a member and thereby being entitled to express his opinions and vote on matters before the authority. The membership of the authority would accordingly be increased from four to five members.

The Bill does not effect any changes in the functions, powers, or responsibilities of the authority. It proposes to correct an anomaly caused by a reorganisation, to increase the membership, and to define the procedure to be followed by the authority at its meetings.

That is the purpose of the Bill, and I commend it to the House.

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

PERTH REGIONAL RAILWAY BILL

Recommittal

Bill recommitted, on motion by The Hon. F. R. White, for the further consideration of clause 5.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. J. Dolan (Minister for Railways) in charge of the Bill.

Clause 5: Authority to construct the Perth Regional Railway—

The Hon. F. R. WHITE: When the Bill was last dealt with in Committee this clause was amended, but the amendment passed on that occasion was different from the one Mr. Logan had placed on the notice paper. A compromise amendment was passed, a subclause being inserted. Prior to the amended clause being put to the vote I made a statement which appears on page 3891 of *Hansard* dated the 11th October, 1972. It reads—

> I am still concerned about the amendments which have been passed to this clause. Clause 5 will now provide that until a report is approved, no construction shall take place on the proposed Perth regional railway. If we agree to the clause in its present form, we will be agreeing to the immediate pulling up of the Fremantle-Perth section of railway and other works which have been proposed in the Bill.
>
> I believe the Committee should consider this clause very seriously because the intent of the motion which Mr. Logan withdrew was more far-reaching than the amending clause as it stands.

Subsequently the clause was put to the vote and carried. I immediately placed an amendment on the notice paper for a new clause 6 to be inserted, but I have decided not to proceed with that amendment. Members have been circularised with another amendment which covers the discontinuance of the scheduled railway which members will recall deals with 10.7 miles of railway line between Leighton and Barrack Street.

The discontinuance of this railway line is part and parcel of the Perth regional railway proposals contained in the Bill and therefore should be treated in a manner similar to the construction of the underground railway, and the scheduled railway proposals should be included in clause 5.

I do not wish to speak at length because a great deal of discussion has already ensued on this Bill. I therefore move an amendment—

> Page 3—Insert after the word "Before" in line 1 of subclause (2) inserted at a previous committee, the passage "discontinuance in accordance with section 3 of the scheduled railway and before".

The Hon. J. DOLAN: I referred this amendment to the Government which is not prepared to accept it. Consequently I must oppose it. I do not desire to enter into a long debate again but just wish to make the position perfectly clear.

Amendment put and passed.

Clause, as further amended, put and passed.

Bill again reported, with a further amendment.

RACING RESTRICTION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 11th October.

THE HON. G. C. MacKINNON (Lower West) [5.07 p.m.]: Unfortunately I was absent on parliamentary business when this Bill was previously discussed. However when it was originally introduced I immediately contacted the Country Trotting Association and was very surprised at the

storm which developed thereafter. Apparently, virtually no discussion had taken place between the parent body and the country clubs.

Due to the goodwill of the Minister (Mr. Stubbs) this matter was very quickly rectified and a discussion took place at which all difficulties were resolved.

The only other matter I wish to mention briefly is the suggestion of Mr. Abbey. If anything came of his suggestion in the form of an amendment, I would be constrained to oppose it. There is already talk of the possibility of other establishments such as the one at Byford being situated in the Wanneroo and Yanchep areas. It cannot be gainsaid that these places are really in the greater metropolitan area and therefore should share metropolitan trotting dates if they are to be allotted dates.

The problem of money also arises and the question of the share in the distribution of the money allotted through the T.A.B. to the country trotting clubs. If Byford were to be allowed trotting dates, this would cut into the amount to be distributed to the T.A.B. trotting clubs, because all the clubs in the country are not necessarily T.A.B. clubs.

However I notice that Mr. Abbey has not placed any amendments on the notice paper so apparently he was merely making a suggestion. Any amendment would be vigorously opposed by all the country trotting clubs in the State, whether T.A.B. or not; and I doubt very much whether it would get any support from either Fremantle or the W.A.T.A. Consequently I do not think any amendment would have been passed.

Now that the strife between the trotting clubs themselves has been resolved as a result of discussion I am quite happy to support the measure.

THE HON. G. W. BERRY (Lower North) [5.10 p.m.]: I rise to say very little, but I could not help but bring to the notice of the House something I discovered when looking through the annual reports of the T.A.B.; that is, the massive increase in its turnover from 1970-71 to 1971-72. The increase was some $12,000,000. It seems passing strange that with the downturn in the economy the revenue of the T.A.B. should rise by such a great amount. I would have thought the downturn in the economy would be reflected in the T.A.B. revenue, but apparently this is not the case because the T.A.B. revenue increased considerably.

I notice too that the distribution to the clubs in 1971-72 has been reduced by 1 per cent. and the amount retained by the board has been increased by 1 per cent.

I thought these matters should be brought to the attention of the House. I support the Bill.

THE HON. R. H. C. STUBBS (South-East—Chief Secretary) [5.12 p.m.]: I wish to thank all those members who spoke during the debate—Mr. Baxter, Mr. Ferry, Mr. Abbey, Mr. Syd Thompson, Mr. McNeill, Mr. MacKinnon, and Mr. Berry.

Mr. Baxter queried the total number of horses racing in the metropolitan area. Looking at my notes I think I might have contributed to his confusion because I simply said that the total was now in excess of 600. What I meant was that the total registrations for this year exceeded 600. As a matter of fact the number of horses registered for this year is 641 while for last season it was 600. I am very pleased Mr. Baxter drew my attention to that point.

The Hon. N. E. Baxter: You did not get the total number registered in Western Australia?

The Hon. R. H. C. STUBBS: I might have it, but if not I will obtain it and supply it at the third reading stage.

Mr. Baxter also queried the number of thoroughbred horses racing in the metropolitan area. The number I gave was 6,744. The position is that that is the number of thoroughbreds racing and 56 meetings were held in the metropolitan area which includes of course, Richmond Raceway.

The total nominations for the year was 10,003 and the scratchings and ballotting out accounted for 5,342. So the actual number of horses which competed was 4,661, although it must be understood that some of the horses raced more than once on several occasions.

A misunderstanding did occur regarding the Bill, the purpose of which is simply to rectify an omission which has been evident for quite a number of years. My attention was drawn to it and I decided I would try to correct it. In addition the other clubs wanted racing dates not to use immediately, but for future use. Country clubs misunderstood and thought that the Western Australian Trotting Association intended to race on Wednesdays in the metropolitan area. That is not so because it has no intention of doing this.

The association wanted the extra days for special occasions. For instance, it did not have a meeting last Royal Show day because no date was left. Other dates, too, are involved. If we have the Interdominion Trotting Championships, naturally a mid-week date would be required. Another date might be required at the Christmas carnival. These are the only mid-week occasions which are envisaged.

So I hasten to assure the House that there was no intention whatever to encroach on country trotting. As a matter of fact the position was quickly rectified. I first received a letter from the Great Southern Trotting Council saying that it

strongly objected to the granting of additional dates to the metropolitan clubs. It can be seen, therefore, that this council was also misinformed.

The council added it was against the boundary alteration without discussion. When I received its telegram I wondered what the council was talking about, but when I met the council I discovered what it meant.

I also received a telegram from the South-West District Trotting Council which was also a council racing mid-week in the metropolitan area. As I have said, the whole thing was a misunderstanding.

A further telegram was received by me from the Harvey Trotting Club saying that it fully supported the legislation as put forward by the Western Australian association, and adding—

> Harvey Trotting Club is in full confidence with the parent body.

The Busselton Trotting Club also sent me a telegram which states, "Busselton Trotting Club supports amendment to the Racing Restriction Act and has complete confidence in the W.A.T.A.—the parent body."

The Secretary of the Collie Trotting Club sent a telegram saying, "Collie Trotting Club supports amendments to Racing Restriction Act and has complete confidence in the parent body, W.A.T.A."

A further telegram was received from the Pinjarra Trotting Club stating, "After meeting W.A.T.A. and yourself Pinjarra supports amendments to the Racing Restriction Act. We also support W.A.T.A. on this matter."

The Bunbury Trotting Club also sent a telegram which supported the amendments to the Racing Restriction Act. The telegram said it had complete confidence in the parent body, the W.A.T.A.

The Hon. L. A. Logan: This was after they had their meeting?

The Hon. R. H. C. STUBBS: Yes. The North-Eastern Districts Trotting Council, because of its confidence in the Western Australian Trotting Association, does not oppose any of the amendments to the Act supported by the association and it says that it therefore wishes the Bill which has been presented to be proceeded with.

Accordingly most of the trotting people are in agreement with the measure. I must repeat that somewhere along the line there was a misunderstanding, but when a meeting was held in my office this was quickly ironed out. The trotting authorities saw there was a misunderstanding and having done so they were quite happy about the position and gave full support to the Western Australian Trotting Association.

Mr. Abbey made a point regarding the T.A.B. when he said in effect—

> The Hon. Minister for Police, in reply to the Hon. Member's question No. 4 of Tuesday, 19th September, 1972 clearly stated that the Totalisator Agency Board was not involved with the distribution of funds to Country Clubs within the provisions of Section 28 of the Totalisator Agency Board Betting Act.
>
> The information supplied was made available by the Western Australian Turf Club and the Western Australian Trotting Association, and was clearly marked on both lists tabled "Distribution to Country Clubs, year ended 31st July, 1972." This coincides with the end of the racing and trotting season.

Incidentally, Mr. Perry asked me when the trotting year actually commenced and finished. The trotting year officially starts on the 1st August and finishes on the 31st July the following year. The Winter Cup is usually the last important event in its calendar. Mr. Abbey continued and said in effect—

> The total amounts namely $328,817 distributed by the Turf Club and $286,480 distributed by the Trotting Association were the actual amounts distributed to Country clubs by those organisations for the year ending 31st July, 1972.
>
> The figures quoted by the Hon. Member as contained in the Totalisator Agency Board's Annual Report, $334,470 and $222,980 respectively, were the actual amounts made available to the Turf Club and the Trotting Association by the T.A.B. for the year ending 31st July, 1972.
>
> As regular monthly payments are made to the Turf Club and Trotting Association by the T.A.B., it would be normal to assume that the July payments would not be made available to the Country clubs until some time during August, therefore the figures quoted in the Annual Report and those made available by The Turf Club and the Trotting Association would not necessarily be identical.
>
> There is no reason to indicate that the figures supplied by the Turf Club and the Trotting Association and made available to the Hon. Member in response to his question are not correct.

It is simply that the money was not made available at the time.

The only point on which I do not appear to have touched is that made by Mr. Abbey when he indicated that he favoured Byford being used as a country course. I would indicate most emphatically that there is no chance of that happening, because the Byford track is owned by the Western Australian Trotting Association. It has nothing in mind except to use this ground as a training track and therefore it would not issue dates for this purpose. This was also brought up at the meeting which was quickly told that there was no intention to race there.

Again, this was due to a rumour. When I received a telegram mentioning this matter I did not know what the people concerned were talking about.

The Hon. S. T. J. Thompson: It is shown in the last report of the trotting club. It is an asset of $90,000.

The Hon. R. H. C. STUBBS: Anyhow I can assure members there is no intention to use that course for trotting meetings. The people in my office have given that assurance and I thought I would mention it.

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. R. H. C. STUBBS (South-East—Minister for Local Government) [5.25 p.m.]: I just want to thank members who have spoken to this Bill. I will endeavour to reply to the points they have raised.

Mr. Heitman noted that clause 3 of the Bill had not been requested by any of the local government associations; but that it had been requested by the Local Government Department and the Boundaries Commission. This is quite correct and perfectly understandable, because municipal councils, particularly those in the metropolitan area, are divided on the question of whether or not boundary changes are desirable.

The department is in a position to view the situation objectively, and is concerned with the problem of devising administrative procedures which will not become cumbersome or obstructive. It is emphasised that it is not intended to take away any rights from any council or body of ratepayers.

It is also emphasised that paragraph (j) of subsection (6) of section 120 of the Act at present provides that all persons at each municipality directly affected by any matter before the commission must be afforded an opportunity of being heard thereon.

This, of course, takes place in practice. Whilst I heartily agree with the views expressed relative to the calibre and qualifications of the present members of the commission, there is absolutely no reason to believe that the members of any future commission will be any less capable, or will fail to comply with the provisions of the Act, or that they will not undertake their functions faithfully and impartially.

The proposal in clause 3 of the Bill does not introduce a new principle. Subsections (3) and (4) of the Act already permit the Governor to effect changes in the constitution of municipalities without a petition; and subsection (4) permits the Governor to unite two or more municipalities whose districts are adjoining, so as to form one municipality and one district if the union has been recommended by the Boundaries Commission.

The only difference proposed in the amendment is that the recommendation of the Boundaries Commission can be effected even though it does not complete the amalgamation of existing districts.

Anyone who gives a moment's thought to this situation must realise that the only practical variation would be a complete union of districts.

Mr. Heitman claimed that the clause would permit the Boundaries Commission and the Minister to go ahead and make boundary changes without seeking submissions from anyone else. Mr. Heitman may not be aware of paragraph (j) of subsection (6).

This clause does not propose to take away the rights of any individual or shire. However, if the measure is not passed, any change in municipal districts may have to be seriously limited unless one of the councils concerned is prepared to present a petition. The recommendations of the commission—if these involve severence and annexation—could still be effected in most instances, but the procedure would be cumbersome and time-consuming.

When dealing with paragraph (c) of clause 3, Mr. Heitman quite incorrectly referred to the Boundaries Commission as a court. The parties who make submissions to the Boundaries Commission are not litigants, neither are they offenders against the law. They are not contesting matters of law.

If it is desirable that the hearings of the commission should be held in an informal atmosphere; persons submitting views to the commission should be able to do so without being bound by rules of evidence, without being subjected to cross-examination, and without being inhibited by the knowledge that their views or mode of expression will be subjected to critical interrogation by legal counsel.

The proposal contained in this clause has been made for several reasons, which I shall outline. We consider that legal representation is not necessary and is also costly, and that matters before the commission are not legal considerations. At the conference of Ministers for Local Government, all States agreed to insert this provision in their Local Government Acts. One State has already done so and the other States have intimated they will be doing so very shortly.

Mr. Heitman referred to the question whether or not a municipal council could afford legal representation. I believe councils have a duty, as trustees of funds, to conserve those funds in the interests of all their ratepayers. The question whether or not a matter before the commission is in the interests of ratepayers is one which may be open to doubt. There is nothing in the Act at present which specifically authorises expenditure of this nature, and it could be that the majority of ratepayers would resent having their funds expended on the fees of counsel for the promotion of a cause with which they were not in sympathy. By way of example, if there were a move to alter boundaries I might be in favour of it but, as a ratepayer, my money might contribute to the cost of contesting it. That is the point I am making.

Mr. Heitman referred to clause 8, which provides for the calling of special meetings by telephone. He suggested a letter of confirmation should be dispatched to avoid any dispute that a telephone call had been made. I gave this matter some thought, but on reflection I do not think it needs verification because councillors are responsible people and I cannot envisage any problem arising. Should a problem arise, naturally we would have to rectify the position. I do not think it is so important that we should change the provision, but I am certainly prepared to keep my eye on the matter.

In speaking to clause 9 of the Bill, Mr. Heitman expressed concern for the sellers of fish and somehow deduced that this clause was directed against fishmongers. This is not correct. The items listed in clause 9 are for the specific purpose of excluding sellers of these commodities from the definition of "hawker" and the regulating and licensing prescribed in section 217. The amendment is not intended to limit in any way the control of licensing of itinerant vendors of food under the provisions of the Health Act. The control exercised under the Local Government Act is that prescribed in subsections (2) and (3) of section 217. The proposal will not necessarily affect the opportunities of people in country areas to buy fish.

Mr. Heitman inquired about clause 10 and expressed doubt about the necessity to change the purpose of any trust. It is already provided in section 265 that a council can vary a trust in respect of property conveyed, transferred, assigned, given, devised, or bequeathed to it for charitable or public purposes. In the instance which gave rise to the need for this amendment, the subject property was not conveyed, transferred, assigned, given, devised, or bequeathed for charitable purposes. The property was vested in the municipality and the trust was imposed by the council itself many years ago. The reason for the imposition of the trust is not now known. No records of it are available. There appears to be no valid reason why a trust imposed by a municipality on its own property cannot be varied in the same way as other trust property, and the amendment is designed purely for this purpose.

The facts are that the City of Perth itself placed money in a trust. It was done so long ago that no-one seems to know how it happened. The City of Perth tried to do certain work but found it was not legally able to do it. The matter was taken to court in an attempt to obtain permission to use the money. The Chief Justice said he was sympathetic but it was not legal for the City of Perth to use the money.

Mr. Heitman also inquired concerning the purpose of clause 17. Section 522 at present sets out the various funds of a council and requires separate accounts to be kept for each fund. With bank accounts however, as distinct from accounts in the books of the municipality, it is prescribed that only two bank accounts need be kept —one for the municipal fund and trading account, and one for all the other remaining funds. In practice, loan funds and trust funds are usually kept in separate accounts. The parking fund, however, was provided for in paragraph (ba) of subsection (1) by amendment, and it is administratively desirable that the bank account for this fund should be included with the bank account for the municipal fund. This is at present precluded by the provisions of the legislation. The idea is that one fund might be in debit and have to pay interest while the other is in credit. If the two accounts can be balanced, it would not be necessary to pay interest.

The Hon. J. Heitman: I realise that, but it would be convenient for a shire to be able to use the two funds if it so desired.

The Hon. R. H. C. STUBBS: Clause 18 is designed to prevent a council expending its funds on works for religious purposes. There is at present no specific provision in the Act for such expenditure, but on one occasion the Governor declared the establishment of an interdenominational church as a work and undertaking for which money may be borrowed. The amendment is designed to ensure that no council in future can utilise ratepayers' funds in this manner. It is not an anti-religious measure but the Government believes that if interdenominational churches are to be instituted they should be directly the responsibility of the adherents of the church and not of the ratepayers, however small might be the minority opposed to the expenditure on the church. I think this point was raised by Mr. White.

The Hon. F. R. White: I spoke about the power to raise revenue on property which is not public property.

The Hon. R. H. C. STUBBS: In certain circumstances municipalities may expend revenue on private property. I checked that and found it is allowed under the Act.

Clause 19 is designed merely to ensure the continuance of existing provisions relating to the valuation of rezoned properties. This amendment was rendered necessary because of amendments to the Land Tax Assessment Act and because it is considered preferable to avoid cross-reference to other Statutes which are themselves subject to amendment from time to time. This clause brings into the Local Government Act the provision previously contained in the Land Tax Assessment Act.

Mr. MacKinnon asked about this matter. Let me put it in a simple way. If high rise buildings were erected in the vicinity of my house in Wembley and the valuation of my property were thereby increased, I would not have to pay higher rates if I had that property before the development commenced. If I sold the property, the new owner would have to pay the higher rates.

Difficulty was experienced in keeping up with the amendments to the Land Tax Assessment Act. Just before I brought this Bill to Parliament I found there had been an amendment of that Act which had not been taken into account, and I thought that instead of having to chase those amendments it would be preferable to include the provisions in the Local Government Act.

The Hon. G. C. MacKinnon: I can see how your example applies in an area like Wembley, but what about a run down area?

The Hon. R. H. C. STUBBS: I used Wembley as an example, because I live there. The same situation would apply anywhere.

The Hon. L. A. Logan: South Perth is a glaring example.

The Hon. A. F. Griffith: If you continued to live in the house your rates would not be put up, but if you sold your house to someone else they would be put up?

The Hon. R. H. C. STUBBS: Yes, naturally. It means that if I were there before the development began and the rates went up afterwards, I would not suffer any disability.

The Hon. A. F. Griffith: But the person to whom you sell your house immediately suffers a disability.

The Hon. D. J. Wordsworth: You enjoy a profit when you sell that property at a higher price, yet you have not paid higher rates on it.

The Hon. R. H. C. STUBBS: A good deal of development has taken place and in many areas people have been disadvantaged. The amendment is designed to prevent any disadvantage occurring.

The Hon. D. J. Wordsworth: I give the example of a church. A church does not pay rates. When a church sells land and makes a profit, it pays rates for the previous five years. That gives the shire some money.

The Hon. R. H. C. STUBBS: I will give an answer to that in the Committee stage.

Mr. Logan expressed opposition mainly to clauses 5 and 18. The former is designed to enable a council to appoint an officer other than a clerk to be the returning officer for specific elections, with the approval of the Minister. The fact that the proposal is to be approved by the Minister should ensure that the general principle of the clerk of the council being the returning officer will not be lightly departed from. Mr. Logan expressed the view that the prohibiting of the spending of municipal funds on churches "is another erosion of the powers of local government." In fact, councils do not at present possess this power, so no erosion is involved. Any authority to borrow for such purposes must be conferred by the Governor.

Mr. Clive Griffiths spoke to clause 3. He believed Parliament should be the final arbiter of the recommendations by the Boundaries Commission. Parliament has not in the past been the arbiter and it has been prescribed that the Governor, by order, has the power to implement all actions affecting the constitution of councils and districts. The amendment does not propose to alter this.

Mr. Clive Griffiths was also opposed to clause 3 (a) because he does not agree with the existing provisions in the Act in respect of the amalgamation of municipal districts. He appears to have placed the same interpretation on clause 9 as Mr. Heitman placed on it. I do not believe their interpretation is correct.

Mr. MacKinnon suggested that section 37 of the Land Act is relevant to clause 10 of the Bill, but I believe that is not so. The clause relates purely to the varying of trusts which I mentioned previously. That point was also raised by Mr. Clive Griffiths.

Mr. Wordsworth said that I changed the wards in Esperance at the behest of the local waterside workers. I say to him that he is either misinformed or he is departing from the truth because that is not so. I checked the records to ensure that I do not make a mistake, and I found that the wards were changed at the behest of the Esperance Ratepayers' Association, the Chamber of Commerce, and the A.L.P., which wrote to me.

The Hon. D. J. Wordsworth: They also wrote to the Premier.

The Hon. R. H. C. STUBBS: I do not know whether the A.L.P. wrote to the Premier; I am merely telling the honourable member that the organisations I dealt with were the Chamber of Commerce, the Esperance Ratepayers' Association, and the A.L.P. Two private citizens and one councillor also wrote to me. I had nothing to do with the waterside workers, so whoever informed the honourable member did not tell him the truth.

The Hon. L. A. Logan: You didn't refer it to the shire for its confirmation.

The Hon. R. H. C. STUBBS: I had previously been in communication with the shire in regard to the matter.

The Hon. L. A. Logan: It did not agree.

The Hon. R. H. C. STUBBS: I know, but I could see the justice of it so I went ahead with it. I made a decision just as Mr. Logan made decisions when he was the Minister.

The Hon. D. J. Wordsworth: You removed the seat of the president.

The Hon. R. H. C. STUBBS: I did not. The president is there right now. He can nominate for another seat if he likes; I am not stopping him.

The Hon. D. J. Wordsworth: He would have to nominate for another ward.

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

The Hon. D. J. Wordsworth: A ward in which he does not live.

The Hon. R. H. C. STUBBS: One does not create seats for presidents or anyone else; one tries to be fair.

The Hon. D. J. Wordsworth: One tries to be just.

The Hon. R. H. C. STUBBS: That is so; and that is just what I did.

The Hon. D. J. Wordsworth: I do not think you did.

The Hon. R. H. C. STUBBS: The honourable member is on dangerous ground now.

The Hon. D. J. Wordsworth: There are two seats in the west ward and—

The PRESIDENT: Order!

The Hon. R. H. C. STUBBS: The Hon. S. T. J. Thompson said he had some reservations about the clause dealing with honorary inspections and on-the-spot fines for littering. The system of modified penalties is not designed to take away the principle that a person has a right to take his case to the court. An offender can accept the fine or go to court. I think local authorities would appoint responsible people for this task. I do not envisage honorary inspectors will be appointed in larger towns or cities, but I think the only way to control the problem in smaller shires is to appoint honorary litter inspectors. From my experience of councillors I am sure they would act responsibly in this regard.

I think I have answered most of the queries raised by members during the debate. 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.

Clauses 1 and 2 put and passed.

Clause 3: Amendment to section 12—

The Hon. J. HEITMAN: I understood the Minister's explanation of the clause, but in my opinion it cuts across the rights of local authorities inasmuch as boundaries may be altered without reference to local authorities. I think the Boundaries Commission already has plenty of power and I am certainly not in favour of allowing it to alter boundaries without receiving a petition. The Minister has asked the commission to consider metropolitan boundaries. I have a lot of time for the work done by the commission, and in this instance it has been asked to consider metropolitan boundaries and to draw up suggested boundaries which will be submitted to local authorities in order that they may object or present their thoughts.

I think that is a terrific idea and it could still be carried out if the Act were not amended. If the local authorities are prepared to listen to the commission and can see the benefit of having larger shires or cities in the metropolitan area, that is fair enough. However, I do not like the idea of the Boundaries Commission reporting to the Minister, and the Minister acting upon the recommendations of the commission even though local authorities may be opposed to them. I think local government should have the right to object.

I feel the commission should interview local authorities and explain to them the advantages of having larger areas. It should present propositions to the local authorities so that they may consider them and object to them if necessary.

The Hon. R. H. C. STUBBS: I feel the Boundaries Commission should have the power to achieve a fair redistribution of boundaries if that is necessary. I know a great deal of parochialism and emotion is involved in the issue, but so far everyone has been happy with the alterations made by the commission. I visited a local authority today which was formerly violently opposed to having its boundaries altered, but now it says it is the best thing that could have happened.

The Boundaries Commission should have the power contained in the clause if it is to function effectively. If it must wait for objections the redistribution of boundaries will be a slow process.

The Hon. J. Heitman: You have already asked the commission to go to the local authorities and put up a case for the alteration of boundaries. If the commission was right the local authority would be able to see that and would petition to have the alteration effected.

The Hon. R. H. C. STUBBS: The reason the Boundaries Commission is considering local authority boundaries in the metropolitan area is that we have received petitions from various places. I thought it would be better to consider the whole metropolitan area rather than one or two districts within it.

The Hon. J. Heitman: I think that is quite right.

The Hon. R. H. C. STUBBS: My idea was that if the alterations are to be made at least they can be made in an orderly fashion. It is not envisaged that boundaries will be altered right, left, and centre; but it is essential to do the job in an orderly fashion if we are to do it at all. Therefore, I ask the Committee to support the clause.

The Hon. A. F. GRIFFITH: The Committee will recollect that I introduced a Bill not long ago to give Parliament some say in the matter of whether boundaries should be readjusted. The Bill passed this Chamber without the acquiescence of the Minister for Local Government. However, it was defeated in another place.

As an example, let us take the case of two country shires with which I am familiar. One is anxious to take over the other for certain reasons. The reasons could be financial, geographical, or otherwise. Under the present circumstances the Boundaries Commission cannot act until it receives a petition from one of the local authorities.

As I understand the situation one of the local authorities does not wish to be taken over by the other because it is in a sound financial position. It does not wish to be taken over in order to cure the ills of the other. The only avenue open to the first local authority is to petition the commission to take over the second local authority. In fact, it has done that. I think Mr. Baxter is aware of the case to which I am referring. When that is done the Boundaries Commission hears the matter, and hears the objections of the dissenting local authority. Finally a decision is reached.

I am not complaining about that, except that the party that I represent considered at the time it was far better for the proposition to be laid on the Table of the House so that the ratepayers and not necessarily the councillors—through their parliamentary representatives—would be permitted to have a say in the ultimate result. If all parties were in agreement the regulation would be passed and the alteration of the boundary would take place.

However, if we agree to this clause then a reluctant local authority would not have a chance in the world of being consulted; and one morning it could wake up to find it has been taken over by another local authority. There is no equity in that. I posed the question when I introduced my Bill as to whether a local authority could be taken over by another local authority, when the large majority of the ratepayers in the first local authority did not want it to be taken over. Be that as it may, the Government did not agree to the contents of that Bill.

To me the Bill before us goes a great deal further and creates additional inequities, in that neither local authority concerned in an amalgamation or takeover needs to be consulted at all. Certainly a local authority which desires to take over the territory of another local authority would not object, because it would probably profit from it. However, the local authority to be taken over would not have any say.

It is far better to retain what is in the existing legislation, bearing in mind the Government was not prepared to accept the proposal I put forward, but is prepared to accept a proposition of this nature under which the Boundaries Commission could say to local authorities, "Whether or not you like it, you will be amalgamated." I do not think that is fair.

The Hon. L. A. LOGAN: I remind members we are dealing with two entirely different propositions in this clause; and if we vote against the clause we will vote against both propositions. It would be preferable for some member to move to delete the first part of the clause.

I do not think that the proposal under discussion is the one with which Mr. Griffith is concerned. The position is that under the existing Act the Boundaries Commission and the Minister can amalgamate, for instance, the Northam Shire with the Town of Northam. So, in that respect, the Bill does not interfere with the existing set-up.

It may be in the best interests of all concerned for the Shire of Northam to take over the Town of Northam. When the Town of Midland petitioned to take over the Shire of Swan the case was heard, but the Shire of Swan ended up with taking over the Town of Midland. The result was to the betterment of both local authorities. The same thing happened at York when the Shire of York took over the Town of York, because it had the larger revenue.

The clause under discussion will not alter the procedure for the amalgamation of shires. I remind members again we are dealing with two different propositions in the clause, and they should be treated separately.

The Hon. N. E. BAXTER: It seems under this clause that on the petition of a local authority the boundaries of a number of other local authorities could be changed.

The Hon. A. F. Griffith: Where is it mentioned, that it is necessary for even one shire to present a petition?

The Hon. N. E. BAXTER: I think that is mentioned in the principal Act.

The Hon. A. F. Griffith: The clause seeks to amend section 12 of the principal Act.

The Hon. N. E. BAXTER: Yes. On reading the section I find that amalgamation can take place without any petition being presented.

The Hon. S. T. J. THOMPSON: Some amalgamations of local authorities have turned out to be beneficial. The amalgamation at Wagin came about by mutual agreement. In my electorate there are several small shires which do not want to be taken over by the larger ones, because they are getting on very well and their rates are lower than those of the larger shires.

Under the provision in the clause a local authority, such as Katanning, could take over the Broomehill Shire without presenting any petition. The same could apply at Collie where the Shire of Collie could take over the West Arthur Shire. We should insist on takeovers or amalgamations being effected by mutual agreement, otherwise dissatisfaction will be created.

Sitting suspended from 6.07 to 7.30 p.m.

The Hon. T. O. PERRY: I wish to express my opposition to this provision in the Bill. I cannot agree to the taking over of the whole of a shire, or part of it, without the people concerned having some say. For that reason I supported the Bill introduced by Mr. Arthur Griffith.

The assessment committee recommended that a number of shires be annexed and taken over by adjoining shires. The assessment committee recommended that my own shire, the shire of West Arthur, be taken over by Collie. Collie is an industrial shire and West Arthur is an agricultural shire.

I have been accused of making extravagant claims in this House but I would mention that wool from the West Arthur shire topped the sale today.

The Hon. J. Dolan: The honourable member has been hiding his light under a bushel!

The Hon. T. O. PERRY: Of course, the recommendation of the assessment committee went against my grain. To justify what I have said, the Kojonup shire recently wrote to the West Arthur shire and asked for a copy of the last two balance sheets. The Kojonup shire wished to find out how the West Arthur shire was able to provide all the necessary amenities for its ratepayers and still function on a very low rate.

I cannot support the annexation of a shire, or part of a shire, without a referendum, or the people having some say in what is to take place. I believe in democracy, and I oppose this part of the legislation.

The Hon. F. R. WHITE: I was very disappointed with the Minister's reply to the second reading debate. I feel that a number of points I raised were not answered. During my speech I dealt with various parts of the Act, and the conditions under which boundaries could be altered. They can be altered by a petition of two local authorities, by petition of one municipality alone, and without petition. I expressed the opinion that clause 3 would create a danger because individual authorities will be denied the right to be heard.

The provisions in the Bill set out that the Boundaries Commission may make recommendations, and those recommendations can be adopted. There is no provision whatsoever for the local authorities concerned to be heard. I did say that I would like the Minister to consider my submission that any affected authority should have an opportunity to be heard by the Boundaries Commission before a final recommendation was made.

I did not hear the Minister very clearly whilst he was replying. He may have covered this particular point, but if he did I was not aware of it.

The Hon. J. HEITMAN: It has been said that it might be better to divide clause 3 into two parts. I would like to refer to the opinion of local government and the country shire councils regarding this clause. Those two groups are opposed to the proposal that the Boundaries Commission be empowered to authorise changes without a petition. They feel that although a change may be desirable in some cases, as a general principle no change should be made unless a council has sought that change by petition.

As the proposal stands the commission and the Minister could force amalgamation upon any two councils; an amalgamation which those councils may not want. The two groups are also opposed to the barring of solicitors from submitting cases on behalf of councils. They admit that in some cases the use of barristers could be undesirable, but they felt the provision in the Bill should be opposed.

It is my intention to oppose clause 3. I oppose the proposal that a Minister should be able to recommend an amalgamation without a petition from the affected shires. Also, although I know that submissions to the Boundaries Commission are not heard in court it is sometimes necessary to have a barrister or a solicitor present to defend a proposal for an amalgamation. A case could be presented by the president of a shire who is a solicitor, and it would be most unfair if the other shire could not also be represented by a solicitor. It is my intention to oppose both provisions in the clause.

The Hon. CLIVE GRIFFITHS: I want to make my position clear in regard to clause 3. I do not agree with the clause and no satisfactory case has been put to me which would influence me to change my view. I do not believe that the Boundaries Commission should be permitted to amalgamate local authorities without a petition. I am in favour of the provision contained in the Bill introduced into this House by the Leader of the Opposition which suggested that Parliament ought to be given an opportunity to make some contribution if the ratepayers thought fit. I believe that is the way it ought to be. In the absence of such a provision I think the situation should remain as it is and that the *status quo* ought to prevail.

Regarding the second part of the clause, I believe it would create a most unsatisfactory and unfair situation. A local authority which happened to have as its president a legally trained man could have its case presented by such a man provided he did not make any charge, whereas another local authority, with no legal representation in this capacity, would not be able to engage a solicitor to present its case. It is my intention to oppose clause 3 in its present form.

The Hon. R. H. C. STUBBS: Under the provisions of the Local Government Act at present, two adjoining shires can be amalgamated with the consent of the Governor.

The Hon. A. F. Griffith: And what other conditions?

The Hon. R. H. C. STUBBS: I am making the speech.

The Hon. A. F. Griffith: Do not get crusty. I wanted the Minister to tell me what other conditions. He bites like a big fish.

The Hon. R. H. C. STUBBS: The Leader of the Opposition will never have me biting.

The Hon. A. F. Griffith: You bit then.

The Hon. R. H. C. STUBBS: The Leader of the Opposition is suffering from hallucinations.

The Hon. A. F. Griffith: That is one thing I do not suffer from.

The Hon. R. H. C. STUBBS: A petition is required if one council desires to take over another council. That is the point I want to emphasise. It does not matter what happens regarding the Boundaries Commission; everyone will get a fair hearing. The Boundaries Commission will listen to arguments from both sides.

When an amalgamation was proposed at Kalgoorlie the heaven was almost brought down. However, everyone now agrees it was the best thing that ever happened. I have been told that the people at Pilbara are also happy, but everyone was against that proposal in the first place. A lot of emotion is introduced into this sort of thing.

The Ministers from all States reached a decision. The Ministers were aware of the amount of money which councils were spending in legal fees. The provisions in the Bill will mean that the Boundaries Commission will hear all people who are affected. The members of the Boundaries Commission are well versed in local government and they will hear cases for and against any amalgamation. Therefore, I ask the Committee not to vote against the clause.

The Hon. A. F. GRIFFITH: I am sorry I incurred the temporary displeasure of the Minister. I was merely trying to assist him to elucidate the point he was struggling to make.

The Hon. J. Dolan: He was not struggling. The Leader of the Opposition did not give him a chance to make it.

The Hon. A. F. GRIFFITH: Now the Minister for Local Government has the assistance of his colleague, the Minister for Police.

The Hon. J. Dolan: I like you to be fair.

The Hon. A. F. GRIFFITH: I am being fair.

The Hon. J. Dolan: You think you are.

The Hon. V. J. Ferry: Another fish!

The Hon. Clive Griffiths: He was floundering!

The Hon. A. F. GRIFFITH: Has the Minister for Police castigated me sufficiently?

The Hon. J. Dolan: I am not castigating you, but stating the position.

The Hon. A. F. GRIFFITH: The Minister is buying into an argument which really has nothing to do with him. I wanted to ask the Minister for Local Government a question. He thought it was misdirected in a belligerent way, but it was not intended in that way.

The Minister may correct me if I am wrong, but I understand that shires have been satisfactorily incorporated or amalgamated up to date as a result of a petition from one of the shires. Is that the position?

The Hon. R. H. C. Stubbs: It needs a petition.

The Hon. A. F. GRIFFITH: They have been amalgamated as a result of the action of one shire.

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

The Hon. A. F. GRIFFITH: I have mentioned two shires, but I do not want to actually state their names.

The Hon. R. H. C. Stubbs: I never mentioned the names.

The Hon. A. F. GRIFFITH: I know the Minister did not. In one case, one shire for certain reasons did not want even to contemplate the prospect of amalgamation. I understand the other shire asked for a meeting. The two shires met to see whether they could come to some arrangement, but they could not. They went their different ways again. One of the shires has now petitioned in accordance with the present provisions of the Act and this case will be heard by the Boundaries Commission in due course. The two shires will be able to put their points of view to the Boundaries Commission. If the Minister's amendment is accepted neither one of the shires need be consulted. Is that not correct?

The Hon. R. H. C. Stubbs: Not necessarily.

The Hon. A. F. GRIFFITH: No?

The Hon. R. H. C. Stubbs: No.

The Hon. A. F. GRIFFITH: If it is not necessary, under what conditions—other than those which exist in the Act at the present time—can they be amalgamated? It is by the Minister's action. Is that not right?

The Hon. R. H. C. Stubbs: I will explain the position when the Leader of the Opposition sits down.

The Hon. A. F. GRIFFITH: A simple "Yes" or "No" helps now and again. Whether or not that is the position, if this provision passes, the amalgamation of shires will be able to take place without any reference whatsoever to those shires. The Boundaries Commission will be able to make the recommendation. This is my objection, because in such a case the shires would not receive a fair hearing; the Boundaries Commission would have made up its mind that amalgamation should take place. There would be a preconceived judgment of the situation.

It is all very well to say the shires can go along and be heard by the Boundaries Commission and put their case before it. However, at the moment the Boundaries Commission acts, in a way, like a court. It receives a petition from one party which seeks to take over the boundary of another; the two then come together in some workable manner to say why it should or should not be done. If we remove common justice from the legislation, the situation will be that neither shire is consulted about the situation. That is all I will say on that point.

Since we are talking about legal representation in clause 3, I would be inclined to say that there could be some merit in not allowing solicitors to appear before the Boundaries Commission because it is not a court of law. However, my opinion is changed when I read paragraphs (c), (d), and (e) of the Bill which state—

> but nothing in this subsection shall preclude—
>
> (c) any employee of any municipality or other person from representing that municipality or other person before the Commission if that employee is not a barrister or solicitor or has not qualified for admission as a barrister or solicitor;
>
> (d) a mayor or president of the council—

I interpolate to say that the mayor or president of the council may well be a solicitor. To continue—

> —of a municipality from appearing in that capacity before the Commission; or
>
> (e) a barrister or solicitor or a person who has qualified for admission as a barrister or solicitor from preparing any documents or submissions or tendering any legal advice in connection with any matter for consideration before the Commission.

Consequently, a solicitor can prepare the whole case. He can go to somebody and say, "You go before the commission and all you have to do is to read this out. It has been legally prepared."

A situation like this begs the question and makes it ridiculous. I hope the Committee will think in this way. We are saying, "No lawyers, except 'these' lawyers." This is what it amounts to.

Up to date the system seems to have worked fairly well in connection with the deliberations of the Boundaries Commission and the representations which are made to it. I think we should leave the provision as it is.

The Hon. R. H. C. STUBBS: First of all, let me reiterate that no action will be taken until the Boundaries Commission hears every case. Any council involved at all will be heard and then a decision will be made as a result of that hearing.

I think I explained during the second reading stage that the idea is not to preclude barristers from preparing a case.

The Hon. A. F. Griffith: But to preclude them from appearing.

The Hon. R. H. C. STUBBS: This is the idea of local government in every State in Australia, because it costs some councils a great deal of money.

The Hon. Clive Griffiths: Why?

The Hon. A. F. Griffith: What about a council which pays to have a case prepared by a solicitor and the one which does not?

The Hon. R. H. C. STUBBS: The purpose of the provision is to try to overcome this difficulty. I know of one example and, once again, I will not mention the councils' names. Both sides agreed not to have a solicitor. Subsequently one decided to engage a solicitor and, of course, the other did likewise. This finished up costing the ratepayers a great deal of money. The purpose is to try to do away with that situation.

The Hon. A. F. Griffith: It will not.

The Hon. R. H. C. STUBBS: Perhaps. We will know when the vote is taken. That is all I have to say.

The Hon. G. C. MacKINNON: I wonder whether through you, Mr. Deputy Chairman (The Hon. F. D. Willmott), I may ask the Minister a few questions. On a number of occasions the Minister has stated his intentions as to how this would be handled. I wonder whether the Minister would not agree that it is a little risky. The present Minister happens to be a genuine, honest man with a real understanding of the democratic principles associated with local government. However, he may not always be the Minister. I think that proposed paragraph (g) would allow a certain amount of dictatorial power if a different type of person happened to become Minister for Local Government.

As I understand the position, at the moment the approach must be made from one of the interested bodies. It seems to me that if the Minister happens to be so minded he could use his influence to wreak his will upon the local authorities, irrespective of the wishes of those local authorities.

I think it behoves the Committee to think beyond the personality of the present incumbent and consider that a different kind of person could hold the position in the future. I would like to hear the Minister's comments on this point.

I must speak on one other point, although I think it is a pity the two have been mixed together. It is necessary to deal with it now, as the Bill is drafted. The argument in connection with costs did not impress me. My reason for saying this is that costs would properly be incurred, I would think, if the Boundaries Commission is a court and if the situation is such as to require someone with legal training, a knowledge of jurisprudence, and a knowledge of laws of evidence and the like. If these qualifications are necessary in order that the truth shall come out and justice shall prevail, a lawyer has all this knowledge.

If, on the other hand, as the Leader of the Opposition has said, the Boundaries Commission is not a court of law but a group of people who make a general inquiry, there is no need for lawyers to argue the case backwards and forwards, as lawyers are wont to do.

It could be that there is a need—or a desire—in some cases to engage a lawyer with a disciplined mind to prepare a case. However, not one of these points has been brought out by the Minister. Mr. Clive Griffiths may have brought them out, but I do not believe the Minister argued this case.

Both sides of this argument have been put to me by interested shires—some of which want legal representation and some of which do not. If it is as indeterminate as that, it seems to me we would be better off leaving the legislation as it is and not fiddle around with this clause. Perhaps it should be deleted from the Bill.

It is a relevant question to ask whether the trained brains of lawyers are necessary to argue points before the commission or whether the commission is a group of people which makes an inquiry and hears evidence from all sources.

I know my questions are involved, but I hope the Minister has understood the questions I have asked and can answer them.

The Hon. R. H. C. STUBBS: I understand Mr. MacKinnon's first question to imply that the Minister for Local Government could reach his own decision.

The Hon. G. C. MacKinnon: The inference to be drawn from your remarks was that you would not do these things. Therefore I suppose they could be done if the person who held the office of Minister for Local Government was not as kind natured as you. Is that true?

The Hon. R. H. C. STUBBS: Any action taken by a Minister is taken on the recommendation of the Boundaries Commission after it has heard all parties. This is what actually happens.

I would like to return to the point of legal representation. All I can do is to repeat what I have said before. This is the wish of all States. It is being done successfully in New South Wales right now. The other States are going over to it, for the specific reason that they consider points of law are not involved, but merely points of fact in connection with this matter of local government. The effect also, is to save the ratepayers money. That is all I have to say.

The Hon. S. T. J. Thompson: Does the Labor Government Executive want this?

The Hon. CLIVE GRIFFITHS: I wish to refer to the second part of clause 3. My colleague, Mr. MacKinnon, has mentioned that I went to some length when I spoke to the second reading to indicate that it can be argued that, if one local authority engages legal assistance, the other authorities involved are bound to do the same. I then said that this accepts the principle that legal representation is of value. If legal representation were of no value, the fact that one local authority saw fit to engage legal representation would not necessarily induce others to do the same. If it were not necessary, it would not matter. However, if it is necessary for one local authority to engage legal representation because another has done so, it automatically seems there must be some value in legal representation. Surely the Minister can see this.

The Hon. G. C. MacKinnon: This is what I was arguing, but the Minister did not really tell us.

The Hon. CLIVE GRIFFITHS: I asked this during the second reading.

The Hon. G. C. MacKinnon: The Minister did not really tell us.

The Hon. CLIVE GRIFFITHS: Of course he did not. It is as open and shut as that. Unless the Minister can tell us that or give us a reason as to why he believes it will be an advantage, I believe we ought to vote against the clause.

The Hon. R. H. C. STUBBS: As I said before, if one local authority engages legal representation, the opposing local authority feels obliged to engage legal representation also. We wish to provide that neither party to an action may seek legal representation because decisions in these actions must be based on facts, without recourse to legal technicalities.

The Hon. G. C. MacKINNON: I would like to ask the Minister an analogous question. Many common law cases are simply a determination of the facts by a magistrate. It may be simply a question of who should pay for a fence. It appears to me that such a case relies purely and simply on the presentation of facts. However, the Minister suggests that in cases between local authorities lawyers should not be allowed to present the cases.

In a common law case, one man may say, "I put the fence up and you agreed to pay half as you should." The other man may say, "The previous fence was quite satisfactory and I did not agree to the erection of a new one." In such a case we do not lay down that the litigants are not to employ skilled advocates simply to present the facts to the magistrate.

The Hon. R. H. C. STUBBS: The fence the honourable member is thinking about would fall within the provisions of the Dividing Fences Act. We are dealing here with local government.

The Hon. G. C. MacKinnon: I cited this as an analogy.

The Hon. R. H. C. STUBBS: I repeat my earlier comments: I see no need for lawyers in local government decisions, and I am sure that shire councillors will be anxious to save the ratepayers money.

The Hon. CLIVE GRIFFITHS: The Minister said that he did not want one local authority to have an advantage over another and for this reason a more affluent local authority should not be able to engage legal representation at the expense of a smaller one. He based his entire argument on this point. However, I remind the Minister that provision is contained in this Bill for legal representation where the barrister or solicitor is employed by the council. Whether such a person is paid for his services or not, such a local authority would be in a position of advantage.

In the case of a local authority which is represented by a shire clerk, there is still the possibility of a man of many years' experience presenting a case for one side, whereas the representative of the opposing shire may have been newly appointed to his particular job. Surely this situation is equally unfair. If the Minister is simply concerned with one of the local authorities having an unfair advantage, then he ought to see our point of view.

If a small local authority is concerned about its absorption into a larger local authority, and the ratepayers have indicated they do not wish to participate in such a scheme, surely that local authority would then have the fundamental right which is extended to all of us under British justice to engage the best representation available. The Minister is way off the beam to suggest that this clause will result in equal representation.

The Hon. A. F. GRIFFITH: I would simply like to say that the situation may be even worse than that described by Mr. Clive Griffiths. The example has been cited of an inexperienced town clerk pitted against an experienced town clerk. As well as this, in accordance with proposed new subsection (7) (e), the very experienced town clerk may have the advantage of a brief prepared by a barrister, solicitor, or a person who has qualified for admission as a barrister or solicitor. Such a person may have prepared the documents, the submissions, and have tendered legal advice to the town clerk of superior experience, perhaps without the knowledge of the shire which is represented by an

inexperienced man. Such a situation could work to the distinct disadvantage of the very local authority which the Minister is seeking to protect.

The Hon. J. HEITMAN: I can appreciate the Minister's point of view. He has met with the Ministers for Local Government from all States in an attempt to formulate a plan regarding the use of solicitors defending Boundaries Commission cases throughout the Commonwealth. The fact remains that in this State very few local authorities will go along with such a plan. They do not agree that uniformity is necessary.

In many boundary dispute cases local authorities will not require solicitors, but we have heard good arguments tonight of the necessity for skilled advocates in certain cases. Every municipality has the right to the best representation, whether this happens to be a barrister, solicitor, or shire clerk. We should not take this right away from the local authorities. For this reason I intend to oppose the clause.

The Hon. N. E. BAXTER: During his reply to the second reading debate, the Minister did not answer a question I had raised. Proposed new subsection (7) (b) reads—

by any person acting for fee or reward.

Does this refer to an accountant?

The Hon. A. F. Griffith: It could be anybody.

The Hon. N. E. BAXTER: The Minister did not answer my question, and I would now ask him the reason for the inclusion of these words.

The Hon. R. H. C. STUBBS: My interpretation is that paragraph (b) refers to anybody not working for the local authority.

The Hon. N. E. Baxter: It could be an accountant.

The Hon. R. H. C. STUBBS: I interpret this to mean that a town clerk or an accountant employed by the shire can represent it. The shire would not be able to obtain the services of a person employed elsewhere.

The Hon. F. R. WHITE: I asked the Minister a question during the second reading debate and he has not replied. Is the Minister prepared to accept an amendment to delete the words, "mayor or president" and to substitute the words, "elected members or an elected member?"

The Hon. R. H. C. STUBBS: In my opinion the honourable member's suggestion has merit. I am prepared to accept it.

Clause put and a division taken with the following result:

Ayes—10

Hon. D. K. Dans	Hon. R. T. Leeson
Hon. S. J. Dellar	Hon. L. A. Logan
Hon. J. Dolan	Hon. R. H. C. Stubbs
Hon. Lyla Elliott	Hon. W. F. Willesee
Hon. J. L. Hunt	Hon. R. F. Claughton *(Teller)*

Noes—14

Hon. N. E. Baxter	Hon. T. O. Perry
Hon. G. W. Berry	Hon. S. T. J. Thompson
Hon. V. J. Ferry	Hon. J. M. Thomson
Hon. A. F. Griffith	Hon. F. R. White
Hon. J. Heitman	Hon. R. J. L. Williams
Hon. G. C. MacKinnon	Hon. D. J. Wordsworth
Hon. N. McNeill	Hon. Clive Griffiths *(Teller)*

Pair

Aye	No
Hon. R. Thompson	Hon. I. G. Medcalf

Clause thus negatived.

Clause 4: Amendment to section 45—

The Hon. R. H. C. STUBBS: I have intimated on the notice paper that I will move to delete this clause, the reason being that the Age of Majority Act has now been proclaimed and it provides that people of 18 years are eligible to vote.

The Hon. G. C. MacKinnon: It actually amends this legislation?

The Hon. R. H. C. STUBBS: No.

Clause put and negatived.

Clause 5 put and passed.

Clause 6: Amendment to section 109—

The Hon. R. H. C. STUBBS: I again ask the Committee to vote against this clause because the provisions contained in it are already dealt with in the Age of Majority Act.

Clause put and negatived.

Clause 7: Amendment to section 135—

The Hon. F. R. WHITE: Once again I express my dissatisfaction with the Minister's reply. Possibly I did not hear it correctly, but I drew attention to this clause and the change that will take place if it is agreed to as compared with what occurs under the provisions of the section in the principal Act at present. At the moment a presiding officer is paid in accordance with the number of people on the electoral roll, but the amendment provides that he shall be paid in accordance with the number of tables in the polling booth. The Minister gave no explanation of this in his introductory speech and, as far as I was able to hear, he gave no explanation in his reply to the second reading debate. This is an extremely important amendment, and I can see no justification whatsoever for the provision contained in paragraph (e) of this clause.

The Hon. R. H. C. STUBBS: I am afraid I cannot answer the honourable member's question concerning an alteration in the method of paying the returning officer; that in future he shall be paid according to the number of tables in the polling

booth. I apologise to the honourable member for not obtaining that information for him. I usually do not offend in this way and I express my regret. At the moment a returning officer is paid in accordance with an award. He performs a great deal of work prior to the election. Under the amendment it is contemplated that the returning officer will receive an increase of 20 per cent. in his remuneration. If the honourable member so desires I could obtain the information that he seeks when the third reading of the Bill comes forward.

The Hon. F. R. WHITE: In view of the fact that this is the third item I raised in my second reading speech which was not dealt with when the Minister replied, I consider it to be appropriate for the Minister to read the speech I made on that occasion and tender replies to the various questions that were raised. Clause 7 represents a major alteration to the relevant section in the Act, and as a result I suggest that the Minister should now report progress.

The Hon. J. HEITMAN: I cannot see the logic in the argument put forward by Mr. White. The Minister has pointed out that it is proposed to amend subsection (2) of section 135 of the Act to provide for an increase of 20 per cent. in the fees that are set down throughout this subsection. In the old days a presiding officer was paid $1.50 an hour. Instead of that arrangement whereby he was paid according to the number of people on the roll, he will now be paid according to the number of people who will attend the polling booth, or the number of tables required for their attendance. The new arrangement will not make a great deal of difference. The more tables that are required in the polling booth, the more the returning officer will receive.

Therefore I cannot see the need to report progress at this point of time. The Minister is quite right in suggesting that we should carry on with the Bill in Committee and he can then supply any information the honourable member requires at the third reading stage.

Clause put and passed.

Clause 8: Amendment to section 178—

The Hon. G. C. MacKINNON: Could the Minister tell me whether in the event of there being an automatic telephone exchange within a town, a caller could lodge a person-to-person telephone call? The Municipality of Bunbury does have an automatic exchange and it is possible to dial the number required in order to make a person-to-person telephone call if desired for the purpose of calling a special meeting.

The Hon. R. H. C. STUBBS: The principle behind this clause is mainly to cater for remote country areas. I cited the case of a country town which has a mail delivery only once a week. This provision was aimed at assisting those councils in remote areas in order that they may put through a person-to-person telephone call. The facility will only be used for calling a special meeting; it will not be required for the calling of an ordinary meeting.

The Hon. D. J. WORDSWORTH: During my second reading speech I pointed out what could happen if a councillor decided he did not want to accept a person-to-person telephone call. What would happen? I presume, in those circumstances, that if a councillor does not accept the call the meeting would be declared off. However, I would like to have the position clarified.

The Hon. R. H. C. STUBBS: I think that argument is a little weak, because I feel sure a responsible councillor would accept a person-to-person telephone call, being fully aware that he is obliged to attend to certain duties. I think that a councillor would show his responsibility by accepting a call.

The Hon. S. T. J. THOMPSON: I agree with what the Minister has said. This is something country shires have been requesting for some time. I cannot visualise a position occurring such as that suggested by Mr. Wordsworth.

The Hon. J. HEITMAN: I think I did point out when speaking to the second reading debate that I would like to see a letter written to follow up or to confirm a person-to-person telephone call. This would obviate the anomalies that have been mentioned here by Mr. Wordsworth and Mr. MacKinnon. I do not think there would be any difficulty if a call were made on an automatic telephone and the person who was being called did not answer, because there is always some way to overcome such an anomaly in a country area.

However, for the sake of the record I would like to see a letter written following up a person-to-person telephone call which would confirm the call had been made. In such circumstances, if a person-to-person telephone call were made there would at least be a written record of the call, and the councillor concerned could not deny that the call had been made.

The Hon. R. H. C. STUBBS: I think Mr. Heitman's suggestion has a great deal of merit. I wonder whether honourable members would be satisfied if I circularised councillors to this effect in the bulletin which is sent out to local authorities. I would be prepared to introduce an amendment along these lines next year. A bulletin is issued every month, and in that I could request councillors to write a letter confirming any person-to-person call that is made.

The Hon. D. J. WORDSWORTH: I am merely trying to tidy up the Bill. I think there are a few loopholes that could lead to a few technical problems.

The Hon. A. F. GRIFFITH: I am afraid I must agree with Mr. Wordsworth. The clause, although well intended, is as weak as water. I register the thought that considerable trouble could arise as a result of adopting a clause such as this. I will not vote against it but I issue a warning that considerable trouble could arise if it is agreed to. I point out that if it is a special meeting the clause provides that someone could make a person-to-person call, but no mention is made as to whether notice is to be given of when the meeting is to be held. Any one could ring up a councillor and say, "There is a special meeting to be held tonight." The clause does have weaknesses, and it is only a question of whether they should be tidied up.

The Hon. R. H. C. STUBBS: There may be weaknesses in the clause, but the point is that it is dealing only with a special meeting that could occur. I suggest to the Leader of the Opposition that we should give the clause a trial to ascertain whether any problems will arise.

The Hon. A. F. GRIFFITH: The Committee rejected clause 3 and I am pleased about that. I could envisage two local authorities having a bit of a barney over a boundary matter. A decision may be made to call a special meeting in order to consider the overtures of one local authority to the other. The shire council could have 10 or 12 members, but because of some unfortunate misplacement of a telephone message, two members may not arrive at the meeting in which case a resolution could be carried in their absence.

I trust the Minister will correct me if I am wrong, but my understanding is that a phone message could be to the effect that a special meeting is to be held that night to consider a certain matter. That phone call could be made at 3.00 p.m. the same day, and, for some reason, one or two of the shire councillors could be absent and an important resolution could be carried in their absence.

The Hon. J. HEITMAN: I know that in the country a shire clerk will often ring concerning a special meeting, but he does not give only two or 10 hours' notice.

The Hon. J. Dolan: It is an alternative if the other provisions cannot be fulfilled.

The Hon. J. HEITMAN: I think we could insert something to provide that a certain number of hours' notice must be given by phone. However, the Minister has promised that if this clause does not work he will present us with a further amendment next year, and I think we could give it a go on that basis.

The Hon. A. F. GRIFFITH: Could I suggest to the Minister that, rather than wait until next year, he ask the draftsman to look at the clause and see whether some amendment could be made to provide that at least 24 hours' notice is given of the meeting?

The Hon. R. F. Claughton: The section does not mention any time for the written notice.

The Hon. A. F. GRIFFITH: No, but it must be appreciated that a written notice must be written, posted, and received and such a notice would hardly be posted in the afternoon concerning a meeting to be held that night.

The Hon. R. H. C. Stubbs: You desire to provide that 24 hours' notice must be given?

The Hon. A. F. GRIFFITH: I would like some notice to be given.

The Hon. R. H. C. Stubbs: I will have a look at it.

The Hon. S. T. J. THOMPSON: Section 178 specifies no time regarding notices issued. All we are doing is providing that notices may be issued by phone.

The Hon. J. Dolan: As an alternative.

The Hon. S. T. J. THOMPSON: Yes. The provision in the Act has been functioning quite well without any of the worries which have been raised tonight. I personally cannot see any reason to worry.

The Hon. R. H. C. Stubbs: Are you happy with that?

The Hon. A. F. Griffith: Yes.

Clause put and passed.

Clause 9: Amendment to section 217—

The Hon. CLIVE GRIFFITHS: This clause proposes to delete from the definition of "Hawkers" the sellers of fish, game, poultry, butter, eggs, or any victuals, leaving the sellers of newspapers, brooms, matches, vegetables, fruit, milk, or bread.

I said in my second reading speech, and I repeat, that I am fast becoming concerned about the restrictions we are placing on people's ability to earn a living. I said that we are causing ourselves to be strangled with straightjackets of red tape. I just wonder what people will do in future because they must have a permit to do this, a license to do that, and a quota to do something else. We are fast reaching the stage where we will not be able to do anything to earn a living.

I can see no merit whatever in the amendment. Several members have referred to the selling of fish to residents of country areas who, under normal circumstances, are unable to obtain such fish. To make it necessary for a person to obtain a hawker's license before he can sell fish is certainly an infringement of an individual's right to earn a living, and I am opposed to it. It is significant that we

intend to allow people to continue to sell brooms and matches. A person would have to sell a considerable number of matches these days in order to earn a living.

In my opinion we are going from the sublime to the ridiculous. All these matters are currently well covered under the Health Act and I cannot see why we must continue to harass people who want to do nothing but provide a service to the community.

I recently read in the paper that some individual was selling fish outside a hotel somewhere near Gosnells and steps were taken to prevent him from doing this. Frankly I cannot see anything wrong with a person selling fish or anything else outside a hotel provided of course that the necessary health regulations are observed. Certain companies are at present engaged in the selling of pure fruit juices in the metropolitan area. Under this amendment those companies will have to obtain a hawker's license from every local authority involved before their salesmen can sell the fruit juices. This is a retrograde step and should be opposed.

The Hon. G. C. MacKINNON: This is a matter in which I have taken a fair amount of interest because the selling of fish will be affected. I wonder what Mr. Dellar thinks of this because very frequently we have all seen Shark Bay snapper for sale in the metropolitan area. Mr. Berry might also be happy to give us his views, although I have a fair idea what they are. Only a couple of weeks ago Shark Bay snapper was available at Kwinana. Actually these vendors travel all over the State. Their boats have been tied up at the jetty in Perth. Under this provision such fish will will be no longer available.

The Hon. Clive Griffiths: That's the point.

The Hon. G. C. MacKINNON: It is difficult enough already to get fresh fish in Western Australia. South African fillet, hake, and so on are available, but very little fresh fish. Yet, we are to eliminate one of the few ways we can obtain such fish. I would be very interested to hear Mr. Dellar's views and I just wonder how this provision got through Caucus in his presence.

The Hon. R. H. C. STUBBS: When I replied to the debate I said that Mr. Heitman had expressed concern about sellers of fish because he believed the clause was directed against fishmongers. However it is not at all.

The Hon. G. C. MacKinnon: You could have fooled me.

The Hon. R. H. C. STUBBS: My information from the Parliamentary Counsel is that it will not affect the selling of fish. The idea is simply to exclude certain sellers from the definition of "Hawkers." That is all. The Health Act covers all food. This provision is merely to allow a council to have a certain amount of control, particularly in the country, if a person sets up a business near a storekeeper who is paying rates. It is also designed to provide a certain amount of control over noise and traffic hazards.

The Hon. G. C. MacKinnon: You have another Act coming up dealing with that, so don't bring that in.

The Hon. R. H. C. STUBBS: It is not directed at those who wish to sell certain products in the country.

The Hon. G. C. MacKinnon: You mean a fellow can hawk his fish without any trouble?

The Hon. R. H. C. STUBBS: With no trouble at all; and that is my advice.

The Hon. CLIVE GRIFFITHS: I cannot understand how the Minister can make such a statement in view of the contents of the section, and the amendment this clause proposes. I fail to see how the Minister can say that this will not affect the sellers of fish.

The Hon. G. C. MacKinnon: He said that is how he was advised.

The Hon. CLIVE GRIFFITHS: I am sure the Minister must have misunderstood the advice given him, because I have complete confidence in his advisers and I cannot believe they would have given him such information.

The Hon. R. H. C. STUBBS: The advice I have is typed and I read it as it was given to me. The provision simply removes the people concerned from the definition of "hawker" and I am told it will not affect the selling of fish.

The Hon. J. HEITMAN: I am sorry the Minister has been given this wrong interpretation. I agree with Mr. Clive Griffiths. A little further the Act says a council may make by-laws and it then gives all the by-laws it can make to stop hawkers coming into a district. The matter is well covered and we should throw this clause out altogether and revert to what is contained in the Local Government Act.

The Hon. F. R. WHITE: A short while ago the Minister said the purpose of the clause was to exclude food, as such things were adequately covered in the Health Act. I do not know whether the purpose is to exclude food from the exceptions or to include it in the inclusions.

This may sound complicated, but it is the situation. At the moment the Act says that those who wish to sell vegetables, fish, fruit, newspapers, brooms, matches, game, poultry, butter, eggs, or any victuals do not need a hawker's license.

The Minister's amendment indicates that in future people who sell vegetables, fruit, newspapers, brooms, matches, milk and bread will not need a hawker's license.

but those who sell fish, game, poultry, butter, eggs, or any victuals will require a hawker's license.

The Hon. Clive Griffiths: Of course that is what the Minister's amendment says.

The Hon. F. R. WHITE: I suggest the Committee vote against this clause and leave things as they are. There would then be no confusion.

The Hon. A. F. GRIFFITH: The Minister was kind enough to allow me to see the note he has. I hope I am not doing anybody an injustice, but I feel the advice that has been given was misinterpreted by the person who provided it to the Minister, because from what has been said and from my examination of the parent Act and the new clause it would appear that the people concerned are hawkers but at the same time they are not hawkers.

I suggest the Minister let the Committee vote on the clause. I cannot support it for the obvious reason that it does what Mr. Clive Griffiths and Mr. White have said it does. But if Crown Law advice is different from the advice the Minister has in front of him we could then, perhaps, recommit the clause.

The Hon. S. J. DELLAR: With due deference to the statements made by the Minister, I cannot agree with his opinion. I agree with Mr. White and Mr. Clive Griffiths that the amendment in the Bill will include sales of fish and those selling it will be required to take out a hawker's license.

I see no difficulty in this, because there is no reason why such people cannot obtain a hawker's license from a local authority in whose area they want to sell the fish. An application would be made to the local authority and in this way the local authority is given control over the vehicles that are used.

The Hon. A. F. Griffith: In fact it is an itinerant vendor's license.

The Hon. S. J. DELLAR: No, it is a hawker's license. The seller of fish would need to take out a hawker's license, and I cannot see any difficulty providing he has the right type of vehicle and is prepared to conduct himself according to the by-laws of the local authority.

The Hon. J. Heitman: He would need to pay a license.

The Hon. S. J. DELLAR: That is so.

The Hon. J. Heitman: But under the old Act he does not.

The Hon. S. J. DELLAR: Unless he is covered by an itinerant vendor's license.

The Hon. CLIVE GRIFFITHS: It is interesting to discover that the people referred to will be required to take out a hawker's license, as was indicated by Mr. Heitman. The Act continues and states that a council may make by-laws for several purposes; and paragraph (b) of the by-law-making powers prescribes the annual fee not exceeding $40 to be paid for a hawker's license. Surely that is sufficient reason for us to reject this clause.

Can we imagine anyone who wishes to sell fish being prepared to obtain a hawker's license each time he moves from one local authority area to another; particularly when each license would cost him $40? In my province there are about five local authorities within a stone's throw of each other and a person could be up for £200 if he sought permission to sell fish in each of the local authority areas within that province. This would surely discourage anybody from wanting to sell fish. If the local authority concerned wished to prevent the selling of fish by somebody from another area it could impose the maximum fee the Act provides. This is a ludicrous situation.

The Hon. G. C. MacKINNON: I would like Mr. Dellar to confront the fishermen of Shark Bay and suggest that they take out a hawker's license or an itinerant vendor's license in each of the municipalities in which they desire to sell their fish and see whether or not they consider this to be of no great consequence.

The Hon. S. J. Dellar: Are you talking about the fishermen in Shark Bay or those who go there on holidays?

The Hon. G. C. MacKINNON: I am talking about those who catch their fish and sell them to others who come down to Perth and sell them as Shark Bay snapper.

The Hon. J. Dolan: How do you know?

The Hon. G. C. MacKINNON: There was a time when I knew the people who were selling such fish. Boats would pull up at Barrack Street and the fish would be sold as Shark Bay snapper.

The Hon. Clive Griffiths: You can tell them; they are bigger.

The Hon. G. C. MacKINNON: I am surprised at Mr. Dellar's perfunctory attitude in brushing off his electors in the way he has done.

The Hon. D. J. Wordsworth: The necessity for these licenses is to enable the inspection of vehicles.

The Hon. G. C. MacKINNON: I am delighted that Mr. Dellar got up to support the Shark Bay fishing industry.

The Hon. T. O. PERRY: I agree with Mr. Dellar. A man may set up to sell fish which could be the local product. He would contribute to the rates and could be paying the local authority as much as $200 or $300. An outsider, who pays no rates to the local authority could come in and compete against the local resident. It is not obligatory on the local authority to

charge $40 a year for a hawker's license, but it could prevent unfair competition from outsiders who come from miles away and who may set themselves up to sell fish. The cost of the license is up to $40 and I think this is fair enough if it prevents the type of competition to which I have referred.

The Hon. G. C. MacKINNON: Mr. Perry's thinking shocks me to the core. He is a man of the Country Party who espouses primary industry, but because there happens to be a primary industry different from the one he represents he is prepared to knock it. This type of thinking has caused much difficulty, because those whom Mr. Perry seeks to protect are, in the main, selling South African hake—fish fingers, and the like. Mr. Dellar does not mind if the people concerned have to pay $40 for a license, but I do.

These are primary producers and every time someone has endeavoured to get the industry on its feet in various local authorities this has been well and truly stymied.

When there is a flush of fish it is possible for the fish to be taken to the towns, thus enabling the housewives and their menfolk to be supplied with fresh fish, and not fish fingers—something which has been frozen solid for months on end.

The Hon. G. W. Berry: Generally at reasonable prices.

The Hon. G. C. MacKINNON: That is so. The whole thing is becoming quite absurd. Mr. Griffith, Mr. Logan, and I could tell about the hours we sweated over trying to knock the provision in regard to hawkers into any shape at all. I do not believe it is possible to fiddle around with it like this, and I do not believe it is desirable to use fish by way of example. I think it is quite wrong, and the attitude that has been expressed is a bad one.

The Hon. R. H. C. STUBBS: I have no desire to force this on the Chamber or to put anything over. I passed on in good faith the advice I was given. I am prepared to allow the Chamber to vote against it so that I may try to obtain the information required and convince the Chamber on recommittal. I am endeavouring to give the correct information, but as there seems to be some doubt about it I will be quite happy with that arrangement.

The Hon. G. C. MacKinnon: Fair enough.

The Hon. S. T. J. THOMPSON: Mr. MacKinnon provoked me into saying this. I cannot see why fish should be treated any differently from other commodities. I could certainly supply sheep more cheaply than the butcher does, so why should fish be treated differently?

The Hon. G. C. MacKinnon: You can get fresh mutton any day of the week in your town. You cannot get fresh fish.

The Hon. Clive Griffiths: The fish vendor has to obey the health regulations, too.

The Hon. S. T. J. THOMPSON: Yes. I am in favour of Mr. White's solution of voting against the clause and leaving things as they are.

The Hon. L. A. LOGAN: I disagree with Mr. MacKinnon's interpretation of what Mr. Perry was trying to say. From a decentralisation point of view, in country districts there are shops from which day after day, week after week, and year after year families are trying to make a living. It is a rather precarious living as things are now. An opportunity arises whereby something comes into the town which they could supply, but instead of that someone comes through the district supplying it. That is exactly what they are doing.

The Hon. J. Heitman: In how many places in the country could you buy a jewfish?

The Hon. L. A. LOGAN: One could do so if given the opportunity.

The Hon. Clive Griffiths: The opportunity is there.

The Hon. L. A. LOGAN: It is not there. The argument has been based on fish but the section applies to fish, game, poultry, butter, eggs, and other victuals. It does not apply only to fish. It applies to any of those items sold by an itinerant vendor running around the country in opposition to the shopkeeper who is living in the town, and at the moment the itinerant vendor does not pay any license fee whatsoever. The amendment will enable such a person to be classified as a hawker and make it necessary for him to obtain a license. What is wrong in that? Nothing whatsoever.

Clause put and negatived.

Clauses 10 to 16 put and passed.

Clause 17: Amendment to section 522—

The Hon. A. F. GRIFFITH: Would the Minister tell me the reason for the amalgamation of three funds rather than two? I am afraid I missed his explanation. In the Act there are three funds under the headings "A," "B," and "BA." This clause seeks to amalgamate any two of those three funds.

The Hon. R. H. C. STUBBS: Under the Act the parking funds must be kept separately. The idea of this exercise is that some funds are in debit and interest is being paid on them to the bank while another is in credit. We want to put all the funds together so that perhaps one will balance the other out and it will not be necessary to pay interest. Correct bookkeeping will be kept by the council in regard to each fund but it is desired to save the council paying interest, and thereby save the council money.

Clause put and passed.

Clause 18: Addition of section 522A—

The Hon. J. HEITMAN: This clause deals with a proposed new section which provides that no local authority can raise a loan for the building of an interdenominational church. I think this arose from what happened at Jerramungup. If this clause is carried, we will back up all the minorities which want to vote against a loan in any district. This is what the minority tried to do at Jerramungup. They did not want a church to be built and they kicked up a tremendous amout of noise. At that time many members of Parliament said it would not happen again; that they would bring in an Act to prevent shires building churches under any conditions.

I think we are attempting to take away the prerogative of a shire and the rights of ratepayers to subscribe money by way of rates or loan funds, if they so wish, for the building of a church that will serve all denominations in the district. A hall, a swimming pool, and almost anything else can be built, but now we say, "You cannot build a church." I think it is too silly for words to prohibit people from paying into a loan fund to put up something special in the district if they are prepared to do so. To my mind, they are entitled to do so and I shall oppose the clause.

The Hon. L. A. LOGAN: I was rather surprised when the Minister said in his reply, "We are not taking away any right of local authorities because they have no right now." If they have no right now, why the amendment? However, we are taking away a right they now have because at the present time a local authority has the right to borrow money with the consent of the Governor. If this clause is passed, local authorities will not have that right. Therefore, we must be taking away a right.

As Mr. Heitman said, it is purely a minority view which it is sought to insert into the Local Government Act. Members will realise the stupidity of the situation which occurred when I say that had the word "building" been put on the plaque, and had the plaque read "This building is dedicated to God," no further action would have been taken. Despite the fact that the building would have been used as a church for all time, no action would have been taken. I know that for a fact. That demonstrates how silly it is.

I hope the Minister will not insist on this clause and that the Chamber will not agree to it. It does take away the right of local authorities. Even if 100 per cent. of the ratepayers demanded a loan for this particular purpose, they could not have it if this clause were carried. Only a few days ago, knowing this clause was in the Bill, the Gnowangerup Shire Council held a meeting and councillors unanimously agreed that if the same set of circumstances arose again tomorrow they would act in the same way. This was the shire that handled the Jerramungup project. Do we not believe they did the right thing? I hope and trust other new areas of this State will take the same opportunity because the ratepayers will be better off in the long run. I hope this clause is defeated.

The Hon. D. J. WORDSWORTH: As I said in my second reading speech, I am appalled at the inclusion of this clause. I represent Jerramungup and I fully support the action taken by the Gnowangerup Shire Council in building that church. I do not think we should endorse the views of the minority by passing this clause.

I remind the Minister that through him the Governor gave special permission for the building of a funeral parlour in Esperance. Up to that time, we were embarrassed by having very few facilities in Esperance for disposing of the dead. There was one 1924 hearse in the town—that was all—and it had to be pushed to the grave. Fortunately, the Minister agreed to the shire raising a loan for a funeral parlour, and I think that was a great step forward.

I am frightened to think that a religious practice such as the burying of the dead could be excluded. I hope the Committee will vote this clause out.

The Hon. R. H. C. STUBBS: In answer to Mr. Logan, when I replied I said it was within the power of the Governor and that was the only way this could be done.

The Hon. L. A. Logan: If this clause is passed it will no longer be within the power of the Governor.

The Hon. R. H. C. STUBBS: It comes under subsection (26) of section 598, which allows the Governor to do this sort of thing. Many people have expressed the opinion that ratepayers' money should not be used in this kind of situation.

The Hon. L. A. Logan: It has nothing to do with those people. They do not live there and they did not have to pay for it. What has it to do with them?

The Hon. R. H. C. STUBBS: Some of the people down there also took objection to it. However, it is our thinking that it is not the duty of local government to enter into church affairs.

The Hon. J. Heitman: Who asked for this amendment?

The Hon. R. H. C. STUBBS: The Government decided on this amendment.

The Hon. J. Heitman: So it was not the minority of people down there who wanted it?

The Hon. R. H. C. STUBBS: Some people made representations.

The Hon. G. C. MacKinnon: The representations came from within Cabinet?

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

The Hon. G. C. MacKinnon: So it was not a request by anybody?

The Hon. R. H. C. STUBBS: Yes, some people made a request.

The Hon. A. F. Griffith: Who were the people?

The Hon. R. H. C. STUBBS: I am not prepared to say. Requests had been made and on examination we thought they were reasonable.

The Hon. A. F. GRIFFITH: If the idea were born within Cabinet, would it not be fair to tell us who made the request or the type of organisation that made the request?

The Hon. R. H. C. Stubbs: I am not prepared to do so.

The Hon. A. F. GRIFFITH: I will be my own judge of what the situation may be. If I were a ratepayer in a local authority area and I were given an opportunity to express an opinion as to how my money would be used, I might decide it should be used for the purpose for which money was used at Jerramungup or for purposes which are expressly prohibited by this proposed section.

Let us bear in mind that whatever may be done at present under the Local Government Act with the permission of the Governor may not be done if this clause is passed. The proposed new section includes the words, "Notwithstanding any other provision in or under this Act or in or under any other Act." Therefore, if it cannot be done under the Local Government Act it cannot be done under any other Act.

I think the building of an institution similar to that at Jerramungup could be of vital importance to a community. It is not necessary that the building be used only for church purposes; it might be used for a number of purposes. It may even be used to play bingo!

The Hon. J. Dolan: Have you been to Jerramungup?

The Hon. A. F. GRIFFITH: Yes.

The Hon. J. Dolan: I have been there and I just cannot imagine bingo being played in that building. It looks to me like a place of worship.

The Hon. A. F. GRIFFITH: I did not intend that remark to be taken seriously. I do not think we should say expressly that a local authority shall not under any circumstances—even if the great majority of its ratepayers are satisfied that it should—apply money to the building of a church. Certainly we should not be dictated to by a small minority who say they will not be in it and they will not pay their rates. I received my rate notice recently, and I observed that if it is not paid within a certain time the local authority may sell my land. I think that should be done to the people who object.

The Hon. R. H. C. Stubbs: Did you pay your rates?

The Hon. A. F. GRIFFITH: That is a personal question. I always pay my debts. I think we should defeat the clause and leave the local authority and its ratepayers the prerogative to spend money in the direction the majority wants it to be spent.

The Hon. D. J. Wordsworth: And the Minister, and the Governor.

The Hon. A. F. GRIFFITH: Certainly.

The Hon. R. F. CLAUGHTON: At the time of the Jerramungup affair a civil liberties group was most concerned, and I would not be surprised if it made representations to the Government. Probably it made representations to the previous Government. Although at the time I thought the concept was a good one I must admit that I altered my views as a result of the representations which were made.

I adhere strongly to the principles of British parliamentary democracy. One of those is the separation of church from State. In this matter we are very close to that situation where it is difficult to see the separation of church from State.

For that reason I support the proposed new section. In supporting such a building, a particular style of philosophy is encouraged by the ruling authority, and we must remember that local government is a very important arm of government. If we believe in the fundamental principles of British parliamentary democracy, we must support the clause, no matter what our personal beliefs may be.

The Hon. J. Heitman: Do you think it is a matter of principle when you take away the right of the individual?

The Hon. R. F. CLAUGHTON: It takes away the right of the individual no more than it was taken away when the separation of church from State occurred several centuries ago.

The Hon. G. C. MacKINNON: Mr. Claughton's speech left me almost breathless; it was only years of training in the making of speeches that saved me. As a completely erroneous extension of historical fact, I do not think I have heard its equal. To compare this matter with the separation of church from State beggars description.

As I understand it, the edifice at Jerramungup is for every denomination. It was erected for the use of the majority of the people of the area. Subsequently, after the local authority finished its part, it was made a religious place by dedication by properly constituted religious authority.

This matter has nothing to do with the historical problems inherent between church and State, between the mixture of temporal and spiritual law.

The Hon. D. J. Wordsworth: Do you think the Bill introduced in another place removes the church from the State?

The Hon. R. H. C. Stubbs: I do not know what Mr. Wordsworth is talking about.

The Hon. G. C. MacKINNON: That sort of argument is nonsensical. Here we have an enthusiastic member of a party which sets tremendous store by majority decisions, yet he is prepared to deny that right to a local authority.

The Hon. D. K. Dans: I would agree with your thinking, but I am just exercising my mind. If you had a particular sect in a local authority area—

The Hon. G. C. MacKINNON: Mr. Dans is doing it again. Why does he not get up and make a Committee speech?

The Hon. D. K. Dans: You are pontificating about Mr. Claughton's speech. What would happen if a certain sect got control of a local authority in a certain area because the majority of its members were in that area? We could have all kinds of churches popping up in the State.

The Hon. G. C. MacKINNON: That is not a bad effort for an interjection. The part of the Act which deals with borrowing powers sets out what a local authority may do with the permission of the Governor. After one has lived for a long time in small country areas one realises how important is a church, even to those people who use it only three times in their lives —to be christened, married and buried. Many such people place great store by having a church available.

I suppose the people in Jerramungup knew they would run into trouble, yet they still went ahead because it was a majority decision. Strangely enough, if my memory is correct, although a very small group in the area objected, most of the fuss was made by people who did not live there. Mr. Logan would know that better than I.

The Hon. L. A. Logan: You are quite right.

The Hon. G. C. MacKINNON: The only factual statement Mr. Claughton made was that the previous association of church and State was sundered some while ago; but to try to compare this situation with the separation of church from State leaves me flabbergasted.

The Hon. N. McNEILL: I am drawn into this debate mainly as a result of Mr. Claughton's reference to civil liberties, even though he related it to the separation of church from State. Am I to understand that he was implying this requirement is necessary because a small number of people regarded the erection of the church at Jerramungup as an infringement of their civil liberties by virtue of the fact that the decision was made by the majority of people?

If that is what Mr. Claughton means then perversion exists throughout our society if in fact the civil liberties of the majority may be lost simply as a result of a claim by a small and vocal group that it has suffered an infringement of its rights and liberties.

The Hon. A. F. Griffith: Not only a vocal group, but a militant one.

The Hon. N. McNEILL: How right Mr. Arthur Griffith is. If these people are concerned about the infringement of their rights they have their protection in the Governor through the Minister. Now we find that a party which so often stands out in front and waves the banner of the great procession of civil liberties is prepared to continue to prohibit the exercise of something upon which the Act has been silent. In the case of the Jerramungup church, the Act was silent. Because it was silent the opportunity was taken under section 598, which states that the consent of the Governor must be obtained for such undertakings, to reverse the decision. The power contained in section 598 is an essential power to cover exigencies and circumstances which may from time to time occur and which cannot necessarily be expected to meet the wish of the majority of the ratepayers. Under those circumstances I will certainly vote against the clause.

The Hon. F. R. WHITE: I asked the Minister whether, in the event of the clause being passed, a local authority will be able to spend money to improve church grounds so as to provide children with playing fields. The Minister replied it will be possible for a local authority to do this.

I presume this power is provided under section 446 of the Act which enables a council to appropriate out of its municipal fund such sums as it thinks proper towards the provision, maintenance, and improvement of various structures and facilities within its district. From the Minister's reply to my query one assumes that this power will be retained.

Local authorities have expended their municipal funds not only on the provision of playing fields but also on the construction of parking facilities which may be established on church grounds. They have done this to remove the traffic hazards in the surrounding streets. Some people will contend this is a desirable feature of section 446.

The provision in clause 18 of the Bill states that notwithstanding any other provision in the Act a council shall not apply any funds for carrying out maintenance on various structures, including those used for the purposes of any religious body, religious institution, or religious practice.

It appears that not only the provision of buildings for religious purposes, but also those for existing religious practices would be affected. In view of the Minister's explanation I cannot help thinking that he is not aware of the full effect of this clause and of all the ramifications that can arise. In view of his explanation I must oppose the clause.

The Hon. R. F. CLAUGHTON: I would be surprised if a local authority expended money in the way suggested by Mr. White. It has been said that the clause will deprive the people of some of their liberties. However, I would point out that under our Constitution certain people are deprived of some privileges; and in this respect I refer to section 31 of the Constitution Acts Amendment Act which states—

> No person shall be qualified to be a member of the Legislative Council or Legislative Assembly, if he—
>
> (1) Be a member of the other House of the Legislature; or
>
> (2) Be a Judge of the Supreme Court; or
>
> (3) Be the Sheriff of Western Australia; or
>
> (4) Be a clergyman or minister of religion; or
>
> (5) Be an undischarged bankrupt, or a debtor against whose estate there is a subsisting receiving order in bankruptcy; or
>
> (6) Has been in any part of Her Majesty's dominions attainted or convicted of treason or felony.

The DEPUTY CHAIRMAN (The Hon. F. D. Willmott): I hope the honourable member will connect his remarks with clause 18.

The Hon. R. F. CLAUGHTON: I have demonstrated that under the existing legislation some people are excluded from certain privileges, and I believe the power of local authorities to erect and maintain certain structures should be restricted, and these include buildings for religious purposes.

It has been pointed out by several members that in so doing we will infringe on the rights of the majority. Let me take the Jerramungup case. The majority of the people there decided to build a church, and their will prevailed. If we extend this same principle to its logical conclusion we will have to say that if in England, where the majority of the people belong to the Church of England, the people decided by a majority vote that the church should control the State, then that decision should prevail. However, we have to accept the fact that there are certain exclusions under our democratic system.

Mr. McNeill has made reference to my remarks on the civil liberties body. Its members have made representations to me and to other members of Parliament, and this led me to think about the importance of what was done in Jerramungup.

I have lived in small communities, and I appreciate the difficulties that small secular groups experience in obtaining funds to build churches. That was one reason I thought the Jerramungup project was a worthy scheme. In the district where I live there are some relatively small religious communities. Some manage to gather funds to erect church buildings, but they do this on their own initiative and they do not make a call on their local authorities for financial support. The provision in clause 18 is of fundamental importance, and it should be supported.

The Hon. R. H. C. STUBBS: I can give a guarantee that I do not trouble the churches too often. The Government has considered the provision in this clause, and representations have been made to it. The Jerramungup case is history, and we think the same thing should not occur again. That is the reason for the inclusion of clause 18.

Clause put and negatived.

Clause 19: Amendment to section 533—

The Hon. L. A. LOGAN: I raised the point during the second reading that on page 10, line 30, the word "self" has been omitted. This relates to the definition of a dwelling house.

The Hon. R. H. C. STUBBS: The honourable member is correct, and I would ask him to move accordingly.

The DEPUTY CHAIRMAN (The Hon. F. D. Willmott): There is no necessity for the honourable member to move in that regard. It is an obvious typographical error and the Clerk will rectify the omission.

The Hon. D. J. WORDSWORTH: During the second reading I raised a point relating to the rating of houses, where the use of the land has been redesignated. The intention of the provision in the clause is commendable. Where the use of land is redesignated under town planning the rates on it are increased. This is a problem which churches face in relation to the land they own, and this applies particularly in the City of Perth. As members are aware, churches do not pay rates on their land.

I understand that when the churches sell land which they own they have to pay the rates which were applicable for the previous five years, because they make a profit from such sales.

It is all very well for some people to complain about the rise in the value of land surrounding their own, but I am sure they are not beyond accepting the increased values when they sell their land. When people or bodies sell their land and accept the higher values, I think the local authority concerned should not miss out on the rates.

The Hon. R. H. C. STUBBS: I have given an undertaking that I will obtain the information and supply it at the third reading stage.

Clause put and passed.

Clause 20: Amendment to section 552—

The Hon. N. E. BAXTER: This clause deals with the imposition of minimum rates. Members will recall that when this provision was first introduced into the Act the minimum amount was $10, and this covered small properties, the valuations of which were low.

The clause proposes to increase the minimum amount of $10 to $20. There are many people who own small and almost valueless blocks of land on which they are paying from $2 to $10 per year in rates.

Some of the blocks of land on the outskirts of country towns cannot be given away. I have one or two myself and I have tried to give them to the local parents and citizens' association, and I also tried to give them to the Department of Native Welfare, but no-one will accept them. The Hon. C. H. Simpson, a former member of this Chamber, had four blocks on the outskirts of the town of Coorow. The local authority applied a minimum rate of $10 on each block so he turned the blocks back to the Crown. If this amendment is passed this procedure will occur throughout the State. I have a block in Doodlakine where the rate used to be $3. It has now gone up to $7 and if this amendment is passed it will probably go up to $14. In that event the Crown can have the block back again and the shire will receive no rates at all.

I cannot see any justification for applying a minimum rate of $20. I have a 100-acre block at Wundowie on which I pay $11.44 per year. That is reasonably cheap and many small farmers are paying that sum in rates. With an increase in the minimum rate the rates will go up. That is not the intention of the Act. The intention of the Act is to rate those blocks which had not been built on, but which were in a situation where they could be used. I ask the Committee to vote against the clause.

The Hon. R. H. C. STUBBS: This amendment has been requested by the Local Government Association and the Country Shire Councils' Association. The Act states that the shires may impose a rate of $10. They do not have to. The provisions of the Bill will allow shires to impose a rate of $20, but they still do not have to charge that amount.

I emphasise to the Committee that this amendment has been requested by the shire councils. After all, the rate has not been altered for many years. I cannot see anything wrong with the amendment and I ask members to support it.

The Hon. J. HEITMAN: I agree with the Minister on this amendment. Both local governing associations have requested the amendment, not only because of the change in money values, but because on many occasions services such as roads and water supplies have been provided which have enhanced the value of blocks at no cost to the owners. The services are provided with ratepayers' money and it is fair that rates should be increased.

In some respects I agree with Mr. Baxter. If no improvements have occurred and a shire increases the minimum rate, that will not be fair to the ratepayers. However, I think we must give the shires the prerogative to impose a fair rate.

The Hon. N. E. BAXTER: I am surprised at the remarks made by Mr. Heitman. When water is taken past a block one immediately pays a minimum of $4 even when the water is not connected. I cannot even give away my block at Doodlakine.

In spite of the fact that the local governing associations have requested this amendment I believe the request comes from a section which is not facing up to its responsibilities. If the minimum rate on a block is valued at $20 there is every reason for the block to be revalued.

The Hon. A. F. Griffith: What did you say the rate was on your block of land?

The Hon. N. E. BAXTER: The rate is $7.

The Hon. A. F. Griffith: I mean the block at Wundowie.

The Hon. N. E. BAXTER: The rate there is $11.44.

The Hon. A. F. Griffith: And what is the minimum rate with the shire?

The Hon. N. E. BAXTER: The minimum rate is $5. It is a reasonable shire.

The Hon. A. F. Griffith: It could charge $10.

The Hon. N. E. BAXTER: The minimum rate which could be imposed last year was $2. This year it was lifted to $5, and with the passage of this Bill it will be $20. I was talking to a member tonight who owns a couple of blocks in Albany and he said that the rate imposed was too low. He felt that the local authority should have the blocks revalued. That shire will be able to impose a minimum rate of $20.

Many people with small farms on the outskirts of the metropolitan area could have to pay a minimum rate of $20, and they will be overrated when compared with other people living in those shires. I say that a minimum of $10 is high enough.

Clause put and a division taken with the following result:—

Ayes—19

Hon. G. W. Berry	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. L. A. Logan
Hon. S. J. Dellar	Hon. G. C. MacKinnon
Hon. J. Dolan	Hon. R. H. C. Stubbs
Hon. Lyla Elliott	Hon. P. R. White
Hon. V. J. Ferry	Hon. W. F. Willesee
Hon. A. F. Griffith	Hon. R. J. L. Williams
Hon. Clive Griffiths	Hon. D. J. Wordsworth
Hon. J. Heitman	Hon. N. McNeill
Hon. J. L. Hunt	*(Teller)*

Noes—4

Hon. N. E. Baxter	Hon. S. T. J. Thompson
Hon. T. O. Perry	Hon. J. M. Thomson *(Teller)*

Pairs

Ayes	Noes
Hon. R. Thompson	Hon. I. G. Medcalf
Hon. R. F. Claughton	Hon. W. R. Withers

Clause thus passed.

Sitting suspended from 9.58 to 10.00 p.m.

Clause 21: Amendment to section 611—

The Hon. S. J. DELLAR: I do not intend to oppose this clause. Section 611 lays down the number of ratepayers necessary to demand a poll when the local authority intends to raise a loan. Presently 50 persons or one-tenth of the total number of ratepayers must desire a poll when a local authority intends to raise a loan. It is now proposed to alter this provision to "a sufficient number of persons." The interpretation of "a sufficient number of persons" is 50 per cent. of the total number of ratepayers or 50 persons. I would like to point out that difficulty may arise in small local authorities with 80 ratepayers or less.

The Hon. J. Heitman: It says "whichever is the lesser number."

The Hon. S. J. DELLAR: Yes, 50 per cent. or 50, whichever is the lesser. A local authority with 80 ratepayers would need to have 40 ratepayers on side before it could do anything. I point out that a difficulty would arise in the future because there would be no purpose in a loan poll if the majority of the ratepayers object to it.

The Hon. R. H. C. STUBBS: I thank the honourable member for drawing my attention to this matter. I will have it examined. The Local Government Association asked for this provision and it was included after the matter had been given consideration. I would like to deal with this Bill in Committee tonight, but I assure the honourable member that I will answer his query before the third reading stage.

Clause put and passed.

Clauses 22 to 25 put and passed.

Title put and passed.

Bill reported with amendments.

House adjourned at 10.06 p.m.

Legislative Assembly

Wednesday, the 18th October, 1972

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

QUESTIONS (49): ON NOTICE

1. COMPANIES

Registration and Auditors

Mr. R. L. YOUNG, to the Attorney-General:

(1) How many companies are registered in Western Australia at present?

(2) How many companies that are registered in Western Australia are—

(a) exempt proprietary companies;

(b) public companies;

(c) unlimited companies;

(d) no liability companies?

(3) How many exempt proprietary companies had appointed auditors up to the date of their last annual return?

Mr. T. D. EVANS replied:

(1) 16,075.

(2) (a) No separate record kept but number estimated at 13,500.

(b) No separate record kept but number estimated at 650.

(c) Nil.

(d) 62.

(3) No separate record kept but a survey of 750 companies conducted by the Commissioner of Corporate Affairs in New South Wales reveal that 44% of the exempt proprietary companies included in the survey had their books and records audited.

2. HOUSING

Medina: Shop Rental

Mr. HUTCHINSON, to the Minister for Housing:

(1) Is he aware that the State Housing Commission shop at 8 Pace Road, Medina, was rented until recently at $35 per week?

(2) Is he also aware that as from 11th September, 1972 the rent was increased to $75 per week, which represents an increase of about 115%?

(3) Is this increase an example of a policy being put into effect or is it a discriminatory increase?

(4) What other similar type of shops have had such increases?