are made for workers, and I have had personal experience of several cases where people have been dismissed for reasons which perhaps could have been appealed against, and where people have not received holiday pay. There is no-one from whom such people can seek justice when an employer makes a decision which is not in their favour. If this Bill results in those people having some sort of protection, as most other workers do, I will not be critical of it.

Again I thank the members who spoke, and I assure the member for Blackwood and the member for Bunbury, in particular, that in the Committee stage I will be able to supply specific answers to the questions that have been raised.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr. A. R. Tonkin) in the Chair; Mr. Harman (Minister for Consumer Protection) in charge of the Bill.

Clause 1: Short title—

Progress

Progress reported and leave given to sit again, on motion by Mr. J. T. Tonkin (Premier).

IRON ORE (CLEVELAND-CLIFFS) AGREEMENT ACT AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

ADJOURNMENT OF THE HOUSE

MR. J. T. TONKIN (Melville—Premier) [5.54 p.m.]: Before moving the adjournment I want to remind members that as from Thursday of next week it is intended to sit after tea, as agreed. I move—

That the House do now adjourn.

Question put and passed.

House adjourned at 5.55 p.m.

Legislative Council

Tuesday, the 27th November, 1973

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

QUESTIONS (3): WITHOUT NOTICE

1. CLOSING DAYS OF SESSION: SECOND PART

Target Date

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

I would like to direct a question without notice to the Leader of the House—a question which, in view of his statement of last week, I think he would expect me to ask. Last week the Leader of the House said he would make a statement to the House today indicating the Government's intention of completing the session, and the proposed sitting days and hours up to that date. Has the Leader of the House anything to tell us?

The Hon. J. DOLAN replied:

I thank the Leader of the Opposition for his question because it gives me an opportunity to state the position. We have decided that on Wednesday of next week we will sit at 2.30 p.m. This is the only change that will be made for the present; we will play the rest by ear. Should a further change be desirable I will immediately let the House know.

The Hon. A. F. Griffith: You have not given us a prospective finishing date.

The Hon. J. DOLAN: I honestly do not know, so I cannot tell the honourable member.

2. LEGISLATIVE COUNCIL

Unauthorised Use of the Term "M.L.C."

The Hon. N. McNEILL, to the Leader of the House:

Will the Leader of the House refer to an extract from the newspaper the *Sunday Independent* of the 25th November, 1973, a copy of which I have supplied to him, and in particular to a letter to the Editor which I would like to read, and which is signed by a person described as "M.L.C. Lower West"? The letter is as follows—

Welcome Exchange

I welcome the recent statements by the Prime Minister, Mr. Whitlam, when he said he would encourage the exchange of Public Servants with the employees of private firms.

If Mr. Whitlam was referring to the senior 10-15 men of each department, I hope he will ensure that those selected are paid by their respective departments or be current subscribers to the Freedom from Hunger Campaign.

E. V. CORTIS, MLC,
Lower West.

My question is—

(1) Does the Minister have any knowledge of this person and does he know of his political affiliations if any?

(2) Does the Minister consider that as the person is not a member of the Legislative Council the use of the expression "M.L.C. Lower West" constitutes misrepresentation?

(3) Will the Minister request the Attorney-General to investigate the matter and take appropriate action and advise Parliament of the action so taken?

The Hon. J. DOLAN replied:

I thank the honourable member for giving me a certain amount of notice of this question. If I had to answer it off the cuff I would not know what to say. However, I hope that the following prepared answer will be the means of clearing up what he wishes to be cleared up—

(1) to (3) The parliamentary practice concerning questions of this nature is set out in May's *Parliamentary Practice*, pages 323 and 324 as follows—

> The facts on which a question is based may be set out briefly . . . but extracts from newspapers or books and paraphrases of or quotations from speeches etc. are not admissible.

In view of this established practice it would appear that the question asked by the honourable member should be addressed to the newspaper concerned and having established the circumstances of the matter of his complaint, he could let these be known to the House and then seek the assistance of the Attorney-General by means of a parliamentary question should that course be considered warranted.

3. LEGISLATIVE COUNCIL

Unauthorised use of the Term "M.L.C."

The Hon. N. McNEILL, to the Leader of the House:

In view of the reply given by the Leader of the House, does he not consider that the use of the expression "M.L.C. Lower West" when it appeared to be inappropriate in the circumstances is a subject on which he could provide an answer; and that it does merit the attention of the Attorney-General, as instanced in my question?

The PRESIDENT: I shall allow this question, but it is a borderline one. In recent times I have delved into May's *Parliamentary Practice* in relation to questions without notice, but on this occasion I shall allow it.

The Hon. J. DOLAN replied:

In answering the question I hope that you, Mr. President, will not think I am being facetious. I answer it in this way in the hope that the honourable member will get the message: Some time ago I attended a function which was associated with some organisation, like Rotary, at which the governorship of the association was being handed over. This function was held at the Civic Centre, South Perth, over two years ago. At that time I was representing the Opposition. On a number of occasions I was referred to as the honourable Mr. J. Dolan, M.L.C. The function was attended by between 300 and 400 people.

Later in the evening a lady came up to me and said, "You are Mr. Dolan, M.L.C. I have a policy in your company". I said "I am delighted to meet you." I shook her hand. This is an instance where the misuse of the term "M.L.C." does occur.

The Hon. A. F. Griffith: I fail to see how that could occur.

The Hon. J. DOLAN: I can see it, but the Leader of the Opposition does not want to. The use of the term "Lower West" is the point at issue, and it is to this Mr. McNeill is drawing attention. Anyone could make a mistake in thinking that such a term referred to an agent of the M.L.C., which is one of the biggest life assurance companies.

If the honourable member were to seek advice from the newspaper on this point, and then ask the question, it would be more appropriate.

The PRESIDENT: I think the Leader of the House is correct.

QUESTION ON NOTICE

ESPERANCE HIGH SCHOOL

Extensions

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

(1) What is the maximum capacity of the Esperance senior high school hostel?

(2) How many places are available for 1974?

(3) How many applicants are there for entry in 1974?

(4) Due to mineral development at Norseman, and further agricultural development in the region, are there expected to be further demands during 1974?

(5) Are there already needs for expansion of storage and staff accommodation at this hostel?

(6) What provisions are being made to overcome these difficulties for the year commencing 1974?

The Hon. J. DOLAN replied:

(1) 96 (48 male, 48 female).

(2) 96.

(3) 55 male, 36 female.

(4) The mineral and agricultural developments will be watched carefully for their effect on the demand for hostel accommodation.

(5) Yes.

(6) Additional storage facilities will be provided. The matter of extra staff accommodation will be considered when allocating priorities for the 1974-75 building programme.

FUEL SUPPLIES

Position in Western Australia: Ministerial Statement

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [4.46 p.m.]: I seek leave of the House to make a statement relating to the fuel supplies position in Western Australia, resulting from the international situation.

The PRESIDENT: Is leave granted? There being no dissentient voice, leave is granted.

The Hon. J. DOLAN: It is proper that members should be informed concerning action now under way to deal with any possible fuel supply emergency in Western Australia.

At the same time, I emphasise that this is purely a precautionary measure dictated by the possibilities inherent in the situation.

There is at present no indication of any emergency situation arising in Western Australia, and for the present, none is expected.

The Government has taken two principal steps to anticipate any threat to normal supplies of fuel. In the first instance, the Fuel and Power Advisory Council has established the closest possible liaison with the oil industry regarding oil shipments, and the refining and stocks of petroleum products. Through this contact, the Government will be informed immediately of any adverse trend in the supply position.

In the second instance, an emergency fuel supplies committee has been set up to carry out the basic technical, economic, and social assessments needed to deal with this complicated problem.

Mr. L. F. Ogden, Manager of the BP Refinery at Kwinana, has been co-opted to the Fuel and Power Advisory Council as Chairman of the Emergency Fuel Supplies Committee.

The committee membership is as follows—

Chairman—Mr. L. F. Ogden, BP Refinery, Kwinana.

Mr. M. Shean, Power Production Engineer, State Electricity Commission.

Mr. D. Piggford, Managing Director, Wesfarmers Kleenheat Gas.

Mr. P. Kemp, Stores and Supplies Controller, W.A. Government Railways (acting).

Mr. L. A. A. Butler, Civil Defence and Emergency Service.

Mr. E. Freeman, Solicitor, Crown Law Department.

Mr. D.W. Saunders, Executive Officer, Fuel and Power Commission.

Oil Industry Marketing Expert (still to be appointed).

The committee first met on the 25th October, 1973. It met again on the 30th October, 1973. The next meeting is scheduled for the 4th December, 1973.

To hold large emergency stocks of fuel is enormously expensive. It should not be undertaken unless it is absolutely necessary in the public interest. Such emergency buffer stocks are held in overseas countries, particularly in Europe. Their extent depends upon the vulnerability of the country concerned.

The Government's Emergency Fuel Supplies Committee is preparing a list of existing fuel storage facilities in Western Australia, and will gauge the level of reserve which these present stocks afford.

The normal demand in particular economic sectors will be assessed, and a study made of the scope of interchanging fuels in selected cases.

Attention will focus on the Kwinana Refinery and the normal stock level held there; on the usual range and quantities of products refined; and on the types and quantities of refined products imported and exported both interstate and overseas.

On that data, the committee will base recommendations as to whether, and to what extent, buffer stocks might be considered necessary in Western Australia. It will provide cost estimates for the tankage facilities needed, and for the fuel supplies themselves.

Apart from the foregoing, the committee will concern itself with specific actions in the case of a fuel emergency. It will assess

user priorities, which will require a list of consumer categories and individual fuel uses. In every case, the criterion for assessing priority will be the public interest.

The assessment will be made only after evaluating the economic and social impact of withholding fuel from any particular class of user.

The committee will devise a practicable rationing system, in close co-operation with the petroleum industry. It should be remembered that, should rationing become necessary, the proper functioning of any such system would be the responsibility, principally, of the employees of major oil companies.

A Crown Law Department opinion received recently suggests that no legislation exists permitting the State to enforce fuel rationing. The committee is examining legislative requirements, and will suggest the basic elements of a suitable Bill for consideration.

I believe we should aim to prepare effective legislation for immediate introduction into Parliament in the case of emergency. It it necessary to ensure that Western Australian planning is compatible with that on a national level.

To that end, the Emergency Fuel Supplies Committee will ascertain what action is contemplated by the Australian Government, and by the oil companies, to deal with any national emergency. The petroleum industry itself has anticipated the possible need for a contingency plan to deal with a fuel supply emergency. A co-operative inter-company committee, representing every company in the State, has been formed along lines already successful in dealing swiftly with oil spills.

Close liaison by Mr. Ogden with this Petroleum Industry Committee will ensure proper co-ordination between the Goverment committee and the petroleum industry. Certain preliminary findings are now beginning to emerge from information assembled by the Government's Energy Fuel Supply Committee.

It is too early, yet, to traverse these in detail. Nevertheless, the implications of the situation in the Middle East, as they affect our oil supplies, are potentially grave.

I consider it important that the Parliament and the people of Western Australia should be kept fully informed of the Government's measures to deal with any deterioration of that situation.

I have presented this report to Parliament to give it the assurance that the Government is fully aware that formulation of a fuel emergency contingency plan is of the utmost urgency. At the same time, I must reiterate, quite emphatically, that at this time there is still no indication that any emergency situation is imminent in Western Australia.

May I add that this statement was supplied to me by the Minister for Fuel who is also Minister for Electricity, and he is delivering a similar statement in another place.

CLOTHES AND FABRICS (LABELLING) BILL

Second Reading

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [4.54 p.m.]: I move—

That the Bill be now read a second time.

The need for a Bill of this nature has evolved from accidental happenings to persons, particularly young children, who have been severely burned when items of night attire have caught on fire.

All State Governments have been actively engaged in recent years in taking preliminary steps to bring legislation in the matter to fruition. It was in 1966 that State Ministers for Labour, at their annual conference, first discussed a need for Government action.

The problem of flammable clothing is basically that all fabrics burn, even though there may be variation in the ease of ignition, rate of burning and heat output, surface burning characteristics, and other factors.

The possibility of clothing—particularly that worn by young children—catching alight when close to room heaters or fires is a domestic hazard and, while the number of burn accidents to young children in which night attire is involved is relatively small, the injuries can be shocking. Over the past decade there has been a growing concern throughout the world that has led to demands for controls on flammability, but these controls can only be introduced if accepted levels of flammability can be set in accordance with some criteria against which they can be tested in a meaningful way.

In 1966, when Ministers for Labour first discussed what action could be taken, the matter was also receiving the attention of the National Health and Medical Research Council, and subsequently the Health Ministers considered a report from that council. However, they decided that it would be more appropriate for legislative action to be taken by the Ministers for Labour who, in the meantime, had appointed a committee of officers to consider the matter in detail and make recommendations. About the same time the Standards Association of Australia set up a committee to prepare an Australian standard, to which committee the State Labour Departments were invited to nominate representatives.

In 1966 and 1967 suggestions were made that as an interim measure British legislation should be adopted. On investigation it was found that the British legislation

had not proved really satisfactory, but more importantly, the British standards were inappropriate in the different climatic conditions that apply in Australia. Although Ministers wanted to take action, they unanimously agreed that a prerequisite to any legislation was the formulation of a satisfactory Australian standard method for determining degrees of flammability.

The State Ministers for Labour obtained an assurance of a willingness to co-operate in labelling from the Associated Chambers of Manufactures of Australia, the Australian Council of Retailers, and the Associated Chambers of Commerce of Australia, but these bodies pointed to the need for first resolving technical problems, particularly as to what should be labelled and how. The Standards Association Technical Committee that had by 1968 commenced work on testing fabrics and evaluating the British standards, recommended that legislation should not be introduced until Australian standards for flame-proof fabrics and piece goods had been prepared for which purpose some further detailed study was necessary.

Ministers for Labour of all States, although concerned at the delay, recognised that it would be useless to introduce legislation that was impracticable or which could not be enforced. They resolved to undertake an educational programme. This has continued for several years.

Not only was considerable research undertaken by the Standards Association of Australia into burning characteristics of various fabrics, but, with the concurrence of the Federal Minister concerned, the C.S.I.R.O. gave considerable assistance. This research confirmed that overseas test methods had been found to be unsatisfactory.

This background has been given in some detail to indicate to members that although it may appear on the surface that the matter has been delayed, a considerable amount of involved and highly complex technical research preceded the production of the four Australian standards that have now been established. So far as can be ascertained far more work has been put into the preparation of these standards than has been the case in any other part of the world and it is predicted that without doubt, the Australian standard will prove to be satisfactory.

It will also be appreciated that having regard to the constitutional situation in Australia, legislation of this nature must be uniform in all States and similar requirements must apply in respect of imported goods. Agreement between the States was finally reached in July, 1973, and the Bill now introduced arises from that agreement.

It is a short enabling Bill that will permit regulations to be made in respect of articles of clothing that will be prescribed by regulation. Initially, it is proposed that the regulations will be made only in respect of children's night attire and a draft of those regulations has been prepared since the Ministers' conference, and is being considered by all States.

As all States propose to introduce uniformly on the 1st January, 1974, the labelling requirements for nightclothes for children in respect of flammability, it is important that this Bill be agreed to so that the regulations can be made for Western Australia. Ministers have asked their permanent heads to consider whether regulations should also be made in respect of other items of clothing and whether warnings can be conveyed by readily recognisable symbols as well as by words. If such other regulations are uniformly accepted, the passing of this Bill will allow those other regulations to be made.

In explaining the Bill I shall refer to the main clauses. Clause 4 gives the power to prescribe, by regulations, articles which will be subject to this legislation. As mentioned previously, the marking or labelling shall be concerned with flammability or other safety or protective measures such as the particular methods of washing or dry cleaning the fabrics. It is intended to adopt, either specifically or by reference, and either wholly or in part, the standard rules, codes, or specifications on these matters as set down by the Australian Standards Association.

Clause 5 deals with the prohibition on selling prescribed articles unless they are marked or labelled in conformity with the requirements in the regulations, and a substantial penalty is provided for offences where traders do not comply with the requirements.

Clauses 6 to 8 set out the powers of inspectors in policing the requirements. Inspectors of the factories inspection branch will be used in this capacity.

Clauses 10 and 11 make provision for offences to be disposed of summarily and for requisite evidentiary provisions in proceedings where the relevant Australian standards have to be produced in court.

Clause 12 provides the power to make the necessary regulations. Copies of proposed regulations are available so that members will have some appreciation of the regulations concerning the labelling of children's nightclothes which it is intended to adopt with the passage of this Bill.

Clause 9 was inserted into the Bill in the Legislative Assembly. It contains strictures as to secrecy in the matter of information coming to the knowledge of persons engaged in the execution of the legislation.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. D. J. Wordsworth.

MEMBERS OF PARLIAMENT

Dress in the Chamber: Statement by President

THE PRESIDENT (The Hon. L. C. Diver): Honourable members, you will have noticed that one fan in the Chamber is out of order. Some members may feel discomfort because of the heat. As a member who spent many years in the outback, I feel no discomfort. However, others who have not experienced those trials and tribulations may wish to remove their coats, and they may do so.

METRIC CONVERSION (GRAIN AND SEEDS MARKETING) BILL

Second Reading

Debate resumed from the 22nd November.

THE HON. V. J. FERRY (South-West) [5.04 p.m.]: This Bill deals with the conversion to the metric system of provisions in four Acts; namely, the Bulk Handling Act, 1967-1972, the Seed Marketing Act, 1969-1971, the Marketing of Barley Act, 1946-1965, and the Grain Pool Act, 1932-1966. The conversion of the provisions in those Acts is being done in a particular way because they involve a few more difficulties than do the provisions in other Acts. The difficulties mainly arise from the description "commercial bushel" which is used as a measure of volume. When converting to metric it is necessary in these Acts to transform the commercial bushel into a measure of weight. I therefore agree with the Minister that the conversions in this case are a little more difficult than usual, although I have found some other conversions to be tricky.

Nevertheless, the conversions as outlined in the Bill are in order and have been approved by the authorities. I therefore support the legislation.

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [5.06 p.m.]: I thank the honourable member for his support of the Bill and I commend it to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

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

INDUSTRIAL ARBITRATION ACT AMENDMENT BILL

In Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Long title amended—

The Hon. G. C. MacKINNON: Although clause 3 relates to the amendment of the long title of the Act, it deals with a key matter, because it introduces for the first time the proposal to add mediation to the system of conciliation and arbitration which is currently in effect in this State.

I suppose everybody in the Chamber is now aware from the second reading speeches that we are not very much in favour of mediation. I have no doubt that it has its place in some systems operating in other parts of the world, and the American system has been quoted as one in which mediation is used, apparently effectively. However, there is a great difference between the system of arbitration or wage fixation which operates in America and the system which operates in this State, and I do not believe mediation has a proper place in the system operating in Western Australia.

It was interesting to note that in speaking to this measure during the second reading debate some members quoted the report of the Chief Industrial Commissioner. They quoted a particular passage dealing with retrospectivity. They did not quote the passage where he made it quite clear that he believed the prevention of industrial disputes was a matter to be dealt with by qualified professionals; and I agree with him.

I can see grave difficulties in finding mediators who are acceptable to both sides. The representative of one side or the other could say, "We do not want to go on mediating any longer; you have had it", and he could just get up and leave. It seems to me a far better system would be to increase the number of conciliation commissioners who will become experienced in the art of mediation within the framework of the Act and all the awards and industrial agreements. I am convinced that would be a far better system than endeavouring to establish a group of people who will be known as mediators and who can never hope to be much more than amateur conciliators.

I move an amendment—

Page 2, line 5—Delete the passage "Mediation,".

The Hon. D. K. DANS: I think the system of mediation should be tried. It is an innovation. Perhaps we are becoming bogged down on a word.

Mr. MacKinnon referred to the fact that some members quoted the report of the Chief Industrial Commissioner on the

question of the Industrial Commission being given power to grant retrospectivity. I want to make it clear that at no stage did I quote the Chief Industrial Commissioner's report.

The Hon. G. C. MacKinnon: You were not one of the members to whom I was referring.

The Hon. D. K. DANS: When I spoke to the second reading I qualified my remarks by saying the commissioners were the people best able to decide that simple issue.

I would be interested to see whether a system of mediation would work. I am also interested in what occurs in the Commonwealth jurisdiction—and I think Mr. MacKinnon touched on this—where there used to be, and still is to the best of my knowledge, a number of conciliators as distinct from industrial commissioners; and certainly as distinct from judges of the Commonwealth arbitration system. These conciliators practice only conciliation; in fact they hear and recommend—they do not direct.

It is surprising to see how many times the recommendations of the conciliators have been accepted in the solution of a dispute. The proposition we are putting forward goes a little further and, to some extent, makes it appear to be more democratic by adopting the term "mediator". It would be wrong of me to say I can guarantee the system would work; because we will have selected mediators in the community who would be prepared to mediate the dispute, and I do not know what the qualifications may have to be.

It could well be they would follow the same line of what is termed a conciliator. Conciliators or mediators—I prefer to call them conciliators because I am used to that term—whether they be permanent members of the Bench or not would be picked from a panel and they would go a long way toward solving disputes that occur from time to time; and they will be allowed to continue their work because of the absence or nonavailability of the commission to deal with the particular matter. The conciliators would have no right to order either side to do anything at all; they would hear the dispute, and make a recommendation, after which it would be up to the parties concerned to act upon it. If they do not act on it that would be the end of the matter—the next step would be for them to go to arbitration.

I do not know whether this system will work. Whether we call them mediators or conciliators; or whether they be permanent members of the bench, or from the business community, or the trade unions I can see nothing but good coming from the proposition.

The Hon. G. C. MacKINNON: What Mr. Dans has said evidences the very close rapport between people who are ostensibly on both sides of the fence. This is a matter of interpretation and not one on which I would argue with Mr. Dans.

There is, however, throughout Australia and, indeed throughout the world, an increasing concern about what might almost be termed lawlessness which seems to be bedevilling our industrial relationship with workers; whether they be employed by private enterprise or in Government functions. It is a serious problem indeed. I daresay we would be considering for some time a Bill aimed at giving protection to the workers on the one hand and employers on the other.

I wonder how long it will be before the ordinary citizen makes a demand for legislation to protect him against this sort of thing—and I refer to those who get stuck at airports throughout Australia, or those who have to go without electric power, and the like, because of industrial disputation.

The point about our system in Western Australia is that our Industrial Commissioners in fact operate in a threefold capacity. They can operate as conciliators, and in this connection I think there ought to be more of them; and, indeed, provision is made in the Bill to allow for an increase in the number. With that I have no argument.

Under our system the commissioners may also operate in the sense of a commissioner hearing a case and, subsequently they could operate as a commissioner in full court assembled in dealing with appeals. I believe there ought to be more commissioners and this is where I think there is far less disagreement with Mr. Dans.

It would be better if we struck from the Bill the proposal to use mediators and rely on commissioners who could operate as mediators and, by their mediation, could bring a guarantee of acceptance; because they are set apart from the community as a court and, as a result, they will become skilled in the very practice in which we wish them to become skilled: that is, in conciliation and the settlement of arguments.

We should follow this line as a progression of the system we have already established rather than branch into a new scheme of mediation, using what I would term as "amateur conciliators". They must be amateurs in that sense. I stress that we should follow the normal progression of the Act as it exists and rely on an increase in the number of commissioners. There will be obvious difficulties if we draw from the body public—as the Bill proposes—mediators who will be acceptable to both sides.

The Hon. R. Thompson: What difficulties do you foresee?

The Hon. G. C. MacKINNON: The difficulties of acceptance. We would obviously need to have people with experience in the field.

The Hon. R. Thompson: The Bill says they must be acceptable to both parties.

The Hon. G. C. MacKINNON: I can foresee difficulties where a union may accept a mediator and consider him to be fair while the employers may adopt a slightly jaundiced view of the person concerned; and vice versa.

We have not yet pursued the Act to its conclusion. We have an insufficient number of commissioners. Let us first follow the natural progression of the Act as it exists and if we find mediators are necessary we could perhaps move in that direction. I have no faith in the principle of mediation proposed in the Bill.

The Committee should be reminded that some 93 per cent. of all industrial disputations has in fact been resolved by the commissioners acting as conciliators; and only 7 per cent. has been settled by commissioners acting as commissioners or as an industrial court. This is an excellent record. I can see great difficulties when instead of having cases heard before commissioners and conciliators we will have bickering about mediators. This could well be a retrograde step and I am opposed to it.

The Hon. L. A. LOGAN: I see nothing wrong with mediation in its proper place. The Bill, however, takes it out of its correct place and seeks to supersede arbitration by mediation which, in my opinion, is wrong. If the clause referred to arbitration, conciliation, and mediation, I would accept it.

Clause 59 refers to mediation and conciliation. The mediator must be accepted by the union and the employer before an application is made to the Minister. Apart from this the mediator himself must agree to act as mediator in a particular dispute. It seems to me we are taking the responsibility away from arbitration and placing it in the hands of the Minister. In my view this is wrong. I cannot accept the clause in its present form but I would be prepared to accept it if the Minister were to provide for arbitration, conciliation, and mediation. If it were left in its present form I would have to support Mr. MacKinnon's amendment. This should be permitted to work in its true perspective; mediation should not supersede arbitration, and conciliation should be part and parcel of the policy.

The Hon. D. K. DANS: I would like to clear up a point made by Mr. MacKinnon. All commissioners of the Commonwealth commission are conciliators and commissioners; indeed all judges can act as conciliators and arbitrators, and so on. They can act as chairmen in negotiating collective agreements.

I have great respect for what Mr. Logan has said and this is the point I was trying to get across. In the Commonwealth system there used to be, and possibly still is, a conciliator—as distinct from a commissioner—who can conciliate. In other words the conciliator has one role only. He is normally ordered to act in that role by a judge of the arbitration commission. He is selected from a panel and is told to have a go at a particular dispute. He then makes a recommendation and if this is not accepted the normal process of arbitration ensues. In other words, when ordered to do so by the Chief Commissioner the conciliator would merely conciliate. That is his role within the framework of the commission. If the conciliator's recommendation is not met by either side then arbitration continues in the normal course.

The fact that the conciliator has only one role does not preclude commissioners and judges acting in whatever role they choose; but there are some roles in which the conciliator could quickly get on the job and resolve a dispute.

The Hon. R. THOMPSON: Mr. Logan wants the words in clause 3 changed around to read, "arbitration, conciliation, and mediation". I want to get this clear.

The Hon. G. C. MacKINNON: On a point of explanation; some members received a Bill from another place where a new clause was inserted; so there is little difference between the Bill introduced in that place and the Bill before us now. However, from clause 40 onwards the clauses are renumbered. I just make that explanation to avoid confusion.

The Hon. R. THOMPSON: I realise clause 59 is a relevant clause, but I would point out to Mr. Logan that the Act is divided into several parts. I can appreciate the point the honourable member is making but I would like to have some time to consider his suggestion. I understand the honourable member wishes to place arbitration, conciliation, and mediation in the clause in that order. I do not think that would make any difference to the wording of the Bill.

The Hon. L. A. Logan: The Bill could then be amended according to the way I would like it amended.

The Hon. R. THOMPSON: It is not much use proceeding with the Committee stage of the Bill if Mr. Logan wants more time to consider it. Also, I feel I should have more time to consider it.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by The Hon. R. Thompson (Minister for Police).

DOOR TO DOOR (SALES) ACT AMENDMENT BILL

Receipt and First Reading

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

ELECTORAL ACT AMENDMENT BILL (No. 2)

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

INDECENT PUBLICATIONS ACT AMENDMENT BILL

Second Reading

THE HON. R. H. C. STUBBS (South-East—Chief Secretary) [5.38 p.m.]: I move—

> That the Bill be now read a second time.

Late in the third session of the present Parliament, extensive amendments were made to the Indecent Publications Act.

The main purpose of these amendments was to set up a State advisory committee on publications whose function would be to consider any publication or class of publication referred to it by the Minister, with the object of reporting to the Minister whether or not in the opinion of the committee the publication or class of publication—

(a) By reason of the nature or extent of references therein to sex, drug addiction, crime, violence, gross cruelty or horror or for any other reason, is undesirable reading for persons under the age of eighteen years and should be classified as a restricted publication or class of publication.

(b) Should be the subject of proceeding under section 2 of the Act.

In introducing the Bill in another place last year the Minister in charge of the Bill stated—

> At the outset, I feel I should make it clear that the amendments to the Indecent Publications Act sought in this Bill are not being submitted with a view to increasing the scope of censorship, but rather to make legislative provisions in order to give restrictive control over certain publications coming into the hands of children.

In my opinion, these remarks are not only an excellent summary of the purposes of the 1972 legislation, but are also a very good summary of the purposes of the present Bill.

Since the advisory committee on publications has been established, some 93 publications have been referred to it through the Minister and although it has recommended that 42 should be the subject of proceedings under section 2 of the Act—that is, that they be the subject of prosecution—the committee has also recommended that 51 of these publications should be restricted.

The majority of publications referred to the committee through the Chief Secretary by the police have been as a result of public complaints and by far the greatest number of complaints have been made by parents concerning the exhibition of certain types of publication in shops.

A typical example of these complaints is that a child is sent to, or enters, a shop for the purpose of buying sweets, a soft drink, or other such articles, and is confronted by certain publications displayed in such a manner that they must be seen by patrons of the shop.

Although these publications when referred to the committee have been classified as restricted there is nothing in the Act as it now stands to prevent the shopkeeper from exhibiting these restricted publications as he has previously done; that is, in full view of patrons of the shop.

In the offences relating to restricted publications, subsection (2) of section 11 reads—

> Any person who in any place, not being a shop, exhibits any restricted publication in view of persons who are in any public place commits an offence against this section.

Also, paragraph (a) of subsection (5) of the same section reads as follows—

> (a) Any person who exhibits any restricted publication to public view in the window or doorway of any shop commits an offence.

This state of affairs has caused the advisory committee considerable concern as it feels the exhibition of such a publication contravenes the main purpose of its classification; namely, that of preventing it getting into the hands of people under the age of 18 years.

As a result the committee has requested me to amend the Act to prevent any such exhibition of a restricted publication in any shop.

The Government feels there is a great deal of merit in the committee's request, especially as the restricted classification has become one of the cornerstones of the new approach to censorship.

The modern approach to censorship has been to protect the young and not to over-restrict adults.

The restricted classification of films has worked well and already has indicated that it will be as successful in regard to literature if allowed to operate positively.

It is rather pointless to stop restricted publications being sold to young persons if shopkeepers are allowed to exhibit them in a manner whereby they can be seen and examined in shops by people under 18.

I commend the Bill to the House.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

In Committee

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

Clause 1: Short title and citation—

The Hon. L. A. LOGAN: For the sake of the record I wish to state that when I spoke on this measure during the second reading debate the word "not" was inadvertently inserted in the report of my speech. My remarks are reported on page 4619 of proof number 20 of the current *Hansard* for the proceedings of Thursday, the 1st November last, and they are as follows—

> The Hon. L. A. LOGAN: Judge Else-Mitchell, and his remarks were reported in the Press. This is a shocking statement for a judge to make. Far from outliving its usefulness, it will be much more useful in the future, despite the fact that it has not been very useful in the past.

I flew to Melbourne on the following day, and therefore I was unable to make the necessary correction; that is, to delete the word "not" in the penultimate line of the paragraph I have just quoted. I think members will appreciate that the word "not" is not in line with my thinking. The correction will be made in the bound volume, but anyone reading the paperback proof copy of *Hansard* will gain the wrong impression. Anyone reading proof number 24 of *Hansard* will find that the inclusion of the word "not" was a mistake.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Section 158 amended—

The Hon. L. A. LOGAN: In his reply to the second reading debate the Minister said I had intimated that I opposed this clause. If he will read my speech he will find that I did not say that. I merely wish to put the record straight.

The Hon. J. HEITMAN: I think I mentioned during my second reading speech that I was opposed to the clause. Too many people are being added to the list of those who cannot have their employment terminated by a council. A town planner is very rarely seen by the public and the council gets the blame for whatever he does. If a town planner does not do as he is asked, the council should have the right to terminate his employment.

Unlike Mr. Logan, I oppose the clause. I thought that possibly the Minister may have reconsidered the clause.

The Hon. CLIVE GRIFFITHS: In my second reading speech I also indicated my intention to oppose the clause on the ground that the functions of a town planner are entirely different from those of the other people mentioned in section 158. The town planner is not subjected to the day-to-day approaches of the general public as is the town clerk, engineer, treasurer, traffic inspector, or building surveyor. Therefore he ought not to come under the provisions of section 158. I hope the Minister took note of the objections I raised during the second reading debate and that he will indicate his intention to support my point of view.

The Hon. R. H. C. STUBBS: I want this clause to be passed. The town planner should have the same protection as anyone else.

The Hon. J. Heitman: Do you think everyone who works for the council should have that protection?

The Hon. R. H. C. STUBBS: Any member of the executive staff of the shire council should have it.

The Hon. J. Heitman: What about the grader drivers?

The Hon. R. H. C. STUBBS: They have their protection through their union. If clause 4 is accepted it will be possible for a council to suspend a town planner. My notes read as follows—

> Where the officer is suspended the Council shall state the reasons for the suspension.
>
> If within seven days after the suspension an enquiry has not been held the suspended officer may apply for an enquiry and the council shall order such an enquiry. But if the officer does not apply for an enquiry the council may proceed to determine the matter.
>
> The enquiry is held by a person appointed by the Governor, and the person so appointed has the same powers as those conferred on a Royal Commission or its Chairman.
>
> The person holding the enquiry shall make a report in writing, the original of which is sent to the council and copies to the Minister and the officer in respect of whom the enquiry was made.
>
> The report is to be read in open council and where an enquiry is ordered the council's decision shall not be given until after the report is read.

The person holding the enquiry may award costs and expenses against the council or the officer, and shall also determine whether the officer shall or shall not be paid his salary for the period of suspension.

In any case where the council decides to terminate the services of the officer although the report of the person holding the enquiry is substantially favourable to the officer, the Minister, on application of the officer may direct the council to pay compensation to the officer.

An officer dismissed under these circumstances is also entitled to the same superannuation, annual and long service benefits as though he had voluntarily resigned.

It is this protection which is proposed to be granted to persons holding the office of City, Town or Shire Planner.

Under those circumstances, I consider the town planner should be given the same protection as any other officer.

The Hon. CLIVE GRIFFITHS: The Minister has not commented on the remarks I made concerning the fact that a town planner is not in the same category as the other individuals referred to in section 158(5) of the Act. The town planner does not directly confront the general public. He merely carries out the wishes of, and gives advice to, the council based on the Metropolitan Region Town Planning Scheme Act and the Town Planning and Development Act.

On the other hand, the town clerk is confronted every day by the general public when he acquaints them of the decisions of the council. In this way he can invoke the wrath of the ratepayers from time to time. Similarly the engineer, the traffic inspector, and the health surveyor are confronted by the general public and therefore can invoke their wrath and can be subject to pressures by councillors.

However, the town planner does not come into this category because he does not have to face the general public on day-to-day matters as do the other officers to whom I have referred. Therefore, it is unreasonable that he should be included because he is an officer of an entirely different category.

The Minister has not made any comment on this aspect and I would like him to do so.

The Hon. R. H. C. STUBBS: All I can say is that the town planner comes into contact with the councillors, and he sometimes has to run foul of them and make decisions with which they may not agree because of their interest in the subject.

The Hon. J. Heitman: If they had any interest in the subject they would not be allowed to vote on it or be at the council meeting concerned.

The Hon. R. H. C. STUBBS: Under certain circumstances they are permitted to do so. The fact remains that the town planner obtains a lot of information which, sometimes, councillors try to get from him for their own benefit. That is the situation and we must live with it. The fact remains that he is the only one not protected. This clause will give him that protection. I therefore insist that the clause be passed.

The Hon. CLIVE GRIFFITHS: The Minister continues to miss the point of what I am saying. The town planner simply advises the councillors as to whether or not a decision they are contemplating contravenes a town planning scheme in operation in the area involved. That is all he does. He does not dictate to them concerning what they shall do. The Act stipulates what they shall do. He attends council meetings simply to advise councillors whether or not the decisions they contemplate contravene any town planning scheme or either of the Acts I mentioned earlier. Therefore, he is not subjected to confrontation with the general ratepayers.

I do not wish to pursue the matter, but the Minister has missed the point completely. He is putting the town planner into a category in which he does not belong and which is completely unrelated to the category of those already covered under section 158.

The Hon. A. F. GRIFFITH: I would like the Minister to give me a little information. Let us consider the situation of a local authority which employs the services of a town planner to do a specific job.

The Hon. R. H. C. Stubbs: Do you mean permanent or temporary employment?

The Hon. A. F. GRIFFITH: Temporary.

The Hon. R. Thompson: As a consultant?

The Hon. A. F. GRIFFITH: Yes. What would be the position of that man?

The Hon. R. H. C. STUBBS: The position is that such a person would not be employed on a permanent basis. The permanent town planners have requested this protection. They are the ones whom we should protect, and not the consultants, because the consultants are probably working in several places.

The Hon. L. A. LOGAN: I must disagree with Mr. Clive Griffiths on this clause. If a town planner does his job properly he is in contact with the public every day. If he is asked to formulate a scheme for the council, he must be in touch with the public to ascertain their views. Members will recall that not so long ago a town planner was sacked mainly because of his attitude to the public.

The Hon. J. Heitman: I thought it was because he was not getting the plans out on time.

The Hon. L. A. LOGAN: No; it was purely because of his attitude to the public.

The Hon. R. H. C. Stubbs: I can recall that one.

The Hon. L. A. LOGAN: As a planner, his ability in most instances was not in doubt. However, he was bringing the council into disrepute from the point of view of public relations as a result of his attitude to the public with whom he dealt every day of the week.

I disagree with Mr. Clive Griffiths and, instead, I say that the town planner who is doing his job properly must come into contact with the people all the time.

The Hon. CLIVE GRIFFITHS: Mr. Logan has misinterpreted my remarks about the town planner being in touch with the public. I am not suggesting he does not talk to the public, receive deputations from the public, or consult with the public.

The point I am making is that he is not like a traffic inspector who is able to impose a penalty which could be waived, if necessary, if there were controversy.

The town planner operates under town planning schemes which are strictly laid down as to zoning requirements and what can or cannot be effected. The town planner is specificially covered and has no room to manoeuvre. The town planner gives advice on many matters. I believe the town planner to whom Mr. Logan referred was belligerent in his approach when people came to ask him for advice about the requirements of the local authority so far as zonings in particular areas were concerned. The town planner in question was at fault in that his public relations and attitude to legitimate approaches made to him left a great deal to be desired—so much, in fact, that the local authority saw fit to sack him and, apparently, justifiably so.

The proposal before us today is that we take away from the local authority the power to implement discharge of service, which was the case with the other local authority to which Mr. Logan referred.

The town planner is specifically covered by Acts in relation to his directions and the information which is passed on to the ratepayers. The Acts do not leave him any room to manoeuvre.

Perhaps I was a little astray in saying that the town planner does not come into contact with the public. I meant the remark in the context that the town planner cannot allow or disallow something at his own whim. He is allowed to make a decision only on the basis of laws which are specifically laid down.

Sitting suspended from 6.03 to 7.30 p.m.

The Hon. S. J. DELLAR: Prior to the tea suspension, we were discussing clause 4 which proposes to add the words "town planner" to section 158 of the parent Act. Firstly, I am surprised at the Committee's opposition to this provision. Mr. Heitman referred to the number of officers already included under this provision, but even if we agree to add the town planner, it will refer to six officers only. I do not believe this is a large number. As I said during the second reading debate, the importance of town planners is increasing in Western Australia as many local authorities now have their own town planning schemes, and in the metropolitan area they have experienced problems in complying with the requirements of the Metropolitan Region Planning Authority. Town planning schemes must be prepared and adopted within a specified time.

If we look at the wording of clause 4, we will find it proposes to insert the words "town planner" before the reference to the traffic inspector and the building surveyor. This indicates that the town planner is in a position of some seniority.

Town planners are important officers in local Government, and they must possess certain qualifications for the position. I gather that Mr. Clive Griffiths does not fully grasp what the duties of a town planner are. His main objection to the clause is that the town planners do not come into contact with the public and ratepayers as do other officers of local government. He went on to say that in his opinion town planners merely carry out the requirements of a town planning scheme and follow the instructions of the local authority in relation to the scheme. I would like to ask Mr. Clive Griffiths one question: who prepares the scheme in the first place? Obviously it must be prepared by the town planner.

In the preparation of a town planning scheme for the metropolitan area, a town planner must take into account objections and countersubmissions from people whom the scheme will affect. Therefore, I cannot accept the statement that a town planner does not have contact with the public to the same extent as does a shire clerk. In my opinion the office boy probably bears the brunt of most of the discussions with the general public. I hope the Committee will accept clause 4.

The Hon. A. F. GRIFFITH: I would like to ask the Minister for Local Government to give us an example, or examples, of a town planner who was responsible for preparing a scheme which caused the councillors of a particular district to air their spite against him and, as a result, to have him dismissed. In other words, can the

Minister give us an example of an occasion where an injustice has occurred because of the Act as it now stands?

The Hon. R. H. C. STUBBS: The position is that the Royal Australian Planning Institute asked for this provision because of a few unhappy situations that had come about.

The Hon. A. F. Griffith: What were the unhappy situations?

The Hon. R. H. C. STUBBS: Apparently on occasions town planners have been at cross-purposes with councillors, and the institute wished to protect the town planners. The Local Government Association and the Commissioner of Town Planning were consulted and had no objection to the provision. One point to remember is that town planners may still be sacked. Mr. Clive Griffiths said that they could not be sacked, but they can.

The Hon. A. F. Griffith: They can be sacked.

The Hon. R. H. C. STUBBS: An inquiry is conducted. If the officer is in the right, then the council must pay him all the money to which he is entitled. However, he can still be sacked. The important thing is that he receives his entitlement. In view of that fact, I cannot see why there should be objection to the provision.

The Hon. A. F. GRIFFITH: In other words, the Minister is unable to give us a concrete example of a person who has been unjustifiably discharged, but he understands a couple of unfortunate incidents have occurred. I would place my faith in local authorities to the extent that I believe members of a council would not dismiss an employee unless, in their considered opinion, he should be dismissed. I would go so far as to say that instead of adding an officer to this provision, we should attempt to subtract some officers from it.

I am sure the Minister will have studied the sections which this Bill seeks to amend; as it also seeks to amend sections 159 and 160. The provision we are discussing seeks to add an additional person to the list of officers who cannot be dismissed without appeal. If for some reason or another a local authority wishes to dispense with the services of its town planner, the town planner will then have a right of appeal. If the appeal is upheld, the town planner may thumb his nose at the very people who wanted to dismiss him for what they considered was a just cause. So in any event we will not create a happy situation if a local authority were placed in this situation.

I asked the Minister whether this would apply to a person employed by a council for a specific purpose but I am not sure what his answer was. On my reading of the Bill, if we agree to include the words "town planner" in section 158, a local authority will then have no right to dispense with the services of a town planner whether he is employed permanently or casually.

The Hon. S. J. Dellar: He would have to be a permanent employee.

The Hon. A. F. GRIFFITH: Does it say that in the Act?

The Hon. S. J. Dellar: I have read it 100 times.

The Hon. A. F. GRIFFITH: Perhaps the honourable member should read it again —obviously he does not understand it. Under these provisions a local authority will not be able to terminate the services of a town planner.

The Hon. R. H. C. Stubbs: Oh yes it can.

The Hon. A. F. GRIFFITH: Unless he has the right of appeal.

The Hon. R. H. C. Stubbs: What is wrong with that?

The Hon. A. F. GRIFFITH: I think there could be a lot wrong with it. I repeat: I am not so sure that we should not subtract from this list rather than add to it. Local authorities have the right to sack their town clerks, but what a job it is to get rid of one of them!

The Hon. Clive Griffiths: It is easier to get rid of the Government!

The Hon. A. F. GRIFFITH: It will prove a lot easier in the near future, I think.

The Hon. J. Dolan: Don't kid yourself.

The Hon. A. F. GRIFFITH: The other thing is that the Minister cannot give us one example.

The Hon. R. H. C. Stubbs: I cannot mention a town planner—it might embarrass someone concerned.

The Hon. A. F. GRIFFITH: The Minister cannot indicate one situation where a shire has reacted unjustly against a town planner. I think it is safe to say that only a very few local government officers have been dismissed over quite a long period of time. I really cannot see the necessity for the clause.

The Hon. R. H. C. STUBBS: This will be my last comment on the matter—as far as I am concerned the clause can go to a vote. Mr. Clive Griffiths said that a local authority could not get rid of a town clerk. In my time a town clerk has been dismissed.

The Hon. A. F. Griffith: One.

The Hon. R. H. C. STUBBS: Yes. The council wished to get rid of him and it accomplished its objective. The officer was fully compensated, but the fact remains that he was sacked; and officers may still be sacked under the provisions of the Bill.

The Hon. CLIVE GRIFFITHS: We must cast our minds back to try to discover the purpose for the original inclusion of the town clerk, the engineer, and other people in section 158 of the parent Act. From my research it appears that local authorities could be subjected to pressure from ratepayers to dismiss an officer with whose actions they were incensed. Subsequently, unfair pressure could be put on the officer to have him dismissed. The Minister told us that the reason for the amendment is because the Royal Australian Planning Institute asked for this protection for town planners because on one or two occasions a town planner felt he was unjustly treated. However, the Minister cannot mention these cases.

The Hon. R. H. C. Stubbs: The Minister will not mention these cases; it may cause embarrassment.

The Hon. CLIVE GRIFFITHS: I do not know who would be embarrassed. We are being asked to change the law and yet the Minister does not want to embarrass anyone. He simply says that one or two people feel they have been treated unjustly. He has been approached by the Royal Australian Planning Institute about the matter and so he is prepared to change the law. Next week someone else may be dismissed by a local authority. This person may feel aggrieved by the dismissal, and he may approach the Minister to include his particular category in section 158. Will the Minister come back next week to introduce Local Government Act Amendment Bill (No. 5)? This is the fourth Local Government Act Amendment Bill we have had this session.

I think the excuse is pretty flimsy, and I agree with Mr. Arthur Griffith that, rather than add to the list, we should subtract from it.

Mr. Dellar raised the question of who would draw up the town planning scheme in the first place if it were not the town planner. He said that during the course of his drawing up the scheme the town planner could be subjected to pressure from people within the affected area.

The Hon. S. J. Dellar: He could be.

The Hon. CLIVE GRIFFITHS: Of course he could be, but do not forget that when a town planning scheme is being drawn up not one skerrick of information is supposed to be available to the public. So until the scheme is ready for statutory publication no information is available to the public. After the scheme is published people may object within a certain period. At that stage the scheme will have been approved by the council. Certainly it will have been worked on by the town planner, but worked on with no interference from the ratepayers.

Once the town planning scheme is presented it is no longer the town planner who is subjected to pressure; it is the councillors, because they subsequently make the decision as to whether or not any of the provisions in the scheme will be altered. The Act contains provision for appeals to be made to certain people. The appeals are not made to the town planner.

The Metropolitan Region Town Planning Scheme Act says that each local authority should have a town planning scheme within three years of the implementation of the Act. This came into operation in 1959, and it is now 1973. So I would think those town planners who have not drawn up their schemes should be looked at critically. I think Mr. Dellar's argument has no bearing on the matter. I feel we have justified our argument, and I ask the Committee to oppose the inclusion of town planners in this provision.

The Hon. R. F. CLAUGHTON: It is noticeable that during the term of office of the previous Government no suggestions were made that any people who come under this provision should be removed from it. I suppose it is natural enough that members opposite should suggest this only when they are in Opposition. As members of Parliament, we have received submissions from a group of people who are studying town planning. They pointed out the extent of the studies they must undertake. I think most members understand that to become a town planner one must study for a considerable number of years and gain considerable experience.

I would have thought it would be obvious to members of the Committee that the dismissal of a town planner would be considerably damaging to his career—a career to which he has devoted a good part of his life. Under those circumstances I think it is only right that we should offer him protection additional to that already contained in the Act. Only the larger local authorities employ town planners, and only people with considerable training and experience are employed.

I have some knowledge of the way town planners are subjected to criticism from the public. I have seen them attempting to explain to a public meeting the decisions of a council. They do come before the public and are criticised for their work; but that is only one aspect.

Town planning schemes, whether they are schemes under the Metropolitan Region Scheme, or simply changes in the zoning by-laws, can be of considerable value to those who are affected by them. As a result the town planner could have pressure placed upon him in regard to his recommendation to the council. As a great deal of money may hang upon his recommendation, it is quite conceivable that in order to preserve his job—if he is not given protection—he may make a recommendation that is not desirable.

I do not believe the current situation is in the public interest. I believe the only way to ensure that a town planner carries out his functions impartially and without being subjected to intolerable pressures is to afford him the protection offered in the Bill. Those members who oppose the provision are deluding themselves if they believe that pressures do not exist.

The Hon. J. HEITMAN: It appears that Mr. Claughton does not really understand the situation. A town planner is responsible to his council. Therefore, if any complaints are made about him they would be made to the shire. Surely seven or more people sitting in judgment upon the recommendations of the town planner would know very well whether or not he is carrying out the wishes of the shire; and that is what counts.

I point out that clause 15 provides that a council may delegate power to the building surveyor or town planner. What will happen if the town planner makes a mess of his job, and this costs the shire a tremendous amount of money? Under this provision he may only be suspended. Surely the council should have the right to hire and fire.

I agree with the Leader of the Opposition that perhaps we should reduce the list of people who have this protection. We are getting to the stage where a shire may employ a person in a trustworthy job on a high salary, and if he makes a mess of it he cannot be fired.

The Hon. J. Dolan: He would have qualifications, for a start.

The Hon. J. HEITMAN: Surely many shire clerks have high qualifications.

The Hon. J. Dolan: It is poor judgment on the part of the shire for appointing him if he makes a mess.

The Hon. J. HEITMAN: The Leader of the House has not been a shire councillor, so how would he know?

The Hon. J. Dolan: Mr. Claughton has, and he knows.

The Hon. J. HEITMAN: I would like to know how many shire clerks Mr. Claughton has helped to engage; they would be very few and far between in the shire of which he was a councillor. It happens more often in country shires. In many cases shire clerks have helped themselves to the till, but they may only be suspended and not sacked. A shire president may find, quite suddenly, the till is being tickled. This would necessitate his having to bring in auditors and approach the Local Government Department for advice. He cannot sack the clerk and get detectives in to take civil action.

The Hon. J. Dolan: Do you mean to say that if a man is stealing you don't call in the local cop to pinch him?

The Hon. J. HEITMAN: Of course not; in this instance the shire can only take away his keys and suspend him. The list of protected employees is becoming longer.

The Hon. R. F. Claughton: Your Government put them all there.

The Hon. J. HEITMAN: When a shire engages these people in the first place it does not go to the Minister and say, "Can we put him on, please?" But if he does something wrong and the shire wants to get rid of him it cannot sack him; it can only suspend him and go through the rigmarole of getting in auditors and going to the Minister. Practically every shire insists on a fidelity bond when it employs these people and the reason, of course, is that the shires cannot sack their staff. I think it is time we put our foot down in regard to the list of protected employees.

The Hon. R. F. Claughton: It is interesting that you are prepared to put your foot down only when you are in Opposition.

The Hon. J. HEITMAN: I did not interject on Mr. Claughton; I let him run to his limit in order to find out how ignorant he is. As far as I am concerned, I will not let this provision pass.

The Hon. CLIVE GRIFFITHS: My final word on this clause is simply to correct the record in case Mr. Claughton's comments should lead the readers of *Hansard* to believe that members of the Opposition do not appreciate the qualifications held by town planners. Our argument is not in respect of their qualifications; we realise they are highly qualified. Indeed, had Mr. Claughton been listening to the second reading debate he would have heard some of us comment that their qualifications should be recognised by the present Government.

Our argument is connected wholly and solely with the proposition of including town planners in section 158 of the Act. This will include them with officers who are in a different category altogether; those who were placed in that category originally and given protection because of the type of work they do and the contact they have with the public. I intend to oppose the clause.

The Hon. S. J. DELLAR: The Local Government Act was assented to on the 20th December, 1960. The provision in clause 158 of the original Bill, which we are seeking to extend to cover town planners only applied to persons holding office of clerk, engineer, and building inspector.

In the 1968 reprint of the Act the building surveyor came under this provision. Previous Governments saw fit to give adequate protection to officers of local government, and I cannot understand the objection to extend the provision to cover town planners.

Clause put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (The Hon. F. D. Willmott): Before the tellers tell, I give my vote with the Noes.

Division resulted as follows—

Ayes—13

Hon. N. E. Baxter	Hon. L. A. Logan
Hon. R. F. Claughton	Hon. R. H. C. Stubbs
Hon. S. J. Dellar	Hon. R. Thompson
Hon. J. Dolan	Hon. S. T. J. Thompson
Hon. L. D. Elliott	Hon. J. M. Thomson
Hon. J. L. Hunt	Hon. D. K. Dans
Hon. R. T. Leeson	*(Teller)*

Noes—13

Hon. C. R. Abbey	Hon. I. G. Medcalf
Hon. V. J. Ferry	Hon. T. O. Perry
Hon. A. F. Griffith	Hon. W. R. Withers
Hon. Clive Griffiths	Hon. D. J. Wordsworth
Hon. J. Heitman	Hon. F. D. Willmott
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. N. McNeill	*(Teller)*

Pair

Aye	No
Hon. W. F. Willesee	Hon. G. W. Berry

The DEPUTY CHAIRMAN: The voting being equal, the question is resolved in the negative and the clause is not agreed to.

Clause thus negatived.

Clauses 5 to 10 put and passed.

Clause 11: Section 217 amended—

The Hon. CLIVE GRIFFITHS: This clause seeks to amend section 217, by the addition of two new subsections which relate to the definition of "hawker" and the permitted hours within which a hawker may carry on his pursuit. The permitted hours are between 9.00 a.m. and 12.00 noon on any day other than a Sunday or public holiday; and between 12.00 noon and 5.00 p.m. on any day other than a Saturday, Sunday, or public holiday.

It seems that we are constantly placing restrictions on people who are trying to earn a living; and we are making it more and more difficult for some people to earn a living legitimately. In this provision the permitted hours which have been set down do not amount to 40 a week. For some reason it seems we have singled out the hawker with a view to restricting his hours of operation.

I do not agree with the practice of requiring a person to obtain a license to do a certain thing, a permit to do something else, and a quota to produce something. We are fast reaching the stage where people do not know what they are permitted to do to earn a living.

As I have said before, if a hawker is regarded as an undesirable vendor of goods then we ought to ban him from operating. However, if we do not regard him as being undesirable, and if we permit him to carry on his lawful pursuit, then we ought to permit him to earn a living; we should not restrict him to the ridiculous hours which have been set down in the clause. For those reasons I ask members to vote against the clause.

The Hon. R. H. C. STUBBS: The reason that the hours set out in the clause have been proposed is to bring them into line with the hours that are set out in the Door to Door (Sales) Act Amendment Bill. I am sure that no housewife likes hawkers to be calling before 9.00 a.m. The point is that these hours have been laid down to protect the *bona fide* shopkeeper. If the shopkeepers are not given protection then the hawkers would be able to come into a town, conduct their business, and leave without contributing anything to the rates of that town. For that reason we have to be firm with the hawkers.

The Hon. CLIVE GRIFFITHS: The Minister talks about bringing the permitted hours into line with those laid down in the Door to Door (Sales) Act Amendment Bill. I would point out that today the first reading of the Door to Door (Sales) Act Amendment Bill was taken, but the provision to which the Minister is now making reference has not been discussed. So, the Minister is premature in using the argument he did. It is possible the provision in the Door to Door (Sales) Act Amendment Bill will not be agreed to in this Chamber. I do not know what the fate of that Bill will be.

If the Minister regards hawkers as being undesirable and inclined to steal the business away from *bona fide* shopkeepers without contributing anything to the town where they operate, then he should move to ban hawkers. What is the point of having hawkers if we do not permit them to earn a living? If the hours proposed in the Bill were more reasonable I would not be adopting the attitude I am; but they are unreasonable and do not deserve to be supported.

The Hon. A. F. GRIFFITH: From time to time attempts have been made to amend the sections of the Local Government Act dealing with hawkers. While no substantial amendment has been made, I think that members of the Western Australian Parliament have generally agreed on the type of undertaking in which a hawker may engage, in providing a service to the community. The suggestion that the proposal in the Bill to restrict his hours of operation is to bring them into line with the proposal in another Bill that has been introduced is a weak excuse, because in the first place the hawker performs a service to the community.

We are considering not only the people who live in the metropolitan area, because this legislation applies to the whole State. In fact, the term "hawker" is not a nice one, and in my view a better word could be used to describe these people who travel from place to place in providing a service to the community. Proposed subsection (4) states—

> A by-law made under this section shall not permit the hawking of goods, wares, or merchandise, or the offering or exposing of goods for sale or hire otherwise than during the permitted hours.

In proposed subsection (5) the permitted hours are stated to be—

(a) the period between the hours of nine o'clock in the forenoon and noon on any day other than a Sunday or public holiday; and

(b) the period between the hours of noon and five o'clock in the afternoon on any day other than a Saturday, Sunday or public holiday.

So, right throughout the State we propose to restrict these people who carry on their business with the permission granted under a regulation made under the Health Act.

I live in a street where quite often I see a man with wares on a delivery truck serving the housewives and other people. He has for sale vegetables, fruit, and other things. Sometimes he gets to the street between 6.00 p.m. and 7.00 p.m., particularly in the summertime.

The Hon. S. J. Dellar: That person is not a hawker but an itinerant vendor under the Health Act

The Hon. A. F. GRIFFITH: So, we are not aiming at him.

The Hon. S. J. Dellar: We are only talking about this Bill.

The Hon. A. F. GRIFFITH: I know what we are talking about. The honourable member should not teach his grandmother to suck eggs!

The Hon. S. J. Dellar: I cannot understand why you say that.

The Hon. A. F. GRIFFITH: The fact is, it is intended to cover more people than are now covered. I agree with Mr. Clive Griffiths: why prevent a man from earning his living?

The Hon. J. Dolan: We are not preventing him from earning his living, but only restricting him to certain hours.

The Hon. R. H. C. Stubbs: To 43 hours a week.

The Hon. A. F. GRIFFITH: That is, if he does not have any time off for lunch.

The Hon. R. H. C. Stubbs: He may not knock off for lunch.

The Hon. A. F. GRIFFITH: I do not mind whether a hawker works for 43 hours or a little longer; these people are performing a service to the community and the Government wants to cut down the hours during which they can work. It seems we are hampered with rules and regulations all the time; we seem to get up with them in the morning and go to bed with them at night, and I get weary of the situation. Why not leave the position as it is? Is the Government trying to satisfy the wants of some local authority which is opposed to a man selling ice cream in its area?

The Hon. R. H. C. Stubbs: No, that does not come under this provision.

The Hon. A. F. GRIFFITH: Well, the intention of the provision is not to satisfy a local authority in that regard. However, I have received letters from local authorities which want to limit the number of licenses which are issued.

The Hon. S. J. Dellar: That is provided for in the original Act.

The Hon. A. F. GRIFFITH: I have received letters from people who wanted to further restrict the operations of hawkers and they probably had a valid excuse because the local shopkeepers who pay their rates had to compete with the hawkers who do not pay rates. Some people believe that for this reason the hawkers should be shut out. However, I do not believe the hawker should be shut out and I am satisfied with the Act as it stands.

The Hon. L. A. LOGAN: During my second reading speech I suggested that a hawker should be able to work during the same hours as a commercial trader and had that provision been in the Bill I could have supported it. We have to bear in mind that this proposed by-law will apply throughout the State and I think it is wrong to lay down such conditions which will apply to a person hawking goods in Wyndham or in the Kimberley. I think that a shire in the Kimberley should have the opportunity to set hours during which hawkers can trade according to the wants of the area.

The Hon. CLIVE GRIFFITHS: I think it might be a good idea if I read to the Committee just exactly what the Act states, in regard to the restrictions placed on hawkers. Subsections (2) and (3) of section 217 are as follows—

(2) A council may so make by-laws—

(a) for regulating or prohibiting the hawking in the district of the municipality of goods, wares, or merchandise, and requiring licenses to be obtained from the council by hawkers, and requiring hawkers to carry and use scales;

(b) for prescribing the annual fees, not exceeding twenty pounds, to be paid for hawkers' licenses and for differentiating in such fees according to the description of goods, wares, or merchandise hawked, and the localities or portions of the district in which they are hawked;

(c) for limiting the number of licenses to be issued and for refusing to grant a license, either when the limit is reached or for any other reason specified in the by-laws;

(d) for requiring a badge displaying a number and the year of issue to be issued to

persons licensed to hawk, at a fee not exceeding five shillings; and

(e) for requiring hawkers to display the prescribed badge when hawking or offering or exposing goods for sale or hire.

(3) The by-law shall provide that the council shall not entertain any application (other than an application for a license by way of renewal of a license) unless the applicant produces a certificate signed by two Justices of the Peace certifying that the person sought to be licensed is of good character and reputation, and is a fit person to exercise the trade of a hawker.

That is the situation covering hawkers at the present time.

The Hon. S. J. Dellar: It has been since 1960.

The Hon. CLIVE GRIFFITHS: Local authorities have the power to make by-laws to cover any one of those provisions set out in the Act to restrict the activities of hawkers in local authorities. It is the intention of the Government to take away from local authorities the right to set the hours during which hawkers may operate. The Act already contains sufficient power for the activities of hawkers to be curtailed should they step out of line.

The Hon. W. R. WITHERS: When speaking to the Daylight Saving Bill I referred to my home town of Kununurra and also to the other towns in the East Kimberley and said that because of the non-acceptance of daylight saving the sun rises at 4.30 a.m. and sets at 5.30 p.m. A hawker will not call on a house at an early hour in the morning because he must keep a good relationship with his customers. He will not operate during ridiculous hours, or during hours which will not suit the average housewife.

We must remember that in the Kimberley 4½ hours of daylight will be gone before a hawker can commence to sell his goods at 9.00 a.m. Also, people knock off work between 4.00 p.m. and 4.30 p.m. so they would not be interested in having a hawker call at 5.00 p.m. They would not be interested in having a hawker call between the hours of 11.30 a.m. and 12.30 p.m. because that is the generally accepted lunch hour in the tropics. The hours set out in the amendment to the Act were proposed by people from the city, and those people did not consider the hawkers in the largest electorate in our State. I will certainly vote against the clause because it is parochial.

The Hon. R. H. C. STUBBS: For the information of Mr. Clive Griffiths this amendment is not being introduced as a Government measure, but at the request of the Local Government Association representing 138 shire councils in Western Australia. The members of that association desire to control the hours during which hawkers can operate. They were consulted and the measure is brought forward at their request. It can be thrown out and I could not care less; the association requested me to bring it forward.

The Hon. L. A. LOGAN: Might I ask the Minister to qualify his statement that the Local Government Association made the request? The Local Government Association represents the metropolitan area. Is the Country Shire Councils' Association or the Country Town Councils' Association included because I think there is a distinction?

The Hon. R. H. C. STUBBS: With matters pertaining to local government we usually consult those involved. The suggestion has come from the country shire councils because that is where the shires are having trouble with hawkers. I do not think there is any problem in the city at all. After consulting those people we have introduced this Bill. I cannot say we have discussed this specific point with them but I would be surprised if we had not because we make a habit of taking such action.

The Hon. A. F. GRIFFITH: I do not suggest that the Minister was trying to exonerate the Government by suggesting that the amendment was introduced at the request of the Local Government Association. However, the Minister knows that whether he introduces an amendment to the Local Government Act, or to any other Act, or even in originating legislation, once the Government decides that it should go forward then the measure is the responsibility of the Government.

The Hon. R. H. C. Stubbs: Just the same as your Government listened to various people and then introduced legislation.

The Hon. A. F. GRIFFITH: Exactly. However, once the legislation is introduced it is the responsibility of the Government.

The Hon. R. H. C. Stubbs: It has been introduced at the request of those people.

The Hon. N. McNEILL: I would like to ask the Minister what, in fact, are the goods or wares which it is proposed to control or limit by virtue of this amendment. The Minister has indicated that the amendment contained in clause 11 of the Bill is not aimed at the ice cream vendors so, presumably, it will apply to all those goods and wares which are subject to a hawker's license. During his second reading speech the Minister said—

> The Crown Solicitor to whom this question was referred suggested that a more appropriate method of control would be in the Door to Door (Sales) Act, 1964.

The proposal was then referred to the Minister for Labour for possible action to introduce appropriate legislation. The Minister for Labour indicated that he did not favour the inclusion of the proposal in the Door to Door (Sales) Act, and suggested that if the operating hours of hawkers, etc., are to be controlled they should be uniform with those prescribed in the Door to Door (Sales) Act; that is—

The DEPUTY CHAIRMAN (The Hon. F. D. Willmott): Order! Is the honourable member quoting from a debate which took place in the Legislative Assembly?

The Hon. N. McNEILL: No, Mr. Deputy Chairman, from a debate in this Chamber.

The DEPUTY CHAIRMAN: Very well.

The Hon. N. McNEILL: To continue—

Monday to Friday 9.00 a.m. to 5.00 p.m.

Saturday 9.00 a.m. to noon with Sundays and public holidays excluded.

We ought to have in mind the nature of the goods which it is proposed to sell. We do not know what the hours of selling will be under the Door to Door (Sales) Act Amendment Bill which we have not yet seen.

Mr. Clive Griffiths referred to the operation of section 217 and it is very appropriate that we should also bear in mind the people who are not covered by the provisions defining hawkers. Subsection (1) of section 217 reads as follows—

217. (1) In this section—

"hawker" means a hawker, pedlar or other person who, with or without any horse or other beast bearing or drawing burden, travels and trades and goes from town to town or to other men's houses or is in any street there soliciting orders for or carrying to sell or exposing for sale any goods, wares or merchandise, but does not include—

(a) commercial travellers or other persons selling or seeking orders for goods, wares, or merchandise to or from persons who are dealers therein, or selling or seeking orders for books or newspapers;

(b) sellers of vegetables, fish, fruit, newspapers, brooms, matches, game, poultry, butter, eggs, milk, or any victuals;

(c) persons selling or exposing for sale goods, wares or merchandise in any public market or fair lawfully established, or upon any racecourse, agricultural show ground, or public recreation ground;

(d) sellers of goods of their own manufacture;

(e) persons representing a manufacturer whose goods are sold direct to consumers only and not through the medium of a shop.

The Hon. S. J. Dellar: Did we not amend that slightly last year?

The Hon. N. McNEILL: An attempt was made to alter the definition last year and, as I recall, it was unsuccessful because of the difficulty in trying to draw the line between chalk and cheese, as to who was a hawker. The Committee will have recollections of the amendment which was proposed in 1972. The point I am making is that all those classes of person are not regarded as hawkers for the purposes of the Act. I therefore assume the persons whose activities it is proposed to limit in this Bill are persons who do not come within that definition.

Who, then, are the persons, and what kinds of goods and merchandise are they hawking? It seems to me the people excluded from the definition cover a very wide range of commercial activities and enterprises. The question as to who are the persons and what are the goods may be of relevance to the overall situation.

I said during the second reading debate that I was not greatly opposed to clause 11 but I pointed out that the real problem concerned the definition "hawker" and the goods which were to be restricted or limited. A degree of control is already exercised over the hours during which hawkers who are authorised by the local authority may operate. I do not believe the Minister's action in pursuing this clause is warranted because clearly it will not cover all the matters to which he was referring when he said housewives do not want to be pestered early or late in the day by persons who are peddling or hawking goods. The people who are likely to be pestering housewives at early or late hours may well be the persons included in the definition I have quoted, who for the purposes of the Act are not hawkers at all.

The Hon. L. A. LOGAN: From the reply of the Minister it seems to me the local authorities asked for power to be provided in the by-law to enable them to set a time limit, which presumably they cannot do at the present time. The provision in the Bill originated with the Minister for Labour, not the local authorities. I think the local authorities want only a by-law

giving them power to set a time limit, and if we make provision for that in the Bill we will cover the position.

The Hon. W. R. WITHERS: I agree with Mr. Logan. Government departments throughout the State already operate under a similar system. The Main Roads Department, the Public Works Department, and the schools commence and finish work at different hours to meet the local requirements and in accordance with the time at which the sun rises and sets.

The North Province, which I represent, encompasses the Kimberley and stretches from the west coast of Australia to the Northern Territory border. In the western towns on the coast, such as Onslow, Port Hedland, and Dampier, the schools commence and finish at different times from the schools in the eastern part of the province at such towns as Halls Creek, Wyndham, and Kununurra; and in the centre of the province, at Broome, Fitzroy Crossing, and Derby, the hours are different again. It is necessary that the hours vary, and it makes sense to set the hours on a basis which suits the particular locality.

What is so different about the Local Government Department? Why cannot the people in a particular shire be permitted to say at what hours they will operate and at what times they will allow hawkers to work? I know problems are experienced with hawkers in many shires. Some people have put a lot of money into capital costs, which are 150 to 160 per cent. above Perth costs. Let the representatives of the people on the shire councils set the hours.

The Hon. R. H. C. STUBBS: As far as I know, all these facets have been discussed with the local government authorities. I will take note of what members have said. I move—

> That further consideration of the clause be postponed.

Motion put and passed.

Clause 12: Section 218 amended and section 244A added—

The Hon. J. HEITMAN: When I was speaking to the second reading I said that local authorities have powers to make by-laws under the Act, which would cover much of what is proposed in this clause. I feel it is rather ridiculous to set up a tribunal to listen to appeals. It is also a costly business. The tribunal is to comprise a chairman, to be appointed by the Minister, a person nominated by the Local Government Association, an architect, and a person who has experience in town planning. In view of the fact that local authorities have powers to make by-laws, surely provision for appeal to the Minister would cover the matter. I would like the Minister to tell us what the tribunal will cost. Local authorities already have difficulty in finding sufficient finance, without having to pay for a tribunal. I suggest they can do without it.

The Hon. R. H. C. STUBBS: I cannot state what the tribunal will cost. We are proposing to do what is done in New South Wales. Of the 138 municipalities, only 63 have adopted by-laws on signs and hoardings, and the idea of the committee was to bring in uniformity among all councils throughout Western Australia. We will follow the New South Wales provision for an appeal tribunal, the chairman of which is appointed by the Local Government Department. No objection has been raised to the proposal and I cannot see anything wrong with it.

The Hon. J. Heitman: It is the cost I am worrying about.

The Hon. R. H. C. STUBBS: I do not think it will cost anything. If any cost is involved, it will be borne by the department. I think it will be a departmental responsibility to hear appeals. After all, it is the department's responsibility to hear appeals in other fields.

The Hon. J. Heitman: I am wondering the reason for the departure on this occasion.

The Hon. R. H. C. STUBBS: The department foots the bill for other appeals, so I presume it will foot the bill for appeals in this matter.

The Hon. N. McNEILL: During the second reading debate I made a number of comments about this clause, particularly in relation to the conflict which I believe will arise between the application of this amendment and the operations under the Main Roads Act. I will not cover that ground again but I want to refer to the provision relating to the appeal tribunal comprising four people.

I expressed the view that I was not impressed by the constitution of the appeal tribunal, but I am particularly concerned about the possibility of conflict, duplication, or overlapping in relation to appeals regarding signs—particularly illuminated signs—applications for which have been disallowed under the Local Government Act, as against those which have been disallowed or restricted under the Main Roads Act. I still believe there will be a great deal of conflict.

I repeat that I consider the by-laws and regulations in relation to signs made by the Main Roads Department under its Act should have been only complementary to what is proposed in the Local Government Act, and in fact may replace it in many instances. When they do not replace what is proposed under the Local Government Act, a certain amount of conflict will ensue, which will be extended into the area of appeals against decisions because what is applicable in terms of the Main Roads Act may not be applicable in the case of the Local Government Act.

I think it is one of the irritations which will affect the operations of the advertising industry and particularly those people who wish to advertise. It will not serve

a very useful purpose. In two other avenues an appeal to the Minister is considered to be sufficient in certain circumstances, as it is considered to be sufficient under the Main Roads Act.

The Hon. W. R. WITHERS: Am I right in assuming that the Governor can make and publish in the interests of uniformity generally by-laws which may prevent a person from putting up a particular sign to which the council initially agreed? For instance there would be areas in my province from which signs would have to be removed if the Governor were able to say that there was to be no sign in a public park which allowed advertising of any sort. The signs to which I refer provide a public service; they constitute a town map displaying the entire town in streets and listing all the businesses. If this type of by-law were brought in as a result of action by the Governor and it became uniform throughout the State it would be the duty of the council to remove the signs to which I have referred. But would that council have a right of appeal in this particular instance?

The Hon. R. H. C. STUBBS: Some of the questions raised are questions of law and it is difficult for me to answer them off the cuff. I would like to get the correct legal answer. I move—

That further consideration of the clause be postponed.

Motion put and passed.

Clause 13 put and passed.

Clause 14: Section 360 amended—

The Hon. CLIVE GRIFFITHS: I remind the Committee that this clause permits a person who qualifies under section 561 of the principal Act to have his rates postponed. It also permits him to have postponed the conditions outlined in section 360 of the Act; under which section the local authority can require a resident to construct a crossing over the common ground into his premises.

When he introduced the Bill the Minister said that people who qualify under section 561 for exemption were not in a position to pay the fee imposed by the local authority for the provision of the crossing in question. Accordingly clause 14, as I have explained, permits postponement of that payment. I heartily agree with this provision.

Clause put and passed.

Clause 15 put and passed.

Clause 16: Section 460 amended—

The Hon. R. H. C. STUBBS: During the second reading debate Mr. McNeill referred to the impounding of cattle and I asked him whether he could suggest ways and means of improving the position. He was good enough to pass to me a written note which I had examined by the Parliamentary Counsel who found nothing wrong with it. I move an amendment—

Page 14, line 30—Insert before the word "and" the words "or at such other place as the council directs".

The Hon. N. McNEILL: I am grateful to the Minister for acknowledging my suggestion. Perhaps I could explain my reasons for it. I would refer members to proposed new subsection (3a) of paragraph (d) which states—

(3a) Where a council is requested by the owner or occupier of land within its district who has caused cattle to be impounded under this section to arrange for a sale of the cattle to be carried out by a person appointed by the council, the council shall make the requisite arrangements accordingly and shall cause a sale to be held and the money received in respect of the sale to be dealt with as though the cattle had been impounded in a public pound which was established and maintained by that council.

This means the sale would take place at a pound as distinct from the place—mainly a property—on to which these cattle may have strayed and where they have been impounded by the owner or occupier of that land. It appeared to me that in such cases where the provisions of the Act had been carried out in order to impound the cattle on that property that the sale should take place at a public sale place. In the cattle country, cattle sales take place several times a month, and rather than go through the necessary advertising and arranging for the sale I believe it would be more convenient and would facilitate matters if the sale could be permitted to take place at a public sale place in conjunction with another cattle sale.

I am glad the Minister sought the necessary advice, because I am sure the amendment will facilitate the whole operation and make it more convenient for persons who have stray cattle on their property and who want to do something about them. I support the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 17 put and passed.

Clause 18: Section 513 amended—

The Hon. R. H. C. STUBBS: I move an amendment—

Page 15, lines 28 and 29—Delete the words "so incurred and an attendance fee of twenty dollars" and substitute the passage "and—

(i) where the loss of earnings so incurred is less than twenty dollars, the amount of the loss; or

(ii) where the amount of the loss of earnings exceeds twenty dollars or cannot accurately be certified, the sum of twenty dollars".

When the Bill was being drafted there was a misconception that every councillor would be paid $20 irrespective of how many meetings he attended. This was not the intention. The amendment seeks to pay self-employed people who may attend as delegates, where they cannot actually prove they have a loss of earning. The wage earner can do this, but the self-employed person finds some difficulty in proving loss of earning.

The Hon. J. HEITMAN: I admit the Minister has done his best to rectify the mistake made in the Bill, but I would refer members to section 513 (h), where the amount set out is $10; but if the Minister wishes to increase it to $20 I would not oppose him. All the shire councillors to whom I have spoken are not keen to have their expenses paid where loss of earnings are involved; though they say the question of travelling is a different matter altogether. They would be happy to have the $20 instead of the $10 which refers to travelling only. It might be possible to claim $10 for travelling and $20 for loss of earning.

The Hon. R. H. C. STUBBS: It is $20 now. The amount was amended in 1972 from $10 to $20. I have visited no less than 110 councils and I am constantly confronted with people who have requested this amendment. It is possible there are those who wish to give their services free, but the majority are for the amendment rather than against it.

The Hon. J. HEITMAN: I think I may have been quoting from an unamended section of the Act. I have no objection to the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 19: Section 516A added—

The Hon. CLIVE GRIFFITHS: I move an amendment—

Page 16, insert after subsection (4) the following new subsection to stand as subsection (5) as follows—

(5) A person who is entitled to claim under the provisions of section five hundred and sixty-one to be exempt from liability for the payment of rates or charges under this Act in respect of land of which he is in actual occupation as owner may claim to be entitled to exemption from the liability to pay a charge otherwise payable under this section in relation to that land and thereupon the provisions of section five hundred and sixty-one shall apply to the payment of that charge.

This amendment seeks to make a provision similar to that about which I spoke a few moments ago when dealing with clause 14. This permitted people who are pensioners, and the like, to claim exemption from rates and also exemption from the provisions of section 360 of the Act.

Under this clause it is proposed to insert new section 516A which will provide that the council may serve written notice on any occupier or owner of premises to remove a dangerous tree from that property or to render it safe. The new section also provides that in the absence of the owner or occupier or in the event of his not being able to carry out the order issued by the local authority, the local authority can have the work done whether or not the owner or occupier desires the tree to be removed. I simply desire the provision of this proposed new section to be extended to cover an aged pensioner who is placed in a similar situation and to exempt him from the payment of the cost of the removal of any dangerous tree, in the manner in which he is exempted from the payment of rates under section 561.

When speaking during the second reading debate it was said that the deferment of rates would not be a great burden to local authorities, so I am sure the deferment of the expense of cutting down a dangerous tree would represent a lesser burden; because the Minister indicated it was the intention of the State Government to continue to make a grant that would be equal to the interest on the amount of money local authorities would raise to meet deferred rates owing by aged pensioners. Therefore I ask the Committee to agree to my amendment.

The Hon. R. H. C. STUBBS: I oppose the amendment. Whilst the intentions of Mr. Clive Griffiths are laudable I think the local authorities should indicate whether they are prepared to carry this additional burden. On the 9th November I wrote to the Secretary of the Country Shire Councils' Association as follows—

Dear Sir,

Local Government Act Amendment Act (No. 4) 1973:

Forwarded herewith is a photo copy of a proposed amendment to the Local Government Act as proposed by the Hon. C. Griffiths, M.L.C. providing for a charge on land in respect of costs related to work on pensioners' property.

As this proposal, if accepted, could offset the finances of the member bodies of your Association, I should be pleased if you could ascertain urgently for the guidance of the Hon. Minister for Local Government if the proposed amendment is favoured by the Councils.

I also wrote a letter to the Local Government Association in similar terms, but to date I have not received a reply from either of those bodies. However, in fairness to them I do not think the Committee should agree to the amendment because if this new subsection were added it would impose an additional burden on local government. The various charges that are deferred by local authorities amount to a great deal of money and, of course, some are burdened to a greater extent than others.

The Hon. CLIVE GRIFFITHS: To say the least I am astounded at the Minister's comments.

The Hon. D. K. Dans: And full of mystification.

The Hon. CLIVE GRIFFITHS: A few moments ago the Committee agreed to a provision contained in clause 14, the purpose of which is exactly the same as that contained in the new subsection I seek to have added.

The Hon. R. H. C. Stubbs: The local authorities were consulted in regard to that provision.

The Hon. CLIVE GRIFFITHS: The amount of money that will be involved as a result of granting exemptions under clause 14 will be much greater than the amount of money that would be involved if my amendment were passed. When speaking of exemptions we are thinking of poor people who cannot afford to pay their rates; therefore we should be benevolent in our attitude towards these people when they are confronted with a bill to remove a tree which is considered to be dangerous, especially when that bill may amount to $200 or $300. I have already cited one case in my electorate of aged people who knew they had a dangerous tree on their property and who were quite willing to have the tree removed but could not afford the cost of $200 or $300 to remove it.

If the clause, as printed, is agreed to, and the legislation is enacted, it will be lawful for a local authority to enter the premises of any person upon whom a notice has been served for the removal of a dangerous tree and remove the tree regardless of whether the owner or occupier wants it removed. All I am seeking is that an aged pensioner—who already qualifies for exemption from payment of his rates—be granted similar exemption from the cost of the removal of a dangerous tree. If the amendment were agreed to I feel certain that it would involve no more than 200 or 300 cases in the metropolitan area.

The Minister said he had written to the Country Shire Councils' Association on the 7th November last.

The Hon. R. H. C. Stubbs: I said that I wrote on the 9th November.

The Hon. CLIVE GRIFFITHS: Very well, on the 9th November. He wrote to that organisation pointing out that I intended to move this amendment and asked for its opinion. It is now the 27th November. If this amendment were to impose any great burden on local authorities I venture to say that the Minister would have received a reply post haste, because all these local Government associations are well aware that this measure is currently before the Parliament and a decision has to be made on it. The local authorities have had three weeks' notice of this amendment. If it were to impose any great burden on them they have had ample time to advise the Minister if they so desired, that they wished to deprive these aged pensioners of the opportunity to have deferred this charge the Minister seeks to impose upon them by the implementation of proposed new section 516A. I am astounded at the attitude of the Minister.

The Hon. J. HEITMAN: In this matter I side with Mr. Clive Griffiths. Possibly the reason the Minister has not had a reply to his letter from the Country Shire Councils' Association is that it meets only quarterly and the next meeting is on the 23rd December.

The Hon. R. H. C. Stubbs: I telephoned Mr. White.

The Hon. J. HEITMAN: If the Minister had received a reply it would have been only from the secretary. After the association has held its next meeting the Minister will probably be advised of its decision on this question. However I do not think the Minister need worry. I think they would agree with Mr. Clive Griffiths on this matter. I would also point out that under proposed new section 599—sought to be inserted in the Act by clause 22—a local authority may obtain advances from a bank on overdraft to meet the amount of money involved by the deferment of rates. Therefore a local authority will really not be deprived of this money. The work involved in removing a dangerous tree would be performed by the local authority itself with its own workmen. Accordingly it would not be a hardship for the local authority to remove such a tree and would only be another service among many others it is already performing on behalf of people in indigent circumstances.

I support Mr. Clive Griffiths in moving this amendment, because after all is said and done many of these aged pensioners have been ratepayers all their lives and, to my knowledge, the local authorities would consider it an honour to perform this service for them.

The Hon. S. J. DELLAR: Mr. Clive Griffiths might be astounded at the attitude adopted by the Minister, but I am astounded at his attitude. How often in debate have we heard that a Minister has referred some matter to interested parties, and how often have we heard him criticised for doing so? In this instance the

Minister has written to the interested parties to obtain their opinion on the question.

The Hon. J. Heitman: Surely we can be a little elastic in this matter.

The Hon. S. J. DELLAR: We are fairly elastic, but when we try to be we are generally criticised.

The Hon. Clive Griffiths: You are not doing the right thing in this instance.

The Hon. J. Heitman: After you have been here for a while your mind is broadened quite a bit.

The Hon. S. J. DELLAR: I have been here for quite a while already and what Mr. Clive Griffiths has said has astounded me, too.

The Hon. R. F. CLAUGHTON: My views are much the same as those expressed by Mr. Dellar. The same thoughts are running through my mind. If we had attempted to introduce this provision without first referring it to local governing organisations for their opinion, the two honourable members supporting the amendment would have been adopting a different attitude.

It is rather surprising to me to realise the attitude they are adopting and the fact that they are presuming to speak on behalf of local government authorities.

The Hon. Clive Griffiths: You are certainly speaking now on behalf of local authorities.

The Hon. R. F. CLAUGHTON: This is always the attitude that is adopted by Opposition members in this Chamber. Time after time we see this attitude adopted by those on the opposite benches. When a reasonable proposition is put to the Minister invariably he agrees to put it before the local authorities to obtain their agreement and after they have expressed their opinion any further amendment is generally incorporated in the Bill at a subsequent Committee stage. This is the attitude that should be adopted by the two members supporting the amendment. I think the Minister would be quite happy to agree to the amendment moved by Mr. Clive Griffiths provided he obtained an expression of opinion from the local authority.

The Hon. CLIVE GRIFFITHS: If we do what Mr. Claughton suggests, we should postpone the consideration of this clause until some subsequent sitting of the Committee. What he is implying is that we should wait until next year when a Liberal-Country Party Government is in office and then introduce the provision contained in my amendment.

The Hon. J. Dolan: That is a laugh!

The Hon. CLIVE GRIFFITHS: Mr. Claughton went on to say that from time to time he hears remarks made by members of the Opposition making appeals on behalf of various people, but if we did not make them no concessions would be offered to such people.

Members will recall that during the second reading debate we did not question the provisions of clause 14. Almost every speaker supported them wholeheartedly because we believed they warranted our support.

The Minister is worrying about something which should not be worrying him. If the Minister made it a practice not to introduce legislation which upset people he would not introduce any at all. He has had no qualms about introducing other Bills notwithstanding the fact that they have upset many people. Nevertheless, now, because he has given these people an opportunity to comment, he will not accept the amendment. A moment ago he told me that he had phoned to ascertain whether or not an answer was available.

The Hon. R. H. C. Stubbs: I did not say that, but I will sort that matter out later.

The Hon. CLIVE GRIFFITHS: The implication was that the Minister has been in touch with the associations by phone. I can agree that they may not have had a meeting in three weeks.

The Hon. S. J. Dellar: It is not three weeks. It is 18 days less postage time.

The Hon. CLIVE GRIFFITHS: Whatever the length of time, it was sufficient to enable those organisations to indicate to the Minister, if the matter was of major consequence to them, that they wanted him to delay the inclusion of the provision. However, they have not done this and therefore I can assume that the provision must be all right.

What if it is not all right with them? As far as we are concerned, we are making the laws. If this Chamber says that the law ought to be changed so that pensioners and others who qualify under section 561 of the Act for an exemption of their rates shall come under my amendment, then that would be the decision of the Chamber.

The Hon. R. F. Claughton: Can I quote you on that?

The Hon. CLIVE GRIFFITHS: People can read in *Hansard* what I have said. I am not ashamed of it. We have before us a Bill which provides us an opportunity to insert a concession for these people. Why should we not take the opportunity instead of waiting until after the next election? Parliament will not meet again until next August, but in the interim we will have a law enabling local authorities to serve an order on a person to remove a tree if someone in a local authority believes it should be removed. If the person on whom the order is served cannot

afford to comply with it, then the local authority will do the work and charge the person accordingly.

The Hon. A. F. Griffith: At the rate we are going, we will still be here next August!

The Hon. CLIVE GRIFFITHS: I think the Minister is unreasonable in the extreme.

The Hon. R. F. CLAUGHTON: According to the honourable member himself very few people are likely to be involved and Mr. Heitman has told us how concerned local authorities are to assist pensioners. Obviously, therefore, not a great deal will be lost if we wait until next session to deal with this matter. If a reasonable suggestion is made to the Minister it is referred to the authority involved, and when a favourable answer is received it is dealt with at the appropriate time.

The Hon. R. H. C. STUBBS: For a start let me sort out the telephone business. The day after the honourable member's amendment appeared on the notice paper I rang Mr. White of the Local Government Association and asked him to get in touch with his members concerning the matter. I indicated I would confirm my request in writing, which I did. I sent a letter to each of the associations on the 9th November, and I used the words "ascertain urgently for the guidance".

I am not casting any reflection on Mr. White who is a very efficient officer. I am aware of the fact that the associations do not hold meetings every day. I am not prepared to pass the amendment because I want the associations first to acquiesce to it. Also under the amendment the Treasurer will have some say because he will have to guarantee interest rates involved.

If members will defeat the amendment now, the moment I hear from the associations I will contact the Treasurer. When the legislation goes to another place, I will request the Premier to ensure that the amendment is made there if the associations have no objection to it.

The Hon. A. F. Griffith: How long has the amendment been on the notice paper?

The Hon. R. H. C. STUBBS: Since about the 9th November, I think, when I wrote to the associations. The point is that I think the Local Government Association and the Country Shire Councils' Association should have an opportunity to intimate their support or otherwise for the amendment. I therefore request the Committee to vote against the amendment.

The Hon. J. HEITMAN: I thank the Minister for viewing the matter in this impartial way. I ask him to postpone further consideration of the clause until next Tuesday because by then he would have had a reply from the associations.

The Hon. R. H. C. STUBBS: I oppose the suggestion of postponement because we are only fiddling around. I have given my word that if I hear from the associations concerned and they are in favour of the amendment, I will have it made in another place. If members are not prepared to take my word, I could not care less whether I lose the whole Bill. I will not do anything about the amendment until I hear from the associations. Obviously the amendment will be passed here because the Opposition has the numbers, but that will not be the case in another place.

The Hon. J. HEITMAN: I did not think the Minister would turn as nasty as that.

The Hon. R. H. C. Stubbs: I am not becoming nasty; but sometimes it is necessary to speak plainly.

The Hon. J. HEITMAN: The Minister has postponed several other clauses in the Bill. He is upset about this amendment because he believes the two associations should comment on it and provide him with an answer to his question.

The Hon. R. H. C. Stubbs: I am not upset. You are exaggerating. There is no-one in this Chamber who can upset me—no-one.

The Hon. J. HEITMAN: That is nice to hear. In those circumstances it beats me why the Minister is getting a little nasty now.

The Hon. J. Dolan: He is not getting nasty.

The Hon. R. H. C. Stubbs: That is my usual demeanour.

The Hon. J. HEITMAN: It is unfortunate the Minister will not agree to my suggestion because by Tuesday the associations would have had their meetings and the Minister could have heard from them. I feel quite confident that they will agree to the amendment. It is not that I do not trust the Minister concerning what he said he would have done in another place. I was merely trying to help him.

The Hon. CLIVE GRIFFITHS: For the life of me I did not believe that the consideration of this clause would take so long. I said earlier that the Minister's attitude astounded me, and it continues to do so, particularly when he says that he could not care less whether he loses the whole Bill. He suggests that because we have the numbers we will force it through this Chamber, but he will ensure it will be defeated in another place. So he threatens the Committee.

The amendment is simple and without complications. It is not of a controversial nature and adequate time has been available in which the two associations, had they believed there was major reason, could have contacted the Minister. However, they have not done so.

Naturally the Government has the numbers in another place, and it will use its brutal majority to defeat the measure if it so desires.

The Hon. J. Dolan: The voice of experience!

The Hon. CLIVE GRIFFITHS: This Chamber is the master of its own destiny and can oppose the Bill, reject it, or amend it. It is at least in a position to make a decision on the amendment before us. If the amendment is accepted here and by the time the Bill is received in another place the associations have indicated their acceptance of the amendment, I assume the Government would see fit not to reject it in another place.

On the other hand, if the associations do not accept the amendment, the Government will do what the Minister has threatened it will do; that is, defeat it in another place. In the meantime, why should this Committee not make up its mind based on the merits of the argument?

The Hon. A. F. Griffith: Bearing in mind that the Bill originated in this Chamber.

The Hon. CLIVE GRIFFITHS: That is right. Also we must remember that I proposed the amendment. I cannot see any reason for our not making a decision instead of having to wait for the Government at its whim to decide whether or not an amendment should be made in another place. Frankly I am opposed to any postponement at all.

The Hon. R. F. CLAUGHTON: Mr. Clive Griffiths will not have to take any responsibility for anything which goes wrong.

The Hon. Clive Griffiths: What could go wrong?

The Hon. A. F. Griffith: Who will? You will, I suppose?

The Hon. R. F. CLAUGHTON: Mr. Clive Griffiths is not responsible for the Treasury or for the local authorities who are being asked to take the responsibility under the amendment. The Minister made a reasonable suggestion. He went out of his way to meet the proposals as far as he can at this time. I feel that Mr. Heitman was attempting to go along with him and it is unfortunate a little misunderstanding developed as a consequence.

The Minister has given his word on the subject and the Committee should accept it. I would not blame the Minister if he were offended at the suggestion that his word is not to be taken. I hope the Committee will accept the offer the Minister has made. He will attempt to obtain an answer from the associations and if a favourable reply is received during the passage of the Bill in another place, he is prepared to have the amendment made there.

Amendment put and a division taken with the following result—

Ayes—11

Hon. C. R. Abbey	Hon. I. G. Medcalf
Hon. A. F. Griffith	Hon. R. J. L. Williams
Hon. Clive Griffiths	Hon. W. R. Withers
Hon. J. Heitman	Hon. D. J. Wordsworth
Hon. G. C. MacKinnon	Hon. V. J. Ferry
Hon. N. McNeill	*(Teller)*

Noes—14

Hon. N. E. Baxter	Hon. L. A. Logan
Hon. R. F. Claughton	Hon. T. O. Perry
Hon. S. J. Dellar	Hon. R. H. C. Stubbs
Hon. J. Dolan	Hon. R. Thompson
Hon. L. D. Elliott	Hon. S. T. J. Thompson
Hon. J. L. Hunt	Hon. J. M. Thomson
Hon. R. T. Leeson	Hon. D. K. Dans
	(Teller)

Pair

Aye	No
Hon. G. W. Berry	Hon. W. F. Willesee

Amendment thus negatived.

Clause put and passed.

Clauses 20 to 22 put and passed.

Clause 23: Section 669A amended—

The Hon. L. A. LOGAN: The Local Government Association does not agree with this provision in the measure. The association argues that, if the police take over the control of traffic—which is the position in the metropolitan area and in some country areas—they should do the complete job of traffic control and parking.

Even within the metropolitan area where the police control traffic some of the smaller local authorities do not have the personnel or the facilities to deal with parking. They cannot afford to set up another department to deal with this aspect. If the police are to handle traffic, let them handle parking. The Perth City Council, of course, comes into a different category, because it has its own by-laws and its own Act.

The provision under discussion will throw back the onus onto all local authorities to handle their own parking. We cannot have it both ways, and I suggest the Committee should vote against the clause.

The Hon. R. H. C. STUBBS: Perhaps I could have another look at this provision, because there seems to be a certain amount of logic in what Mr. Logan has said. I do not commit myself but in order to look at this again, I move—

That further consideration of the clause be postponed.

The Hon. J. HEITMAN: I refer the Committee to the wording of the section which the clause proposes to amend. All that the police are doing is to opt out of the metropolitan area where parking is charged for and where parking inspectors are employed.

Point of Order

The Hon. N. E. BAXTER: The honourable member is not speaking to the question before the Chair.

The DEPUTY CHAIRMAN (The Hon. F. D. Willmott): The honourable member should confine himself to the question before the Chair.

Committee Resumed

The Hon. J. HEITMAN: Had I been allowed to proceed further, I would have given the reason for not postponing the clause and I would have tried to explain to the Minister that he would have received support from me, anyway, had he waited. I do not think there is any need to postpone the clause. However, as it is to be postponed we will deal with it at a later date.

Motion put and passed.

Progress

Progress reported and leave given to sit again, on motion by The Hon. R. H. C. Stubbs (Minister for Local Government).

RAILWAY (BUNBURY TO BOYANUP) DISCONTINUANCE, REVESTMENT AND CONSTRUCTION BILL

Returned

Bill returned from the Assembly without amendment.

AUCTION SALES BILL

In Committee

Resumed from the 21st November. The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. R. Thompson (Minister for Police) in charge of the Bill.

Clause 25: Mock auctions—

The CHAIRMAN: Progress was reported after the clause had been partly considered.

The Hon. R. THOMPSON: A number of amendments to this measure appear on the notice paper. During the period which has elapsed since the measure was last debated, a great deal of consideration has been given to it and mutual agreement has been reached.

With the exception of one amendment to clause 22, which is a postponed clause, the amendments are totally acceptable to all parties. I am sure I am right in saying this.

Mr. Wordsworth has also distributed an amendment which, with the exception of paragraph (e), we are prepared to accept.

I realise we have spent a great deal of time on this measure up to date and I do not wish further to delay the passage of the measure. I move an amendment—

> Page 23, line 1—Delete the word "shall" and substitute the words "may be taken to".

The Hon. I. G. MEDCALF: The Minister has rightly said that a great deal of discussion has ensued on the points of difference which arose during the earlier stages of the Committee debate and those points have been reconciled.

I believe the Minister's amendment is worthwhile because it will enable an auction to be deemed to be a mock auction in certain circumstances which are set out but it shall not require that a prosecution be launched in all cases. It will enable the Minister or the department to use its discretion in launching a prosecution. It will also enable a court to use its discretion as to whether or not, for example, the supply of any article at an auction sale does constitute a mock auction. In other words, it will bring flexibility into the matter. The amendment is worth while and has my support.

Amendment put and passed.

The Hon. D. J. WORDSWORTH: I have circulated a copy of my amendment to all members. Although the previous amendment takes a good deal of the sting from the difficult areas which arose previously, it would perhaps be wise to spell out particular points. I do not think it is fair that a person should still wait upon the discretion of a court to decide whether he has done something wrong, particularly with regard to food and refreshment for consumption during the course of the auction.

The Hon. R. Thompson: I assume the honourable member will be moving down to and including paragraph (d)?

The Hon. D. J. WORDSWORTH: Yes, the Minister has said that he is unhappy with paragraph (e) and I can understand this. It is difficult to describe the position with regard to prizes. It would be better to stop at paragraph (d) and if anything arises the court can use its discretion. I move an amendment—

> Page 23—Insert after subclause (3) the following new subclause to stand as subclause (4)—
>
> (4) A sale shall not be a mock auction by virtue of paragraph (c) of subsection (2) of this section by reason of the seller providing without charge any or all of the following services—
>
> (a) food and refreshment for consumption during the course of the auction by persons attending the auction;
>
> (b) transport to and from the auction site for persons wishing to attend;
>
> (c) transport from the auction site of lots purchased;
>
> (d) catalogues.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 26 put and passed.

Clause 27: Account to be rendered—

The Hon. R. THOMPSON: I move an amendment—

Page 26, line 3—Delete the word "demand" and substitute the following passage—

demand; or

(c) an account from both the holder of the licence and the firm or corporation named in that licence if either the holder or that firm or corporation has previously complied with the provisions of subsection (1) of this section.

The Hon. I. G. MEDCALF: Members will recall the last time we debated this measure I raised the point that clause 27 provided for a double liability. The licensee must account for the proceeds of the sale of stock, but also the auctioneer, company, or firm which employs the licensee must account. Therefore, a person could demand an account from both parties. I am pleased to support the amendment which provides that when a person receives an account from one party he cannot require an account from another party. It is a fair and reasonable proposition and I support it.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 28 and 29 put and passed.

Clause 30: Sales of cattle, sheep, pigs, or goats—

The Hon. I. G. MEDCALF: Members will remember the discussion when I raised the objection about the necessity for an auctioneer to keep all records, invoices, account sales, and other documents kept in connection with an auction sale of stock for a period of three years. This is a much longer period than that applying at present. There are so many of these records that it would be virtually impossible for auctioneers to keep them all for three years. However, I am aware of the fact that it is desirable, whatever form the record ultimately takes, that it should be kept for a period of three years. I will therefore move the amendment standing in my name which will require an auctioneer to keep the register for a period of three years, but all other invoices and account sales for a period of 12 months only. I move an amendment—

Page 29, line 15—Insert after the word "register" the words "for a period of three years".

Amendment put and passed.

The Hon. I. G. MEDCALF: I move a second amendment for the reasons I have just indicated—

Page 29, line 17—Delete the words "three years" and substitute the words "twelve months".

Amendment put and passed.

The Hon. J. M. THOMSON: I move the amendment standing in my name—

Page 29—Insert after subclause (3) the following new subclause to stand as subclause (4)—

(4) A person appointed as an inspector for the purposes of the Stock Diseases (Regulations) Act, 1968, shall not exercise, or be entitled to exercise, the powers conferred on him by subsection (3) of this section after the expiration of the day on which the sale is conducted.

Amendment put and passed.

The Hon. I. G. MEDCALF: There are a number of further amendments to subclause (4) of clause 30 standing in my name. They all deal with the same point, and I think it was sufficiently debated on the previous occasion. The point is that it is desirable not to restrict competition at auction sales. It is necessary, therefore, that the prohibition in the subclause against a firm or corporation purchasing stock at auction sales should be deleted. The other amendments are entirely consequential. I move an amendment—

Page 29, lines 33 and 34—Delete paragraph (b).

Amendment put and passed.

The clause was further amended, on motions by The Hon. I. G. Medcalf, as follows—

Page 29, line 35— Delete the word "such".

Page 29, line 36—Insert after the word "corporation" the words "named in the licence of the licensee as that for the benefit of which the licence is to be used".

Page 30, line 5—Delete the words "or its".

Page 30, line 12—Delete the passage ", firm or corporation".

Page 30, line 16—Delete the passage ", firm or corporation".

Clause, as amended, put and passed.

Clause 31 put and passed.

Clause 32: Sale of cattle or pigs—

The Hon. R. THOMPSON: The five amendments appearing in my name on the notice paper extend the provisions in the

Bill to cover all types of animals listed on waybills. I move an amendment—

Page 32, line 29—Delete the words "cattle or pigs" and substitute the word "livestock".

Amendment put and passed.

The clause was further amended, on motions by The Hon. R. Thompson, as follows—

Page 32, line 31—Delete the words "those cattle or pigs" and substitute the words "that livestock".

Page 32, line 36—Delete the words "cattle or pigs" and substitute the word "livestock".

Page 33, line 1—Delete the words "cattle or pigs" and substitute the word "livestock".

Page 33, line 3—Delete the words "cattle or pigs" and substitute the word "livestock".

Clause, as amended, put and passed.

Clauses 33 and 34 put and passed.

Clause 35: Offences—

The Hon. I. G. MEDCALF: I move an amendment—

Page 34—Add after subclause (4) the following new subclause to stand as subclause (5)—

(5) Where by reason of or arising out of any act or omission of the holder of a licence granted for the benefit of a firm or corporation that firm or corporation is charged with an offence under this Act, is required to show cause for the purposes of subsection (1) of section 22, or is required to satisfy the Court as to its fitness or repute upon any application for the grant or renewal of a licence it shall be an answer in any such case for the firm or corporation to show that—

(a) the act or omission complained of was committed or occurred without its knowledge and that it could not reasonably be expected to have known that any provision of this Act had been contravened or had not been complied with;

(b) the firm or corporation was not in a position to influence the conduct of the holder of the licence in relation to the act or omission; or

(c) the firm or corporation used all due diligence to prevent the commission or occurrence of such act or omission.

This amendment arises out of a discussion we had previously. I was concerned with the question of double liability, or the liability of a firm or corporation for the acts of a licensee, or conversely the liability of a licensee for the acts of a firm or corporation.

The Bill contains several provisions which make one party liable for the acts of the other. For that reason it seems desirable to make it clear that one party shall not be liable for the acts of another party, unless one is responsible to the other.

The object of subclause (5) is to provide that where an act or omission has occurred as a result of which a license is prejudiced, or somebody may be prosecuted for the acts of another person, it shall be an answer in each case for the firm or corporation to show that the act or omission complained of was committed without its knowledge, and that it could not reasonably be known that any provision of this legislation had been contravened; that the firm or corporation was not in a position to influence the conduct of the holder of a license in relation to the act or omission; or that the firm or corporation had used all diligence to prevent the commission or occurrence of such act or omission.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 36 and 37 put and passed.

Postponed clause 22: Suspension, cancellation and disqualification—

The Hon. I. G. MEDCALF: I do not propose to move the amendment standing in my name, because clause 35 as amended will substantially remedy the position.

Postponed clause put and passed.

Postponed clause 24: Misrepresentation—

The CHAIRMAN: Further consideration of the clause was postponed after Mr. Medcalf had moved the following amendment—

Page 22, line 24—Insert after the word "false" the words "or misleading representation or".

The Hon. I. G. MEDCALF: This clause deals with a very minor matter relating to misrepresentations, where the representations or statements were false or misleading in certain particulars. The addition of the words are intended to correct a grammatical error.

Amendment put and passed.

The Hon. I. G. MEDCALF: I move an amendment—

Page 22, line 26—Delete the word "true" and substitute the words "not false or misleading".

This amendment is purely to correct a grammatical error and to tidy up the wording.

Amendment put and passed.

Postponed clause, as amended, put and passed.

The Hon. R. THOMPSON: I understood that copies of a circular would be available for distribution among members. This deals with my proposal to delete the wording in clause 2 and substitute other wording.

The CHAIRMAN: I suggest the Minister move for the recommittal of the Bill on the motion that I report the Bill to the House.

Title put and passed.

Report

THE HON. R. THOMPSON (South Metropolitan—Minister for Police) [10.10 p.m.]: I move—

> That the Chairman do now report the Bill to the House.

I would indicate that I wish to recommit the Bill for the purpose of further considering clause 2 with a view to deleting the words therein and substituting other words. The words I propose to substitute are—

> This Act or any provisions of the Act shall come into operation on a date or dates to be fixed by proclamation.

The Hon. I. G. Medcalf: I have no objection to that.

The Hon. A. F. Griffith: That seems to me to be in order.

Question put and passed.

Bill reported, with amendments.

Recommittal

Bill recommitted, on motion by The Hon. R. Thompson (Minister for Police), for the further consideration of clause 2.

In Committee

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

Clause 2: Commencement—

The Hon. R. THOMPSON: I move an amendment—

> Page 2, lines 1 and 2—Delete all words, and substitute the following—
>
> > This Act or any provisions of the Act shall come into operation on a date or dates to be fixed by proclamation.

The Hon. I. G. MEDCALF: I am sure there is no objection to this amendment. I understand the object is quite a practical one. It may be desirable for the provisions dealing with mock auctions to be brought into operation before the provisions relating to the register and other complicated matters.

I appreciate that some problems will arise in bringing the provisions relating to the register into operation. No doubt there will be consultations between the department and the people engaged in the industry as to what should be included in the register. I believe it is a good idea that an opportunity be provided to proclaim parts of the Bill after it is passed.

The Hon. R. THOMPSON: I thank members for their forbearance, and also for the co-operation they have extended to me in respect of this legislation. It was some four years ago when similar legislation was first introduced by Mr. Jack Thomson, and I am sure that he is gratified we now have a composite piece of legislation which we all hope will work to the satisfaction of everyone concerned.

Amendment put and passed.

Clause, as amended, put and passed.

Further Report

Bill again reported, with a further amendment, and the report adopted.

COMMONWEALTH POWERS (AIR TRANSPORT) BILL

Second Reading

Debate resumed from the 22nd November.

THE HON. L. A. LOGAN (Upper West) [10.14 p.m.]: I think all members appreciate the responsibility which has been placed upon them as a result of the introduction of this Bill. It has created a great deal of interest; and as a result of its introduction, and even long before it was brought to this House, members and political parties have been subjected to deputations from and submissions by ATI, MMA, and TAA.

One company, of course, is endeavouring to hang on to what it has built up, and the other company is trying to get a foothold on the business available in this State. I cannot recall that any of the deputations or submissions asserted that the present system or the present service was inadequate or inefficient.

Mr. Clive Griffiths mentioned a few shortcomings of the existing company but I suggest that those shortcomings apply to airline companies, generally, throughout the world and not only to MMA.

I suppose that if one were to walk down the street and take a consensus of opinion as to whether or not TAA ought to be allowed to operate in Western Australia, the majority of people would probably say, "Yes", but we must bear in mind that people, generally, do not know the circumstances or just exactly what is involved. Therefore, on this occasion, I think that public opinion might have to be dispensed with.

I am not too sure that the expression "two airline policy" is not a misnomer because as far as Australia is concerned the two airline system does not exist. Of course, I am talking about intrastate. The system does not exist in South Australia, New South Wales, Victoria, Western Australia, or Tasmania. It does exist on a limited scale in Queensland. So, we should not let anybody get the idea that if this Bill is not passed we are denying to Western Australia something which is available elsewhere in Australia. That is not the position.

I think we should deal with certain aspects of this Bill in connection with what is likely to happen, particularly with regard to the present service provided for the people of this State by MMA. I am of the opinion that if the service is reduced the number of flights will have to be reduced. If TAA is allowed to enter into this State the service on other routes will be reduced. I cannot see how the system could operate otherwise because if the number of planes is to be reduced from five to three the service must be affected, especially when it is remembered that the proposed new airline will not service those other areas.

Evidence has not been supplied to my satisfaction to show that the pilots who will be displaced, if TAA is allowed into Western Australia, will be re-employed and retain their present seniority. If my memory serves me correctly 20 or 22 ATI pilots have been seconded to Singapore Airlines and Malaysian Airlines on the guarantee that when they return from that service they will not lose their seniority. I ask: How would another 10, 15 or 20 pilots fit into that organisation? They just could not and they would have to take alternative employment, or have their seniority reduced.

There has been considerable argument along the lines of this being the right time for another airline to commence operations in Western Australia. On examining this statement I wonder just what would be the right time for two airlines to compete so that both were able to make a profit. However, under the provisions of this Bill the two airline companies will not compete at all. It will simply be a case of taking business away from one company and giving it to another company. Surely the right time is when two airline companies can operate in competition, and both make a profit. Nobody has yet said that this is likely to happen.

It has also been said that the turnover figures of MMA have gone up from between 17 and 19 per cent., but I think that figures can give a wrong conception of the true position. I think it is fair enough to say that the 1973 figures are not yet back to the level of the 1971 figures. It is all very well to say that the company has experienced a 19 per cent. increase, but that increase has to be applied to the previous years' operations. So we are not back to the 1971 figure as yet.

It might well be that if the $6,000,000,000 Pilbara project, or the Hanwright venture, or the Goldsworthy $400,000,000 project were to get off the ground the time would be right for two airlines to operate.

We were told, by way of explanation, that TAA would operate three flights each way per week. That is a total of six flights a fortnight. However, we read in the Press where the Premier himself said that TAA would initially operate seven flights each way between Perth and Darwin each fortnight. I do not know who is right, but there is a discrepancy. It might not sound to be a great discrepancy but it is one extra flight each fortnight, and it is different from what we were told in the first place.

It seems that some members are of the opinion that if TAA is allowed to operate in this State it will contribute to an increase in the population in the north-west. Of course, that is not so. No extra personnel will be required because the present personnel will be able to handle any extra work. Representatives of TAA have already told us, by way of deputation, that it would not need any additional staff because the situation will be fully covered. I think Mr. Withers would agree with me on that point.

The Hon. W. R. Withers: That is my understanding.

The Hon. S. J. Dellar: Who claimed that they would need additional staff?

The Hon. L. A. LOGAN: I want to disillusion those members who are under the impression that extra staff will be required.

After studying all the submissions which have been made to us, and giving considerable thought to this Bill, I find there is one aspect which has not yet been mentioned and to me it is the most vital implication contained in the Bill. I refer to the fact that this Bill will do nothing more nor less than allow the confiscation of the business of one company, without any compensation, and the giving of that business to another company.

In the 27 years I have been in this House members have never been asked to legislate along lines such as these: To confiscate the business of one company—which has been built up over the years—and without allowing for any compensation to give that business to another company on three or four days a week. That is exactly what this Bill will do.

I ask members to give some consideration to this aspect because to me it is very serious that we should be asked to pass legislation to allow the confiscation of 50 per cent. of a company's profitable business, and hand that business on a platter to somebody else without allowing 1c by way of compensation. That is exactly what this Bill intends to do.

I notice that the leading article in *The West Australian* on Tuesday, the 27th November, stated that TAA was right and that it ought to be allowed into Western Australia under the conditions I have outlined. If that is the way *The West Australian* want it, next week I will introduce a Bill into this House setting out that *The Independent Sun* be allowed to publish its paper on three days each week, and that *The West Australian* should be left out of circulation for those three days.

The Hon. D. K. Dans: And make the people buy it.

The Hon. L. A. LOGAN: Do not the people pay their airfares?

The Hon. D. K. Dans: They would have a choice.

The Hon. L. A. LOGAN: They would not have a choice at all. If they travelled on one day they would travel TAA and if they travelled on another day they would travel MMA.

The Hon. S. J. Dellar: These days one can go all the way with MMA.

The Hon. L. A. LOGAN: I could add a rider to that statement.

The Hon. A. F. Griffith: Is that stated in the Bill?

The Hon. L. A. LOGAN: This is a serious matter and I consider that members ought to dwell on it. Irrespective of the submissions that have been made to us, and irrespective of whether the Federal Government says that it will let the company into this State regardless of what we say, I will not approve of legislation which will confiscate business from one company, without compensation, and hand that business on a platter to another company in opposition. In those circumstances I oppose the Bill.

THE HON. I. G. MEDCALF (Metropolitan) [10.28 p.m.]: I think the argument surrounding the entry of TAA into the airline business within Western Australia has been obscured by the same kind of argument which applied some years ago in connection with the establishment of TAA, and likewise the same ideology is being put forward. I use the word "ideology" because many of the arguments have been ideological arguments. I sometimes think there is a connection between the ideological and the idiotic, but the dictionary does not support me! However, some arguments simply revolve around whether or not it is better to have the Government running everything or to have private enterprise running everything.

I do not see the situation in that light at all. To me that is not the right way to look at this situation, yet it is surprising how many arguments are put forward from various quarters along these lines from the people who believe it would be a good thing for the Government to take over the airlines in Australia, just as they think it would be a good thing for the Government to run all the railways or certain other operations within Australia. This is just part of the ideological argument. I am not saying there are not justifiable excuses for the Government running the railways over most of Australia.

The argument is put forward that something is better if it is done by the Government while, on the other hand, there is the opposite argument that it is better if done by private enterprise. Basically, as far as the public is concerned, it is better if there is a choice with fair competition.

When one really examines this question, and attempts to look at it from the point of view of the travelling public, one finds that it is difficult simply to say that one argument in this case is white and that the other argument is black.

Where there is competition we usually get the best result for the public but competition must be on fair terms. Most industries are regulated in such a way that employees are protected against unfair exploitation because of the effects of unfair competition. Employees are protected against losing their jobs, and are assured of receiving proper wages and conditions of service, etc. These are the ideals which we try to put forward in all considerations affecting any industry or any new industry.

What would be the position in this State if, without a great deal of economic study or expertise, we simply allowed TAA to run an airline in Western Australia in competition with the airline which is already operating? What would be the effect in this particular situation? When we look at the terms of entry, we find all kinds of concessional and cut-price arrangements are contemplated as part of the deal. I do not regard that as being fair competition, to begin with. I believe there must be some means of rationalising services and ensuring the public is given the best service. The public does not get the best service in a situation where one group is forced out or is at the beck and call of another group. The public will get the best service only if there is room for two airlines in Western Australia.

I am not satisfied on anything I have heard that there is room for two airlines in Western Australia, and I believe it is a matter on which this House needs much more information. A proper economic study should be made, and no such study has been put before the House by anybody. I am certainly not satisfied a proper study has been made. As far as I can see, if we allow TAA to come into the airline business in Western Australia on terms which allow it to cut the fare or make adjustments which the other company cannot make without cutting its services, we will not improve the services for

the public, and there is a grave possibility that we will end up with one airline again. I do not think that would be a good thing.

It is well known that restrictive trade practices are engaged in by large corporations in order to secure for themselves the whole of the trade or business through such devices as price-cutting or running at a loss for a few years in order to force a competitor out of business. The corporation then has the whole of the market and can do as it pleases. These practices are recognised in restrictive trade legislation. Price-cutting can lead to monopoly. This is not a matter which needs a great deal of argument but it is one of which I believe we are losing sight.

If in this case price-cutting were to result in a monopoly airline in Western Australia—be it TAA or any other company—with one airline forcing the other out through various devices, would we be any better off? I suppose those who believe in the ideological argument would say we would be better off because we would have a Government airline instead of a private airline. I do not believe that is progress. The public will not get the best deal unless they and we, as the legislators responsible for deciding this matter, are properly and adequately informed. I do not believe we have been so informed up to this stage, and until such time as we are so informed I am not at all satisfied with this Bill.

Debate adjourned, on motion by The Hon. D. J. Wordsworth.

MEMBERS OF PARLIAMENT

Dress in the Chamber: Statement by President

THE PRESIDENT (The Hon. L. C. Diver): Honourable members, early in today's proceedings I gave an indication that, because of the temperature, members who so desired could remove their coats. I would like to say that, in future, unless members are dressed in accordance with what is recognised as acceptable on a bowling green in any part of Australia, I will not invite them to remove their coats.

House adjourned at 10.36 p.m.

Legislative Assembly

Tuesday, the 27th November, 1973

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

BILLS (3): INTRODUCTION AND FIRST READING

1. Criminal Code Amendment Bill.

   Bill introduced, on motion by Mr. T. D. Evans (Attorney-General), and read a first time.

2. Rural Reconstruction Scheme Act Amendment Bill.

   Bill introduced, on motion by Mr. H. D. Evans (Minister for Agriculture), and read a first time.

3. Rivers and Estuaries (Conservation and Management) Bill.

   Bill introduced, on motion by Mr. Davies (Minister for Environmental Protection), and read a first time.

PUBLIC ACCOUNTS COMMITTEE

Report: Receipt and Printing

On motions by Mr. Lapham (Karrinyup) resolved: That the eighth report of the Public Accounts Committee be received and printed.

(See paper No. 503).

FUEL SUPPLIES

Position in Western Australia: Ministerial Statement

MR. MAY (Clontarf—Minister for Fuel) [4.36 p.m.]: I seek leave to make a ministerial statement regarding the fuel situation.

The SPEAKER: Is leave granted? There being no dissentient voice, leave is granted.

Mr. MAY: It is proper that members should be informed concerning action now under way to deal with any possible fuel supply emergency in Western Australia.

At the same time, I emphasise that this is purely a precautionary measure dictated by the possibilities inherent in the situation.

There is at present no indication of any emergency situation arising in Western Australia, and for the present, none is expected.

The Government has taken two principal steps to anticipate any threat to normal supplies of fuel.

In the first instance, the Fuel and Power Commission and the Fuel and Power Advisory Council have established the closest possible liaison with the oil industry regarding oil shipments, and the refining and stocks of petroleum products.

Through this contact, the Government will be informed immediately of any adverse trend in the supply position.

In the second instance, an "Emergency Fuel Supplies Committee" has been set up to carry out the basic technical, economic, and social assessments needed to deal with this complicated problem.

Mr. L. F. Ogden, Manager of the BP Refinery at Kwinana, has been co-opted to the Fuel and Power Advisory Council as Chairman of the Emergency Fuel Supplies Committee.