from the announcement and from what the Minister has said tonight I am afraid many farmers who should justifiably be granted assistance will not receive it.

Mr. H. D. Evans: What is your suggestion?

Mr. NALDER: I merely want the Minister's assurance.

Mr. H. D. Evans: No, go on. I have explained the situation to you. What is your suggestion?

Mr. NALDER: I only want the Minister's assurance that the position is under control. If he gives me that assurance I will resume my seat.

Mr. H. D. Evans: As far as it is possible to accept the Commonwealth undertaking, that is what we have done.

Mr. NALDER: Right. The Minister has given the assurance that as far as he is concerned everything is under control with regard to the Rural Reconstruction Scheme.

Mr. H. D. Evans: To the extent I have indicated with those figures.

Mr. NALDER: Very well. I will resume my seat.

Debate adjourned, on motion by Mr. Gayfer.

House adjourned at 9.59 p.m.

Legislative Council

Thursday, the 20th April, 1972

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

QESTIONS ON NOTICE

Postponement

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.34 p.m.]: I ask permission of the House to reply to questions following the afternoon tea suspension. I do not have all the replies to hand at this time.

The PRESIDENT: Permission granted.

PAY-ROLL TAX

Effect on Small Businessmen: Ministerial Statement

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.35 p.m.]: I seek leave of the House to make a statement in accordance with an undertaking I gave on the 22nd September last during the passage of the pay-roll tax legislation.

The PRESIDENT: There being no dissentient voice, permission is granted.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.36 p.m.]: I now present a report on the amount of tax paid by the small businessman, and its effects. The figures quoted in this report have been extracted from records maintained by the State Taxation Department and cover the period of the first four months' collections of the tax.

No guide was given during the debate as to what is regarded as a small businessman; therefore, some criteria had to be devised. Three categories have been selected, based on the number of employees engaged in a business. These are, up to 10; from 11 to 15; and from 16 to 20.

It could, of course, be argued that the last category is not really a small business. However, it has been included to give full information to the House.

It should be remembered that really small businessmen do not pay any pay-roll tax because their annual wage bills do not reach $20,800 each. These comprise such enterprises as small shops, private carriers, garages, small servicing establishments, and the like.

I should also mention that in the figures for the categories which I have defined are included organisations which are not in the small business category. These are such cases as holding companies for other Western Australian companies which employ two or three highly-paid executives and a secretary, and small companies registered in this State but which are part of an Australia-wide organisation taking direction from the Eastern States. Also included is the type of organisation which forms a separate company each time a new branch is established but all these employers are subject to directions from one head office.

While the figures I am going to provide include the types of businesses I have just described, I wish to inform the House that they do not form a large proportion of the taxpayers paying relatively small amounts of pay-roll tax but they have been described to illustrate the difficulty in accurately defining and separating out what might be appropriately defined as a small businessman.

In the category of up to 10 employees there are 1,057 employers. These employers paid $160,953 in the first four months of the collection of the tax. In the second category of 11-15 employees, there are 788 employers who paid $242,709 over the same period. In the third category of 16-20 employees, there are 524 employers who paid $245,136 in the four-month period.

In total over the four months—which is the first five months of operation of the law, as payments are made in the succeeding month—$12,800,000 has been collected, and of this sum the smaller businesses, as described, paid $648,798, which is a little over 5 per cent. of the total collections.

I might add that doubling the exemption as originally proposed would cost $2,800,000 per annum, which confirms the estimate I gave this Chamber during the debate on the legislation.

On the 1st January, which is the date up to which the analysis was completed, there were 5,666 employers registered with the State Taxation Department. Of these, 1,240 were businesses also operating in other States. As these could not be described as small businesses, figures for them have not been included in any of the categories I have detailed. Of the total of 5,666, some 2,369 or approximately 42 per cent. are in the categories I have described as small businesses.

From the foregoing, members can see that about 42 per cent. of the taxpayers who may be described as small businessmen are called upon to pay only about 5 per cent. of the total of the tax. Thus it cannot be said that the brunt of the tax is being borne by the small businessman; the opposite is true.

The real effect on the taxpayer of the State legislation was to increase the amount which he had previously been paying to the Commonwealth by raising the rate from 2½ per cent. to 3½ per cent. If this increase is translated into financial terms, on the figures I have given the 2,369 businesses have between them, in the first four months, paid only an additional $185,370 towards the additional tax levied by the State. The balance has been met by the larger business organisations.

So far as the Commissioner of State Taxation is aware, no small business has had to cease operations as a result of the increase levied in pay-roll tax, nor has the business been unable to pay it. I would also add that in the current financial circumstances we are not in a position to add to concessions promised in other taxes and, in fact, on the latest advice available, no State Government in Australia has found it necessary or, at least it proposes to vary the uniform exemption.

Following the analysis which has been made of the extent and effect of pay-roll tax, the Government has decided that, at this stage, no changes are to be made in the existing law.

TRAFFIC ACT AMENDMENT BILL

Recommittal

Bill recommitted, on motion by The Hon. J. Dolan (Minister for Police), for the further consideration of clause 4.

In Committee

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

Clause 4: Section 22 amended—

The Hon. J. DOLAN: I move an amendment—

> Page 3, lines 5 to 7—Delete paragraph (b) and substitute the following paragraphs:—
>
> (b) by deleting from lines four and five of subsection (7) the words "and the Minister may review any act or decision of any inspector appointed by him" and substitute the words "and the Commissioner may review any act or decision of any person appointed by him under subsection (6) of this section";
>
> (c) by adding after the word "that" in line one of the first proviso to subsection (8) the passage ", subject to subsection (8a) of this section,"; and
>
> (d) by adding after subsection (8) the following subsection—
>
> (8a) Nothing in the first proviso to subsection (8) of this section shall be construed as prejudicing or otherwise affecting the powers and duties of a person appointed by the Commissioner under subsection (6) of this section or of an inspector referred to in subsection (6a) of this section.

During the debate yesterday members raised several matters on which some clarification was required. I undertook to see the Parliamentary Draftsman in order to ensure these matters were cleared up satisfactorily. After consultation with him this morning, he proposed amendments which I feel entirely cover the matters raised yesterday.

The Hon. A. F. Griffith: Is he proposing further amendments?

The Hon. J. DOLAN: Yes. They are all linked in with the matters requiring tidying up which were referred to yesterday.

The Hon. A. F. Griffith: Have we a copy of the proposed amendments?

The Hon. J. DOLAN: Yes.

The Hon. G. C. MacKinnon: May I know where we are?

The Hon. A. F. Griffith: We have not a print of the Bill. I think Mr. MacKinnon is confused. The amendments now proposed by the Minister are, of course, amendments to the Bill, which in turn will add further amendments to the Act.

The DEPUTY CHAIRMAN: That is correct.

The Hon. W. R. Withers: I cannot find subsection (7).

The Hon. A. F. Griffith: That point is well taken. We cannot follow from the copy of the old Bill whether clause 4 has a subsection (7).

The DEPUTY CHAIRMAN: It deletes paragraph (b) in the Bill and proposes to insert the wording which has been outlined.

The Hon. A. F. GRIFFITH: The amendment mentions deleting words in lines 4 and 5 of subsection (7). We cannot find subsection (7) in the Bill because we have not a reprint.

The Hon. J. Dolan: It is in the Act.

The DEPUTY CHAIRMAN: The wording in the amendment relates to the Act.

The Hon. F. R. WHITE: The confusion has arisen because this amendment refers to the Act. I feel that in a situation such as this we should have warning so that we can acquire a copy of the Act in order to study the amendment. That privilege has been denied us.

The DEPUTY CHAIRMAN: This is an amendment to the Bill before us, and the Bill refers to amendments to the Act.

The Hon. F. R. WHITE: Whenever we have a Bill before us we have an opportunity to study the Act to see how it will be affected by the Bill. Here we have an amendment proposing to delete words from subsection (7) of section 22 of the Act. Unless we have the opportunity to study the Act we cannot study the impact of the amendment.

The DEPUTY CHAIRMAN: There is nothing new about this procedure. This is a further amendment to the Bill. The situation is that the Minister has moved an amendment and is waiting for me to state the question before he gives an explanation. The question is that paragraph (b) be deleted and the following paragraphs substituted:—

(b) by deleting from lines four and five of subsection (7) the words "and the Minister may review any act or decision of any inspector appointed by him" and substitute the words "and the Commissioner may review any act or decision of any person appointed by him under subsection (6) of this section";

(c) by adding after the word "that" in line one of the first proviso to subsection (8) the passage ", subject to subsection (8a) of this section,"; and

(d) by adding after subsection 8 the following subsection:—

(8a) Nothing in the first proviso to subsection (8) of this section shall be construed as prejudicing or otherwise affecting the powers and duties of a person appointed by the Commissioner under subsection (6) of this section or of an inspector referred to in subsection (6a) of this section.

The Hon. J. DOLAN: I refer members to section 22 of the principal Act and the amendment I have moved. Proposed new paragraph (b) of clause 4 is submitted as a result of the difficulty mentioned last night with regard to the proposed use of the word "Minister" instead of the word "Commissioner." The difficulty in relation to the use of the word "inspector" will be overcome by the use of the words "of any person appointed by him."

The proposed new paragraphs (c) and (d), which are to be inserted into clause 4 are to cover the position we spoke of yesterday regarding subsection (8) of section 22, in relation to the powers and duties of an inspector. I am satisfied that this amendment covers the position we spoke of yesterday, and that it will satisfy the queries which were raised.

The Hon. A. F. GRIFFITH: I am glad the Minister referred to the Parliamentary Counsel upon this point. He will see that there is wisdom in doing so. The queries we raised last night in relation to proposed new subsection (6a) will now be attended to. We did not raise these points to be difficult but, rather, to be helpful. It appears that the Minister has now covered the situation.

Amendment put and passed.

Clause, as further amended, put and passed.

Bill again reported, with a further amendment.

STAMP ACT AMENDMENT BILL

Receipt and First Reading

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

MAIN ROADS ACT AMENDMENT BILL

Report

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [3.02 p.m.]: I move—

That the report of the Committee be adopted.

Two queries were raised on this Bill. The first of these was raised by Mr. McNeill when he stated that in his opinion there was possibly a more appropriate authority which could deal with the question. While he felt the Main Roads Department might

be the determining authority, he wanted to know whether I would consult with the Minister to see whether his suggestion might not be more desirable.

I have consulted with the Minister for Works and he has informed me that the present policy will be continued; that the Main Roads Department will have the say. The Minister's explanation is that the Main Roads Department now has the right to control everything on main road reserves, although in certain circumstances in relation to towns through which a road passes, it does permit the shire to exercise the authority. The answer to the honourable member's question, therefore, is that the position which operates at present will continue; that the matter will be under the control of the Main Roads Department.

The second point I was asked to consider was a suggestion made by the Leader of the Opposition which related to the second part of the amendment which I moved which sought to set up an appeal authority. The second part referred to a committee which might be set up by the Minister. I asked the Minister whether in those circumstances the committee would be constituted as Mr. McNeill wished it to be constituted; whether it would be drawn from the committee which has already been set up. The honourable member wanted to know whether the committee would be under the auspices of the Minister for Local Government.

The Minister for Works (Mr. Jamieson) advises me that the committee will not be under the auspices of the Local Government Department; it will be under the aegis of the Main Roads Department through his direction.

THE HON. N. McNEILL (Lower West) [3.05 p.m.]: At the outset I would like to say I am quite satisfied with the Minister's reply to the question I raised concerning the point whether the Main Roads Department would be the controlling authority in the manner I suggested.

I was only endeavouring to elucidate the facts of the situation as we have understood them in the past; that, in fact, the Main Roads Department will be the determining authority. The Minister's reply confirms the opinion I had already formed.

I accept the explanation of the Minister obtained as a result of a discussion with the Minister for Works that the appeal committee as proposed in subclause (b) of his amendment will be, in fact, responsible to the Minister for Works.

I had hoped that the Minister might have been in a position to indicate whether the constitution of the committee which would be set up in that regard would be of a nature similar to that which he suggested as proposed in the local government regulations which are about to be promulgated in relation to the Local Government Act. I would be a great deal more satisfied were the Minister able to explain to me the constitution of that committee.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [3.07 p.m.]: When I asked the Minister for Works what happened in the case of an appeal committee, without any prompting on my part the Minister replied that these committees will be set up wherever the trouble eventuates. He pointed out that we could not be taking committee men all over the State.

If, for example, the trouble occurred in the north, or way down in the south, it probably would be necessary to get someone associated with local government—possibly the shire clerk—a representative of the Main Roads Department in the area, and someone else who would be suitable in conjunction with the Minister. He said that every appeal might have a committee set up. This is what I suggested last night, and Mr. Jamieson has only confirmed my impression.

Question put and passed.

Report adopted.

WESTERN AUSTRALIAN PRODUCTS SYMBOL BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Minister for Police) [3.08 p.m.]: I move—

> That the Bill be now read a second time.

The Bill now before members is to protect the "Made in Western Australia" symbol from unlawful use.

A wide-ranging campaign to foster the use of locally manufactured products on the home market has been conducted since February 1970.

During the preliminary investigation prior to mounting the campaign a survey was conducted to study existing attitudes and preferences among Western Australian consumers.

Results of this survey indicated that generally speaking people were prepared to purchase locally manufactured goods but there was a low consumer awareness of what were local brands.

The housewives just did not appreciate which of the companies whose names were printed on packages were carrying on business within the State.

Therefore, it was obvious that the first thing that had to be done was to develop a symbol which would give quick and positive identification and then to widely publicise this symbol so that people would recognize that goods branded with it were

locally manufactured. I think that most of the members would agree that the symbol that was developed gives a good visual impact and that more and more manufacturers are using it and I have no doubt in my mind that it is of positive value in promoting sales.

Therefore, I believe the time has come when we should protect the symbol from unlawful use by unqualified manufacturers, such as those who are carrying out only a token manufacturing operation within this State or even carrying out no manufacturing operations within Western Australia. Initially, when the problem of protection was examined it was thought that it may be possible to obtain the necessary protection under the Trade Marks Act, which is a Commonwealth Statute. However, investigation proved that this would be costly and cumbersome and it was decided not to proceed with this method of protection.

The alternative is the Bill before members which I will now explain.

Clause 2 repeals the Western Australian (Sales Promotion Labels) Act of 1957. On the advice of the Parliamentary Counsel it was decided it was preferable to repeal this Act rather than to attempt to amend it to provide the protection necessary.

Clauses 3 and 4 are machinery clauses and require no explanation.

Clause 5 grants authority to use the prescribed symbol. It will be noted that any person who sells a product which is substantially manufactured or prepared within the State is authorised to affix the symbol.

Clause 6 provides for a $50 penalty for the unlawful use of the symbol for a first offence, $150 for a second offence, and $400 for a third or subsequent offence.

Clauses 7 to 11 provide for the appointment of inspectors and prescribe their powers.

Clause 12 ensures that any information which is obtained relating to a manufacturing process or the operating of any equipment or plant cannot be divulged except with the consent of the person who owns the process or in accordance with the provisions of the Act which are set out in the clause.

Clause 13 makes directors, managers, and secretaries of body corporates also liable where the body corporate is guilty of an offence if the offence were committed with the knowledge of the director or officers of the body corporate.

The final clause authorises the making of regulations to give effect to the objects of the Act.

Before concluding my remarks at this stage I would like to pass on to members some information in regard to our campaign which I believe would be of interest.

A recent survey indicated that recognition of the symbol had risen to 82 per cent. of adult shoppers compared with 68 per cent. recognition by people in the same category 12 months ago.

There are also two case histories which have been disclosed as a result of inquiries.

The first of these concerned a supplier who found a new market manufacturing locally for a large international company. The local supplier could not offer any advantages over the imported goods except that his were made in Western Australia. He obtained the contract and proclaims that his success was due to the local products campaign.

The second case which stands out was that of a manufacturer of a food product who had tried in previous years to increase sales by advertising during the traditionally slack months without any real success. Today he is using the W.A. symbol on his packaging and his sales have improved enormously. This manufacturer attributes his increased sales to the support given to the campaign by consumers.

I am convinced that the "Made in W.A." symbol makes a significant contribution to our campaign to increase the volume and diversity of locally-produced goods by postively identifying them to the purchaser who is already conditioned to support local industry.

This manufacturer attributes his increased sales to the support given to the campaign by consumers.

I am convinced that the "Made in W.A." symbol brings results in increased sales and that our campaign must go on so that we can bring back to a reasonable figure our adverse trade balance with our sister States. I commend the Bill to members.

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

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT AMENDMENT BILL

Second Reading

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [3.14 p.m.]: I move—

That the Bill be now read a second time.

This Bill contains many amending clauses, several of which I would refer to as the operable clauses which amend the principal Act in several respects.

In outlining the provisions contained in this measure I shall direct my remarks mainly to those clauses making no specific reference at this stage to other clauses which contain complementary amendments.

Section 16 provides a recurring penalty of a fine of up to $40 for every day during which a person interferes with a source of supply under the control of the board. It is proposed to increase this penalty to $100 and opportunity also is taken in clause 5 to clarify the wording of the section to ensure that such penalty shall be applicable should a person injure the quality or purity of supply.

Section 24 of the Act contains the authority for the board to construct or maintain works and its power to enter upon any land for the purpose of carrying out works.

Such works include the sinking or acquisition of wells, bores, and such like, and the erection of pumping stations, reservoirs, and drains upon lands authorised to be taken by the board for that purpose.

Other works which the board is authorised to carry out such as the laying of water mains and sewers and the construction of main drains may be carried out under, upon, or above any street or land without the requirement that the land must be acquired by the board for that purpose. It has become the desire of the board to make use of public open space and local authority reserves for the purpose of constructing sewerage pumping stations, for instance. Such works and those connected with the sinking of bores or wells do not in general affect any substantial area of land, yet the board is obliged under the provisions of the Act to acquire land for this purpose—often equivalent in size to a building lot. Recently consideration has been given to the joint use of reserves under the control of the local authority or of public open space under the control of the Metropolitan Region Planning Authority. As requirements as to area are quite small and affect in a minor way only the original purpose of a reservation, it is considered that there should be no need to excise such small pieces of land from the reserves or open spaces.

There is this further point that when sinking bores or wells, particularly at a shallower depth than artesian, the board cannot guarantee that they will be productive and there may be no need to acquire the land at all if the well is not subsequently put into use.

Therefore, it is considered that as these are normal works of the board similar right of entry should be granted as for the laying of mains.

Nevertheless, there is no intention to dispense with the legal formalities required of the board preparatory to carrying out construction works and which give people concerned the right of objection. The amendment, furthermore, does not alter the board's obligation to pay compensation to people affected by its works and who have the right of recovery against the board for actionable damage.

Consequently clause 6 of the Bill removes from section 24 of the Act the restriction on entering upon lands only which are authorised to be taken. A new subsection is added requiring persons seeking compensation for any actionable damage actually sustained by them through the exercise of the powers conferred by the Act to submit such claims within three months of the damage being sustained. In the event of no agreement being reached between the claimant and the board within a period of 12 months thereafter, the board shall not be liable to make compensation unless the claimant thereupon brings an action against the board to establish his right to receive such compensation.

Because it is considered essential to conserve underground water where required for the benefit of the public water supply to the metropolitan area, it is submitted that the board should be given powers to control not only the construction of new wells, but the use of water from wells.

Consequently clause 7 of the Bill inserts a new section, 57E, empowering the Governor to proclaim, constitute and declare any part or parts of the metropolitan water supply, sewerage and drainage area constituted under the principal Act to be a public water supply area with such name and from such date subsequent to the proclamation as may be specified. The area may later be extended, reduced, or abolished by Governor's proclamation.

It is further provided by amendment made in another place that any such proclamation may be disallowed by either House of Parliament but without affecting the validity of anything done in the meantime.

By resolution passed by both Houses any proclamation may be amended or varied or another substituted for that disallowed by either House.

The board is not interested in the complete control of wells throughout the whole of the metropolitan area but only in those particular parts of the metropolitan area from which or near which it intends to use underground water in its reticulated water supply system.

While the board retains complete control over the sinking of artesian wells the object of this and subsequent clauses is to enable control to be assumed over the use of shallower, unconfined underground water.

The maintaining of an adequate supply of water to the metropolitan area is depending to an increasingly greater extent on the supply of good quality ground water to supplement water available from the hills storages. As the maintenance of an adequate supply to the public is of prime importance the control of ground water has become an essential.

In the first instance control is essential for the prevention of pollution of ground water sources. Legislation in this direction was passed in 1970.

The control now sought is to ensure a proper use of water—or in other words control over the amount of water to be taken from the ground.

Clause 8 requires wells to be licensed. The Bill proposes in general that within proclaimed public water supply areas applications must be made to the board and a license obtained either to sink or construct wells or bores. The use of water will be controlled not only in new bores and wells but also in existing bores and wells, the owners of which must apply for and obtain a license to use the water from them.

Members may be assured that there is no desire on the part of the board to be unreasonably restrictive in the use of any powers sought under this proposed legislation. The single object is to preserve necessary waters for the use of the adjacent community.

Clause 9 deals with the issuing of licenses and the conditions which may be applied, with a right of appeal set out in subclause (7) for any person aggrieved by any decision of the board in the matter. Appeal rights are as set out in section 57D which was inserted into the Act in 1970 when underground water pollution protection was applied.

Clause 11 requires the holder of a license to maintain the well to which the license relates in good condition and repair at the risk of having the license reviewed. That is contained in subsection (1) of the new section 57I and in subsection (2) should the board consider that water drawn from a well within a public water supply area is being improperly or wastefully used or that water is being drawn in such a manner or in such quantities as to affect substantially the use of such water by users or future users of underground water in the area, the license may be reviewed.

It is emphasised again that statutory authority is considered necessary to protect those waters from indiscriminate use in view of the limited amount of water available to the public from hills resources.

In referring to clause 12 of the Bill, I would mention that section 100, which this clause amends, would appear to render the owner of land on which excess water is used liable for payment for that water only if he is also the occupier.

The amendment in clause 12 clarifies this position by empowering the board to recover payment for excess water used on any land from the owner of that land whether he is the occupier or not.

The Hon. A. F. Griffith: I like the use of the word "clarifies."

The Hon. J. DOLAN: This power already exists in the Act in section 103 relating to recovery action in respect of rates and levies chargeable under the Act. The power now sought is similar also to that presently existing under the country water supplies legislation.

In practice the board would continue to recover from the actual user of water in the first instance, but where this becomes impracticable because the consumer has left the property the obligation will be on the owner on his paying the debt owing to recover such amount from the consumer.

Clause 15 amends section 103, *inter alia*, to ensure that any amount of such moneys due for water supplied and paid by an owner shall, in the absence of special agreement to the contrary, be deemed to be rent due and owing by the occupier to the owner in respect of the land in addition to any other rent so due and owing and shall be recoverable as such.

Clause 16 provides that where a mortgagee of ratable land pays such excess water account then the amount so paid is included in the same way as rates or annual charges in lieu of rates as an addition to the principal moneys advanced by him under mortgage.

Another proposal in the Bill which is contained in clause 18 authorises the board to lodge a caveat on land in the case of owners who may be in particular circumstances, such as their state of health, poor financial situation and age, and also where there is a possibility of a sale being made without the board being protected for its rates and charges.

Because of such circumstances the board would not resort to its normal recovery or "cut-off" action, but it is not unreasonable in such special cases that the board's financial position should be protected. A similar situation exists with regard to local authority rates. Under the Local Government Act the local authority is given power to lodge a caveat to preclude dealings in respect of the land concerned and it is submitted that the Metropolitan Water Board should be similarly protected.

The final clause in the Bill empowers the board to make suitable by-laws in respect of the control of underground sources of water supply.

Debate adjourned, on motion by The Hon. Clive Griffiths.

HOUSING LOAN GUARANTEE ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [3.26 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to enable funds guaranteed under the Act to continue to assist borrowers in the low and moderate income group who are marginally ineligible for State Housing Commission and State Home Builders' Fund assistance, yet are unable to service a loan provided through other sources of finance.

The amendments contained in the Bill affect section 7B only, which prescribes the maximum advance that can be made with funds guaranteed under the Act.

The last amendment to the Act was in 1968 when maximum advances and house values—excluding land—were prescribed for certain areas. The maximum advance for the metropolitan area and country areas south of the 26th parallel is set at $10,000 with the value of the house not to exceed $10,000 and $11,000 respectively.

North of the 26th parallel the maximum advance is $13,000 with the value of the house not to exceed $17,500.

The amendments contained in this Bill are a departure from previous provisions as there is no maximum house value. The maximum advance prescribed for the metropolitan area and the country areas south of the 26th parallel will be $12,000 and $13,000 respectively.

Although the maximum house value has been removed, it is not envisaged that there will be any problems in directing these funds to the low and moderate income groups. The deposit gap problem and maximum advance will be self-limiting factors to borrowers aspiring to finance high cost homes.

The maximum advance in the North-West Division and Eastern Division will be $17,500 whilst the maximum advance for the Kimberley Division will be $20,000. In all regions the advance is not to exceed 95 per cent. of the value of house and land.

Since the last amendments were promulgated in 1968, building costs have risen in the order of 6 per cent. in 1969 and 3 per cent. in 1970. Land costs have risen sharply. As a consequence the average second mortgage which borrowers have required in the metropolitan area during 1969-70 and 1970-71 has been approximately $2,000. This has been in addition to the $10,000 maximum advance which applies at present.

The proposed maximum advance of $12,000 in the metropolitan area will assist borrowers considerably as it will eliminate the need for second mortgage finance carrying interest rates up to 12 per cent. and 13 per cent.

When considering the amendments contained in this Bill, regard has been given to the range and volume of finance offered by other institutions and, in particular, the permanent building societies.

The average advance through permanent building societies on first mortgage is at present $12,000. The borrower of guaranteed funds will, therefore, have access to almost the same volume of funds, but at a lower interest rate.

Every advance made with guaranteed funds must comply with the terms and conditions of lending as recommended by the Minister for Housing and approved by the Treasurer.

In addition, advances complying with these terms do not come within the protection of the guarantee until a certificate of release has been signed by the registrar of building societies. In doing this he will ensure funds are directed to families with low or moderate income.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. V. J. Ferry.

BEEKEEPERS ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [3.32 p.m.]: I move—

That the Bill be now read a second time.

This amending Bill has as its purpose the provision of a more economical method for the collection of registration fees of beekeepers which are paid annually at the present time.

The registration requirement ensures that a record is kept of the whereabouts of beekeepers. There are 820 beekeepers registered and the total number of hives in the State is approximately 45,000.

Production to the year ended 30th June, 1971, was 3,024,888 pounds of honey valued at $266,000. These figures are approximately 8 per cent. of the overall honey production of Australia. In addition 52,000 pounds of bees wax, valued at $29,000, has been produced over recent years. The State has exported in the vicinity of 70 per cent. of the honey which it has produced.

Because of the failure of the main honey-producing plants, basically caused by variations in climatic conditions, production for the year to the 30th June, 1971, was less than half of the annual average production.

The average production per hive for 1971 was 93 lb. compared with 199 lb. average production per hive in 1970. For the year ended the 30th June, 1970, Western Australia produced approximately 20 per cent. of Australia's honey.

The registration and annual renewal of registration of beekeepers is required under section 8 of the principal Act. It is proposed that this should be amended to provide for renewals of registration to extend for a period of five years. It is further to be provided that all registrations are to

have a common expiry date and that the present annual registration fee of $1 remain as the fee for the new five-yearly period.

The annual registration of the beekeeper is an administrative act of initial purpose, as previously mentioned, and the current requirement for annual registration achieves nothing useful—while at the same time the procedures are a cost against public money in stationery and postage as well as time spent in enforcement which would be of better use if devoted to extension work.

The five-year plan will be more economical in administration and in these days of high administration costs it is regarded as a more commonsense approach.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. V. J. Ferry.

BEE INDUSTRY COMPENSATION ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [3.35 p.m.]: I move—

That the Bill be now read a second time.

The principal Act proposed to be amended by this Bill makes provision for a fund for the payment of the value of property required to be destroyed under the relative provisions of the Act. This action would become necessary in the event of a colony of bees contracting disease.

Annual fees payable to the fund under the existing legislation may not exceed 5c per hive annually. In conformity with a current Bill to amend the Beekeepers Act which replaces the annual licensing requirement with a five-yearly requirement, it is proposed that payments to the compensation fund be now put on a five-yearly basis with a minimum payment of 25c per hive and a minimum total payment of $1.

As a consequence of this proposal the maximum permitted credit in the compensation fund would be raised from $6,000 to $30,000 to be replenished at five-yearly intervals instead of annually at the lesser figure.

It is further provided that compensation fund collections should coincide with the period of registration of beekeepers. The proposed new arrangement has benefits in administration in that application for registration of a beekeeper and the payment of contributions to the compensation fund may in future be combined on a single card instead of on two separate cards as at present. There would be a consequent economy in administration expenses. I commend the Bill to members.

Debate adjourned, on motion by The Hon. V. J. Ferry.

PIG INDUSTRY COMPENSATION ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [3.37 p.m.]: I move—

That the Bill be now read a second time.

Funds levied under the Pig Industry Compensation Act are used largely for compensation to owners of pigs affected by compensable diseases which cause their death on the farm, or condemnation of the carcase at the abattoir.

The principal Act requires that the owners of all pigs sold in Western Australia pay a levy, which may be paid by way of stamp duty. Alternatively, agents on behalf of owners, may, by permit, lodge with the Minister returns of purchase money from the sale of pigs or of carcases of pigs and remit the amount of duty payable.

There is also provision under the Act that a processing company may apply for a permit—instead of the owner or his agent—to lodge returns of purchase money paid by the company to the owner, or his agent, on the sale of pigs or carcases of pigs, and to pay on behalf of the owner or his agent, all duties payable.

In practice, most pig levy moneys are paid into the fund by processing companies. It has, however, been ascertained that only a certain number of processing firms are remitting money whilst, on the other hand, there are certain others who are not doing so. All processing companies may legally claim compensation, however, for purchased pigs subsequently condemned.

The position at present is that some of the processors comply with their legal obligations and collect the levy in accordance with the statutory requirements while others do not do so. The Act at present places the onus for levy payments on the owner and the department has no legal power to demand payment of the levy from processing companies, or to require them to submit returns of purchase money.

This Bill contains a provision to make it mandatory for processing companies to make deductions of levy money for payment to the fund.

A further amendment removes from the Act that section which provides that the cost of administration shall be paid out of the fund. There is always a danger with a levy that it might successfully be challenged as an excise tax, and acting on the advice of the Crown Law Department a clause has been inserted to remove this danger.

A further amendment is proposed to extend the time period in which the owner must lodge an application for compensation. The Act requires that the owner must lodge his application within 21 days of the destruction or death of the pig. On

many occasions this period has proved unduly short, too often necessitating the exercising of the Minister's prerogative to authorise an extended period where special circumstances apply.

Consequently it is proposed to amend the appropriate section in order that the time allowable to make application be prescribed in the regulations and for the deletion of the present limitation of 90 days on the Minister's prerogative.

The Bill also contains a clause which would provide for inspections under the Stamp Act. If, as proposed, it is made mandatory for processors to submit returns and payments, it will be most desirable to have inspection under the Stamp Act. For this purpose a small amendment to section 16 is necessary.

These four amendments which I have outlined are designed to remove administrative problems and to give firmer control within the Act.

Debate adjourned, on motion by The Hon. N. McNeill.

ZOOLOGICAL GARDENS BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [3.40 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill, Mr. President, is to replace the Zoological Gardens Act of 1898 with an up-to-date piece of legislation to regularise the appointment of the Zoological Gardens Board about which there are some legal doubts and to confer on the board some desirable widening of powers similar to those outlined in the Parks and Reserves Act.

Briefly, that is the purpose of this legislation, but opportunity is taken to record a little of the background to the establishment of the Zoological Gardens and the reason why at this point of time it is decided to repeal the 1898 Act and replace it with a new Act.

The Zoological Gardens Act was assented to on the 28th October, 1898, and provided for the granting to trustees by the Governor of lands to be used as gardens for zoological and acclimatisation purposes and for public resort and recreation.

Two years previously an Acclimatisation Committee had been formed for the purpose of introducing exotic species into the State—a practice which at that time was quite popular. However, with the exception of the kookaburra and two species of foreign dove the project failed.

In the following year the committee, with the support of the then Premier (Sir John Forrest) promoted the idea of establishing a zoo and this was accomplished in 1898. Land and finance was granted and, as previously mentioned, an Act of Parliament enabled the appointment of the Acclimatisation Committee as the Board of Management.

Priorities associated with the Great War and the period of financial depression affected severely the functioning of the zoo. The State Gardens Board, later to be known as the National Parks Board, took control of the zoo in 1932 and it was not until recent years that the administration of the zoo was segregated from the National Parks Board.

As an indication of the increasing appeal which the zoo has to the public I would mention that admissions during the past five years have increased by 58 per cent. over the previous period. It possesses potential as an educational resource and in the field of conservation it has engendered interest in fauna which may have been in danger of extinction. Also it has furthered the propagation of rare species in captivity. The short-necked tortoise is an interesting example of this.

As earlier indicated, the existing legislation provides that the Zoological Gardens be under the control and management of six members known as the "Acclimatisation Committee," three of whom shall be trustees for the time being and three shall be appointed from time to time by the Governor.

When in 1969 the Acclimatisation Committee entered into negotiations to purchase additional land at the corner of Mill Point Road and Onslow Street in South Perth, doubt was expressed as to whether the trustees had the necessary power under the existing Act to acquire property by purchase.

With a view to righting the situation, papers were submitted to Executive Council in 1969 which resulted in the issue of a proclamation constituting members of the Acclimatisation Committee as a body corporate under section 3 of the Parks and Reserves Act and as a board to be known as the Zoological Gardens Board.

Officers of the Crown Law Department have since expressed an opinion that there was actually no power under the Parks and Reserves Act to constitute the Acclimatisation Committee appointed under the Zoological Gardens Act as a body corporate.

As a consequence of this opinion and to enable the committee more effectively to control its operations, this Bill has been drafted to give statutory effect to the renaming of the committee as the Zoological Gardens Board and to appoint the board as a body corporate with perpetual succession and a common seal with power to sue and be sued in its corporate name. It is further proposed that this statutory authority be made retroactive to the date of the proclamation previously mentioned. Furthermore, the Bill confers on the board

some desirable widening of powers similar to those outlined in the Parks and Reserves Act of 1895.

In effect then, the Bill will vest in the board all the powers, functions, duties, liabilities and lands presently vested in the trustees and I commend the Bill to members.

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

Sitting suspended from 3.45 to 4.03 p.m.

QUESTIONS (9): ON NOTICE

1. CATTLE

Brucellosis Compensation

The Hon. C. R. ABBEY (for The Hon. D. J. Wordsworth), to the Leader of the House:

If the funds available for compensation for brucellosis in beef herds are adequate for the current tempo of eradication effort, what changes are envisaged to the present system, and why?

The Hon. W. F. WILLESEE replied:

No changes are anticipated within the near future.

The current tempo of eradication effort is consistent with National Policy.

2. WATER SUPPLIES

Desalination Process

The Hon. S. J. DELLAR, to the Leader of the House:

With reference to a report in *The West Australian* on Wednesday, the 19th April, 1972, in which it was stated that Australian scientists had perfected a cheap desalination process for the purifying of salty water from bores, streams and lakes, for domestic and industrial use, will he advise—

(a) the anticipated capital cost of installing a plant to supply a population of 1,000;

(b) the anticipated cost per 1,000 gallons of producing such water; and

(c) the smallest size plant which could be installed to treat water economically?

The Hon. W. F. WILLESEE replied:

The Metropolitan Water Supply, Sewerage and Drainage Board is only providing a facility at Attadale for the field testing of the pilot plant.

This plant is the property of the C.S.I.R.O. and I.C.I. and the investigation is a commercial venture. The information sought could only be estimated presently by these organisations.

3. FOOD SALES

Effect of Reduced Egg Prices

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

In view of the statement in the *Daily News* of Wednesday, the 19th April, 1972, giving the increase in egg sales, can he advise the House what was the corresponding decrease in meat and other such food sales for the same period?

The Hon. W. F. WILLESEE replied:

Precise figures for these changes cannot be obtained.

4. ROADS

Overway, Guildford

The Hon. R. J. L. WILLIAMS (for The Hon. Clive Griffiths), to the Leader of the House:

(1) Has any Government Department or Departments at any time either recently or in the past, proposed and/or prepared any plan for the provision of a bridge or fly-over across the railway line connecting Great Eastern Highway and East Street, Guildford?

(2) If not at that particular area, has any proposal been made in connection with a bridge or fly-over at any other point near the Guildford Grammar School?

(3) Did any Government Department consult with the Local Authority on the question at any time?

(4) Would the Minister give details of such proposals?

The Hon. W. F. WILLESEE replied:

(1) Yes. Some preliminary proposals were formulated by the Main Roads Department.

(2) Answered by (1).

(3) The local authority was aware of such proposals which were discussed at officer level.

(4) The proposals have not been developed because of the high construction cost. In order to provide a greater degree of safety it is now proposed to install traffic control signals at the junction of Great Eastern Highway and East Street and automatic half boom gates at the railway level crossing, both of which will be linked together for integrated operation.

5. HEALTH

Trainee Dental Therapists

The Hon. G. C. MacKINNON, to the Leader of the House:

(1) How many persons are at present enrolled as trainee dental therapists?

(2) How many student intakes have there been?

(3) When will the first graduates take up full time duties?

(4) How many is it anticipated will be available and will accept employment on completion of the first course?

The Hon. W. F. WILLESEE replied:
(1) 29.
(2) 2.
(3) Following graduation at the end of 1972.
(4) 14.

6. *This question was postponed.*

7. FLUORIDATION OF WATER SUPPLIES

Reports

The Hon. G. C. MacKINNON, to the Leader of the House:

(1) Has the Premier's personal fluoridation expert completed his inquiries into the efficacy of water fluoridation in Western Australia?

(2) When is it anticipated that the report will be released?

(3) Will the Principal Dental Officer also be allowed to submit a report?

(4) Will the Premier Table both reports?

The Hon. W. F. WILLESEE replied:

(1) The Research Officer was not requested to inquire into the efficacy of water fluoridation.

(2) His report on the attitude to fluoridation in various parts of the world is being printed and will be released when ready.

(3) The Principal Dental Officer is free to make as many reports on any aspect of fluoridation as he may wish.

(4) The Report referred to in the answer to (2) will be Tabled.

8. ROADS

Pallinup River Crossing

The Hon. C. R. ABBEY (for The Hon. D. J. Wordsworth), to the Leader of the House:

Has the Director-General of Education and the Commissioner of Main Roads received a request for a new road crossing over the Pallinup River between Borden and Marra, and will their departments investigate the advantages to be gained from readjusting school bus routes and shortening road distances to Albany for the isolated community concerned?

The Hon. W. F. WILLESEE replied:

A request has been received by the Main Roads Department and Education Department and these departments will liaise in an investigation of the proposal.

9. LOCAL GOVERNMENT ELECTIONS

Eligibility of Nominees

The Hon. W. R. WITHERS, to the Minister for Local Government:

(1) Is the Minister aware that—

(a) an officer of the Local Government Department has advised the Wyndham-East Kimberley Shire Council that an officer of the State Public Service who is living in a Government Employees' Housing Authority home, is not eligible for nomination as a councillor under sections 35 (1) (c) and 532 (2a) of the Local Government Act, even when Section 45 (12) (a) is considered;

(b) this ruling has been confirmed by legal opinion from the Shire's solicitors;

(c) if this ruling is correct then it will apply to all persons living in Government Employees' Housing Authority and Departmental homes, as well as homes belonging to State Instrumentalities;

(d) Shires throughout the State would have to accept resignations from many of their councillors if the ruling is upheld ?

(2) What action will the Minister take to correct the ruling prior to the closing date for Local Government elections on the 28th April, 1972?

The Hon. W. F. WILLESEE (for The Hon. R. H. C. Stubbs) replied:

(1) (a) The auditor and inspector of the Local Government Department advised the Shire Clerk of his doubts concerning eligibility of a Councillor.

(b) Yes. It is emphasized, however, that the Department does not give "rulings" on legal matters.

(c) and (d) The opinion, with respect, is not agreed with. Section 45 (12) (c) of the Local Government Act provides that the land on which ex gratia payments in lieu of rates is made is deemed to be rateable land for the purpose

of Part IV of the Act. Section 35 (c) relating to eligibility of membership is included in Part IV.

(2) The Shire Clerk has been referred to Section 45 (12) of the Act.

CONTRACEPTIVES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 30th March.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [4.08 p.m.]: Section 3 of the Act reads—

> Subject to the Minister, this Act shall be administered by the Commissioner of Police.

As the Minister for that department I felt an obligation to outline the Government's position. Mr. Claughton sought permission from the Government to introduce the Bill, and that permission was granted.

The Hon. A. F. Griffith: Your people have to do that, do they?

The Hon. J. DOLAN: That is the usual process if any member wishes to introduce a Bill, and more particularly when the party is in Government. However, the Bill is not part of Government policy, nor is any member committed to support it. I do not want to intrude in any way my own personal opinion on this matter; but as the Minister I felt I was obliged to factually state the position.

Clause 3 of the Bill is the operative clause and seeks to repeal section 4 of the Act.

The Hon. A. F. Griffith: You will tell us the Government's view on the Bill?

The Hon. J. DOLAN: I do not really know what it is because, as I say, every member is entitled to his own opinion. The only thing I can say is that the Government has given Mr. Claughton permission to introduce the Bill.

The Hon. I. G. Medcalf: It is a free-vote Bill?

The Hon. J. DOLAN: I stated that in the first place.

The Hon. I. G. Medcalf: Did he have to get permission to introduce it?

The Hon. J. DOLAN: That is correct. The honourable member followed the usual procedure adopted when a private member wishes to introduce a Bill.

The Hon. I. G. Medcalf: Whose permission did the honourable member seek?

The Hon. J. DOLAN: The permission of the members on the Government side.

The Hon. I. G. Medcalf: You are not suggesting I would have to get permission to introduce a Bill?

The Hon. J. DOLAN: No—only a member of the party.

The Hon. A. F. Griffith: Do I understand correctly that the Government of the day has no opinion on the contents of the Bill?

The Hon. J. DOLAN: Not that I know of. Members have probably different views on it, or they might all have the same idea.

The Hon. A. F. Griffith: The Government has not considered the Bill?

The Hon. J. DOLAN: No, only from the point of view of whether to give permission for its introduction.

The Hon. F. D. Willmott: Do they have to get permission from the Government or the party?

The Hon. J. DOLAN: From the party—the Government members.

The Hon. R. Thompson: Which is totally different.

The Hon. J. DOLAN: But they are members who support the Government.

The Hon. A. F. Griffith: You speak as if all members of your party are the Government when only in fact the Cabinet is.

The Hon. J. DOLAN: I am referring to all members of the party which is in Government.

The Hon. A. F. Griffith: It amazes me to think that on a Bill which has such great importance attached to it by Mr. Claughton the Government does not appear to have a view.

The Hon. J. DOLAN: As far as I know the Bill has not been debated.

The Hon. A. F. Griffith: But you are the Government of the day. You have opinions about matters, surely.

The Hon. W. F. Willesee: It is a private member's Bill.

The Hon. J. DOLAN: Members of the Opposition who wish to express views contrary to mine will have an opportunity to do so. I do not believe they should be continually probing and questioning me. I have stated the position quite clearly and distinctly, and I leave it at that. As I have said, I have my own views, but in stating the position from the police angle, I do not at this stage want to intrude my own personal views.

The Hon. A. F. Griffith: I think you are evading the position very well.

The Hon. J. DOLAN: Section 4 contains the penalty clauses, and they are actually the teeth of the Act. Subsection (1) of section 4 describes the offences committed by publishing any advertisement as to the sale or disposal of contraceptives. Subsection (2) creates the offence of any person publicly exhibiting such advertisements in a public place. Subsection (3) makes it an offence for anyone who gratuitously sends or delivers any handbill, circular, etc., containing any such information.

Section 4 (2) describes the liability of a newspaper for printing any of the above-mentioned materials subject to certain provisions that the proprietor is to be notified of the printing before action may commence. Subsection (3) describes the offence committed by the seller of the newspaper or magazine. Section 4 (3) says that a conviction of a body corporate means the chairman, manager, or secretary shall be deemed to have committed the offence, while subsection (5) describes the liability of partners in the commission of this offence.

Subsection (7) is a very important one because it represents the savings of the Act. It means that the Act does not prohibit—

(1) the publication of information in any *bona fide* medical or pharmaceutical magazine, periodical, handbill, etc.;

(2) the sale of any such magazine, periodical, handbill, etc.;

(3) the gratuitous sending of any of the above by a doctor or chemist;

(4) the gratuitous sending by a doctor or chemist of any circular or handbill to an adult person.

To delete section 4 would open the way to all sorts and manner of advertising of contraceptives. The only offence left would relate to the actual exhibiting of contraceptives in a public place or hawking them from house to house, etc.

Clause 2 which seeks to exclude chemist shops and pharmacies if passed would mean that contraceptives could be exhibited there. Section 5 of the Act describes the offence of exhibiting contraceptives in public places.

If pharmacies are excluded from the interpretation of "public place" they could exhibit them. The only suggestion I make is that the Family Planning Association could be included in the savings clause with doctors and chemists. I think that would be a move in the right direction.

I shall close with one thought. Any member who has read an article in today's *Daily News* under the heading, "One in eight illegitimate" would, I am sure, have found it of interest and applicable to the Bill as presented by Mr. Claughton. The article states—

> WELLINGTON, Today (AAP): Every eighth New Zealand baby is illegitimate and one in five is conceived out of wedlock, according to the latest Health Department statistics.
>
> The illegitimacy rate, now one of the highest in the world, has risen from 8.05 per cent. of live births in 1962 to 13.34 per cent. in 1970. It is still rising.
>
> Almost 38 per cent. of the unwed mothers are teenagers.
>
> Seventy-five per cent. of married teenagers conceived their first baby before they wed.

The Hon. G. C. MacKinnon: Could the Minister tell us whether it is the police view that without this amendment the operation of the two clinics for which the Government has budgetary responsibility will be inhibited?

The Hon. J. DOLAN: The police have not yet expressed any views on the matter to me.

The Hon. G. C. MacKinnon: The Minister is telling us nothing. Surely he should be expected to tell us this, because the Government has budgetary responsibilty for it.

The Hon. J. DOLAN: I have not received a request from any members of my party to represent them on this.

The Hon. G. C. MacKinnon: It is your duty and you are supposed to tell us.

The Hon. A. F. Griffith: You are the Minister for Police and custodian of the law in this case.

The Hon. J. DOLAN: That is right. The Government has been custodian of the law as it exists at the present time; if the law is changed the Government will then carry out the law as it is written into the legislation.

The Hon. A. F. Griffith: Your Premier has been very outspoken on the question of sex shops.

The Hon. J. DOLAN: I fail to see the connection.

The Hon. A. F. Griffith: Goodness gracious, the Minister fails to see the connection!

The Hon. G. C. MacKinnon: I wonder whether the Minister will see this connection: I consider Mr. Claughton's clinic has been allowed to operate illegally by your Government. This amendment would actually make it legal. Is that the position? Can you answer us on this?

The Hon. J. DOLAN: I cannot tell the honourable member.

The Hon. G. C. MacKinnon: I think you should have found this out because I gave notice of this question 12 months ago.

The Hon. J. DOLAN: It has never been referred to me. However, if the Bill is not completed today and we hold over the Committee stage until another sitting I will take advantage of the time to make inquiries at Government level and give the information later on.

The Hon. G. C. MacKinnon: We will give you time.

The Hon. A. F. Griffith: I would like to know the police view on this matter.

Debate adjourned, on motion by The Hon. J. Heitman.

The DEPUTY PRESIDENT: I will leave the Chair until the ringing of the bells.

Sitting suspended from 4.20 to 4.25 p.m.

ABORIGINAL HERITAGE BILL

Second Reading

Debate resumed from the 11th April.

THE HON. G. C. MacKINNON (Lower West) [4.25 p.m.]: Mr. Deputy President, as members will appreciate this is a shade ahead of my scheduled planning, but I will do what I can. The first point I should make is that the Bill differs markedly from other Bills dealing with Aborigines which we have discussed recently. This measure is in fact a Bill relating to the Museum, purely and simply. It will extend the power and authority of the Museum and the reference to Aborigines is, in the main, purely ancillary to the original purpose of the Bill.

To save the Minister from sitting on tenterhooks I might also say at the outset that it is my intention to support the Bill. In a House of Review I would not presume to speak for all my colleagues. However I may be asking the Minister to consider some modifications to certain matters which, I believe, are of some moment.

The general purpose of the Bill is to empower the Museum to collect Aboriginal artifacts and the like, to keep them in safe keeping, to catalogue them, and, in short, to protect our pre-history heritage. These artifacts are, of course, of great interest to anthropologists and the like because the Australian Aboriginal was a primitive person technologically. A great deal of information is to be gained from study by the appropriate scientific officers.

Quite apart from this it forms a part of Australiana, as such, and this is of great interest to us and will be of increasing interest as the years go by to those who come after us. The Bill also allows the Museum to set aside certain areas of the country which contain burial sites, cave drawings, or areas where skeletal materials have been located. There are many reasons for this but the main one is the collection, collation, and cataloguing of material for scientific study.

One of the gentlemen to whom I spoke recently said that a discovery has been made of a piece of something which appears to be skull; close to it a piece of bone, which appears to have been deliberately broken; and another piece of bone which looks as if it has been cut, indicating a fight of some sort. On carbon count dating the material appeared to be 37,000 years old. To the best of his knowledge this is the oldest indication of human remains on the island continent of Australia. These items were found recently in Western Australia and, of course, are of great scientific interest.

Members who are interested in the operations of the National Trust will find that some features of the Bill have literally been taken from that particular Act. One such feature is the provision in the National Trust of Australia (W.A.) Act which allows the right to set aside buildings and to ensure that those buildings, even if sold, will remain in their existing condition. The Bill leans heavily on Acts which exist in other States of Australia and, in particular, on the Queensland Act from which many of the provisions have been copied.

So this Bill follows the normal practice of Bills of this nature. It contains definitions, and a person of Aboriginal descent means any person wholly or partly descended from the original inhabitants of Australia. Having regard for the other Bills, it was thought that some amendment may be necessary to this definition. However, this definition does not have the same connotation in this context because the Bill concerns artifacts and areas of land rather than the Aboriginal people.

However well meaning and dedicated a group of people is, the main fear in a Bill of this type is that people who collect, catalogue, and collate material of this nature, may become overenthusiastic and feel that their cause justifies overriding the rights of other people. Therefore, I and those who have worked with me have endeavoured to ensure that the general public will feel reassured about the protection of their property rights. This is a very important and integral part of our society.

Trustees are set up under the provision of this Bill. These people can collect material and they have quite extensive power to ensure that the material is examined and catalogued even if it is returned later to its original site or owners. Of course, the trustees can purchase artifacts. The trustees are the trustees of the Museum appointed under the Museum Act and, of course, these men are highly reputable citizens of our community.

This Bill is really in two parts—one deal with artifacts and one with the actual sacred sites. For the purpose of the measure it is important that it be understood that the material itself must have traditional value. It must be associated with the laws, the religion, and the actual beliefs of the early inhabitants of this country. There is no interference with copies of artifacts which are manufactured for tourist trade. Safeguards are placed on the traditional material to ensure that people legitimately purchasing artifacts will be protected.

Another matter must also be borne in mind. The artifacts of this country have no intrinsic value. In the main they are pieces of stone or wood. This material is carved in a particular way to give it value to the people who believe in it. It may be a secret tjuringa which has immense value to the tribe which owns it. Although it may have some value to a collector for its curiosity it is virtually valueless in contradistinction to, say, the relics of

Egypt. These relics are frequently worth a king's ransom. The rubies and diamonds can be removed and the gold melted down. These artifacts are extremely valuable irrespective of whether they are in their original form. Our artifacts are in a different category.

To use a term we have all come to understand, our artifacts are biodegradable. They are made of material which will rot, break, or rust away. Therefore, many of the artifacts have been lost. The kadaitcha boots are covered in feathers and they are easily ruined if they are left in the open. The boots are valuable if they are in good condition.

One of the key clauses of this Bill is clause 8. It says—

> Where the Trustees are satisfied that a representative body of persons of Aboriginal descent who usually live subject to Aboriginal customary law has an interest in a place or object to which this Act applies that is of traditional and current importance to it, and which is in the custody or control of the Trustees, the Trustees shall make that place or object available to that body as and whenever required for purposes sanctioned by the Aboriginal tradition relevant to that place or object.

Many people believe that most of the Aborigines no longer care about traditional sacred grounds or emblems, law boards and the like. However, this is not so. Although certain sacred ceremonies are conducted far away from a sacred site, there is an obligation on the individual members of a particular tribe to return to their own site. I believe many Aborigines, despite the imposition of our law, marry according to tribal customs and beliefs. To many Aboriginals their beliefs are still significant. Therefore, this is an important clause and indicates an understanding of the problem.

Part III deals with administration. Subclause (2) of clause 11 reads as follows:—

> The Minister, after consultation with the body concerned, may give to the Trustees, or to the Committee, directions of a general or specific character as to the exercise of any function under this Act and that body shall give effect to any such direction.

This is an important provision. Strangely enough I interjected when the Minister was making his second reading speech and said, "What if they dig up Hay Street?" This was the very example given to us when this matter was discussed—the example of developers digging a tunnel under Hay Street and coming across an old burial ground. Obviously the trustees should be informed in terms something like this, "You have one night to collect the artifacts." Under the provisions of this subclause the Minister can ensure that this is done.

Members will note that the trustees will bear the responsibility of the care and protection of all the exhibits. This is correct. Of course, the trustees may delegate their power and compensatory provisions are included in several places in the Bill. Clause 14 gives an example of this.

Part IV deals with the protection of Aboriginal sites as distinct from the artifacts. People are obliged to advise the trustees or a police officer if they know of the existence of a site. This part continues and states the rights of the trustees in working that site. This provision was examined very carefully but it was considered proper to include it. Indeed, frequently people will advise that they have found a site. This is usually done quietly and confidentially without undue publicity to avoid the desecration of the site before it can be examined.

Clause 17 deals with offences relating to Aboriginal sites. It states—

> A person who—
>
> (a) excavates, destroys, damages, conceals or in any way alters any Aboriginal site without the consent of the Trustees; or
>
> (b) in any way alters, damages, removes, destroys, conceals, or who deals with in a manner not sanctioned by relevant Aboriginal custom, or assumes the possession, custody or control of, any object on or under an Aboriginal site without the consent of the Trustees,
>
> commits an offence.

It was originally intended to add after the word "without" in line 15 the words "justifiable reason or." However, on more mature consideration it was decided that this was perhaps not a desirable amendment. Many people in outback areas take great pride in the care of the sites within their district. These people sometimes take wooden material away to treat it with dieldrin before returning it to the site. This was the reason for the proposed amendment. However, it was finally decided that the trustees would be aware of this situation and take no action against such people, but the insertion of the words would leave it open for people to remove material from the site and then say, "I intended to take it back the day after tomorrow."

The next clause causes some concern and I would particularly like to direct the Minister's attention to it. Clause 18 refers to Aboriginal sites required for other purposes. Subclauses (1) and (2)(a) read as follows:—

> (1) For the purposes of this section, the expression "the owner of any land" includes a lessee from the Crown, and the holder of any mining tenement or

mining privilege in relation to the land on which the Aboriginal site is located.
(2) Where the owner of any land on which an Aboriginal site is located gives to the Trustees written notice that he requires to use the land for a purpose which would be likely to have a deleterious effect on the preservation of the site the Trustees shall—

(a) within a reasonable time thereafter, or

I will return to subclause (2)(b) in a moment. Subclause (2)(c) and (d) read as follows:—

evaluate the importance and significance of the site and thereupon the Trustees shall either—

(c) make recommendations for the declaration of the site as a protected area under section 19 or section 20; or

(d) give notice in writing to the owner of their consent to the use of the land or of such part of it as may be agreed, for the purpose required.

This could be a very expensive exercise in certain circumstances. A company may be developing a major road, a railway, or a mining site, and several hundred men may be working at the site using very expensive equipment. If the workers come across skeletal material of scientific interest or artifacts of interest to the Museum, action must be taken fairly quickly. It should be the responsibility of the Museum to take action.

I would like the Minister to look at clause 18 (2) (b) carefully. It says—

within such period as may be agreed with the owner of land in any case where the owner is prepared to pay the cost of any necessary investigation.

If a development company is spending thousands of dollars a day, obviously it will pay the company to quickly get the Museum people on the site. There may be a temptation to use delaying tactics in order to pressure the company into paying out money. This would be unfair. If the development company says out of the goodness of its heart, "We would like to assist financially," that is fair enough. However, we believe this subclause provides a sore temptation to utilise delay for the purpose of the extraction of additional finance.

We must face the fact that every organisation, more particularly a Museum, is always short of money and as I have said this would really constitute a sore temptation. It makes no difference to the form of the particular clause if we remove it, and it could quite easily come out. I would also like to seek some information on this clause, and the Minister might be able to check this for me.

I would like to know whether the Minister is absolutely certain whether the trustees have the necessary powers to ensure that the notice given in clause 18 (2) (d) would have the force of law, because if any person is aggrieved he comes before the local court to which a right of appeal follows. This is provided in subclauses (3) and (4) of clause 18.

I was not able to find the information I sought and I wonder whether in fact such a person would have the power to give notice in writing to the owner and whether this in fact automatically would have the force of law. Perhaps the Minister might be able to answer this question at some future time.

In clause 18 when a person is aggrieved by the conditions proposed by the trustees he may go to the local court held close to the site, or he may go to Perth, where the matter can be heard and the conditions relevant to the case laid down.

The manner in which the protected areas can be delineated are set out in clause 19. There was some discussion with regard to this which, I feel, I should report.

It was felt and agreed by people who have a great interest in this matter that one always runs up against such conflict as to whether or not a site should be marked, signposted, fenced, and the like, because it was felt that this would tend to attract vandals. It is a great risk and we often see the material scribbled on and mucked up generally, but in spite of this it is believed that in the ultimate the markings and other protective devices will need to be used to ensure that they can be kept in fairly good condition.

I am sure that when the authorities receive this legislation they will put in a lot of work and come up with an appropriate plan. Power is given for areas to be temporarily protected in order to give the department time to find out precisely what ought to be done with them. On first reading the principle contained in this clause caused me some concern. The provision appears to be too indeterminate. Subclause (3), on the top of page 12, in particular, gives one this feeling. When one checks one finds that the lessee of a property has the power to go to court, and this at least gives him some protection. It is difficult in a new field such as this to dot every "i" and cross every "t."

It has long been my belief that, if there are officers—or other authorities—in charge of an appeal who tend to step over the traces following an appeal, this aspect can be corrected by means of amendments to the Act, and I would say that the Government would take quick administrative action to see that this sort of thing is prevented.

In referring to clause 21, perhaps the Minister might let us know whether he would consider it advisable to do something about the words which appear in line 18

and continue down to the end of the clause. The words to which I refer are, "direct that the Trustees shall have regard to such representations and report thereon to the Governor in Council."

I wonder whether it would not be advisable to delete these words and insert the words, "direct the Trustees in regard to these matters."? In effect the clause states that where a person is aggrieved by the declaration of an Aboriginal site as a protected area he may make representations to the Minister. As the clause is written at the moment all the Minister can do is to examine the matter, direct that the Trustees shall have regard to such representations, and report thereon to the Governor.

It is possible that clause 11(2) to which I referred earlier gives the Minister power to say, "Get on with it quick and lively; do the job; change your recommendation." I have no doubt that the Minister will have a look at this matter which I have raised.

I am not adamant at this stage about the amendment but I would like it looked at. I have adopted this attitude as I do not regard the Bill as a party political measure, because I am sure all members who are interested in matters Australian will desire to achieve the best possible results.

Clause 22 deals with compensation and compulsory acquisition in relation to areas of land. My only query with regard to this is that on page 13 we find the following:—

> the Governor may instead set apart or compulsorily take or resume the land comprised in a protected area or terminate any interest in or relating to that land, as though it was an acquisition made for the purposes of the protection and preservation of a place of scientific or historical interest under the Public Works Act, 1902.

I do not think there is any other Act we could use for this type of acquisition. This is a pity, because the acquisition section of the legislation covering the P.W.D. was written for a totally different purpose —it was written in to build houses, roads, railways, and the like; not for the acquisition of historical sites. I have reason to believe, however, that there is no other way it can be done. If there were any other way it might be preferable for it to be employed.

The Hon. W. F. Willesee: We found the same problem in another Bill.

The Hon. G. C. MacKINNON: I do not think it can be done in any other way. Clause 23 refers to the marking of protected areas. I will not talk on this aspect at any great length, however, because my colleague, Mr. Withers, has some views and personal experiences which he would like to express. In referring to the question of fences it is indicated that if anyone destroys, alters, moves, or interferes with any notice, boundary mark, fence, or other structure, he is in serious trouble.

Clause 24 of the Bill deals with the notification of changes. The clause states—

> 24. Where any place is declared to be a protected area, the person who, immediately prior thereto, was the owner or the person apparently exercising control over the locality and any other person into whose possession or under whose control the locality subsequently comes shall—
>
> (a) immediately notify the Trustees from time to time of any change in the use or condition of the protected area; and
>
> (b) at all reasonable times permit the protected area to be examined by the Trustees or a person authorized by them.

I have no objection to the second provision. When we consider paragraph (a) of clause 24, however, it would seem that in very large areas, such as mining leases, stations, and the like, where an area is so declared, a person could commit a misdemeanour through no fault of his own. I feel that after the word "area" in line 9 we should insert the words, "of which he is aware."

I suggest this because a cyclone might come through and completely lay bare the area in question, leaving bones, and flints, exposed to the atmosphere which would not be at all desirable. The person who has erred might not be aware of the position. As the provision is worded he would be expected to notify the authorities. I do feel that the insertion of the words I have suggested would safeguard the people to whom I have referred. They could also provide protection from the need to carry out periodic inspections which could be expensive.

The power to vary orders is provided in clause 25. This is to be expected. The matter of regulations as to protected areas is provided for in clause 26. I would, however, like a little more detail on this provision which reads—

> 26. (1) In relation to a protected area the Governor may make regulations prohibiting, or imposing conditions or restrictions upon—
>
> (a) persons or livestock entering or remaining within the area;
>
> (b) the use of vehicles, explosives, instruments, tools, and equipment of any kind specified or generally;
>
> (c) damage or destruction to vegetation, the working of the land, or the disturbance of the surface or the subsoil within the area,

and may make all such other regulations as may in his opinion be required or permitted by this Act for ensuring that the places and objects to which this Act applies, and the immediate environment necessary to maintain the nature and substance of the significance attached thereto, are protected from damage, disturbance or adverse influence.

(2) A person who contravenes any provision of a regulation made pursuant to subsection (1) of this section commits an offence against this Act, and where a person enters or remains within a protected area in the course of his employment in contravention of any such regulation the employer and that person are each guilty of an offence against this Act.

I would like to draw the attention of the House to paragraph (a) of clause 26 which refers to persons or livestock entering or remaining within the area. I wonder whether the Minister would agree to insert after the word "area" in line 22 the words "if physically possible or in any case if the Trustees have erected stockproof fences" as provided for in clause 23 (b) which states—

(b) may enclose or fence the area, or any part of the area, and may erect such other structures as in the opinion of the Trustees are necessary to protect the area or any object therein.

Whilst on large station properties it will be quite impossible for a station owner or a manager to comply with the request to keep stock off, it is appreciated that under the circumstances the Governor may have to make regulations.

Mistakes can happen, however, and I feel the additional protection is desirable. It would make no difference to the purport of the Bill but it certainly would provide the additional protection which is so necesary.

Clause 27 deals with the covenants of sale. This provision is lifted from the National Trust of Australia (W.A.) Act and it would be very difficult to object to it. There should, however, be an Aboriginal cultural material committee and provision for this is included in clause 28 of the Bill which states—

(2) The membership of the Committee consists of—

(a) appointed members, each of whom shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; and

(b) *ex-officio* members.

These members are listed in clause 29 as follows:—

(a) the person appointed Director of the Museum;

(b) the person immediately responsible to a Minister of the Crown for the administration of Aboriginal affairs and the support of traditional Aboriginal culture;

(c) the person occupying the office of Surveyor General in the Department of Lands and Surveys.

I do not think we can object to the general makeup of this committe; I certainly have no objection to it. We then find the normal technical clause which one needs in this type of exercise. Its provisions deal with resignations, disqualifications, and co-option. Clause 32 provides for quorums and meetings while clause 33 covers records and validity of proceedings. Clause 34 deals with procedure and clause 35 sets out the application of the Public Service Act. The question of remuneration is covered by clause 36 and the appointment of the registrar of aboriginal sites is dealt with in clause 37. It will be the registrar's duty to keep books and all communications must be directed through him. He will also keep a register of all protected areas, of all Aboriginal cultural material, and so on. He will, of course, have other people to do the actual writing for him. Clause 39 sets out the functions of the committee, and this is what one might expect in an exercise such as this. I have no doubt that in this completely new piece of legislation alterations will be made from time to time.

Part VI relates to the protection of Aboriginal objects. This part sets out the requirements. The objects must be of sacred, ritual and ceremonial importance; or of anthropological, archaeological, ethnographical or other special national or local interest; or of outstanding aesthetic value.

I will leave Mr. Withers to make some interesting comments with regard to these objects. He is far more familiar with them than I, and he is able to pronounce their names properly.

Rules are laid down in this part of the Bill for the retention of such objects by the trustees, and the way in which this must be done is set out clearly. Although these provisions give the appearance of sweeping powers, they are really written into the Act as protective mechanisms; and if any meaningful collection is to be gathered together, our examination of the provisions of the Bill indicates that the powers are reasonable enough. It is accepted that the people who will be administering this legislation will be reasonable; if not, I suppose we can do something to rectify the position.

The basis for the calculation of prices to be paid is also set out. The trustees may purchase these objects, and they can be

vested in various persons or organisations. The compulsory acquisition of objects is also dealt with in the Bill. Restrictions on the exhibition of objects which have a direct bearing on the beliefs of Aboriginal people are set out in clause 48. Many of the Aboriginal people take grave exception to their sacred implements being exhibited publicly. Provision is also made for prohibition on the publication of Aboriginal cultural material.

Part VII of the Bill deals with enforcement of the legislation. The first matter I raise appears in clause 51 relating to powers of inspection. I would like the Minister to give consideration to deleting the words "or an honorary warden" appearing in line 22 of page 30 of the Bill. My reason for making this suggestion is that it is felt these powers should be restricted to the Museum staff in the form in which they are written into the legislation, because they are pretty solid. Whilst the Museum staff is directly under a senior Government officer, the honorary wardens are not always under a senior Government officer.

Clause 51 reads as follows:—

> 51. (1) Any member of the staff of the Museum, or an honorary warden duly authorised, may, together with any person he may think competent to assist him, enter any premises and may therein or thereon—
>
> (a) examine any Aboriginal site or any place or object that he has reasonable grounds for believing to have been traditionally or currently of sacred, ritual or ceremonial significance to persons of Aboriginal descent; and
>
> (b) make such examination and inquiry and tests, and ask such questions, and request such information as he considers necessary or desirable,
>
> to the extent required for the purposes of this Act.

I would suggest that this power be restricted; it should not extend to premises which are private dwellings. An amendment should be inserted after the word "premises" by the addition of the words "other than private dwellings." This will still give the trustees the right to ask a policeman to obtain a search warrant and make a search under the normal procedure. Some members might contend there are other Acts which allow inspectors and such officers to enter premises without warrants. These people have very special duties to perform, and it is not suggested that similar powers should be extended under the legislation before us.

Part VII also sets out the duties of the trustees. Provision is made for the payment of rewards for information relating to offences. The penultimate provision which I wish to refer to appears in clause 5 which deals with persons obstructing the execution of the legislation or failing to give information. I would point out to the Minister that secrecy is often essential to the Aboriginal people. The obligation to maintain secrecy is at times extended to other than Aborigines, after such persons have secured the trust of the Aboriginal people. It would seem to me that the need for such secrecy should constitute sufficient reason for them to refuse to give information. In the drafting of the Bill everyone concerned has been careful to safeguard the beliefs of the Aborigines, but in this case the need for secrecy might have been overlooked inadvertently.

I refer to the penalties provided in the Bill. Clause 58 states—

> (1) A person convicted of an offence against this Act is liable on summary conviction, where no penalty is expressly provided for the offence,—
>
> (a) if he has not been previously convicted of any offence against this Act, to—
>
> (i) a penalty of five hundred dollars;
>
> (ii) imprisonment for three months; or
>
> (iii) both such a fine and imprisonment;
>
> or
>
> (b) if he has been previously convicted of any offence against this Act, to—
>
> (i) a penalty of two thousand dollars;
>
> (ii) imprisonment for twelve months; or
>
> (iii) both such a fine and imprisonment;
>
> and
>
> (c) in the case of a continuing offence, to a daily penalty of one hundred dollars for every day that the offence continues after the offender is convicted.

I am very pleased to point out that these are not minimum penalties. Of course, the magistrate hearing a case will have a discretion to impose a fraction of the fine.

I refer to clause 59, which relates to special penalties. It provides—

> Where a person—
>
> (a) is convicted of an offence against this Act in relation to any place or object located on any land; and
>
> (b) the court is satisfied that the offence was committed—
>
> (i) knowingly;
>
> (ii) for the purposes of gain; and
>
> (iii) with intent to defeat the purposes of this Act,

the court by which the person is convicted may order the suspension or forfeiture of any right, title or interest held by that person in or affecting that land or anything on or under that land.

These are fairly severe offences, and the argument in favour of solid penalties is that the Aboriginal materials in question are difficult to obtain but easy to destroy. Members will have to make up their minds whether they consider the penalty fits the crime in this instance, bearing in mind that the penalties appearing in the Bill are maximum and not minimum penalties. The magistrate hearing a case will have a discretion, although normally he will take the prescribed penalties as guidelines.

I did intend to make some further inquiries, but I had to speak in this debate earlier than I expected and so far I have been unable to make the inquiries. However, before the Bill reaches the Committee stage I will do so. There are other matters which I am sure other members will wish to bring to the attention of the House. In the main the Bill provides additional protection. We all hope that the overall purpose of the Bill will be achieved, and this legislation will be established as a basis for the future. We all know that we cannot achieve the ultimate with the first shot; and as time goes on no doubt the legislation will be subject to improvement. I support the Bill.

THE HON. W. R. WITHERS (North) [5.08 p.m.]: In rising to support the Bill I will speak briefly on what I consider to be the need for it, and also on what I consider to be a few weaknesses in it. Firstly, it is very necessary that we protect the objects of heritage of the Australian Aborigines. Many of these objects are interesting not only to the Aborigines but to white laymen as well as anthropologists and archaeologists.

The Aboriginal people have maps, but very few of us realise they have been using maps for thousands of years. They are mainly water hole maps, carved on flat pieces of board sharpened at both ends. With the use of such maps they can go from one place to another and be able to locate the water holes along the way.

They also have tjuringas which I have mentioned previously. The tjuringa is a religious piece, carved in wood or stone. There are several types of tjuringas. There are the personal tjuringas which are similar to birth certificates or confirmation certificates. These are very interesting. Their use dictates whom an Aboriginal man may or may not marry. The tjuringa relates only to the male. I hope the followers of the Women's Lib will not be offended. The female Aboriginal has no personal tjuringa, because her line goes back to her father. It is possible that by the use of tjuringas the Aborigines have remained genetically pure for hundreds of thousands of years, of their existence in Australia.

The tribal tjuringa comes in different forms. There is the tribal tjuringa law which ranges from two feet to eight long. These are flat pieces of board with the tribal law written on them. They are kept in special places, and once again the womenfolk are not allowed to see them. To ensure that Miss Elliott does not feel bad about this I would point out that the Aboriginal women also have tjuringas which the men are not permitted to see.

They have tjuringas for corroborees, and on these tjuringas are depicted certain dances. Again, women cannot see some of these. On the other hand when the women have a dance tjuringa, the men may not be permitted to see it. It is interesting to note that on some of these tjuringas are depicted "blue" dances. Like our Western culture the Aborigines also have pornographic dances which the womenfolk are not allowed to see.

There are also other objects such as pubic shells, spear heads, human hair belts, and interesting pieces of string which are twirled or twined. The Aboriginal was twirling strings long before the white man came to this country, and part of the Aboriginal culture involves string games. They have string games, similar to church's steeple and cat's cradle, which are played by our children.

Regarding pubic shells, some of these are beautifully carved. They are made from mother of pearl from the north of Western Australia and from one small part of the peninsular in the north-east of Australia. Sometimes these shells are heavily engraved and coloured with various ochres, with the mother of pearl overriding the ochre. These are very beautiful.

I have one pubic shell in my collection and this has given me many hours of pleasure aesthetically; it seems to satisfy my somewhat coarse sense of humour. When I displayed this shell to the customers in my shop in the north it fascinated the women. They would automatically pick it up and stroke it, because it was an object of beauty. They would ask what it was, and I would tell them it was a pubic shell. Some would ask what that was used for. I would point out to them that it was an object used by the Aborigines, similar to the fig leaf used by Adam in the garden of Eden. The reaction of 90 per cent. of the womenfolk who picked up the object would be to put it down immediately, to rub their hands, and say it was interesting. I suppose this is a subject which would interest Sigmund Freud. Looking at the pubic shell one would never think it was an article of dress worn by the Aborigines. It is an object with great aesthetic beauty.

There are also the Aboriginal spear heads, and these too are objects of beauty. I refer not only to the traditional spearheads used for hunting, such as the broad

blade, but also to the stone or glass Kimberley point, and the hook spears. They obtained the glass from ships which were wrecked along the coast, and they used such glass long before Captain Cook discovered Australia. From the broken glass they made their spear heads. The serrations on the spear tips go down to one-sixty-fourth of an inch over a length of three or four inches. When it is considered that the Aborigines have to chip the glass by pressure chipping it can be seen that it would take hours of work to make a spearhead, and these objects should be preserved.

The Hon. J. Dolan: Could the honourable member say from where they got the glass which they used?

The Hon. W. R. WITHERS: The Aborigines were using glass before the white men came to this country. They obtained it from the wrecks of ships.

The Hon. J. Dolan: Not from anything which they made themselves.

The Hon. W. R. WITHERS: They previously made the points from flint stone and these were pressure chipped in exactly the same way.

The Hon. J. L. Hunt: They have a fairly good substitute because glass quartz is pretty abundant in that area.

The Hon. W. R. WITHERS: Yes, there are plenty of small points. I think I have covered most of the objects which I consider we should protect. Human hair belts are still made and it is possible to get a collection. However, these are generally made when a corroboree is to be held and, of course, they are biodegradable. So I do not think we need to protect hair belts generally but that decision will rest with the responsible officer.

I would now like to comment, generally, on the Bill. Clause 6, in part, reads as follows:—

> . . . which are or were used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people past or present.

The clause is a little weak because this provision could apply to a jam tin in which an Aboriginal carries ochre. I think this clause could be tidied up a little. It is not absolutely necessary, as long as the Minister is aware of the situation when the Act is administered.

Clause 16 (2) reads as follows:—

> (2) The Trustees may authorise the entry upon and excavation of an Aboriginal site and the examination or removal of any thing on or under the site in such manner and subject to such conditions as they may direct.

I would like to see an addition to this clause to provide that entry be pursuant to the permission of the Aboriginal consultative council for the area.

Clause 17 sets out what constitutes an offence. This clause needs to be taken in conjunction with clauses 19 and 23, and I will mention it again later when speaking about Aboriginal sites.

I do not believe that paragraph (b) of subclause (2) of clause 18 should be included in the Bill. Mr. MacKinnon touched on this subject and I think it is unfair to expect any owner to have to pay costs to the department if he desires to have a decision speeded up. I think that is almost a form of graft and I would not like to see the provision retained in the Bill. I hope the Minister will consider the withdrawal of the paragraph.

As I have just said, clause 19 has to be taken in conjunction with clauses 17 and 23. Clause 19 (1) reads as follows:—

> 19. (1) Where the Trustees recommend that any Aboriginal site is of outstanding importance the Governor may, by Order in Council, declare that site to be a protected area.

The problem arising here is how to police the protected area. The moment an area is declared protected some notice must be given to the public so that they will not break the law. However, the moment a site is declared protected there will always be some—in fact, many—people who will go to the area and look around until they find the site. That is when desecration takes place. We will find it very difficult to police a protected area and in attempting to do the right thing we will create a law which will destroy what we are trying to protect.

Coming now to clause 23, I again mention that it needs to be taken in conjunction with clauses 17 and 19. Clause 23, in part, reads as follows:—

> 23. (1) Upon any area of land becoming a protected area the Trustees—
>
> (a) may cause the boundaries of the area to be delineated by the erection of suitable notices or boundary marks;
>
> (b) may enclose or fence the area, or any part of the area, and may erect such other structures as in the opinion of the Trustees are necessary to protect the area or any object therein.
>
> (2) A person who destroys, damages, alters, moves or interferes with any notice, boundary mark, fence or other structure erected pursuant to subsection (1) of this section commits an offence.

This clause will create a problem when a cave is found.

I will now quote a personal experience. A young girl in Kununurra, while out horseriding, found a cave containing skeletons wrapped in paperbark and painted with red ochre. Because of the skeletons she reported the finding of the cave to

the local police. The police came to me because I was deputy shire president, and because of my interest in this particular subject and my private collection of native artifacts, and asked me if I wanted to go out with the party to look at the cave. We took three natives with us and when we arrived in the area each member of the party took one native and we went our own way in search of the cave.

The native who was with me told me that the cave would not be in a certain direction and when I asked him why he gave me an illogical answer. For that reason I went in the direction where he said the cave would not exist and, of course, I found it. The natives did not want us to find that cave. The cave was about 40 feet in length and had approximately 30 feet of cave paintings along one wall. The paintings were both old and new; I do not know how recent the new ones were, but the old ones were very old and the ochre was flaking off. Many of the paintings were overlaying the old paintings. So here was a cave in which many Aborigines had worked. On the floor of the cave, and in various rock projections, we found many working stones, grinding stones, and sharpening stones, chips from tools, and parts of tools. The skeletons were situated in rock ledges and they were wrapped in paperbark and the bones were painted with red ochre.

The cave was facing due west and had a magnificent view of the Ord River Valley. It was a beautiful cave and very close to the townsite. Because of its proximity to the town, and because of its contents we kept the discovery quiet. I have now reported it to the Native Welfare Department and Mr. Warwick Dix. In fact, I have personally taken Mr. Warwick Dix, from the Museum, to look at the cave.

When I was a member of the council, the year before last, I suggested that the cave be made a reserve. Then, Dr. Ride, through the Native Welfare Advisory Council, suggested that the area be made a reserve. When I saw the correspondence concerning the proposal for a reserve I objected strongly. I pointed out that if the area was made a reserve the skeletons would be removed within a month, and whitewash paintings would appear on the walls depicting, "Kilroy was here." The objects would be picked up and the cave would be completely ruined for any future excavation. The Act which was created to protect would actually destroy.

I then made a suggestion that money be spent on the erection of bars across the front of the cave to block it off. A gate could be fitted so that tribal elders could enter on application. Also, Museum teams could be allowed to enter. At a later date tourists could go to the cave because almost the complete story of Aboriginal life is recorded there.

The next thing I knew—and I found this out confidentially so I cannot supply the source—the Native Welfare Department wrote a minute to its local office to the effect, "Quick, let us get onto this cave and have it declared as a native reserve because some coot wants to use it for tourism."

The reference, of course, was to me. I was trying to protect the cave. I think something similar could happen with the passing of this Bill. It might be found that after working in an attempt to protect an area, and have it declared, the result will not be good enough to protect the site. The Minister for Police would well know what I mean by the number of car thefts which are reported. The same sort of thing will exist with the passing of this legislation pertaining to Aboriginal sites.

Some people consider that the type of person who collects artifacts is honest. Many have said that my artifacts and my museum display in my shop in the north would be perfectly safe, but I can assure members that they are not. Articles which have no intrinsic value whatever are stolen by some collectors.

Subclause (4) of clause 28, in part, reads as follows:—

> . . . will assist the Committee in relation to the recognition and evaluation of the cultural significance of matters coming before the Committee, and shall be appointed by the Minister from a panel of names submitted for the purposes of this Act by the Trustees.

There is no mention of qualifications, but I am quite sure the Minister in this case will be quite sensible and will examine qualifications. I would like to see a provision for the panel of names to include qualifications also.

Subclause (3) of clause 37 reads as follows:—

> (3) All communications required by this Act to be made by or to the Trustees, the Committee or the Director may be made through the Registrar.

I consider this could also be a weakness because we will run the risk of having multiple files. Of course, it is up to the Minister and his department to be aware of this fact, and to prevent the existence of multiple files.

The Hon. W. F. Willesee: This will be operated through the Museum Act.

The Hon. W. R. WITHERS: I meant files within the department. The following passage appears in clause 42 on page 23:—

> . . . but where the object is not so classified, or recommended for classification, the Trustees shall return the object to the person by whom it was produced . . .

There is an ambiguity in line 38 with the word "produced," which could refer to the maker rather than the previous possessor.

If we refer back to the second line of the clause we will have no difficulty with that provision, but I know of a full-blooded confidence man in the Kimberley—he is the only man on this earth who has ever "conned" me three times. He is very good. I am sure he would find a loophole in this clause. I will not mention his name, even under parliamentary privilege, because he has "conned" many people, including the department. I have seen him sell the one didgeridoo to all the passengers on a State ship that was visiting the area. I might add that he retained the didgeridoo. That takes a lot of doing.

I would like clause 51(1)(a), on page 30, to include the words "pursuant to the provisions of the Aboriginal Affairs Planning Authority Act." I do not think there is any need to explain that.

I close by extending my congratulations to the Minister for bringing forward a Bill to protect these Aboriginal objects.

Debate adjourned, on motion by The Hon. F. R. White.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.33 p.m.]: I move—

> That the House at its rising adjourn until Wednesday, the 26th April, at 11.00 a.m.

Question put and passed.

House adjourned at 5.34 p.m.

Legislative Assembly

Thursday, the 20th April, 1972

The SPEAKER (Mr. Norton) took the Chair at 11.00 a.m., and read prayers.

GOVERNMENT BUSINESS

Precedence

MR. J. T. TONKIN (Melville—Premier) [11.04 a.m.]: I move—

> That until the 30th June, 1972, or such earlier date as may be ordered, on and from Wednesday, 26th April, 1972, Government business shall take precedence of all Motions and Orders of the Day on Wednesdays as on all other days.

I would like to explain that it is the Government's aim to close this part of the session on the 11th May. In anticipation of this, a number of members have made firm arrangements and we feel it is desirable to complete business by that date. For this reason I feel we should bring on Government business first and whatever time is still available can be devoted to private members' business still on the notice paper.

I give the assurance that private members' business already on the notice paper will be dealt with. However, I can give no such assurance about private members' business coming forward after today. The purpose of this motion is to make it possible for Parliament to conclude this part of the session by the 11th May.

MR. COURT (Nedlands—Deputy Leader of the Opposition) [11.05 a.m.]: Normally the Opposition would go along with this motion without much comment because it is customary procedure. However, I would like to draw to the attention of members the fact that this motion is moved at an unprecedented time. Previously the Government has moved for the suspension of Standing Orders in the second half of the year, close to Christmas. In the old days we knew we would not be back until the following July and in latter years in the first part of the new year. Previously, towards the end of the year this motion was moved in an entirely different atmosphere. However, this session commenced in March and we will meet, as the Premier says, until the 11th May when we will adjourn to a date to be fixed, presumably towards the end of July or early August.

Under the old arrangement legislation would have included a Supply Bill, an Address-in-Reply, and the Estimates. So a very large portion of the former sessions was taken up with these procedures. This meant that the time for the Government's legislative programme was very much curtailed because of private members' business.

In this part of the session we had a comparatively short Address-in-Reply—the Opposition being its usual co-operative self. There has been no Supply Bill and no Estimates, and therefore the only intrusion into Government business has been private members' day.

I was pleased to hear the Premier say that he will use his best endeavours to ensure that business on the notice paper today—and presumably including the motion to be introduced by the member for Mt. Lawley—will be dealt with.

I would like to clear up another point: The suspension of Standing Orders will cease after the 30th June, and when we reassemble for the second part of the session members can then give notice of further private members' business. It is not suggested that this is the end of private members' business for this session—we are only dealing now with the first part.