Legislative Assembly

Tuesday, the 8th November, 1977

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

KIMBERLEY ELECTION

Court Decision

THE SPEAKER (Mr Thompson): I have received a communication from the Court of Disputed Returns with respect to the Kimberley seat.

From that communication it appears that the election for the seat of Kimberley has been declared void.

I table the reasons given by the court.

The papers were tabled (see paper No. 364).

QUESTIONS

Questions were taken at this stage.

WUNDOWIE CHARCOAL IRON INDUSTRY SALE AGREEMENT ACT AMENDMENT BILL

Second Reading

MR MENSAROS (Floreat—Minister for Industrial Development) [4.49 p.m.]: I move—

That the Bill be now read a second time.

Members will recall that Agnew Clough Limited took over the Wundowie Charcoal Iron and Steel Industry from the State on the 1st January, 1975. The Act ratifying the sale agreement was assented to on the 10th December, 1974.

After the takeover the company went into the continuous production with great enthusiasm and spent a considerable amount of capital and managerial expertise for higher productivity and more efficient performance.

Towards the end of 1976 and the beginning of 1977, it became more and more evident, however, that the international economic climate and world trade had deteriorated, particularly as far as the steel market and its contributory products were concerned. It is against this background that the Government has acted to assist Agnew Clough Limited in its operations at Wundowie.

Members may be aware that the industry at Wundowie is reliant on export sales for about 90 per cent of its total pig iron production. With the difficulties that have arisen in the world market for iron and steel products the ability of the company to sell its products has been severely restricted.

In March this year Agnew Clough Limited advised me that it was unable to perform all of its continuing obligations under the 1974 sale agreement and sought relief pursuant to clause 29, the delays clause, of that agreement. The clause provides for the company to have its obligations under the agreement—including keeping the plant operational—suspended due to inability to sell products profitably. Such a situation undoubtedly existed then and continues to exist at this time.

Details provided to the Government revealed that the company had at that time accumulated an inventory of about 40 000 tonnes of pig iron while merchant distributors in the United States and Europe held a further 18 000 tonnes of Wundowie pig iron. At current rates of usage the accumulated stocks represented in excess of one year's demand and were equivalent to one year's production with two furnaces.

The Government recognised that a suspension of production pursuant to clause 29 of the 1974 sale agreement would greatly disadvantage the work force and residents of Wundowie. Had the Government not acted it was probable that the industry would have closed and due to the circumstances in which the company found itself, we would also have seen the Coates vanadium project shelved to some indeterminate time in the future.

Due to the isolated location of the works, little if any alternative employment was available in the immediate vicinity and many residents would have been forced to leave the town in order to find work opportunities. In such circumstances it was also realised that the prospects for the company ever recommissioning the works would be poor due to the difficulties in again attracting a stable work force to Wundowie, and because of the high cost in reopening what can only be recognised as an aged plant.

The accumulation of unsold stocks and the pressure to reduce the sale price of pig iron as other world producers endeavoured to quit stocks, has had a dramatic effect on the financial results of the Wundowie division of Agnew Clough Limited.

Operating results before tax for the period since the company acquired the industry have been—

6 months to June 30, 1975—$135 000 profit.
12 months to June 30, 1976—$536 000 profit.
12 months to June 30, 1977—$1 662 000 loss.

In addition to the accumulated operating loss of almost $1 million experienced by the company, it had and still has the burden of financing almost

$5 million of unsold pig iron stock. This situation was aggravated by the otherwise very commendable fact that the company has outlayed about $1.25 million in capital expenditure on the industry since the date of acquisition. Under the circumstances the Government could readily appreciate the difficulties which the company faced as it is a locally owned company without access to unlimited capital resources.

It must be understood that the problem which confronted and is still facing Agnew Clough Limited is not unique. *The Metal Bulletin* of the 18th January, 1977, reported that Kawasaki Steel in Japan had been forced to suspend part of its pig iron production due to falling demand and rapid inventory accumulation. The report stated that monthly pig iron sales by Kawasaki had fallen from an average in excess of 15 000 tonnes per month to only 7 000 tonnes per month, and that stocks had risen to almost 60 000 tonnes. Similar reports have been noted from producers in the other major industrial countries.

The action by Agnew Clough to shut down one furnace in April and thereby reduce production from an annual rate of 60 000 tonnes to about 40 000 tonnes was in keeping with the action by Kawasaki and other world producers.

Despite the grim market position and the massive financial burden which the company has had to bear, it continues to be optimistic about the future viability of the industry under normal world trading conditions. Consequently the Government has moved to support the company by providing a generous package of financial assistance aimed at ensuring the future of pig iron production over what has been clearly demonstrated to be a very abnormal and very difficult trading period.

The agreement which is before the House has two main objectives—

(a) to ensure commitment by the company for the continuing production of pig iron at least until June, 1978, and

(b) to achieve a commitment by the company to the starting of construction of the Coates stage 1 vanadium project before February, 1978.

Both of these commitments are undertaken in these amended agreements by the company irrespective of the delay clause. In other words the company cannot delay these commitments for reason of unviability of either the pig iron production or the vanadium project.

The assistance provided is a composite package and individual items should not be viewed in isolation from the two objectives mentioned. The Government does not deny that the value of the assistance is substantial, but in view of the total reliance which the Wundowie community of about 300 workers and 1 000 people has on the industry, we do not regret our generosity.

The amendments to clause 8 set out quite clearly the obligations of the company both to proceed with construction of the Coates project and to continue pig iron production. The Coates project which is estimated to cost $8 million must be commenced by February, 1978, and must be in production of vanadium pentoxide at the rate of not less than one million kilograms per annum within 18 months; that is by the 31st August, 1979.

It is understood that the average construction work force will be about 100 and that an operational work force of about 90 will be required for the project.

As provided for in the new clause 8B the Minister for Industrial Development has a discretionary power concerning the timing of a notice to the company which will provide for the release of the company from its obligation to make further payments in respect of the loans set out in the seventh schedule to the sale agreement.

The five loans were for a total of $700 000 and have varying repayment provisions. Four of the loans totalling $500 000 require interest only repayment with interest rates fixed between 6.2 per cent and 6.4 per cent. Principal repayments are due in either 1982 or 1992. The remaining loan requires annual principal and interest repayments of $17 673.30.

The remission of the company from this obligation is to be retrospective to the 1st May, 1977. The decision by the Minister to give the required notice will be based on his belief that construction of the Coates stage 1 project is irrevocably committed to proceed to completion.

A concurrent provision with this declaration of irrevocable commitment to the Coates project is the release of the company from its pig iron production obligation set down in clause 8 (1) of the agreement.

The new clauses 15A and 15C are the basis for immediate assistance to the company which will allow it to continue pig iron production at a cost of production sufficiently low as to allow it to sell the product on the depressed world market.

The extra freight subsidy to be provided on iron ore railed from Koolyanobbing to Wundowie will be $3.92 per tonne which is additional to the subsidy of $1.96 per tonne provided in the original agreement. The extra subsidy is payable on iron ore carried between the 1st May, 1977, and the 30th June, 1978.

The agreement provides for the extra rail subsidy to be repaid to the State in the event that the company defaults on its undertakings before the 30th June, 1978.

Clause 15B limits the extent of the freight subsidy to the total amount provided for in the original agreement even though the form of its disbursement has been altered.

The decentralised nature of the Wundowie operation was recognised when the company sought and was granted the assistance provided in clause 15C. Pay-roll tax reimbursement to decentralised operations experiencing financial difficulties is a recognised form of assistance which has been extended to the company's operations at Wundowie and Koolyanobbing.

The assistance provided is substantial but the Government recognised the serious consequences for Wundowie if it did not act and act positively. The Government had no choice but to assist in this generous way to ensure the continuing pig iron production at least to a point in time when the vanadium project is under construction and can accommodate a proportion of the Wundowie work force even if the pig iron market situation further deteriorates.

The agreement will enable the company to continue pig iron production and has secured a firm commitment from the company that the $8 million Coates stage I project will be commenced by the 28th February, 1978.

I would like to add that the Government has negotiated with the company for a considerable time; indeed, since the beginning of the year. The Government has decided, as it has done in various other cases when economic circumstances—particularly those prevailing overseas, outside the control of the Government—have resulted in situations where a company has ceased to become viable, to try to find a way which would enable the industry to continue and the work force to remain occupied. Under normal trading conditions, and even under an agreement's *force majeure* clause, the company would have been compelled to discontinue operation and retrench the workers. The Government decided on this present action even though it realised it had to pay a high price.

Nevertheless, we believe we made an agreement with the company, which is mirrored in the Bill before the House, which does not use the taxpayers' money just as an aid which has no productive value. The money will be used in a way which will enable a remote and decentralised industry to remain in existence, at least until another industry takes its place to cater for part of the work force.

It should be realised that the main asset of this amendment to the agreement is that the company is embarking on the construction of the vanadium project without any *force majeure* clause applying to the project. The *force majeure* clause relates to the construction stage only; that is, supposing there is an earthquake preventing construction or there is a shortage of material that prevents the company from continuing construction, then the clause will come into operation. However, the company cannot come to the Government and indicate it is having second thoughts; it cannot say that it has examined world markets for vanadium pentoxide and has found that it cannot be sold. The Minister has to be sure that the construction is completed before the company can receive the total compensation, which is the other side of the package.

Debate adjourned, on motion by Mr Bryce (Deputy Leader of the Opposition).

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from the 1st November.

MR CARR (Geraldton) [5.15 p.m.]: In the short time I have been in this Parliament, I cannot remember a previous occasion when the Government has come here and said, "You, the Opposition, have been right all along and we, the Government, have been wrong all along, but we have just realised how wrong we were and we have changed our minds to correct that."

Mr Bryce: Hear, hear!

Mr CARR: In effect, that is what this Bill constitutes. The main purpose of the measure is to provide portability of long service leave to local government officers and employees. I remind the House that on the 5th May, 1976, the first reading was given to a Bill introduced from the Opposition side by the member for Cockburn who was then spokesman on local government. This Bill was designed to achieve precisely the same objective as the Government is seeking to achieve at the present time.

The Bill introduced by the member for Cockburn was drafted in a quite different manner from the Bill proposed by the Minister. This bears out comments I have heard made by Ministers in this place in the past, that various parliamentary draftsmen can achieve the same purpose in two totally different ways. The major difference between the Bill introduced by the member for Cockburn and

the Bill introduced by the Minister for Local Government is that our Bill proposed to make the amendment by means of legislation, whereas the Bill introduced by the Government proposes essentially to achieve the same objective by means of regulation. All that this Bill does is to set up a framework from which regulations can be made.

In fact, it is almost impossible for members of the Opposition to evaluate the effectiveness of the Government's intention until we see the regulations. It should come as no great surprise to members of this House to see a Liberal Party Government introducing one day a policy it has opposed for a considerable period of time, and it should come as no surprise to see a Liberal Government introducing something that the Labor Party has advocated for a long period of time. It only bears out the old adage that what are progressive Labor Party proposals of today become Liberal Party orthodoxy of tomorrow. This is something which has been borne out at State and Federal level in Governments throughout Australia during our entire history.

We, on this side, have one criticism of this Bill and that is the delay and the length of time that the Government has procrastinated before bringing the legislation before the House. As I said, we introduced the measure 18 months ago and even then there had been considerable discussion of this measure and there was considerable agitation from employees in local government who were seeking this legislation.

The Government was not prepared to act at that stage, and a further 18 months have elapsed before it has finally been forced by pressure from various quarters to introduce the measure. The truth is that the Government delayed introducing this Bill as long as it possibly could, until political pressure and pressure from the employees of local government in effect forced the Government to bring this measure to Parliament.

This, of course, is an old story also; the Liberal Party is a Government of employers trying to hold back the workers from the rights that they should have, for as long as it is possible to hold back those rights.

Mr Laurance: Rubbish!

Mr CARR. To give members another example, and it is a most pertinent one, there is the question of long service leave for all employees throughout all sectors of industry. Already we have long service leave in the Government sector; we are introducing it into the local government sector at the present time; but we still do not have full long service leave provisions in private industry. Obviously this is something which will occur in the future. There is no question that in time there will be complete provision for long service leave throughout private industry. But this Government has resisted every attempt to introduce such provision. The member for Morley only recently brought a Bill before Parliament to achieve precisely this. The Government has resisted it, just as the employers it represents have resisted it, and they will continue to resist it for as long as they can.

Of course, unfortunately for them, and fortunately for the working people of this State, this is a measure which inevitably will come to pass. The barriers against good industrial legislation are gradually being rolled back across a broad front and sooner or later this Government will yield to public pressure and it will introduce much more comprehensive long service leave legislation for all workers in private industry.

However, I shall return to the actual question of the Local Government Act which we are discussing here this afternoon. We, on this side, substantially agree with the arguments put forward by the Minister for Local Government when he introduced the Bill. We do note a most ironic situation in that he was using, in a number of cases, some of the arguments which the member for Cockburn used 18 months ago. The Minister was using arguments he had disagreed with 18 months ago. We are delighted that he has finally and belatedly seen the light.

Mr Laurance: There is a vital difference now, though, is there not?

Mr CARR: If the member for Gascoyne sees a vital difference, I will leave it to him to make that difference clear when he rises to his feet.

We agree with the Minister in that local government is a vital sector of the three-tier system of government and we, of the Opposition, would like to make the point that we give local government the fullest possible support we are able to give. It is a sector of government which is rapidly increasing in importance. It is a sector of government which is achieving a greater role. It is a sector of government which is entering into a large number of new fields; fields such as recreation, welfare, and social development.

Mr Laurance: You were going to force this on them 18 months ago before they had a chance to see what it was all about.

Mr CARR: I fail to see the relevance of the interjection by the member for Gascoyne, so I shall proceed.

Not only has local government been able to enter into a wider range of activities, but also it has been given a greater responsibility and greater opportunity to progress. This has happened as a result of the vast increase in funds provided to local government by the Federal Government, and this was initiated by the Whitlam Government in 1973.

This situation supports the view expressed by the Minister that local government is becoming increasingly a career service. It has always been a career service, but it is even more so at the present time. The new developments and greater responsibilities which local government now has, have necessitated the growth of career opportunities within it.

I agree with the Minister that this measure will strengthen the local government situation in the sense that it will provide officers and employees with a greater opportunity to gain experience and expertise. The experience of working for different employers is a most valuable one as far as gaining expertise is concerned.

The Minister mentioned that this Bill is supported by the Local Government Association and the Municipal Officers Association, which is most pleasing to see. He did not mention whether it has the support of the Municipal Employees Union. I have conveyed the Bill to that union for its consideration and I was hoping to have a comment back from it before we debated the Bill; but it has not as yet replied to me.

The fact that the Minister has apparently not referred the Bill to the Municipal Employees Union raises the question as to whether the Bill provides also for wages staff. It was my understanding on reading the Bill that it referred to officers and employees, and, therefore, it appeared to me that it would deal also with wages employees. However, the fact that the Minister omitted to mention he had referred it to the Municipal Employees Union raises that query in my mind, and I ask the Minister when he replies to indicate whether in fact it is intended that this will apply to wages employees as well as to salaried officers. The further reason, of course, that this could not be checked by consulting the legislation is the point I made earlier, that it will be done by regulation anyway.

A couple of other queries arise: one is the question of when the legislation will apply. Once again, we have the situation where the legislation provides that regulations be made to lay down certain provisions and so on. I find myself a little uncertain as to exactly what will be contained in the regulations. I will quote a sentence from the Bill to illustrate my point. Clause 8(2)(a) reads as follows—

> . . . prescribing the long service benefits to which officers and employees shall be entitled by reason of continuous service with one or more municipalities and prescribing the terms and conditions to which entitlement to any long service benefit so prescribed is subject;

The Governor may make regulations to do that; but we on this side of the House do not really know what will be contained in the regulations. Therefore, I repeat the point that we need to see the regulations before we are able unequivocally to say the legislation has our full support. It has our support in principle; but we need to see the regulations before we are able to give it our complete support.

The Minister has said the Bill protects employees who have already qualified or who have partly qualified for long service leave and we are very pleased to hear that. I hope, once again, that the regulations show that to be the case.

The Bill deals with a number of matters besides this matter of portability of long service leave. In a sense, it is the annual-general-tidying-up of the Local Government Act in that a number of the small anomalies which have come to light are cleared up. The Local Government Act is in a mess in the sense that a number of amendments have been passed since the Act was last reprinted. We then have the situation where it is almost like putting together a jigsaw puzzle; we have the Act, an amendment to the Act, an amendment to that amendment, and we must try to relate that to the Bill we have before us. I know the Minister has in the past said in answer to a question that a reprint of the Act is scheduled for the immediate future. I hope that will occur within a short space of time and that the Minister will be able to indicate when we might be able to expect it.

Our other main criticism of the Bill, apart from the delay in introducing the portability of long service leave, is a criticism of what is not contained in the Bill. Given that it is a Bill designed to clean up a few anomalies and to review situations which may have gone wrong in the Act or situations which have been found to be wrong in the Act, we would have expected a few improvements which do not appear in the Bill. We would have expected an improvement to the electoral system. The Minister has promised the electoral system for local government will be reviewed, and we hoped we would have that before Parliament this year. But we still have

the totally undemocratic, totally unrepresentative and totally inequitable system which operates at the present time. We still have the situation where some people have eight votes, four votes as an individual and as a ratepayer, and four votes as a representative of a company. At the same time, other people do not have a vote. Of course, anybody who believes in democracy believes there should be one vote for all residents in the local government area.

Mr Laurance: Which clause are you referring to?

Mr CARR: I appreciate the point raised by the member for Gascoyne. I was not intending to debate at great length the points raised; but I do suggest that, as this is a review of the Act, I should be entitled to mention a number of items which have not been included in the Bill.

I am disappointed that there is no reform of this stupid Borden system which is used to elect councillors where there are multiple vacancies. We have had the situation in a local authority in my area where with five candidates, one candidate polled 600 primaries, the other four candidates polled approximateliy 200 primaries each, and the man who obtained 600 primaries was only the fourth man elected. He almost missed out because the stupid Borden system provides an opportunity for people not only to vote for the candidate of their choice, but to vote also against the other candidates.

Mr Blaikie: Are you the councillor named Carr on the Geraldton Town Council who has recently been in the news? I don't think you should be so insulting to local government to refer to it in such a flippant manner.

Mr CARR: I hesitate to say I am very much appreciative of the comment made by the member for Vasse; but I am in no way related to the councillor.

Mr Blaikie: We read of him from time to time.

Mr CARR: We are also disappointed that there is no reform of the system used for referendums which is laid down in the Local Government Act. We have a situation when a referendum is being held that two boxes are provided; one box is marked "Yes" and one box is marked "No". The voter is required to vote "1" or "2" and to vote "No 1" and "Yes 2", or something like that. There is even some uncertainty as to whether voting "1" in one of the boxes does constitute a valid vote in a referendum. This is most confusing in view of the alternative system which is used in other referendums at State and Federal levels, where the voter merely has to write the word "Yes" or "No" in the appropriate space.

The Bill also refers to deficit budgeting and provides the opportunity for a council to deficit budget if it requires to do so. The Opposition has no objection to this. It considers it to be a most appropriate measure for some councils at certain times. The Minister stated that he thought this practice should not be encouraged and should be used only in the rarest and most exceptional circumstances. The Opposition would be quite happy to accept a larger amount of deficit budgeting in certain circumstances; for instance, if an outlay is required in one year for some reason or another. We have always been critical of the old accountant's approach of a balanced budget under any circumstances, and it is very good that the Government apparently is moving gradually away from this old accountant's point of view. Perhaps one old accountant opposite is losing his influence in the Government!

The Bill also provides for continuation of office of a mayor or president until such time as his replacement is elected. This provision has been found necessary because of one or two cases. For instance in the Northampton and Greenough Shires, in the Geraldton district, the experience was that two candidates for the presidency tied with an equal number of votes. The Act provides a lengthy means of resolving this situation. The council at its next meeting votes again on the matter and if the tied vote is repeated, the question is then referred to the Minister who makes a decision. This process can take a considerable time and can leave the council without a president or mayor for a lengthy period. The amendment is designed to enable the outgoing mayor or president to remain in office until a replacement is elected, and in the Opposition's view this is a satisfactory provision.

Provision is made in the Bill for multi-deputies to be appointed for committee members. The Opposition is at a loss to understand why the Government should want to appoint so many deputies. It is crazy to have a deputy to a deputy to a committee member, but that appears to be what is proposed. I would like the Minister to explain in detail why the Government has included that particular provision.

The Bill contains a number of other minor amendments to which we have no opposition.

MR RUSHTON (Dale—Minister for Local Government) [5.33 p.m.]: I appreciate the contribution made by the member for Geraldton. He has claimed that the Labor Party is responsible

for the legislation before us, but it does not take many words to refute that statement. However, I do not want to adopt a negative attitude, because that is not my approach in regard to local government matters. It is ludicrous for him to make such a claim when it is realised that the Labor Party was in office for three years but did not introduce the legislation. We have negotiated with all parties and the legislation is acceptable to them. This procedure is preferable to forcing, with an iron hand, conditions on people who must administer this State at local government level. I am indeed proud that we have taken the step.

I would remind the honourable member that when there was disagreement relating to portability of long service leave in local government circles, I asked those involved to conduct a referendum, which they did and, based on the result of that referendum, we have been able to proceed to the stage where we have now introduced the legislation. It has taken some time to prepare the Bill because a great deal of detail is involved in preparing material for regulations. The regulations will be presented to the House which will have an opportunity to indicate its views in due course.

The legislation gives an opportunity for career improvement, as the honourable member mentioned. However, it is the Liberal-Country Party Government which has introduced the legislation, not the Labor Party; although it had the opportunity to do so, it did not take it.

Mr Nanovich: You personally went out of your way to get councils to express opinions to the Minister.

Mr RUSHTON: The background of the legislation is that, when I was appointed to office, the matter was still holding fire. I took immediate steps to make progress, and the result is now history.

It is interesting to reflect on some of the points the honourable member made. He stated that members on this side of the House represented employers. I would remind him that local governing councillors are representative of all kinds of people from all walks of life. In fact the members of some councils would be employees. They are employers for the time being in the sense that they are members of a council which is responsible for making and carrying out policies on a voluntary basis, and they do this, in the main, very creditably on behalf of the various communities. To refer to them as being employers, and to convey that "employers" is a dirty word, is not good enough.

If he is referring to the Liberal Party in this way, he needs only to look around the members of this House to realise that most of them previously were employees of one organisation or another. Therefore his attack does not hold water. It is a myth that Liberal and Country Party members represent only employers, and it does not do him any credit to imply this. As the statement is not factual, it discredits his presentation.

Mr Jamieson: It does not, of course. If they do not represent that class, who does? You might explain.

Mr RUSHTON: The honourable member referred to wages staff and indicated that employees were included. I am given to understand that the interests of all employees of local government are catered for under the legislation, and I hope that when the regulations are presented, they will receive the full support of the Opposition.

The long service portability will commence from the 1st July, and the details will be spelt out clearly—

Mr Carr: That is July, 1977.

Mr RUSHTON: Yes. The regulations will be presented as soon as is practicable and obviously the honourable member will be interested in them.

The member for Geraldton referred to the necessity to tidy up the Local Government Act. I have already indicated that a reprint has been arranged, but its availability is dependent upon the printer. However, I am given to understand that it will not be long now before the reprint is available.

Reference was made to part 4 of the Act which is being reviewed. This work is progressing, but the officers involved are also reviewing other matters and so there has been a little delay. Nevertheless, during the autumn part of the session next year, I am expecting to introduce legislation to cover the review of part 4, and I hope members will study it closely when it is available.

The honourable member referred to deficit budgeting and this brings a very interesting point to the fore. The Labor Party has never been recognised as a party which has any great strength in financial management, and the comments made by the member for Geraldton today reflect this situation.

Mr Barnett: You don't need to be nasty.

Mr RUSHTON: Reference was made to the appointment of deputies. This provision has been requested by local authorities to give them greater flexibility.

Before closing I would like to refer to the comment made by the member for Geraldton regarding the Labor Party being a friend of local government. The performance of the Labor Party does not substantiate this statement.

Mr Pearce: What about the RED Commonwealth grants? That is a ridiculous comment to make.

Mr RUSHTON: We all know the attitude of the Labor Party to local government. We all know what took place in the Chifley era and the Whitlam era. The Labor Party made a direct attempt to regionalise local government so that by an *ad hoc* process it would destroy not only State Governments, but local governments as well.

Mr Jamieson: The Local Government Act which your side brought in has provision for regionalisation.

Mr RUSHTON: The Leader of the Opposition still does not understand.

Mr Jamieson: Don't I? You don't understand very much yourself.

Mr RUSHTON: The intent of the Labor Party was to destroy local government and State Governments and to centralise administration.

I conclude by saying I appreciate the contribution made to the debate by the member for Geraldton.

Mr Jamieson: You didn't seem to.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Clarko) in the Chair; Mr Rushton (Minister for Local Government) in charge of the Bill.

Clauses 1 to 7 put and passed.

Clause 8: Section 161 repealed and re-enacted—

Mr DAVIES: The member for Geraldton referred to service undertaken in local government prior to what might become the effective date. I want the Minister's assurance that fellows who have already served a few years in one local authority and have transferred to another local authority will receive credit for the first period of service. This situation is not clear in the Minister's speech or the Bill, and the regulations have not been drafted as yet. I would hate to think that some fellow who may have accumulated nine or 10 years' service in one local authority and then transferred to another local authority would find that he is denied being accredited with the service with the first local authority. I would appreciate the Minister's comment.

Mr RUSHTON: Firstly, the new scheme will operate retrospectively from the 1st July, 1977.

The other point is that there must be a cut-off point somewhere; otherwise, we know what circumstances can develop relating to long service leave and the contingent liabilities. It is intended that for the officer in the employ of the council as at that time, whatever service he has up to 10 years will be accrued; otherwise, it will not be accrued. Is that clear?

Mr Davies: No.

Mr RUSHTON: It will not go back beyond the time of the employment in the present council.

Mr Harman: If a man has been in one council for 15 years, only the last 10 years will count?

Mr RUSHTON: Members do not realise that long service leave already applies in local government.

Mr Harman: If he transfers.

Mr RUSHTON: I am saying that some people might have been entitled to long service leave, and there are different qualifying periods. Different conditions apply in various areas.

Mr Davies: That is covered in the Bill. No-one can be worse off.

Mr RUSHTON: No-one will be worse off, in the sense that a person who has been enjoying a qualifying period of 10 years will continue to gain that benefit while he remains in the present council employment.

Mr Davies: We are not talking about people who remain with one council. We are talking about the position of a person who partly qualifies, then moves to another council and would have forfeited that qualification period. At what stage is he able to take that qualification period with him—from the 1st July, 1977?

Mr RUSHTON: He will have a benefit accruing for 10 years while he remains in the employ of the council. Starting from the 1st July, if he goes to another council he will take the benefit accrued from the 1st July, 1977, with him. That is the commencement date of the portability. Before the 1st July he had no benefit in portability. From the 1st July he starts accruing it, but he will not be able to take it with him for the period

prior to that date. Portability is retrospective to the 1st July, 1977, and will go on from there.

Mr DAVIES: I think what the Minister says is that portability applies only from the 1st July, 1977.

Mr Rushton: That is right.

Clause put and passed.

Clauses 9 to 18 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr Rushton (Minister for Local Government), and transmitted to the Council.

DOG ACT AMENDMENT BILL

Second Reading

Debate resumed from the 1st November.

MR CARR (Geraldton) [5.49 p.m.]: The Opposition has no substantial criticism of this Bill, which merely reintroduces the kennel licence so that several dogs in a kennel can be covered by one licence.

One query is that this would create a situation where dogs might be on the street with no licence tag. It appears to us to be a worth-while suggestion that where a number of dogs are licensed under a kennel licence a bundle of tags could be given to the owner of the kennel.

MR RUSHTON (Dale—Minister for Local Government) [5.50 p.m.]: I thank the member for Geraldton for his indication of the Opposition's support of the Bill. The lack of provision for an identification tag on a dog in a kennel is obviously related to the presentation of the dog to the public for purchase. If a dog were on the street it would be wandering at large. It would not be in a kennel and under the control of the kennel owner.

Mr Carr: Are dogs under the control of a kennel owner ever let out in the street?

Mr RUSHTON: No. If they are let out, they are wandering at large, which is in contravention of the legislation.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by Mr Rushton (Minister for Local Government), and transmitted to the Council.

FLOUR BILL

Returned

Bill returned from the Council without amendment.

TAXI-CARS (CO-ORDINATION AND CONTROL) ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr O'Connor (Minister for Works), read a first time.

Second Reading

Leave granted to proceed forthwith to the second reading.

MR O'CONNOR (Mt. Lawley—Minister for Works) [5.56 p.m.]: I move—

That the Bill be now read a second time.

The Taxi-cars (Co-ordination and Control) Act has since its inception provided for the appointment of three industry representatives to the Taxi Control Board, although the method of selection has varied from time to time.

In 1972, a retired magistrate, Mr H. G. Smith, conducted an inquiry into the taxi industry. One of his recommendations was that the Act should be amended to provide that of the industry representatives elected to the board one should be an owner and one a full-time driver.

An amendment was brought down in 1975 to give effect to that recommendation but the attempt to give taxi drivers their own representative was complicated by the fact that some full-time drivers are also owners. The wording of the 1975 amendment did not allow for this, and it can easily happen that all representatives are owners.

It is believed that full-time drivers who are not owners could have a viewpoint different from owners and one which they are entitled to have expressed at board meetings. This Bill therefore proposes that at least one elected member be a full-time driver who is not an owner.

It has also been found that when a simultaneous election is held for all three industry representatives, the situation may arise where three experienced members of the board can have their services terminated at the one time. The amending Bill will rectify this by providing for

the election of one member each year. The Bill has been drafted to enable the initial staggering of terms over a three-year period.

In the event of a casual vacancy it is proposed that the Minister may make an interim appointment of a person of like commercial interests to the person vacating the office. Further, should a representative lose his qualification the amendment will permit the Minister to reappoint him. In both cases the appointment would be valid until the next annual election, when an election would need to be held to fill the balance of the term of the vacating member.

It is imperative that the industry be represented on the board by people who are actively engaged in the operation of taxi-cars, and for this reason it is proposed that not more than one person may be elected to the board from the management side of the industry.

The 1975 amendment provided that should a candidate for election have a similar commercial interest to a sitting member he would not be eligible to nominate. For practical purposes, this could be interpreted to mean that no two people belonging to or associated with a particular company could be on the board, whereas in actual fact it is considered the object of—and I quote—"No two board members having like commercial interests" was to ensure that both a driver and an owner were on the board. The board has always been aware of the lack of a definition of like commercial interests and that the authority of the board could be challenged because of its members. It is therefore proposed that the like commercial interest provision be deleted and the position be spelt out in more detail.

The proposed amendments should provide a fair representation for particular groups within the industry, and I commend them to the House.

Debate adjourned, on motion by Mr Pearce.

MARKETING OF EGGS ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr P. V. Jones (Minister for Education), read a first time.

Second Reading

Leave granted to proceed forthwith to the second reading.

MR P. V. JONES (Narrogin—Minister for Education) [6.01 p.m.]: I move—

That the Bill be now read a second time.

The Bill before the House seeks to effect a series of amendments to the Act with the object of increasing the board's effectiveness in administering the legislation.

The amendments are generally of a minor nature but several are major.

One of the more important amendments refers to the matter of payments to producers; and it is proposed that section 28 be repealed and replaced by a section which will enable the board to determine the amount payable to producers from time to time with respect to eggs delivered to it. The effect of this amendment is to modify the present payment arrangements which envisage a pooling system associated with advanced payments. This is not possible to carry out in practice.

The board feels it should have the power to pay producers what it considers to be the appropriate price for eggs delivered to it from time to time, having regard to the level of surplus above local market requirements and the estimated realisations obtainable on overseas markets for the surplus. It considers that this measure of control on prices may by price incentive encourage producers to produce more in line with the local demand curve.

If this can be achieved, the spring flush surplus would be reduced and the need to store eggs to meet autumn/winter sales levels kept to a minimum, resulting in fresher eggs to consumers and more even prices to producers throughout the year. The board also believes the proposed amendment, in giving it a flexible pricing policy, will add to its marketing ability.

Another important amendment relates to the financial operations of the board and in particular to the board administration account. The present provision concerning this account enables the board to place in the board administration account, from proceeds received from the sale of eggs, an amount not exceeding 10 per cent of such proceeds, for use as administration expenses or for carrying out other duties imposed on the board by the Act.

It is now proposed that reference to this account be deleted and that in any given financial year the board may out of its gross income carry over to the next financial year no more than 1 per cent of its gross income, and any such amount will become part of the general funds of the board.

The board's aim in seeking this amendment is to enable it to carry over funds, but with a limit imposed as to the percentage of funds able to be carried over. It considers the 1 per

cent limit in this respect to be more relevant than the present 10 per cent proviso.

The board has indicated that the proposed amendment will assist it to increase its liquidity, to simplify its accounting procedures and to operate more efficiently.

The power to carry over 1 per cent of its gross income would enable the board to carry over a maximum of $100 000 to $120 000 annually, or about 0.8c per dozen eggs delivered to the board. The board does not consider however it would be necessary to carry over an amount of this order each year.

A similar proviso was recommended in the report of the 1973 egg industry inquiry, on the basis that it would be of considerable assistance to the board's general financial operations and that accounting procedures necessitated a separation of administration and marketing aspects of funding.

A further major amendment relates to the inability to license prospective producers in certain remote areas of the State, due to the fact that new licences are able to be issued only in an expanding marketing situation as provided by section 32E(5). This provision undoubtedly acts against the interests of a remote area community in that it is denied the opportunity to obtain fresh eggs from a producer in that area; nor is it in any way relevant to suggest to such a prospective producer that he should purchase a quota from a producer in the southern areas of the State.

The proposed amendment will enable the Minister to issue a special licence in such circumstances; and the Minister has informed me that only the pastoral areas will be recognised as "remote" and declared as such; and further, that eggs produced will be permitted to be used only in the area in question. The Minister has also indicated that the licence will not be transferable but will cease to have effect should the producer stop egg production.

I commend the Bill to the House.

Debate adjourned, on motion by Mr H. D. Evans.

WORKERS' COMPENSATION ACT AMENDMENT BILL (No. 2)

Receipt and First Reading

Bill received from the Council; and, on motion by Mr Grayden (Minister for Labour and Industry), read a first time.

Second Reading

Leave granted to proceed forthwith to the second reading.

MR GRAYDEN (South Perth—Minister for Labour and Industry) [6.07 p.m.]: I move—

That the Bill be now read a second time.

An urgent need has arisen to cover a situation which has become evident in respect of persons sustaining injury or death through sporting activities.

A judgment of the New South Wales Supreme Court earlier this year had drastic implications in rugby league circles in New South Wales, and confronted sporting organisations with a problem which activated the Governments of New South Wales and subsequently South Australia to take prompt action to amend the Workers' Compensation Acts in those States.

It has been accepted in the past that a person injured whilst performing a paid job should receive weekly compensation for any period of incapacity and payment of medical and hospital expenses. The growing professionalism of sport, with the trend towards some persons earning their livelihood from it, has signalled a fundamental change in its role from a recreational pastime to a type of work.

Until two significant decisions, firstly by the Workers' Compensation Commission of New South Wales, and later on the 22nd February, 1977, by the New South Wales Supreme Court, football players or other paid competitors did not realise that they might validly claim under a Workers' Compensation Act for injuries sustained at sport. Players have assumed risks voluntarily and have been responsible themselves for injury cover although sporting clubs, as finances may permit, have no doubt assisted the individuals to some small extent.

The New South Wales decisions threw onto directors and committee members of clubs a liability to be personally responsible for injured players within the club. By and large, these officials devote their time and energy freely and voluntarily assist in the promotion of sport and should not be placed in a position where the potential for personal financial loss could be enormous.

Mr Davies: They suddenly found they were able to claim. Were they paying premiums?

Mr GRAYDEN: No, they were not taking out workers' compensation for them.

Mr Davies: But they could claim?

Mr GRAYDEN: Yes, on the club officials. The Western Australian National Football League is most concerned about the position in which all sporting clubs are placed, and in a recent deputation to me urged for an amendment to the Workers' Compensation Act in this State to follow the action taken in New South Wales and South Australia. I am assured that the majority, if not all sporting clubs—and this extends to all types of sports—are unable to find the necessary funds to afford insurance and if the position remains unaltered it could stop many sporting activities.

When the Act was originally framed it was not intended to have sporting participants considered as "workers" but obviously they can creep inadvertently within the definition of persons under contract of service by virtue of the control given to clubs under present-day contracts. The type of work for which compensation was intended was that followed for the purpose of subsistence and not one for sport or play despite the remuneration which, today, is often attached to it.

Clubs engage in the running of sports teams, and in a lot of cases, social clubs as well, some as a separate and others as the same entity. They all should insure their regular or ordinary employees such as trainers, masseurs, bar staff, etc., under workers' compensation and no doubt their position is satisfactory where they have done so. In some areas of sport, the Premium Rates Committee has fixed rates to be charged for insurance in respect of all insurance risks under the provisions of the Workers' Compensation Act and those participants should be suitably covered; for example, employees in racing stables, racing jockeys and trotting drivers from weighing out to weighing in, etc.

The two States which have passed amending legislation have applied it for a limited period—New South Wales to the 31st December, 1977, and South Australia at the latest to the 31st December, 1978—whilst other aspects regarding sportsmen are examined. Sportsmen in those States are now excluded from the definition of "workmen" whilst participating as a contestant in any sporting or athletic activity or engaged in training or preparing to so participate. In the meantime, both States will conduct an inquiry to examine the needs of sportsmen and the feasibility of setting up a compensation scheme. Contestants of course can still obtain personal accident policies.

The Workers' Compensation Act in Western Australia is to be amended similarly to what has been done in New South Wales and South Australia. As those two States are both conducting an inquiry into the need for a suitable compensation scheme for sportsmen, Western Australia will await those reports and examine the proposals therein before considering what may be appropriate to Western Australia. Latest information is to the effect that both committees are about to report to the Government of their respective States.

In addition, members may be aware that a former Papua New Guinea judge, Mr G. D. Clarkson QC, has been engaged to consider submissions from various parties on the complex issue of workers' compensation overall and his recommendations in due course will be considered by the Government so the Act can be suitably amended.

Members will note there are a couple of minor amendments to the Act included in this Bill.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Tonkin.

BILLS (13): ASSENT

Messages from the Deputy Governor received and read notifying assent to the following Bills—

1. Flour Bill.
2. Wildlife Conservation Act Amendment Bill.
3. Railways Classification Board Act Amendment Bill.
4. Appropriation Bill (Consolidated Revenue Fund) (No. 2).
5. Administration Act Amendment Bill.
6. Criminal Code Amendment Bill.
7. Offenders Probation and Parole Act Amendment Bill.
8. Securities Industry (Release of Sureties) Bill.
9. Justices Act Amendment Bill.
10. Tourist Act Amendment Bill.
11. Legal Representation of Infants Bill.
12. Suitors' Fund Act Amendment Bill.
13. Veterinary Surgeons Act Amendment Bill.

WUNDOWIE CHARCOAL IRON INDUSTRY SALE AGREEMENT ACT AMENDMENT BILL

Message: Appropriations

Message from the Deputy Governor received and read recommending appropriations for the purposes of the Bill.

Sitting suspended from 6.15 to 7.30 p.m.

HEALTH ACT AMENDMENT BILL

Second Reading

Debate resumed from the 1st November.

MR DAVIES (Victoria Park) [7.30 p.m.]: This Bill proposes to do four things: Firstly, to set a standard scale of penalties for offences under the Health Act; secondly, to provide for local government to put money into health centres, medical buildings, houses, and the like; thirdly, to set up perinatal and anaesthetic mortality committees; and, fourthly, to give statutory recognition to the Public Health Laboratory Service at the Queen Elizabeth II Medical Centre. The Opposition will not argue at great length with any of the provisions of this Bill.

I shall deal firstly with the matters related to penalties for offences under the Health Act. At present there are some 45 pages covering offences, mostly regarding foodstuffs, additives, and the like, and there are varying fines. The fines range from $20 to $100 and $40 to $200. There are penalties of $40 for the first offence and penalties of $100 or six months' imprisonment for a second offence, and there are also fines of up to $400. As far as I can see, no fine is greater than $400.

Some of those fines have been amended in recent years and I suppose the Government is taking the opportunity to bring some of the penalties up to date. Instead of going over those 45 pages of sections the Government is saying that there shall be a set scale and that all penalties will fall within that scale. The scale provides for fines of $50 to $100 for a first offence, $200 to $500 for a second offence, and $300 to $1 500 or imprisonment for a period not exceeding six months for a third and subsequent offences. This is a practical way of approaching the matter, because it is very hard to set a fine for each and every offence, and this Bill will give a magistrate a fair margin.

Members will notice that the minimum fine provided for in the Bill is $50 which compares with a minimum fine of $20 in some sections of the Act. There has been an increase there which we would expect with inflation. The maximum fine for a first offence will now be $100. That compares fairly favourably with the existing Act except for one or two instances where fines may be up to $400. But I think we can overlook those two instances and accept this scale of fines.

Members will appreciate that the fines laid down in the Act are not set penalties—there is a minimum and a maximum—and generally the penalty can range anywhere between the minimum and the maximum and the magistrate can set the penalty according to the offence. The same will apply under the provisions of this Bill in that there is a minimum and a maximum penalty and once again it is left to the discretion of the magistrate to fix the actual fine. This is a much tidier way of setting the penalties; it will be much easier to find out what the penalties are going to be.

A result of the new policy which has been adopted is that 29 sections will need to be amended. Most of those amendments are only minor and instead of a fixed penalty for each offence there shall be a scale of penalties set out in proposed new section 247.

We do not grizzle with that. I think it is a tidier way of doing it. I do not think anybody will be advantaged or disadvantaged because of the change in the system. The fines still seem to be reasonable for the offences and there is always plenty of room for the magistrate hearing a case to fix a penalty in accordance with the charge. We accept the proposition and that is the end of that argument, if it ever turned into an argument.

Another provision in the Bill is statutory confirmation for the Public Health Laboratory Service. When I was the Minister this gave me a great deal of trouble—the member for Subiaco knows this well enough—and we could never get the Government laboratory services and the university to come together. That was a matter of great regret to me.

When I was the Minister I appointed a doctor from Adelaide to inquire into the situation and try to provide a solution. His name escapes me for the moment; I know he is also a Commissioner of the ABC for South Australia. He brought down a report which I never had the opportunity to put into practice, even if I had wanted to do so. Even he was not able to arrive at a solution to the difficulties which existed.

Mr P. V. Jones: You are referring to Dr Hackett?

Mr DAVIES: That is the man, Earl Hackett; I thank the Minister very much. I am sure he could cure the Minister's cold if he were here today. Dr Hackett tried very hard and listened patiently to many people who did not want to find a solution. Despite all the effort he put in, it is a matter of some regret that he was unable to come to an arrangement which would have satisfied all the parties concerned.

I understand that subsequent to that and after a change in staff a better outlook operated at the laboratory and that the two groups came together. It was only proper that they should do so because

it was a scandal that we should have two organisations doing the same work almost cheek by jowl.

Dr Dadour: They are still doing it.

Mr DAVIES: I am sure my colleague from Subiaco will be able to tell us what is going on because he has much closer liaison than I have. If they are still doing it, that is more of a scandal than ever because this situation has been going on for more than four years since I was the Minister. Surely to goodness the people in charge should have some concern for public expenditure. Everyone has read the various reports which show that blood testing and some of the other tests which are carried out form a very large proportion of medical costs these days. If on top of all the tests they have to do the two organisations are fighting over who is going to do what and there is a duplication of services, here is an area that the Government can get into straightaway. I am sure the member for Subiaco will bring us up to date on that and I hope he will if he is going to talk about the Bill, which I understand he is going to do.

We do not oppose the proposition contained in the Bill that the laboratory shall have statutory confirmation which shall extend to the Minister the necessary authority to enter into arrangements with related organisations. The laboratory, which is recognised throughout Australia to be an excellent laboratory, should have this statutory authority and should be able to do work with other organisations by proper agreements. That is precisely what the Bill proposes to do and we do not oppose it.

I repeat—and I will be anxious to hear what the member for Subiaco says—that I hope this duplication of services does not continue. Surely in the past four years, particularly with the change of staff, some of the petty differences should have disappeared and the two organisations should have come together under one leadership doing the jobs they are supposed to do at a minimum cost to the State.

The third matter about which I spoke is the authority which is to be given to municipalities to invest in the provision of medical facilities. The Minister said—

> A local authority will be enabled to apply its revenue including its borrowing powers to promote improved medical facilities.

He pointed out that there is a responsibility on municipal authorities to provide improved facilities, particularly in some of our outback towns. He said that doctors who work in the metropolitan area in effect have it fairly easy because they have all the comforts that the metropolitan area can provide such as hospitals to work in and from, good rooms, and many back-up services. On the other hand, it is often very difficult to attract people to country areas and if local authorities were allowed to spend money on provisions for improved facilities doctors may be attracted to the country. I think that is the summation of the Minister's comments.

I agree with those comments but it will take more than bricks and mortar to attract doctors to the country. This has been a continuing problem for a long time until just recently, and members will remember that we altered the Medical Act last year to put certain limitations on the registration of doctors from outside Australia. That was an indication that there would be too many doctors here and that we had to place some restrictions on them. We knew that we would eventually get enough doctors to meet our needs. According to what I read, there are sufficient doctors within Western Australia to meet our needs but they are not properly dispersed throughout the length and breadth of the State, and on occasions people in northern towns particularly have had to put up with substandard service because of the unavailability of a properly trained doctor. Concessions had to be made for certain areas where a particular doctor was needed and special provisions were made to allow doctors to practise for a certain period. Whilst these doctors are probably quite adequate, the entire service which is provided is less than we should hope to provide in some of our larger towns.

Despite the fact that many local authorities have been reluctant to put money into bricks and mortar for medical services, they have provided considerable sums of money by way of guarantees in regard to salaries. It was nothing for a doctor to find that he could get a guarantee of $20 000 a year. By today's standards that is not very much; according to what I read a few days ago, the average general practitioner is netting about $70 000 a year. That report is from the Eastern States but no doubt it applies in this State also.

Four or five years ago it was quite common for local authorities to guarantee incomes of $20 000 or $25 000 a year to try to attract doctors to their towns, but even then they were very often not successful. It seems now that the report on medical manpower which was brought down in 1974 was fairly factual and that we are getting enough doctors. Indeed, we were embarrassed by the number of doctors coming out of our own University of Western Australia.

Although three or four years ago there was argument as to the number of places which were available for medical students, I think that if we had taken heed of the medical manpower report and kept the number of doctors in accord with what the report recommended, we would not have an oversupply of doctors staring us in the face. What the outcome of that will be I do not know.

It may mean that doctors will be prepared to practise in the country; and it may not be necessary for local authorities to spend as much money on bricks and mortar to attract doctors. The doctors might be prepared to go to the country of their own volition.

When I was Minister for Health, we started to encourage final year medical students to go to country areas for one to three months to see what it was like to practise in country towns, large and small; to see what the general practitioners were doing there; and to find out about the responsibilities they had to face.

I think the country general practitioners have taken a tremendous responsibility on themselves. Perhaps some suburban doctors do not like to practise in country areas, because they are not capable of meeting the crises that they may have to face in those areas. Very often doctors in the country practice on their own, and do not have back-up services. They may have to rely on the services of matrons to assist them; that is, if they are lucky enough to be in a centre which has a hospital.

I do not oppose the provision to give this power to local authorities. It is set out clearly and concisely. My only query is this: Have we the right to give local authorities permission to spend money under the Health Act? I would have thought that if we propose to give local authorities the right to spend money, the power would be given under the Local Government Act because this is the Act which governs what local authorities may do with the money that comes their way.

Unless there is some special provision in the Local Government Act of which I am not aware, it is passing strange to me that we can say to the local authorities, "You can spend your money in this way, and we are conferring this right on you under the Health Act." I am not arguing on this aspect; I am suggesting the giving of power in this manner may be open to challenge at some time. I am wondering whether the matter has been checked with the Crown Law Department. I repeat that generally local authorities are given permission to spend money under the Local Government Act, and not the Health Act. I bring up this point because it is one which the Minister, representing the Minister in another place, can look at. He may be able to check with the Crown Law Department as to whether or not the Health Act contains power to direct local authorities as to what they shall do with their money.

I, for one, would encourage local authorities to spend money to improve health facilities, because by doing so it will not only attract doctors to the area, but also bring about improvements generally for the population of the area, which is another important aspect.

We are all prone to forget the patient. Most of us are concerned about the buildings, the facilities, making the doctor comfortable, and having sufficient hospital beds, but we do not seem to care very much for the welfare of the patients. Many patients, particularly those in the south-west, are deprived of pediatric, geriatic, and ophthalmic and other services, which are readily available to patients in the metropolitan area. However, people in the country who require these services mostly have to come to Perth to obtain them.

Of course, this problem does not arise in areas north of the 26th parallel, because if there is a referral the Government pays the air fare both ways. However, not every patient lives north of the 26th parallel. This means that many people are disadvantaged by having to pay their own fares to and from Perth.

The other factor relates to accommodation. It is very difficult, and at times it is very costly, for these people to obtain accommodation in Perth, particularly when they have to remain in Perth for an extended period. It was my dream as Minister for Health—although I did not get very far with the proposal—to provide cheap accommodation near the large medical centres, so that people who have to come to Perth to receive medical treatment can obtain it near the centres.

At one stage we were looking at the option of using Tresillian Hostel at some time in the future. At the time I thought the position of the profoundly mentally retarded children was higher in priority than that of people coming from the country to receive medical treatment. Although a contract has been entered into with the Nedlands City Council for the acquisition of Tresillian, that hostel could be converted to provide reasonable accommodation for patients coming from the country to Perth to receive medical treatment. I hope that one day I will be in the position to do something about this matter, or perhaps I could force the Government into accepting some responsibility. I think we should provide some kind of hostel accommodation at

reasonably cheap rates. With a certain amount of goodwill and concern for the people in the north, we should be able to do something about it.

The final matter mentioned by the Minister in his second reading speech relates to the perinatal and infant mortality committee and the anaesthetic mortality committee. These committees are separate from the Maternal Mortality Committee.

The Minister said that since the establishment of the Maternal Mortality Committee there had been quite a dramatic drop in the number of deaths. He was very practical in suggesting this was not due entirely to the work of that committee, although he did indicate that possibly it had something to do with the reduction in number.

The three committees will operate along the same lines. The perinatal and infant mortality committee will deal with cases from the 28th week of the gestation period up to one year of age. This committee also will take in the neonatal cases. It covers a very practical area.

The anaesthetic mortality committee will deal with any case arising from the use of anaesthetics. If we look at the work which the committees do, we wonder whether they would be any good at all, because of what might be done to the people who are actively engaged in the particular speciality.

There is a permanent committee, and provisional members who may be changed from time to time to deal with individual cases. According to the Act, they are bound to keep their findings confidential. No names are mentioned, and the work they do does not in any way interfere with the work of the Coroner, or with other procedures that have to be followed under our Statutes. What they are doing is to have a quiet look at the particular death into which they are charged to inquire, and make a report to the committee. In fact, it is a committee of peers which looks at the work being done within the particular speciality.

I do not think there is anything better than to bring a person—whether he be a tradesman or a professional man—up to the mark. I say this, whether the person be a doctor, a school teacher, a politician, a lawyer, or anyone engaged in a trade. There is nothing better than to have such a person judged by his peers.

If a committee of peers says to a doctor, "You are losing too many cases lately. The cases which you have been anaesthetising have not been responding, and you have lost six or 12 patients", the doctor would find out what was wrong. If he was sloppy in his work he would make certain that he smartened himself up. He would make sure that he got rid of any laxity, and did a proper job. A doctor would not want a fellow doctor to tell him he was no good. That is what these committees I have mentioned can do. I think they have a very sobering and salutory effect on doctors.

What is the use of setting up those types of committees, when they have to report to themselves? That is what they are doing; they are examining themselves. I think the government should extend the scope, and introduce general medical auditing. It should set up facilities to examine tissues taken from operations, to determine whether the operations were necessary. Many published figures indicate that where medical auditing had taken place the reduction in a large number of procedures was quite dramatic. We find that instead of 300 appendectomies per year being performed at a certain hospital, the number was reduced to 50.

I do not want to be quoted on these figures, because they may not be accurate. I have in my office the figures to indicate how dramatic has been the reduction in the number of certain procedures where medical auditing has been introduced. That is what is happening. A committee of peers is saying to a doctor, "The appendix you took out was lily white. Why did you remove it?" The doctor would have to explain the position. Perhaps in future he would not be so anxious to take out an appendix if he had any doubt.

At present we have practically no control over the treatment given by doctors. We believe what they tell us is what we need, and so we go along with it. If they say, "Your gall bladder should be removed, because you have pains in the area", the person would invariably say, "Take it out." Half the time there could be some other cause for the pain. Once the gall bladder is removed, who will be able to say that it was necessary to remove it? Only the people at the operating table would be able to say whether or not the doctor had made a blue. The doctor would not say on the next day that the gall bladder he took out was quite all right, and that he was sorry he had taken it out. That kind of situation does not develop, and that is why we need medical auditing. If we had this on an extensive scale at our hospitals we would find—as has occurred in other places—a dramatic drop in the medical procedures carried out.

Dr Marlene Lugg is a medical statistician, and she has done a tremendous job in the Medical Department on the nature of the statistics which she was able to gather. Some time ago she gave a talk and indicated quite dramatically that there

was a need for this type of medical auditing. I have a copy of that talk on my file; I think I picked it out of a magazine.

In the two cases mentioned by the Minister, the Maternal Mortality Committee seemed to have had some salutory effect on that aspect of the medical profession. He also said that requests over a long period of time had been put forward for the establishment of the anaesthetic mortality committee and the perinatal and infant mortality committee. These are three areas in which the inquiries will do a lot of good, not only in watching the work carried out by doctors, but also in furthering general medical science and research.

So, we do not oppose this measure in any way. All I would say about it, of course, is that there could be argument on the way the committees will be set up. We could get into an argument on that aspect when we reach the Committee stage.

As I understand the situation, generally the Bill mentions a medical practitioner specialising in obstetrics and gynaecology, and in regard to the anaesthetics committee there is reference to a medical practitioner specialising in surgery, nominated by the State branch of the Royal Australian College of Surgeons. There is mention of various people specialising in certain spheres.

I understand that anyone can hang up a shingle and call himself a specialist. There are no laws in this State requiring that a person shall reach a certain standard before he can call himself a specialist. I believe that in the field of anaesthetics there are people who call themselves specialists who have never risen higher than obtaining the ordinary medical degree. The only expertise they have—if it can be referred to as expertise—is that gained by regular practise over a period of up to 20 years. No-one will deny that they are not specialists, but who is judging their competence? It appears anyone is able to call himself a specialist if he convinces his fellow doctors that he is a specialist, and is able to get some work from them. He is able to charge higher fees, and with the effluxion of time is able to set himself up as a specialist doctor in that field.

In the absence of any law in this State to require special qualifications before a person can call himself a specialist, whether in obstetrics or anaesthetics or any other field, we ought to adopt the Commonwealth National Health Act requirement which stipulates that a person shall call himself a specialist only under certain conditions. I am not sure of those conditions, but it is a period of something like five years' training and the obtaining of certain degrees.

It could be argued that the people who will nominate persons for appointment to the committee—the State branch of the Australian Council of the Royal College of Obstetricians and Gynaecologists, the Royal Australian College of General Practitioners, and the Australian Society of Anaesthetists—will nominate the best available. However, there is no guarantee. There could be a doctor getting a bit old who perhaps was never much good. He might decide to retire from practice and pick up a few dollars by being appointed to one of these committees. His fellow doctors could say to him that this was a fairly easy job, and as he had been a long time in the profession, and would know all the lurks, he could have the job. But he might not be the best person available.

I endorse the idea of setting up specialist committees but we must be sure that the best people available are appointed. For that reason I say that there could be some argument in regard to the representation on the anaesthetic mortality committee and the perinatal and infant mortality committee.

Another matter which worries me—and I am sure it worries my colleagues who are medical men—is the definition of "anaesthetic". There is no definition in the Act. There is reference to death following anaesthetics, but as I understand the situation an anaesthetic is not just an injection or the administering of some gas. I read somewhere recently that anaesthetics was a journey into death, and that could be very true indeed!

There are other forms of anaesthetics. It is possible to have a local anaesthetic, and there is also acupuncture which is becoming more widely used. Apart from anaesthetics there is analgesia and I believe in certain circles that would be classed as a form of anaesthetic, particularly when used in the relief of pain. I do not know—and I have not had time to find out—whether there needs to be a precise definition of "anaesthetic".

Will the anaesthetic mortality committee inquire into a death caused by a combination of the effects of anaesthetics used for a special operation? There could be a combination of analgesics, acupuncture, and hypnosis—which is another form of anaesthetic. The measure seems to be fairly vague. Will a death arising from any of those procedures require an inquiry by the anaesthetics mortality committee?' If it does, then I will be quite happy. I want the committee to be able to range as wide as it possibly can; I do not want the medical profession to dodge its responsibility—or the committee to dodge its respon-

sibility—by saying that something is not covered precisely by the Act. We have to know we will be able to use the committee to the best possible advantage and for that reason we need to be fairly precise in defining "anaesthesia".

As I said earlier, we may have some argument during the Committee stage with regard to the composition of the two committees. At this stage, I am happy to say that the Opposition is quite prepared to support the Bill.

Debate adjourned, on motion by Dr Dadour.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 1st November.

MR HODGE (Melville) [8.07 p.m.]: The Opposition has no objection to this Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by Mr O'Connor (Minister for Water Supplies), and transmitted to the Council.

TRANSPORT COMMISSION ACT AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

LEGAL AID COMMISSION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd November.

MR BERTRAM (Mt. Hawthorn) [8.11 p.m.]: If ever there was a Bill which indicated as clearly as possible the slapdash methods of this Government, it is this particular measure.

There are "only" 30 clauses in it, to amend a principal Act comprising only 78 sections, which was before this Parliament only a few months ago. If ever members wanted ample testimony and acknowledgment of a Bill which became law, and which never should have become law, it is the principal Act which is the Legal Aid Commission Act, No. 143 of 1976.

Members will recall the circumstances in which the Bill for the parent Act was brought before Parliament. It arrived at 2.49 a.m. on that memorable anniversay—that ominous day—the 11th November, 1976.

Whilst the Opposition protested about it, it was obliged to debate the Bill the following Tuesday; that is to say, the 23rd November, 1976. Remembering of course, at that time of the year members are flat out in the Parliament and elsewhere, and remembering also the significance of this legislation, members will appreciate just how unfair that whole deal was.

The Opposition was left in the situation where it could not properly consider the Bill and was, therefore, at a distinct disadvantage when it came to debating it. In fact, the position simply was that the Government had made up its mind that the Opposition, on that particular Bill—the principal Act—was to be denied its proper role in this place; namely, its legislative role.

Why the grossly unfair conduct in this regard? Why the obscene haste? What was all this about? Well, there was an election coming up shortly thereafter; the House was about to be dissolved for a general election and apparently the Government, not worrying about the expense involved or the other aspects of its manoeuvre, decided this was an Act it wanted passed. It wanted to get the Legal Aid Commission established. It was supposed to come into operation on the 1st July, 1977. Therefore, it was absolutely imperative that we debate the measure in that slapdash way back in November, 1976.

The background to the situation at that time should be remembered also, because the commission is designed substantially to take over the Australian Legal Aid Office. As members will recall, that office and service were established by the Whitlam Government, and it was a service which was supported overwhelmingly by people all over Australia. There has been little if any Government action over the last decade or two which has brought forth such tremendous support and response. Notwithstanding that acceptance by Australians—I think from a Gallup poll something like 90 per cent of the population favoured the service—back in 1976 the State Government decided it would put paid to that idea and that the State would move in. The present Government had no mandate for doing so, any more than it had a mandate for doing many other things.

Having denied the Opposition its proper function of examining the legislation, perhaps bringing in amendments and discussing them, and putting

the slapdash principal Act into something like reasonable order, it seems now that the Legal Aid Commission itself has taken over and played the role which in any dignified Parliament with any self-respect would have been fulfilled by the Opposition in a proper way.

The Legal Aid Commission has now had the best part of a year to look at the principal Act, and it has certainly done a job on it. As I have pointed out already, almost half of the provisions of the principal Act are to be amended by the Bill before us, and the Legal Aid Commission still has not operated although it was supposed to have commenced operation on the 1st July of this year.

Then in the last paragraph or so of his speech in introducing the Bill, the Chief Secretary said—

> The basic amendments have been agreed with the Commonwealth Attorney-General and it is hoped that the passage of the Bill will now facilitate the commencement of operation of the new comprehensive legal aid scheme.

Still no date has been given, and heaven only knows when the commission will commence to operate. I suppose that is yet another secret. As I understand it no date has been fixed, and as I have indicated, the Chief Secretary merely expressed the hope that one fine day the Legal Aid Commission Act may start to take effect and that the scheme for legal aid assistance will get under way.

When one looks at the amendments in the Bill which have become necessary because of certain elements in the Principal Act, we find that nearly all the provisions are reasonable, essential, and necessary; in fact, provisions which should have been in the original Bill. Therefore, the Opposition does not propose to oppose this measure. The Opposition hopes that the Chief Secretary's hopes may be justified, and that the Legal Aid Commission will go to work in the near future instead of being delayed even longer.

It appears to us that this is a Committee Bill in so far as there is any need for real discussion at all. However, it is important that we place on record the sort of shambles that this Parliament occasionally becomes when the Government decides it will do something and that it will not give members of the Opposition or anyone else within the Parliament an opportunity to fulfil their proper functions. As I have indicated, the Opposition supports the Bill although we may make some further comments during the Committee stage.

(100)

MR O'NEIL (East Melville—Chief Secretary) [8.21 p.m.]: Again I want to thank the honourable member for that part of his speech that supported the Bill. He is probably right in some respects when he said it has taken a fair amount of time to have the details of the Act examined and amended. However, I suppose that is commonplace when one is dealing with law by lawyers, designed for lawyers, because it seems to me it is very difficult for these people to get together and come to a decision fairly rapidly. So I suppose that is one of the reasons that the negotiations between the State and the Commonwealth which we indicated would occur have taken so long to come to fruition. In all probability this has happened because the Standing Committee of Attorneys-General meets on a three-monthly basis with working parties meeting in between times. Those of us who have attended ministerial meetings know that the period between meetings sometimes inhibits the early action on decisions made at various meetings.

The Legal Aid Commission and those who are to serve on it seem to have done the task which the honourable member says should have been the task of the Opposition. While it may be true that there was little time for the Opposition to consider the parent Act last November, it cannot be said that there has not been time for the Opposition to consider amendments which it is quite entitled to move by way of a private member's Bill if it is so inclined. Apart from those facts, I thank the honourable member for his support of the Bill, and I commend it to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Blaikie) in the Chair; Mr O'Neil (Chief Secretary) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Section 9 amended—

Mr BERTRAM: This clause provides that the director is required not to be present at a meeting of the commission during any deliberations with respect to a matter referred to in paragraphs (b), (c), (d), or (e), of subsection (3) of section 18.

So far as I have been able to determine, there is nothing in the parent Act or in the Bill setting out a penalty if this particular provision is not complied with. If I am incorrect, perhaps the Chief Secretary would be good enough to identify

it. It seems to be something of an absurdity to have a provision in the legislation saying, "Thou shall not do something", without having a follow-up provision to say, "If you breach this, the following consequences shall flow." If the Minister cannot refer me to such a provision, my belief is that this particular clause is inadequate. Whilst it conveys a worth-while intention and policy, it does not go the proper distance.

If we have this type of provision without setting out the consequences if it is breached, then substantially we are wasting our time. The Government is trying to do the right thing by the people, but in fact it would not be doing the job properly at all.

Mr O'NEIL: The director is in fact an officer rather than one of the commissioners, and the provision is that he shall not be present at a meeting while the commission is discussing certain matters which appear in the parent Act, unless the members of the commission otherwise determine.

The director, being an officer rather than an appointed person, is subject to all the rules and regulations in respect of his behaviour that apply to any other servant, so there is remedy available there. If he were a member of the commission, the parent legislation contains a provision indicating the reasons that people shall not continue to serve or that they should be disqualified from serving.

In the very short time available to me I have not been able to check this matter, but almost invariably such parent legislation contains an overall penalty clause relating to breaches of the Act. I suppose that could be called a dragnet clause. I admit I have not had the time to check whether this appears in the legislation, but I would be very surprised if it does not.

Clause put and passed.

Clause 7: Section 9A added—

Mr BERTRAM: This clause is to add a proposed new section which reads as follows—

> 9A. (1) Any member who has a direct or indirect pecuniary interest in any matter that is being considered or is about to be considered at a meeting of the Commission, otherwise than as a member or creditor of, and in common with the other members or creditors of, a public company of which he is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to those present at the meeting.
>
> (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Commission.

My concern in regard to this clause is similar to that expressed about clause 6. What is the position if a member with a pecuniary interest is required to disclose his interest under proposed new section 9A, but he does not do so or, having disclosed his interest, the disclosure is not entered in the minutes as proposed subsection (2) requires?

If once again there is merely a rule laid down with no consequences to flow from that rule should there be a breach, the provision is not up to standard. It would appear that a person could wittingly or unwittingly breach section 9A of the Act without suffering any penalty or correction. That seems to be quite absurd. So, unless there is buried away in the principal Act or somewhere else a follow-up provision, it seems to me that this provision is incomplete and, to that extent, far less effective than it should be.

I believe that these days the public are far more interested in this type of provision than they used to be because the rat race now is careering along at such a bat that more and more people seem to derive satisfaction from finding loopholes in the law and exploiting them than used to be the case. There used to be the desire—and I think it still exists in many people today—not only to try to comply with the law but also to try to do the right thing by the spirit of the law.

However, there are others who believe it is clever to lawfully exploit the law. Even centuries ago people were abusing laws which were established to protect the people, in such a way that they could lawfully exploit the very people who were really intended to be protected by a particular piece of legislation.

If we are to have this type of provision, it is most essential that it be effective and that there is some follow-up provision to ensure that any breach will bring about some suitable, satisfactory result, and that we will not simply have a rule which says that a person should not do something, without a following rule which suitably deals with a breach of that provision.

Mr O'NEIL: The remarks I made previously apply similarly to this clause. I have the parent Act with me and in the limited time available I have been thumbing through it. All I can find is the general provision for the Legal Aid Commission to establish within the ambit of this Act, rules which set out all kinds of things, included amongst which are rules imposing a penalty not

exceeding $100 for breach of any of the rules. Whether those rules are the ones which will apply to the behaviour which is laid down in the Act, I am not too certain; I cannot imagine that the rules could be any more explicit than the requirements of the parent Act.

However, the member for Mt. Hawthorn can rest assured that I will bring his comments to the attention of the Attorney-General, and perhaps he may provide him with an answer at a later date.

Clause put and passed.

Clauses 8 to 29 put and passed.

Clause 30: Section 68 amended—

Mr BERTRAM: This clause touches upon section 68 of the principal Act, which speaks of agreements which from time to time may be entered into between the Commonwealth and the State. The clause enlarges the area in respect of which such agreements may be entered into.

The Opposition would like to know what agreements, if any, have been entered into between the Commonwealth and the State, and whether those agreements could be made available to the Opposition for perusal.

Mr O'NEIL: Once again, I will request the Attorney-General to take note of the remarks of the member for Mt. Hawthorn, and provide him with the information for which he asks.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr O'Neil (Chief Secretary), and transmitted to the Council.

CRIMINAL CODE AMENDMENT BILL (No. 3)

Receipt and First Reading

Bill received from the Council; and, on motion by Mr O'Neil (Chief Secretary), read a first time.

Second Reading

Leave granted to proceed forthwith to the second reading.

MR O'NEIL (East Melville—Chief Secretary) [8.39 p.m.]: I move—

That the Bill be now read a second time.

In 1975, the Criminal Code was amended to include a new section 14A which had the effect of extending the operation of the criminal law of the State for up to 100 nautical miles from the Western Australian coast.

Since then, Queensland, South Australia, Tasmania and Victoria have extended their boundaries of jurisdiction for varying distances depending on their own individual circumstances.

However, since the passage of this legislation, the question of the application of the criminal laws to the offshore area has been the subject of discussions at the Standing Committee of Attorneys-General and a subcommittee was formed to consider the situation arising from problems of applying the criminal law from low-water mark out beyond the territorial sea to the high seas.

It was apparent that some accommodation must be reached between the States and the Commonwealth rather than that there should be any question of confrontation.

This is in line with the new federalism policy of the Commonwealth Government and with the policy adopted in this State of endeavouring to co-operate on a mutually agreeable basis with other Governments in order to resolve problems of a practical nature.

It is hoped that a uniform approach to the question will soon be agreed upon by all Australian Governments and will be the subject of legislation later next year.

In the meantime, however, it is important that there be no doubt as to the efficacy of the measures taken by this Parliament in 1975 to extend the criminal law of Western Australia into the offshore areas.

The effect of this Bill will be to confirm, albeit in a different way, the provisions of the section 14A enacted in 1975. Recent decisions of the High Court have suggested that the present provision could be improved.

The SPEAKER: Order! I respectfully suggest to the Chief Secretary that he is addressing his remarks to another Bill. The Bill which is the subject to Legislative Council message No. 65 is the Criminal Code Amendment Bill (No. 3), but the Bill to which the Chief Secretary is referring seems to be dealing with offshore matters.

Mr O'NEIL: The two pieces of legislation are complementary.

Mr Jamieson: Cannot we have a cognate debate?

Mr Clarko: Not yet.

Mr O'NEIL: The reason I was rather remiss on the last Bill was that the messages received from

the Council were in the incorrect order. I will proceed with the second reading of the Criminal Code Amendment Bill (No. 3).

In the first place, it applies the criminal law of Western Australia to all persons within three miles off the coast of the State. This merely reaffirms the operation of the law as it has always been believed to be in those days prior to the decision of the High Court in the Seas and Submerged Lands Act case, when the immediately adjacent waters were thought to be part of the State.

In the second place, it applies the criminal law of Western Australia to all persons within the territorial sea of Australia which is adjacent to the State as that territorial sea may be defined from time to time. It is thought to be desirable to specify this area separately from the three-mile limit to which I have already referred, because those waters, although no doubt they do overlap to a large extent, do not necessarily coincide now and almost certainly will not do so in the future.

In the third place, the Bill applies the criminal law of Western Australia within 100 miles of the coast to those persons connected with the State or who commit offences against the person or property of persons connected with the State.

As I have said, the Bill is designed primarily to confirm the intent of the Legislature as expressed in the 1975 enactment, and to do this by a more precise delineation of the adjacent offshore area.

The constitutional authority of the Parliament to enact this measure is found in the fact that it is a law for the peace, order and good government of the State. The delineation of the adjacent offshore area as contained in the Bill has been deliberately drawn in that way so as to facilitate a vindication of the measure should its validity be challenged.

The opportunity also is being taken to insert an averment provision designed to facilitate the processes of proof of offences in the offshore area, and to ensure that no person will become liable to punishment a second time for the same acts or omissions.

Another measure also is to be submitted for the consideration of the House which will have the effect of extending the operation of the civil laws of the State to the outer limit of the territorial sea as it may be from time to time. It is not considered to be necessary at this stage to extend these laws beyond that area.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Bertram.

OFF-SHORE (APPLICATION OF LAWS) BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr O'Neil (Chief Secretary), read a first time.

Second Reading

Leave granted to proceed forthwith to the second reading.

MR O'NEIL (East Melville—Chief Secretary) [8.46 p.m.]: I move—

That the Bill be now read a second time.

This Bill is complementary to the Criminal Code Amendment Bill (No. 3).

It is designed to ensure that the general law of the State will continue to operate within the territorial sea adjacent to the State in the same way as it was always believed to operate prior to the decision of the High Court in the Seas and Submerged Lands Act case to the effect that the territorial limits of the State ended at the low-water mark.

Quite apart from the proposed extension of those limits to embrace the territorial sea, as recently agreed at the meeting in Canberra of State Premiers and the Prime Minister, the Legislature has the power in legislating for the peace, order, and good government of the State to extend the operation of its laws in this way.

It is desirable that this extension should take place without delay.

Members will note that the Bill will not affect any existing laws which already prescribe their area of operation beyond those proposed in this Bill.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Bertram.

RESERVES AND ROAD CLOSURE BILL

Second Reading

Debate resumed from the 3rd November.

MR BARNETT (Rockingham) [8.48 p.m.]: This is another Bill that was brought forward on Thursday of last week only. I understand it is a fairly normal procedure for the Government to bring in a Bill of this nature during the last stages of a session. However, this measure concerns changes to the status of 15 reserves throughout the State ranging from Albany in the south to Onslow in the north.

In the time allotted to me it has been very difficult properly to assess whether the Opposition can in fact agree with these changes; it has not been difficult but impossible. In future, I

would hope that Governments while considering bringing in such legislation at a late stage of a session will give the Opposition more time to consider more fully whether such changes in status are warranted.

Mr Bertram: That is a vain hope.

Mr O'Neil: It has been going on for 70 years.

Mr BARNETT: I do not think my plea will fall on deaf ears because I know the Government listens with great interest to what I have to say.

Basically, what I have been able to do is contact each shire involved and determine whether what the Minister has told us is going to happen and I have found in the majority of cases it is so. So the Opposition will not be opposing the Bill in general, but I would like to point out there are three of the 15 changes which I would like to discuss in Committee.

The only request I make at this stage is that the Minister consider in future sessions, when introducing Bills of this nature, to give the Opposition more time to assess them properly.

MRS CRAIG (Wellington—Minister for Lands and Forests) [8.50 p.m.]: I regret that the honourable member feels he has not had time to study the Bill. He was afforded the courtesy of a very detailed description of each amendment to any reserve and the cancellation of any reserve. I am sorry the honourable member had to go to the trouble of discussing the matter with the shires because had the member asked me I could have told him that no changes had taken place without prior consultation with the shires. Indeed, where the reserves are vested in the shire the shire's approval is necessary before any such action can take place.

I believe it would be pertinent for me to answer any specific questions the member has during the Committee stage of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Watt) in the Chair; Mrs Craig (Minister for Lands and Forests) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Reserve No. 29151 at Horrocks Beach—

Mr BARNETT: Even though the Minister assured me she would have discussed these changes with me had I contacted her I felt it was my responsibility to check with the shires and make sure of the situation. I am glad I did because reserve No. 29151 at Northampton, which involves 4.8 hectares, is a special case. Normally one would not be worried about such a small area which is for a golf course, an oval, four tennis courts and perhaps a future bowls area. The shire will be getting assistance from the Community Recreation Council for this work and in fact the work is presently ongoing. I am sure the shire involved is going ahead with the best wishes of the people of the area.

My concern is with the precise location of this reserve. From my understanding of the conversation with the shire council the area is only about 50 yards from the beach. Members who take cognisance of advice received from the EPA, especially a recent report—I do not know but perhaps it may even have been commissioned by this Government—will know that it recommends that areas within one kilometre of the coastline should be preserved in their present state.

That is not a decision made by the Government; it is only a recommendation, but when one has a responsible body such as the EPA bringing down such recommendations it is not the task of the Government quickly to whip in and approve of reserves like this. Surely there is another area in the shire that would have served this purpose just as admirably. The area concerned comprises sand dunes which we should be conserving for future generations.

Mrs CRAIG: I indicate that Horrocks Beach has a continuing problem and the area is a very fragile one. The area has been cleared of a settlement and has reverted to the best use possible for which it has been reserved. This change will prevent the area from being spoilt.

The area in question where the change will be made is now used for recreation and camping and is considered to be an area not environmentally fragile and suitable for the purpose for which it is now designated. I am unable to indicate whether in fact consultation did take place with the Environmental Protection Authority in this instance. However, I will undertake to ascertain tomorrow whether consultation did take place and I will let the member know so that he can relay the information to his colleagues in the other place.

When such changes are being considered it is usual for consultation to take place between my department and the EPA in order to ensure that the proposed use of the reserve will meet the best interests of the community in general.

Clause put and passed.

Clauses 5 to 7 put and passed.

Clause 8: Reserve No. 23904 at Pemberton—

Mr BARNETT: This may seem a frivolous query but on reading the Minister's second reading speech my initial reaction was one of surprise to find that this was an area in the middle of the town set up some years ago for the purpose of conservation of some bushland. I was concerned to hear that the purpose of the reserve was to be changed. However, on checking I found that the area contained something like two red gums, a couple of beetles, and an odd beer can or two.

I would like an assurance from the Minister that although this is only a small reserve to be changed, any similar reserves in other towns should not be used for other purposes.

Mrs CRAIG: I make it clear that the Fisheries and Wildlife Authority was consulted prior to the change in this reserve and it had no objection at all. I can assure the member this is the practice generally followed and there would be no thought of changing a reserve for the mere fact of fitting in with the community unless we were assured that the use of the reserve for which it was first set aside was no longer considered of paramount importance.

Clause put and passed.

Clauses 9 to 11 put and passed.

Clause 12: Reserve No. 11059 at Doodlakine—

Mr BARNETT: I think the change of status of this reserve also involves the Minister for Local Government. The area concerned was originally set aside as a parkland and the reason for changing its purpose is that the shire has used the area as a rubbish tip.

Mr Blaikie: No it hasn't.

Mr BARNETT: According to the Minister's notes it is used as a rubbish tip. It has been used as a rubbish dump to such an extent that it can no longer be treated to make it revert to its original state. I want to say that the Minister for Local Government and the Minister for Lands and Forests should confer on these matters to ensure that areas set aside as parks and reserves are not used as rubbish dumps by anyone. Action should have been taken long ago in this matter if it was obvious, as it must have been, that this sort of thing was occurring. The situation is not good enough. Action should have been taken to ensure that the area was not used as a rubbish dump.

Mrs CRAIG: I am quite sure the honourable member would concede that in some country areas—in fact in all areas—some genuine mistakes can be made. In respect of the reserve at Doodlakine which was used by the local community as a rubbish dump, when someone checked the maps at the shire it was found that the area had been wrongly used. However, it has now been decided that while that section of the reserve has been cancelled, another area which is an area of most attractive bushland previously set aside as a sanitary site is to be added. Therefore, no parkland has been lost to the State; in fact, we now have a greater area available in a much better condition than the previous area.

Clause put and passed.

Clauses 13 to 16 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mrs Craig (Minister for Lands and Forests), and transmitted to the Council.

MAIN ROADS ACT AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

STAMP ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd November.

MR JAMIESON (Welshpool—Leader of the Opposition) [9.04 p.m.]: As the Treasurer explained the other night, this is a Bill concerning the *ad valorem* stamp duty assessment on sales of land. In recent times some people have found ways to overcome their responsibility to meet their proper *ad valorem* stamp duty—this was particularly so in the court case involving the Barrow Linton people. This has highlighted the fact that there is a loophole in the law. The Treasurer said that it is estimated that an amount of $1.2 million has not been paid, and this could be $5 million when all the rabbits start to run through the hole in the fence and consequently it is high time that action was taken to repair the fence.

When the new provision applies, any options of agreements will be subject to stamp duty when transferred to the option holder. Therefore those involved will not get out of paying the full duty. It has been indicated that provision is made for certain procedures if the option is not proceeded

with. In these circumstances when the property reverts to the original owner, subject to an amount being deducted for the option agreement, the Commissioner of Taxation will be empowered to repay the amount which has been paid in *ad valorem* stamp duty.

During the course of his introductory remarks the Treasurer indicated that under British law a person was not expected to pay any more than he could get out of paying. I do not know whether this is good or bad British law. We like to think that the example set by British law is good, but examples where people try to get out of contributing their just requirements to the public purse are not very good. Indeed, they indicate that the morality of business undertakings which indulge in these practices—whether or not they be legal or whether they be avoidance or evasion, call them what we will—is in question.

The Acts were never designed to allow these things to occur. The consequence is that someone else will have to pay an equalising amount to make up for the revenue which was expected to come from this source, but which has not been forthcoming because someone has avoided or evaded paying what he should pay, whether it be income tax or tax in any other form.

We should not condone people who are inclined to try to break the law, even though it may be a legal breaking of the law—in other words, a mild breaking of the law—as a result of their finding a way to avoid paying their rightful tax.

It is interesting to note that the Government does not seem to have been very consistent on this matter over the years because in 1974 it amended the Death Duty Act deliberately to provide privileged people with escape avenues. Previously the Tonkin Government closed the loophole which existed, but it was reopened when the change of Government occurred.

It is also interesting to note that on page 14, the fourth annual report of the Taxation Department, tabled by the present Treasurer, pointed out that the new Death Duty Assessment Act contained sections providing additional relief, and that the new section to improve administration ensured equity and protected revenue. That section reverted to the old situation under which the revenue was able to run through the sieve.

So while the Government moves in one direction at one time, it is obvious from its record that it has moved in several other directions at another time to enable people to find a way to evade making just payments; and usually these people are the more skilled operators—land operators, legal operators, accounting operators, and so on—who have the finance to enable them to afford the best possible advice. By this means they are able to escape the duty while those who have a lesser chance of obtaining such advice have to pay the full amount.

I realise that in all forms of taxation—be it personal taxation or any other kind—the maximum deductions are usually claimed. Sometimes people claim more than they should and often the Commissioner of Taxation catches up with those involved. However, there is a general tendency to pay as little as possible. So, although our British system is so often referred to, I believe that is a rather objectionable system.

However, as we are not able morally to rearm the whole of the population, I suppose the only other way to overcome the situation is to ensure that the various Acts which require the payment of tax—be it stamp duty or whatever—are as watertight as is possible to provide for the least avoidance, and certainly all evasion. The perfect Act could never be designed because the smart operators will always find some loophole. It is a pity we could not have written into Acts an "E & O E" provision so that when an error or omission was realised, the justifiable amount could be claimed from those people who tried to avoid payment.

As far as the proposed amendment is concerned, the Opposition supports it. We hope that it does close the loophole sufficiently to ensure people can find no other way around the requirements of the Act. If it does this it might make some dishonest people a little more honest and induce them to meet their obligations.

MR HASSELL (Cottesloe) [9.12 p.m.]: I rise briefly to support the Bill. It is a surprise to me that the Leader of the Opposition and other Opposition members should indicate a lack of understanding of the distinction between "avoidance" and "evasion" in matters of taxation. The Leader of the Opposition made a statement to the effect that it was in some way immoral to avoid paying tax.

Opposition members: Hear, hear!

Mr HASSELL: If that statement were taken to its logical conclusion it would mean that if when a man is contemplating taking out life insurance, one of the factors being considered by him in determining whether or not he should take out the assurance is the fact that if he does

so he will therefore gain a taxation deduction—nowadays it is a rebate—thus avoiding payment of more tax, he should not take out the life assurance. That is the logical conclusion of what has been said by the Opposition.

Mr B. T. Burke: If that is the sole reason, certainly it is. If it is one of the reasons, it is a factor to be considered.

Mr HASSELL: It is quite ridiculous to imagine people should arrange their affairs to pay taxation when they can, by simple rearrangement, pay less. Surely it is a good British law and not a bad one, as suggested by the Leader of the Opposition, that says to the citizen that unless the State enacts legislation which states sufficiently clearly that he must pay tax, he should not pay tax. However that is a point which could be more fully debated at another time.

I support the amendment as an interim measure. I am glad to hear that some general review is to be made of the Stamp Act which is an old piece of legislation. It has caused considerable difficulty to the legal profession and if it is updated it will be of assistance.

The particular point to which I draw the attention of the Treasurer is that there appears to be some slight deficiency in the action being taken under clause 2 to amend section 73 of the Act.

As I understand the matter, that clause is directed to closing up the use of the bare trust as a means of avoiding the payment of stamp duty. Section 73 of the Act provides that every transfer or conveyance whereby any property is vested in any person shall be treated as a conveyance of sale and therefore charged with *ad valorem* stamp duty. It then goes on to say in a proviso that a conveyance or transfer under which no beneficial interest passes in the property conveyed or transferred is not to be charged with duty higher than $1.

So the method used to avoid payment of duty has been for a simple transfer to be made to a trustee of property, and as it is a bare transfer with no passing of beneficial interest, often in a situation where a man transfers property to his family trust or under some trust arrangement, that is a bare trust and the duty is $1. Action is then taken outside the State to relinquish the beneficial interest as well. So, the transfer having been made for $1, and the property standing in the name of the intended beneficiary, something then happens outside the State, and therefore outside the jurisdiction of the revenue laws of the State and of the Commissioner of State Taxation, which passes the beneficial interest as a separate exercise and no duty is payable on that transaction.

Clause 2 of the Bill intends to stop up that gap by providing that the commissioner must be satisfied, on the presentation of a conveyance or a transfer, that a beneficial interest does not pass. It simply inserts the words "in respect of which the Commissioner is satisfied that", then it goes on, "no beneficial interest passes in the property conveyed or transferred".

It seems to me that if on the first day of a proposed transaction the intending transferor prepares a transfer by way of a bare trust to the intended beneficiary and presents that to the Commissioner of State Taxation, the commissioner says, "Satisfy me that no beneficial interest passes under this transfer; let me have a declaration that no beneficial interest passes under this transfer", and the transferor is able to make that declaration. He says, "Under this transfer no beneficial interest will pass; it is simply a transfer which I present to you for a $1 duty stamp." The commissioner must accept the declaration.

I suggest a court may require the commissioner to accept, on the evidence before him and on the basis of the facts as they are, that no beneficial interest passes under the transfer in question. Therefore the commissioner can be forced, if this section is applied, to stamp the transfer in question for $1, notwithstanding the amendment. When the stamping is complete, say, a week later, the transaction outside the State can still take place and the beneficial interest can pass over to the intended beneficiary. Thereby the payment of stamp duty is avoided again in that type of transaction, notwithstanding the amendment.

I draw that point to the attention of the Treasurer, because I appreciate it is intended to stop up a gap, and if I am correct and it does not stop up the gap, perhaps the amendment requires further consideration.

MR BERTRAM (Mt. Hawthorn) [9.20 p.m.]: It has been said by very high authority in the legal world that the law is in a state of crisis, not only in Australia but also in other comparable countries. Some people have written at considerable length giving reasons for saying this. I would think one of the reasons they could easily include—and it may already have been included—is the loss of respect for the law by smart manoeuvres which happen to fall within the law, but that is about as much as one can say about them.

Smart manoeuvres do not enhance the law any more than do the smart manoeuvrers who try to pick up a quick quid. As a matter of fact, if I had my say, I would be inclined to create an

award of honour for these super-smart alecks and they would get "SSA" after their names.

The position here is that for years ordinary citizens have been prepared to give effect to a certain transaction in a certain way to comply with the law and give effect to the spirit of the law. In recent times a taxpayer named Barrow Linton decided that was not good enough for him. Apparently he was not a poor person; he was in the process of conveying land worth $1 million, more or less. Nonetheless, he set about following a certain course of action and drove through the so-called loophole in this Act, thereby saving himself hundreds or thousands of dollars. It appears the Treasurer thinks that is okay, but unfortunately, with the advent of a Supreme Court hearing and the publicity given to a judgment, the loophole has now become apparent to everybody, so we had better close it—not because of the merit of closing it so much as—

Mr Young: Are you suggesting the Treasurer was privy to the personal operations of this man?

Mr BERTRAM: Good gracious, no! I do not even know whether he knows the man. I imagine he comes from the Nedlands electorate, but I do not know whether the Treasurer knows him.

Mr Williams: That is a ridiculous statement.

Mr BERTRAM: So it became popular knowledge that there was a rort on in the law, and we are now to close the gap. We will have a position where two or more people—I imagine only a small number—will make money out of their avoidance while I and the people I represent will have to pay for the shortfall in consequence of it. I do not know what the figure is, but let us say $2 a head for 500 000 Western Australians. That is the effect of it.

The Treasurer was kind enough to draw to my attention the distinction between avoidance and evasion. I am grateful for that. As he did so, I though he almost chortled the remark that one can be a tax avoider, except that he is on record as saying we should not encourage tax evaders or tax avoiders. Yet here we are doing precisely that. Here is a person conveying $1 million-worth of property and instead of paying $1 000 or some hundreds of dollars he gets out of it for a mere pittance.

Through the years that kind of thing has been regarded as rather clever, and a legal practitioner who can manoeuvre like that is regarded as being fairly good. But I am suggesting that with the awareness of the public improving, compared with what it was last century, this kind of thing will be frowned upon and will be regarded as thoroughly reprehensible.

Mr Young: In other words, you completely agree with what the Government is attempting to do.

Mr BERTRAM: I certainly do not.

Mr Young: Do you think we are trying to open it up or close it up?

Mr BERTRAM: In nearly everything we do—

Mr Young: Would you like an adjournment so you can read it again?

Mr BERTRAM: I would like an adjournment because I have some questions coming up tomorrow concerning this matter, the intention of which was to enable me to debate this Bill in a proper fashion. However, as the Bill was introduced only last Thursday and has come on today, I am denied the opportunity to have the answers to my questions before the debate. So I am once again placed at a distinct disadvantage because I do not have before me the facts which I think I should have. In any other court I would be permitted to have this information, but in this, the highest court in the land, I have been denied it on this occasion and many other previous occasions.

There are occasions where the avoidance, we might say, is bona fide because there is a genuine question of intent and dispute about the meaning of an Act, and so on. Then we have the other end of the spectrum where people sit down and conscientiously and determinedly seek a loophole to exploit the law and make a few bob, not caring about the consequences. My own belief is that is not the kind of thing we should be very satisfied with, and I hope the day is not far off when the public will be hearing as much about the people who work those lawful rorts as they hear about the other people whom some call dole bludgers.

People who perhaps suffer from ill-health and have a wife and family to keep and who under this pressure do something wrongful under the social security legislation so that they may feed their children, can be sent to gaol for six months. The same people who call these others dole bludgers are those who in many cases work these lawful rorts. There are many, many things that one can do within the law which are thoroughly immoral, and one of the reasons we are here in this Parliament is that we acknowledge that. We on this side acknowledge it vividly, and the Government acknowledges it but will not really admit it.

The time is approaching—and as far as I am concerned, the faster the better—where in a situation of this sort a person will not make a packet out of a legal lottery; that is, one or two or three people out of the one million in this State will not make that kind of money which the taxpayers have to make good. If we want lotteries, we have the provisions of the Lotteries (Control) Act; and if we want respect for the law, we ought to remove the lottery element and the gross unfairness that can be so palpably seen to occur every day.

It was to some extent perfectly legal for young cockerels of the law to go to the north and use their legal muscle against illiterate black people, but who with any shred of decency would do it? Those who knew the reprehensible character of this action stayed in Perth and sent the cockerels north to let them cop it.

Mr Young: Today your colleagues were saying that the judge's decision was gospel and that we all ought to respect it *ad infinitum*. Now you are saying that another judge who gave a decision was obviously wrong.

Mr BERTRAM: First of all, I made no comment on the judgment in the Ridge case, and I am certainly not saying this particular judgment is right or wrong because I have not read it. However, what I think has to happen—and the sooner the better in instances of this kind—is that we have to correct the law in the manner in which we are now seeking to do. Whether we do it efficiently or inefficiently will be for some other smart aleck who has not much to do to work out at some time. Already there seems to be some concern that perhaps the amendment of section 73 may not be all that good. However, I would not know about that.

Mr Williams: You are quite right.

Mr BERTRAM: We are making good the loophole so as not to allow people to exploit it in a case where it is palpably set up and where there is a perfectly clear attempt to defeat the spirit of the law. One has only to look at and listen to the terms of this transaction to see that it is a unique sort of transaction, and we must see that a person in that category does not fleece his fellow taxpayer but is reimbursed for such legal and other expenses that he may properly have incurred, and no more.

As the Premier himself said, we should not encourage tax evaders or tax avoiders. The only difference between the two is that one happens to be lawful and the other does not. What morally is the difference between a man who happens to vote for us and who receives $130 a week—because he has not the right to strike—going along and working on weekends to pick up an extra $50 which he "forgets" to account for on the 30th June, and a man who is able to carry out the particular manoeuvre we are endeavouring to prevent?

The first is a tax evader. However, the second man does not pick up $50, but hundreds or thousands of dollars, or whatever the figure was in this case. I imagine it was a reasonably substantial sum of money, or else the person concerned would not have bothered with the exercise. What is really the moral difference between those two people? The person in the street who is interested in our laws and in fair play and decency is unable to draw a distinction between the two, and so am I.

In the first case we have to pay extra tax because a man has evaded his tax; and in the second case we have to pay extra tax because a man has avoided his tax.

Mr Young: As a former Attorney-General, what would you do about it?

Mr BERTRAM: I would be very tempted to add a couple of clauses to make this amendment retrospective to the moment immediately preceding any transactions of this ilk, and empower the Government to make an *ex gratia* payment in a case like this.

Mr Young: In other words as a former Attorney-General you are saying a person acting within the law and judged to be within the law should now be caught.

Mr BERTRAM: Do not get too excited about the law, because judges of the Supreme Court quite often have said the law is an ass. Therefore do not cite me as making a precedent in a time when nearly every day we have bashed in our ears the concept of dole bludgers. Let us not forget to recognise and deal with those amongst us who happen to be tax bludgers. Retrospective legislation is something which, according to the Premier, I should frown upon severely. However, retrospective legislation in its proper place is as acceptable as the Premier believes it is, because we well remember section 37 of the Local Government Act recently, and we also remember the death duties legislation lately in which we made an amendment retrospective to the 1st July.

Mr Hassell: It was announced before that.

Mr BERTRAM: There are many instances where retrospective legislation works justice and not just the law; and if it works justice and benefits most of the people as against the isolated

individual, then I think the average person in the street would say, "Yes, I think we will have a little bit of retrospectivity." Since we on this side represent the average man in the street, that is what we tend to look for.

So apparently it is okay for us to give to a spouse a retrospective advantage in respect of the death duties legislation, but apparently it is not all right for the taxpayer to be required to face up to his taxes in a certain situation with retrospectivity at law.

The Hon. John Tonkin set a precedent and an example in respect of the very Act we are presently debating. I do not profess to recall the detail exactly, but I think John Tonkin was of the view that a certain provision of the Stamp Act was unlawful, something he argued over a sustained period. Nonetheless, a Government of the same persuasion as the current Government continued to recover that tax with a fair mental reservation that the provision was unlawful, but also with a mental reservation of, "What does it matter; we will keep it going until somebody takes us on." Somebody did take on the Government, and the provision was found to be unlawful. In consequence it was found that thousands, if not millions, of dollars had been collected unlawfully and from memory the Hon. John Tonkin said, "Those who have paid can recover their payments." I think quite a few people did. That is the position, "E & O E," as I recall it.

If that is almost right, there we have a case in which a Government recognised that it had unlawfully collected money, and so it repaid it. I do not think it is drawing a very long bow in cases of this kind, where the avoidance is so blatant and evident, to require tax avoiders to disgorge so that the law shall be seen to apply equally to all Western Australians, and so that it can be seen that one or two Western Australians are not given an advantage by reason of a legal lottery. In my submission, those who practise this type of thing place themselves in a situation which does nothing to enhance their reputation.

There are, of course, still in the community plenty of people who believe that because last century it was fair game to work these lawful rackets of one sort or another, it is still a good thing to work them. But, as I have said, I hope that a new attitude will be adopted in which because taxes are as heavy as they are upon people who in many cases cannot afford them, Governments will recognise those people should be protected and that there should not be bonanzas or huge lotteries won by a few fortunate people; because the ones who score usually are the ones who do not need to score, and the ones who have to pay very often are the ones who simply do not have the means or the time to look for these loopholes.

That is my submission on the matter. We can continue to drift along and to patch up legislation in the way we have done for centuries, or we can seek to do something about it. We can do exactly what the Premier has said; we should not encourage tax avoiders. We would discourage tax avoiders, once becoming aware of the type of manoeuvre in which they are engaged, by depriving them of the fruits of that manoeuvre.

As I have said, this does not apply to every type of avoidance; but certainly it applies in a situation in which the whole manoeuvre reeks and it is perfectly obvious to everyone that the manoeuvre is not a bona fide one but is clearly for the purpose of driving a hole through an Act and picking up some money for one or two taxpayers with the clear knowledge that it will be only a matter of a day or two before the whole Parliament will have to stop work and waste the people's money in order to gum up the loophole.

I hope in the future that instead of just patching up we will do something which will discourage people who have not contributed to the community in this regard and who are simply making a quick buck at the expense of other people who in many cases are simply not in a position to find the extra money to pay even higher taxes to make up the deficiency caused by these acts of avoidance.

SIR CHARLES COURT (Nedlands—Treasurer) [9.45 p.m.]: I thank members for their contributions to the debate on this Bill. I refer firstly to the comments made by the Leader of the Opposition. He touched very briefly on the question of avoidance and evasion, but not at the same length as his colleague from Mt. Hawthorn.

I have to agree with what the member for Cottesloe said. It is basic to the law under which we operate and the principles under which we run government and collect revenue that we must assume that if the subject can find a way in which the law enables him to make a lesser contribution to the revenue he is entitled to do just that. Otherwise, why have the law? The challenge is to the Government of the day and the Treasury of the day and not to the person who interprets the law in a way which the courts of the realm prove to be correct. If Government draftsmen throughout the ages are unable to foresee these loopholes, that is the fault of the draftsmen and perhaps of the Government to a certain extent and not the fault of the taxpayer.

I emphasise this point because no matter how hard one tries, unless one is prepared to adopt the harsh and unacceptable principle enunciated by the member for Mt. Hawthorn we will never be able to overcome the problem. He is advocating that if somebody sees that the Government of the day, through its draftsman, has brought down a loose piece of legislation and he takes advantage of that, the Government should say, "Slips no go, Mr Taxpayer, we did not think you would be that smart and we are going to backdate this legislation."

The Leader of the Opposition puts forward rather a novel suggestion that we have an "E & O E" clause but, knowing his experience in these matters, I think he put it forward in a lighthearted way.

I wish to refer now to another method that has been suggested from time to time; that is, a discretionary power on the part of the tax gatherer, the commissioner, or whoever is the appropriate person to collect the tax and administer the law. All Governments have avoided giving too much discretionary power to Treasurers, Treasuries, and commissioners. There is a very good reason for doing so because it makes for sloppy drafting and for carelessness in administration if a Government knows it can always go back and throw the net out further.

For as long as I can remember in the Commonwealth Income Tax (Assessment) Act there has always been what appears to be a very diabolical section which gives the commissioner almost dragnet powers to deal with a device deliberately worked out by a taxpayer to evade taxation. I forget the number of the section because it is a long time since I last had to study the Act.

Mr Young: It is still 260.

Sir CHARLES COURT: Perhaps it is a hallowed number. I must admit that I have never known a case of a commissioner using the provision in a way which appeared to be wrongful, but from time to time Commonwealth Parliaments have given the commissioner this extraordinary power if he sees what he believes to be a straightout device which could be almost criminal in its intent.

If we think back to the Statutes of recent years the only discretionary powers we have given have usually been given to enable the commissioner to show a discretion in favour of the taxpayer. For instance, if I recall correctly we gave a discretionary power, with reluctance, to the Commissioner of State Taxation with regard to land tax because there were certain things we could not interpret to the nth degree. The matter was finally resolved by allowing the commissioner some discretion which is essentially—and almost exclusively—to be used in favour of the taxpayer.

I reject the idea that every time we find that somebody has avoided tax, as distinct from evasion, we should have a retrospective amendment or some machinery which automatically results in some retrospectivity, because that would destroy the credibility of the Government of the day and of the Parliament.

I emphasise that the legislation before us is essentially of an interim nature. Sometimes one has to bring in these stop-gap measures to hold the fort until we introduce replacement legislation of a more comprehensive nature. I can only repeat that work is being done on that and is at an advanced stage. Hopefully we will have it completed by the end of the financial year and will be able to bring down the necessary legislation to update and modernise the Stamp Act to coincide with the introduction of the 1978-79 Budget.

This brings me to the comments made by the member for Cottesloe. If I may, I prefer to deal with them in more detail when we consider clause 2, but I wish to thank him for bringing to the attention of the House the possible danger of a strict legal interpretation of or a challenge to the words proposed. We would be neglecting our responsibility if we did not look closely at what he has suggested.

Finally, I shall touch again on the question of avoidance. It is wrong to suggest that every time avoidance is practised it is done with malice and aforethought. There are many cases where people genuinely believe that a tax is *ultra vires* and is outside the constitutional power of a Government, a local authority, or any other body. This applies not only to taxes but also to other things. Many regulations are challenged because somebody believes the Government has gone beyond the statutory power given by the Parliament.

I know it is irritating to Governments; it is irritating to Government departments; and tax avoiders are irritating to a Treasurer because they can upset his Budget. On the other hand, we must realise that many of the examples of avoidance are brought about by an intelligent, albeit searching, interpretation of the Statutes as they exist and are passed by the Parliament. If a Government introduces Bills and the Parliament passes them and they are subsequently found to have defects, we cannot blame John Citizen if he takes advantage of the defects. I thank members for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Clarko) in the Chair; Sir Charles Court (Treasurer) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 73 amended—

Sir CHARLES COURT: When he was speaking at the second reading stage the member for Cottesloe invited the attention of the Chamber to this clause and pointed out that the words proposed to be deleted in the existing section 73 are the words "under which" and that it is proposed to insert in lieu the words "in respect of which the Commissioner is satisfied that". I must admit that when I first read the draft of the Bill and approved it I felt that the criticism of members would be just the reverse of what it has been. I felt the criticism would be that we had given too much power to the commissioner. It appeared to me as a layman that he could say either, "I am satisfied" or "I am not satisfied", and that was the end of it.

I gather from the representations made by the member for Cottesloe that, like so many things in the law, the words do not mean quite what we thought they meant. So that we have it on record I am interpreting his comments on the basis that although these words in themselves appear to be satisfactory, if they are challenged a court interpretation could be quite different.

In other words, if the commissioner received a statutory declaration from a person and it was given in good faith at that time, he would have to be satisfied. But within a week, a month, or even a year it could be that the person concerned would be able to do something quite different from what appeared to be the intention at the time the statutory declaration was made.

I suggest to the member for Cottesloe, if it is in order with him and the Committee, that we have this clause examined to see whether there is any way we can amend it to give it the teeth it was intended to have and to give it a satisfactory stop-gap role.

However, this Bill is intended to be only a stop-gap measure; it is not a permanent replacement. The notes from the commisioner show that he feels he has fairly tight control over "bare trusts" through a number of means. But now that the whole of this part of the Stamp Act has been opened up for public discussion and highlighted by the Barrow Linton case, I have no doubt that the best legal brains would be applied to it, and it could be that what the member has said is important if we are to try to hold as much revenue as we can until we introduce a replacement Bill.

I give an undertaking that before the matter is finalised in another place I shall see whether we should have some additional words to make sure that the commissioner can genuinely satisfy himself and not have it put over him by somebody in a month or a few weeks using some device which defeats the purpose of the Bill.

Clause put and passed.

Clause 3 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Sir Charles Court (Treasurer), and transmitted to the Council.

House adjourned at 9.59 p.m.

QUESTIONS ON NOTICE

RENTAL ACCOMMODATION

Rent: Rebate

1287. Mr JAMIESON, to the Minister for Housing:

In view of his statement in *Hansard* No. 10 on page 2134 that "I believe the State Housing Commission rebates fairly and is operating tremendously efficiently", will he explain why the General Manager of the State Housing Commission is initiating a complete review of the Commission's rebate structure?

Mr O'CONNOR replied:

I acknowledge and reiterate the statement made by me. The rebate review being initiated by the general manager is being done with my concurrence. It is usual practice to review aspects of this nature from time to time, with a view to further liberalising concessions to tenants in necessitous circumstances. Also, with the concurrence of all State Ministers for Housing, a working party of public housing authority officers will, in the near future, be examining rebate code of practice.

POLICE

Bashing by Patrolmen

1288. Mr BERTRAM, to the Minister for Police and Traffic:

Referring to the story at page 3 of *Daily News* of 27th October, 1977 under the heading "Man says he was bashed by patrolmen" what action has been taken by the Commissioner of Police in respect of the allegations reported in that story?

Mr O'NEIL replied:

Investigations are being undertaken to establish the truth or otherwise of the allegations, and to indicate any action required as the result of such inquiries.

To date indications are that the allegations are untrue. However, as three charges against this man are still to be dealt with by the court, the matter is *sub judice*.

The follow-up report on the same subject on the front page of the *Weekend News* dated the 5th November, 1977 is full of inaccuracies, and steps will be taken to establish the true facts.

1289. *This question was postponed.*

BAUXITE MINING

State Forests

1290. Mr H. D. EVANS, to the Minister for Lands and Forests:

(1) Was Forests Department approval for the mining of bauxite sought prior to the signing of the Pinjarra Alumina Agreement?

(2) Who was the Conservator of Forests at that time?

(3) (a) On what date was the approval or agreement of the Forests Department to the mining of bauxite for the Pinjarra plant given;

(b) for what area of mining of State forest each year was approval given?

Mrs CRAIG replied:

(1) No. Under the Alumina Refinery Agreement (No. 3 of 1961) such general approval was not appropriate.

(2) Mr W. R. Wallace.

(3) (a) Answered by (1).

(b) Under the terms of the above agreement and the Alumina (Pinjarra) Refinery Agreement (No. 75 of 1969) specific mining and associated works covering the following areas have been permitted each year after detailed negotiation with the company as to operational and rehabilitation procedures.

	ha
27-4-70	83.36
15-6-71	9.60
25-7-73	32.07
8-2-74	8.77
26-9-74	16.51
12-74	0.61
30-4-75	161.81
5-9-75	0.20
10-11-75	3.49
2-12-75	7.93
2-3-76	16.25
16-6-76	85.32
17-9-76	84.69
9-3-77	0.43
18-8-77	181.75
18-8-77	0.20

PROFOUNDLY RETARDED CHILDREN

Pyrton Training Centre

1291. Mr DAVIES, to the Minister for Health:

What is the bed capacity at Pyrton training centre for profoundly retarded children?

Mr P. V. JONES replied:

Pyrton Training Centre has a total capacity of 160 beds. In an emergency any number of these can be used to accommodate profoundly retarded children.

IMMIGRATION

Skilled Tradesmen

1292. Mr TONKIN, to the Minister for Immigration:

(1) Which categories of tradesmen, as listed in question 1021 of 1977, or as otherwise classified, are regarded as in short supply in Western Australia at present and which are therefore listed as being those categories for which we will at present accept migrants from overseas?

(2) What are the numbers acceptable for immigration in each of the categories referred to in (1)?

(3) When will those quotas be revised?

Mr GRAYDEN replied:

(1) In the "Approved list of occupations for immigration" as distributed by the Commonwealth Department of Immigration and Ethnic Affairs, tradesmen in short supply are listed as "shortage" or "minor shortage" in accordance with the employment situation in each individual State. In respect to Western Australia the listings are as follows—

Shortage:

Boilermaker (Structural)
Boilermaker (Other)
Machine setter
Panel beater
Motor mechanic
Fitter (Diesel and heavy plant)
Instrument Fitter (Country areas)
Chair and couch maker
Furniture polisher
Upholsterer
Wood machinist

Minor Shortage:

Signwriter
Blacksmith
Toolmaker, Diemaker
Turner
Fitter and Turner (Country areas)
First class Machinist
Sheetmetal worker (First class)
Patternmaker
Welder
Refrigeration mechanic
Motor body builder
Jobbing moulder/core maker

(2) and (3) Specific numbers are not allocated to each individual category but the situation is kept under constant review.

ROAD TRAFFIC AUTHORITY

Pilots

1293. Mr GRILL, to the Minister for Police and Traffic:

What do the pilots with private licences only attached to the air traffic patrol of the Road Traffic Authority from time to time, do in the normal course of their employment with the authority?

Mr O'NEIL replied:

They are used to ferry the plane from place to place when necessary, and as air observers or ground operators.

WATER SUPPLIES

Salmon Gums

1294. Mr GRILL, to the Minister for Water Supplies:

(1) What are the present arrangements for supply of water to Salmon Gums?

(2) What plans does the Government have to improve the water supply to the town and the farm properties in the area?

(3) Are there any plans in the immediate or intermediate future to connect Salmon Gums to the water pipeline from Esperance?

(4) If so, when will it be implemented?

(5) What would be the probable cost of connecting farms in the area to the scheme?

Mr O'CONNOR replied:

(1) Salmon Gums town has a reticulated water supply based on an 18 000 cubic metre excavated storage dam fed from bitumen and roaded catchment areas.

(2) Various alternatives are under investigation to augment the town supply.

(3) and (4) There are no firm plans pending the outcome of investigations in paragraph (2) above.

(5) These costs are not readily available. Typical farmland reticulation costs, excluding the headworks, are in the order of $50 per hectare, or approximately $100 000 to $120 000 per farm in the Salmon Gums area.

BAUXITE MINING

Land Involved

1295. Mr H. D. EVANS, to the Minister for Lands and Forests:

Adverting to the reply given to question 1185 (2) of 1977, would she indicate the precise passage(s) in the debate on the second reading of the Alumina Refinery (Pinjarra) Agreement which implied that the annual area of land to be mined for bauxite would be between 400 and 500 acres?

Mrs CRAIG replied:

The precise passage referred to is recorded in—

Parliamentary Debates (Hansard)
Twenty-Sixth Parliament

Second Session
1969
No. 10
Page 1308, Column 1, Para. 3, Lines 4 to 8.

1296. *This question was postponed.*

LAMB

Consumption and Price

1297. Mr H. D. EVANS, to the Minister for Agriculture:

(1) What has been the total number of lambs produced in Western Australia in each of the past four years?

(2) How many lambs have been exported from Western Australia, and how many have been consumed on the local market in each of the past four years?

(3) What has been the average price per kilo returned to lamb producers in each of the past four years?

Mr P. V. Jones (for Mr OLD) replied:

I am advised as follows by the WA Lamb Marketing Board—

(1)

1974	1 161 209
1975	1 319 257
1976	1 700 642
1977	1 769 204

(2)

	Lambs Exported	Local Consumption
1974	366 832	777 896
1975	650 013	654 966
1976	848 745	731 778
1977	1 255 687	649 240

Note: Local consumption figures do not include imported lamb carcasses from other States.

(3)

1974	58.07c
1975	46.05c
1976	43.28c
1977	52.19c

POLICE

Meetings, Assemblies, and Processions

1298. Mr DAVIES, to the Minister for Police and Traffic:

(1) When the Bill 146/1976 amending the Police Act proclaimed?

(2) Since then to date, how many applications have been received in writing for permission to hold meetings, assemblies, processions, etc?

(3) How many such applications were granted—

(a) with restrictions;

(b) without restrictions?

(4) How many meetings, assemblies, processions, etc., are known to be held for which permission was not sought?

(5) What were the dates and places of such events?

Mr O'NEIL replied:

(1) The 14th January, 1977.

(2) 142 since records were commenced on the 2nd March, 1977.

(3) (a) and (b) The term "restrictions" is not appropriate. However, limitations or conditions as provided by the Police Act were imposed in the majority of cases by mutual agreement of the parties concerned.

(4) One.

(5) The 15th June, 1977, at Fremantle.

ORTHODONTIC PATIENTS FROM THE NORTH

Free Air Transport

1299. Mr DAVIES, to the Minister for Health:

(1) Is free air travel available for people in the north of the State who are required to travel to Perth for treatment by orthodontists?

(2) If so, under what conditions?

Mr P. V. JONES replied:

(1) I regret to say that no funds are available for this purpose. Limited service is available through the school dental service.

(2) Not applicable.

OIL, GAS, MINING, AND FISHERIES

State Rights over Submerged Lands

1300. Mr BERTRAM, to the Premier:

Further to his answer to question 1240 of 1977, did Prime Minister Fraser intimate either specifically or implicitly that the Commonwealth would retain its rights and powers in respect of submerged lands as to—

(a) oil and gas;

(b) mining;

(c) fishing?

Sir CHARLES COURT replied:

The simple and literal answer to this question is "No".

However, for the benefit of the member perhaps I should explain that what the Commonwealth was proposing was a system of joint authorities to operate in the offshore area in respect of these matters with the States having the day-to-day administrative control.

It is premature to conjecture on the final form of co-operation until the Attorneys-General have completed their work.

ROADS

Mitchell Freeway

1301. Mr BERTRAM, to the Minister representing the Minister for Transport:

When is it expected that the third stage of the Mitchell Freeway will be in use?

Mr O'CONNOR replied:

July, 1978.

STATE FINANCE

Loan Fund and Consolidated Revenue Fund Receipts

1302. Mr BERTRAM, to the Treasurer:

In his answer to question 1246 of 1977 he said amongst many other things, "The Government sees the need to supplement from revenue the limited loan funds...". Will he now briefly and simply list the items of revenue and the amount thereof used to supplement the limited loan funds during the year ended 30th June, 1977?

Sir CHARLES COURT replied:

The member for Mt. Hawthorn is referred to the second reading speech on the Supply Bill in which I mentioned the steps we had taken during 1976-77 which had the effect of augmenting the capital works programme from revenue. In brief they included—

(a) Deferral of interest payment from State Energy Commission—$4.5 million.

(b) Purchase of Her Majesty's Theatre —$1.9 million.

(c) Purchase of Padbury Buildings for Forrest Place widening—$0.5 million.

(d) Grant for extension of Carnarvon water supply as a drought relief measure—$0.4 million.

(e) Increase to $15 000 the value of individual minor works which are charged to Consolidated Revenue—$0.9 million.

In addition a revision of depreciation charges for the railways and country areas water supplies had the effect of increasing the charge to Consolidated Revenue and providing more adequate funds for asset replacement.

As I said when introducing the Supply Bill, these steps were made possible by the Government's policy of restraining the growth of recurrent expenditure, and by prudent housekeeping generally.

HEALTH

Asbestos and Asbestos Products

1303. Mr DAVIES, to the Minister for Labour and Industry:

(1) Are new regulations/laws to be introduced to provide additional warnings regarding health hazards associated with the handling of asbestos and asbestos products?

(2) If so, what body is considering this matter?

(3) What progress is being made?

(4) When can a final decision be expected?

Mr GRAYDEN replied:

(1) New draft regulations containing health and welfare provisions for persons engaged in the manufacture and handling of asbestos products have been submitted to Parliamentary Counsel.

(2) Factory Welfare Board, constituted under the Factories and Shops Act and the Construction Safety Advisory Board, constituted under the Construction Safety Act.

(3) Regulations are in the course of preparation by Parliamentary Counsel.

(4) On completion of the preparation of a fair draft for submission to Executive Council.

MINES DEPARTMENT

Mr Crichton-Browne

1304. Mr TONKIN, to the Minister for Mines:

(1) Did Mr Noel Crichton-Browne, in possible contravention of section 8 of the Mining Act, purchase 5 000 shares in Burrill Investments while he was employed as a mining registrar at Marble Bar?

(2) What action is being pursued because of this possible violation of the law?

Mr MENSAROS replied:

(1) and (2) The Mines Department has no record of such a transaction.

QUESTIONS WITHOUT NOTICE

KIMBERLEY ELECTION

Illiterate Aborigines

1. Mr BRYCE, to the Premier:

I would like to ask the Premier a question without notice in relation to the decision announced yesterday by the Court of Disputed Returns concerning the return in the electorate of Kimberley. I ask the Premier whether he, as the Leader of the Government of the day, was aware of the conspiracy to deprive illiterate Aborigines of their vote in the Kimberley, and whether or not he approved of this plan?

Sir CHARLES COURT replied:

In answer to the Deputy Leader of the Opposition, I inform him that I find the question objectionable. There was no conspiracy and I suggest to the Deputy Leader of the Opposition that he should look at the actions of some of his own people before the election.

Several members interjected.

Mr Jamieson: Don't come at that!

Mr Davies: Be a man and own up to it.

KIMBERLEY ELECTION

Illiterate Aborigines

2. Mr BRYCE, to the Premier:

I would like to repeat the words of the presiding Judge of the Court of Disputed Returns. Was the Premier aware of the plan arranged by the former member for Kimberley to deprive illiterate Aborigines of their right to submit how-to-vote cards to reflect the way in which they wanted to vote? Did the Premier in fact approve of this plan?

Mr. Blaikie: Are you on a witch hunt?

Sir CHARLES COURT replied:

In replying to the honourable member, I remind the House that we do not come to this place to be interrogated by a "Perry Mason".

Several members interjected.

The SPEAKER: Order!

Mr Bryce: I am just asking whether you knew about it or not.

Mr Tonkin: You won't get a straight answer.

Sir CHARLES COURT: I think the honourable member should go back to where he has been for the last few weeks.

Mr Davies: You would like him to do that.

Sir CHARLES COURT: I would just say that I know nothing of the point he is referring to, apart from what I have read in the Press. I am not here to answer questions of that nature because the case has been dealt with by the Court of Disputed Returns. Surely members are prepared to accept the decision of the Court of Disputed Returns, and to let us get on with the by-election so we can get Alan Ridge back to this House!

KIMBERLEY ELECTION

Concoction of Story

3. Mr B. T. BURKE, to the Premier:

I ask the Premier whether it is his intention, on behalf of his Government, to give instructions for an investigation to be made into the testimony of that witness accused by the judge in his finding of having concocted a story in the evidence he gave to the Court of Disputed Returns?

Sir CHARLES COURT replied:

In answer to the member for Balcatta, I know nothing of the particular passage to which he refers. To be quite frank, I have not read through the whole of the report handed down by the judge.

Mr Tonkin: Scared to read it?

Mr Carr: Fascinating reading!

Sir CHARLES COURT: I have not read the whole of the finding handed down by the judge. However, if there is any matter of a kind that needs to be taken up, I have no doubt the Attorney-General, in the course of his duties, will do what is right and proper.

GOSNELLS CITY COUNCIL

Parking Facilities for Commercial Vehicles

4. Mr BATEMAN, to the Minister for Local Government:

I would like to ask the Minister for Local Government a question without notice of which ample notice has been given. The question is as follows—

In view of the many objections and complaints I have received as well as a deputation from the Owner-drivers' Association from the Gosnells district regarding an imposition which has been placed on them by the Gosnells City Council in that they have been requested by the council to pay a $5 inspection fee to inspect their parking facilities for their commercial vehicles on their own properties; and further, a fee is then payable should such inspection prove satisfactory to the council—

(1) Would the Minister advise whether he is aware of this impost and if not, will he make a full investigation into the validity of such a policy?

(2) If the answer is "No", why not?

(3) Will he further advise whether this action complies with the Local Government Act?

(4) If "Yes", what section of the Act applies?

(5) Will he also advise whether the Gosnells City Council is the only local authority imposing this policy on owner-drivers of commercial vehicles in their area?

Mr RUSHTON replied:

I thank the honourable member for adequate notice of his question, the reply to which is as follows—

(1) to (4) The acting town clerk has advised that council action has been undertaken under the provisions of its town planning scheme.

(5) Not known.

KIMBERLEY ELECTION

Actions of Attorney-General

5. Mr TONKIN, to the Premier:

Mr Speaker, as it has been indicated that the Attorney-General in fact acted improperly, and the Premier has given an assurance that he will get the Attorney-General to look at the transcript of the proceedings of the Court of Disputed Returns, who is going to investigate the actions of the Attorney-General?

The SPEAKER: I assume that this question is directed to the Premier as the member did not say.

Mr TONKIN: Yes.

Sir CHARLES COURT replied:

I reject completely that the Attorney-General has acted improperly.

Mr Bryce: Read the report.

Sir CHARLES COURT: I do not care what the report says—

Several members interjected.

The SPEAKER: Order!

Sir CHARLES COURT: —one of the most respected people and one of the most revered names in the legal profession is our Attorney-General.

Several members interjected.

PILBARA IRON ORE INDUSTRY

Effect of Recession

6. Mr HARMAN, to the Premier:

I would like to ask the Premier the following question without notice—

(1) Has he seen reports that the continued recession in the iron ore industry has created huge stockpiles of iron ore in Japan?

(2) Is he aware that reports suggest iron ore production in the Pilbara will not be significantly increased in the next 12 months?

(3) Have the iron ore companies advised the Government of this situation?

(4) Is he aware that a slow down in iron ore production in the Pilbara will have a devastating effect upon the economy of Western Australia in the next 12 months, producing further unemployment and less private investment?

Sir CHARLES COURT replied:

(1) to (4) Apparently the member for Maylands was not here or he did not take notice of a question asked by one of his colleagues—the member for Fremantle—who referred to the remarks made by Mr Tanabe when he was in Australia recently. I then advised the member for Fremantle that the comments made by Mr Tanabe were in fact general knowledge, and had been spoken about by many, including myself, on a number of occasions publicly. However, I assure the honourable member that so far as the steel industry of the world is concerned, and its iron ore demands, the Government is well informed, and it is in close consultation with the parties concerned, both producers and consumers.

KIMBERLEY ELECTION

Actions of Attorney-General

7. Mr TONKIN, to the Premier:

Would the Premier repeat for *Hansard* the remarks he made just before he sat down a moment ago when he said, "I do not care what the judge said"? Am I correct in my belief that the Premier said he did not care what the judge said?

Sir CHARLES COURT replied:

I suggest that the honourable member should have a look at *Hansard*. I will, however, repeat my remarks for him because I meant what I said. I said: I do not care what the judge said, our Attorney-General has one of the most revered names in the legal profession in this State.

KIMBERLEY ELECTION

Government's Attitude to Court's Evidence, and Cabinet Vacancy

8. Mr B. T. BURKE, to the Premier:

(1) What is his Government's attitude to the findings of the Court of Disputed Returns and all those matters which were raised in the decision delivered by the judge?

(2) When is it likely that the Premier will be in a position to announce the replacement for any vacancy which might occur in his Cabinet?

Sir CHARLES COURT replied:

(1) The honourable member seems to be under some misapprehension as to what is the result of the Court of Disputed Returns case. The judge made an order; that order—

Mr B. T. Burke: I simply asked what your attitude was.

Sir CHARLES COURT: I repeat: The judge conveyed his order through the appropriate channels to Mr Speaker. Mr Speaker has advised the House, and I have given notice of the motion which is required to declare the vacancy.

Mr B. T. Burke: What is your attitude to the finding? That is what I am asking —what is your attitude?

Sir CHARLES COURT: That is the result of the Court of Disputed Returns.

Mr B. T. Burke: I want to know what your Government's attitude is to that finding.

Sir CHARLES COURT: I repeat again for the benefit of the member for Balcatta: The judge has made an order and the order has been communicated to the Parliament by Mr Speaker. The Parliament will act on the order through the motion of which I gave notice today.

(2) I have already announced there will be no substantive Ministry appointment during the temporary absence of Alan Ridge; but in fact, I have appointed an Acting Minister for Health and Minister for Community Welfare, who will be the Hon. G. C. MacKinnon, MLC.

The SPEAKER: I will take two more questions after this one.

FLOUR

Government's Stocks

9. Mr BLAIKIE, to the Minister for Labour and Industry:

Following the recent disputation concerning the flourmillers, did the Minister see a report in the *Sunday Times* indicating the Government had many tonnes of flour left on its hands; if so, can he advise whether that report has any authenticity?

Mr GRAYDEN replied:

There is not a vestige of truth in the *Sunday Times* statement. All flour of which the Government took delivery was distributed to some 80 small bakeries and pastrycooks.

Mr Tonkin: You had better complain to the Press Council.

Mr GRAYDEN: Had any flour been left over, it would have been absorbed in Government institutions. I repeat: There is not a vestige of truth in the statement; all flour has been distributed.

MINES DEPARTMENT

Mr Crichton-Browne

10. Mr TONKIN, to the Minister for Mines:

I wish to follow up question 1304, part (1) of which states as follows—

Did Mr Noel Crichton-Browne, in possible contravention of section 8 of the Mining Act, purchase 5 000 shares in Burrill Investments while he was employed as a mining registrar at Marble Bar?

The Minister for Mines replied that the Mines Department had no record of such a transaction.

It may be that the Mines Department would not have records of such transactions as a matter of course, but as there is a possible contravention of a Statute involved, by an employee of the Mines Department purchasing shares, will the Minister investigate the matter to see whether, in fact, the law has been broken?

Mr MENSAROS replied:

I do not think the Mines Department can be involved in investigating any allegations because otherwise, the entire staff of the department would be engaged in nothing but the consideration of such matters.

Mr Tonkin: No it would not; I have given you this one to have a look at.

Mr MENSAROS: If anyone has a complaint he can take it to the police.

KIMBERLEY ELECTION

Electoral Laws

11. Mr B. T. BURKE, to the Premier:

In view of the decision of the Court of Disputed Returns, is it the Premier's decision or intention to delay proclamation of any changes to the electoral laws so that the by-election for the seat of Kimberley can be fought under the same rules as those which applied originally, or is it the Government's intention that any changes should be proclaimed at the earliest possible time, resulting in a change of the rules under which the election shall be fought?

Sir CHARLES COURT replied:

It is the Government's intention that when the legislation has passed through this Parliament, it will be assented to in due course, and proclaimed as such.

Mr B. T. Burke: That is utterly despicable!

Sir CHARLES COURT: I was just about to explain to the honourable member that I am not sure whether the legislation needs to be—

Mr Tonkin: You are caught cheating so you change the rules.

Withdrawal of Remarks

Sir CHARLES COURT: Mr Speaker, I take exception to the remarks made by the member for Morley, and I ask that they be withdrawn.

The SPEAKER: Order! I ask the member for Morley to withdraw the remarks, as I believe them to be unparliamentary.

Mr TONKIN: I withdraw the comment that the Premier was caught cheating and had decided to change the rules.

The SPEAKER: Order! The member for Morley ought to be aware that I have said on previous occasions that when a withdrawal is requested by the Speaker, the objectionable words should not be repeated. I ask the member for Morley to withdraw unreservedly, without repeating the offending words.

Mr TONKIN: I withdraw, Mr Speaker.

Answer Resumed

Mr B. T. Burke: I was just saying that even the judge said the rules should not change; that the election should be fought under the old rules.

Mr Tonkin: The Premier does not care what the judge said—he has said so himself.

Sir CHARLES COURT: When the Bill is passed, it will be assented to and it will become law. I wish to remind the member for Balcatta that the Government's purpose is to remove the prospect of the manipulation of electors which occurred at the last election by the Labor Party.

Mr B. T. Burke: Why did you not say so in court? There was no counter-petition presented in court.

Sir CHARLES COURT: It is our intention—

Mr B. T. Burke: You are a thug!

Withdrawal of Remark

The SPEAKER: Order! The Premier will resume his seat. The word used by the member for Balcatta by way of interjection is unparliamentary, and I ask him to withdraw it.

Mr B. T. BURKE: I withdraw, Mr Speaker.

Answer Resumed

Mr O'Connor: He is always doing that.

Several members interjected.

Sir CHARLES COURT: As I was saying, it is the Government's intention to remove the uncertainty which exists.

Mr Davies: There is no uncertainty.

Several members interjected.

The SPEAKER: Order! The House will come to order.

Sir CHARLES COURT: It is the Government's desire and intention to remove the uncertainty which exists so that illiterate people can vote with some dignity, without being manipulated.

Mr Skidmore: You do not want to give them dignity; you want to take it away from them.

Mr Bryce: A Government without decency; it is unbelievable!

The SPEAKER: I gave notice before the last two questions were asked that I would take only those two. However, I will take this question, and this question only.

KIMBERLEY ELECTION

Court's Recommendations on Practices Adopted

12. Mr H. D. EVANS, to the Premier:

Does the Premier intend to adopt the recommendations brought down by His Honour in the matter of the practices adopted during the election for the seat of Kimberley?

Sir CHARLES COURT replied:

With respect, I suggest the member for Warren is like his colleague, the member for Balcatta, in not understanding what the Court of Disputed Returns was intended to do, or in fact did. The court made an order and the Parliament now is in the process of putting the machinery into action to put into effect the import of that order. Mr Speaker has informed the House of that order, and I have given notice of a motion I will move tomorrow so that the seat can be declared vacant. The honourable member seems to be completely confused; the justice who dealt with that case had to deal with a petition. He has given the order and we are acting on it. What more do members opposite want?

The SPEAKER: I call on orders of the day.

Mr Tonkin: You are changing the rules.

Sir Charles Court: We are just making sure the rules are observed.

Mr Bryce: It will not do you any good. You have lost Kimberley, and probably the north.