job. I had a great deal to do with racing greyhounds when I was young and I could beat most of them!

Greyhound racing probably does attract into the racing game a person who would not normally think in terms of buying a racehorse. This is why this type of betting is attractive. I do not care by what name it is called. The term does not matter in the least but I think that a good general description would be that of novelty betting. Tierce betting is the main issue in the measure.

The member for Mt. Lawley brought up other matters. He is a person who has had far more experience in gambling than I have had, or ever will have. Also he has had far more experience with racehorses than I and, therefore, is a much greater authority than I will ever be.

Nevertheless, in connection with the matters he raised, such as small races, encouraging additional gambling through broadcasting, and T.A.B. shops being open more frequently, I do not think we will ever overcome this. We cannot always save a person from himself.

If a T.A.B. shop is open in a small country town in the afternoon, quite apart from the fellow who gambles more money than he can afford to gamble, there is perhaps the little old lady who enjoys putting her 20c on a bet. This kind of betting could be an advantage in such a town and it certainly would not exist unless the races were broadcast.

The member for Mt. Lawley has said that he supports the measure, and I thank him for that support. I have looked into it and I do not think it is a question of going into the morals of gambling. Of course, we could talk about this aspect but it would be up to the individual to decide whether it extends beyond what he considers to be reasonable.

Mr. O'Connor: Could we alter the spelling of "tierce" to "tears"?

Mr. BICKERTON: Perhaps there would be nothing wrong with that if we were to see the draftsman. However, as the member for Mt. Lawley and I are due in the same place at the same time this evening it may be an idea to leave things as they now are. It is a French term.

Mr. Hartrey: Was it pari-mutuel?

Mr. BICKERTON: No, I received most of this information from someone who had written from France. There it is pronounced "tyèrss". Most of the information came in a French letter. The expression means to bet upon horses in any particular race, either in a nominated form or as they come in.

If the honourable member wants to alter the term he can do so in the Committee stage. I will have no objection so long as the principle of the Bill remains the same.

Mr. Nalder: The Minister means that he received his information in a letter from France?

Mr. BICKERTON: Yes.

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. Bickerton (Minister for Housing), and passed.

House adjourned at 5.59 p.m.

Legislative Council

Tuesday, the 13th November, 1973

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

QUESTIONS (4): ON NOTICE

1. EDUCATION

Isolated Children: Allowances

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

(1) Would the Minister state what allowances or subsidies the State Government pays in respect of fares for students who are forced to live away from home?

(2) (a) What is the cost to the Government for these services per annum;

(b) was this figure included in part or wholly in the answer given to question 16 on the 25th October, 1973?

(3) (a) Has the State cancelled any of the aforementioned allowances or subsidies;

(b) if so, what transport subsidies or allowances have been replaced by Commonwealth assistance?

(4) (a) What is the average cost to the Government per recipient of rail and air fare payments;

(b) how many pupils are in receipt of these concessions?

The Hon. J. DOLAN replied:

(1) The scheme of subsidised travel for students provides for free travel for one return trip and two

single trips per calendar year between the parents' place of residence in remote areas of the State and a recognised school or college. "Remote areas" of the State are defined as all parts of the State, excluding:

(i) the South West Land Division,

(ii) the area situated west of the 123rd meridian of longitude and south of the 30th parallel of south latitude.

(2) (a) The cost varies from year to year but the amount paid out by way of subsidy in the financial year 1972-73 was $69,686.

(b) No.

(3) (a) No.

(b) If a student is in receipt of Commonwealth assistance, he does not also receive State assistance under the provisions of the State subsidy scheme.

(4) (a) and (b) In the 1972 school year 1,140 students were granted assistance. The average cost per student is in the vicinity of $60. A precise cost figure could only be ascertained by examining and tallying each application.

2. HOUSING

Three Springs

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

(1) How many State Housing Commission homes are vacant in Three Springs and available for renting?

(2) How many applicants are there for State Housing Commission rental homes in Three Springs?

(3) What are the names of the applicants, and their order of priority?

The Hon. J. DOLAN replied:

(1) One house is available, and this is currently under offer to a family consisting of husband, wife, and three children.

(2) Eight (8) including the above.

(3) (i) Particulars of applicants are as follows:—

	Date of Lodgment of Application	Number in Family
No. 1	17/10/72	Husband and wife.
No. 2	8/3/73	Mother and child.
No. 3	18/7/73	Husband and wife.
No. 4	5/9/73	Husband, wife and one child.
No. 5	17/9/73	Husband and wife (child expected).
No. 6	27/9/73	Husband, wife and two children.
No. 7	15/10/73	Mother and child.
No. 8	16/10/73	Husband, wife and three children.

(ii) In addition, one application dated 13th August, 1973 for purchase is held.

3. POLICE STATION

Donnybrook

The Hon. V. J. FERRY, to the Minister for Police:

(1) In what year was the present police station building erected in Donnybrook?

(2) (a) Is the Government aware of the need to replace this building; and

(b) if so, what is being planned to provide the police at Donnybrook with adequate buildings and facilities?

The Hon. R. THOMPSON replied:

(1) 1897.

(2) (a) Yes.

(b) The Police Station and Quarters are listed for replacement when funds are available.

4. CEMETERY AUTHORITIES

Pay-roll Tax Exemptions

The Hon. R. J. L. WILLIAMS, to the Chief Secretary:

As some cemetery authorities now controlled by local government authorities, are exempted from pay-roll tax, will the Minister make representations to the Treasurer to exempt all cemetery trustees and authorities?

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

The question has already been referred to the Treasurer.

In his reply the Treasurer reiterated that the exemption given to local authorities apart from business undertakings of local authorities was a condition imposed by the Commonwealth when handing over the tax to the States and that Government in effect meets its cost.

Any extension of the current exemption would have to be met by the State.

Currently the State is not in a position to extend the exemptions because all the revenue derived from pay-roll tax is essential to assist in providing the services required by the community.

COMMONWEALTH POWERS (AIR TRANSPORT) BILL

Introduction and First Reading

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

Second Reading

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [4.46 p.m.]: I move—

> That the Bill be now read a second time.

The essence of this short measure is contained in clause 3 which seeks to adopt, for application in Western Australia, the provisions of section 19A of the Australian National Airlines Act, which is the Commonwealth legislation under which Trans-Australia Airlines is constituted.

Section 19A has recently been amended with the approval of the Opposition, and with little debate, to authorise the Australian National Airlines Commission to conduct air services within a State. The relevant subsections read as follows—

> (1C) This section applies in relation to a State that adopts this section and ceases to apply in relation to that State if the State law by which this section is adopted ceases to be in force.
>
> (1D) The Commission may transport passengers and goods, for reward, by air between any place in a State in relation to which this section applies and another place in that State, and the provisions of this Act apply to and in relation to the provision of transport in accordance with this subsection in like manner as they apply to and in relation to the other functions of the Commission.

From this it will be seen that the section does not apply in any State unless the provisions are adopted by that State; and this is the reason for the present Bill. It proposes to adopt section 19A so that TAA could be authorised to operate in Western Australia.

Section 19A of the Australian National Airlines Act also contains this provision—

> The Commission shall not—
>
> (a) establish any service by virtue of this section unless the Premier of the State in which the service is to be established has notified the Prime Minister in writing that he consents to the establishment and operation of the service; or
>
> (b) continue the operation of any service in respect of which consent has been given under the last preceding paragraph after the Premier has notified the Prime Minister in writing that he withdraws his consent to the operation of that service.

The Hon. A. F. Griffith: I wish that also applied to many other things in the State.

The Hon. J. DOLAN: This means that, even after the State Parliament has adopted section 19A of the Commonwealth Act, TAA could not operate in Western Australia without the written consent of the Premier and that consent could be withdrawn at any time.

Clause 3 of the Bill before the House has been drafted to adopt section 19A of the Commonwealth Act as it now stands. This would mean that any future amendment of section 19A could not become effective in Western Australia without reference to the Parliament of the State.

If the Bill is passed it will not take effect until a date fixed by proclamation and it is not our intention to have it proclaimed unless we are satisfied that the proposed operations of TAA will be in the best interests of the people of Western Australia.

Clause 4 of the Bill states that the Act shall cease to be in force on a date which may be proclaimed by the Governor at any time; so, if we find that TAA is not providing the service expected of it, the authority for it to operate in Western Australia can be rescinded. Alternatively, the authority of TAA could be terminated by the Premier withdrawing his consent; as I have already stated.

Clause 5 of the Bill confirms what I have already explained about the State's right to determine when, and for what period, TAA would be permitted to conduct services in this State.

The Government is introducing legislation to enable TAA to operate in the intrastate trade because it believes that on balance a two-airline system will result in a better regular public transport airline service in this State.

The two-airline system has been operating most successfully in other parts of the Commonwealth, many of them having problems of distance and low population density very similar to those that exist in the north of Western Australia. It is the system which forms the basis of the airlines' agreement entered into between the Australian Government and the two major domestic operators—Ansett Transport Industries and Trans-Australia Airlines.

As a system, it is much admired internationally for having brought to regular public transport aviation within Australia not only financial stability but also a degree of operational safety second to none and a total service quality with few equals.

This belief was shared by the former Liberal-Country Party Government of the Commonwealth which initiated legislation in the Australian Parliament to allow TAA to compete with MMA in intrastate services in Western Australia.

It has been suggested that the overall volume of business has not yet reached the stage where it can support two major airlines. Nevertheless, figures have been put forward to show that the traffic generated in Western Australia is already several times greater than the traffic offering on a

number of routes in other parts of Australia which is operated on a two-airline basis.

Apart from this, the tremendous developmental growth which has taken place in Western Australia over the past decade has proved a vigorous stimulant to air traffic. Further growth, especially in the north-west, is guaranteed through projects, either undertaken or planned, and the expansion of existing projects.

Because of the potential development of more and greater industries, now is the time when a second airline could be phased into our system with the least disturbance to everyone concerned.

The two-airline policy of the Australian Government specifies that TAA and ATI must have substantially equal access in any competitive situation, unless they mutually agree otherwise. This means that each airline is entitled to operate half the total capacity required to service a common route.

The passage of the legislation would not foreshadow the immediate introduction of full-scale competition between TAA and MMA. There would be a phasing-in period so that both airlines could adjust to the competitive environment with the least possible disturbance of operational plans and the least possible impact on staff employment.

Projected industrial development in the north of the State could enable TAA to be phased into the airline system with very little, if any, problems over MMA staff redundancy.

Under the Constitution there is nothing the State can do to prevent TAA operating a service between Darwin and Perth—or, for that matter, between Darwin and any of our north-west centres. What we have to decide is whether it should be allowed, as part of that service, to carry passengers and freight between Perth and our northern towns.

It has been proposed that TAA would operate DC9 aircraft in Western Australia. The technical aspects of DC9 operation are for the Department of Civil Aviation to determine on the basis of its expert knowledge.

From the public's point of view, the DC9 will be more spacious—and presumably more comfortable—than the present jet aircraft servicing the north. If there is an opportunity for the travelling public to obtain something better, I think we should see they get it.

There will be various matters of detail to be worked out to our satisfaction before the Act is proclaimed to empower TAA to operate here. These are things relating to the places to be served, the timetables and charges to be made, and the procedure for the phasing-in of TAA into the present system.

These details cannot be worked out until the necessary powers are provided for TAA to plan its operations in Western Australia. This is what the Bill seeks to do, and I commend it to the House.

Debate adjourned until Wednesday, the 21st November, on motion by The Hon. W. R. Withers.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

Third Reading

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [4.56 p.m.]: I move—

> That the Bill be now read a third time.

I undertook to obtain certain information for the House at the third reading stage. I have done so and wish to point out that the Australian Model Uniform Building Code prepared by the Interstate Standing Committee on Uniform Building Regulations is the document from which all States have prepared or are preparing their new proposed Uniform Building By-laws regulations. The prime objective of this exercise is to achieve as far as possible a national uniformity in respect of building regulations. Obviously there are some areas in which national uniformity is neither possible nor desirable; for example, building fees and site requirements for local reasons.

The Western Australian chapter of the Royal Australian Institute of Architects is represented on the Western Australian Building Advisory Committee by Mr. W. T. Leighton, an architect of Hobbs, Winning and Leighton. Mr. Leighton's deputy on the Building Advisory Committee is Mr. J. K. Duncan, an architect of Duncan, Stephen and Mercer.

Furthermore, the Chairman of the Western Australian Building Advisory Committee, Mr. Walters, is a former Principal Architect of the Western Australian Public Works Department. Mr. S. B. Cann, present Principal Architect of the W.A. Public Works Department, is also a member of the Building Advisory Committee.

Every document relating to the preparation of the Australian Model Uniform Building Code was considered by the Building Advisory Committee and all documents were referred to the Royal Australian Institute of Architects for its comment and recommendation.

For further information the Institute of Consulting Engineers, the Master Builders' Association, and the Local Government Association are also represented on the Building Advisory Committee together with Mr. D. E. Dunwoodie, the City of Perth Building Surveyor.

All of these gentlemen have their respective deputies; for example, the City of Perth Building Surveyor's deputy is the Building Surveyor of the City of Stirling. Surely this illustrates that the interests of building surveyors received due consideration.

Mr. Clive Griffiths states "up until the time I spoke no such opportunity had been given to interested people to study these by-laws". For Mr. Griffiths' information I wish to state that a draft copy of the proposed new Uniform Building By-laws adopted and adapted from the Australian Model Uniform Building Code by the Western Australian Building Advisory Committee comprising three architects, two engineerbuilding surveyors, and two master builders, were distributed on the 30th April, 1973, to the following organisations—

Royal Institute of Architects (three copies)

Master Builders' Association of W.A. (three copies)

W.A. Fire Brigades Board

State Housing Commission

Institute of Consulting Engineers

Public Health Department (Medical).

Of course, copies were distributed to all deputy members of the Building Advisory Committee.

Mr. Griffiths states "irrespective of what the Minister or anyone else may believe, architects in Western Australia are concerned. They are not concerned about the Uniform Building Code because I agree with the Minister that we have representation on the committee that . . . to formulate that Code."

This somewhat garbled and ambiguous statement is confusing. However, I have assumed it to refer to the new proposed building by-laws. If this is the case, there does not appear to be a case to argue. If necessary Mr. Griffiths could be requested to endeavour to clarify his remarks.

It is anticipated that the proposed new building by-laws will be gazetted on the 1st January, 1974, in metricated form. The Western Australian Building Advisory Committee which includes three architects has agreed that the transitional period of six months would apply in which both the existing Uniform Building By-laws and the new Uniform Building By-laws will operate. However, it will be necessary for builders to use one or the other set of the by-laws in its entirety. It may, however, be possible that a longer transitional period is required.

In respect of the building appeal aspect in relation to the new proposed building by-laws, appeals in respect of ceiling heights of habitable rooms have been received and upheld. The existing Uniform Building By-laws require an 8ft. minimum ceiling height; however, the proposed new Uniform Building By-laws will require, for the same rooms, a ceiling height of 2.4 metres which is approximately 7ft. 10⅝in.

I think I have answered the queries which were raised and, accordingly, I commend the third reading of the Bill.

THE HON. CLIVE GRIFFITHS (South-East Metropolitan) [5.01 p.m.]: Again, I had great difficulty in hearing what the Minister had to say. He undertook to answer several questions which were raised the other day, and he has carried out that undertaking this afternoon.

I am afraid the Minister, again, has missed the point I was getting at. In particular, during the course of his comments he said that when the documents were being considered for the formation of the Uniform Building Code, representatives from the Royal Australian Institute of Architects were present; or words to that effect.

I refer the Minister back to the discussion which took place on Thursday, the 8th November. At page 4823 of *Hansard* I had the following to say—

> The Minister said there has been co-operation all the way along the line. I ask him whether he can tell me if an opportunity was given to interested organisations to study the by-laws before he tabled them. For instance, was this opportunity given to the Master Builders' Association, the Royal Australian Institute of Architects, and similar organisations in Western Australia?

The Minister commented and said that as each by-law was agreed on it was forwarded for comment; so, to the best of his knowledge, all those organisations knew what was occurring.

I later mentioned that I believed the Minister was confusing the tabled by-laws with the Australian Model Uniform Building Code, whereas they are two different documents. The by-laws which were tabled by the Minister are an adaption of that building code.

I suggest that even though the Building Advisory Committee did have a representative from the Royal Australian Institute of Architects present, the two documents under discussion were completely different. I agree with what the Minister has said in regard to the Royal Australian Institute of Architects, the Master Builders' Association, and other organisations having been given a draft of the by-laws which were to be subsequently promulgated—I think the date was the 30th April of this year—but the point I am making is that the draft which was issued to those organisations in April and the document which was tabled in this House by the Minister are completely different.

My comment is that those bodies did not have an opportunity, prior to the tabling of the document in this House, to

study it and comment on its contents. A draft set of model by-laws was presented in Parliament; and I now draw the attention of the Minister to a letter addressed to Mr. R. C. Paust, the Secretary for Local Government. It is dated the 5th July, 1973, and is in reference to the A.M.U.B.C. draft, and R.A.I.A. comments. The letter is signed by the secretary of the Royal Australian Institute of Architects. Included in the comments, contained in the letter, is the following—

> The period of study and the time available for a detailed examination of the A.M.U.B.C. Draft Adaption is far too short for an honorary part-time body such as ours. There is a tremendous amount of detailed work required and we haven't been as thorough as we would wish.

A little later in the letter it is stated—

> In particular, we are concerned that the preparation of the draft has been far too rushed. The almost haphazard distribution of far too many U.B.B. clauses has thrown the whole text into confusion. It will be a major job to check the correct position for these, relevance to A.M.U.B.C. clauses, as well as an overdue general reconsideration and updating.

These comments were contained in a letter sent to the Department of Local Government on the 5th July, as a result of the draft which the Minister said was made available at the end of April of this year. The Royal Australian Institute of Architects has told me again—and, I repeat, again—that the draft was very different indeed in content from the document which the Minister laid on the Table of the House. It is that document which they have not had an opportunity to study or comment on.

So, the industry feels that it is back to square one. It has studied a draft, and commented on that draft, but it has received no reply to the letter dated the 5th July as to whether or not the comments were rejected, or otherwise. The industry is now confronted with a document tabled in this House which is different, in great detail, from the one it was asked to look at.

Another question has been posed to me regarding a matter which was also discussed the other day, concerning the commencement date of the by-laws. There seems to be some doubt as to the legality of what would take place regarding by-laws in connection with buildings currently being designed. It must be borne in mind that buildings are designed 12 months or 18 months before construction is commenced. Apparently there is grave doubt as to the legality regarding a building currently being designed under the present Uniform Building By-laws. Such designs may not be submitted to a council for consideration because they will not be completed until after July of 1974. The industry wants to know what the situation will be in relation to those circumstances, because a council may not be asked to grant a building permit in regard to a building designed under those by-laws until the end of next year. Will the Minister allow a period of time for the new building by-laws to be put into effect? That is an area which the people involved would have liked to discuss with the department.

I have been given to understand the Fire Brigades Board is far from happy with the proposals regarding fire zones, and the requirements of parts 16, 17, and 18 of the document which the Minister tabled in the House. I am given to understand the Fire Brigades Board is seeking more power so that it can dictate its requirements in regard to Uniform Building By-laws.

The PRESIDENT: Order! I would like the honourable member to explain where the by-law he has just mentioned comes under the provisions of the Bill now before the House.

The Hon. CLIVE GRIFFITHS: I suggest that clause 8 of the Bill makes provision for the adoption of the by-laws tabled by the Minister, and in regard to which questions were raised in this House last Thursday. The Minister has subsequently answered those questions.

Obviously, the Minister has done the best he could in the time available to him. Perhaps before he closes the third reading debate he could answer the further points I have raised. I simply want to make it clear to the House that the Minister has misunderstood the area of doubt which I have been trying to get across to him. The Royal Australian Institute of Architects, the Master Builders' Association, and other organisations have not—and I repeat have not—had an opportunity to study or comment on the document which the Minister tabled in this House. I also point out that that document is quite different from the draft which was made available and referred to by the Minister during his remarks a moment or two ago.

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [5.12 p.m.]: I have no desire to hurry this legislation. I thought I had answered the questions raised but apparently there is another area of doubt.

I am afraid I cannot answer the question off the cuff but I am prepared to get the information and supply it to the honourable member privately.

Question put and passed.

Bill read a third time, and transmitted to the Assembly.

BUILDING CONTRACTORS LICENSING BILL

Second Reading

THE HON. R. THOMPSON (South Metropolitan—Minister for Police) [5.14 p.m.]: I move—

That the Bill be now read a second time.

The Builders' Registration Act of 1939 was designed to protect the public against incompetent and unscrupulous builders, and broke new ground in Australian legislation. Subsequently, the principles established by the Act were adopted by some of the other States as a basis for similar legislation.

While achieving its immediate purpose, changing circumstances have introduced a number of deficiencies in this legislation; for example, penalties are proving to be inadequate. It is a matter of record that though, on a number of occasions, prosecutions have resulted from the building and selling of spec houses without a license, the $400 fine, which is the maximum which can be imposed, is being regarded apparently as a legitimate building expense and houses are priced accordingly.

Another weakness makes it difficult to prevent "dummying". Some retired master builders have permitted companies to use their license for a fee or a directorship while in no way exercising any control or accepting any direct responsibility for the operations of the organisation. Some have lent their names to more than one firm.

There have been instances where owners have been the victims of poor workmanship and have not been able to obtain any relief from an insolvent builder or from one who has ceased to carry on in business.

Members would also be aware that the Act is presently restricted to the metropolitan area in its application. Consequently country residents are more likely to be exposed to incompetence. Members may well ask, as I have: why should some of our citizens be discriminated against in this fashion?

These deficiencies alone warrant a comprehensive review of the existing legislation. There are, however, other factors which also influenced the Government's decision to recast the Act.

An approach made recently by the Association of Master Plasterers for a registration Act similar to the builders' and painters' legislation must be seriously considered and it would be difficult to justify a refusal to such a request whether it be from that organisation or any other organisation of contractors engaged in the building industry.

Had the request from the master plasterers for separate legislation been acceded to, there could well have followed other requests which might have finally resulted in our having many separate Acts controlling contractors. It is not hard to see that this could develop into a complex and undesirable state of affairs.

Furthermore, there have been a number of complaints from the public regarding the operations of the odd job and specialist contractors, over whom there is no control. Consequently it became quite clear that to overcome the total problem new legislation should be drafted to update and combine the builders' and painters' registration Acts and extend the licensing provisions to all contractors engaged in the building industry who deal directly with the public; and for this to encompass authority to establish an insurance fund—the object of such fund being to compensate owners who are not able to obtain satisfaction from their contractor for partly-built or unsatisfactorily-completed homes.

Such is the background to the Bill now before members. Some further detail of its main provisions will now be given.

In clause 5 the definition of "building" is wide and includes such things as driveways, fences, out-buildings, and other things ancillary to a building. It could, for example, be interpreted to include a swimming pool.

The definition of contractor provides that the person requiring registration in the Act is one who has a contractural relationship with the owner of a building. It would be appreciated that not all contractors engaged in the building industry would deal directly with the public. Examples of such firms would be those which supply aluminium window frames, plaster board ceilings and roof tiles.

In their capacity as subcontractors to builders they would not be required to be registered under the Act. The principle involved is that the contractor, who has a contractural relationship with the owner, has the responsibility to ensure that these people carry out their work in a competent manner. The contractor is the one who is held responsible for making good any deficiencies.

In respect of paragraph (a) of subclause (1) of clause 6, it was proposed initially that the exemption would be higher than $100. But, as there are many complaints from persons who enter into contracts for a small job the $100 minimum should cover many of these complaints.

The provision in clause 8 is to prevent an unlicensed contractor from obtaining a fee for work carried out. The clause, however, further provides that any person who knows that a contractor is unregistered cannot have recourse to this defence.

Clause 13 deals with unsatisfactory work and it will be noted that it applies only to residential buildings—where the contract in regard to such residential building does not exceed $25,000. The

principle here is that it is considered the householder is the person who requires protection.

A person who enters into a contract for the erection or alteration of factory buildings, shops, etc. would normally be in business and would know and have more ready access to the action necessary to obtain satisfaction in the event of a dispute. The same principle applies in respect of those persons who are in a position to enter into a contract related to residential premises exceeding $25,000 in value.

The Hon. G. C. MacKinnon: Do you reckon they are more intelligent because they can afford that?

The Hon. R. THOMPSON: They have more money to engage architects to build them a decent home and they will be protected in that manner.

The Hon. G. C. MacKinnon: It seems a little silly to me.

The Hon. R. THOMPSON: As will be explained later, the persons who are exempted under this clause do not participate in the insurance provisions and are not involved in contributing to that fund.

It will be noted that there are substantial fines for contractors who do not abide by an order to rectify faulty construction. There is also provision for the suspension or cancellation of the contractor's license.

Clause 16 provides for the application by the board of an injunction to restrain any person from continuing an offence under the Act. This provision overcomes a weakness under the Builders' Registration Act where the board had no power to stop work.

Clause 20 sets out the constitution of the board. Members will note that the chairman will be a permanent officer of the Public Service. This is considered desirable in view of the increased responsibilities of the board. However, it is not contemplated that the duties would occupy an officer fulltime.

The other members of the board are persons who are either professionally or technically qualified and who will be able to offer practical advice in regard to complaints received by the board. Their qualifications will also be advantageous when setting standards of competency and so forth for the various categories of contractors who will be licensed under the Act.

Under subclause 3 of clause 21 the board also has authority to consult with persons or organisations who have knowledge of matters affecting the functions of the board.

Clause 23 provides that the board determine the course of study or training to be followed before a person may be licensed as a contractor.

Clause 43 details the requirements for an unrestricted license. This equates to the present registered builder under the Builders' Registration Act, and such a person can automatically obtain this license when the Act is proclaimed.

Clause 44 sets out the details of a proposed restricted license. It will be noted that the restriction can be as to a particular category of trade. Persons at present registered under the Painters' Registration Act can be automatically granted, under this provision, a license restricted to the business of a painter.

Clause 52 deals with the payment of an annual fee by contractors. The organisation contemplated under this legislation is to be financially self-supporting. The annual fees are to be determined by the board, but are intended to be at a level calculated to allow the board to operate financially, if possible, within its own means.

Clause 64 sets out the machinery which would enable persons who are refused a license, have their license suspended, or have an order made against them by the board, to appeal to a magistrate.

Clause 65 deals with compensation. As mentioned earlier, the compensation provisions apply only to a building which is to be used for residential purposes and which is subject to a contract which does not exceed $25,000 in value. The compensation provisions do not apply to houses constructed by the Crown.

Clause 66 authorises the establishment of a building contractors' guarantee fund.

Clause 74 sets out the liability for payment to the fund. It is contemplated that the fund will be self-supporting—that is, the contributions will be sufficient to meet the claims. However, without any prior experience it will be difficult to initially assess the likely amount of the claims in any one year. Therefore, in investigating the likely level of contributions it has been necessary to make a number of assumptions with that qualification.

It is considered that the rate of contribution should be less than one-tenth of 1 per cent. of the value of the contracts subject to the insurance fund. Should the board find it necessary and wish to increase the contribution beyond that figure, ministerial approval must be sought.

Clause 76 provides that contractors must inform owners of the existence of the fund and their rights in relation to it, thus obviating cases involving people not aware of their rights.

Clause 83 provides that a complaint may be made no later than one year after an offence has been committed, so as to prevent matters dragging on over many years.

Clause 86 stipulates that the amount of fines and other sums recovered in respect of offences shall be paid to the board.

Members will, I trust, recognise this legislation has as its purpose the protection of consumers; its administration being the responsibility of the Minister for Consumer Protection.

During the preparation of the legislation consultations and discussions were had with various interested organisations. Some of those which made representations regarding the contents of the Bill are the Builders' and Painters' Registration Boards, the Master Plumbers' Association, the Building Workers' Industrial Union of Australia, and the Chamber of Manufactures.

When introducing this Bill in another place the Minister for Works commented that he had consistently received complaints from people who have been unable to obtain satisfaction from contractors who have done faulty work. The number of complaints over which there is no jurisdiction at all—those from country centres near and far—has been growing. The report of the Director of Consumer Protection records that many of his problems were associated with these matters. This situation must be overcome. Several well-considered suggestions were made in the report and it is believed there is a need for the Bill and that it will assist the Director of Consumer Protection in the performance of his functions.

Doubtless, many members have had experience with people who have not been able to obtain satisfaction from contractors of one kind or another. Some contractors have been unfair in their dealings with old-age pensioners, for instance. They advertise themselves as contract tilers, and so on; they half-do the job, and leave the pensioners lamenting. This is a very objectionable practice.

The larger building projects are now the subject of an inquiry by a commissioner who will report on the desirability of changing the present system. He is inquiring into many aspects. Members should not confuse that inquiry with this Bill, which relates to residential buildings valued at up to $25,000. The inquiry which is currently being undertaken will result in recommendations being made to the Government as to what should be done in connection with the contractors for major buildings.

It was pointed out in another place that this legislation will not prevent a person building his own home. However, such a person may wish to employ, say, a granolithic contractor for certain work, and he will therefore be protected.

I would now like to explain an amendment to the Bill which was made in another place. The intention of the Bill, as originally drafted, was that only those contractors who dealt with owners and occupiers should be subject to licensing. After the Bill had been introduced the representatives of the Painters' Union approached the Minister for Works claiming that this was unreasonable in regard to painters.

Under the Painters' Registration Act, which this Bill will replace if it becomes law, all painters other than those working for wages have to be registered. The Minister accepted the proposition that the requirements before a person can establish himself as a painting contractor should not be lessened.

Apart from this the time limit set in clause 83 for lodging complaints has been reduced to 12 months.

I commend the Bill to the House.

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

PERTH MEDICAL CENTRE ACT AMENDMENT BILL

In Committee

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

Clause 1: Short title and citation—

The Hon. R. H. C. STUBBS: I undertook to obtain some information to present to the Committee. I referred this matter to the Minister in another place, and he has now supplied me with his answer.

Mr. Williams indicated it would be wrong for him to vote for the second reading of the Bill before the Minister had given a written undertaking or promise which would bind any future Minister. This is a strange way to deal with legislation, particularly as the matters for which the undertaking is required are not contained in the Bill. This would set all kinds of precedents for the future, and it cannot be acceded to. Further, this suggestion can only be taken as a gratuitous insult to the Minister for Health who is already recorded in *Hansard* as having undertaken to do certain things.

I might point out that the Minister has already kept his word. The Bill was debated in the Legislative Assembly on the 25th and 26th October. I have here a memo dated the 25th October from the Minister to the Town Planning Commissioner, which reads—

> Recently Parliament debated amendments to the Perth Medical Centre Bill. The occasion provided an opportunity for Dr. Dadour and Sir Charles Court to express concern regarding traffic flow in and around the Centre.
>
> Whilst realising that this was one of the penalties of progress, they felt that the traffic could flow easier if

the Nicholson Road subway were widened and it was possible to effect certain turns at different times.

They were also concerned at the general disruption because of flow of traffic at change of shift.

Could you advise, please, what work, if any, the Town Planning Department has done in this regard and whether or not there has been any liaison with—

(a) the Hon. Minister for Works; and

(b) the Nedlands and Subiaco City Councils,

on traffic flow, with a view to easing congestion and directing traffic through the widest streets.

There is a further minute in the Minister's handwriting dated the 26th October indicating that he had a discussion on the matter with the Town Planning Commissioner. As a result of that discussion, and subsequent discussions on an officer level, a request was forwarded to the Under-Secretary for Works on the 30th October. It reads as follows—

Perth Medical Centre: Hollywood: Road Layout and Traffic Circulation Reference is made to recent phone conversations between Hardman/Fairbrother and Carr/Fairbrother with regard to road layout and traffic circulation around the Perth Medical Centre. Please find with this minute a copy of a minute dated 25 October 1973 from the Minister for Town Planning to the Town Planning Commissioner which refers to the items mentioned above. It is understood that you are reporting to the Minister for Works on the problems which have arisen and in this regard it would be appreciated if you could take into account the Minister for Town Planning's comments attached.

As the matter under discussion is not within the purview of the Minister's portfolio, he is unable to give any undertakings as requested, even if he were so inclined. However, as I pointed out earlier, it is a strange way to debate legislation, and one which we must reject.

The Hon. R. J. L. WILLIAMS: I believe the words "gratuitous insult" were used in respect of my speech. I wish to make it perfectly clear to the Committee that no gratuitous insult was intended at all. In point of fact, if members care to look at page 4615 of *Hansard* No. 20, they will see that I said I was not reflecting in any way on the integrity of the present Minister. When a Minister in another place sends a reply here I consider that it is a written reply. I do not see what the Minister in another place has to be so upset about. In his written reply he has given the assurance that certain actions will be taken. However, when I perused the debate in *Hansard*, I discovered that I did not receive answers to all my questions.

On page 4615 of *Hansard* I drew attention to the fact that the trust authority has no authority. I obtained my information from a remark attributed to Mr. Justice Burt, and I said that this ought to be drawn to the attention of the Minister. It is passing strange that a number of questions have been asked in another place in regard to the Perth Medical Centre. The Minister for Health was asked today—

(1) Has the Perth Medical Centre Trust decided to establish an internal ring road in an attempt to alleviate the problem of increased traffic in the surrounding residential area?

(2) If so, when will work commence?

(3) If not, why not?

The reply was as follows—

(1) to (3) No. However, the joint planning committee of the trust is currently examining ways and means of reducing traffic congestion.

A conference has been arranged when representatives of the Nedlands and Subiaco Councils, the Metropolitan Region Planning Authority, Police and Main Roads Departments, and the Metropolitan Water Board will examine all aspects of the situation.

In other words, in his reply the Minister admits that a problem exists. Not only does he admit it exists, but we know also that he is attempting to solve the problem to the best of his ability. I do not think it is a gratuitous insult to the Minister at all to further question him. I do not sit in that other place, and I do not hear what the Minister says. I think the Committee is entitled to that information, and I believe I was entitled to debate the issue as I did.

I would like to ask the Minister for Local Government a further question. When will this conference take place; or has the conference actually taken place? We know that many of these matters are relevant to the measure we are discussing.

Another set of questions was asked about the widening of the Nicholson Road subway; and I referred to this in my speech also. I did not know how far this had proceeded, but the Minister replied in another place that the final planning must await the outcome of the feasibility study of the Perth central section of the railway line.

This is another factor which I did not take into consideration, and I note this answer given today. The Minister also said that preliminary planning for the

Nicholson Road subway had been commenced. I feel that with these answers, and the answers to questions I have asked again this afternoon, I can go to the people of Shenton Park and say, "This Minister has done all he possibly can within the compass of his portfolios." These people will then know that the Minister for Health, who has also the portfolio of town planning, is doing his utmost in this respect.

I would now like to ask what the Minister's colleagues are doing to assist him. Has the Minister for Works done anything? When a Bill is debated, we ought to be permitted to discuss matters relating to it. One would think that the Perth Medical Centre is sacrosanct. Certainly the Ministers for Health, past and present, would not condone action to the detriment of the local residents.

I hope that when the Minister for Local Government approaches the Minister for Health he will tell him that no insult was intended at all at any time. If the Minister for Health will look at my remarks in *Hansard*, I will be very pleased. However, I am not happy to see this Bill proceed without some answers from the Minister for Health.

The Hon. R. H. C. Stubbs: I will answer these queries in the third reading stage.

The Hon. R. J. L. WILLIAMS: I am perfectly happy to let it go at that.

The Hon. G. C. MacKINNON: The Committee will probably recall that I also raised some questions, and I believe the Minister's reply was given to my questions as well as to those asked by Mr. Williams. However, I sincerely hope I was not included in the gratuitous insult angle because I would be very upset about that. It was the particular Minister in question who saw fit on two occasions to my knowledge to completely disregard the Westminster Convention and in another place to read a Cabinet minute written by me as a Minister. This Government is probably the only Government, other than the Federal Labor Government, to have taken such action. Accordingly talk of insults comes a bit rich from that source. However, be that as it may, I feel the questions raised were very proper, and they deserved answers.

To the best of my knowledge, at the time of the establishment of the Perth Medical Centre we did not anticipate the increase in traffic which has eventuated. The original parking area—if my memory serves me right; and it is a long time ago—was not anticipated to be as large as it is. It is a pity that the people living in the surrounding suburbs, and particularly Shenton Park, have suffered so gravely from the establishment of this centre.

I am very pleased the Minister has seen the problem and that he is holding meetings with the local people in an endeavour to solve it. The Perth Medical Centre is regarded as a tremendous advance for our State, and we all hope it will live up to all the expectations. It would be quite wrong for the people living in the locale to pay too high a price in order that those in more remote areas of the capital city will benefit from the establishment of a second major hospital with all the ancillary emergency care units which this centre will have in the fullness of time. We hope that the Minister for Local Government will see fit not to proceed past the Committee stage today in order that he may answer Mr. Williams' questions.

The Hon. R. H. C. STUBBS: As I have indicated to Mr. Williams, I will certainly endeavour to get the information required, but I did want to get the Bill through the second reading stage. I am prepared to let the clause remain in the Bill until I receive a complete answer to the question that has been asked.

The Hon. G. C. MacKinnon: Your usual co-operative self.

Clause put and passed.

Clauses 2 to 4 put and passed.

Title put and passed.

Bill reported without amendment.

PREVENTION OF POLLUTION OF WATERS BY OIL ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th November.

THE HON. R. THOMPSON (South Metropolitan—Minister for Police) [5.47 p.m.]: I regret I was indisposed when Mr. Williams made his contribution to the debate on this Bill.

The Hon. G. C. MacKinnon: We are all pleased you have made such a good recovery.

The Hon. R. THOMPSON: I do not know whether or not I have made such a good recovery; I am keeping my fingers crossed. I have read Mr. Williams' speech and I will now endeavour to reply to the points he raised.

Before dealing with the claim that in the Bill there has been incorporated a gross injustice, I would like to correct the wrong impression the honourable member has that the Bill is concerned only with the harbours and inland waters of the State. Notwithstanding the judgment in the case of Bonser v. La Macchia in 1969 referred to by the honourable member, I am informed on good authority that the Western Australian Act extends to cover the territorial seas. If the honourable member would like to research the matter further he will find that the appropriate Commonwealth legislation does not encompass the territorial waters and, in the absence of Commonwealth legislation in this area, Crown Law advice is that the State law would be effective.

The Hon. A. F. Griffith: In the absence of Commonwealth law; does your Government want to encourage the Commonwealth to legislate on territorial waters?

The Hon. R. THOMPSON: The Leader of the Opposition should not take my remarks out of context.

The Hon. A. F. Griffith: Whenever I listen to State rights being eroded it makes my blood boil.

The Hon. R. THOMPSON: What I said was that Commonwealth legislation does not encompass territorial waters.

The Hon. A. F. Griffith: Not yet.

The Hon. R. THOMPSON: Crown Law Department advice is that, in the absence of Commonwealth legislation in this area, State laws would be effective. In his speech Mr. Williams referred to South Australia being the only State with legislation that included agents among those who could be prosecuted in the event of an oil spillage. When legislation is being drafted it is usual to look for precedents which could assist in making the proposed law more effective. Undoubtedly the South Australian Act is an example of effective legislation. I have it on good advice from the Minister for Works that the Act in South Australia functions very well and has done so for a decade or so. In that Act an agent has been included as one of those who could be held responsible for an oil spillage.

During the course of his speech Mr. Williams informed us of an incident off Esperance involving a vessel and a sick crewman. In extending this to include an oil spillage in Albany—which could become the agent's responsibility—he referred to an accident occurring. I would like to inform him that if an accident did give rise to oil pollution no action would be taken against an agent as, under section 6 of the principal Act, it is a defence if the oil spillage could not have been avoided and if all reasonable precautions were taken to prevent or reduce the escape of oil once it was discovered.

The other point which requires explanation is the honourable member's reference to the amendment which seeks to define "owner" to include "charterer". This definition was included on the advice of the South Australian authorities where a case against an agent failed. The defence claimed that he was not the agent for the owner of the vessel, as required by the Act, but was the agent of the charterer of the vessel—a legal technicality which prevented a conviction being obtained.

The Hon. A. F. Griffith: Against the agent?

The Hon. R. THOMPSON: Yes.

The Hon. A. F. Griffith: So in the case you mention—namely, of the seaman being brought ashore at Albany with a spillage of oil occurring there—and taking into consideration that section 6 provides it is a defence if the agent can prove that the oil was spilt inadvertently, this all depends on the fact that the ship's captain is available to give that evidence. If the captain has moved on the agent is responsible in the light of no evidence to the contrary.

The Hon. R. THOMPSON: That was an accident that occurred.

The Hon. A. F. Griffith: Nevertheless, on your argument the position could be as I have outlined.

The Hon. R. THOMPSON: I have given to the House the information with which I have been supplied and that is correct. The notes which I have mention that Mr. Williams referred to an accident occurring.

The Hon. R. J. L. Williams: That was a hypothetical case.

The Hon. R. THOMPSON: I would like to inform the honourable member that if an accident did give rise to an oil spillage no action would be taken against the agent.

The Hon. R. J. L. Williams: Yes, if he is the agent.

The Hon. R. THOMPSON: An accident must be reported.

The PRESIDENT: Order! The Minister will please address the Chair.

The Hon. R. THOMPSON: Certainly, Mr. President. The example used by Mr. Williams of the hirer of a boat for a Sunday School picnic or a pensioners' outing being responsible under this section is not valid. Technically, he could be responsible but it is extremely unlikely that he would ever be charged with an offence. If a master of a vessel on such an outing caused oil pollution through carelessness, he would be charged. If for some reason or another he was not available to be charged, undoubtedly the prosecution would look to the owner as he would normally be resident in Western Australia; that is, when one has regard for the type of vessel about which we are talking.

By this amendment the Government is not intending to commit an act of injustice to a ship's agent, or, as Mr. Williams put it, in some circumstances to deprive him of his house, his car, and all his possessions. All we are trying to do is reduce the prevalence of oil spillages by ensuring, as far as practicable, that in every case of carelessness a fine is paid. There is no doubt that substantial penalties will lessen the incidence of oil spillage. However if the people who are responsible for the spillage know they will not have any chance of being brought before a court they are less likely to be vigilant on other occasions.

The Hon. A. F. Griffith: In other words, if you do not get it off one person, you should get it off another.

The Hon. R. THOMPSON: I have already explained in my second reading speech that this legislation has been in operation in South Australia for some 10 years, and in that State no difficulty has been experienced with this provision because the agent, when he contracts to act on behalf of an owner and to look after his interests in any given port, will be reimbursed for any fine imposed upon him. As the provision has been operating in South Australia for 10 years without any difficulty, I cannot see why this provision cannot operate in Western Australia in a satisfactory manner.

The Hon. A. F. Griffith: You think that because the laws in one State are fairly severe it is all right to have them here?

The Hon. R. THOMPSON: I do not think the laws in any one State should operate in all States if they are not warranted, but as I said in my second reading speech, this Bill was introduced because Federal and State Ministers agreed that such legislation should be introduced.

From both sides of the House we hear members complain about pollution. We have heard these complaints over many years and we still hear them; and I hope we can obviate oil pollution to such a degree that our beaches will not be despoiled as a result of oil spillage. On how many occasions last year did we see our beaches despoiled by oil spillage during the middle of summer? If this legislation prevents an oil spillage occurring only once on one of our beaches in one year its purpose will be achieved. If the legislation is responsible for bringing a person to justice after he has committed an act of oil spillage and a heavy fine is imposed on him—whether it be $50,000 or less—the legislation will have served a good purpose.

This provision has been on the Statute book of South Australia during the administration of Governments of different political colours. The provision was introduced by a non-Labor Government and supported by a Labor Government and it has operated satisfactorily to the extent that all Ministers, both State and Federal, have agreed to introduce legislation to delete the provision that an agent is not to be held responsible. I say that an agent is an agent and anybody who knows anything about shipping will be aware that an agent is the owner of the ship while it is tied up in port. He is responsible for everything that happens to that ship when it is in the harbour.

The Hon. R. J. L. Williams: Never. The captain is responsible for the ship at all times.

The Hon. R. THOMPSON: As far as the working of the ship is concerned, when it is tied up the agent is responsible for its safe working and everything else. I agree with Mr. Williams that the captain is the master of the ship. I would be foolish not to agree. However, in many cases the captain is unable to speak English, so the agent must take the responsibility.

The Hon. A. F. Griffith: According to your notes the agent still takes the responsibility whether the ship is tied up or in territorial waters.

The Hon. R. THOMPSON: How many times have ships left the port and before they have cleared the heads someone has caused pollution by throwing overboard rubbish which then floats up the harbour? Such pollution includes oil and refuse from the bilges.

The Hon. G. C. MacKinnon: I recall that I had some difficulty with the Rottnest ferry in that regard. The rubbish was carefully put in bins, but when the ferries were out at sea the bins were emptied overboard.

The Hon. R. THOMPSON: And the rubbish came straight back to the harbour.

The Hon. G. C. MacKinnon: I do not think they do it now.

The Hon. R. THOMPSON: I hope not. If I may continue, I would like to say there is no doubt that substantial penalties will lessen the incidence of oil spillage. However, if the responsible people know that they will have no chance of being brought before a court, they are less likely to be vigilant on every occasion.

By including agents, we will make them more careful, for contrary to what has been said here and in the other place, an agent, if he has an ounce of business acumen, will ensure that he is not personally responsible for any fine.

If this amendment becomes law his course of action is quite clear. He will obtain a legal undertaking from every owner for whom he acts which will, in effect, ensure that he is indemnified for any fine imposed on him for a conviction of oil spillage. Furthermore, I am sure that any reasonable shipping owner would not object. In fact I have it on good authority that this is what happens in South Australia. An agent who cannot obtain the necessary undertaking from a ship owner would refuse to do business with that owner. Admittedly it would cause agents some trouble initially arranging the drafting of a suitable document and organising the various owners, but I believe that it is better to inconvenience a few agents, if we can by such action reduce the incidence of oil pollution in the waters under our control.

The Hon. A. F. Griffith: You will not reduce the incidence, but only make someone else pay the fine.

The Hon. R. THOMPSON: I happen to have worked on the waterfront and I know —and I am sure my colleague, Mr. Dans, could substantiate what I say—that when the fines were something like £10 for the

spilling of oil in the harbour, it was not uncommon for three or four oil spillages a day to take place in Fremantle Harbour. These were usually the result of carelessness in the bunkering of ships. It must be remembered that prior to the closure of the Suez Canal, Fremantle was the second largest bunkering port in the world—Aden being the largest—and oil was frequently spilled. I am sure members can recall that on many occasions oil came up from the harbour and fouled all the boats in Freshwater Bay. On some occasions it reached as far as Perth. When the fine was increased to $2,000 the spillages ceased virtually overnight.

The Hon. A. F. Griffith: That was a good thing.

The Hon. R. J. L. Williams: Agents were not included in the Act at that time.

The Hon. R. THOMPSON: No, but it made them more careful.

The Hon. R. J. L. Williams: It made the ships' masters and crew more careful.

The Hon. R. THOMPSON: As a result of the increase in the fine, the Swan River is now relatively clean. However, by including the agents we are ensuring that our beaches will be kept clean, and that is what we will be counted on when we vote on the amendments.

Question put and passed.

Bill read a second time.

Sitting suspended from 6.06 to 7.30 p.m.

In Committee

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

Clause 1: Short title and citation—

The Hon. R. J. L. WILLIAMS: I thank the Minister for his reply to the second reading because it has certainly made my task somewhat easier.

The Minister stated the Brand Government had increased the fine for pollution by oil from £10 to $2,000.

The Hon. R. Thompson: Parliament did.

The Hon. R. J. L. WILLIAMS: It was done during the era of the Brand Government.

The Hon. R. Thompson: That is right.

The Hon. R. J. L. WILLIAMS: The Minister said, to rephrase my original statement, that pollution abruptly ceased when Parliament increased the fine. Agents, at that time, were not concerned.

Let me make it perfectly clear that the Opposition would not support any measure which did not allow for the prosecution of a person, vessel, or article—call it what one may—which pollutes knowingly and with reckless abandon.

I thought it rather strange when the Minister said that the South Australian Act works perfectly well and has worked well for a decade. This may be so, but we must remember that today the maximum fine in South Australia is $400, although I understand the amount is under revision. When we talk about South Australia we are not talking about $50,000 but about $400.

New South Wales recently passed a similar piece of legislation but that did not include agents. Also, Queensland, Tasmania, and Victoria do not include agents in their legislation.

The Minister rightly pointed out that Fremantle has large bunkering facilities and does quite a deal of bunkering on the world shipping routes. From the facts and figures which I have, it is rather strange that of the 39 spillages over the last 12 months, there were four successful prosecutions and four pending out of the 39. The total fines amounted to $195.

I think the Government has acted quite correctly in bringing the Bill before the Parliament. Of the four spillages where prosecutions were successful, I know of only one when the master was fined for a spillage of six gallons of oil.

The Hon. A. F. Griffith: What was the total?

The Hon. R. J. L. WILLIAMS: It was $195 for the four successful cases; four cases are pending; and this leaves something like 31 cases undetected.

As I have said, Victoria does not include agents in its legislation. In that State the figures I have for the last year indicate that there were 98 spillages known or suspected to have come from shipping and there were 12 successful prosecutions. The total fines amounted to $9,250. In New South Wales 20 oil spillages were detected and there were 15 successful prosecutions. This was under the previous legislation, incidentally. I understand five cases were dismissed and the total of fines collected was $2,500.

The Hon. S. J. Dellar: Were there any costs involved?

The Hon. R. J. L. WILLIAMS: I do not know, but I imagine the figures I am giving are simply the fines that were collected. In South Australia 10 spillages were detected; there were two successful prosecutions and one is pending.

Fremantle, with its heavy load of bunkering, should have a more efficient form of detection. After going into the ramifications of the measure I appreciate that the Fremantle Port Authority has a terrific job to police all its waters which extend down to Kwinana and back to Fremantle.

The Hon. R. Thompson: To Lancelin.

The Hon. R. J. L. WILLIAMS: Apparently, as the Minister has said, the area extends to Lancelin. It is a tremendous

area to police. One could be excused for thinking that perhaps the Commonwealth Government should come to the aid of the party in connection with the detection of oil spillage. The Commonwealth Government wishes to assume control over territorial waters and, apparently, according to a High Court judgment, we have no jurisdiction outside the low-water mark.

If we estimate a figure, in net tonnage, concerning ships using Western Australian ports we can assess the revenue which will accumulate to the Commonwealth. There is an oil spillage levy of 1c per net ton on every ship which enters a Western Australian port. The agents are responsible for collecting that levy. In 1971-72 the total net tonnage of shipping entering ports in Western Australia was 340,054,000 tons. At 1c a ton—and my mathematics are not quick this evening—that comes to something like $3,400,000 which the Commonwealth will collect for putting detergents and safeguards in at every one of those ports. Having done this and rotating the process in future, I cannot see any Government reducing the levy. I feel that some of the money should be channelled back to the main port authorities to help them in their detection and assist them to police their waters a little more efficiently.

We hear a great deal about ships which fly flags of convenience. I wish to amend a statement about flags of convenience which I made at the second reading stage. Many ships belonging to respectable companies fly flags of convenience in this day and age.

The Hon. D. K. Dans: I would not agree with that.

The Hon. R. J. L. WILLIAMS: That may be Mr. Dans' opinion, but I remind him that flags of convenience are used by various people to evade the high taxes which are applicable in their own countries. Flags of convenience are now being flown by ships from Bermuda and by Dutch, German, and British ships which operate under the Trident line. At one time only Panamanian vessels, and a few others, flew flags of convenience, but this is not the case nowadays.

The Minister said agents could perhaps make arrangements for a company to provide cover. How could agents possibly cover Mr. Onassis' companies. If he has 150 tankers, he has 150 companies. It shows a lack of appreciation of the marine insurance field to say that an agent could cover himself by insurance in this way.

Members of the Committee know that my amendments are aimed at deleting the word "agent" from the measure. According to the Minister, the existing legislation worked successfully when the fine was increased to $2,000. We will now increase it to $50,000. If the captain and crew know this I suggest it will act as a deterrent to them.

The agent has no control over the ship. It would seem to me that even if the fines were $1,000,000, it would not act as a deterrent to the agent for the very reason that he has no control over the ship.

When I spoke to the second reading I also invited the Minister to consider the word "charterer". I gave the Minister the option of inserting in the measure just one word which I think would be effective in chartering; namely, to insert before the word "charterer" the word "demise". Demise charterers are the only ones who are totally responsible for the boat and the crew. Voyage and time charterers have no control over the vessel whatsoever. It is an axiom of law that a person must have some control to be found guilty of some offence or the other.

I pointed out at the second reading that, with the use of the blanket term "agent", by implication the Grain Pool and the Wheat Board, which act as agents for their vessels which put in at Kwinana, would be included. The definition in the Bill will include anyone who actually does any husbandry at all towards that ship; this means maritime workers, launderers, and people such as ships' charterers.

The Minister rightly pointed out that many ships, before they leave the Fremantle heads, dump garbage, rubbish, and possibly oil over the side. Sufficient money should be available to control this sort of thing. I know that the Fremantle Port Authority does its very best but it has a large stretch of water to police. If a ship commits pollution while it is in harbour there is no law of the sea which says that the Fremantle Port Authority can refuse it a clearance. When a ship's captain is refused clearance the costs for his staying in harbour are tremendously high. I suggest that perhaps the Fremantle Port Authority could do this and refuse clearance. Perhaps now I may be delving into the realms of impossibility, but we could consider having a launch, or a plane, follow and observe a ship for a certain distance. This could be done even at night. If a ship were seen to be polluting the waters certain action could be taken. Once the ship was outside the territorial limits, perhaps we could persuade the Commonwealth to come to the party. There is nothing to say a ship cannot be arrested on the high seas. There is nothing in international marine law to say that a judgment cannot be attached to a ship. There is nothing to say that a judgment cannot be given in the Supreme Court for an attachment when a ship is outside the jurisdiction of Australian waters. This is all within the law.

The Hon. R. Thompson: What law would cover that? I am referring to your statement that an attachment can be made to a ship outside territorial waters.

The Hon. R. J. L. WILLIAMS: Under international marine law a judgment can be secured in the Supreme Court. If I am wrong, I apologise for misleading the Committee, but my authority informs me that this can be done.

The Hon. R. Thompson: For pollution purposes?

The Hon. R. J. L. WILLIAMS: For any purposes—even for debt. My authority informs me that a ship can be attached outside territorial waters if a judgment is issued in the Supreme Court.

The Hon. D. K. Dans: It would be an expensive pastime with the Navy chasing the ship.

The Hon. R. J. L. WILLIAMS: I have now replied to the Minister and I am perfectly prepared to proceed with my amendments.

The Hon. R. THOMPSON: Mr. Williams has given us a good second reading speech. I pointed out when I replied to the second reading why an agent should be a party to the measure. The honourable member made several points but he omitted to mention that the ships of which he spoke —the Onassis line and other ships—would also be trading to South Australia. The honourable member mentioned that if there were 1,000 ships there would be 1,000 companies or words to that effect. However, as I have said, the same ships would also be trading to South Australia where this legislation has been proven. It was introduced by the Playford Government to protect the beaches in South Australia. It has worked satisfactorily there, so why could it not work here? The honourable member defeated his own argument when he said it was true that ships heading out of the moles dumped rubbish, oil, etc.—

The Hon. R. J. L. Williams: I said it was true the Minister said it.

The Hon. R. THOMPSON: The honourable member admitted it. It is true. We have all seen it happen. The honourable member has admitted my statement was correct.

The Hon. R. J. L. Williams: I would not dispute it.

The Hon. A. F. Griffith: If it were an accident, you say no prosecution would follow?

The Hon. R. THOMPSON: It is not an accident when a ship dumps its rubbish as it is sailing out of the heads and before it gets into a heavy sea; particularly if it is laden. It is a safe working condition as far as the crew is concerned. When it gets out into the rough sea it is not a safe working condition.

Why should the agent not have some hold over the company? Why should the taxpayers of this country pay to have the rubbish and refuse cleared up? I cannot remember exactly what it cost the Fremantle Port Authority to put an air bubble barrier under the railway bridge in Fremantle to stop oil going up the harbour and fouling pleasure craft and beaches.

I happened to be sitting on the opposite side when the original legislation was introduced—by Mr. MacKinnon, if my memory serves me correctly—and it received my 100 per cent. support because it was common-sense legislation, just as this is. In Victoria there are aeroplanes patrolling Port Phillip Bay, and it will not be very long before we will need to have aeroplanes patrolling Fremantle Harbour. It is when we observe people fouling our beaches that we can take action, and that is where the agent must bear his responsibility. It will not cost the agent a penny. As I pointed out in my reply to the second reading debate, the agents will not service a ship in any port unless they have a guarantee from the company.

The Hon. R. J. L. Williams: Are there any guarantees in operation?

The Hon. R. THOMPSON: I understand South Australia has them and they have been working for some 10 years. No agent will take the risk of having to pay any sort of a fine. His object is to make money. He is not a benefactor for shipping companies or ships' captains.

We have all read reports over the years that the mid-Pacific and the mid-Atlantic remind one of rubbish dumps because of the pollution of those oceans. They have been completely fouled. We are looking to the future with this legislation and I think anyone with any pride would support it completely because we have a very tidy coastline; it is our heritage and we must preserve it for the future. Progressive legislation such as this has been tried and tested for more than 10 years in another Australian State. Are we to reject it and let the ships go on their merry way, in order to alleviate the work of the agent? I do not think the honourable member has demonstrated a responsible attitude, and this Chamber would not act responsibly if it did not take steps to preserve our coastline and keep our beaches clean. The Bill must be supported. To oppose it is virtually sabotage, inasmuch as the other States have agreed to the heavy fines.

The Hon. R. J. L. Williams: Not to the word "agent".

The Hon. R. THOMPSON: I do not like using that word. At this time I understand only the legislation in South Australia and New Zealand contains the word "agent". If New Zealand, which consists of two small islands, can see the benefit of this type of legislation, surely Western Australia, with 4,000 miles of coastline, should have the benefit of such protection.

I could probably speak for an hour on the benefits to be derived. I have pointed out that after the fines were increased no

gross negligence occurred in the harbour. When these penalties are imposed and the agents are held responsible, they will adopt a more responsible attitude.

I hope not one person is prosecuted. The collection of fines is not the purpose of the legislation, but if this clause is deleted the time will come when the State must bear the cost of aerial surveys, and I doubt whether, under the Commonwealth Navigation Act, an attachment could then be put on a ship for causing pollution when it is on the high seas. I doubt it; I am not sure. But this clause makes it sure, and I think the Committee should therefore support it.

The Hon. A. F. GRIFFITH: To give force to his argument, the Minister suggests it would be sabotage to agree to Mr. Williams' proposed amendment.

The Hon. R. F. Claughton: I do not think he used that word.

The Hon. A. F. GRIFFITH: I would rather rely on listening to the Minister. I do not want to listen to the honourable member at this point of time, if he does not mind.

The Hon. R. F. Claughton: Not when it does not suit you.

The Hon. A. F. GRIFFITH: I happen to have the floor at the moment. The honourable member can get up and say his few words afterwards.

The CHAIRMAN: Ignore Mr. Claughton.

The Hon. A. F. GRIFFITH: The Minister suggested it would be sabotage if Mr. Williams' amendment were agreed to. That is a very strong word.

The Hon. S. J. Dellar: It is pretty mild when you consider some of the statements made about treason.

The Hon. A. F. GRIFFITH: I do not know what that has to do with treason, unless the honourable member wants to tar and feather somebody.

The Minister also suggested that if one had any interest in the State at all one would vote for the Bill. I tell him that I am sure everybody in this Chamber has as much interest in the State as he has. I think his suggestion of some kind of sabotage is quite out of place, and I say to him that the members of my party have demonstrated they are far more fond of Western Australia and its rights than the present State Government appears to be.

Several members interjected.

The Hon. A. F. GRIFFITH: The present State Government is under the absolute domination of the Federal Government.

Several Government members interjected.

The Hon. J. Dolan: That is rubbish.

The CHAIRMAN: Order!

The Hon. A. F. GRIFFITH: One can always gather what rubbish is—

The Hon. R. F. Claughton: We have only to look at the other side of this Chamber.

The Hon. A. F. GRIFFITH: The honourable member wants to look to his laurels.

The Hon. R. F. Claughton: They are not bad, either.

The Hon. A. F. GRIFFITH: One can always tell whether one scores a point by the amount of protestation that comes from those one accuses.

Having assured the Minister that every member of this Chamber is just as interested in Western Australia as are he and his Government, I would like members to look at the simple justice in what the Government proposes to do: At the moment we have a fine of $2,000 on the Statute book in respect of an offence under this Act which relates to the prevention of the pollution of certain waters by oil—not by other garbage but by oil. The only garbage we have heard up to date has come from Mr. Claughton. Be that as it may, nobody would want a ship to throw over its side or release in any other way any material which would have ill-effects on the sea and the shoreline, and consequently on the welfare of the people of the State.

The Minister tells us that as soon as the fine was increased to $2,000 pollution of the waters ceased because the fine was so great. In fact, Mr. Williams tells us that $195 has been paid into consolidated revenue as a result of recent prosecutions —a very handsome sum, I must say.

What the Government is trying to do is not actually to stop a ship polluting the water by oil but to sheet home the blame to somebody else in respect of the action of that ship. With the passing of this legislation the Government proposes that the agent will say to himself, "If I do not want to be fined to the maximum provided in this legislation I will have to tell my shipping company that the Western Australian Parliament now insists I am equally responsible with the company for its actions, and in order to ensure I am not held responsible for its actions the company will have to give me a new contract containing an indemnity form."

The Hon. S. J. Dellar: That is all right.

The Hon. A. F. GRIFFITH: It might be all right to Mr. Dellar's way of thinking, but to my way of thinking it is pretty rough justice.

The Hon. R. F. Claughton: You have a pretty rough way of thinking.

The Hon. A. F. GRIFFITH: The honourable member does not know how I think at times. If he did know, he would be positively amazed. I promise the honourable member I will never tell him how I think all the time.

I think it is pretty rough justice. Mr. Williams gave us an example of a ship pulling in to Albany to put off a sick seaman and then going on its way. At that point the ship must have discharged oil into the water.

At present the case would have to be proved against the ship's owner, but if this measure becomes law the authorities would sue the ship and the agent; and the Minister tells us that if it were an accident no prosecution would take place. I ask the Minister: How would the authorities know whether or not it was an accident when the ship is 25 miles out to sea?

The Hon. R. Thompson: I think an accident means a collision.

The Hon. A. F. GRIFFITH: How would the authorities know whether or not it was an accident once the ship is out of the harbour?

The Hon. R. Thompson: Accidents are reportable, and oil spillages are reportable.

The Hon. A. F. GRIFFITH: Oil spillages do not have to be reported, because one can see the damage.

The Hon. D. K. Dans: You cannot always see it.

The Hon. A. F. GRIFFITH: Well, when does one find out that oil has been spilled?

The Hon. D. K. Dans: When you walk on the beach.

The Hon. A. F. GRIFFITH: Is that after the ship has left?

The Hon. D. K. Dans: It could be.

The Hon. A. F. GRIFFITH: Then who is to say that the spillage was or was not the result of an accident?

The ship's agent would have to get the captain to return to this State to give evidence to the effect that it was an accident in order to provide a defence and to avoid the payment of a fine which the court would be able to impose upon him as a result of this legislation. The Government is hell-bent on sheeting home the blame so that fines will be more easily collectable. As far as my party is concerned, we do not intend to provide an excuse for any ship which pollutes the water; on the contrary, we are against that equally as strongly as the Government is against it. But is it fair simply to say that because the ship has gone the agent shall be responsible for what the ship has done, accidentally or otherwise?

I ask members: Can they see any fairness in that proposition? To my way of thinking it is extremely unfair. But that is what the Bill proposes to do, and to persuade the Committee to vote for the provision the Minister said that if we vote for Mr. Williams' amendment it would be an act of sabotage; and so every member of the Chamber should vote for the Bill as it is. That is a poor old argument.

The Hon. R. Thompson: I think it is a good one.

The Hon. A. F. GRIFFITH: It is a poor old argument when the Minister must strengthen it with such a statement. If the proposition has any merit, then it should be judged on its merit—without the Minister making that sort of accusation.

The CHAIRMAN: To facilitate the Committee, could I suggest that we deal with clauses 1 and 2 and then move on to clause 3, which seems to be the one under discussion?

The Hon. R. Thompson: Yes.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Section 3 amended—

The Hon. R. J. L. WILLIAMS: I have already stated my argument in connection with this proposition. I move an amendment—

Page 2—Delete paragraph (a).

The Hon. R. THOMPSON: The Leader of the Opposition said my argument is weak. It is not weak at all.

The Hon. A. F. Griffith: I said it must be weak when you have to resort to the type of accusation you made.

The Hon. R. THOMPSON: It is not a weak argument; it is one of strength, and I will prove that to the Committee by relating an incident which occurred on Tuesday, the 23rd October, 1973. At 12.40 p.m. a quantity of fuel oil, estimated at 20 gallons, spilled overside from the tanker *Polly Castle* during bunkering operations at the oil refinery jetty at Kwinana. The spillage was investigated by police from the Victoria Quay Police Station, who obtained samples of the spilt oil and statements from the personnel involved.

According to the police report, the ship's officer responsible for the bunkering operations went below for some reason or other, and during his absence the overflow occurred. Had he remained at his post he would have been in a position to take immediate action to shut off the flow of oil, in which case the overflow would have been contained on the tanker's deck, because when a ship is in port the scuppers are supposed to be blocked. The police are satisfied that there is sufficient evidence to justify prosecution.

The Hon. G. C. MacKinnon: Against whom: that officer?

The Hon. R. THOMPSON: Against the ship's master, who as Mr. Williams rightly pointed out is the person responsible. However, the tanker sailed at 5.30 p.m. on the same day before a complaint could be served on the master. It now remains for

the port authority and the Victoria Quay police to keep a check on the return to Fremantle of the offending master. The ship may never come back here. This was an oil spillage due to negligence, and a prosecution may never be entered into because the ship's master took the opportunity to clear the port.

The Hon. L. A. Logan: You have just convinced me that I should vote for Mr. Williams' amendment.

The Hon. R. THOMPSON: During the three-hour period that the police were collecting the necessary evidence, the ship cleared the port.

The Hon. A. F. Griffith: With or without a clearance?

The Hon. R. THOMPSON: It was bunkering in the outer harbour and would not require a clearance.

The Hon. R. J. L. Williams: Did it need a pilot?

The Hon. R. THOMPSON: No, not in the outer harbour. Not all ships that enter the harbour take on pilots.

The Hon. A. F. Griffith: Are you absolutely sure that the ship could leave its moorings unattended by anyone at all?

The Hon. R. THOMPSON: Some masters have exemptions, and do not need a pilot in any port in Australia.

The Hon. A. F. Griffith: So it was just clear to leave?

The Hon. R. THOMPSON: Yes, after it had taken on bunkers.

The Hon. R. J. L. Williams: Didn't it need a port authority clearance?

The Hon. R. THOMPSON: I would not think so.

The Hon. A. F. Griffith: Do you know; that is the point?

The Hon. R. THOMPSON: In the circumstances, I would not think so. That is the report I received from the Fremantle Harbour Trust and the Victoria Quay police, and I trust it is true and correct.

The law should be flexible enough to allow us to take action under those circumstances. This is a vital clause. Mr. Williams made many statements some of which I think should be checked because I want to be clear in my mind that the statements he made are correct. I point out that I do not doubt his word.

The Hon. A. F. Griffith: Do you intend to report progress?

The Hon. R. THOMPSON: Yes.

The Hon. A. F. GRIFFITH: I would have liked to hear Mr. Dans speak on this matter. While the Minister is making inquiries, I think he should gain more information regarding how a ship can come to its required place of bunkering, spill oil at 12.40 p.m., and then sail at 5.30 p.m. without a word being said by anybody. It can damage the harbour and yet it is free to leave.

The Hon. R. Thompson: This is the outer harbour.

The Hon. A. F. GRIFFITH: One would think that in the circumstances the police would have done something. The Government suggests that because it could not do anything in a case like that it will sheet the blame home to the agent, who had nothing whatever to do with the spillage. In this case the man responsible went below and during his absence the oil was spilt, and the Government is saying, "We will get the agent because the ship has gone." That sounds pretty rough justice to me.

The Hon. D. K. DANS: I had not intended to enter this debate. However, I can see both sides of the argument. I see some of the problems confronting the agent. But let us be clear on this: In the first place the agent will not lose any money at all; but he will certainly be involved in much more work.

The Hon. S. J. Dellar: And he will probably get more commission.

The Hon. D. K. DANS: That is quite possible. Some statements which have been made are not quite correct. Firstly, let us define the Port of Fremantle. It includes both the inner and outer harbour; that is, an area which stretches from John Point on Point Peron to the southern tip of Garden Island, and along an imaginary line to the Bathurst Point light and from there along an imaginary line to a point adjacent to the City Beach Groyne. That is a very large area.

This Bill is to amend the Prevention of Pollution of Waters by Oil Act, and as I read the measure it seems to me to deal mainly with massive oil spillages during bunkering operations. Members can imagine that a ship proceeding from Gage Roads and passing outside Rottnest is very quickly outside of territorial waters.

The Hon. A. F. Griffith: Not according to the Minister's explanation.

The Hon. D. K. DANS: Mr. Williams' suggestion is that we should have a navy standing ever at the ready to apprehend these people on the high seas. I can well imagine the international situations that would cause quite apart from the court cases it would involve. It is almost impossible to recover damages from the ships which normally pollute by oil, with the exception of those ships which have a very high reputation in the maritime field. We certainly would have little problem with British and possibly American ships—in other words, the national flag carriers.

With regard to the inclusion of "agent" let me take members' minds back not so many years ago when British seamen used to desert in droves in Australian ports,

and the agents could not apprehend them and did not try very hard to do so. Knowing some of the conditions that prevailed on ships at the time, my sympathies in many cases were with the deserters.

The Hon. G. C. MacKinnon: You have cured that.

The Hon. D. K. DANS: No, we did not do that at all. The Commonwealth Government of the day, through the immigration legislation—

The Hon. G. C. MacKinnon: I was referring to the conditions on ships.

The Hon. D. K. DANS: I was not referring to Australian seamen; I do not think an Australian seaman has ever deserted from a ship! The agent was responsible for the apprehension of the deserters, and he indemnified himself against that. It was to his benefit to do so, and desertions became very minor occurrences.

All ships need clearances to depart from port, but sometimes these are obtained before sailing time.

The Hon. A. F. Griffith: How long before?

The Hon. D. K. DANS: It depends on the procedures to be followed, and how busy are the people granting the clearances. A ship could obtain a clearance, and then a spillage of oil could occur.

The Hon. A. F. Griffith: Would it be five hours before?

The Hon. D. K. DANS: It would depend on the circumstances.

The Hon. A. F. Griffith: This particular ship was in port for only five hours.

The Hon. D. K. DANS: Some ships have even less time in port, particularly if they have to pass through customs and other departments dealing with arrivals and departures. Such a ship could sail away before the spillage was detected. One of the main problems in recovering money is that sometimes ships which are not regular callers at the port depart and are seldom seen again. The owners make sure that they do not send the same captain back on an offending ship; and on many occasions they do not send the same ship back.

We do not experience a great deal of trouble with tankers. In Melbourne the fine is $100,000. The Chairman of the Melbourne Port Authority wanted to make the fine $200,000 at the time the legislation was put up, because he knew the oil companies carried insurance against the spillage of oil.

We have to look at spillages not in terms of 20 gallons. Of course accidents could occur, despite all the modern devices, such as overflow tanks, which have been adopted. No-one can convince me that our ports do not make allowances for the accident factor. This is borne out by the fact that only a very small amount in total fines has been imposed in eight prosecutions. So, this factor is taken into account, and the court does not impose the maximum fine of $50,000.

We should look at the damage that can be caused by oil spillage, and at the position of the Port of Fremantle. It is a big port situated at the mouth of a fine river, which is possibly the cleanest river in any populated area in the world I have seen. Apart from the damage caused to marine life, oil spillage in this harbour also affects the recreational use of the river. I am sure that all members can recount experiences of yachts and river beaches being polluted by oil spillage. It is not such a difficult job to clean up oil spillage in the harbour. In this respect I refer again to the agent for whom I have some sympathy. For many years I have worked with these agents, and I am aware of their problems. I know that in some cases ships enter the port, but the masters do not allow the agents to go on board.

The Hon. A. F. Griffith: He would be the easy one from whom to get an indemnity.

The Hon. D. K. DANS: The fact is that arrangements should be made for the appointment of an agent before the ship arrives.

The Hon. D. J. Wordsworth: Is it necessary to have an agent before a ship comes into port?

The Hon. D. K. DANS: Yes, normally. There is a variety of agents for even one vessel. There could be an agent for the owners; an agent for the cargo being brought in; and an agent for the cargo to be taken away. Normally when we refer to the agent of a vessel we mean the agent of the owners or the charterers.

The Hon. I. G. Medcalf: How much is the agent paid in respect of the average ship which comes into port?

The Hon. D. K. DANS: Very little.

The Hon. I. G. Medcalf: In some cases it is between $30 and $40.

The Hon. D. K. DANS: I know it is not very much. I do not envisage the agents paying this fine for oil spillage. I have some sympathy for them, and I know they receive very little for what they do. We all know that the agent does not pay the fine. If an agent does not take out an indemnity he would not remain in business long.

A ship, which might be a tanker or some other vessel, that calls at the Kwinana refinery might be involved in oil spillage, and so pollute the beaches in that area. This could also do terrific damage to the marine life at Cockburn Sound. I listened with interest to the comments made by Mr. Williams and his reference to the *Torrey Canyon* incident. I would point out that a very serious oil spillage occurred just out of Thursday Island when the tanker

Oceanic Grandeur foundered. It was suggested that the oil which leaked from the vessel was the cause of ruining the culture pearl industry on Thursday Island. Irreparable damage was caused to the marine life in those waters. These are some of the factors we should take into account.

The Hon. D. J. Wordsworth: Was that vessel going out of the port?

The Hon. D. K. DANS: It was going out of Brisbane.

The Hon. D. J. Wordsworth: Did it have an agent?

The Hon. D. K. DANS: It had no agent. At the time I do not think anyone could recover a great amount by way of damages from the vessel. I think that subsequently it was refloated. I do not know what action the Queensland Government took to recover losses caused through the damage.

To get back to ships at the Port of Fremantle. One of the great problems confronting the port authority is the difficulty to get the courts to impose any large fine. In most cases there is a handshake. I have said previously that courts have been taking a fairly lenient view. However, if one takes into account the position at the Port of Sydney one finds a 93 per cent. conviction rate; and this indicates something is wrong with the treatment that is handed out to ships at Fremantle.

We have to consider what action we should take, bearing in mind the difficulties of the agent and the problems confronting the people of this State who live in and around that port. A 20-gallon spillage of oil is serious enough; but it is a real disaster if the spillage is 500 or 1,000 tons.

The Hon. I. G. Medcalf: What has that to do with the agent?

The Hon. D. K. DANS: If the agent is prepared to indemnify himself we would be able to recover some money, and this would encourage the responsible officers on ships to be careful when the ships are in port.

The Hon. I. G. Medcalf: Could we not have better policing methods adopted against ships?

The Hon. D. K. DANS: Perhaps we could. Let us take the case of a ship anchored at Gage Roads which has been cleared to sail. She could pick up anchor in the middle of the night and sail away. She might be anchored at buoy from which a pilot is not required to guide the ship out. As soon as the vessel leaves it could pump out its dirty bilges.

The Hon. A. F. Griffith: In such a case do you share the view of the Government that it is perfectly justified in sheeting the blame for that action on the agent—one who has lost control of that ship hours before the incident?

The Hon. D. K. DANS: I shall deal with what the Government seeks to do under this Bill. I would point out what takes place when a seaman is arrested for being drunk, or for breaking a window; and what the agent is required to do when a seaman has to be repatriated. I am sure it is not suggested that the agent himself has to supply the money.

The Hon. R. Thompson: Furthermore, who engages the lawyers?

The Hon. D. K. DANS: I suppose that Mr. Cullen has made a fortune out of these cases. This brings to mind an incident when a tug came into the Port of Fremantle to tow away the *Alkimos*. It sneaked out of the port. Mr. Cullen asked me whether I could apprehend the ship for him. I said that if the price was right it might be possible to do that. We got a group of seamen on a fast boat, and we reached the *Alkimos*. They clambered over the side and onto the ship. We apprehended the vessel because there was a lot of money owing to the port.

The point is how are we to devise a method by which the agent can indemnify himself, so that if a fine of this nature is imposed it can be recovered? I think such a fine will apply to tankers which, in the main, have a very large insurance coverage against oil spillage.

A number of statements have been made about pilots, but I shall not enter into this argument. All ships entering port from overseas destinations have to take on pilots. Even a tug which goes out and salvages half of a tanker and takes her in tow has to suffer the indignity of the presence of a pilot to bring it in. This is a vexed question, and as time passes it will become a more difficult one. Sooner or later, maybe by international agreement, some kind of fund will be established to cover these incidents.

While I have great sympathy for the agents, because of the great amount of work they do, I certainly do not expect the agents to pay a fine of up to $50,000 which is imposed.

The Hon. I. G. Medcalf: That is what they will have to do, because there is no indemnity.

The Hon. D. K. DANS: I say that would be adjusted.

The Hon. I. G. Medcalf: There is no proposal in the Bill to adjust that.

The Hon. D. K. DANS: It is up to the agent to adjust that.

The Hon. I. G. Medcalf: The machinery is not available to do that.

The Hon. D. K. DANS: I am now trying to assist the debate, and to clear up some wrong statements which have been made. The spillage of oil from a vessel, irrespective of the precautions taken, can be caused by negligence, such as when an officer who is supposed to be performing his

duties in the engine room becomes drunk. Unfortunately it is the ship's master who has to take the blame.

The Hon. I. G. Medcalf: Under the Bill it is the agent.

The Hon. D. K. DANS: It could be the agent, if he is properly indemnified against such incidents.

The Hon. I. G. Medcalf: He is not indemnified, and there is nothing in the Bill about that.

The Hon. A. F. Griffith: He is not properly indemnified, and you know that.

The Hon. D. K. DANS: How is an agent able to get over all the other charges that are levied against the ship?

The Hon. A. F. Griffith: He has to get an indemnity from the owners of the ship, but the Bill does not provide for that.

The Hon. R. Thompson: Sometimes there are thousands and thousands of things for which the agent has to pay, but there is nothing in the legislation to say that he has to pay for them.

The Hon. D. K. DANS: There have been such cases, too, but the agent is indemnified. I am sure that if proper consultation takes place this can be ironed out to the benefit of all parties. I support the clause.

The Hon. A. F. GRIFFITH: I have listened to Mr. Dans with a great deal of interest. Tomorrow the Minister will have to revise what he has told us this afternoon as a result of the experience of Mr. Dans.

The Hon. D. K. Dans: I hope not.

The Hon. R. Thompson: Why will I have to revise what I said?

The Hon. A. F. GRIFFITH: Mr. Dans said that action against responsible companies which spill oil in the harbour will be easy to take, but it will be difficult with the fly-by-night ships where the captains can be changed so that they never come back to Western Australia.

The contents of this Bill will make agents very cautious with regard to the ships they undertake to act for. An agent will be careful to be indemnified. From what Mr. Dans has told us, such an indemnity will not hold water and the poor old agent will be held responsible.

The Hon. D. K. Dans: I have sympathy for the agent, but I do not have sympathy for the "poor old agent" because I do not know of any who are poor.

The Hon. A. F. GRIFFITH: It was not said in a pecuniary sense.

The Hon. J. Dolan: Mr. Dans objected to the word "old"!

The Hon. A. F. GRIFFITH: I would not like him to take offence at that word, either! The agent will be held responsible for something over which he will have no control.

The Hon. D. J. WORDSWORTH: I feel that we need more information regarding the responsibility of an agent, and whether or not a ship can enter a port without an agent. If a ship does come into port with an agent, when can the agent declare that he is no longer the agent? Can he break his agency before the ship leaves?

Perhaps the Bill will need to set out that a ship cannot enter a port without having an agent who will be responsible. I would also like to know whether a ship can anchor without actually entering a port, because a ship could spill oil just outside the harbour.

The Hon. R. Thompson: Does the honourable member mean, oil on troubled waters?

The Hon. D. J. WORDSWORTH: I feel we should have more information regarding the position of agents.

The Hon. L. A. LOGAN: I have listened to this debate with an open mind, and I have attempted to work out the ramifications of what is likely to occur. The comments made by the Minister, and by Mr. Dans, lead me to believe that agents could find themselves in a difficult situation if this Bill becomes law. The Minister said that ships' agents shall be equally responsible with the owners and masters for oil spillage, whether the spillage is from a tanker or from an ordinary ship.

The Minister also said that some ships never return to certain ports, and Mr. Dans said that a ship, anchored in Gage Roads, could slip away and the captain could never return again. I think Mr. Wordsworth might be wrong in his interpretation of "agent" because once he has accepted the agency he is well and truly committed.

I suggest to the Minister that he might have another look at the definition of "agent". It does not seem right that an agent should be equally responsible, irrespective of whether or not he will get indemnity, when he cannot possibly be responsible in the same manner as the owner or the master of a ship. I am not inclined to support the measure at the moment but if the Minister can find a better definition of "agent" I will again consider whether or not I should support it.

The Hon. R. THOMPSON: This debate has been most interesting, which I think is worth while. I have indicated that I am prepared to report progress and, therefore, I would like members to give some indication of any other questions which are likely to be raised. I will endeavour to get full answers, particularly with regard to the point raised by Mr. Logan. Nobody knows everything about every Bill and I notice that the Leader of the Opposition nods his agreement.

This is something new to us, and possibly to some members it is complex and cannot be comprehended. I understand it

to a degree because I worked around the waterfront. I do not think the agent will be placed at a disadvantage because even ships with flags of convenience enter our ports and sometimes run up huge wharfage fees.

The Hon. G. C. MacKinnon: Is the agent responsible for those fees?

The Hon. R. THOMPSON: The agent now pays all those bills.

The Hon. G. C. MacKinnon: But if the bills are not paid is the agent responsible at law?

The Hon. R. THOMPSON: The agent orders many things. On many occasions the masters of the ships cannot speak English.

The Hon. A. F. Griffith: I think the question was that if the fees to which you have referred are not paid by the shipping company, they are due to be paid for by the agent. If the shipping company does not pay the agent is that money recoverable by law?

The Hon. R. THOMPSON: I believe that is the case, but I will have the matter cleared up completely.

The Hon. D. K. Dans: Agents are caught for ships' stores and bunkers.

The Hon. R. THOMPSON: If Elders-GM was the agent for a ship, and that ship skipped port, I guarantee that no other agent in an Australian port would handle the ship in the future.

The Hon. A. F. Griffith: That does not answer the question.

The Hon. R. THOMPSON: I think Mr. Medcalf would agree with me there.

The Hon. G. C. MacKinnon: But Elders —GM could be down the drain to the extent of $10,000 or $20,000.

The Hon. R. THOMPSON: But that ship would have to stay away from Australia because no agent would handle it.

The Hon. D. K. Dans: Nor anyone else in the world, for that matter.

The Hon. A. F. Griffith: There are many other ports.

The Hon. R. THOMPSON: I feel that we can let this Bill go for another week and find out what has occurred in New Zealand and South Australia.

The Hon. A. F. Griffith: It is fair enough for the Minister to ask members to state their questions but it is possible that members will still want further information as a result of those replies.

The Hon. R. THOMPSON: If there are any further questions I will attempt to obtain the answers.

The Hon. R. J. L. WILLIAMS: I thank the Minister for his offer, and I want to draw to his attention to the fact that I have an amendment on the notice paper for the deletion of a certain clause. I am prepared to waive my amendment if the Minister will draw to the attention of his colleague that he should define the term "charterer".

I would like the Minister to clean up that term, and include "demise charterer", and not include a time or voyage charterer because he has no control over the ship. A demise charterer does have control over a ship. I am referring to a "dead boat charter" when the ship is handed over to the crew and they have control of it. I would like the Minister to clear up that point.

Progress

Progress reported and leave given to sit again, on motion by The Hon. R. Thompson (Minister for Police).

BILLS (3): RECEIPT AND FIRST READING

1. Maritime Archaeology Bill.
2. Museum Act Amendment Bill.
3. Education Act Amendment Bill (No. 2).

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

INDUSTRIAL AND COMMERCIAL EMPLOYEES' HOUSING BILL

Assembly's Message

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

ALUMINA REFINERY (WORSLEY) AGREEMENT BILL

Second Reading

Debate resumed from the 1st November.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [8.45 p.m.]: My colleague, Mr. McNeill, who secured the adjournment of the debate on the second reading of the Bill, gave us an extremely interesting speech which revealed the thorough examination he had made of, and research he had put into, the measure. Accordingly I find it unnecessary to speak on the Bill in the same detail.

In the first place I merely wish to record my sincere hope that this company will get off the ground; because I well remember before the Alumina Refinery (Bunbury) Agreement Act was introduced in 1970 the amount of effort, exploration, and research it was necessary for the company to put into the project when it was thought that the product would be exported from the Port of Bunbury.

For reasons that have been explained to us there has now been a change of plan and the result is that this agreement comes before the Chamber for ratification. The agreement is still in the old unsigned form. This is the manner in which the present Government continues to present such agreements. The passing of the agreement will allow the Premier of the State to sign the agreement and, at that point, it will come into effect.

I am bound to say I was surprised and concerned at the extent to which the Government found it necessary by way of what is referred to as the side letter—in fact I am surprised that the Government produced such a side letter—to go into such detail in the terms of the letter we have now been able to see. It would seem the letter itself is an agreement on an agreement.

I feel the Government should have put in the agreement itself a great many of the things which are in the side letter. It should not have been necessary for Mr. McNeill to emphasise the fact—though I admit there was a willingness to co-operate on the part of the Minister—that we had not seen the other letters which comprised a bundle of correspondence, and which the Minister for Police made available to us.

Late this afternoon the Minister was good enough to provide me with a copy of that material. I have not had an opportunity to read in any detail, or to absorb for that matter, the total content of the letters that were exchanged between the company, the Premier of the State, the Minister for Mines, and others. I am sure, however, that Mr. McNeill will be grateful, as I am, to the Minister for supplying the material in question.

One of the undertakings in the side letter, which is to be found about two-thirds of the way down, states—

> I confirm that Reynolds would have the right without the consent of the Minister to assign its rights as assignee under the agreement to any company nominated by it which is either incorporated in Australia or registered in Western Australia as a foreign company provided—
>
> (a) any necessary approval of the Federal Government is first obtained.

I propose to stop there, because the rest of the clause does not bear on what I am about to say.

The House will recall that last year we dealt with the Alumina Refinery (Muchea) agreement, which became well known as the Pacminex agreement. As you will remember, Sir, there was, to say the least, a great deal of controversy over that agreement and certain of its facets.

If members will look at the assignment clause to which the paragraph of the Premier's letter refers they will find there is very little difference in the drafting of the assignment clauses in both agreements; the assignment clauses really mean exactly the same thing.

In the Alumina Refinery (Muchea) agreement the clause starts by saying—

> Clause 50: Assignment—
>
> (1) Subject to the provisions of this clause, etc.

In the Bill before us we find the following—

> Subject to the provisions of this Clause the Joint Venturers or any of them may at any time—

It then conveys identically the same thoughts that are contained in the Alumina Refinery (Muchea) Agreement.

I must say I cannot conceive the necessity for a State Government in respect of any assignment the company wants to make to have to give away to pressure from the Federal Government; particularly when the company is permitted to make such assignments without the consent of the Minister of the State Government. I repeat, this to me is further proof that the State Government is under the complete domination of the Federal Government; because the company in question cannot exercise its rights, although the letter says, "I confirm that Reynolds will have the right without the consent of the Minister,"—and the Minister under this agreement is the State Minister—"to assign its rights as assignee . . . provided any necessary approval of the Federal Government is first obtained."

I think it is a poor old state of affairs when a State Government finds itself so under the domination of a Federal Government in respect of an agreement of this nature. We did not have that situation in 1972, so far as I am aware, when the Alumina Refinery (Muchea) agreement was produced before us; so why should we have that situation today? Why should this have to be concealed from the general public by a side letter, such as the one that has been produced for our perusal?

I think this is a deplorable state of affairs. This company cannot move unless it has the consent of the Federal Government; particularly if that move relates to assignments. I express the hope that the company does get off the ground and I am sure this would be the hope of all members.

The Hon. L. D. Elliott: Don't you believe there should be a national policy on minerals?

The Hon. A. F. GRIFFITH: I was once a member of the Australian Minerals Council on which the Ministers of each of the State Governments of Australia sat, together with the Federal Minister, in an effort to determine national policy

as that referred to by Miss Elliott. But not one State at that time was prepared to give away the rights of ownership to its minerals.

The Hon. R. Thompson: They still have to get an export license from the Commonwealth.

The Hon. A. F. GRIFFITH: Yes, and this is where the Commonwealth controls the situation.

The Hon. R. Thompson: The same as it does now.

The Hon. A. F. GRIFFITH: But to add to that, the State Government is saying to the company, "You will not need the consent of the State Minister to assign any of your rights, but you cannot do this without first gaining the consent of the Federal Government".

The Hon. R. Thompson: This is where our foreign ownership policy comes into being.

The Hon. A. F. GRIFFITH: Had the Federal Government kept to its original control of export licenses it could have governed the situation quite well. I also say that the present Federal Government is doing all it possibly can to secure for itself—irrespective of what the State may think, and irrespective of where the minerals are situated—complete and utter control of the minerals of the State.

The Hon. L. D. Elliott: For the benefit of the State.

The Hon. R. Thompson: The minerals of Australia, not of the State only.

The Hon. A. F. GRIFFITH: I could have expected to get a cry from a couple of quarters. Do not you think, Sir, that we all have the interests of Australia at heart? I certainly have the interests of my State and my country at heart as much as anybody else in this Chamber; perhaps I have them at heart to a greater extent than some.

The Hon. L. D. Elliott: Your Government allowed our resources to fall into the hands of overseas companies.

The Hon. A. F. GRIFFITH: I object to the Commonwealth Government stepping in and dictating to the State in the manner in which it has. It will be extremely difficult for projects of this nature to get off the ground unless the Commonwealth Government revises some of its policies.

For example let us consider the deposit of 33⅓ per cent. which must now be made; at one time it was 25 per cent. For every $100,000,000 of capital investment a company is obliged to pledge itself to retain for the use of the Commonwealth Government $33,333,333 in some form or other.

This means that a company must have the capacity to outlay $100,000,000 capital of which only $66,666,666 will be working for it. Now that in itself will be extremely difficult for this company—or, indeed, any company—to do. Alumina is not in short supply on the world market, and the production of aluminium is highly competitive. Only the best companies can possibly succeed in this field. If this company is to be hamstrung and has difficulties put in its way, as appears to be happening, then I think—but I hope I am wrong—it will be extremely difficult for it to get the project off the ground. I am sure of this as I have known some of the company executives for a long time. I forget when the original temporary reserves were granted to allow this company to search for its minerals, but it was some time ago. The company has made a valiant effort to succeed, and I am sure it will continue with this effort. However, it should be encouraged in every way possible.

We must not make it so difficult for the company to make a profit that the project cannot get off the ground. I repeat for the third time that I hope it does get off the ground. I do not propose to say any more than that, but I want to be associated with the best wishes expressed for the company's success as I have had many dealings with its executives over the years.

THE HON. G. C. MacKINNON (Lower West) [9.02 p.m.]: As I live in Bunbury, I have naturally followed the activities of Alwest with some interest, and indeed everyone living in the Bunbury area has done so. Probably the last large industry to become established in the Bunbury area was the Laporte project. It is interesting to remember that this project was almost lost to Western Australia because of the fiddling around of the previous Labor Government. In fact, it was saved by the member for Bunbury in the Legislative Assembly at that time (Mr. George Roberts) who waited very late at night in the Esplanade Hotel to meet one of the representatives of the company, and luckily, as a result, he was able to persuade the company to look at the project again. What followed is now history and the project is established in this area.

I can well remember the rumours abroad in Bunbury when the Alwest project was first considered. Many purchases of land took place all around, but nobody quite knew where the project would be established. However, the company subsequently secured some reasonably-sized holdings out towards Picton and in other places around Bunbury. Some of the local people made quite reasonable sums of money from these sales.

In Bunbury a fair amount of debate took place about pollution and environmental protection. At that time these matters were just becoming important in our general considerations. Much argument ensued as to which way the wind blew and what the smells would be like; so much so that the

company arranged for a full-scale inspection of the area and many of the sites, even as far afield as the Alcoa plant at Kwinana. The effects of an alumina plant and the possible inconveniences which might be occasioned in the area were investigated. I remember that I went to Picton and a gentleman who is currently sitting in the gallery (Mr. Kommer) showed us models and plans of the general layout of the plant. I was not able to accompany the group on its visit to Alcoa and up into the hills to look at the mining operations, but I had seen these before.

Ultimately, of course, it was proposed to establish this plant at Worsley. This did not occasion a great deal of concern in the town or in the immediate vicinity of Bunbury. The local residents appreciated that it would be to everyone's advantage if the industry could become successfully established at Worsley. It is known locally that an alumina project in this area will not pollute the water catchment region, and it is sufficiently removed from the town so that no problems will arise with mud basins. A slight amount of pollution from the stacks will occur, but this is minimal with the modern chimneys now used. I suppose it would amount to about the same degree of pollution as that coming from an old-fashioned laundry in which caustic soda is used. It is not a very serious problem, and from this point of view the site at Worsley is considered a good one.

The residents of Bunbury feel that the township of Collie has suffered a number of vicissitudes over recent years, and that it would be good if the industry were established in that locality. Bunbury is the centre of the south-west region, and the business people appreciate that they will continue to receive a spin-off benefit from the plant. Therefore, not a great deal of criticism or much disappointment was expressed in Bunbury at the change of site. Of course, there always was, and still is, a very ardent desire amongst local residents that the industry should be established in that region.

The proposed Bunbury Harbour is coming along very well—perhaps a little slowly, but it is proceeding. It was designed on the basis that one of its users would be Alwest. When it was proposed, the harbour was regarded as being a rather ambitious project. We know that the export of alumina will be diverted to this area. Wood chips will be exported through Bunbury. This industry was very doubtful for a long time, but the plans are now reaching fruition. It is felt that ultimately the port will be a viable concern and that the harbour will achieve the expectations desired.

We can then understand the feelings of the local residents when they heard that not only is the 25 per cent. Commonwealth "grab" to be maintained, but also that it is to be increased to 33⅓ per cent. It was bad enough when this was announced in the Press, but a little later the Mayor and councillors of Bunbury received a letter signed on Mr. Whitlam's behalf. This letter stated unequivocally that the 33⅓ per cent. would not be waived. Of course, the general feeling in the area was then one of almost complete gloom. The general consensus of opinion now is that at least in the short term anyway the particular agreement we are discussing is really simply an academic exercise. Of course, this feeling is understandable.

Mr. Arthur Griffith has pointed out the problems now associated with the project. Members will note I have not said that I believe it is just an academic exercise, but that the general attitude in and around Bunbury—and I am referring to people who have studied the situation—is that all the work being put into the agreement is simply an academic exercise. It may well be that in the long term the problem is capable of being solved. Maybe the Federal Government will change its mind, or perhaps the parties to the agreement may be able to find this huge sum of money which must be lodged with the Reserve Bank at "grass". Another alternative is that the company may find some method of sale to give it sufficient profit to operate with $66,666,666 working capital, and $33,333,333 at "grass" out of each $100,000,000. I do not know what the Labor Party will think of that proposition when it screams at even ordinary profits. I shudder to think of this because the company will have to make very fancy profits indeed to overcome this obstacle.

I do not intend to go through the Bill in detail, and I had no intention to do this when I rose to my feet. Not only did I listen to Mr. McNeill with a great deal of care, but also I have re-read the major part of his address to the House. It is obvious to everyone that he spent a great deal of time in the research of this subject. We are all aware that he always does his homework thoroughly. Therefore, there is very little of the agreement left on which one can elaborate.

However, there is one question I would like to ask the Minister in regard to the rights of private landowners whose land may be mined; that is, land in the area marked "X" on the map. Some of this land is privately owned, and it is appreciated that the landowners can enter into a compensation agreement with the joint venturers. This is fair enough. The problem is, of course, that a compensation agreement could be entered into next year, but the land may not be mined until 2074. I understand that with the reserves available this is not beyond the realm of possibility. Therefore, I would like to ask the Minister whether the monetary value of a compensation agreement written at this

time will remain static, or whether it can be written in such a way as to have regard for inflationary trends.

We must expect that over a period of 100 years we will suffer the indignity of a Labor Government for at least some periods, and of course, inflation will run riot during those times. Even very generous compensation agreements written now would have little real value if allowed to stand over for 50 or 100 years. Perhaps the Minister will be good enough to obtain an answer to my question. Certainly landowners will not be forced to write compensation agreements with the joint venturers, but no-one else is available with whom they can write such agreements because the joint venturers will have the rights over that particular land, and I do not deny that they should have these rights.

The only concern I have is that I believe, if a compensation agreement is written, it should take cognisance of the changing values of money especially when it is borne in mind that, so far as I can ascertain, it may be many years before the joint venturers would wish to move on to the particular location.

The Hon. N. McNeill: There is another point; namely, that the conditions of such a compensation agreement would also apply to subsequent owners of land.

The Hon. G. C. MacKINNON: I know there is a particular word for such agreements which are attached to a title and the Minister may well mention that, too, when he replies to the debate. I am referring to the fact that such an agreement passes on from owner to owner. For example, a compensation agreement is entered into with owner A who is the owner of the land in 1974, but by the time the land is actually mined, the property could well have changed hands three or four times.

The Hon. R. Thompson: Would it be okay if I could give you a reply to that question when I conclude my reply to the debate on the second reading?

The Hon. G. C. MacKINNON: Yes. I know there are areas where some people are being encouraged by companies to sign such an agreement and some of these landowners are concerned that if the agreement continues in operation for a long time the amount of compensation written into it will not be of great value when it is paid. The major tragedy in regard to this agreement is that it emanated from the Commonwealth Government. I was thinking of the occasion when the Leader of the Opposition and Miss Lyla Elliott were having a short discussion—while the Leader of the Opposition was making his speech—to the effect that probably the major difference between the previous Commonwealth Government and the current one is that the previous Commonwealth Government never pretended that it had, by some Godgiven right, secured all the brains unto itself. I think that, in the main, the previous Government behaved in a way which indicated that it considered there were people remaining in the State who had some intelligence and that those engaged in mining administration in the State had some sense which, of course, they have.

The arrant stupidity of Mr. Connor, since he became the Minister in charge of mining administration, would lead anyone to think that he did have an absolute right over all the intelligence in regard to mining administration and, in fact, it would seem he has convinced himself that he has this right and that he should ride roughshod over everybody and wreck the goldmining industry.

The Hon. D. K. Dans: How has he wrecked the goldmining industry?

The Hon. S. J. Dellar: At least since the change in the Commonwealth Government last year the Opposition has something to talk about.

The Hon. G. C. MacKINNON: The honourable member was not here at the time, but I can recall that members of the present Government used to carry on with a lot of nonsense about the previous Commonwealth Government. I notice that those members representing the Kalgoorlie area do not buy into this argument because they are aware of the disastrous body blows that have been struck to their area and they appreciate the serious difficulties under which they are now labouring. In regard to this particular company it has been a great disappointment to Bunbury that the final letter received direct from Mr. Whitlam's office has indicated that there is no chance whatsoever that this matter will be reviewed and that no relief will be granted in regard to the 33⅓ per cent. of the capital to be invested being lodged with the Reserve Bank. Nevertheless I hope it is purely an academic exercise and I have every intention of supporting the second reading of the Bill.

Debate adjourned, on motion by The Hon. T. O. Perry.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

Second Reading

Debate resumed from the 7th November.

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [9.21 p.m.]: I wish to thank all the members who have spoken to this Bill and I intend to make a few comments in reply to the points which were raised by them. In speaking of clauses 3 to 6 of the measure, apparently Mr. Logan indicated he is opposed to the proposal to bring town planners within the scope of section 158 of the Act.

The Hon. A. F. Griffith: I am sorry to interrupt you, but it is very hard to hear what you are saying.

The Hon. R. H. C. STUBBS: Is it? Perhaps it is because I am just getting over the throat trouble you gave me.

The Hon. A. F. Griffith: I hope I did not do that.

The Hon. R. H. C. STUBBS: As I was saying, Mr. Logan apparently was opposed to the proposal to bring town planners within the scope of section 158 of the Act to provide that an inquiry may take place in the event of a council wishing to dismiss officers in the categories listed. The honourable member referred to dismissals of town planners by councils in recent years and suggested that in the instances referred to the dismissals were justified, but it would have been difficult to convince a tribunal that the council's decision was correct. However, Mr. Logan has not indicated why he believes town planners should be treated differently from town or shire clerks, engineers, or building surveyors. It seems obvious that they could be subject to the same pressures when carrying out the duties of their office conscientiously.

The question of the standard of qualification referred to by Mr. Logan is not directly related to the provisions of the Bill. The standards to be set have yet to be determined and will no doubt be arrived at after consultation with experts in the profession and with due consideration to the submissions of the representatives of graduates from the Western Australian Institute of Technology. It would be a retrograde step to reject the proposed amendments to section 160 merely because the standards yet to be determined may be anticipated as unsuitable to some people.

In regard to clause 8, Mr. Logan believes there is conflict in the provisions of paragraph (a) and paragraph (b) of section 174A because paragraph (a) includes town planning schemes among matters in which a member is described as having an interest. Paragraph (b) states that town planning schemes are not included unless certain conditions apply. The question raised by Mr. Logan has been discussed with Parliamentary Counsel who has re-examined the provisions and is satisfied that there is no conflict. The intention of paragraph (b) is to limit the definition of the term "interest" in respect of town planning schemes.

In speaking of clause 11 Mr. Logan has suggested that the permitted hours of operation of hawkers should be the same as those observed by business premises. However, the hours as prescribed in the amendment were suggested by the Minister for Labour and are included in the Door to Door (Sales) Act. The advantages of uniformity in this respect are obvious.

Clause 12: Mr. Logan has suggested it would be desirable if the Crown were required to observe uniform by-laws relating to signs and hoardings. The Railways Department has contracted with a firm of advertisers with a view to upgrading the hoardings on Railways Department properties and it is considered undesirable that the uniform by-laws should apply to such hoardings during the currency of the present contract.

It is now anticipated that in other respects Government departments and instrumentalities will endeavour to comply with the requirements of municipal councils.

Clause 14: Mr. Logan has proposed that the Government should pay to municipal councils not only the interest on pensioners' deferred rates, but also the amounts of deferred rates. In view of the fact that pensioners' rates are a charge on the subject property until the death of the pensioner or the sale of the property and councils will be able to borrow on overdraft to the extent of the amount deferred, councils will not be at a disadvantage by the proposed provisions. If the amount of rates were to be paid by the Government also, it is assumed Mr. Logan would envisage the Government being recouped from the estate of the pensioner in due course. The proposal appears to be unduly cumbersome and would be of no advantage to municipal councils.

The effect on pensioners of the reduced means test is being examined at present and it is anticipated that further amendments to legislation will be necessary to ensure that the deferment of rates is permitted only in respect of pensioners in necessitous circumstances. However, the full extent of amending legislation has yet to be determined as this question is still being examined.

Clause 18: Despite the fact that this clause has now been amended, Mr. Logan has stated he will not support it. The clause is designed to enable self-employed persons to receive some compensation for loss of earnings in the same way as wages and salary earners may be recouped at present. It is difficult to understand why it should be considered desirable to continue the discrimination between the two types of councillors.

Clause 19: Mr. Logan has complained that the provisions of clause 19 do not go far enough and has suggested that, apart from dealing with overhanging trees which create a dangerous situation, the effect on the intrusion of the roots of trees into neighbouring properties should also be the subject of the legislation. The main purpose for the introduction of this measure is to eliminate a danger to life and limb, but it is believed that legislation should not be introduced to resolve all manner of disputes which may arise between

owners of adjoining properties. These matters can be and should be settled directly between the parties concerned.

Mr. Heitman devoted a large part of his speech to the subject of regional organisations to be formed under the provisions of the Grants Commission Act of the Australian Government. These comments do not have any relevance to the Bill and in a large measure are based on incorrect premises.

The regional organisations to be established will be an administrative device only, and it is not anticipated that such organisations will be statutory bodies or that any council will be disadvantaged in any way by being grouped in any particular number of districts.

In dealing with clause 11 Mr. Heitman inquired whether the proposed amendment to section 217 will have any effect on ice-cream vendors. The present definition of "hawker" in section 217 (b) excludes the following—

> Sellers of vegetables, fish, fruit, newspapers, brooms, matches, game, poultry, butter, eggs, milk or any other victuals.

Itinerant vendors of food are at present subject to control under the provisions of the Health Act.

Mr. Heitman has criticised the proposals in clause 12 including the proposal that an appeal tribunal should be constituted. The honourable member has suggested a variation of the constitution of the appeal tribunal, and has said it would be preferable if the appeal were to the department or to the Local Government Association.

This would probably not meet with the co-operation of the industry which was a party to all discussions in respect of proposed uniform by-laws as they relate to signs and hoardings. Mr. Heitman has sought clarification of clause 18 which provides for the recoup of loss of earnings for members of a council other than salary or wages employees. I think he will find that the present provision as amended is satisfactory to the associations representing local government.

The major portion of Mr. McNeill's speech relates to the legislation of the Australian Parliament, and he has also queried the proposals in respect of signs and hoardings and their effect on the provisions of the Main Roads Act.

It is believed that there will be no conflict in respect of these provisions, but it is essential that the Main Roads Department should have the control of signs, particularly in juxtaposition with main roads. Mr. McNeill has also referred to control of itinerant vendors, but these are not the subject of control under the Local Government Act.

The whole of the address by The Hon. C. R. Abbey is related to the submissions by the councils of the shires on the perimeter of the metropolitan area, which seek to be constituted as a separate regional organisation under the provisions of the Grants Commission Act of the Australian Government. None of this is relevant to the Bill and criticism of the Commonwealth legislation which has already been enacted will serve no useful purpose at this juncture.

In so far as the question of the composition of regions is concerned, the speakers on this subject have shown that they are not familiar with the purposes of the Grants Commission Act, or the procedures for hearings before the Grants Commission. The submission by the councils on the perimeter of the metropolitan area can be taken into consideration by me before I submit comments to the Minister for Urban and Regional Development.

Mr. Clive Griffiths has expressed opposition to clause 3 in respect of town planners and claims that they are in a different classification from the other officers listed in section 158 of the Local Government Act. The argument in favour of this proposal is that town planners are likely to be in a position at times to make recommendations contrary to the interests of individual councillors.

Mr. Clive Griffiths has referred to the question of qualification of town planners and the status of graduates of the Western Australian Institute of Technology. It is again reiterated that the standards are not subject to consideration in the Bill, but will be determined when the regulations are promulgated and the submission on behalf of the graduates will be noted when the appropriate standards are being set. I have given my word that this will certainly be done. Mr. Clive Griffiths has referred to the provisions of section 174 in respect of the term "absolute majority" and pointed out that this could not apply to a committee of a council.

This subsection is merely a repetition of the existing provisions of section 174 and was amended in 1970 to make the provisions in respect of interest applicable to meetings of committees as well as full council meetings. The application of the term "absolute majority" could not, of course, be applied to a committee meeting.

Mr. Clive Griffiths has objected to the provisions of clause 11 of the Bill, particularly as these relate to the hours of operation of a hawker. He believes that 9.00 a.m. to 5.00 p.m. on any day other than Sunday or a public holiday will preclude a hawker from working 40 hours a week and therefore will prevent him from earning a legitimate living.

It is doubted whether this will, in fact, be a disadvantage to hawkers, and it certainly will be an advantage to members of the public to have the operations of hawkers limited to the hours included in the

Bill. The honourable member has also raised the question of the application of uniform by-laws relating to signs and hoardings being applicable to Crown land. Mr. Logan also raised this question, but it has been pointed out that the Railways Department has already entered into a contract with a view to upgrading hoardings on railway property and that Government departments and instrumentalities generally will be required to comply with municipal by-laws wherever possible.

Mr. Clive Griffiths has suggested that the provisions of the Act relating to deferment of charges against the properties of pensioners should apply to the removal of dangerous trees. I have written to the Local Government Association and the Country Shire Councils' Association representatives on the matter as I believe they should be consulted, and I will be guided by their reply.

Some debate has taken place concerning the definition of a dangerous tree, but it is believed that, in practice, this will not cause any problems as each individual situation will need to be considered on its merits.

I thought Mr. Dellar made the best speech of the night.

The Hon. D. K. Dans: Hear, hear!

The Hon. S. J. Dellar: Thank you.

The Hon. R. H. C. STUBBS: He made a request to me regarding the qualifications of shire clerks, and I will note what he said. Although I am not making any promises at this stage, I will certainly carefully study the subject and see whether something can be done about it.

Before I conclude I wish to indicate that for personal reasons I do not desire to continue with the Committee stage tonight. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

House adjourned at 9.36 p.m.

Legislative Assembly

Tuesday, the 13th November, 1973

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

IRON ORE (CLEVELAND-CLIFFS) AGREEMENT ACT AMENDMENT BILL

Message: Appropriations

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

BILLS (8): INTRODUCTION AND FIRST READING

1. Motor Vehicle Dealers Bill.
2. Hire-Purchase Act Amendment Bill.
   Bills introduced, on motions by Mr. Harman (Minister for Consumer Protection), and read a first time.
3. Metric Conversion (Grain and Seeds Marketing) Bill.
4. Wheat Industry Stabilization Act Amendment Bill.
5. Wheat Delivery Quotas Act Amendment Bill.
   Bills introduced, on motions by Mr. H. D. Evans (Minister for Agriculture), and read a first time.
6. Health Act Amendment Bill.
   Bill introduced, on motion by Mr. Davies (Minister for Health), and read a first time.
7. State Housing Act Amendment Bill.
8. Housing Agreement (Commonwealth and State) Bill.
   Bills introduced, on motions by Mr. Bickerton (Minister for Housing), and read a first time.

QUESTIONS (30): ON NOTICE

1. GOVERNMENT BOARDS, COMMISSIONS, AND INSTRUMENTALITIES

Members: Appointments and Vacancies

Sir CHARLES COURT, to the Premier:

(1) Is he now in a position to supply to the House the information requested in my question 6, 31st October, 1973 concerning the membership of Government boards, commissions and instrumentalities?

(2) If not, how long is it expected to take to obtain the required information?

Mr. J. T. TONKIN replied:

(1) No. The question involves very considerable research.

(2) Approximately two weeks.

2. BICTON MEDICAL CENTRE

Bed Occupancy

Dr. DADOUR, to the Minister for Health:

(1) What was the average bed occupancy at the Bicton Medical Centre for October 1973?

(2) How many—

(a) private patients; and

(b) public patients,

were treated for that month?

(3) What is the cost per bed?

(4) Does the all inclusive cost apply at this hospital?