Legislative Assembly

Tuesday, the 22nd August, 1978

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

QUESTIONS

Statement by Speaker

THE SPEAKER (Mr Thompson): There are several matters relating to questions seeking information which I wish to bring to the attention of members.

The first of these concerns the closing time for questions on Thursdays. Standing Orders provide that questions may be accepted each day until 30 minutes after the House meets or such other time as may be approved by the Speaker.

At present, questions for Tuesdays are being accepted at the Table until 4.00 p.m. on Thursdays, but I concede that there may be a special case for further leniency on Thursdays because questions are seldom answered in the House before 4.00 p.m. on a Thursday. This means that a question which arises out of or is supplementary to a question answered on a Thursday cannot normally be placed on notice for the following Tuesday.

I propose, therefore, on an experimental basis, to allow the receipt of certain questions until the rising of the House on Thursdays. The questions in this category are those which arise out of or are supplementary to questions answered on that day. The closing time for all other questions will remain at 4.00 p.m.

I emphasise that only questions coming within the criteria will be acceptable and should I become aware that this relaxation of the present restriction is being abused, I shall have to review the position. It must also be expected that this new arrangement will possibly cause the notice paper for Tuesdays to be published on Mondays instead of Fridays.

I now turn to the subject of questions which are asked without notice.

I am becoming increasingly disturbed at the way this period in the House is developing. When the Premier or a Minister is replying to a question without notice, I expect him to be heard without interjection. I have made this very clear on numerous occasions but members have not heeded my warnings. I am now determined that if there is difficulty in maintaining the decorum of the House during a period of questions without notice, I shall simply exercise my discretion under the established practice of the House and proceed to the next business of the House; in other words, there will be no further questions on that day.

Members are reminded that the several rules applying to questions on notice apply with equal force to questions without notice. From time to time I detect that some members are trying to treat the questions without notice as though they were under different rules. I refer particularly to questions which either offer, or seek, opinions.

The purpose of question time, as it applies in this House, is to seek information. It is not intended to be a miniature grievance debate or period of cross-examination. It is possible that other Parliaments have developed different practices. Be that as it may, it is my duty to uphold the rules and practices presently applying in this House until such time as the House decides to change them.

Once again I remind members that questions without notice are permitted at the Speaker's discretion. In the past this discretion has been exercised right up to the point of refusing all questions without notice. I sincerely hope that sufficient attention is paid to my preceding remarks to render such a harsh step quite unnecessary.

BILLS (5): ASSENT

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

1. Evidence Act Amendment Bill.
2. Construction Safety Act Amendment Bill.
3. Art Gallery Act Amendment Bill.
4. Zoological Gardens Act Amendment Bill.
5. Suitors' Fund Act Amendment Bill.

QUESTIONS

Questions were taken at this stage.

BILLS (3): THIRD READING

1. Death Duty Assessment Act Amendment Bill.
2. Death Duty Act Amendment Bill.

   Bills read a third time, on motions by Sir Charles Court (Treasurer), and transmitted to the Council.
3. Abattoirs Act Amendment Bill.

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

PUBLIC SERVICE BILL

Second Reading

SIR CHARLES COURT (Nedlands—Premier) [5.16 p.m.]: I move—

That the Bill be now read a second time.

This Bill is a significant step forward in the reappraisal and upgrading of the administration and operation of the Public Service.

Since 1904, when the current Public Service Act was enacted, the Public Service has had to accept responsibility for a wide and diverse range of functions. To carry out these functions effectively and efficiently the service must be capable of employing modern management and personnel practices to the fullest possible extent. Under the existing legislative framework there are some deficiencies and restraints in this regard.

The major emphasis of the current Public Service Act is on a rigid oversight of departments by specific direction, detailed approval, and administrative control. In many instances the Act prescribes in detail the forms of such control, resulting in the necessity to deal with many matters administratively, in a cumbersome way.

Public Service management has much in common with commercial business management. In both cases the essential features are the ability of the organisation or group of organisations to adapt readily to changed circumstances and to react in a quick and decisive fashion to the requirements and directives of the controlling authority—in this case, the Government.

The Government holds the view that these fundamental aims can best be attained by utilising a flexible charter, under which a Public Service Board is responsible for fostering managerial and personnel techniques, which stress the setting of standards of efficiency, and for monitoring performance of departments by comparing achievements with objectives. At the departmental level a much closer matching of authority with accountability is envisaged.

A new Act incorporating these concepts is proposed, with the 1904 Act being repealed. A deliberate attempt has been made to avoid lengthy and repetitious provisions which are a feature of the existing Act but which are only ancillary to the prime function of promoting the effective, economical, and efficient operation of the Public Service.

The Bill is the outcome of extensive investigations and research by the Public Service Board. There has been an examination of Public Service legislation of the Commonwealth and other States. A close study has also been made of reports and recommendations of the several commissions and committees of inquiry that have examined the structure, management, functioning, and staffing of Public Services of South Australia, Victoria, the Commonwealth, and New South Wales.

From time to time consultation with the Civil Service Association has been undertaken by the Public Service Board and the association has on a number of occasions presented its views on legislative requirements to the Government and the Public Service Board. The basic concepts and principles of the Bill have been discussed with the association and a number of suggestions made by that organisation have been incorporated in the Bill.

Other suggestions and representations relating mainly to conditions of service which will be covered by administrative instruction—and I emphasise "administrative instruction"—are being considered by the board and will be discussed with the association before the Bill is proclaimed.

The principal features of the Bill are—

(1) Elaboration on the general powers and duties of the board in relation to promoting efficiency and economy in the Public Service.

(2) Provision for the Governor on the recommendation of the board to create, abolish, and amalgamate departments and for the board to make all consequential changes in the management, personnel, structure, etc.

(3) Definition of the general responsibilities of a permanent head with greater powers to the Governor and the board to transfer permanent heads or replace them in cases of sickness or incapacity, etc. It is also intended to make term appointments for permanent heads and senior officers wherever deemed necessary.

(4) Reduction of the volume of Executive Council papers by extending the power of the board in relation to personnel matters of less significance.

(5) Redefinition of the powers of the board to recruit and appoint persons to the Public Service. This will give the board a discretionary power either to waive standard conditions of appointment or to impose special conditions in particular cases.

(6) Provision for the board to monitor ministerial appointments in Public Service departments.

(7) Abolition of seniority with all promotions being determined solely on the basis of merit and efficiency.

(8) Inclusion of promotional appeal rights in the Public Service Act.

(9) Extension of the types of Public Service employment to include casual, contract, and part-time.

(10) Correction of some defects in the disciplinary sections of the existing Act.

(11) The publishing of Public Service notices in a gazette apart from the *Government Gazette*. It is also intended to use this inter-service notice paper for training, general advice, and general information purposes as well.

(12) Abolition of the requirement for married women to seek approval to continue in Public Service employment upon marriage.

(13) Operational requirements of the board to be promulgated and implemented largely by administrative instructions.

The Bill provides for the continuation of the existing Public Service Board comprising three commissioners, one being appointed as chairman and another as deputy chairman. The term of appointment for the chairman remains unchanged at seven years, and for the other two commissioners at five years. In all cases the commissioners are required to retire on attaining the age of 65 years unless the Governor approves of an extension of services beyond that age.

The prime function of the board is to promote and maintain effective, efficient, and economic management and operation of the Public Service. The board will have power to create, transfer, and abolish offices, to appoint, promote, transfer, retire, and dismiss officers and to determine salaries, allowances, and certain conditions of service. The board is also empowered to conduct such inspections, inquiries, and investigations as it considers necessary.

Consistent with the basic concept of a flexible business charter the board's powers are broadly stated so as to enable it to act positively and in a meaningful manner to changes in circumstance or requirements of Government.

An important tool in the fostering of the highest possible level of efficiency and economy is the power vested in the board to issue administrative instructions. These instructions will enable quick and effective changes to be made as required. They will also enable the Public Service to take up on an ongoing basis management skills and operational techniques most suited to current needs. It is intended that the administrative instructions be published in the public service notices gazette.

There is also provision for the Governor on the recommendation of the board to make regulations. It is anticipated that the regulations will be confined to areas which are not subject to frequent alteration and which relate to matters of Government policy; for example, conditions covering leave of absence.

The Public Service will continue to consist of departments and sub-departments and the Governor on the recommendation of the board may establish, amalgamate, divide, or abolish departments and sub-departments.

The board is empowered to specify the disposition of offices and officers and to make such other consequential changes necessary to give effect to a change in departments or sub-departments.

There is provision for any Government organisation outside the existing Public Service to be constituted as a department or sub-department, and for the staff of any such organisation to be appointed under the Public Service Act.

A feature of the Bill is the new arrangement in relation to permanent heads and senior officers. It is clearly stated that the permanent head is responsible for the general management of his department and is required to work with the board for the purpose of achieving the most effective and efficient result.

In addition to the present system of normal career appointments there is provision for permanent heads to be appointed for a term not exceeding seven years.

Another feature is the establishment of a new designation called "Senior Office". The occupants of these positions will undertake the more

responsible administrative and/or professional functions of the Public Service. Senior officers, like permanent heads, will be appointed by the Governor and may be appointed for a term not exceeding seven years.

There are further provisions which enable the Governor on the recommendation of the board to terminate the services of a permanent head or senior officer or transfer the officer concerned to another position if the board is satisfied that the officer is not discharging his duties efficiently.

The aggregate effect of these provisions should ensure that only persons who possess the requisite skills to manage departments effectively are appointed as permanent heads and senior officers. If for any reason these officers lose those skills the way is open for their redeployment or replacement.

The board's power to staff the Public Service has been made more flexible and the routine machinery associated with this activity will be contained in administrative instructions.

The existing Public Service Act is unnecessarily restrictive in that it operates on the premise that persons are employed full-time in a permanent capacity with a limited number of temporary engagements. Because of the nature of demands made on the Public Service of today and bearing in mind existing social attitudes, there is a need to employ persons, especially those possessing particular skills or expertise but who are not available for full-time employment. Therefore provision has been made for persons to be engaged on a full-time, part-time, or casual basis or under contract.

It is anticipated that the numbers of part-time, casual, or contract appointments will not be large. Overall the concept of a career Public Service will be maintained but a greater degree of flexibility in the nature and type of appointments than currently exists is essential for the well-being of the Public Service.

For a number of years the board has been concerned that some appointments of salaried staff in departments have been made outside the Public Service Act. An interdepartmental committee on appointments to public offices was appointed some years ago to inquire into the matter. The committee recommended that all appointments of salary staff of or attached to departments be made under the Public Service Act. The Government fully endorses this recommendation and provision accordingly has been made in the Bill so that where it is appropriate, appointments will be made under the Public Service Act.

The Government believes that there should be a consolidation and reduction in the number of Acts relating to public servants. With this in mind promotional appeal rights for public servants have been incorporated in the Bill and on the legislation being passed consequential amendments will be required to abolish such rights under the Government Employees (Promotions Appeal Board) Act.

This brings me to another major step in the upgrading of the Public Service. I refer to the elimination of seniority ratings. Promotions will be made on the basis of merit and the capacity to perform efficiently the duties of the vacant higher office. Seniority will no longer be a specific ground on which an officer may appeal against the recommendation to promote an applicant to a particular vacant office, and the grounds of appeal have been widened to provide for any claim whereby superior merit may be established.

No change is made in the constitution of the Promotions Appeal Board. The chairman continues to be the Public Service Arbitrator and there is an employer representative nominated by the Public Service Board and an employee representative nominated by the Civil Service Association.

Disciplinary aspects of the Public Service have been reviewed and recast. The Bill clarifies and restates the acts of commission or omission that constitute an offence. It also specifies various penalties ranging from reprimand to dismissal.

In line with the general tenor of the Bill there is an emphasis on flexibility with different options being open to a permanent head or the board to deal with disciplinary matters. The board is given a monitoring role in that it can confirm, reverse, or otherwise vary any disciplinary action taken by a permanent head against an officer of his department.

Another change relates to minor offences which under present circumstances can be dealt with only by suspending and charging the officer concerned. The Bill allows a permanent head to fine an officer up to a sum of $25 without laying a charge. The officer has a right of objection to this procedure and if he exercises that right the permanent head shall charge the officer with the offence. The procedures regarding offences would then apply including the right of appeal by the officer.

Provisions have been drafted to deal with charges against permanent heads. These provisions enable either the Minister or the board to charge a permanent head with an offence and for the board to furnish a report to the Governor, such report to include a recommendation as to the penalty or penalties to be imposed which may range from a reprimand to dismissal.

All officers, including permanent heads, have in disciplinary matters a right of appeal to the Public Service Appeal Board. Officers, except with the express permission of the board, will not be allowed to undertake work or hold positions not associated with their official duties.

Officers should not find themselves placed in a conflict of interest situation or be distracted from the proper performance of their duties by outside interests. Therefore the board has been given a discretionary power to determine the circumstances under which non-Public Service employment may be undertaken.

The Bill includes basic long service leave and annual leave entitlements and public holidays, it being considered that in these matters authority to effect any variation should lie with Parliament. The day-to-day machinery and procedural aspects of leave of absence will be governed by regulation or administrative instruction.

Appropriate transitional provisions have been incorporated in the Bill to ensure continuity of all offices, appointments, actions, etc. dealt with under the old Act, which is to be repealed.

This measure to upgrade Public Service legislation is an integral part of the review of the structure and machinery of the Public Service initiated by my Government and is aimed at enhancing total government performance by the utilisation of modern and positive Public Service administrative processes.

Members will find the Bill a reasonably lengthy one. I think it is as compact and concise as it can be, bearing in mind it is dealing with such a far reaching subject. As I pointed out in my notes, the intention is to streamline the Public Service and to bring it up to modern requirements. Members will find that the Public Service Board, which has advised the Government on this matter, and consulted with other bodies, such as the Civil Service Association, has genuinely tried to produce a document which will give our Public Service greater flexibility and bring it into line with modern practice, and also avoid some of the very irksome and unnecessary administrative procedures involved in going through Ministers and Executive Council. Bear in mind that the original Act was introduced at a time when the Public Service was very small and the pace was quite leisurely—quite different from the type of pressures to which Governments and public servants are subject today.

Those members opposite who have been in government will quickly realise that some of the things to do with the Public Service that currently have to go through Ex-Co in a rather irksome way are matters of not very great importance, and they will be better handled by the administrative machinery in the Bill. I commend it to the House.

Debate adjourned, on motion by Mr Harman.

Message: Appropriations

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

WATER BOARDS ACT AMENDMENT BILL

Council's Amendments

Amendments made by the Council now considered.

In Committee

The Deputy Chairman of Committees (Mr Blaikie) in the Chair; Mr O'Connor (Minister for Water Supplies) in charge of the Bill.

The amendments made by the Council were as follows—

No. 1.

Clause 3, page 2, line 10—Add after the section designation "10A." the subsection designation "(1)".

No. 2.

Clause 3, page 2, line 18—Add after the word "Board" the passage "so long as the value of goods so sold by him, services so supplied by him, or work so done by him, during any one financial year of the Board does not exceed the prescribed amount".

No. 3.

Clause 3, page 2, after line 18—Add a subsection to stand as subsection (2) of the proposed section 10A as follows—

(2) In subsection (1) of this section "prescribed amount" means five hundred dollars or such greater amount as is, in any particular case, determined in writing by the Minister. .

Mr O'CONNOR: I move—

That amendment No. 1 made by the Council be agreed to.

Members will recollect that when this Bill was before the Chamber previously the Opposition felt a limitation should be imposed on the value of goods that a member of a water board may sell to the board without disqualifying him from his membership. The amount of $500 was suggested. I undertook to look into the matter, and I conferred with the member for Balcatta and others. I agreed with them that the value of goods or services supplied should not amount to more than $500 in any one year without the approval of the Minister. These amendments are in accordance with the agreement I made with members opposite.

Mr B. T. BURKE: The Opposition would like to thank the Minister for the consideration he has shown to the proposition we put forward at the time the matter was debated. We naturally support the amendments, and we are pleased to be able to say that in this instance the Government and the Minister in particular have been very co-operative with us.

Question put and passed; the Council's amendment agreed to.

Mr O'CONNOR: I move—

That amendments Nos. 2 and 3 made by the Council be agreed to.

Question put and passed; the Council's amendments agreed to.

Report

Resolutions reported, the report adopted, and a message accordingly returned to the Council.

REAL ESTATE AND BUSINESS AGENTS BILL

Second Reading

Debate resumed from the 20th April.

MR GRILL (Yilgarn-Dundas) [5.38 p.m.]: The Real Estate and Business Agents Bill is a complete review and revision of the law relating to real estate agents. It repeals the Land Agents Act. It goes further than that; it brings within its ambit legislation in respect of business agents and developers. So it is quite an important Bill, as it completely reviews the present Act in relation to the selling of land, the selling of businesses, and the selling of properties by developers. For that reason it has been considered in quite some detail by the Opposition.

Let me say at the outset that the Opposition supports the Bill with reservations, and in one case with grave reservations. The Opposition applauds the approach taken by the Government in respect of the measure. The Government has in fact adopted most of the recommendations of the Law Reform Commission which was asked to report on the Land Agents Act in 1973, and which brought down a report in January, 1974. The Opposition agrees also with the Government's tactic in respect of bringing forward the Bill in the first part of the session and leaving it to lie over until the second part of the session. However, having said those nice things about the Government, the Opposition must be critical of it in respect of the delay in bringing forward this Bill since January, 1974. It is a symptom that the Government is becoming cocky, flabby, and inefficient. I think it is a disgrace.

Having said those things, let us move on to the Bill. Firstly, I think we should thank the Law Reform Commission and applaud it for doing such a good job in reviewing the law in relation to this matter. It thoroughly considered all the questions involved. It heard submissions from a wide variety of people and organisations; it obtained submissions from all the bodies and persons from which it could possibly obtain them. So certainly the commission has done a tremendous job.

The Opposition supports many aspects of the Bill. It has no quarrel with the changing of the designation of land agents and salesmen to real estate agents or real estate sales representatives. If people want to be called real estate agents, I suppose it is up to them. The Opposition also supports the implementation of the control over business agents, and it agrees also with the contention that real estate auctions should be conducted by real estate agents or their employees. The omission in the law which is cleared up by this Bill is something that has been neglected for some years.

The Opposition also supports the idea of a continuous licence. We think it is a good concept to issue a licence for three years, and thereafter

to renew it at three-yearly intervals with annual practice certificates being issued. We entirely support that.

We also support the contention that the board should be able to attach conditions to the licences and the triennial certificates that it issues. We feel this is a move in the right direction and it gives some teeth to the board with which to administer the Act.

It is well known that the Land Agents Supervisory Committee under the Land Agents Act is a body without any teeth and is in many respects quite moribund. As I said, we support those powers given to the board and we support also the provisions which attempt to prevent ghosting or dummying, as it is known in the trade. The main provisions in this respect are to ensure that managers of branch offices of real estate agents are in fact licensed. I am appreciative of the fact that the Government has placed on the notice paper certain amendments to clause 16 of the schedule to incorporate in the schedule what is generally called a grandfather clause. We support the grandfather clause and, in fact, we would like to enlarge its ambit somewhat. That amendment will be dealt with after it is moved by the Government, and a further amendment may be moved by the Opposition at that time.

The Opposition supports the retention of the provision that agents must have written authority to recover their fees and commission. We feel that is an important aspect of the Land Agents Act which is retained in the new Real Estate and Business Agents Bill.

Turning to the provision in the Bill to make it mandatory to provide copies of the contract of sale, written documents in relation to the obtaining of finance by the agent, and certain statements of particulars relating to the sale of land and small businesses, I would indicate that initially the Opposition was very much in favour of what appeared to be a fairly novel innovation in the law. I understand that that innovation had its genesis in Victorian legislation covering the sale of land; it is an entirely different situation from that applying in Western Australia. As such the Government's proposed amendments to delete clauses 64 and 65 perhaps are not as bad as we thought at first.

The reason we feel this way is that in this State most real estate agents have adopted what is referred to as a standard form of offer and acceptance and that form includes the Law Society's general conditions of sale. On the face of the document there are provisions relating to finance; such as the amount of finance to be obtained; the rate of interest; where the finance is to be obtained; and other general information. That is very different from the situation which applies in Victoria. As such it is argued by the real estate agents that with most of them using the standard form the situation is different and, in fact, it is not necessary to give as much information by way of documentation by the agent to the representative of the purchaser. To an extent the Opposition goes along with that although there are exceptions.

The fact is that these standard forms are not used by all agents. From time to time the public is subjected to different forms that some real estate agents use. The number of agents using different forms varies from 5 to 10 per cent of agents in this State. I would have thought that if clauses 64 and 65 were to be deleted the Government should have made it obligatory for all real estate agents to use the standard form.

That could be done by a simple amendment to the schedule or by introducing some form of regulation. I know that would be a reform which would be agreed to with enthusiasm by the great majority of real estate agents. I know also it would be agreed to by the legal profession in the same warm manner. That is an area in which the Government's amendment, although right in principle, perhaps misses out to some degree.

In respect of clause 65 we must consider the matter of business agents and the businesses they are selling. Real estate agents sell land whereas business agents sell things such as licences for hotels, small and large businesses, and goodwill. It is thought by the Opposition that clause 65 of the Bill goes too far, is too detailed in some respects, too clumsy in others and should not be proceeded with.

Once again, we feel there should be some protection for prospective purchasers; there should be some move towards a unified contract of sale. The Government would be doing the public a lot of good if at a later date it gave consideration either to introducing a standard form in respect of business agents' transactions—and to be honest I think that may be hard to do—or introducing a more simplified clause 65. However, with those reservations we support the amendments deleting clauses 64 and 65 from the Bill.

We also support the provisions relating to the disclosure of a real estate agent's interest in respect of a transaction. We feel this is fundamental in the provision of a Bill of this kind. We believe it is fundamental that any real estate agent who has any interest in a transaction should disclose what his position is and what interest he has in a dealing.

The Opposition agrees with clause 67 of the Bill which provides for real estate agents to adjust rates and taxes. I think the provision goes a little too far inasmuch as, although it allows them to adjust rates and taxes, the only escape from that situation is to allow solicitors to make these adjustments. It is the feeling of the Opposition that that would have been a backdoor method of regulating settlement agencies out of business. We are happy that the Government has indicated it will accept an amendment suggested by one of my colleagues to this area of the legislation. We will be supporting the amendment to the Bill as foreshadowed by the Chief Secretary.

The provisions in the Bill relating to the keeping of data and real estate trust accounts, and so on, are strongly supported. In like manner we support the provisions relating to a real estate and business agents fidelity guarantee fund.

A new innovation is a provision whereby real estate agents must deposit a certain percentage of their trust moneys into a deposit account. I am told the moneys invested would earn interest which would initially be used to defray costs and the balance paid to the fidelity guarantee fund, other than to prescribed education facilities.

The Bill does not describe what education facilities are and we consider that is one of the weaknesses in the measure. The fact that there are no prescribed education qualifications in respect of land salesmen is surprising as such academic qualifications would be greeted with pleasure by the trade generally and certainly by the public.

We support the provisions relating to building developers. We appreciate that they merely have to register under the terms of this Bill and sell their land through a registered real estate salesman. It is good that they have been brought under the ambit of the Bill and that their dealings will come under scrutiny.

The main difference between this Bill and its predecessor lies with the powers given to the real estate and business agents supervisory board. It is this aspect of the Bill that gives the Opposition grave doubts. I will endeavour to outline these doubts in some detail.

The new Bill gives extensive administrative powers to the board, such as the granting of licences, the administration of the fidelity guarantee fund, the administration of the real estate and business agents' deposit trust, the granting of triennial certificates, and the power to make conditions for those certificates. The board is also given the power to grant certificates for registration to sales representatives which can also be made subject to conditions. The board will also register developers and generally administer the Act. Therefore, the board can be seen to have strong administrative powers.

The board has also been given quasi-legislative power. It has been given power to set maximum commissions and, as I have said before, it can set conditions for licences. Neither the Bill nor the regulations expresses what the conditions shall be and therefore it would appear the board has unfettered discretion as to the conditions on licences. It has quasi-legislative power to prescribe codes of conduct in respect of real estate agents.

Those powers may be fine, but then we move to an area where I have a good deal of argument; that is, the provision of police powers which the Bill gives to the board. The board has been given the power to appoint investigators who will have quite frightening powers in my view. Those powers include the right to search premises and inspect documents; the power to demand on penalty that questions be answered; the power to investigate generally any matter relating to the Bill. There is also power to initiate prosecutions and these inspectors are under the direction of the board.

So far we have a board which will not only administer the provisions of the Bill and have the power to grant licences, but also the board will have quasi-legislative powers together with police powers—prosecution powers. They are powers that would not normally appertain to an administrative board of this kind.

The more frightening part is in relation to the judicial powers of the board. The board has been given very wide judicial powers to hold hearings, summon witnesses, and require questions to be answered on oath. It can award costs, hold

inquiries into agents, and reprimand, cancel or suspend licences. The penalty provisions under the Bill are returnable to and are heard before the board.

We virtually have the situation where a board will administer an Act, make the rules, initiate investigations, and having done that, will sit upon any complaints and determine the result of the prosecutions. I challenge anyone to tell me of any other body or board, including this Parliament, that has such wide powers.

It could be argued that under clause 23 there is provision for an appeal against an award if one is aggrieved. However, that clause does not lay down the terms by which an appeal can be lodged. Unless by a complete rehearing of the matter, which is not mentioned in the clause, it would seem to me that the only types of appeal that can be brought to the board are those which concern an error in law or where there has been a most manifest error in respect of fact. However, in most areas of appellant jurisdiction there is a reluctance to interfere with the findings of a lower court or tribunal on a question of fact alone.

Having given the board such tremendous and sweeping powers, it seems there are very few qualifications of that power, and the right to appeal, as expressed in clause 23, does not go very far along the track at all.

It must be appreciated that the situation is somewhat worse than that because of the composition of the board itself, which will comprise a panel of five members, and most of those appointments are in fact to be made by the Government. The others are to be made by election. In other words, many of the appointments to the board can be—to use a dirty word—political.

Normally in respect of a body which has wide powers to administer penalties—and we must remember that this particular board not only has the right to administer penalties and to fine, but also has the right to take away a person's livelihood—it has been found to be very important to ensure that the judge, magistrate, or chairman of the board is an impartial person who cannot be swayed by political motives. In this case there is no such qualification and, in fact, the chairman of the board who has to carry out the judicial functions, does not have to be a practising solicitor. It was a strong recommendation of the Law Reform Commission that a legal practitioner should be the chairman of the board. In addition there was a strong recommendation by the Law Society that the board should not have the judicial powers it is proposed it be given.

I refer now to page 5 of the Law Reform Commission report, portion of which reads as follows—

> 17. The Law Society also submitted that the power to cancel licenses should remain with the courts and said—
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> > The power to cancel a license is tantamount in many cases to cancelling a person's ability to earn his income. Such proceedings are therefore of a very serious character and must in all respects be done in accordance with the best ideals of our system of justice. The best system of justice which has arisen to date is through the court system, involving the oral examination and cross-examination of witnesses according to the normal rules of evidence. We believe such a procedure is not an administrative function and should be dealt with as at present by a stipendiary magistrate, with the parties having a right to representation by a Counsel.

On page 6 of the report it is stated that Mr B. R. Rowland, QC, considered that this particular provision would obviate the necessity for what is primarily an administrative tribunal having to exercise judicial functions. I think that is the dilemma in which these provisions will place this particular board. I can easily see the board, without a lawyer as chairman, getting off the rails. I can see the board, without the safeguards I have mentioned, being accused of all sorts of bias and I cannot envisage that it will be able to defend itself because of its composition. As I have said, most of the appointments will be political, and it is with very grave doubts that we support a Bill which allows for these types of appointments.

People may say that the Licensing Act has powers of this kind, but the Licensing Act does not have such powers. It carries out most of its prosecutions through a special wing of the Police Force; namely, the Liquor Squad. Inspectors under the Licensing Act do not investigate transgressions of the law under the Act. Those policemen bring prosecutions forward and they do not submit them to the very board which initiated the prosecutions, but take them to an impartial magistrate, still with an appeal to the District Court.

Although the Licensing Court does have the power to take away a person's licence it has that power normally only after the person concerned has been convicted before a Court of Petty Sessions, and in some cases the person must be convicted twice before a licence can be taken away. The safeguards which are written into the Licensing Act are nowhere apparent in the legislation before us.

It seems that those people who realised that the old Land Agents Supervisory Board was a paper tiger have gone overboard to ensure that the board under the legislation before us has enough powers to make it work. It seems the board will have unfettered powers and far too many of them. In view of the strong submissions by the Law Society, it would be wise for the Government to have another look at the provisions relating to the powers of the board. I would add that many members of the profession, including members of the Real Estate Institute, when alerted to the powers being given to the board, only today, were very uncomfortable and wondered why they had not picked up the matters earlier themselves. We see this as a grave defect in the legislation.

The second defect we raise is in respect of the academic qualifications which apply to real estate salesmen. Clause 47 provides for the granting of a certificate of registration in respect of real estate salesmen. Under paragraph (a), such a person must be a resident of the State. I do not know whether the Government intends to amend that particular provision. As the Minister nodded, I presume it is the Government's intention. Under clause 47 such a person must also be over the age of 18, be a person of good character and repute and must also understand fully the duties and obligations imposed by the legislation on persons involved in negotiating real estate and business transactions. Subclause (2) reads—

> (2) In paragraph (c) of subsection (1) "fit and proper" includes having such qualification by way of experience or otherwise as is prescribed, or, if no qualification is prescribed, includes having such qualification by way of experience or otherwise as is approved.

There is no prescribed qualification and, in fact, there are no criteria so far as I am aware as to what qualifications such a land salesman should have. Although there is a hint of academic qualifications, we on this side of the House—and I would venture to add that a very large section of the real estate profession—are very keen to see that real estate agents have some form of academic qualifications. Whether the Government intends to include that provision at a later date, or whether the provision has been neglected or forgotten, I do not know. However, I believe it is a provision that should be added at a later date, probably by regulation or the code mentioned earlier.

I would indicate that in South Australia where the Act works quite well, there are prescribed qualifications for salesmen. It is very important that there should be some academic qualifications for salesmen, especially in respect of those employed by developers. A developer may not be a licensed real estate agent. A developer who is not a licensed person under the Act will be in the position of giving directions or guidance to the licensed real estate salesmen.

The real estate salesmen are the front-line troops, and they transact most deals in the metropolitan and country areas. Where a developer is not subject to the directions of a licensed real estate salesman, the situation is left wide open.

I do not know whether the Minister is aware of the situation, but a real estate salesman will be under the direction and guidance of the principals of a real estate developer who need not necessarily have any real estate qualifications. In that situation a salesman could be working on his own without any direction from his principal.

Mr O'Neil: For that reason you believe there ought to be prescribed qualifications?

Mr GRILL: Yes, so that at least there are some rudiments, although I am aware that many real estate salesmen are, in fact, highly qualified people. I believe that if the Government were to provide for real estate salesmen to have some qualifications—they need not necessarily be set out in this measure—the move would be treated with warmth.

There are a number of clauses in the Bill which the Opposition will move to amend. Generally, the Opposition feels that half the members of a firm, or half the principals of a company, should be licence holders if they are to supervise licensed persons under the Act. The amendments which we intend to put forward have been unanimously supported by the Law Reform Commission. I have wondered why the Government has not gone along with all the recommendations made by the Law Reform Commission.

Another amendment which we intend to move will be to endeavour to ensure that all directors of a company are both jointly and separately liable. Once again, this is an area where the Law Reform Commission unanimously suggested there should be responsibility for liability. I would like to know why the provision has not been included in the Bill.

Another amendment will be in respect of the payment of commission, or the time at which the commission should be paid. The Law Reform Commission unanimously agreed that the commission should be paid on the completion of a transaction, unless the failure to complete the transaction was due to the fault of the agent's principal. The Law Reform Commission defined the time of settlement, or the time of completion, as being the time of settlement in respect of cash sales and the time of possession in respect of term sales. We wonder why that provision has not been included in the Bill.

It is the intention of the Opposition to introduce amendments along the lines I have outlined. With those words, I indicate my support of the Bill.

Sitting suspended from 6.15 to 7.30 p.m.

MR CLARKO (Karrinyup) [7.30 p.m.]: Mr Acting Speaker (Mr Crane), I rise to support this Bill. The first Land Agents Act was passed by this House 57 years ago, in 1921, and it is interesting to note the changes that have come about since then. One simple change—which is perhaps not of great significance—is that the first Bill comprised 35 clauses and 48 pages, whereas the one we have before us this evening comprises 149 clauses and 114 pages.

Mr Skidmore: That is what education does for us.

Mr CLARKO: That may be so. The member for Yilgarn-Dundas mentioned in his speech the matter of education, and I will refer to it later on.

The Law Reform Commission's report of 1974 provides the basic framework for this new Bill, and in the main its recommendations have been accepted. Some significant changes have been made. Various people see some changes as being more significant than others. However, the terms of reference of the Law Reform Commission were very wide and I think most of its objectives have been achieved—certainly its major objectives, with the possible exception of the term of reference concerning land settlement agents. I believe that matter could well have been included in this Bill, but at the present time the Land Settlement Agents Association is currently drafting a Bill on the matter.

Mr Davies: We are not going to have another one, are we?

Mr CLARKO: I understand the Minister handling this Bill expects to receive advice from the association in the near future. I hope it will be received fairly soon because it is highly desirable that the matter be proceeded with promptly, and I am convinced it will be.

Mr H. D. Evans: Why did we not do it before this Bill came in?

Mr O'Neil: He is talking about a different Bill.

Mr CLARKO: This Bill will provide better protection for the purchaser, the vendor, the agent, the sales representative, and the community in general. Vast sums of money are handled every day in relation to land transactions and I believe it is esessential to have legislation covering all of the matters which are necessarily involved in such transactions. I am of the opinion that, in the main, the Bill does cover those matters.

No-one could suggest for one moment that the Bill is without flaws. It is a very large Bill and one in which the various interest groups in the community have played a very active part. It is significant that the member for Yilgarn-Dundas complimented the Government on allowing the Bill to lie on the table of the House over the recent recess to give all the interest groups an opportunity to look at it, clause by clause. The Minister received and welcomed a vast number of recommendations from the interest groups, but it is my belief that when they were collated it was found they concerned only a relatively few clauses of the Bill. The notice paper shows quite clearly how many of the recommendations have been accepted by the Government. They will come before us in due course.

The member for Yilgarn-Dundas stated unequivocally that the Opposition supports the Bill, although it has a few reservations. One of the reservations concerns the question of the chairman of the board not necessarily being a legal practitioner.

It is my view that the board to be set up will be significantly more representative than the one which was set up under the old Act. It is a very well-balanced board. This is one area where the Bill differs from the recommendation of the Law Reform Commission. Although the chairman will not necessarily be a lawyer, I believe the need for legal representation is sufficiently covered by having a lawyer on the board.

One member of the board is to be knowledgable in commercial practice, whereas the Law Reform Commission recommended the appointment of an accountant-auditor. In my view, commercial practice is a much wider field which includes some of the types of people recommended by the Law Reform Commission, but the Bill will enable a suitable person to be selected from a much wider range.

The Bill does not stipulate that the lawyer member must have been in practice for eight years. I do not think it is necessary to set down a period of time in this respect; it is better for those appointing the board to be given a free hand at the outset and not to be so limited.

Another matter which is of a minor nature is that the Law Reform Commission recommended that members of the board be not allowed to serve more than two consecutive terms. I cannot for the life of me support that recommendation. It is my view that any member of a board who is doing a good job should not be debarred from further service simply because he has already served eight years. I see no sense whatsoever in that recommendation and it has not been incorporated in the legislation.

The member for Yilgarn-Dundas spoke about the academic qualifications of real estate salesmen. The working party in 1973 recommended that these salesmen should have a minimum educational standard. I was attracted to that recommendation. Some people have accused me of being attracted to it because I have an involvement in education, but it was pointed out to me quite strongly by some of my colleagues that it is not essential to lay down minimum formal educational qualifications. They argued very cogently—and I accepted their argument—that the situation which exists at present allows greater freedom. I share the view of the member for Yilgarn-Dundas that in these modern times it is desirable to move as quickly as we can to such a situation, and I assume that is what will happen.

I understand the legislation has been welcomed by the Real Estate Institute of Western Australia, which sees it as an opportunity for the real estate business to be raised above the level of certain other fields which have recently been criticised in this House. People operating in the real estate field have also sometimes been criticised, but I do not think the criticism is deserved. I am of the opinion that this legislation will open the way for real estate agents and salesmen, and business agents to gain greater recognition in the community, which will come about as they acquire higher qualifications.

I had some reservations also concerning the inclusion in the Bill of a code of ethics. My initial view was that this code should not be laid down in a mandatory way by the board. It was my view that it was more desirable for the people concerned—people who regard themselves as professionals—to accept and adopt a code of ethics for the agents and for the sales representatives. However, I was convinced by argument that some difficulties would arise if such a course were followed, and the Bill now prescribes a code of ethics for these two groups. I will be interested to see what transpires.

I had some reservations also about the setting of fees as suggested by the Law Reform Commission. I was a little reluctant to accept initially the view that there should be a maximum fee. However, I was informed of problems that had arisen in the past about the wide range of fees that were being charged. My belief is that we should have as much freedom as possible in business contracts, but it appears that, as a maximum fee only is to be prescribed, people will have the opportunity to charge a fee below that maximum. I hope that the maximum fee does not become the minimum fee as has happened in other instances.

I am aware that there were some difficulties in regard to the sales representatives of developers. The Bill provides that the sales representatives of developers will come within the ambit of the legislation. If we consider the case of two houses side by side, one house which is being sold by a real estate sales representative and the other by the sales representative of a developer, it is only fair and equitable that the same conditions should apply to both salesmen.

In regard to the grandfather provision, the Chief Secretary has an amendment on the notice paper which will provide that a man who has been engaged in the real estate field for five years—three years as a sales representative and two years as a manager—will have the right to continue to operate a branch office. I am aware that some people in the real estate industry would have preferred a shorter period of time, perhaps two years as a sales representative and one year as a manager. This is really just a matter of degree, but I believe that a period of three years is far too short.

If this Bill is a genuine attempt to upgrade the qualifications of people in the industry, our standard should not be too low. Anyone who has not been in the industry for five years will have the opportunity to take the steps necessary to qualify. When this measure is passed, I hope people will not regard the qualifications set out in it as being the ultimate. I hope that everyone in the industry will be encouraged to study further and to make themselves more competent.

The legislation should not be seen solely as a measure to enable audits, controls, and restrictions on the industry. In my view the main purpose of the Bill is to develop a much more professional attitude in those involved in it.

The real estate industry generally is a responsible one, but under the provisions of this measure it will have an even better reputation in the future.

The Chief Secretary intends to move to delete clauses 64 and 65. In my opinion these clauses were far too prescriptive and contained too many provisions which would enable a person to slip out of a contract, and perhaps for the wrong reasons. These two clauses were by far the most lengthy clauses in the measure, and I feel that they were trying to do too much.

Nobody disputes many of the matters contained in those two clauses; in the past some people have suffered because of certain omissions of this type in the legislation. However, this Bill will not remain forever and a day in its present form. With experience and the passage of time, modifications and amendments will be made to improve it still further.

For quite a long time now I have been involved in the study of the Law Reform Commission's report. Members have referred to the period of time that has elapsed since the publication of the report, and I am as pleased as any other member that the Bill is now before the House. I look forward to its ready passage and implementation for the benefit of consumers and of the people in the industry.

MR T. D. EVANS (Kalgoorlie) [7.46 p.m.]: I would like to welcome the birth of this legislation, but I do have some regret about the delay since the introduction of the report of the Law Reform Commission. I was a Minister in the Tonkin Government when the Law Reform Commission was set up. We asked that commission for recommendations as to how we could make the Land Agents Supervisory Committee more effective.

As the Minister concerned I received numerous complaints from aggrieved persons about land dealings. Some complaints were from land agents who complained about vendors and purchasers dealing privately after the land agent had introduced them in the market place. In this way a real estate agent would be deprived of his commission. I received complaints also from people who alleged that real estate agents had engaged in snide dealings.

Any Minister—or indeed any member who has been a Minister—is aware that the Minister administering any Act is not always apprised of all that happens under the operation of that Act, and therefore he must of necessity refer such complaints to the statutory body that is responsible under the terms of the legislation. I received numerous and varied complaints from purchasers, prospective purchasers, frustrated purchasers, purchasers who had paid their deposit and then wished to recover it, and also from land agents.

Again with all due respect to the members of the existing board and the members of the supervisory board as it was then, I cannot recall receiving a satisfactory reply from the board for the simple reason that the existing Act has no teeth at all. The board is a board in name only. For that reason I am very pleased to see the arrival of this Bill—delayed as it is—before the Parliament; because I referred the operation of

the existing Act to the Law Reform Commission during the period 1971 to 1973.

The final recommendations of the Law Reform Commission were tabled in this Parliament, I understand, on the 30th July, 1974. These recommendations were directed to the Government of the day which, in July, 1974, was the Court Government. Now here we find ourselves dealing with the subject in 1978. Delayed as it has been, I welcome the appearance of this Bill and I intend to support it.

However, the measure could be improved. I believe the amendments suggested by the Chief Secretary, who is in charge of the Bill in this Chamber, will go a long way towards improving the operation of the proposed new legislation. However, I feel they do not go far enough and whilst I do not intend actually to move amendments in the Committee stage I would like to suggest some. I do not intend them to be adopted by the Government on this occasion, but I would like to believe that a practice I adopted when I was the Minister will be adopted by the Government on this occasion, if it has not already done so. Whenever a Bill coming within the jurisdiction of the Crown Law Department came under debate I instructed my officers that a file be kept on the Bill, and part of that file be devoted to each clause of that Bill; and whenever the parent Act came up for debate in Parliament anything appropriate to that measure or to any part or section of that measure be incorporated in the file so that in future the views of members of the Parliament of Western Australia could be considered from time to time in the light of the experience of the operation of the legislation.

I would hope that the suggestions I make tonight, whilst I do not wish to see them put into effect immediately, nor do I think I would have any hope of seeing them put into effect immediately, will at least be recorded; and in the light of the experience of the operation of this measure some of my comments might be found to be of worth-while value.

I intend to deal with this Bill in two parts: firstly to make general and specific comments on matters which are not covered by the proposed amendments placed on the notice paper by the Chief Secretary and the member for Mt. Hawthorn; and, secondly, to deal with other comments which I feel should be recorded so that recourse may be had to them at a subsequent time in the light of the experience of the operation of this proposed legislation which, I would hope, will become part of the Statute law of Western Australia and will replace the present Act.

I will deal with the latter first. Mr Speaker, I hope you will permit me to refer to clause 7 of the Bill, as under my proposed line of action I think it is more appropriately dealt with at this stage rather than in the Committee stage, because I do not intend to move an amendment subsequently.

Clause 7 deals with the composition of the board and states that the board shall consist of five members appointed by the Governor of whom one, being a person who is not a licensed agent, shall be appointed to be a member and chairman of the board; one, being a person who also is not a licensed agent, shall be a person who is experienced in commercial practice; another, being person who again is not a licensed agent, shall be a person who is a legal practitioner; one, as the member for Yilgarn-Dundas mentioned, shall be a person who is a licensed agent nominated for appointment by the Real Estate Institute of Western Australia; and the other shall be a person who is also a licensed agent and elected for appointment by licensed agents.

So we find three of the five members will be nominated by the Government of the day. I would like to refer to the final report of the Law Reform Commission dealing with the supervisory authority. The copy I have is a photocopy of the report, and I am referring to page 3 under the heading of "Supervisory Authority". It states that the commission proposed in paragraphs 36 and 38 of the working paper that the existing Land Agents Supervisory Committee should be replaced by a more broadly based body of five members appointed by the Governor.

I make the point that perhaps as Minister of the day I exercised undue influence on the commission, because I think the terms of reference suggested that the committee should be disposed of anyway and be replaced by something much more effective in terms of powers under the Act, and not related to the personalities of the people concerned. I believe the existing Act is quite ineffective.

The report goes on to say that five members should be appointed by the Governor. One should be a legal practitioner with a minimum of, say, eight years' practice to act as chairman; two should be licensed agents; one should be an accountant-auditor; and one other person. That was the initial response of the Law Reform Commission published in a working paper prior to

the 30th July, 1974. So there has been a great deal of time for interested persons to subject the working paper to scrutiny and to make recommendations back to the Law Reform Commission.

The Law Reform Commission went on in paragraph 10 of its report to say there was general agreement with the proposals outlined, with the following qualification: The Real Estate Institute of Western Australia and the Land Agents Supervisory Committee—which is not worth two bob under the terms of the existing Act—suggested that the other person should be the chairman and not the legal practitioner member. On the other hand, the Law Society responded to the working paper by proposing that the other person should be a surveyor or a person specially qualified in Titles Office procedures. Then the Real Estate Institute and the Land Agents Supervisory Committee proposed that one land agent should be nominated by the Institute of Real Estate Agents and the other by the licensed agents themselves.

The final recommendation on this issue by the Law Reform Commission states as follows—

> The Commission remains of the view that the Chairman should be a legal practitioner with a minimum of eight years' practice, particularly if the supervising authority is to have wider judicial functions than the Land Supervisory Committee now has.

As we have heard tonight from the member for Yilgarn-Dundas, that is exactly what the new board will have; namely, expanded powers.

I accept that the Government of the day is not bound to follow the recommendations of any statutory body set up to make recommendations to the Government. However, I believe good cause should be shown to explain why in any one instance the Government of the day should depart from the recommendations of an expert body established specifically for the purpose of advising the Government in specialist areas, and I should like the Chief Secretary when he replies to give the House this explanation.

If one analyses clause 7 one realises that, in fact, the Government has departed from the recommendation of the Law Reform Commission. Members should bear in mind that only five persons will be appointed to the board. Under clause 7 it is still possible for a legal practitioner to be appointed as chairman of the board; but if he is appointed as chairman of the board, it means the Government must appoint two legal practitioners to the board. This was not the intention of the Law Reform Commission, which suggested there be one legal practitioner, and that he should be chairman of the board.

Clause 7 states—

> one, being a person who is not a licensed agent, shall be appointed to be a member and Chairman of the Board;

Another person shall be a person, again, who is not a licensed agent but shall be a person who is a legal practitioner. I should like the Chief Secretary to explain why there has been a departure from the recommendation of the Law Reform Commission that the chairman shall be a legal practitioner.

This is an important question, bearing in mind the gravity of the decisions which will be made by this board with its expanded powers. I differ from my colleague, the member for Yilgarn-Dundas, who was somewhat fearful of the powers to be given to this new board. I have had the experience of dealing with a board which had no teeth at all, and which was a lame duck. Subject to the appeals through the District Court for which this Bill provides, I am quite happy for this board to have these new powers. At the same time, however, I believe the chairman of the board should be a legal practitioner.

I refer now to clause 11 of the Bill, which deals with the remuneration of members. I believe this is closely linked with the clause which deals with the constitution of the board. Clause 11 provides that the members of the board shall be paid such remuneration as the Governor from time to time may determine. I hope the Chief Secretary is paying close attention to this point because it is the essence of the whole Bill.

I welcome this Bill; I think it is a great advance on the existing legislation. However, if it is to achieve its purpose and gain the confidence of the people of Western Australia, the new board—bearing in mind that the chairman should be a legal practitioner—should attract respect and should have a status at least equal to and preferably greater than the Licensing Court of Western Australia. It should be accorded a higher status, because it will be a board which will supervise transactions which will be the greatest and most expensive transactions most of us will enter into in our lifetime; namely, the purchase of a home.

If there are any complaints relating to such a transaction, this is the board to which such

complaints should be directed. Therefore, I think clause 11 is deficient in not spelling out loudly and clearly enough what the status of this board shall be.

We know that the Licensing Court supervises the operation and trading hours of hotels, and deals with the transfer of licences. Millions and millions of dollars of capital investment in Western Australia are supervised by the Licensing Court.

However, the new real estate board as constituted under this legislation will supervise a far greater sum than that, if all the transactions in real estate from year to year are aggregated. Therefore, I believe this clause is deficient in not spelling out the status of the proposed board.

I refer now to clause 20(5), which deals with the powers of the board. It states as follows—

> (5) In any proceedings the Board shall act according to equity, good conscience, and the substantial merits of the case without regard to technicalities and legal forms and it shall not be bound by the rules of evidence.

The material words to which I object, with some qualification, are that the board "shall not be bound by the rules of evidence". Whilst this form of procedure relating to the acceptance of verbal and parol evidence is fairly common before tribunals, in this particular instance we should qualify it and put the brakes on the right of the tribunal—particularly if its chairman is not a legal practitioner—to accept hearsay evidence, where someone can stand before the tribunal and make an allegation that someone told him something without that "someone" being required to appear before the tribunal. If Mr X says that Mr B told him something, under the terms of this legislation the tribunal will be able to accept Mr X's statement; there is no provision for the tribunal to say, "We shall call Mr B to let him say it directly to us."

I suggest that subclause (5) be amended to provide that the board should be free to ignore the rules of evidence except those which relate to hearsay evidence.

I move now to the part of the Bill which refers to advertisements lodged by agents or by persons purporting to be licensed agents.

Clause 62 states that any advertisement in respect of the business of an agent or a developer shall not be published without his authority. I have objections to this clause. The second part of the clause provides that a duly authorised advertisement—that is, one authorised by the agent concerned—shall contain such details as are sufficient to identify the agent or developer, as the case may be. The third part of the clause refers to a person who enters into a contract as a consequence of an advertisement which contravened subclause (2) and is not thereby entitled to avoid the contract. I would like to suggest that the word "not" be struck out.

In the second subclause we have a case of a land agent authorising an advertisement. We assume it has been lodged by the agent and somehow or other he fails to identify himself correctly. I baulk at using the name of a well established agent in Perth. Let us assume a person bears the same name as a real estate agent in Perth trading under the name of X and Associates. Let us assume this person's real name also is X. X and Associates claim in their advertisements that they are expert in the knowledge of real estate within the City of Perth, particularly in home unit and flat accommodation in which people are attracted to invest.

Let us assume X is a duly authorised agent. He does not have to give his address as under the requirements in the second subclause he has only to give such details as are sufficient to identify the agent. Suppose he copies word for word the advertisement of the well known, reputed, and long-established firm known to be expert in this particular branch of the profession and then puts his own address on the advertisement and so attracts clients to himself.

It could happen that people go to him thinking they were dealing with the long-established and well-reputed agent X and Associates in whom is vested all the expertise in this field. A client could take the advice of X and invest his life savings in buying a block of home units. X could tell him he would get 52 weeks a year of continuous tenancy without any doubt or any worries. The client could be told that the insurance on the investment will be no more than Z amount of dollars and he would be guaranteed a certain amount of rental a year.

In other words, the client invests on the advice he believes is given to him by a company of good repute with a large degree of expertise when in fact he is not. The client could find that he gets only 25 to 30 weeks a year of tenancy and that the rates and insurance are higher than had been advised. In other words, he suffers as a result of the advertisement.

Clause 62 provides that such a person is not entitled to avoid the contract. I believe in those circumstances he should be able to avoid the contract because he has to jump two hurdles. I believe a court should make the only determination.

One hurdle is that there was a breach of the second subclause that the agent concerned failed to truly identify himself. The client has to prove that in the first instance. The second hurdle is that the client would have to prove he thereby suffered a disadvantage. If he could jump those two hurdles I cannot understand why the legislation should then say he still cannot avoid the contract. What does he have to do? This should be recorded for future reference.

There is no penalty for any agent who breaches this clause. Any agent who does what I suggested and advertises himself as X and uses all the common phrases identified with the advertisements of X and Associates is not confronted with any penalty. The clause is quite deficient in this regard.

The Bill provides a penalty for the unwitting purchaser who suffers as a consequence of the advertisement because it was placed by an unscrupulous agent who can go scot free and not face any penalty at all.

I shall make some comment on the proposed amendments by the Chief Secretary and listed in the notice paper. The first amendment is to exclude the business of a developer from the definition of "business". I assume when the Chief Secretary moves his amendment he will adequately explain what is involved. I am pleased to note that one glaring inadequacy in the Bill is to be amended by including a definition of "franchise agreement".

The third amendment relates to trust interest accounts and is intended to exempt stockbrokers when dealing with securities in the course of business, and so enable the conduct of the business. This is desirable and makes common sense.

However, I feel I should draw attention to the definition of "business agent" in clause 3 of the Bill. I can imagine in some circumstances that a legal practitioner or an accountant, in the normal course of his business and not as a usual incident, may from time to time be called upon to perform a duty which could be involved with the definition of "business agent". Unless some exemption is provided in the parent legislation it could be implied that a legal practitioner or an accountant fell within this term perhaps once or twice a year.

I can imagine an accountant being called upon to give a valuation of shares or a legal practitioner in the process of winding up an estate where a small business is to be disposed of being involved in the definition of what constitutes the activity of a business agent.

Surely this piece of legislation does not require that every accountant and every legal practitioner shall be registered as a business agent. If that is the requirement, and if from time to time there is little work available in the legal or accounting fields, legal practitioners and accountants may try to enter the field of real estate and business broking. They may say, "We have a licence to act as business agents. We will see if we can do some good for ourselves in that field." Obviously the legislation is not intended to increase competition from lawyers and accountants who, despite the few but necessary occasions on which they are called upon to do this work, would not have the necessary expertise to engage in real estate and business broking on a full-time basis.

The definition of a business agent is so wide that it could involve a legal practitioner being required to have a business agent's licence, and the same situation could apply in the case of accountants. I do not believe this is the purpose of the legislation.

I am glad to see the amendment in relation to the obligation of an estate agent to be responsible for effecting the adjustment of rates and taxes in the course of completion of a land transaction. I believe this is implied already under the existing Act and it is in fact the responsibility of land agents, although that is not specifically expressed. As a result, we have found in the last 15 years—certainly no earlier to my knowledge—the practice has arisen whereby land agents receive their commission and in many instances, if not in all cases, they pass the obligation to adjust rates and taxes between the vendor and the purchaser to a legal practitioner or to some other person. Of course, there would be a charge for that service.

In most cases the cost is borne by a person other than the land agent who had in fact received a commission.

I believe the adjustment of rates and taxes should be performed by the land agent and should be part of the work of earning his commission. The clause in the Bill to which I refer spells out the fact that this is the responsibility of the land agent and the commission earned covers the sale of the property or business and the adjustment of rates and taxes. The clause goes on to say, however, that if the land agent wishes to refer this matter to a legal practitioner he may do so at his own cost, or, if he is directed by his principal to refer the matter to a legal practitioner, he shall do so, but, of course, the principal shall meet the costs involved.

However, the clause as printed fails to recognise the fact that settlement agencies are non-statutory bodies. We all know of the existence of these agencies. Most legal practitioners acknowledge them and take advantage of the services they offer. Although settlement agencies for some years have been crying out for recognition, this has been denied them to date.

Initially when I looked at this Bill, I thought that the fact that the adjustment of rates and taxes could be carried out by a legal practitioner sounded the death knell of the settlement agencies because they would be excluded. However, I drew this matter to the attention of the Chief Secretary. I do not know how many other members did likewise. The Chief Secretary said he would look at the matter and I believe he has overcome the problem. He has provided that the responsibility for the adjustment of rates and taxes rests with the land agent, but if the land agent wishes to refer the matter to someone else, or if he is directed to refer it to someone else, he may do so. However, the land agent must be responsible for the costs involved. This does not give statutory recognition to settlement agents and I do not think it is necessarily appropriate to do so. I am pleased the Chief Secretary has seen fit to provide flexibility in this regard. At least under the new law, settlement agents will not be excluded and the matter may be referred to a legal practitioner if either the land agent or the land agent's principal so desires.

I should like to pass to what will be known as the "grandfather" clause. As I understand the situation the Chief Secretary intends to insert a new clause in the schedule to the Bill, which will be clause 16. This clause will qualify clause 37 of the Bill which was intended to end the practice of dummying whereby real estate agents could allow an unqualified person to make use of his licence and indulge in the practice of a real estate agent for a consideration. I believe the grandfather clause is desirable, because it acknowledges the fact that many of the real estate firms in Western Australia have agents and branch offices established throughout the State. The new provision would require all branch offices to be managed by licensed agents and, as a result, many of these branch offices would cease operation. However, the new clause rectifies the situation.

Whilst I believe the grandfather clause is desirable, in its present form it states that the person must have had five years' experience as a land salesman under existing legislation and must have been a manager of a branch office for three years. I have been advised by several leading real estate people in Perth that if this is the case the grandfather clause will be nugatory. It will have little practical effect. If it is intended that the clause should have some practical effect, bearing in mind that it will be of diminishing value, the period of five years should be reduced to three years as a land salesman under the existing law; and the period during which he shall have operated when this Act comes into effect should be one year and not two years. If this is not the case, I am advised the grandfather clause will be quite meaningless. I welcome the clause, but I should like to see it in an effective form.

I conclude my remarks by supporting the Bill. I am glad to see it has been introduced. I hope it will be improved. I believe the Minister's proposed amendments will improve it and I hope, in the light of experience, some of the amendments I have suggested will appear in print after I have left the Parliament.

MR BERTRAM (Mt. Hawthorn) [8.30 p.m.]: Very briefly, I endorse the remarks of previous speakers this evening in respect of the Bill. Put shortly, the attitude of the Opposition is that this Bill is overdue and it is a Bill which is needed very much because the existing Act is just not up to standard.

The position really is that the measure is one more for debate in Committee than for debate during the second reading stage. I have on the notice paper an amendment which will be moved and discussed in Committee and I hope the Committee will give due consideration to it. It is

designed to establish a cooling-off period for purchasers of land. This is not a new concept. It is one which has been tried in another State and has been found to work very well. While the real estate agents in South Australia had some concern about the efficacy of the practice when it was first introduced, nowadays I understand they accept it and believe it to be a good provision.

No doubt once the Bill becomes law it will be found to require certain amendments as is the case with many pieces of legislation. However, I think we should do our best at this stage to ensure that the legislation is as good as we can make it. I am told that in another State the cooling-off provision—just to mention one—is working very well, and it is incumbent upon us to insert provisions of that kind so that the Bill will be in the best shape we can make it.

As I have said, we welcome the Bill and look forward to discussing it in more detail in Committee when I trust the Government will give due consideration and support to the amendments which the Opposition will advance.

MR O'NEIL (East Melville—Chief Secretary) [8.32 p.m.]: I want to thank all members who have contributed so far to the debate on the Bill and indicate that very rarely have I seen such unanimity in respect of the principle and appreciation of the need to replace the existing legislation by a more effective and modern Act.

I think the criticism generally from the Opposition regarding the Bill being long overdue and so on is to a degree warranted. However, it is of some importance to realise that even prior to the receipt of the Law Reform Commission's report, some 28 organisations were approached and sent copies of the Law Reform Commission's working paper. In addition, an advertisement was placed in the newspapers indicating that the LRC was examining the law in relation to land sales, and 193 individuals and organisations were sufficiently interested to have copies of the LRC report sent to them. Of those, an additional 46 made submissions, so in total some 74 submissions were made by individuals and organisations from banks, estate agents, accountants, and individual people, to land salesmen and agencies and the like.

Therefore, the LRC had before it a considerable amount of material to examine and upon which to base its recommendations. Of course it took some time for these recommendations to be converted into a piece of law in the form of a Bill. This again was examined closely by the organisations and people concerned.

The Government decided that, having a Bill in reasonable form, which met all the points raised by interested parties, it should introduce it, as it did earlier this year, and leave it on the notice paper in order that once again those who were interested could make submissions which would be further examined.

The submissions keep coming. In fact, some have just been handed to me right now. Even just before the tea suspension I received a submission from someone purporting to represent an organisation. He referred to the unsatisfactory Bill, but obviously he has not seen the amendments on the notice paper because the provisions about which he complained are to be dealt with, anyway. One wonders when one submits a Bill for public consideration in the way we have done, what the deadline should be for submissions. I often query the idea of making the legislation available to the public because submissions keep coming in and at some stage a cut-off point has to be reached.

I am certain that the Opposition would have established a small committee to examine the provisions of the Bill as they relate to the LRC report.

What is of some gratification to me is that from the mound of submissions received, it is obvious that they really all boil down to the aspects which are substantially covered in amendments on the notice paper, signifying that a considerable number of interested people have made some sort of submission which can be satisfied by relatively few amendments. While the notice paper contains a couple of pages of amendments, when we analyse them they revolve around two or three main principles, the essential ones being the deletion of any reference to developers. There are other fairly minor matters, but I think the important ones relate to the continuing provisions of the existing law which are contained in the schedule and the like.

About the only issue which has been raised in the second reading debate is in regard to some concern that the inspectorial or investigatory powers of the registrar, and those nominated by him, seem to be fairly wide indeed.

It is quite significant in respect of the Opposition anyway that the only people who spoke on the Bill are legal practitioners, while neither of those who spoke from this side of the House happens to be a lawyer; but it is not a case

of lawyers' law. This is a genuine endeavour on the part of the Government to implement recommendations of the LRC to produce better legislation in the interests of the public—

Mr Grill: It is not just the investigatory powers, but also the judiciary powers and legislative powers.

Mr O'NEIL: I agree. However, the honourable member will agree I am sure that there was a difference of opinion between two practitioners on the Opposition side as to whether the proposal was right of wrong.

The interjection has made me lose my train of thought, but it does not matter. A point was raised regarding the board. We have on the one hand the member for Kalgoorlie indicating he would like the board to be given much greater judicial status because of the work it will do.

Mr T. D. Evans: Provided the chairman is a legal practitioner.

Mr O'NEIL: That is right. Some members referred to what the LRC had to say about the situation. Some of the references were in the working paper submitted for other people to examine, and other quotes were taken from the LRC report itself.

In regard to the board, it is true that one of the commissioners (Mr B. R. Rowland) who, I think, was at that time President of the Law Society as well, had to make a determination as to whether he supported the views of the Law Society or the recommendations which the commission, of which he was part, intended to make.

In general terms, having regard for the right of appeal which does exist against the judicial powers of the board—and having regard for the commission's recommendation that the chairman should be an experienced legal practitioner—and that point was made by the member for Kalgoorlie—then they should defer to the view expressed in the working paper that the supervisory board is the appropriate body to exercise the functions of licensing and cancellation. That will be part of its administrative functions.

Mr T. D. Evans: On condition that the chairman is a legal practitioner!

Mr O'NEIL: As I have mentioned, several committees have worked on this measure. The Government parties had a committee looking at the Law Reform Commission report, and equated it with the conditions in the Bill. The Opposition has put its view through the appropriate interested parties.

It is reasonably significant to note that I have received a telegram which, I admit, is dated the 18th August, 1978, from the President of the Real Estate Institute stating that at the annual general meeting of members, held on the 17th August, 1978, the members unanimously expressed their support for the Real Estate and Business Agents Bill, and that the institute proposed some amendments to the measure.

There are other amendments which have been on the notice paper since last week and which the institute most certainly has had an opportunity to examine. No objection has been raised to any of those proposed amendments.

It is true, of course, that this is innovative legislation. In many ways due reference has been made to this fact. It is also very true that this Bill, when it becomes an Act, will be before this Parliament for amendment in the not-too-distant future. Because the measure is innovative in many ways we will realise that from the experience of the supervisory board, and the problems it may encounter, the measure will have to be amended. That is perfectly normal and perfectly reasonable.

I took note of the reference by the member for Kalgoorlie in respect of having files covering this type of legislation so that comments during the second reading stage, or on the various clauses, may be examined in the light of experience in the operation of the legislation. If necessary, those comments could then become part of moves to improve the legislation.

I am certainly pleased that the Bill has received such general support. The amendments which appear on the notice paper, in the main part, appear to meet the objections which were likely to have been raised by members of the Opposition and other people who ultimately will have to work under the aegis of this Bill when it becomes an Act. I commend the second reading.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 to 3 put and passed.

Clause 4: Interpretation, and construction—

Mr O'NEIL: If the proposed amendments are carried they will delete the clauses dealing with a business developer, and the purpose of my amendment is to delete that reference. This will tidy up the definition which will relate to subsequent amendments I propose to move. I move an amendment—

Page 3, line 15—Insert before the semi-colon the words "and does not mean the business of a developer".

Amendment put and passed.

Mr O'NEIL: In the same clause I propose to insert an interpretation of "franchising agreement". This matter was raised with me by the member for Kalgoorlie privately, as well as during debate. I move an amendment—

Page 6, line 1—Insert an interpretation as follows—

"franchising agreement" means an agreement whereby a party to the agreement grants to another party to the agreement the right or privilege to carry on business in a manner, over a period, and in a place specified in the agreement;

Amendment put and passed.

Mr BERTRAM: There is on page 8 a definition of a "small business". It means a business with assets which are sold or offered for sale, or authorised to be sold, for an amount not exceeding $100 000. There appears to be some confusion—justified or not is another matter—in that some people believe the sum of $100 000 in fact represents the sale price of the business whilst others consider that the $100 000 represents the actual gross assets.

I am one of those who tends to the latter view. A business may have assets totalling $100 000 but may be sold for only $20 000. I think an explanation would be appropriate as to whether the expression "$100 000" represents the actual gross assets or the actual price to be paid for the business.

Mr O'NEIL: I do not find the definition confusing at all. If the member reads it in full he will see that a "small business" means a business the assets of which are sold or offered for sale for an amount not exceeding $100 000. So, it is the amount for which the business is authorised to be sold and does not include the use of land on a commercial basis to produce income to the user from the sale of produce or stock. In my view that is not a confusing definition. I move an amendment—

Page 9—Delete subclause (4) and substitute the following—

(4) Nothing contained elsewhere in this Act applies to or in relation to—

(a) a body corporate authorized by the law of any State, or of a Territory, of the Commonwealth to apply for and obtain a grant of probate of a will when exercising its power to do so or when exercising any other power conferred on it by such a law; or

(b) stockbrokers who are members of an approved stock exchange within the meaning of the Securities Industry Act, 1975 when dealing in securities within the meaning of that Act.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 5 and 6 put and passed.

Clause 7: Composition of Board—

Mr GRILL: I move an amendment—

Page 10, line 28—Insert after the word "agent" the words "shall be a person who is a legal practitioner and".

The board is to comprise five persons. Some nebulous person will be the chairman, and the other four members will be a person experienced in commercial practice, a legal practitioner, a licensed agent nominated by the Real Estate Institute of WA, and a licensed agent elected by the licensed agents. The object of my amendment is to have a legal practitioner as the chairman of the board.

There are very good reasons for this amendment being accepted. I have substantially outlined my misgivings about the chairmanship of the board. We are giving this body wide-ranging administrative, quasi-legislative, investigative, and judicial powers. It seems to me— as it seems to most people and to the Law Reform Commission, as the Chief Secretary conceded—that the chairman of the board, who will hold so much power in his hands and have so much sway over the board, should have legal experience. He will

be dealing with the livelihood of people who come before him and have very wide-sweeping powers. The Law Society said—

> The power to cancel a license is tantamount in many cases to cancelling a person's ability to earn his income. Such proceedings are therefore of a very serious character and must in all respects be done in accordance with the best ideals of our system of justice. The best system of justice which has arisen to date is through the court system, involving the oral examination and cross-examination of witnesses according to the normal rules of evidence. We believe such a procedure is not an administrative function and should be dealt with as at present by a stipendiary magistrate, with the parties having a right to representation by a Counsel.

I am not putting the matter anywhere nearly as high as the Law Society did. All I am saying—and the member for Kalgoorlie said it much more forcibly—is that at least the chairman of the board should be a legal practitioner.

I sincerely hope the Government will give consideration to this amendment because I think it is very important to the operation of the legislation. It will go a slight way along the road to having some judicial control over what are obviously very wide judicial powers. The obvious opposition to the amendment will be that one legal practitioner is already included in the board, but it seems to me that to have any control over the proceedings a legal practitioner would need to be the chairman, as suggested by the Law Society.

I do not want more than one lawyer on the board but I do believe that lawyer should be the chairman of the board. Instead of the legal practitioner mentioned in clause 7(1)(c), perhaps we could have a consumer representative or someone of that nature. My colleagues on this side of the Chamber might have some recommendations in relation to that matter but I certainly think the chairman should be a legal practitioner.

Mr CLARKO: I cannot agree with the amendment moved by the member for Yilgarn-Dundas. I do not agree that the role of a chairman is to control and dominate the members of a committee. I believe that you, Mr Acting Chairman (Mr Watt), are now giving an excellent example of the role of a chairman; that is, you are not intruding on this debate.

Mr Bertram: He is an improvement on some chairmen.

Mr CLARKO: That is probably the most accurate comment the member for Mt. Hawthorn has made since he has been in this Chamber. I do not think you, Mr Acting Chairman, will try to dominate the proceedings here by taking the prime role in terms of the decision on and the interpretation of the arguments.

Clause 7 sets out a board which is far superior to that recommended by the Law Reform Commission, which at the time consisted of Mr Rowland, the President of the Law Society; Professor Edwards, the Professor of Law; and Mr Freeman, from the Crown Law Department. Had they been naval officers, no doubt they would have recommended that a naval officer be the chairman of the board.

Provision is made for a lawyer to be on this body, and it has been agreed by the member for Yilgarn-Dundas that we do not need more than one lawyer on it. The lawyer member will have the full capability of putting forward and assessing legal matters.

My understanding of this legislation is that the board is not to be just a judicial body. In fact, it seems to me the board will have a host of other functions which will require other knowledge, skills, and experience. The index to the Law Reform Commission's report gives an indication of what the functions of the board will be. It will be a supervisory authority, and that function does not include an interpretation of law but concerns the licensing and qualifications of land agents.

Why should a lawyer be superior to a man concerned with commerce or industry in determining the qualifications of a land agent?

Mr Bertram: Because of his training.

Mr CLARKO: How would the registration of salesmen be improved if we had a lawyer as chairman?

Mr Bertram: In the same way as the Licensing Court.

Mr CLARKO: There is no argument to show that a lawyer would be superior in these circumstances. This board will deal with commissions and trust accounts, and I do not see that a lawyer would necessarily be better than others. Is the chairman to take on the role of an Idi Amin? The board will deal with such things as the apportionment of rates and taxes and finance. Is it crucial to have a lawyer as the chairman of the board? I could go on to talk about audits and auditors, and the fidelity fund. I do not see that anyone could mount a case that it is essential for the chairman to be a lawyer.

I believe the composition of the board as set out in the legislation is much superior to that recommended by the Law Reform Commission. A lawyer could handle any problems that arise, but it is not necessary that he should be the chairman.

Mr T. D. EVANS: To use the initial words of the member for Karrinyup, I cannot agree with him on this occasion.

Mr Bertram: I should not think so.

Mr T. D. EVANS: In 1976 or 1977, when the Government he supports introduced legislation to provide that the Chairman of the Licensing Court should be a legal practitioner, did he put the same arguments forward? In my opinion this board is much more important than the Licensing Court, and I believe it should have at least the same status as the Licensing Court. The board will deal with transactions effected by people who, in many instances, will be making the greatest investment of their lifetime. Did the member for Karrinyup use the same argument then?

Mr Clarko: I wonder whether he should be an alcoholic or a teetotaller?

Mr T. D. EVANS: I think I have blown the honourable member's argument to pieces. He is not consistent. If members refer to *Hansard*, I think they will find that I supported the proposition that the Chairman of the Licensing Court should be a lawyer, although my colleagues did not agree with me.

Mr Clarko: Was Herbie Graham a lawyer?

Mr T. D. EVANS: The Government introduced the legislation. Arthur Watts was a legal practitioner, and he is the second best chairman that the Licensing Court has ever had. I do not want to continue to discuss the Licensing Court.

The credibility of the member for Karrinyup is in doubt because he did not use the same argument in regard to the earlier legislation.

During the second reading debate I asked the Chief Secretary to explain why the Government chose, in this instance, to depart from the recommendation of the Law Reform Commission. He failed to answer me. I would like to know the attitude of the commission to this provision.

Subclause (5) of clause 20 provides that the board need not comply with the rules of evidence, and I made the point that at least it should be bound by the rules relating to hearsay evidence, particularly if the chairman is not to be a legal practitioner.

I support the amendment, but I ask one more time why the Government has chosen to depart from the recommendation of the Law Reform Commission? The working paper of the Law Reform Commission suggested that the chairman should be a legal practitioner, and then, after receiving submissions and considering them, its opinion that the chairman of the board should be a legal practitioner remained unaltered.

Mr O'NEIL: At last I have been given an opportunity to make my explanation. Members have referred to the composition of the Licensing Court, and I must point out to the Chamber that on the first attempt to make it obligatory for the Chairman of the Licensing Court to be a legal practitioner, I was amongst those who voted against the proposal. However, things may have changed since then.

We must look at all the recommendations of the Law Reform Commission. The commission suggested that the Land Agents Supervisory Committee, which was to replace the existing advisory committee, would consist of five members as distinct from the previous three. Members will realise that it is reasonably important to have an uneven number of members on boards and committees to prevent the stalemate that occurs when voting is equal. The committee recommended that the chairman of the proposed board should be a legal practitioner with no less than eight years' experience; in other words, someone with the qualifications to be a judge in the courts of Western Australia.

Mr T. D. Evans: Did it suggest the status of the board it had in mind?

Mr O'NEIL: Let us look at what else the commission said. The commission suggested that two licensed land agents should be appointed to

the board, and it explained that one of these people was to be nominated by the institute and the other nominated by the members of the association as the result of an election. The commission recognised the importance of the inclusion of a member with some business expertise, and it suggested an accountant-auditor. The other member was described simply as one other person.

Some reference was made to a consumers' representative because the purchase of a house is the most important transaction that most people are involved in. I cannot imagine that a consumers' representative would cease to be a consumers' representative once he had undertaken that transaction. I do not think a consumers' representative is included in the composition of the Licensing Court, and I do not believe such a representative is necessary in this case.

That then poses the question: Why did the commission suggest the inclusion of another person? I believe this was purely and simply to create a board composed of an uneven number of members. I have not checked to see whether that is the case, but that is my belief.

The Bill provides that one member of the board will be a legal practitioner, but we do not concede that it is vitally necessary for the chairman to be a legal practitioner who has the qualifications to be a judge.

Mr T. D. Evans: You did with the Licensing Court.

Mr O'NEIL: That is a different situation. We have specified that one member of the board should be a person experienced in business, but we have not confined this reference to an accountant-auditor. It may be very difficult to find a person with the necessary expertise to be appointed as the one other person. The fact remains that one member of this board should be a legal practitioner, but he does not have to be the chairman, and he does not need the qualifications that would make him eligible for appointment to the bench.

During my second reading speech I omitted to pay a compliment to the officers who had the worrying task of sifting through these provisions and amendments. I would like to compliment Mr Ray Shaw, who was then in the Chief Secretary's Department and who has since been promoted to second in charge of the Electoral Department.

In addition to his new duties Mr Shaw has maintained surveillance over the various submissions made in respect of this Bill and of the amendments. He is currently acting as chairman of the advisory committee. I extend my compliments also to Mr Manea, who is the secretary of the committee. Both are relatively new to this situation, but have devoted a great deal of time and work in an endeavour to ensure that we have an adequate law to look after the matter of the sale of land and the like.

Having said that—and I thank you for your tolerance, Sir—I indicate that in our view the committee contains all those people with the appropriate expertise, and the only way in which it differs from the recommendation of the Law Reform Commission is that the chairman is not a lawyer of eight years' standing. We have identified the other person.

Mr BERTRAM: Clause 6 states that there shall be a board to be known as the real estate and business agents supervisory board, and clause 7 sets out the nature of the qualifications of those people who will be members of the board. In my belief clause 7 is thoroughly unsatisfactory to the extent that it makes absolutely no provision for a representative of consumers. The Minister says the average citizen buys only one property during his lifetime and, therefore, we need hardly have a consumers' representative. I do not think we really need to take that argument seriously. It is well known and accepted that consumers should be given a voice, and they are given a voice on many boards and tribunals today. There is no reason at all that they should not be given a voice on this board.

The board is to have five members, and not one of them will have that particular responsibility. There may be those who will have some concern for the total effect of the operations of real estate agents and who will give a balanced view because of their actions in the business world and their general integrity. But the time has long since arrived when consumers should be given adequate representation on boards of this sort. It is pointless for the Minister to argue that, because there is no such person on the Licensing Court, there should not be one on this board.

Mr O'Neil: We are not saying that at all. We are arguing about the qualification of the chairman. It was one of your members who suggested that the transaction of purchasing a house is so important; it was not I.

Mr BERTRAM: If that were argued then, of course, we would not change any of our laws ever; and that would suit the conservative folk opposite because they like to bog things down in antiquity for as long as possible and to change only when the pressure becomes irresistible.

The amendment is a good one because it gives the opportunity to the Minister, now that he has had the matter brought more precisely to his attention, to rearrange the clause. When a board has extraordinary powers and tremendous responsibilities—and the detail has already been given in respect of this—clearly that board should be presided over by a person skilled in the law. I am not one of those persons who run around waving flags for lawyers; that does not turn me on at all. But when we have a board that will function substantially as a judicial body, who on earth is better to preside over it as chairman than a legal practitioner, especially if it is to have an inquiry before it and someone is to be issuing attitudes and directing operations? Who will do it? Somebody sitting at the side of the board, or the person who is running the show—the chairman? Who normally does it? Of course, the chairman of the board does it and in this case he is the one who should be the lawyer.

I would not be at all concerned if the qualification of the member referred to in subclause (1)(c) were changed, so that he is no longer required to be a legal practitioner. I would be quite satisfied if there were one legal practitioner on the board; and the member appointed under paragraph (c) could be appointed to look after the concern of consumers. I think the Minister, when he has had a further look at this and appreciates the argument advanced, will see that the amendment is a meritorious one which should be adopted, unless the Government has done what the people are shouting about down the streets and has somebody else lined up. If that is so, I think the Government should disclose the name of that person so that we may make an assessment of him rather than merely be here shadow boxing.

The chairman should be a legal practitioner for very obvious reasons, and the person referred to in paragraph (c) need not necessarily be a lawyer but could be a person charged unmistakably with the clear and unfettered duty to care for the interests of the consumer.

Apart from its extraordinary powers in respect of the judicial and the administrative points of view, the board has another clearly administrative function which is to fix the fees chargeable by real estate agents. Consumers are interested in that and their voice should be heard. The way their voice may be heard is by allowing them to have a representative on the board to make submissions and to report back to the consumers when the submissions are not given a fair hearing.

I am convinced this clause is in bad shape and I think it would be a good thing if the Bill were stood over and something were done to improve it. If the Government has any concern at all for consumers, here is its opportunity to manifest it.

Mr GRILL: The Minister was not very convincing in his reply—in fact, far from it. I think it was mainly because he has not really convinced himself that what he is doing is right. The argument that a legal practitioner should be chairman of the board is clearly irresistible.

Someone from the Government side indicated that the chairman of this board will be something akin to the Speaker of this House or the Chairman of Committees. It is quite erroneous to try to make that parallel, because the situation is completely different. Your position here, Mr Chairman, is somewhat like that of a referee of the decisions made by us, whereas in respect of this board the decisions are made very much by the chairman and he has influence over the people on the board in respect of its many processes.

Mr Clarko: Why?

Mr GRILL: Simply, he does; that is the nature of things. He is similar to the Chief Justice. The chairman is there to direct procedure and to lay down directions as to the running of the board. This is a normal thing; it will happen with this board as it does in any other board or court.

Mr Clarko: A board and a court are not the same.

Mr GRILL: Well, it will act as a court.

Mr Williams interjected.

Mr GRILL: The honourable member would not know what he is talking about.

Mr Williams: Do not talk rot; you are one-eyed!

Mr GRILL: I am not. It is not true to suggest that the Opposition is seeking the appointment of another legal practitioner. As far as I am concerned, the other legal practitioner should be chopped off. We want only one legal practitioner on the board, but we feel that legal practitioner should be the chairman.

Hundreds of years of history show clearly there are certain types of systems with respect to the judicial processes which should be followed; they have been worked out over a long period of time. However, this legislation departs almost completely from those principles. We have mixed up legislative powers with judicial powers and we have mixed administrative powers with legislative and judicial powers. Many people would say this legislation represents an abrogation of natural justice; I am inclined to agree with that point of view. All I ask is that the Government go some way along the line to make sure this court—

Mr Clarko: It is not a court.

Mr GRILL: It will act as a court; it will be able to take men's living away from them, fine them and suspend them.

Mr Hassell: And hear appeals.

Mr GRILL: And what sort of appeals? I will get down to that later. The legislation now before the Committee will give this court very wide powers, and the argument that it should be presided over by a lawyer of some standing is irresistible; I just cannot understand why it is not being supported by the Government.

Amendment put and a division taken with the following result—

Ayes 17

Mr Barnett	Mr Jamieson	
Mr Bertram	Mr T. H. Jones	
Mr T. J. Burke	Mr McIver	
Mr Carr	Mr Pearce	
Mr H. D. Evans	Mr Skidmore	
Mr T. D. Evans	Mr Taylor	
Mr Grill	Mr Wilson	
Mr Harman	Mr Bateman	
Mr Hodge		*(Teller)*

Noes 26

Mr Blaikie	Mr O'Connor	
Mr Clarko	Mr Old	
Sir Charles Court	Mr O'Neil	
Mr Cowan	Mr Ridge	
Mr Coyne	Mr Rushton	
Mrs Craig	Mr Sibson	
Dr Dadour	Mr Sodeman	
Mr Grayden	Mr Stephens	
Mr Hassell	Mr Tubby	
Mr Laurance	Mr Williams	
Mr MacKinnon	Mr Young	
Mr McPharlin	Mr Shalders	
Mr Mensaros		*(Teller)*
Mr Nanovich		

Pairs

Ayes	Noes
Mr Bryce	Mr Grewar
Mr Tonkin	Mr P. V. Jones
Mr Davies	Mr Spriggs
Mr B. T. Burke	Mr Herzfeld
Dr Troy	Mr Crane

Amendment thus negatived.

(79)

Clause put and passed.

Clauses 8 to 26 put and passed.

Clause 27: Grant of licence to a natural person—

Mr O'NEIL: I move an amendment—

Page 26, line 30—Delete paragraph (a).

It has been decided and, I think, generally agreed to that the residential requirement in respect of land agents and land salesmen should be removed wherever it is referred to.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 28: Grant of licence to a firm—

Mr GRILL: I have two amendments to this clause. Firstly, I move an amendment—

Page 27—Delete paragraph (c) and substitute the following—

(c) where a firm is constituted by more than one person at least 50 per cent of them is licensed.

The Law Reform Commission made no specific recommendation in respect of firms or whether any certain number of persons forming a management of a firm should be licensed.

However, it did make quite specific recommendations in respect of corporations. We believe the same provisions the Law Reform Commission suggested should apply with respect to directors of companies—namely, that 50 per cent should be licensed—should apply also to firms. I cannot see any logical difference between the two. For that reason we submit that rather than have the present configuration in subclause (c), it should read, "where a firm is constituted by more than one person at least 50 per cent of them is licensed".

Mr O'NEIL: I cannot see that this is a worthwhile amendment. Surely the provisions which now obtain, that where a firm is constituted by not more than three persons one of them is a licensee under the Act, and where there are more then two are licensed, are sufficient.

If one looks at the provision for a body corporate one will see there is a similar provision; that is, where there are not more than three members of a body corporate at least one is licensed and where there are more than three at least two are licensed. I believe if this is taken to its illogical conclusion we will have more licensees than Indians.

Mr BERTRAM: If the Chief Secretary is not prepared to see the virtue of this amendment one is tempted to come to the conclusion that one has arrived at so many times before; that is, we are taking part in a charade. All we are doing is wasting everyone's time.

The amendment introduces a perfectly sensible provision. As most people know, firms can comprise as many as 20 people. One could well imagine some firms having 20 members in their management, but under paragraph (c) as it now stands that firm could exist with only two licensed agents. Where the firm is consititued by not more than three, then at least one must be a licensed agent, but if 20 people are involved it needs only two licensed agents. That does not appear to have any outstanding logic.

Mr O'Neil: Why do they need more?

Mr BERTRAM: Because on the Chief Secretary's say so, we need one in every three. As the mover of the amendment has pointed out, there are other Acts with a more sensible balance and this amendment is a thoroughly meritorious one. I repeat: if this sort of sensible amendment is going to be rejected out of hand we have reached a stage we have reached so many times before. I might suggest that the member handling the Bill for the Opposition could give thought to the proposition that we are simply playing around in this Committee.

Mr CLARKO: There is no validity in the argument put forward by the Opposition. Members should not take clause 28 (c) in isolation. They should consider that this legislation is laying down for the first time ever in Western Australia that in every separate branch office the person who is in charge shall be a licensed land agent. This fact makes a mockery of the Opposition when its members say we are trying to create a situation where firms with a large number of partners are not going to know much about real estate. We are providing for exactly the opposite. For the first time we are going to require that in every office there is a licensed land agent. If that is not going to protect the community I do not know what is.

In addition, there is no logic in choosing 50 per cent of the people as having to be licensed; why not 75 per cent or 100 per cent? There the argument of the Opposition founders. The clause is well prepared and if members take it in association with the fact that licensed managers will be in each branch office they will see the public is properly protected.

Mr GRILL: All the amendment tries to do is provide for half the partners of a firm to be licensees. I think it is a proper amendment and I am surprised the Chief Secretary should so glibly dismiss it. In the United States there are legal firms with 100 or 200 members and to suggest that only two of those should be licensed legal practitioners would be absolutely ludicrous. We are saying it is quite ludicrous to have a firm of 20 partners in a real estate company, all of whom hand themselves off to the public as principals, while only two of them need to have a licence and need to know anything about the law in respect of the sale of real estate property in this State.

Amendment put and a division taken with the following result—

Ayes 17

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr T. J. Burke	Mr McIver
Mr Carr	Mr Pearce
Mr H. D. Evans	Mr Skidmore
Mr T. D. Evans	Mr Taylor
Mr Grill	Mr Wilson
Mr Harman	Mr Bateman
Mr Hodge	*(Teller)*

Noes 26

Mr Blaikie	Mr Mensaros
Mr Clarko	Mr Nanovich
Sir Charles Court	Mr O'Connor
Mr Cowan	Mr Old
Mr Coyne	Mr O'Neil
Mrs Craig	Mr Ridge
Mr Crane	Mr Rushton
Mr Grayden	Mr Sibson
Mr Hassell	Mr Stephens
Mr Herzfeld	Mr Tubby
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Young
Mr McPharlin	Mr Shalders
	(Teller)

Pairs

Ayes	Noes
Mr Bryce	Mr Grewar
Mr Tonkin	Mr P. V. Jones
Mr Davies	Mr Spriggs
Mr B. T. Burke	Mr Sodeman
Dr Troy	Dr Dadour

Amendment thus negatived.

Clause put and passed.

Clause 29: Grant of licence to body corporate—

Mr GRILL: I move an amendment—

Page 28—Add after subclause (d) the following new subclause to stand as subclause (e)—

(e) All the directors should be jointly and severally liable for the acts and defaults of the company.

I move this amendment for several reasons. Firstly, it was one of the unanimous proposals of the Law Reform Commission.

Point of Order

Mr BERTRAM: On a point of order, I understood an amendment was to be moved on page 28, clause 29(c).

The DEPUTY CHAIRMAN (Mr Watt): I would have thought if anyone intended to move an amendment to subclause (c), he would have done so. The member for Yilgarn-Dundas has moved to add a new subclause (e).

Mr BERTRAM: I have an amendment in front of me and it appears that it should be moved prior to the amendment which has just been moved by the member for Yilgarn-Dundas. I do not want to miss out on an amendment.

The DEPUTY CHAIRMAN: There is no point of order.

Committee Resumed

Mr GRILL: I did jump an amendment, but I shall proceed with the one which I have moved. The effect of the amendment is that all directors should be liable for any of the actions or defaults of the company. One director or some of the directors only should not be liable. In that respect I should like to quote from the report of the Law Reform Commission. On page 8 the following comments appear—

> 24. The Commission suggested in paragraph 51 of the working paper that a company itself could be licensed, instead of the present practice of a nominee holding a license on its behalf (see also paragraph 17 of the working paper). The Commission suggested that the qualifications for the licensing of a company should be that the company was financially sound, that all, or a specified percentage of all directors, managers and other principal officers resident in this State were licensed land agents or licensed managers, and that the directors were jointly and severally liable for the acts and defaults of the company. The following comments were made on those suggestions—
>
> (a) The Law Society considered that all resident directors and other principal officers of a licensed company should be required to be licensed land agents.
>
> The Land Agents Supervisory Committee and R.E.I.W.A. considered that the percentage of such officers to be so licensed should be determined by the supervising authority.
>
> (b) The Law Society suggested that a limit should be placed on the liability of directors for the acts and defaults of a licensed company.
>
> 25. The Commission, having reconsidered the matters raised in paragraph 24 above is now of the view that it is too onerous to require all the directors and other officers to be licensed, and agrees with the views expressed at the 7th Annual Conference of Land Agent Licensing Authorities, held in November 1973 at Perth, that it would be adequate if at least 50% of all directors resident in this State were required to be licensed land agents. If there are no directors resident in this State then the Commission considers that the officer in control of the business of the company in this State should be required to be a licensed land agent.

Further on it says—

> The Commission is still of the view expressed in the working paper that directors should be jointly and severally liable for the acts and defaults of the company.

That was the opinion expressed initially in the working paper and then later in the official report of the LRC presented in January, 1974.

Some of the best legal brains in the State came to those views and I would hate the Government to dismiss those views as it dismissed completely out of hand and glibly, the earlier ones of the commission. There is good reason for all the directors in a company to be liable for the acts and omissions of that company. I do not think it is right, as could be the case, for a company to be established with persons who are just straw directors and hold a licence and that those persons and those persons only should be responsible or liable for acts and omissions of that particular company. For that reason I go along with the view expressed by the LRC and stress once again the unanimous views of the commission that no director should escape liability merely because he has fulfilled the technical requirements of going to the Corporate Affairs Office to incorporate a company.

For those reasons I strongly commend the amendment to the Committee.

Mr O'NEIL: I oppose the amendment as I opposed the other one. It is a similar move to endeavour to carry out in intimate detail all the recommendations of the LRC.

The honourable member mentioned that the best brains in the country made these recommendations. The suggestions of those best legal brains have been examined very closely by practical people who operate in business. We cannot go blindly accepting every detail of the recommendations of the LRC and surely the LRC would not expect us to do so. Some of the recommendations of the LRC were majority viewpoints and were not unanimous. Under the clause a body corporate, to obtain a licence, must have directors and persons concerned in the conduct of the body corporate who are of good character and repute. Paragraph (c) provides that when there are not more than three directors, at least one must be licensed, and when there are more than three directors at least two must be licensed. The honourable member omitted to refer to the fact that there is a further requirement which is that the person in bona fide control of the business operated under the licence, must be licensed.

In our view that is all the protection which is needed in respect of the people who have to avail themselves of the services of these land agents.

Mr BERTRAM: This is a very meritorious amendment and it is for that reason, and no other, that I support it. It introduces a concept which is not at all unfamiliar and which has thoroughly justified its existence in the United States of America where the laws in many cases have made provision to ensure that people cannot opt out of personal liability simply by using the device of forming a limited liability company. In many of the States in America this cannot be done as easily as it could be done in the past.

In this State, not so many years ago, a real estate agency company was sued successfully, but when the plaintiff sought to enforce the judgment, he was dismayed to find that the company which had been in and about Perth for many years—maybe 30 or more years—suddenly had a paid up capital of only £2, or something like that. I think the creditor is still striving to get the first payment of his judgment of some thousands of pounds as it was then. The amendment is designed to meet that very situation.

An ordinary citizen doing business with an estate agency company which has been around the city for years is very likely to enter into contractual negotiations with that company without going down to the companies office to ascertain the situation according to the records. I think that the person would be forgiven for not doing so.

I do not understand why a situation should be possible when it can be made impossible by an amendment of this nature. In any event I believe estate agents themselves would be the first to agree they should have personal liability. They are skilled and competent and should accept such liability. They would not be accepting any more liability than they would be if they were practising as a sole trader or firm. They do not want to hide behind the limited liability company.

While I agree that there are occasions when the viewpoints of the practical businessman should be accepted above those of a lawyer of the LRC, I do not think this is one of those occasions. On a question of this kind ordinarily one would come down on the side of the skilled and experienced lawyer, surely. From the consumer's standpoint, the amendment should be accepted. It is meritorious and should be encouraged.

I am certain that a similar amendment will be made to the Companies Act in the near future, and the sooner the better, so that people who are clearly going out of their way to dodge liability will not be able to do so by the simple expedient of walking into a solicitor's office, paying a few dollars, and registering a company. That should not be on and the idea of the amendment is to stop that type of procedure.

The greater preponderance of estate agents are decent and just. The estate agents have had a good code of conduct and performance through the years. They are not concerned about hiding behind limited liability provisions, but are quite happy to face up to the liability; make no mistake about that. Therefore they should be given the opportunity to do so.

Mr GRILL: It is interesting to note that the Minister did not submit one reason for his not accepting the amendment. He merely indicated that there was no onus on the Government to accept every recommendation of the LRC.

This particular amendment obviously came before the LRC on two occasions, because it says so quite specifically. It also states that its recommendation on both those occasions was that directors should be jointly and severally liable for the acts and faults of the company.

The Minister now indicates by implication that it may not have been the unanimous decision of the Law Reform Commission. I suggest quite the opposite because in every other part of the report, where there is a person who does not agree with the recommendations, it is indicated therein. Nowhere in the report is it indicated that anyone did not go along with this decision which was reached on two occasions.

I cannot see any reason that by going through the Corporate Affairs Office one is substantially—almost totally—removed from liability in respect of one's actions or faults. I think the amendment should be acceded to by every member of this Committee.

Mr MacKINNON: I oppose the amendment because the Opposition clearly is unaware of the practicalities of the situation as it applies in practice. There has been the proposition that, by incorporating the limited liability of a company, it will solve the problems of people who try to avoid liability. The Opposition should be aware that is not the case because it can easily be avoided. For instance, the shareholders or the directors of a company could easily divest themselves of all personal assets to another company, to a trust, or to their wives. Hence, the individual shareholders or directors involved in the company would then have no personal assets.

The Opposition would have us believe that it is quite simple to divest oneself of liability by going through the Corporate Affairs Office. Ouite clearly, that is not the case.

Currently under present legislation a company has to have a paid up capital of $5 000. Otherwise, the licensing board at the moment will cancel an agent's licence.

Mr Bertram: Where is that provision?

Mr MacKINNON: That is not in the legislation, but that is the standard the board adopts at the present time. Paragraph (b) of clause 29 sets out that the board must be satisfied that in order to hold a licence a body corporate must have sufficient material and financial resources available to it to comply with the requirements of the Act. I put it to the Opposition that a $2 company would not be considered as having sufficient material and financial resources.

Surely in that situation if a company dealing in real estate contravened any section of the Act the result would be that it would lose its licence. I think that is quite sufficient protection. It does not appear to me to be any real protection to insert the proposed clause. Therefore, I oppose the amendment.

Mr BERTRAM: It is not a question of losing a licence as a result of contravening the Act. We are discussing here the fact that a company could suddenly find that it owes somebody some money. That does not necessarily involve a contravention of the Act but simply bad luck, misadventure, or erroneous judgment. We are not really concerned about that. We are concerned with a person who is entitled to be paid money and we are concerned that he should be given a reasonable chance of getting that money. People should not be able to hide behind the facade of limited liability.

The member for Murdoch pointed out that this really amounts to nothing because real estate agents could set up trusts, holding companies, and that sort of thing. Of course, that is so, but we are talking about people who have some responsibility and are decent real estate agents.

I do not think the time has arrived when we can protect people from down-and-out crooks. We are dealing with registered real estate agents; people who want to do the right thing and who, overwhelmingly, want to be seen to be doing the right thing. That is the reason we propose the amendment.

The remarks of the member for Murdoch really added nothing to the argument at all, but tended to damage the image of real estate agents. I am not suggesting that was intended.

Mr GRILL: The remarks by the member for Murdoch were somewhat self-contradictory. On the one hand he suggested that a person who wanted to avoid liability could adjust his assets, then he suggested we should put more faith in a company which may have $2 worth of capital or $5 000 worth of capital. If his argument is to hold water then he has to suggest some reason that a $2 company or a $5 000 company cannot divest itself of its assets.

The argument that a person may lose his licence is not the point at all. We are concerned that a person dealing with an agent who goes broke for some reason or other, should have a chance to get his money back. If that person

cannot get his money back from the agent, he should be able to get it back from the defalcator, or from the directors themselves. The amendment will add another string to a person's bow although it will not guarantee the return of that person's money. For those reasons, I think the points raised by the member for Murdoch are quite insignificant.

Amendment put and a division taken with the following result—

Ayes 17

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr T. J. Burke	Mr McIver
Mr Carr	Mr Pearce
Mr H. D. Evans	Mr Skidmore
Mr T. D. Evans	Mr Taylor
Mr Grill	Mr Wilson
Mr Harman	Mr Bateman
Mr Hodge	*(Teller)*

Noes 26

Mr Blaikie	Mr Mensaros
Mr Clarko	Mr Nanovich
Sir Charles Court	Mr O'Connor
Mr Cowan	Mr Old
Mr Coyne	Mr O'Neil
Mrs Craig	Mr Ridge
Mr Crane	Mr Rushton
Mr Grayden	Mr Sibson
Mr Hassell	Mr Stephens
Mr Herzfeld	Mr Tubby
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Young
Mr McPharlin	Mr Shalders
	(Teller)

Pairs

Ayes	Noes
Mr Bryce	Mr Grewar
Mr Tonkin	Mr P. V. Jones
Mr B. T. Burke	Mr Spriggs
Mr Davies	Mr Sodeman
Dr Troy	Dr Dadour

Amendment thus negatived.

Clause put and passed.

Clauses 30 to 39 put and passed.

Clause 40: Use of business name—

Mr O'NEIL: I move an amendment—

> Page 32, line 10—Insert after the paragraph designation "(a)" the passage "subject to subsection (2),".

I think this amendment, too, has been supported in principle during the second reading stage. It is preparatory to the insertion of a new subclause.

Amendment put and passed.

Mr O'NEIL: I move an amendment—

> Page 32—Insert after subclause (1) the following new subclause to stand as subclause (2)—
>
> (2) A licensee who was, immediately before the appointed day, carrying on business as a real estate agent under a business name and as a business agent under another business name may continue to do so but so that he uses only one business name for the business of a real estate agent and only one business name for the business of a business agent, in which case both business names shall be endorsed on his triennial certificate.

This is to cater for the person who operates in two roles, and makes it incumbent upon him to have that fact duly registered on his triennial certificates.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 41: Notices at offices; particulars on correspondence and documents—

Mr O'NEIL: The three amendments on the notice paper relating to clause 41 are consequential and relate to the same subject matter as clause 40. I move an amendment—

> Page 32, lines 34 to 36—Delete all words and substitute the following passage—
>
> business as a real estate agent or a business agent, or both, if that business is, or those businesses are, not carried on in his own name; and

Amendment put and passed.

The clause was further amended, on motions by Mr O'Neil, as follows—

> Page 33, line 9—Delete the words "and business agent" and substitute the passage "agent or business agent, or both,".
>
> Page 33, lines 12 and 13—Delete the words "and business agent" and substitute the passage "agent or business agent, or both,".

Clause, as amended, put and passed.

Clauses 42 to 46 put and passed.

Clause 47: Grant of certificate of registration—

Mr O'NEIL: I move an amendment—

> Page 35, line 38—Delete paragraph (a).

This, again, is a reference to residential qualifications for a licence, which we have agreed to remove.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 48 to 54 put and passed.

Clause 55: Sales representative to be in service of one person—

Mr O'NEIL: I move an amendment—

> Page 39—After subclause (3) add the following new subclause to stand as subclause (4)—
>
> (4) Nothing contained elsewhere in this section applies to or in relation to a director of a body corporate that is a developer when acting as, or carrying out the functions of, a real estate sales representative for the body corporate in its business as a developer.

This amendment is associated with the decision to remove the business of developers from the definitions and from the control of this legislation.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 56 to 60 put and passed.

Clause 61: Remuneration of agents—

Mr GRILL: I move an amendment—

> Page 42—After subclause (5) add the following new subclause to stand as subclause (6)—
>
> (6) Commission shall only be payable on completion of the transaction unless the failure to complete was due to the fault of the agents principal.

In other words, the real estate agent should not get his commission until the transaction has been completed, with the one exception where the person instructing him—that is, the vendor—has been responsible for the transaction not going ahead. It is a completely reasonable amendment. Clause 61 relates to the remuneration of agents but there is no mention therein as to when an agent can claim his commission.

Once again I would like to indicate that this was a unanimous recommendation of the Law Reform Commission. It is recorded in the papers that it was a unanimous recommendation that a clause like this should be included in the Bill. I refer to page 16, clause 43, of the report of the Law Reform Commission of January, 1974, which reads—

> 43. The Commission in paragraph 68 of the working paper suggested a prima facie rule, subject to any agreement to the contrary, making commission payable only on the completion of a transaction, unless the failure to complete was due to the fault of the land agent's principal. The Commission in the same paragraph thought it might be desirable to go even further and make this an absolute rule notwithstanding any agreement to the contrary. Both the Land Agents Supervisory Committee and R.E.I.W.A. were in favour of a *prima facie* rule.
>
> The Commission is divided on the question as to whether an absolute rule should be enacted. Such a rule would protect a person from liability to pay commission arising out of an undertaking contained in small print which the person did not read or did not fully understand. On the other hand such a rule would interfere with freedom of contract.
>
> The Commission is unanimously of the view that at least a prima facie rule should be enacted in order to remove doubts as to the correct law presently applicable in this State. Completion should be defined as occurring at the time of settlement for cash sales, and at the time when possession is given for terms sales.

Those words could not be any more definite. I do not want the Chief Secretary to say that it was not a unanimous decision, because it was. We are suggesting only the adoption of the prima facie rule; we are not suggesting the adoption of the absolute rule. This is a modest amendment, and it is a sensible one. Any lawyer who says that no problems arise in respect of agents' commissions and the date on which they should be paid is not telling the truth. The law needs to be made clear on this point. If the Government is not prepared to accept this amendment, it is not prepared to accept logic.

Mr O'NEIL: I still want to say that no recommendation, unanimous or otherwise, of the Law Reform Commission must be followed blindly. However, those involved in the industry—namely, the Real Estate Institute and others—can see a glimmer of logic in the suggestion of the honourable member.

I want to make another point, and I do not want the honourable member to take my comments in the wrong way. This Bill was introduced into this Parliament a considerable time ago so that everyone interested in it could consider it, make submissions, and have them considered. At least one member on the other side has discussed a number of matters with me. I

regarded his suggestions as submissions, and they have been catered for in some of the amendments already passed, and they are acknowledged as having been catered for.

The member for Yilgarn-Dundas handed me the amendments we are now discussing after he sat down following his second reading speech. I went to a great deal of trouble to see that the Opposition was advised about the place of this measure on the notice paper, and to delay consideration of the Bill so that there was an opportunity to discuss the amendments. At this time I am not prepared to accept the amendments, but I give an undertaking to the honourable member that, as I see a little merit in them, I will have them looked at, and if they are considered to be desirable, necessary, and in the right form, I will see that they are considered in another place.

I do not want members to adopt the view that it is a constant practice to have amendments moved in another place. However, all members must realise that this Bill has been amended substantially by the Government anyway, and it will require reprinting before it is read a third time. It should be introduced in another place in reasonable form. While I am on my feet I cannot see the precise effect of this amendment, so I will simply say that I give an undertaking to have the matter looked at. I will do this not because the Law Reform Commission was unanimous in its recommendation, but rather because those people who will operate under this legislation see some merit in it.

Mr GRILL: I indicate to the Chamber that I will accept the undertaking of the Chief Secretary.

Amendment put and negatived.

Clause put and passed.

Clauses 62 and 63 put and passed.

Clause 64: Representations etc., respecting finance—

Mr O'NEIL: During the second reading debate we discussed the deletion of clauses 64 and 65. I believe the best course to follow is simply to vote against the clauses.

Clause put and negatived.

Clause 65 put and negatived.

Clause 66 put and passed.

Clause 67: Apportionment of rates, taxes, and outgoings—

Mr O'NEIL: There are three amendments to this clause standing in my name on the notice paper. These amendments have been referred to in the second reading debate. I move an amendment—

> Page 55, lines 1 and 2—Delete the words "a legal practitioner" and substitute the words "another person".

Mr BERTRAM: The Opposition is very pleased to support the amendment proposed by the Minister. Without this amendment it seems that the settlement agencies could possibly find themselves in a most precarious position. The Opposition felt that the subclause concerned needed significant amendment along the lines of the amendment now before us.

It seems that settlement agencies of this kind—of which there are very many—are doing a good job, and under the provisions of the amendment they will be protected adequately.

Amendment put and passed.

The clause was further amended, on motions by Mr O'Neil, as follows—

> Page 55, lines 4 and 5—Delete the words "a legal practitioner" and substitute the words "another person".
>
> Page 55, lines 7 and 8—Delete the words "legal practitioner" and substitute the words "the other person".

Clause, as amended, put and passed.

Clauses 68 to 109 put and passed.

Clause 110: Investment of Fund—

Mr O'NEIL: My proposed amendment does not alter the principles contained in the Bill, but simply clarifies the fact that certain funds may be applied on deposit with a building society in the State, investments in which are authorised trustee investments. The building society movement has asked that this amendment be included. I believe the measure covers the situation adequately without reference to this, but certainly if we agree to the amendment we will have yet another satisfied customer. Therefore, I move an amendment—

> Page 82, line 30—Delete the word "or".

Amendment put and passed.

Mr O'NEIL: I move an amendment—

Page 83, line 5—Insert before paragraph (b) the following new subparagraph—

(iii) on deposit with a building society in the State, investments in which are authorized trustee investments, bearing interest at a rate agreed between the building society and the Board; or

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 111 to 130 put and passed.

Clause 131: Investment of moneys deposited with Trust—

Mr O'NEIL: My proposed amendments to this clause bear relationship to the amendments to clause 110, to which the Committee has just agreed. I move an amendment

Page 92, line 36—Delete the word "or".

Amendment put and passed.

Mr O'NEIL: I move an amendment—

Page 93, line 6—Delete the passage "Division." and substitute a passage as follows—

Division; or

(c) on deposit with a building society in the State, investments in which are authorized trustee investments, bearing interest at a rate agreed by the building society and the Board.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 132 to 149 put and passed.

New clause 66—

Mr BERTRAM: I move—

Page 53—Insert after clause 65 the following new clause to stand as clause 66—

Cooling off period.

66. (1) Subject to this section, a purchaser under a contract for the sale of land may, by instrument in writing signed by the purchaser and served personally upon the vendor, or posted by registered or certified mail addressed to him, within two clear business days after the prescribed day give notice to the vendor of his intention not to be bound by the contract and the contract shall be deemed to have been rescinded at the time the notice is served or posted in accordance with this subsection and the purchaser shall thereupon be entitled to the return of any moneys paid by him under the contract.

(2) For the purpose of subsection (1), "the prescribed day" means—

(a) where the vendor or some person acting on behalf of the vendor serves upon the purchaser personally, or by registered or certified mail, before the date of settlement, a notice in the prescribed form setting forth the rights of the purchaser under this section—

(i) the day on which the notice is served;

(ii) the day on which the contract is executed by the vendor; or

(iii) the day on which the contract is executed by the purchaser,

whichever last occurs; or

(b) in any other case, the date of settlement.

(3) Where the vendor, a person acting on behalf of the vendor or a stakeholder receives moneys, exceeding one hundred dollars, from a purchaser in respect of the sale (other than moneys payable by the purchaser in consideration of an option to purchase the land granted by the vendor) before the expiration of the period referred to in subsection (1), the person so receiving the moneys shall be guilty of an offence.

Penalty: $500.

(4) This section does not apply in respect of a contract for the sale of any land—

(a) where the purchaser is—
(i) a body corporate;
(ii) an agent;
(iii) a licensee;
(iv) a registered sales representative or
(v) a legal practitioner;

(b) where the purchaser has before executing the contract sought and received independent advice from a legal practitioner; or

(c) where the sale is by auction.

(5) In this section, "business day" means—

any day except a Saturday or a Sunday or a public holiday within the meaning of the Public and Bank Holidays Act, 1972.

The clause provides for a cooling-off period for people who are purchasing land. Of course, the expression "land" includes any improvements upon it; that is to say, a house, a shop, or some other building. It seems to me to be fair and sensible that if people are granted a cooling off period when buying books from a door-to-door salesman, then by an even greater force people buying land and involving themselves in large commitments also should be given an opportunity to reflect upon the transaction. Under this provision that period of reflection will extend in effect for only two business days.

Buying a house and land is an extraordinarily important transaction. I would say in the overwhelming majority of cases transactions are entered into by people with little experience in this area who are acting on their own behalf. On the other side there is a skilled agent, and the balance of knowledge is uneven. Mercifully agents, by and large, conduct themselves well and do the right thing by purchasers. However, so many people after committing themselves to buying land involving many thousands of dollars find they have made a grievous error. Under existing laws the penalty for such an error is the obligation to perform the contract.

Therefore, it may well be they are saddled with this contractual obligation and the payment of moneys which they never dreamt they would be committed to, and they may be saddled with that for a lifetime. That is thoroughly unsatisfactory and I do not believe the real estate agents of this State would think that is a good situation. In my consultations with them I have found they are perfectly happy to have a cooling-off period. South Australia has a cooling-off period, and it operates well. Real estate agents here have made inquiries from their counterparts in South Australia and have been informed that the cooling-off period functions very well in that State. It is true that, at the outset, they had some misgivings; that is understandable and very usual. However, in practice, it is working very well.

The only suggested alterations to my amendment have come from real estate representatives and are designed to adjust for inflation; I indicated them to the Committee when moving my amendment. Except for those two changes, my amendment is almost exactly as it appears in the comparable Act in South Australia which was enacted in 1973. There is room for some adjustment for the inflation which has occurred between 1973 and 1978. The then Attorney General and now Judge of the Supreme Court of South Australia (the Honourable Mr Justice King) was the architect of the South Australian legislation.

My amendment provides for certain exemptions, because there is no need to protect by a cooling-off provision a legal practitioner, an agent, or a licensee. My amendment is self-explanatory, and I think it should be adopted.

Mr O'NEIL: The member for Mt. Hawthorn often advises us that it is necessary to have all the facts and figures before we legislate; I would apply the same principle before moving amendments. He said he understood the cooling-off provision in South Australia was working reasonably well, although it had some teething problems in the beginning. My advice is to the contrary; it is not working well.

It is not valid to compare the sale of land by an agent registered under this legislation to the sale of encyclopaedias at the door on a Sunday morning by a book salesman. This legislation will provide a much tighter control of people engaged in land and business transactions. Surely, buying a house and land is not a thing one does just to get rid of the salesman from the door because the child is screaming in the nursery! It is totally unwarranted to provide for a cooling-off period as proposed in the honourable member's amendment.

Mr SIBSON: I oppose the amendment. The member for Mt. Hawthorn suggested that, because the cooling-off period works well in the case of door-to-door book salesmen, it should be applied to the sale of a house and land. I do not think that comparison has any relevance to this legislation. We know that book salesmen may or may not be of a very stable nature; they may come to a particular town from all over the country and even from overseas; they sell their books and move on.

People who buy homes generally are very sensible about their purchase and put a lot of thought into what they are doing. The safeguards contained in this legislation render unnecessary the amendment moved by the member for Mt. Hawthorn.

I do not agree that agents are in favour of this amendment because, in actual fact, it would work against the interests of the home owner himself. We could have a situation where a prospective purchaser ties up the sale of two or three houses, or property worth millions of dollars, for the sake of $300, giving him time to sort out his own affairs. The amendment provides for a cooling-off period of two days; however, should those days be interrupted by a weekend, a long weekend or even Easter, there could be a delay of up to six days. In the meantime, no doubt, the three home owners are looking at properties themselves, but are not in a position to make a move until the expiry of the cooling-off period, when they discover that the prospective purchaser wishes to buy only one house.

I support the Chief Secretary in his comments. I understand that the cooling-off provision is not working well in South Australia.

Mr Bertram: Who are you quoting?

Mr SIBSON: I believe the significant factor in arguing against the amendment is that it will enable properties to be tied up for certain periods. Most property purchases hinge on the availability of finance, and a delay of anything up to six days before final acceptance could result in a prospective purchaser missing out on finance that was available.

This amendment would only serve to bog down the whole industry, and it would be very frustrating not only for the selling home owner but also for the prospective purchaser and the industry generally. The legislation is written in such a way as to provide adequate protection to the consumer.

Mr Grill: It does not refer to the consumer.

Mr SIBSON: If it does not affect the consumer, who does it affect? The member for Yilgarn-Dundas is speaking against the amendment by his interjection, because if this amendment does not concern the consumer there is no point in proceeding with it.

Mr Grill: The rest of the legislation concerns the consumer.

Mr SIBSON: The legislation contains adequate consideration for the consumer.

I believe there is no point to the amendment, and I urge the Committee to oppose it.

Mr GRILL: I believe the amendment definitely should be supported. It is good for consumers as it gives them a measure of protection by allowing them two days in which to reflect and to see their bank manager and come to a final decision. I say quite categorically that the amendment is not opposed by the agents themselves. We spoke to them this morning and not one of them was opposed to it.

Mr Sibson: You did not speak to my agents.

Mr GRILL: This type of provision has worked well elsewhere. We have checked on the situation in South Australia and it has been verified that it is working well although it did not work well initially. The amendment also provides for an increase in the deposit from $25 to $100 which we believe proper in the circumstances. That will prevent the nuisances referred to by the member for Bunbury tying up property. The idea of the

$100 was put forward by the REIWA executives this morning.

Mr Sibson: To be realistic it would have to be $1 000.

Mr GRILL: Not really. The consumers in this field do need protection. Quite a few of them have second thoughts about the house they wish to purchase, especially after speaking with their bank manager and finding that it would be difficult to obtain the necessary finance.

Mr Sibson: Most deals are subject to finance anyway.

Mr GRILL: Many people do see their solicitors although they do not shout about it. Members would be surprised how many visit solicitors' offices and for various reasons try to wriggle out of the contracts they have signed. It is not for me to examine their motives, but many do try to wriggle out for the wrong reasons. The agents are in favour of the amendment and I believe it should be supported.

Mr PEARCE: I wonder when the member for Bunbury last bought a house. To suggest the modern home buyer is rushing around tying up homes with $100 deposits is foolish. It may be that the member for Bunbury knows a lot of people who go around tying up a lot of million-dollar properties and intend buying only one of them, but he is hardly talking about the average person who will be affected by this amendment.

The Bill does not look after the interests of the consumer but the amendment moved by the member for Mt Hawthorn does exactly that. It looks at the home buying business from the consumer's point of view. The member for Bunbury might be accurate in saying most deals are subject to finance anyway, but the member would know from his own experience that if people apply for finance and it becomes available then irrespective of their reviewing their financial situation and deciding they cannot afford it they are legally committed to the contract.

It is a question of personal priorities. I am not wanting to reflect on the activities of salesmen of any type but we all know how people get into a buying situation in which they tend to buy things beyond their means because they get caught up with the attractiveness of it.

Mr Blaikie: Who is the best judge?

Mr PEARCE: The individual. Who would the member for Vasse suggest is the best judge—after he has returned to his seat of course?

Mr Blaikie: You are suggesting we introduce legislation that prevents people from making their own errors. Do not be so ridiculous; you cannot do that.

Mr PEARCE: That interjection was not worth the move. The member originally asked me who was the best person to judge whether that person really needed or wanted a particular property, and the answer is "the person who is buying it". The sad fact of the matter is that people do tend to build up their expectations of what they would like in a buying or selling situation, but in the cold, hard light of morning they can realise the impetuous decision they reached the night before was not the best one.

The member for Yilgarn-Dundas mentioned the instance of people dealing with encyclopaedia salesmen and then needing time to think out what they had let themselves in for. Buying a house or a block of land will be one of the biggest decisions most people have to face. The amendment is to provide these people with two days in which to study their decision. Some people may find they will be hocking themselves up to their ears for the rest of their lives. Surely it is not unreasonable they should be given 48 hours to think about their purchase.

The average home buyer is not in the position of placing deposits on three or four properties, in the expectation of losing the $100 on every property he is not intending to buy.

Mr Sibson: I was talking about the fellow who is a speculator.

Mr PEARCE: Who does the member for Bunbury think is tying up homes? Perhaps the member knows dozens of people who tie up million-dollar properties. The member for Bunbury is lucky in his friends. The point is that the people mostly affected by this legislation, the people who buy the vast bulk of homes and land in this State, are those who are being looked after by the amendment moved by the member for Mt. Hawthorn.

We are asking that they be given a miserable 48 hours to decide whether or not they really want to spend $48 000 on their purchase. To suggest the whole industry will grind to a halt

because of an extra two days in processing home sales is totally specious. This amendment is very simple and clear and is obviously just. However, I would not be all that surprised if Government members do not support it.

Mr BERTRAM: If the Chief Secretary can get away with simply saying, "We have obtained information from South Australia which tells us that the system is not working well"—

Mr O'Neil: I didn't say that at all. I said my advice is that the legislation in South Australia is not working.

Mr BERTRAM: I was simply trying to put the record straight. If the Chief Secretary can say that then this committee is on a completely hopeless venture. The Chief Secretary has not particularised his statement; he has not said that he has inquired, as has the Opposition, about the situation in South Australia. We were told it was working well. One would imagine that is the best evidence one could get on this subject.

The Opposition decided that ordinary common sense and prudence dictated it should go to the real estate agents in South Australia. The agents in South Australia said that they had some concern initially; but now they have no concern and it is working well. Where else would one go to inquire? We went to the Attorney General, the man who is in control of and supervises the Act. The Attorney General said, "We are having no problems with it." Who would know better than the Attorney General of South Australia whether or not the Act was working well in that State? Perhaps the member for Bunbury can tell us to whom we should go. Where else should the Opposition go? I have mentioned the most obvious sources of information.

Sir Charles Court: Do not tempt us.

Mr BERTRAM: The Premier suggests we should go to see the member for Bunbury, I think.

Sir Charles Court: No, I am not suggesting that.

Mr Sibson: I will be delighted to talk to you in the morning.

Sir Charles Court: You will not have long to wait.

Mr BERTRAM: The member for Bunbury is saying if somebody signs a contract for $48 000, and then suddenly realises it is a bad deal and perhaps he is paying $8 000 more than he should be because he does not know the lurks of the business, he is committed to that bad deal. The member is saying that because the man does not know the game he should be saddled with an extra $8 000 plus interest.

Mr Sibson: I have always known the public to be most astute, having had 20 years dealing with people.

Mr BERTRAM: Every member knows, and if any member does not, he should not be in this place, the way the game is played. It is perfectly lawful. It may not be moral; it may be shockingly reprehensible, but if it is lawful it can be practised.

A vendor goes to a real estate agent and says, "I want $30 000 for this property." The agent says, "I will ask $40 000." There are plenty of people who will accept $40 000.

Mr Sibson: How do you know that they do that? Have you asked the REIWA?

Mr BERTRAM: Dozens of cases have been brought to me in my 37 years of experience.

Mr Sibson: How many properties have you sold?

Mr BERTRAM: The Government is denying a person who has made a mistake the opportunity to put it right. It is denying these people who are buying their first homes the opportunity to have a fair deal.

I am not aware of a conventional court which will come to the rescue of people who have made a bad bargain. That is not the function of courts. They are there to enforce the law. They are not courts of justice. However, Parliament should be able to help these people. The Government has an opportunity to do something in the name of justice. Quite obviously the Government, led by the member for Bunbury, will renege. He says a number of people put a great deal of thought into buying a property. There is no question about that. If a young man is a qualified accountant, or works in a similar profession, he should be reasonably able to look after his interests. However, that would not always be the case. If they are able to make proper decisions, the member for Bunbury should not worry about them, because this clause does not relate to them. It has nothing to do either with people who run around buying million dollar blocks.

Mr Grill: Every weekend.

Mr Skidmore: They sign up three of them.

Mr BERTRAM: The member for Bunbury would be the first to agree that those people would have received a little legal advice in respect of the transaction and, therefore, they would not be entitled to the cooling-off period. The great preponderance of them would be bodies corporate which are also given an exemption under this Bill. Why does the Government seek to deny the advantages of this provision to the people who need it? The Government is bringing in spurious arguments which have no relevance.

The member for Bunbury should be saying, "In certain transactions we do not think the cooling-off period should apply." He should be saying that rather than denying the provisions contained in the proposed amendment to all the people of Western Australia.

The member for Bunbury says this amendment, if carried, will bog down the industry. This has not occurred in South Australia and responsible officers of the Real Estate Institute of Western Australia do not have any qualms in that direction either. Who is the Government trying to protect? What is its real objection to this? It will not bog down the industry. This new clause will provide justice for a number of people who need justice.

As the member for Bunbury is aware, we are concerned with people who are buying a matrimonial home. In most cases, a matrimonial home is purchased once, twice, or perhaps on three occasions in a lifetime. Few people are enthusiastic about the prospect of paying $100, as required by this amendment, to give them that entitlement.

I know a member of this Chamber who was driving home last night when he received a traffic ticket for exceeding the speed limit by one kilometre. This traffic ticket cost him $30. I can assure members he was not very thrilled about this.

Mr Sibson: He is not going to get it back after a cooling-off period, is he?

Mr BERTRAM: The member is an extremely mature and responsible citizen. He told me he did not get heated, therefore he did not need to cool off. I commend the new clause and ask the Committee to support it.

Mr DAVIES: I can quote two instances of cases which have come to my office where people have been sorry they signed the form. One instance was in regard to a property which developers wanted to buy in order to build blocks of flats. The lady who was the owner of the house and who perhaps was not very intelligent—I do not think this reflects on all ladies—told me the agent said, "This is just a holding arrangement. I will talk to your husband later about it." As a result, she signed the form and in fact it was an offer and consent. She signed the form on the front porch under the light. She then found out she had sold the house and could do nothing about it. That was an unscrupulous tactic. The price at which she had sold the house was reasonable. She was not cavilling about that. However, she thought it was a holding arrangement. The agent had told her this was the case.

I do not know whether there is a provision in the Bill to assist people who do those sorts of things, because it can happen quite easily. Another case to which I would like to refer is that of an Italian man who came to my office. His wife had died suddenly and within a week of her death he had signed a form to sell his home. On second thoughts he decided he would rather stay there. He felt he could make arrangements to be looked after; although, in fact, he could look after himself. However, he discovered he was tied down as a result of signing the form.

Mr Laurance: Would a two-day cooling-off period make a difference in that case?

Mr DAVIES: He came down to see me almost immediately. He asked me, "Does this mean I cannot get back my house?" He did not lose his house; but he had to pay $700. I can see the agent saying, "Pay me the $700, I will tear up the contract, and we will say no more about it." The agent made a cool $700. They are two genuine cases which have come to my notice.

Mr Blaikie: Did you report those cases to the supervisory committee?

Mr DAVIES: I suggested he do so, but he said, "What is the good? It is my word against his."

Mr Blaikie: I would represent those cases to the supervisory committee to ensure action was taken.

Mr Hassell: Would the amendment have solved the problem?

Mr DAVIES: It think it would. In the first instance the woman was cooking tea and the kids were at her heels. She thought the price was good and she had been told that it was only a holding operation.

Mr Hassell: This new clause would not apply to that.

Mr DAVIES: Yes it would.

Mr Hassell: No; it applies only to purchasers.

Mr DAVIES: I was reading notes. I apologise for that.

Point of Order

Mr SIBSON: On a point of order, this amendment does not refer to vendors. It refers only to purchasers.

The DEPUTY CHAIRMAN (Mr Watt): The Leader of the Opposition has acknowledged that.

Mr DAVIES: I did. I apologised.

Committee Resumed

Mr DAVIES: What I have said demonstrates that sometimes things are done in haste. Although we would imagine that anyone buying or selling a property would take every precaution before signing anything—and goodness knows everyone is warned that he should read everything before signing—every member of Parliament has been approached by people who have signed forms and then afterwards regretted it.

Although we applaud the legislation because it will tighten up the industry, there will be times in the future when pressures and competition will be extremely great and salesmen will talk people into doing things they might not want to do. The two-day period is an excellent idea and is in line with what we believe has been necessary in regard to other sales. A similar provision has been adopted in almost every other State and if we pass the amendment it will not hold up industry in any way. Once the cooling-off period is over it will not matter how much a person cries or pleads, he will have had that period and we will be saved the necessity of trying to blackmail agents into reneging on an offer and acceptance form, which we have had to do sometimes.

Mr SKIDMORE: I was not going to enter the debate, but feel compelled to do so. I support the new clause and wish to give a practical example of how a cooling-off period could help.

A young couple in my electorate wanted to buy a spec home on an estate in my electorate. I have mentioned this matter previously during another debate. The vendor stated that they would have no worry about electricity because it went right past the house. The kids went out and saw that this was so because the electricity poles were there.

This couple had four young children and had battled very hard throughout their life in order to raise the necessary money to purchase the home. Because the agent said that the electricity went past the house and they thought they had verified this by sighting the poles, they signed the contract. However, the next day when they went to the SEC to pay the deposit in order to have the electricity connected to the home, they were told they would have to pay $900 because the lines which went past their home were high tension lines of 3 300 volts which was no good for a normal dwelling. An extension of six poles was required from a transformer to their house before they could have the electricity connected. The Minister for Fuel and Energy may recall this case.

This is a classic example of when a cooling-off period should have applied.

If the Minister were to go to Bullsbrook he would find that five or six people there have complained because electricity will not be available to them, although they were led to believe it would be.

With regard to the young couple, it was only because of my efforts with the agent, who denied all responsibility—he could not care less—that they were able to retain the home. The people who owned the land agreed to lend the money to the couple. Had a cooling-off period been available, I am quite sure they would have exercised their option and not finalised the deal. As it is they are having difficulty in paying back the interest-free loan they were able to obtain.

The new clause is worth while and is similar to one which prevails in regard to sellers of magazines, books, and encyclopaedias. Surely there is nothing wrong with our being an innovater and looking after the consumer. Is there something wrong with the idea that people should be protected? Is that not what the Government is all about? There is nothing wrong with our being

a trend setter. We are always referring to what the other States have done and we will not move until one of the other States has moved. In this regard South Australia has taken action, as has been stated previously, and the scheme is working well.

The new clause will give relief to many people under difficult circumstances when they find they have been conned by agents.

If I had time I could give the details of a person who had a business undertaking with his brother-in-law. He was in a situation of purchasing a home which he thought was rightfully his. The story is long and involved, but I am sure the person concerned would have welcomed a cooling-off period. As it was, he lost the house and the 50 per cent interest in the business. If a cooling-off period had been available he would have been saved a great deal of distress. I support the new clause.

New clause put and a division taken with the following result—

Ayes 17

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr T. J. Burke	Mr McIver
Mr Carr	Mr Pearce
Mr H. D. Evans	Mr Skidmore
Mr T. D. Evans	Mr Taylor
Mr Grill	Mr Wilson
Mr Harman	Mr Bateman
Mr Hodge	*(Teller)*

Noes 26

Mr Blaikie	Mr Mensaros
Mr Clarko	Mr Nanovich
Sir Charles Court	Mr O'Connor
Mr Cowan	Mr Old
Mr Coyne	Mr O'Neil
Mrs Craig	Mr Ridge
Mr Crane	Mr Rushton
Mr Grayden	Mr Sibson
Mr Hassell	Mr Stephens
Mr Herzfeld	Mr Tubby
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Young
Mr McPharlin	Mr Shalders
	(Teller)

Pairs

Ayes	Noes
Mr Bryce	Mr Grewar
Mr Tonkin	Mr P. V. Jones
Mr Davies	Mr Spriggs
Mr B. T. Burke	Mr Sodeman
Dr Troy	Dr Dadour

New clause thus negatived.

Schedule—

Mr O'NEIL: I move an amendment—

Page 107—Insert after clause 15 of the schedule the heading *"Continuation of Certain Office Managers"*.

Amendment put and passed.

Mr O'NEIL: I move an amendment—

Page 109, line 23—Delete subparagraph (i) of clause 20 of the schedule.

The idea of this amendment is that in the continuation provision once again there is reference to residential qualifications. The amendment will remove that provision, as we have agreed to in the appropriate part of the Bill.

Amendment put and passed.

Mr GRILL: In respect of clause 20(2)(b), this part of the schedule allows a business agent's permit as distinct from a licence to be issued to a business agent. It is a grandfather clause which allows people who have been practising as business agents to carry on for a period of three years before they become qualified. The amendment which I propose is to change the period from three years to five years. The Opposition feels strongly that a period of three years is not sufficient.

Mr O'NEIL: I have had an opportunity to examine the proposal put forward by the honourable member. The suggestion is that the present schedule provides that a business agent, who is not qualified, may continue to operate under a permit which will be issued annually but not beyond a period of three years from the date of coming into operation of the Act. That is supposed to give the business agent a transitory period of three years in which to become qualified and registered.

The honourable member is suggesting that we allow the business agent to take out annual permits for a period of five years, if he proves to the satisfaction of the board that he has progressed far enough along the way to pass the appropriate examination in order to become qualified.

I am not unattracted to the proposition which does, in fact, continue the provisions of the grandfather clause. Once again, I request the honourable member to allow me to give further consideration to this matter. I am not unsympathetic to what he is attempting to achieve. I am not able to check on the attitude of the industry as to whether or not a number of people will fall within this category. I think the people to whom we will give transitory permits are a dying race. What we are doing, perhaps, is prolonging their life from three to five years.

However, I give the honourable member an undertaking that I am not unattracted to the

proposal. I prefer to give it close examination and if it is found not to be contrary to the spirit of the legislation I will have an amendment moved in another place.

Mr GRILL: I accept the undertaking given by the Minister.

New clause 16 to the schedule—

Mr O'NEIL: The only amendment remaining in my name on the notice paper is the insertion of a new clause to the schedule which, again, fits under the heading we have agreed on; that is, "Continuation of Certain Office Managers". This provision allows the continuation in office of office managers who are currently not qualified under the provisions of this legislation. This matter was discussed broadly in the second reading debate and I did not hear of any opposition to it. I move—

Page 107—Insert after clause 15 of the schedule the following new clause to stand as clause 16—

16. (1) A person, who immediately before the appointed day—

(a) was registered as a land salesman under the repealed Act and had been so registered for a period of not less than five years; and

(b) was the manager of a branch office of the business of an agent and had been the manager of such a branch office for a period of not less than two years,

may be nominated by a licensee as manager of a registered branch of the licensee's business, and may continue to act as such a manager if the Board so approves and the person continues to be registered as a sales representative.

(2) For the purposes of subclause (1) of this clause the other provisions of this Act shall be read and construed with such modifications as are necessary and, without limiting the generality thereof, shall be read and construed with the following particular modifications—

(a) a person acting as the manager of a registered branch office pursuant to subclause (1) of this clause shall identify himself as the manager and a real estate or business sales representative, or both, and not as a real estate or business agent, or both; and

(b) the other provisions of this Act that apply to and in relation to sales representatives apply to and in relation to a person acting as the manager of a registered branch office pursuant to subclause (1) of this clause, and not such other provisions that apply to and in relation to a manager who is a licensee except to the extent that they are necessary to so apply in respect of the duties and obligations of the manager of such a branch.

Mr GRILL: The Opposition supports the amendment but inquires whether the Minister, in respect of this particular clause, would be prepared to give some consideration to reducing the relevant periods in subclause (1) to three years in paragraph (a) and one year in paragraph (b). We spoke to the members of the institute this morning and they indicated to us that the periods of five years and two years respectively would probably exclude almost everyone. I do not know whether or not that is true but if it is true there may be some merit in the suggestion that the periods be reduced to three years and one year.

Mr O'NEIL: I will undertake to make inquiries in regard to this matter. I gather the period of five years was determined by compromise. I am not sure just how many people would be affected by that provision.

New clause to the schedule put and passed.

Schedule, as amended, put and passed.

Title put and passed.

Bill reported with amendments.

BILLS (5): RETURNED

1. University of Western Australia Act Amendment Bill.
   Bill returned from the Council with an amendment.
2. Health Act Amendment Bill.

3. Censorship of Films Act Amendment Bill.
4. Northern Developments Pty. Limited Agreement Act Amendment Bill.
5. Parks and Reserves Act Amendment Bill.

Bills returned from the Council without amendment.

House adjourned at 11.36 p.m.

QUESTIONS ON NOTICE

LAND

Cape Naturaliste

1202. Mr B. T. BURKE, to the Minister for Urban Development and Town Planning:

(1) Was he a member of a Cabinet sub-committee which inspected a landholding owned by the Wake-English Partnership at Cape Naturaliste on 10th November, 1974?

(2) Who was present at the inspection?

(3) Did he ask the partnership whether they were prepared to enter into a performance guarantee with respect to the development of the land holding?

Mr RUSHTON replied:

(1) Yes.

(2) Hon. E. C. Rushton,
Hon. M. Stephens,
Hon. G. C. MacKinnon,
Hon. W. L. Grayden,
Prof. Appleyard,
Mr N. Semmens,
Mr J. Griffiths,

(3) Not to my knowledge.

LAND

Cape Naturaliste

1204. Mr B. T. BURKE, to the Minister for Urban Development and Town Planning:

(1) Did he meet with D. L. Wake and R. L. English on 11th December, 1974?

(2) If "Yes" who convened the meeting and for what purpose was it held?

(3) Did he suggest or invite Messrs Wake and English to submit development proposals for Sussex Location 517 at Cape Naturaliste?

(4) If "Yes" why was this suggestion made or invitation issued?

Mr RUSHTON replied:

(1) and (2) I have no record of such a meeting. However, I did write to the English-Wake Partnership on the 12th December, 1974.

(3) That letter formally advised the partnership that their appeal had been dismissed in so far as it referred to locations 1340 and 1341. The letter also invited the partnership to submit proposals for the subdivision and development of tourist facilities on location 517.

(4) In order that the partnership proposals could be considered.

LAND

Cape Naturaliste

1206. Mr B. T. BURKE, to the Minister for Urban Development and Town Planning:

(1) Did he receive a letter from Stone James, barristers and solicitors, on or about 5th November, 1976, referring to a delay in his replying to a letter from the firm on behalf of the English-Wake partnership?

(2) If "Yes" did this letter follow two previous letters and one telegram?

(3) What was the nature and cause of the delay referred to by the firm?

Mr RUSHTON replied:

(1) and (2) Yes.

(3) The proposals for the subdivision and development of Sussex Location 517 were being investigated.

MINING: COAL

Collie: Deep Mines

1226. Mr T. H. JONES, to the Minister for Mines:

Will he list:

(a) the names of the deep coal mines at Collie which have been closed since the field first commenced;

(b) the output from each particular colliery involved;

(c) the estimated amount of coal still left in the ground in pillars in the collieries concerned;

(d) the output to 31st July, 1978 from the Western No. 2 mine, Collie; and

(e) the estimated amount left in pillars at the Western No. 2 mine as at 31st July, 1978?

Mr MENSAROS replied:

(a) to (c) See schedule attached;

(d) Reported output 7 911 532 tonnes;

(e) estimated 18.5 million tonnes remaining in the pillars and roof.

SCHEDULE

Name of mine	Recorded output (tonnes)	Estimated coal remaining in pillars and roof (tonnes)
Western Collie colliery	2 947	5 000
Wallsend colliery	1 043 677	1 441 000
Moira colliery	19 727	38 000
Co-operative colliery (old)	836 439	2 151 000
Cardiff-Neath colliery	4 731 235	9 606 000
Collie Burn Scottish collieries	513 109	653 000
Westralian colliery (old)	1 614 811	3 135 000
Premier colliery	475 597	684 000
Proprietary colliery	5 607 597	13 084 000
Co-operative colliery (new)	4 702 739	12 093 000
Griffin colliery	1 814 506	1 814 000
Stockton colliery	2 750 806	6 419 000
Wyvern colliery	772 000	1 641 000
Phoenix colliery	180 497	307 000
Centaur colliery	173 696	296 000
Black Diamond colliery	70 264	120 000
Western No. 1 colliery	341 173	1 210 000
Westralia colliery (new)	85 839	174 000
Ewington colliery	498 590	1 419 000
Hebe colliery	1 209 822	5 511 000
Western No. 4 colliery	742 190	837 000
Totals	28 187 261	62 638 000

EDUCATION

Teachers: Special Education

1247. Mr WILSON, to the Minister for Education:

(1) How many teachers are currently involved in the special education course at the Mount Lawley College of Advanced Education?

(2) Does this represent a reduction in the number previously involved?

(3) Has the course format been changed from full-time to part-time?

(4) If "Yes" to (3), what was the reason for this change?

(5) Is it a fact that funds allocated for this course were subsequently redirected into other programmes?

(6) Is it anticipated that the course will continue in its present form or are further changes proposed?

(7) What other establishments in Western Australia provide training for teachers in special education?

(8) How many special education teachers are presently being trained and how many is it anticipated will be trained in each of the next five years?

(9) What is the estimated number of teachers in special education that will be required in each of the next five years?

Mr P. V. JONES replied:

(1) 18.

(2) and (3) Yes.

(4) The Schools Commission Services and Development Committee adjusted its priorities.

(5) Yes.

(6) The Schools Commission Services and Development Committee will decide later this year.

(7) University of WA, WA Institute of Technology, Claremont College of Advanced Education, Churchlands College of Advanced Education.

(8) 18 at Mt. Lawley college. The number of teachers taking courses at other colleges is not known. Two teachers of the deaf are studying full-time in Sydney at Education Department expense. No estimates have been made on the number of teachers to be trained in each of the next five years.

(9) At present there are 311 teachers in the Special Education Branch, 320 will be required for 1979. Estimates have not been made for subsequent years.

STATE EMERGENCY SERVICE

Funds

1248. Mr WILSON, to the Deputy Premier:

(1) Will he provide details of how the State contribution to the State Emergency Service has been expended during the last six years?

(2) How many local emergency services are there operating in Western Australia and what are their relative strengths and equipment components?

(3) How many local emergency services have volunteer co-ordinators?

Mr O'NEIL replied:

(1) Details are provided in the tabled statement which contains some correction to the answer given to question 1015 of 1978.

(2) 110.

Strengths vary according to local circumstances including probability of disaster, support by the local government and enthusiasm of the local co-ordinator. Compilation of lists of equipment components for each local emergency service would involve many hours of clerical work for which staff is not available. The detailed list, supplied to the member on the 7th August, for Wanneroo local emergency service indicates equipment components of one of the better equipped services.

(3) Each local emergency service has a co-ordinator.

The paper was tabled (see paper No. 315).

EDUCATION

Schools and High Schools: Balga

1249. Mr WILSON, to the Minister for Education:

(1) Can he say whether any preliminary plans have been drawn up to enable local schools to cope with the additional numbers which will occur as a result of State Housing Commission development in the following locations—

(a) land bounded by Beach Road, Princess Road, Balga Avenue and Redcliffe Avenue, Balga;

(b) land bounded by Balga Avenue, Walderton Avenue and Heyshott Road, Balga?

(2) If "Yes" can he say what is proposed?

(3) If no such plans exist, when will they be drawn up and at what stage will local principals be consulted?

Mr P. V. JONES replied:

(1) Yes.

(2) (a) Children will attend Warriapendi Primary School. A junior primary school will be established when required;

(b) children will attend Balga Junior Primary or Balga Primary School according to the existing school boundaries.

(3) Not applicable.

IMMIGRATION

Good Neighbour Council of WA

1250. Mr DAVIES, to the Minister for Immigration:

In view of the closure of the Good Neighbour Council of W.A., what steps will the Government take to fill the role assumed by the field liaison officer of the Good Neighbour Council who has visited the majority of high schools in the Perth metropolitan area to lecture on racial integration and the migrant contribution to this country?

Mr O'CONNOR replied:

The Galbally report on the Review of Post Arrival Programmes and Services for Immigrants includes a series of recommendations, all of which have been accepted by the Federal Government.

One recommendation was that funds allocated to the Good Neighbour Council be directed to other community programmes over a two-year period.

It follows therefore that if any steps are to be taken to fill the role assumed by the field liaison officer of the Good Neighbour Council, this would fall under the jurisdiction of the Federal Government.

I do point out, however, that an ethnic affairs officer was appointed in 1977 to the State Immigration Branch of the Department of Labour and Industry. That officer has made contact with many ethnic and national groups and has lectured to many schools on immigration and ethnic affairs subjects.

HOUSING

Permanent Building Societies: Home Finance and State Finance

1251. Mr DAVIES, to the Premier:

(1) How many homes have been financed under the $15 million loan to permanent building societies for home building given in March this year?

(2) Which societies received the funds and how much did each receive?

Sir CHARLES COURT replied:

(1) 552 homes.

	$'000
(2) Perth Building Society	6 580
Town & Country Permanent Building Society	4 120
Home Building Society	1 940
West Australian Savings and Building Society	1 260
City Building Society	470
Permanent Investment Building Society	250
First Federal Building Society	160
State-wide Savings and Building Society	130
Swan District Benefit Building Investment and Loan Society, Permanent	50
British Building Society	40
Total	$15 000

LOAN COUNCIL

Submissions

1252. Mr DAVIES, to the Premier:

(1) Adverting to the answers to part (2) of my question 850 of 1978 dealing with loan council submissions, will he list the amounts the Government is seeking in overseas borrowings for each of the projects mentioned?

(2) Will he outline the areas of infrastructure to which the loans will be put in each case and will he provide a breakdown of the total loan sum into these areas for each project?

(3) Which bodies will be responsible for administering the loans for each project?

(4) Will he list the borrowing guidelines agreed to at the last Loan Council meeting?

Sir CHARLES COURT replied:

(1) As indicated in my reply to question 850 of 1978, the submissions do not seek approval for overseas borrowings at this stage. Whether or not overseas borrowings would be required would depend on the capacity of the Australian market to provide the funds at the time.

(2) and (3) I have advised Parliament of the nature of the submissions before the Loan Council but would prefer to preserve the confidentiality of the details of the submissions until such time as Loan Council has reached a decision on them.

(4) In response to the member's request, I seek leave to table a copy of a Press release issued by the Chairman of the Loan Council following the June, 1978, Loan Council meeting at which the guidelines were agreed. The statement, which was approved by the council, sets out the new arrangements for infrastructure financing and the guidelines to be applied.

The paper was tabled (see paper No. 316).

SRI LANKA

Trade Contacts for Western Australian Businessmen

1253. Mr DAVIES, to the Premier:

What trade contacts are available for Western Australian businessmen for trade with Sri Lanka?

Sir CHARLES COURT replied:

The State has no official trade representative in Sri Lanka.

The Commonwealth Department of Trade and Resources employs a Sri Lankan citizen as a marketing officer who is responsible to the Australian Trade Commissioner in Karachi, Pakistan.

If the member knows of businessmen requiring information or assistance in respect of Sri Lanka, it is suggested he advise the Minister for Industrial Development.

CONSERVATION AND THE ENVIRONMENT

Cockburn Sound: CSBP

1254. Mr TAYLOR, to the Minister representing the Minister for Conservation and the Environment:

Further to my question 1155 of 1978 dealing with Kwinana Beach and CSBP, and in particular to the Minister's advice in part (2) (b), that in carrying out the current Cockburn Sound study his department does not know whether the CSBP works at Kwinana Beach "... thereupon (took) special measures either by directing that certain work functions within the works should not be carried out during the period of the study or curtailed during the period of the study and /or issue directives to sections of the workforce that certain activities should not be carried out during the period of study"—

(1) Is the Minister's department interested, or is the Minister's department not interested in the accuracy of the statement?

(2) Is not such action, if correct, calculated to affect the findings of the study and by so doing affect the accuracy of the study and its recommendations for the future?

(3) Is not the action, if correct, indefensible, and in fact an admission by the company that some of its practices are either unlawful or likely to attract adverse comment and/or publicity?

Mr P. V. JONES replied:

(1) to (3) The Department of Conservation and Environment is satisfied that the results of the sampling study are representative of the process occurring in the plant at the time. An ongoing programme of spot checks on industrial effluents, without specific notice to the affected industry, is expected to show up any unusual operating conditions.

EDUCATION

Carlisle Technical College

1255. Mr DAVIES, to the Minister for Education:

What positive action is proposed to effect early relief of the conditions under which staff at the Carlisle Technical College have to work?

Mr P. V. JONES replied:

Staff accommodation at Carlisle Technical College has been progressively extended as staff appointments have been increased.

However, the Technical Education Division is aware of the need to further extend the staff accommodation and the divisional planning programme has included this requirement to be implemented as funds are available.

EDUCATION

Teacher: Abrolhos Islands

1256. Mr CARR, to the Minister for Education:

(1) Is the Education Department considering purchasing a boat for the use of the advisory teacher assisting with education on the Abrolhos Islands?

(2) If "Yes"—

(a) what is the type and size of the boat being considered, along with estimates of the cost to purchase, run and maintain it;

(b) what use is intended for the boat during the break between islands fishing seasons?

Mr P. V. JONES replied:

(1) No.

(2) Not applicable.

LOCAL GOVERNMENT

State Funds

1257. Mr H. D. EVANS, to the Minister for Local Government:

What was the total amount paid to country shire councils by the State Government by way of—

(a) road funds;
(b) special grants;
(c) funds for other purposes,

in each of the past three financial years?

Mr RUSHTON replied:

(a) to (c) These particulars are not readily available. However, I will endeavour to obtain these details and advise the member as soon as possible.

LOCAL GOVERNMENT

Country Shire Councils: Rates and Expenditure

1258. Mr H. D. EVANS, to the Minister for Local Government:

(1) What has been the total expenditure of all country shire councils in Western Australia in each of the past five years?

(2) Of each annual amount, how much was raised by the shire councils in rates in each of these years?

Mr RUSHTON replied:

The following has been extracted from information supplied by the Australian Bureau of Statistics. It covers the 106 country shire councils outside the Perth Statistical Division. 1977-78 figures are not yet available.

(1) Total expenditure from all funds (except trust and trading funds)—

	$'000's
1976-77	71 579.5
1975-76	66 774.7
1974-75	53 634.4
1973-74	41 959.3
1972-73	35 051.9

(2) Rate receipts—

	$ 000's
1976-77	18 662.0
1975-76	16 707.7
1974-75	13 857.5
1973-74	10 832.5
1972-73	9 435.5

MINISTER FOR URBAN DEVELOPMENT AND TOWN PLANNING

Jervoise Bay Development

1259. Mr TAYLOR, to the Minister for Urban Development and Town Planning:

Is it contemplated that following his change of portfolio he will continue as the Cabinet representative consulting with the Cockburn Council with respect to the development of Jervoise Bay?

Mr RUSHTON replied:

No.

HOUSING

Rural Housing Assistance: Applicants and Funds

1260. Mr BLAIKIE, to the Minister for Housing:

(1) How many applications have been received by the Rural Housing Authority for financial assistance to—
(a) build new houses;
(b) renovate and upgrade existing dwellings,
since inception?

(2) In each category how many applications have been—
(a) accepted;
(b) rejected; and
(c) are pending?

(3) What is the amount of funds involved, arranged by the authority from—
(a) authority sources;
(b) private sources including building societies,
since inception?

Mr O'CONNOR replied:

(1) (a) 204;
(b) 25.

(2)

	New houses	upgrade and additions Renovations
(a)	55	1
(b)	30	6
(c)	68	7
Not proceeded with by applicants—	49	11

(3) (a)

1976/77	1977/78	1978/79
$500 000 (Commonwealth/ State Home Builders' Fund)	Nil	$500 000 (Commonwealth/ State Builders' Home Purchase Account)

(b) Nil to date.

An offer has been received from one permanent building society for $100 000 per month under the authority's scheme of indemnification.

Two other permanent building societies are becoming involved in the scheme, but no final commitment has been made.

The Treasurer has approved a contingent liability of $5 million for current financial year for indemnities issued under the scheme.

ROADS

Leach Highway and Beechboro-Gosnells Highway

1261. Mr JAMIESON, to the Minister representing the Minister for Transport:

(1) When is it proposed that the Leach Highway will be bridged over Albany Highway?

(2) Is there any early intention of providing access to Leach Highway from Great Eastern Highway by construction of the section Beechboro-Gosnells Highway between Great Eastern Highway and Leach Highway?

(3) If there is no present intention of construction of the section of highway referred to in (2), will the Minister have this matter examined?

Mr O'CONNOR replied:

(1) No date has been set.

(2) On present indications of funds likely to be available, construction is unlikely for some years. In the interim traffic is well served by the Hardy Road link.

(3) Road construction priorities are reviewed regularly so the claim for funds for this project will not be overlooked.

HOUSING

Kwinana

1262. Mr TAYLOR, to the Minister for Housing:

Has the State Housing Commission had any discussions with respect to the possible allocation of accommodation in the Kwinana area to Vietnamese refugees?

Mr O'CONNOR replied:

No.

DAIRYING

Milk: Production Costs in South-West

1263. Mr H. D. EVANS, to the Minister for Agriculture:

What was the cost of production of milk per gallon or litre in each of the following centres in 1976-77:

(a) Pinjarra;
(b) Waroona;
(c) Harvey;
(d) Busselton;
(e) Northcliffe;
(f) Walpole; and
(g) Manjimup?

Mr OLD replied:

As indicated in my reply to the member's question 1228 of 1978 the 1976-77 cost of production survey was not designed to yield district comparisons.

CONSERVATION AND THE ENVIRONMENT

Environmentalists

1264. Mr BERTRAM, to the Premier:

(1) Did he recently state that he thought that environmentalists had had their day?

(2) If "Yes" would he state with some precision what he really intended to mean by this statement?

Sir CHARLES COURT replied:

(1) and (2) I table a copy of the complete Press release I made, 6th August, 1978, as I think it more than adequately answers the member's questions.

The paper was tabled (see paper No. 317).

If the member has in mind another statement which I made, if he tells me the date of it, I will be only too pleased to oblige.

SEWERAGE

Dewatering

1265. Mr BERTRAM, to the Minister for Water Supplies:

When installing deep sewerage below water level does the Water Board provide a junction for householders above the water level or does it require each house-holder to go to the additional plumbing expense of dewatering when they convert to the deep sewerage system?

Mr O'CONNOR replied:

Current board practice in wet areas is to provide a sewer junction as high as practicable. The location and levels of plumbing fittings within the property can influence the height to which a junction can be brought up. Despite these arrangements, in some cases dewatering may still be unavoidable.

PERMISSIVE SOCIETY AND MORAL VALUES

Trends

1266. Mr BERTRAM, to the Premier:

What does he believe to be the factors and will he identify the elements of our society which are causing the decline in moral values and the increase in and tolerance of permissiveness?

Sir CHARLES COURT replied:

Affluence, and the complacency, laziness and selfishness it generates. This, in turn, has seen a weakening of interdependence and support within families, and increased demands for the State to accept responsibilities which previously were accepted by individuals and families.

TOTALISATOR AGENCY BOARD

Extension of Operations

1267. Mr BERTRAM, to the Treasurer:

Further to his answer to question 1101 of 1978 in connection with the extension of operations of the Totalisator Agency Board, what is the estimated profit which the TAB will receive from the new form of betting it is estimated will provide a turnover of $50 000 weekly?

Sir CHARLES COURT replied:

Totalisator Agency Board profits are distributed to racing, trotting and greyhound racing.

The new form of betting is estimated to produce between $2 250 and $2 750 per week for distribution.

GOVERNMENT STORES

Purchases by Non-Government Organisations

1268. Mr BERTRAM, to the Treasurer:

Further to his answer to question 1104 of 1978 concerning the Government Stores, how many specific cases are there?

Sir CHARLES COURT replied:

I am advised that 63 organisations approved by the Department for Community Welfare regularly buy through Government Stores. The records show that over the last 20 years, 17 other organisations have been approved to buy through the stores either for a specific item, or on a restricted basis.

A review of the present practice and participants is currently being undertaken.

If the member has cases he wants specifically considered for inclusion or exclusion, I suggest he advises me within the next two weeks.

MINISTERS OF THE CROWN

Refusal of Salary Increases

1269. Mr BERTRAM, to the Premier:

Further to his answer to question 1103 of 1978 dealing with refusal of salary increases, will he supply a copy of the formal deed of release used by members to forego their salaries increase?

Sir CHARLES COURT replied:

I table a sample copy of the Deed of Release used. I hope it inspires the member and his Opposition colleagues in the future to join in a similar action to that taken by Government members in 1977.

The paper was tabled (see paper No. 318).

PUBLIC SERVANTS

Annual and Long Service Leave: Accrued Payments

1270. Mr BERTRAM, to the Premier:

Does he have any idea as to how many millions of dollars were owed by the State for annual and long service leave overdue but not paid as at 30th June, 1978?

Sir CHARLES COURT replied:

This information is not readily available and could not be taken out without a great deal of work on the part of officers of all departments and instrumentalities. I do not consider the cost involved to be warranted.

PRODUCTIVITY AND PRICES

Government Action

1271. Mr BERTRAM, to the Premier:

What action and when has he taken it to stimulate productivity and to keep costs down?

Sir CHARLES COURT replied:

The member will be aware that Western Australia's economy is mainly based on our primary industries—agriculture and mining in particular—which are supported by service industries.

The whole thrust of our initiatives has been to increase the competitiveness, and hence productivity, of our industries in all sectors. A major initiative has been the easing of Loan Council restrictions for borrowings for major resource projects which will make industries more competitive in world markets and more productive.

Similarly the Government has been active in encouragement of transfer of technology to the State, particularly for the North-West Shelf project. It provides assistance to industry in a variety of forms.

The competitiveness of our industries depends upon the efficient utilisaton of resources including manpower.

In pursuing this objective the Government's policy has been to create a climate which will allow private enterprise to operate successfully at all levels. In my Budget Speech last year I outlined several initiatives in this area. They include—

- introduction of a Small Business Advisory Service which has become one of the most appreciated forms of Government assistance to the private business sector;
- the establishment of the Rural and Allied Industries Conference to identify areas for improving efficiency and productivity;
- improved services to farmers by regionalisation of the administration of the Department of Agriculture and by improved access to information and other services;
- establishment of the Solar Energy Research Institute;
- increased finance for industrial training;
- establishment of regional administrators to provide an improved service to regions.

The Government has also established an award for firms making the most significant contribution in productivity which is made via the Productivity Design Council.

The Government is co-operating with the Commonwealth Government in a number of areas including—

- a Commonwealth/State industry programme group aimed at

identifying specific problems in the major manufacturing sections of industry, and implementing educational programmes to disseminate to all sectors of industry its finding on productivity;

the Special Youth Employment Training Project, the NEAT scheme, and the Commonwealth rebate for apprenticeships are full-time training schemes which are designed to train young people and thus assist industry and the community generally.

In addition the Department of Labour and Industry has introduced special industry training courses including mechanical fitting, bricklaying, sandblasting and hand laminating of plastics.

These are only some of the overall measures taken to encourage productivity.

COMMUNITY WELFARE

Adoptions: Age Restriction

1272. Mr BERTRAM, to the Minister for Community Welfare:

Further to his answer to question 1107 of 1978 concerning adoptions, how many departures from the age criteria have occurred since it was introduced in October 1975?

Mr RIDGE replied:

There are no known departures since October, 1975, in relation to normal unrelated babies born in Western Australia placed for adoption.

There have been some departures in relation to children with special needs (for example physical or mental handicap). Some applicants who applied prior to 1975 and met the criteria at that time but did not necessarily meet the new criteria, may have had a child placed with them after October, 1975.

1273. *This question was postponed.*

HOSPITALS

Meals: Production Costs

1274. Dr DADOUR, to the Minister for Health:

Further to question 1178 of 1978 dealing with meals prepared by Sir Charles Gardiner Hospital, please list what production costs for meals are included in the average of $2.23 per kilogram of food produced?

Mr RIDGE replied:

The production cost of $2.23 per kilogram of food produced includes expenditure for—

	per cent.
labour	28
food	60
other, for example, fuel, maintenance and overheads	12

HEALTH: CHIROPRACTIC

Chiropractors: X-rays

1275. Mr HODGE, to the Minister for Health:

(1) Is he planning to take any action in respect to the use of X-rays by chiropractors following recent adverse comments by the Radiological Council?

(2) Is it a fact that he is considering prohibiting the use of X-ray equipment by chiropractors?

(3) Is it possible that members of the public who have had treatment from chiropractors which may have included the use of X-rays could have had their health endangered by excessive doses of radiation?

(4) Is there any evidence that chiropractors who regularly use X-ray machines may be subjecting themselves to excessive doses of radiation?

Mr RIDGE replied:

(1) Yes, a copy of the report has been sent to the Chiropractors Board.

(2) No.

(3) Excessive doses of radiation in diagnostic radiography carries a small health risk but there is no evidence that any particular patient has had their health endangered.

(4) No, all users of radiation, including chiropractors, in Western Australia are monitored. Constant activities by officers of the Radiological Council have maintained these doses at extremely low and safe levels.

BEEKEEPING

Honey: Imports

1276. Mr BLAIKIE, to the Minister for Agriculture:

(1) From which Australian States were honey and honey products imported since January 1978?

(2) Are there any conditions relating to the importation of honey from any other Australian State to Western Australia and, if so, what are they?

(3) Who were the major importers and what were the amounts imported during the January/August 1978 period?

Mr OLD replied:

(1) Queensland, Tasmania and South Australia.

(2) Bulk honey is permitted from New South Wales provided that it is from disease free areas and certified as such. Bulk honey is not permitted from Victoria.

Pre-packed honey is permitted from New South Wales and Victoria provided that it has been pasteurised to the recommended temperature and certified to this effect.

(3) The names of the importers are considered to be confidential.

The amount of honey is—

Bulk	187 155 kg;
Pre-packed	49 920 kg.

TRAFFIC ACCIDENTS

Bullcreek and Kardinya

1277. Mr MacKINNON, to the Minister representing the Minister for Transport:

In each of the last six months how many accidents have been reported at—

(a) the intersection of South Street and Benningfield Road, Bullcreek;

(b) the intersection of South Street and Gilbertsen Road, Kardinya; and

(c) the intersection of South Street and North Lake Road, Kardinya?

Mr O'CONNOR replied:

(a) January—1.
February—1.
March—4.
April—Nil.
May—Nil.
June—2.
(July not available).

(b) January—Nil.
February—Nil.
March—1.
April—Nil.
May—1.
June—Nil.
(July not available).

(c) January—Nil.
February—3.
March—2.
April—1.
May—4.
June—7.
(July not available).

TRANSPORT

Southern Western Australia Transport Study: Cost

1278. Mr McIVER, to the Minister representing the Minister for Transport:

(1) Further to my question 901 of 1978 concerning the cost of the Southern Western Australia Transport Study report, would the Minister define the individual cost to the team leader, economists consultants, computer consultants, Dr Affleck, his team, P. A. Consultants, country visits, Westrail teams, Transport Commission officers?

(2) When will the co-directors consider the public input and when is the deadline for the receipt of public input?

Mr O'CONNOR replied:

	$
(1) Team leader (Wilbur Smith & Associates Pty. Ltd.)	139 836
Economists	78 909
Computer Analysts	128 708
Dr Affleck*	5 870
P. A. Consultants	69 813
Administrative and office costs	57 012
Printing of main and technical reports	25 289
From Director General of Transport	44 594
Other team members	52 689
	$602 720

*No team.

No accurate estimate can be placed on other transport agencies' expenses because full records were not kept. Staff seconded to work with the study team by participating agencies were funded from normal departmental appropriations.

(2) Not many submissions have been received to date and the Government is awaiting and encouraging further submissions. Because of the lack of submissions received, the co-directors have not yet begun considering them.

GOVERNMENT DEPARTMENTS AND INSTRUMENTALITIES

Property: Car Parking

1279. Mr BATEMAN, to the Premier:

(1) What authority allocates parking on Government property?

(2) Do Government cars have priority over private cars on Government property?

(3) Are there cases in which officers have priority over departmental vehicles for parking their cars?

(4) What criteria exists (for example, seniority, workload, etc.) for deciding about allocation of space to private and departmental vehicles?

(5) Does the Government pay for parking departmental cars in private car parks?

(6) If "Yes" how much does this cost per annum?

(7) Are officers who are provided with off-street all day parking on Government property charged?

(8) If "Yes" to (7) how much?

(9) What is the annual revenue to the Government of such charges, if any?

Sir CHARLES COURT replied:

(1) Jointly, the Department of Lands and Surveys, Public Service Board, Public Works Department and the particular department concerned.

(2) Yes.

(3) To the best of my knowledge, no.

(4) The criteria for allocation of parking bays is:

Ministerial parking.

Departmental vehicles.

Vehicle of the permanent head of department.

Vehicles of physically disabled staff officers.

Vehicles of senior executive staff.

Private vehicles used on Government business.

Vehicles of the general staff if parking bays are available (on Government owned parking property only).

(5) and (6) No.

(7) to (9) No.

TRAFFIC

Noise: Levels on Metropolitan Roads

1280. Mr HODGE, to the Premier:

(1) Who is the Minister responsible for traffic noise control?

(2) Which Government department has responsibility for traffic noise monitoring and control?

Sir CHARLES COURT replied:

(1) and (2) The Noise Abatement Act covers, for practical purposes, all noise, including the noise made by traffic. This Act is administered by the Minister for Health.

Noise made by a specific motor vehicle which does not conform to legal standards, falls within the responsibility of the Road Traffic Authority whose Act comes under the Minister for Police and Traffic.

It is essential to distinguish between the general question of the noise made by traffic, as distinct from the noise made by a specific vehicle.

HEALTH

Asbestos: Pipes

1281. Mr HARMAN, to the Minister for Health:

(1) Is he aware that in 1974 the United States Environmental Proteotion Agency commenced a study of the effects of asbestos and asbestos-cement pipes upon drinking water related to the health of consumers?

(2) What was the result of this study?

Mr RIDGE replied:

(1) Yes.

(2) The study is continuing, however, I understand that preliminary results indicate no detectable excess of cancer in the population studied.

LAND

Inglewood

1282. Mr HARMAN, to the Minister for Lands:

(1) Has she approved the sale by the City of Stirling of land comprising part of reserve 24736 being five lots adjacent to Hamer Parade between Central Avenue and Dundas Road, Inglewood?

(2) Is not this land reserved for recreation?

(3) What reasons prompted her to approve the sale of open space in an established residential area?

Mrs CRAIG replied:

(1) Agreement in principle has been advised to the Stirling City Council, subject to:

(i) the purchase of the freehold from the Crown for a nominal sum.

(ii) the proceeds of sale being applied solely for the purchase of public open space.

(iii) the areas purchased from the proceeds being surrendered to the Crown by the City of Stirling for reservation with vesting in the city council.

(iv) the Land Purchase Board, constituted pursuant to section 120 of the Land Act, approving, prior to settlement, the acquisition of the land desired for alternative reservation with special reference to the prices negotiated.

(v) there being no undue objections from local ratepayers.

The council response is not known.

(2) The lands concerned are reserved for the purpose "Parking Area and Gardens".

(3) This reserve resulted from closure of portion of the Hamer Parade road reserve and is adjacent to large areas of open space. Council's proposals represented a transfer of public open space lands from an area well served to older localitites such as Lawley-Inglewood and Maylands which lacked open space. The reserve zoning was said to be "Urban".

HEALTH

Research

1283. Mr HARMAN, to the Minister for Health:

What percentage of the Government's health care expenditure in 1977-78 was devoted to health care research?

Mr RIDGE replied:

There is a considerable amount of research done by many departmental officers and by hospitals which is not readily identifiable or assessable.

Expenditure by the Public Health Department on specific research in 1977-78 represented 0.37 per cent of that department's Consolidated Revenue Fund expenditure.

HEALTH

Asbestos: Wittenoom Proposal

1284. Mr HARMAN, to the Premier:

(1) Has his Government made a decision on proposals submitted by Wittenoom residents to make Wittenoom "safe"?

(2) If so, what are the details?

Sir CHARLES COURT replied:

(1) and (2) No.

HEALTH

Hepatitis

1285. Mr HARMAN, to the Minister for Health:

(1) How many cases of hepatitis have been reported at the Forrest River Reserve and at Wyndham since 1st January, 1978?

(2) Has it been necessary to take any action to improve the hygiene at Forrest River Settlement?

(3) If so, what action has been taken?

Mr RIDGE replied:

(1) (a) Six;
(b) eight.

(2) Yes.

(3) (a) In June this year a departmental officer issued recommendations to Oombulgurri Association to rectify defective sanitation matters including:
water supply facilities
food handling premises
drainage and sewer defects
ablution and toilet facilities
re-arrangement of pig keeping facilities
upgrading of housing;

(b) affected persons received medical care;

(c) gamma globulin issued to family of affected persons.

WATER SUPPLIES

Aluminium Sulphate

1286. Mr HARMAN, to the Minister for Water Supplies:

(1) Is aluminium sulphate still added to drinking water by the Metropolitan Water Board?

(2) In terms of either—
(a) milligrams per litre; or
(b) micrograms of aluminium per litre,
what was the concentration in water from the Gwelup, Mirrabooka, Whitfords, Melville and Bold Park Service reservoirs on or about 1st August, 1978 and 1st March, 1978?

Mr O'CONNOR replied:

(1) and (2) As is universal practice throughout the world, alum is used as a flocculating agent in treatment of raw ground water to aid removal of colour and turbidity. These are then filtered out and the clear water contains only a trace of aluminium, generally less than one-fifth of a milligram per litre.
It would be within this limit throughout the year.

ABORIGINES

Sacred Sites: Kimberley

1287. Mr HARMAN, to the Minister for Community Welfare:

(1) Adverting to question 1011 of 1978 dealing with Aboriginal sacred sites, can he now advise the exact nature of damage to three Aboriginal cultural sites at Noonkanbah station recently?

(2) Who was responsible for this intrusion?

(3) What was the nature of business by the person or persons causing damage?

(4) What steps have been taken to avoid repetition in the future?

Mr RIDGE replied:

(1) No, precise details are not known. However, detailed survey of sacred-secret cultural sites in the area is being undertaken by the Western Australian Museum and the Australian Institute of Aboriginal Studies. A report is being prepared and in due course will be made available to my colleague, the Minister for Cultural Affairs.

(2) Amax Exploration Pty. Ltd.

(3) Mineral exploration.

(4) I have made representation to the Minister for Cultural Affairs and to the Minister for Mines bringing to their notice the need for proper precautions by mining exploration teams to avoid further such incidents. The company concerned has also had discussions with the community concerned.

STATE GOVERNMENT INSURANCE OFFICE

Television Advertising

1288. Mr HARMAN, to the Minister for Labour and Industry:

Adverting to question 1160 of 1978 concerning a television advertisement made for the State Government Insurance Office, will he advise:

(a) the person who filmed the Western Australian shots;

(b) whether that person was self employed or employed by another person or firm;

(c) if not self employed, the name of the employer;

(d) the name of the firm in Melbourne which processed the film;

(e) what was involved in processing the film?

Mr O'CONNOR replied:

As previously advised to the member, the State Government Insurance Office employs advertising consultants to arrange the production of these films.

The details requested are not known to the State Government Insurance Office.

EMPLOYMENT AND UNEMPLOYMENT

Medibank Retrenchments

1289. Mr HARMAN, to the Minister for Labour and Industry:

Adverting to question 1158 of 1978 concerning the retrenchment of 29 employees by Medibank and the probability of further retrenchments by Medibank, will he make available an officer of the Department of Labour and Industry to investigate the possibility of these persons being re-employed?

Mr O'CONNOR replied:

As pointed out in my answer to question 1158 of 1978, these employees are short-term temporary staff and are released when the work load returns to normal. Of the 29 already released some have registered with the Commonwealth Employment Service. Medibank will liaise with the Commonwealth Employment Service for any assistance that can be given to other temporary staff who may be seeking re-employment.

HOSPITAL

Royal Perth

1290. Dr DADOUR, to the Minister for Health:

What is the total amount of tenders let for projects at the Royal Perth Hospital in Wellington Street, Perth, for the past three years without going through the Public Works Department?

Mr RIDGE replied:

The total amount of contracts let by Royal Perth Hospital for building and building services projects for the past three years not involving the Public Works Department was $2 747 846 relating to 139 contracts.

ABORIGINES

Electoral Voting: Education Programme

1291. Mr HARMAN, to the Chief Secretary:

Will he detail measures taken since 1st January, 1978 to assist Aborigines to learn their rights under the State and Commonwealth Electoral Acts in respect of enrolling and voting?

Mr O'NEIL replied:

The education of Aborigines in procedures for enrolment and voting is mainly a matter for the Technical Education Division of the Education Department (Adult Aboriginal Education).

The Chief Electoral Officers of both the State and Commonwealth are in constant liaison with the Education Department on this type of education.

The Education Department booklet "Enrolment and Voting" as a guide to adult Aborigines is currently being revised in consultation with State and Commonwealth officers. The booklet is expected to be released for distribution within the next two months.

Subject to the resources of the departments, State and Commonwealth officers are available and are prepared to address groups of Aborigines. Both departments are scheduled to address an Aboriginal youth group at Busselton on 31st August next on electoral matters.

Evidence was tendered at the recent Judicial Inquiry into the Electoral Act concerning enrolment and voting by Aborigines.

When the recommendations of the inquiry have been received and considered the State Electoral Department will be in a better position to determine further courses of action. Other activities of the Commonwealth Electoral Office are not known.

HEALTH: CHIROPRACTIC

Chiropractors: Registration Board

1292. Mr HODGE, to the Minister for Health:

(1) What was the total income of the Chiropractors Registration Board for the financial year 1977-78?

(2) What was the total expenditure of the Chiropractors Registration Board for the financial year 1977-78?

(3) How much of the board's annual income is derived from—
  (a) the Government;
  (b) registration and licence fees;
  (c) other sources?

(4) How many—
  (a) full-time;
  (b) part-time,
  staff are employed by the board?

(5) Does the board rent office premises?

(6) If so, from whom and at what cost?

(7) Are full details of the board's financial affairs available to Members of Parliament?

Mr RIDGE replied:

(1) $8 186.07.

(2) $8 086.00.

(3) (a) Nil.
  (b) $8 020.00.
  (c) $166.00.

(4) (a) None.
  (b) One.

(5) and (6) The board does not rent office accommodation but it does use the premises of the Registrar.

(7) The annual accounts are available.

HEALTH: CHIROPRACTIC

Chiropractors: Registration Board

1293. Mr HODGE, to the Minister for Health:

(1) When was the last occasion that a member of the Chiropractors Registration Board visited any of the overseas chiropractic colleges named in the board's rules?

(2) On the next occasion that a vacancy occurs on the Chiropractors Registration Board, will he consider appointing an Australian trained registered chiropractor to the position?

(3) What is the Government's policy in respect of the appointment of Australian trained registered chiropractors to the registration board?

(4) (a) What are the names of the current board members and deputy members;
  (b) on what dates were they appointed;
  (c) when do their respective terms expire;
  (d) what are the qualifications of board members and deputy members and where did they gain their qualifications?

Mr RIDGE replied:

(1) 1976.

(2) This will be considered when the occasion arises. To date only one person with recognised qualifications gained in Australia has applied for registration. This application is being processed by the board.

(3) Appointments to the board are based on professional standing. If Australian trained registered chiropractors are available for appointment their claims will be considered along with all other candidates.

(4) (a) Mr P. L. Sharp, Q.C. Legal Practitioner (Chairman).
Mr L. G. F. Giles (Deputy Mr B. McNamara).
Mr C. E. Watson (Deputy Mr. P. Noble).
Mr R. C. Scott (Deputy Mr R. W. Murphy).
Mr K. R. Todd (Deputy Mr K. M. Wayte).

(b) Appointments of members and deputies were notified in the *Government Gazette* on 23rd September, 1977.

(c) 20th July, 1980.

(d) Members—
Canadian Memorial College, Canada (two) 1970 and 1971.
Lincoln National College, United States (one) 1965.
Admitted under Section 20 (2) (one).
Deputy Members—
Palmer College of Chiropractic, United States (two) 1962 and 1976.
Canadian Memorial College, Canada (one) 1970.
Admitted under Section 20 (2) (one).

STATE FINANCE

Short Term Money Market

1294. Mr WILSON, to the Treasurer:

How much did the Treasury have invested in the short term money market as at the following dates:

(a) 1st July, 1977;
(b) 1st September, 1977;
(c) 1st November, 1977;
(d) 1st January, 1978;
(e) 1st March, 1978;
(f) 1st May, 1978;
(g) 1st July, 1978;
(h) 18th August, 1978;

Sir CHARLES COURT replied:

This information appears in the *Government Gazette* each quarter in the "Statement of Receipts and Disbursements of Western Australia".

Copies of the *Gazette* are available at Parliament House.

The item appears in the Balance Sheet under the employment of funds section. If for any special reason the member particularly seeks the information on a non-quarter date, I suggest he communicates with me.

SHOPPING CENTRE

Girrawheen

1295. Mr WILSON, to the Minister for Housing:

(1) Has the State Housing Commission yet been able to find a developer willing to establish a shopping centre at the Girrawheen centre site in Girrawheen Avenue?

(2) If "Yes" what stage has been reached in negotiations with the developer and with plans for the centre?

(3) When are site works due to get under way?

Mr O'CONNOR replied:

(1) Yes.

(2) The commission has granted an option to purchase the shopping centre site to a developer. The developer has submitted preliminary plans to the Shire of Wanneroo for approval.

(3) This will depend on whether or not the developer exercises the option. If he exercises the option, site works should commence by Christmas, 1978.

HOUSING

State Housing Commission: Land

1296. Mr WILSON, to the Minister for Housing:

(1) Can he say what area of land is involved in the proposed exchange of land between the State Housing Commission and a private developer in Koondoola-Marangaroo?

(2) What is the actual location of the proposed development and in particular the 60ha interest of the State Housing Commission in the development area?

(3) Can he say what stage has been reached in plans for this development and when it is anticipated that work will begin?

Mr O'CONNOR replied:

(1) Approximately 54ha.

(2) West of Alexander Drive and north of Marangaroo Drive.

(3) Private owner has received preliminary Town Planning Board approval to create 528 lots, and has commenced physical development of 328 lots.

HOUSING

State Housing Commission: Land

1297. Mr WILSON, to the Minister for Housing:

What is the actual location of—

(a) the 2.8ha of State Housing Commission land situated within the Shire of Swan Town Planning Scheme No. 7; and

(b) the additional area of 5.6ha to be acquired from the Main Roads Department and the Metropolitan Region Planning Authority to complete the Commission's holding?

Mr O'CONNOR replied:

(a) It is bounded on the South by Widgee Road; on the east by Uganda Road; on the north by the Northern Perimeter Controlled Access Highway Reserve; on the west by Alexander Drive; and occupies the western flank of the Scheme 7 area.

(b) it is bounded on the south by Widgee Road; on the east by an unnamed street; on the north by the Northern Perimeter Controlled Access Highway Reserve; on the west by Lot 2 Widgee Road; and is centrally situated within the Scheme 7 area.

LOCAL GOVERNMENT

Meetings with Members of Parliament and Department Officials

1298. Mr TONKIN, to the Minister for Local Government:

(1) Is he aware that a resolution was carried by the Council of the Shire of Bayswater at its meeting of 26th July, 1978 as follows:

(a) that all future meetings special or otherwise with Parliamentarians or senior Government heads by councillors, senior members of departments and all other servants of Council acting in their official capacity shall be arranged either through the Shire President or the Shire Clerk or the Shire Manager only in the event that prior approval of Council cannot for any reason be obtained; and

(b) that all councillors, senior executive officers and senior members of departments concerned be notified in advance of such meeting?

(2) Under what section of the Local Government Act or any other statute does a council have power to proscribe a meeting between councillors and Members of Parliament or any other citizen?

(3) What power is given under any Statute to a shire clerk or shire manager to decide which persons a councillor will be permitted to meet?

(4) What penalties are provided for those councillors who disobey such an injunction from a shire clerk or a shire manager?

(5) Is a telephone conversation deemed to be a meeting in the context?

(6) What penalties are provided for those Members of Parliament who disobey this edict?

(7) If the power to prevent such meetings is not given to a local governing body, what machinery is provided to ensure that such a resolution is struck from the record?

(8) What means are there available to inform those affected by such a resolution that it has no force to bind them?

Mr RUSHTON replied:

(1) No, but I was aware of notice of a motion to that effect.

(2) to (8) I am unaware of any provisions in the legislation relative to these matters.

LOCAL GOVERNMENT: SHIRE OF BAYSWATER

Land Deals and General Management

1299. Mr TONKIN, to the Minister for Local Government:

(1) Adverting to my question 772 of 1978 dealing with land deals in the Shire of Bayswater, has he received a copy of the report into the land deals and general management of the Shire of Bayswater as a result of action taken by Councillor A. Johnston and former councillor P. O'Hara?

(2) If so, will he table a copy of the report?

(3) What action is contemplated in respect of this matter?

(4) Will the report be made available to the council?

(5) If so, when?

Mr RUSHTON replied:

(1) Yes.

(2) to (5) Consideration is being given to these questions.

EDUCATION

Clerical Staff and Teaching Aide

1300. Mr TONKIN, to the Minister for Education:

(1) Will—

(a) clerical staffs; and

(b) teaching aides,

be employed for the Thursday and Friday of the last week of the 1978 school year in State schools?

(2) If not, will they suffer a diminution of income, bearing in mind that they are paid by the day?

Mr P. V. JONES replied:

(1) and (2) No.

ENERGY: ELECTRICITY SUPPLIES

Charges: Fixed

1301. Mr T. H. JONES, to the Minister for Fuel and Energy:

Under the provisions contained in the amendments to the State Energy Commission Act, does it mean that the $15 fee will be a fixed charge and not refundable?

Mr MENSAROS replied:

The account establishment fee is not refundable. It is a charge made for services requested by the customer and provided by the commission at the time of establishing or transferring an account for the supply of energy for domestic purposes.

QUESTIONS WITHOUT NOTICE

HONEY

Import

1. Mr OLD (Minister for Agriculture): Might I correct some information which I gave the member for Warren in answer to question No. 894 on the 2nd August, when I advised that the quantity of honey imported into Western Australia this year was 66 490 kg. The figure should have been 138 624 kg and I apologise for the inadvertent error.

ROBINSON-WITHERS AFFAIR

Premier's View of Prime Minister's Attitude

2. Mr BERTRAM, to the Premier:

(1) Is he correctly reported at page 9 of this morning's issue of *The West Australian* under the heading "Court's view" where he is said to have stated?—

> If the facts are as I believe they could be, the Prime Minister has a right to treat the issue with contempt.

(2) If "Yes", and the facts are as he believes they could be, then what are they because the whole of Australia is anxiously waiting to find out?

(3) How did he find out, and who told him, and why, that the Prime Minister has a right to treat the issue with contempt?

Sir CHARLES COURT replied:

(1) to (3) The report in this morning's issue of *The West Australian*, from what I remember of it, is substantially a correct report of the statement I issued. But, for the edification of the honourable member I will be only too delighted to table the full statement I made.

In trying to recall the sequence of his questions, I think he asked whether I was privy to any special information regarding the Prime Minister and his relationship with his ministerial colleagues. I have no special privileges in this regard.

I should imagine if the honourable member had listened to "AM" last Thursday morning, and with his knowledge of what goes on in Governments and with ministerial confidences, he would not have to be very smart to make his own deductions as to what position the Prime Minister was in, and the problems that confront him where there is a degree of ministerial confidentiality.

I believe the people of this country are thoroughly fed up with the nonsense going on in regard to a number of issues.

Several members interjected.

The SPEAKER: Order! Would the Premier resume his seat? Orders of the day.