The Leader of the Opposition pointed out there were other good sites for hotels available in the city of Perth. I have no doubt there are. But I do recall that when Chevron-Hilton first came here looking for hotel sites, it requested the Government to consider two sites on which it had decided. One of these sites was in King's Park, which was immediately ruled out of order; and the other was the site which we negotiated with Chevron-Hilton later on.

It must be remembered that if a hotel and tourist centre is to be built at a cost of £2,000,000 it will need to be on a first-class site to warrant such an expenditure. It will also need to be situated in or near the centre of the city. The hotel that has recently been built in Adelaide comes to mind. That is of an international standard, backed to some extent by the State Government and situated on a very desirable site just over the bridge towards the cathedral. Other major hotels of international standard are found to be erected on first-class sites in capital cities.

I believe the motion moved by the Leader of the Opposition should not be supported, because I think the land should still be left free for the Government, or the authority of the day, to make a decision upon when an opportunity such as providing a new hotel or something similar arises. I do not think we should precipitate action here, and carry a motion which will place some limitation on the activities of the authority, or the Government, in respect of this land in the future.

It must be remembered that the planning of the hotel was approved by the city council, and by the town planning authorities; and it was part of a rather extravagant lay-out of the whole area bounded by the old site on which the Christian Brothers' College stood, by Government House, and by the Supreme Court buildings. I think this plan could still be carried out.

Parliament should not make up its mind at this stage that the land should be set aside for any specific purpose. It should be left free for the Government to take advantage of any opportunity which might occur in the future of putting it to the purpose to which the Government aimed to put it when it brought the agreement to the House originally.

I do not think there is anything more I can say on this matter. It is not a very controversial or vexatious question. I feel the House should oppose the motion moved by the Leader of the Opposition, and allow the future to decide what is the best purpose to which this important site in our city could be put. I am sure that no Government, and no authority, would take precipitate action on this very important site; and possibly the matter could be referred back to Parliament.

In the meantime, and because Parliament is not always in session, it would seem that the Government of Western Australia should not lose any opportunity; it should be free to negotiate just as it did on the previous occasion with this very important site. It is possible that we might be able to provide a very urgent service to the city of Perth, and secure the standard of hotel we hoped to get in the previous agreement.

Debate adjourned, on motion by Mr. Kelly.

House adjourned at 10.56 p.m.

Legislative Council

Thursday, the 11th October, 1962

CONTENTS

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

QUESTIONS ON NOTICE

1. *This question was postponed.*

KALGOORLIE EXPRESS
Buffet Car Service

2. The Hon. J. D. TEAHAN asked the Minister for Mines:
   (1) When will the new buffet car service commence on the *Kalgoorlie Express?*
   (2) Will this service eliminate any railway refreshment rooms; and, if so, which ones?

The Hon. A. F. GRIFFITH replied:

(1) No date has yet been fixed for the introduction of this service. It cannot be commenced until both buffet cars are completed and ready for simultaneous operation.

(2) This matter is under investigation at the present time.

3. *This question was postponed.*

ARTHUR STREET, BUNBURY

Valuations of Lots 2 and 3

4. The Hon. N. E. BAXTER asked the Minister for Local Government:

As the Taxation Department has assessed the present-day market value of Lots 2 and 3, Arthur Street, Bunbury, at £3,700 and £17,110 respectively—

(1) Are these valuations for the entire properties or for the areas required for a 1 chain road for Blair Street extension?

(2) Will the Minister obtain from the Taxation Department a schedule showing how the valuations were arrived at?

The Hon. L. A. LOGAN replied:

(1) The valuations of Lots 2 and 3, Arthur Street, Bunbury, are for land and improvements for the areas required for a 1 chain road for the Blair Street extension.

(2) As the valuations were done for the Bunbury Town Council, the information supplied is confidential between the Taxation Department and the council.

5. *This question was postponed.*

EMPIRE GAMES VILLAGE

Cost of Homes: Personal Explanation

The Hon. A. F. GRIFFITH: I would like to make a personal explanation. I was somewhat concerned this morning when I read the headline to an article which reported remarks I made yesterday. The heading to the article was "Griffith Won't Tell Cost of Games Homes." I would like to make it perfectly clear that I am not blaming the reporter who sat in the Legislative Council, because the article which follows the headline is basically correct; it is the heading which is extremely misleading. I have stated what the Games houses are going to cost, but what I indicated to the House last night in my own words was—

> I have not said what the price is going to be and I am not going to say what the price will be.

The price and the cost are two totally different things.

The Hon. H. K. Watson: You were talking about the selling price.

The Hon. A. F. GRIFFITH: Yes.

The Hon. G. C. MacKinnon: You gave us the cost.

The Hon. A. F. GRIFFITH: I have told a member in another place. He questioned me most stringently, and I have given him the minutest details as to cost. I have not indicated the price—that is, the price to the buyer—because I am not in a position to do so.

The Hon. J. G. Hislop: They will be sold by auction, won't they?

The Hon. A. F. GRIFFITH: I have not indicated that either. In the interests of correct reporting, the paper and its subeditors should have regard for this type of thing. In my opinion it only adds to the bad publicity which has already been given to the Games Village by way of the critical questions being asked.

I know that every member is entitled to ask questions, but a lot of disfavour has been given to the village because of these circumstances. The Press would be more helpful if the headline to an article indicated what the article contained and did not give a false impression. I repeat that it is not the fault of the reporter. Whilst I am not in possession of the facts, I think it would be the fault of the subeditors.

BILLS (3): THIRD READING

1. Metropolitan Region Town Planning Scheme Act Amendment Bill.

Bill read a third time, on motion by The Hon. L. A. Logan (Minister for Town Planning), and returned to the Assembly with an amendment.

2. Money Lenders Act Amendment Bill.

Bill read a third time, on motion by The Hon. H. K. Watson, and transmitted to the Assembly.

3. Bills of Sale Act Amendment Bill.

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Justice), and passed.

TRUSTEES BILL

Report

THE HON. A. F. GRIFFITH (Suburban —Minister for Justice) [2.41 p.m.]: I move—

> That the report of the Committee be adopted.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [2.42 p.m.]: I would like your guidance, Mr. President. I wish to refer to some of the matters that were dealt with in Committee, and as on this motion we are considering the Committee's report, I am wondering whether you would prefer me to deal with them now or wait until the third reading of the Bill.

The PRESIDENT (The Hon. L. C. Diver): I think it would be better if you spoke on the debate on the third reading.

The Hon. F. J. S. WISE: It is not a matter of debate, but of making some observations that are pertinent to what was said in Committee.

The PRESIDENT (The Hon. L. C. Diver): I think it would be better on the third reading.

The Hon. F. J. S. WISE: Very well.

The Hon. A. F. Griffith: Unless there is some action you want me to take.

The Hon. F. J. S. WISE: No.

Question put and passed.

Report adopted.

ADMINISTRATION ACT AMENDMENT BILL

Report

Report of Committee adopted.

TOTALISATOR AGENCY BOARD BETTING ACT AMENDMENT BILL (No. 2)

Third Reading

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Mines), and passed.

HEALTH ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. R. H. C. STUBBS (South-East) [2.45 p.m.]: I move—

That the Bill be now read a second time.

I am introducting this measure because so many local authorities bog down with the Health Act at the moment, and I thought I would be assisting them by having the Act amended. Section 99 (2) of the Act was amended in 1954, but a situation has since arisen that apparently was not foreseen at that time. The Act is of no use at all. A local authority that has not got a medical officer for health cannot avail itself of section 99 (2).

Perhaps if I start at the beginning and cite the Dundas Shire Council I could make the position clear. That council had a septic tank programme for the town, and the programme was gazetted in the correct way in accordance with the requirements of the Health Department. It was published in the *Government Gazette* on the 11th December, 1959. Everything went according to plan, and about 600 septic tanks were installed, and then someone chose to challenge the by-laws, and the by-laws did not stand up to the challenge in court; they were declared *ultra vires* the Act.

We then did as the Health Department told us; we took proceedings under section 99 (3), but again when they were challenged in court they were thrown out. On that occasion the magistrate said we should have taken action under section 99 (2), and then only with the consent of the medical officer for health. My amendment will overcome that difficulty, I think, because it proposes to delete the words "with the consent of the medical officer for health," and then to add the following paragraph:—

> Where there is a medical officer of health for the time being of the local authority, the notice mentioned in the preceding paragraph shall be given only with the consent of the medical officer of health, except where he or his spouse or any company or association of which he or his spouse is a member is the owner or occupier or one of the owners or occupiers of the house, public place, or private place.

On Tuesday I asked the Minister for Mines this question—

> How many shire councils do not have an appointed medical officer for health?

The answer was that there are 34; and the shire councils were named.

The by-laws I have just mentioned, which were gazetted on the 11th December, 1959, were challenged by a woman through her solicitor, and I will quote the submission made by the solicitor to the magistrate, as follows:—

> The summons claims that the charge is laid under section 99 (3) of the Health Act and Model By-laws Series A.
>
> We have advised Mrs. R.—

I will not mention the woman's name—

> —that the charge is clearly unsupportable and as it will be impossible for her to attend the court on the return day, the 23rd instant, we should be grateful if you would inform the court that the defendant pleads not guilty and tender this letter.
>
> Section 99 (3) of the Health Act provides that "if it appears to the local authority to be advisable that any house should be provided with an apparatus for the bacteriolytic treatment of sewage it may cause written notice to be served on the owner of the house . . . . requiring him within a time specified in the notice to provide and install such apparatus for and in connection with such house . . . . "

Then the submission deals with subsection (4), and it later goes on to say—

> If the notice referred to in the summons is the amendment (By-law 1C) to the Model By-laws Series A on page 3024 of the *Government Gazette* of the 11th December, 1959, it is not a notice

as contemplated by sections 99 (4) and 354. The amendment purports to amend the Model By-laws, which themselves are authorised by section 343, but it is clearly *ultra vires* in that it usurps the function of section 99 of the Act. Although there is power under section 134 (1) for a by-law to be made in respect to the bacteriolytic treatment of sewage it cannot and must not override any express provision of the Act which is precisely what the amendment purports to do by declaring generally that certain premises shall be equipped with bacteriolytic installations whereas the Act requires each case to be considered separately in accordance with the procedure laid down by subsection (3) of section 99.

In short, the defence is

(1) The notice referred to in the charge is not a valid notice as it was not given pursuant to section 99 (3) or in accordance with section 354 of the Act.

(2) By-law 1C is *ultra vires* as being in conflict with section 99 (3) of the Act.

We ask that the charge be dismissed.

We suggest that if there are any like prosecutions on the same day that this letter be brought to the attention of the court before they are commenced. We propose sending a copy to the secretary of the board so that he will have notice of the defence before the hearing and shall ask him to let us know the result.

As I have said, we lost the case; and, in addition, about 10 other cases heard that day were dismissed. We then notified the Health Department and received this circular—

Circular No. 531:

To all Health Authorities:

A number of local authorities have made by-laws which require all owners of properties within a defined area to install septic tanks by a specified date.

A local authority recently prosecuted an owner who did not provide a septic tank within the time specified. The case was defended. It was contended that a by-law in this form did not fulfil the requirements of section 99 (3) of the Health Act, which demands that a notice be served on the owner requiring the septic tank to be provided on a property named in the notice, and fixing a time for compliance.

The Court upheld the defence argument and dismissed the case. All by-laws of this type must now be regarded as invalid. Local authorities may still achieve the desired result, but in each case a separate notice must be served on each owner, stating the local authority's requirements, fixing a time for compliance and identifying the premises on which the work is to be undertaken.

We did precisely that. The shire council moved a resolution at the meeting that certain action be taken. The inspector was instructed to carry out this action which was executed under section 99 (3). Prior to that we had obtained the advice of a solicitor representing the local governing authorities and also the advice of two other solicitors, and all three told us we could sustain our prosecution under section 99 (3).

To make a long story short, we did institute proceedings under that section and once again the magistrate gave a fairly long ruling, but at the conclusion of it he stated the following:—

It should be noted that the subsection uses the word "may". If this requirement is intended to apply to a property where there are not sanitary conveniences it would use the word "shall" otherwise the local authority would be condoning an offence under the section.

In my opinion s.s. (3) applies where sanitary conveniences have been provided but it is desirable that a septic tank should be installed.

No notice had been served under s.s. (2) which I consider is necessary before a notice can be served under s.s. (3).

The appeal is allowed.

That is, the appeal against our case. Later, the shire council pursued this matter further. The following is a letter from the council to the Commissioner of Public Health:—

At the latest meeting of the above council I was instructed to write to you with a view to ascertaining if the Dundas Shire Council could enforce an order to install septic tank facilities in connection with . . . . premises at Norseman.

I have omitted from the letter any reference as to where the premises are situated. Continuing—

In the appeal . . . . against the council, the Magistrate found "that Section 99 (2) rendered it necessary for the health inspector, with the consent of the 'Medical Officer of Health', first of all to give written notice to the occupier of these premises to install sanitary convenience, after that, the Shire Council could insist that the sanitary convenience should be a septic tank."

Now the point here is, the Dundas Shire Council at present has not appointed "a Medical Officer of Health",

> therefore in view of the Magistrate's finding . . . . can the Dundas Shire Council enforce an order to install septic tank facilities in connection with the . . . . premises at Norseman?

Once again, I would point out that I have not quoted any reference which would indicate where the premises are situated. The Commissioner of Public Health replied to the shire council in the following terms:—

> Your letter dated 20th July concerning the Council's powers under Section 99 (2) of the Health Act, is acknowledged.
>
> The Act requires that the requisition be made by the Inspector "with the consent of the medical officer of health". A local authority without a Medical Officer for Health is therefore unable to meet the requirements of Section 99 (2) of the Act.

In 1954, section 99 (2) was amended. Apparently prior to this the local authority had power to act under that section, but it was amended to insert the words that the premises were to be inspected by the inspector with the consent of the medical officer for health. Why, I do not know. Yesterday I asked a question as follows:—

> Within local authorities where a medical officer for health has not been appointed pursuant to Section 27 of the Health Act, 1911, is it possible for the provisions of Section 99 (2) of that Act to be enforced?

The following is the reply I received from the Minister for Mines:—

> No, a Bill is to be introduced shortly to repeal subsection (2) of Section 99 of the Health Act. This will remove the present anomaly in the Act whereby there is differentiation between local authorities which have a medical officer of health and those which do not. Further, with this subsection of the Act as it now stands, there is no right of appeal against an inspector's order, which is contrary to the general principles of the Act.

Those shire councils find themselves in a hopeless and frustrated position, and I have introduced this Bill with the object of assisting them. This position has been going on for nearly 12 months and it can be seen that the shire councils, by now, are really frustrated. Most of the people in the community have complied with the instructions issued, but there are some who have not, and the shire councils cannot do anything about it. Therefore, in the interests of those local authorities I have introduced this Bill. I now wish to refer to section 26 of the Health Act which reads as follows:—

> Every local authority is hereby authorised and directed to carry out within its district the provisions of this Act and regulations, by-laws, and orders made thereunder:
>
> Provided that a local authority may appoint and authorise any person to be its deputy, and in that capacity to exercise and discharge all or any of the powers and functions of the local authority for such time and subject to such conditions and limitations (if any) as the local authority shall see fit from time to time to prescribe, but so that such appointment shall not affect the exercise or discharge by the local authority itself of any power or function.

Section 99 (2) is in conflict with section 26 because the express wish of the local authority was to do certain things. It authorised its inspector to do this work on its behalf. Section 99 (2) reads as follows:—

> If any house, public place, or private place in the district appears to an inspector appointed by the local authority not to have sanitary conveniences or bathroom or laundry or cooking facilities in accordance with the preceding subsection, the inspector with the consent of the medical officer for health shall by written notice require the owner or occupier thereof within a time specified in such notice to provide the same.

So one can see that it is not only sanitary conveniences that are held up, but people cannot even put in a bathroom, a laundry, or cooking facilities. If section 99 (2) were enforced it would be very frustrating.

The Hon. H. K. Watson: You are not suggesting deleting section 99 (2)?

The Hon. R. H. C. STUBBS: I am coming to that. My idea at the moment is to delete from subsection (2) of section 99 the words "with the consent of the medical officer for health." With the previous words in the subsection it would read as follows:—

> . . . . the inspector shall by written notice require the owner or occupier thereof within a time specified in such notice to provide the same.

Paragraph (b) would read—

> Where there is a medical officer of health for the time being of the local authority, the notice mentioned in the preceding paragraph shall be given only with consent of the medical officer of health, except where he or his spouse or any company or association of which he or his spouse is a member is the owner or occupier or one of the owners or occupiers of the house, public place, or private place.

The reason for this is that apparently nowadays people invest in properties, and if a medical officer were interested in a property he should have no say in regard to giving his consent; the local authority

should have the power to carry on. The answer to my question yesterday was as follows:—

> Further, with this subsection of the Act as it now stands, there is no right of appeal against an inspector's order, which is contrary to the general principles of the Act.

I do not quite agree with that; and I might say that I have had experience in these matters. I have had people appeal against orders. To put the matter in its right perspective, section 36 which allows for appeals against orders and decisions of local authorities reads as follows:—

> Any person aggrieved by any order or decision of a local authority in any case in which the local authority is empowered to recover any expenses incurred by it may, within twenty-one days after notice of such order or decision, appeal against such order or decision to a magistrate sitting as a court of petty sessions within the district.

The second case which I mentioned earlier was heard under this section and appealed against. It was referred by the Supreme Court Judge back to the magistrate who ruled against us. Section 37 reads as follows:—

> Any person aggrieved by an order or decision of a local authority from which an appeal does not lie under the last preceding section may, within fourteen days after notice of such order or decision, appeal against the same to the Commissioner.

Then it goes on to state the provisions in respect of an appeal and says:—

> The Commissioner may uphold, revoke, vary, or alter the order or decision of the local authority, and, subject to the provisions of section thirty-nine, the order of the Commissioner shall be binding and conclusive on all parties.

The point I wish to make is that section 26 gives a local authority power to carry out the provisions of the Health Act, and also to appoint someone as its deputy. When an inspector carries out an order, he does so only after that order has been moved, seconded, and recorded in the minutes of the road board; and he is the deputy who carries out the work.

The Hon. H. K. Watson: Is that the only time he acts?

The Hon. R. H. C. STUBBS: I am talking about an order pertaining to septic tanks, and so on. He has power in other parts of the Act. I refer again to the answer to my question as follows:—

> A Bill is to be introduced shortly to repeal subsection (2) of section 99 of the Health Act. This will remove the present anomaly in the Act whereby there is differentiation between local authorities which have a medical officer of health and those which do not.

I do not mind if the Government decides to abolish subsection (2) of section 99. I do not care how it is done; the important thing is that I want to stop this rot, if I may use that word, whereby road boards and shire councils cannot act. If the Minister decides to delete subsection (2) of section 99 I will be quite happy. Either way it will achieve what we seek. I thought I would draw that to the Minister's attention.

The Hon. A. F. Griffith: Naturally enough I will show the Minister for Health a copy of your speech, and we can consider it from then on.

Debate adjourned, on motion by The Hon. A. F. Griffith (Minister for Mines).

CITY OF PERTH BY-LAW No. 65

Disallowance: Motion

Debate resumed, from the 12th September, on the following motion by The Hon. F. J. S. Wise (Leader of the Opposition):—

> That by-law No. 65 made by the City of Perth under the provisions of the Local Government Act, 1960, and the Town Planning and Development Act, 1928-1958, as published in the *Government Gazette* on the 24th May, 1962, and laid on the Table of the House on the 31st July, 1962, be and is hereby disallowed.

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [3.8 p.m.]: First of all I would like to say I am sorry that Mr. Wise saw fit to use the words he did when he moved for the disallowance of this regulation. He said he regarded the regulation as an affront to Parliament. Surely if some motion, Bill, or by-law is not approved by Parliament during one session, it is not an affront to Parliament to bring it up at a subsequent session! If that were the case I am afraid our parliamentary system would receive a severe jolt. Only two nights after Mr. Wise moved for the disallowance of this by-law one of his own colleagues (The Hon. E. M. Heenan) moved the second reading of a Bill which was identical with one that Parliament rejected last year.

If during a session of Parliament something is refused, surely the right must be retained to bring that matter back during some future session!

The Hon. F. J. S. Wise: That was not my point at all.

The Hon. L. A. LOGAN: The honourable member said it was an affront to Parliament because the regulation was brought back again.

The Hon. H. K. Watson: Not by Parliament.

The Hon. L. A. LOGAN: The Bill I referred to was introduced by an individual; and perhaps the circumstances surrounding this by-law have much greater force than those surrounding the introduction of that Bill. The resubmission of this by-law came as the result of a unanimous resolution of the Perth City Council, which is a responsible body; and surely it is the duty of a Minister, when he receives a unanimous decision from the Perth City Council that this by-law be promulgated in the manner in which it was forwarded to him, to do something about it. I think I would have been most remiss if I had not taken the action I did; and I cannot see that my action is an affront to Parliament. Mr. Wise said this—

> He has certainly indicated that neither the Minister nor the Government wishes to take notice of the decision of this Parliament.

Of course, that is not so. As I have already said, I was confronted with the decision of the Perth City Council. As Minister for Local Government, I was the responsible Minister, and I took the only action I could. I think at this stage it is just as well to go back over the history of this matter so that the House will be acquainted with all its ramifications.

The Town Planning Committee of the Perth City Council has, for many years, been endeavouring to undertake a zoning scheme for the city area; that is, all the area under the control of the Perth City Council. For this purpose it divided the city area into three zones and promulgated a by-law for each zone. The Victoria Park-Carlisle section was called by-law No. 63; the North Perth section was called by-law No. 64, and the city area was called by-law No. 65.

Those by-laws were advertised. As a matter of fact, in each particular area they were the subject of public meetings in which all the ramifications of the zoning scheme were outlined to those people who were interested enough to go along to the meetings. Objections were then received by the Perth City Council. The Town Planning Committee of the Perth City Council considered all the objections. They were then passed on to the full council; and I think I can, say that only three of the objections were upheld as a result of a vote taken in the Perth City Council. In one case there was a majority of 15 to 4; in another, 14 to 4; and in the third, 15 to 3.

The objections were subject to approval by the Town Planning Board. The remarks of the Town Planning Committee of the City of Perth, those of the full council, and those of the Town Planning Board were then forwarded to me for consideration. I was dealing with the three by-laws, and not just one particular by-law.

I personally investigated every objection. Some of those objections were valid, and we were able to uphold them. As a matter of fact, some of them were upheld by the town planning committee before they came to me; and there was a valid reason for the objections. The result of all this was that the three by-laws were laid upon the Table of this House last session. No-one objected to by-laws Nos. 63 or 64, despite the fact that the same problems were involved and there was the same type of objector in the two zones; but exception was taken to by-law No. 65. We have had the position where two areas of the City of Perth have been subject to zoning by-laws, but the city area has not been subject to a zoning by-law for that period of time.

The City Council, realising that the city was without any zone, discussed the position at two or three of its meetings, as far as I know. It wrote to me and asked me whether I would give preliminary approval to its zoning scheme, and I did so.

The Hon. N. E. Baxter: What date was that?

The Hon. L. A. LOGAN: In December, if I remember rightly. I do not think we should worry about the date at the moment. The point is that the council asked me for preliminary approval. I think it was in the new year. I am not concerned with the date; I think the procedure is important. I was asked for preliminary approval, which I gave. The zoning by-law was again gazetted, and objections were invited for a period of three months; and the only objections received for the whole of the zoning were three in the area of Beaufort Street—the same three that had been received previously for that portion of Beaufort Street.

The Perth City Council considered the objections and it unanimously decided not to uphold them. The council then wrote and asked me if I would promulgate the by-law as presented to me in the first place, and I did so. I think I did the only thing possible. Never at any stage have I had to consider the zoning of that portion of Beaufort Street which seems to be under fire—from Bulwer Street to Chatsworth Road—on a commercial basis. The zoning scheme presented in the first place showed the area as being set aside for residential flats. The following can be erected in zone 2, a residential flat area:—

Class A1—Churches, chapels and places of public workship.

Class A2—Public hall, libraries, museums, concert halls, exhibition rooms or other halls for exposition or exhibiton or instruction other than schools or public assembly not otherwise classified.

Class A4—Hospitals, sanitoria, convalescent homes, orphanages or other similar charitable institutions, baby health centres and

creches, other similar social welfare institutions but not mental or correctional institutions or veterinary hospitals or other premises for treatment of animals or birds.

Class A6—Schools, colleges, and similar educational institutions.

Class A7—Buildings used in conjunction with and for the purpose of playing fields, recreation grounds, tennis, bowling and croquet clubs and similar activities.

Class B1—Dwellings designed for occupation in a single tenancy but including such dwellings to which a doctor's or dentist's professional rooms are attached.

That is the classification of one of the areas which is under objection. There is a residential house with a professional room attached to it. To continue—

Class B3—Buildings including boarding or lodging houses where sleeping accommodation is provided for six or more persons provided the same are registered under the Health Act and provided that no stoves or other cooking appliances are installed or used in any room let to a boarder or lodger therein.

Class B4—Buildings licensed under a publicans general license or hotels or residential clubs licensed under the Licensing Act.

Class B5—Garages and outhouses appurtenant to and in fact used in conjunction with any of the preceding Class B buildings provided that no business or industry is carried on.

Class B6—Duplex dwellings.

Class C3—Electric substations and similar public buildings to which no store yard or depot is attached.

Class C4—Fire stations, police stations, post offices and similar utility buildings.

Class C10—Eating houses as defined in the City of Perth by-law.

Although this area is classified as being for residential flats, it can be used for many other types of buildings. I hope members will not form the idea that the only buildings to be erected in the area will be flats.

When we look at the area which is classified under zone 2 we find there are only three shops. There is one shop on the corner of Bulwer and Beaufort Streets and the other two are at the top end close to Chatswood Road—I am talking about the area that is zoned as flat residential, zone 2. They are the only three shops in that area, and all the rest of the buildings are residential, including flats, churches, church halls, and vacant land; and when the plan was first produced some vacant land was occupied by a second-hand car dealer.

The endeavour at the time was to prevent ribbon development and as there were only three shops which came into the commercial category it is obvious that that was the time to prevent any further spread; and in my opinion the planning at that stage was quite correct. The Perth City Council in its wisdom at the time decided to uphold the three appeals, one of which concerned a vacant block, and another the doctor's residence I have mentioned. There was no alteration of the zoning in regard to that residence because it was there and could remain there and carry on for ever and anon so far as the zoning scheme was concerned. The third one was in respect of a paved area with a semi-detached house on it which at that time was vacant.

The result of the decisions then made by the Perth City Council would have created a hotchpotch in regard to the zoning of that area; and again I say I did the only right thing as a responsible Minister to see that no hotchpotch of zoning took place. Had the council come back at that time and made a recommendation to me that the whole of the area should be re-zoned to commercial, zone 7, I may have given some thought to the recommendation. It would have necessitated readvertising the scheme; but no recommendation was made.

Let me remind members that there are 31 owners of land in that particular area, and on every occasion 28 of them have accepted the zoning scheme as presented to the House. I know some members might say that these owners have not objected, because they would consider it would be only a waste of time. If that is the attitude I have to listen to, or think about in my office as Minister, I wonder how far I would get.

The Hon. H. K. Watson: How far would the objectors get if they objected? That's a fair question.

The Hon. L. A. LOGAN: I have already told the House that many of those who raised objections in regard to the three zoning schemes had their objections upheld. I might also mention that at Bunbury the other day, when I went down there to listen to the objections, I was able to satisfy 75 to 80 per cent. of the people concerned. I think Mr. MacKinnon will agree with that.

The Hon. G. C. MacKinnon: That is so.

The Hon. L. A. LOGAN: It did not need much of a readjustment to the scheme to cover everybody's requirements. If any member likes to have a look at the objections that were received by the council for the three zoning schemes he will see that in regard to the objections lodged, many objectors had their requirements satisfied. So I do not appreciate the statement that people do not object because they say

"where will it get us?" If that is to be the attitude of any person who thinks himself badly done by, just what kind of legislation would we get or what kind of a state would we get into?

The Hon. F. R. H. Lavery: But you would not say there are not people who think that way.

The Hon. J. G. Hislop: When these people objected previously, did they get any reply?

The Hon. L. A. LOGAN: That is the council's job, not mine. Whether the council replied to them or not I do not know. I am dealing with the council in the final analysis. As I said previously, one of these three premises was a paved area with a semi-detached house which had been used as an office; and had the firm concerned continued using it as an office, and had it carried on as a second-hand car dealer, it could have continued with a non-conforming use right for as long as it wished. But at that stage it was vacant. I have already mentioned the doctor's house and, as I have said, we have not altered the zoning in that regard. The remaining property on the other side was a vacant block of land, and it has been vacant land ever since it has been land. It has a few hoardings on it, but that is all. Therefore we are not altering the zoning of this area, really, but maintaining the *status quo* as far as it is concerned.

The Hon. J. G. Hislop: But the doctor could not have sold the house for any other purpose.

The Hon. L. A. LOGAN: He could have sold it for any purpose—for a hotel if he wished.

The Hon. J. G. Hislop: You say the zoning has not been altered, but it stays as a doctor's house.

The Hon. L. A. LOGAN: We have not altered the position of the doctor's house with surgery attached. He could have sold it for a hotel site, if he wished. We have not altered the zoning. Therefore, the original planning of this area, in my opinion, was the correct one, and there will not be a continuous line of glass-fronted shops in that area.

When the by-law was disallowed, I, as Minister, could not go out and tell an individual what to do, but I made sure that the person concerned was informed as to his rights, and he was advised what to do. He was advised that if he wished to start his second-hand car dealer's business he should get the cars on to the lot and put a fence around it to comply with the Factories and Shops Department requirements. I understand somebody else advised him not to do that, but that is not my fault. I gave the only advice, or I made sure he got the advice, that I thought he required.

The first time this gentleman appealed I had some sympathy for him, because he said to me, "Mr. Logan, I am renting one place for £30 a week, and another for £40 a week. I want to use my own ground for my own business." But six months after giving all the advice I could to this man he did not take the opportunity to use that vacant block of land for his business purposes; and I am afraid my sympathy for him in the first place might have been somewhat misplaced. Perhaps he took other advice which was given to him, and not what was tendered to him from my side. However, I do not think anyone can complain that I did not try to do the right thing by the individual concerned.

Members can appreciate what the position is there, what the intention of the zoning scheme is for that area, and what can be built in it. As regards the old second-hand car dealing place, which was vacant when the scheme was first brought up, if the owner had gone ahead and operated it as a second-hand car business he could have done so for as long as he liked with a non-conforming use right, and nobody would have interfered with it.

The Hon. N. E. Baxter: A conforming use right?

The Hon. L. A. LOGAN: No, a non-conforming use right.

The Hon. J. G. Hislop: On the Piccadilly motor site?

The Hon. L. A. LOGAN: No; they were operating there at the time this zoning scheme came into force.

The Hon. J. G. Hislop: So there are really two blocks now.

The Hon. L. A. LOGAN: No; we still have three blocks under consideration, because he does not want re-zoning. He has a non-conforming use right in this particular zone. What happens is this: If ever he goes out of business, or there is a fire and 80 per cent. of the business is destroyed, or the business ceases to be used for the purpose for which it is now being used, then we would have to go back under this zoning. But I am not stubborn or obdurate; even though that accusation has been levelled at me. Even though I have told the House that I was responsible for this, I do not think anyone could quibble at what I have done.

I am, however, prepared to go so far as to issue a direction—even though possibly I have not the power to do so; but I am prepared to take the risk—and I know that my direction will be carried out; because I have made inquiries to see whether or not it will be carried out. I am prepared to issue a direction to the Town Planning Committee of the Perth City Council in conjunction with the Town Planning Department to reassess this particular area, taking cognisance of everything that has been said by members

against this particular zoning, and I would then ask them to report back to me on their findings.

On top of that I am prepared to say that if the Perth City Council and the town planning committee come back with the same result, namely, that it should be zoned as it has been zoned, then the Perth City Council should purchase the three properties concerned. I think that is a pretty fair offer. I cannot do more than that. On that basis I would prefer Mr. Wise to withdraw his objection to this scheme. If he is not prepared to go that far I would then have to ask the House not to support him. I make that offer, however, because I do not want to be left without a zoning scheme; nor, I am sure, does the Perth City Council wish to be left without a zoning scheme for its city area.

Accordingly I make that offer in all sincerity, and in the full knowledge that my instruction will be carried out. I hope the House will accept my assurance that that will be done; and if a recommendation is made that the present zoning be adhered to, the Perth City Council should purchase the three properties concerned. Again I ask Mr. Wise to withdraw his objection; but if he is not prepared to do so, I will ask the House to vote against his motion.

THE HON. N. E. BAXTER (Central) [3.33 p.m.]: My remarks on this motion will be very brief. I commend the Minister on his very fair offer to have this area reassessed in conjunction with the town planning authority and the Perth City Council. I would like to say, however, that since this identical by-law was disallowed on the 1st November last year, the owners of property in the particular area in dispute were given until the 24th May this year—seven months, mark you, Mr. President—to do something about the properties in question. What have they done? Absolutely nothing!

If they were so very anxious to use this property for commercial purposes—as a commercial site—or for anything else, they had seven whole months in which to take action. I would point out that the people in the West Perth area, which came under the same disallowed by-law, took action where they desired to make alterations; they did what they wanted to do with their property, and carried out alterations and building during the seven-month period.

The Hon. L. A. Logan: And I upheld their appeals.

The Hon. N. E. BAXTER: But these other people did nothing at all. In reply to the Minister's interjection, there was no need for an appeal. There was no appeal to be made against them; although the Perth City Council did try to bluff the people concerned that they had done wrong. However the Perth City Council did not have a leg to stand on. I must stress the fact that the people with whom we are dealing now have had seven whole months in which to do something about these properties, and they have done nothing at all.

The question thus obviously springs to one's mind as to how genuine they are in their desire to convert these sites into business sites, or whatever else they may wish to do with them. They had the opportunity for seven months to do something, and they should have taken advantage of that opportunity, instead of doing nothing and coming along now and requesting that the by-law be disallowed after it has been regazetted.

I trust the House will not agree to the disallowance of this by-law. We have a town planning scheme that has been well worked out; a great study has been made in the interests of the City of Perth; and yet, because a few people are disgruntled, we are asked to throw the whole thing into the air again for another seven or 12 months, and to create conditions which will only be chaotic. Since the people to whom I have referred did not take advantage of the opportunity presented to them —and it is their own fault for not having done so—I see no reason why the House should support a motion merely to give them breathing space to do what they want to do with their properties.

THE HON. J. G. HISLOP (Metropolitan) [3.36 p.m.]: I am very glad indeed the Minister made the suggestion he did; because it looks as if both organisations —the Perth City Council and the Legislative Council—are at loggerheads; and no good will result from any hotheaded decision, or from stubbornness.

No purpose would be served in going over the whole argument put up before, because there is no alteration in the conditions that exist. I would, however, suggest to Mr. Baxter that he adopt a different view in regard to the people to whom he referred. How can a private individual who owns property in that area suddenly, within seven months, do something about it so as to make it a non-conforming use? Firstly it is necessary for him to find the capital to carry out his plans. If he does not possess the capital then he must sell the property to someone who has such capital; and in this connection I would say it is not altogether easy to sell such property.

All sorts of accusations have been made about the people concerned; and one misconception I would like to remove now is that when speaking to one of the senior authorities in the Perth City Council I was led to believe that Dr. Watson's property on the corner was involved in this matter, for the simple reason that the owners of

Piccadilly Motors were to sell their property to an oil company provided that the land between their property and the corner could be purchased.

I immediately approached Dr. Watson and asked him if he had been dealing fairly with me. I said he had not let me know that this was part of his sale. He said he knew nothing about it; that nobody had approached him to sell his property to the oil company. The ridiculous statement was made more ridiculous because in between Dr. Watson's property and Piccadilly Motors was a house already occupied by a doctor. It would have been necessary to get the whole three. That was the intended argument. It would have meant that these people would have had a frontage of 250 feet to Beaufort Street on which to build a service station.

The Hon. L. A. Logan: It didn't come into discussion with us at any time.

The Hon. J. G. HISLOP: This was told to me by a senior authority in the Perth City Council. So I went to my friend Dr. Watson and said, "Let us be honest with each other about this; because I have been speaking publicly on this matter." He denied there was any truth in the accusation and he said he knew nothing whatever about it.

One of the other individuals whom Mr. Baxter has criticised has been known to me as having financial difficulty in reorganising his property.

The Hon. F. R. H. Lavery: I also know that to be true.

The Hon. J. G. HISLOP: When speaking the other night on the Metropolitan Region Town Planning Scheme Act Amendment Bill the Minister said that one clause was designed so that there should be no injurious affection to anyone—or words to that effect. This is the same sort of attitude. I am very grateful to the Minister, because this is a solution to the matter. I would hate to see a situation arising under which a difference of opinion continued between the Perth City Council—which has done a wonderful job for Perth, and no-one can criticise its work—and the authority. These two bodies are both endeavouring to work for the benefit of the community.

I do not mind admitting that I have spoken to the Town Clerk about the motion. I told him that if the by-law continued in force the people interested must suffer injurious affection. I then put the suggestion to him for the council to purchase the three buildings, and he said the council would be prepared to do so if the situation was forced upon it.

The Minister has now made the suggestion that the town planning authority will review this matter. If it likes to leave the matter in the hands of private individuals, well and good; but if it insists on this part of town planning, then the Perth City Council will purchase the properties.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [3.42 p.m.]: There was much in what the Minister said early in his remarks to which I could amply and satisfactorily reply; but because of the comments in the last part of his speech I am prepared to turn the other cheek.

The Hon. E. M. Davies: He might slap it harder.

The Hon. F. J. S. WISE: I do not mind how hard my cheeks are slapped. In spite of certain disabilities, I am still able to look after myself both physically and verbally. I was surprised at the comments made by Mr. Baxter, because he was speaking without his book. I wish he were present now to hear me. As a rule he desires to be fair in his comments, and he may have desired to be fair on this occasion, but it is not true for him to say that the people concerned had seven months in which to take action and did nothing about the matter.

I hold in my hands a sheaf of papers—communications between solicitors for the people involved, the Perth City Council, and the town planning authority—objecting to certain happenings and asking where they stood now that Parliament had disallowed the regulations. As Dr. Hislop implied by interjection, there was no reply to those communications. So, it is quite wrong to say that for seven months the people concerned, who are feeling, and have felt, aggrieved, have taken no action.

In regard to the comment of the Minister that he is being asked to make a hotchpotch of the area of the city concerned—this is the only one of his earlier remarks upon which I will touch—I suggest he should have a look at his own plans and the colourings thereon which depict the type of zone in the area between Chatsworth Road and Bulwer Street. He could not find a more hotchpotch locality in the city than that. So, in regard to it being a hotch-potch, he need have no fears of making the area in question a worse mess.

The Hon. L. A. Logan: I disagree with that one.

The Hon. F. J. S. WISE: With regard to the suggestions made by the Minister, some of which I have had the privilege of discussing with interested parties prior to today, I am pleased to hear that there is a clear offer from him of what he is prepared to do. I regard my position thus: I would be churlish indeed if I had any objection to what the Minister has said, or if I insisted on proceeding with my motion in this House, because I believe that what the Minister has said is his known intention. I consider that we can abide by the decision of the authorities which will investigate this matter along the lines suggested. That being my view, I ask leave of the House to withdraw the motion.

Motion, by leave, withdrawn.

House adjourned at 3.46 p.m.