Question put and a division taken with the following result—

Ayes—16

Mr Barnett	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bryce	Mr May
Mr B. T. Burke	Mr McIver
Mr Carr	Mr Skidmore
Mr Davies	Mr Taylor
Mr T. D. Evans	Mr A. R. Tonkin
Mr Hartrey	Mr Moller

(Teller)

Noes—21

Mr Blaikie	Mr Nanovich
Mr Coyne	Mr O'Neil
Mrs Craig	Mr Ridge
Mr Crane	Mr Rushton
Dr Dadour	Mr Shalders
Mr Grayden	Mr Stephens
Mr Grewar	Mr Thompson
Mr P. V. Jones	Mr Watt
Mr Laurance	Mr Young
Mr McPharlin	Mr Clarko
Mr Mensaros	

(Teller)

Pairs

Ayes	Noes
Mr Bateman	Mr O'Connor
Mr H. D. Evans	Mr Gibson
Mr Fletcher	Mr Sodeman
Mr T. J. Burke	Mr Old
Mr J. T. Tonkin	Sir Charles Court
Mr Harman	Mr Cowan

Question thus negatived.

Motion defeated.

House adjourned at 11.03 p.m.

Legislative Council

Thursday, the 9th October, 1975

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS (6): ON NOTICE

1. COMMUNITY RECREATION COUNCIL

Applications for Assistance

The Hon. R. H. C. STUBBS, to the Minister for Recreation:

(1) When did the Community Recreation Council commence operations?

(2) How many applications have been received from the Eastern and Northern Goldfields, and Norseman, for assistance?

(3) (a) What were the projects requested in (2);

(b) how many have been approved; and

(c) what is the estimated cost of each?

The Hon. G. C. MacKINNON replied:

(1) 1st March, 1973.

(2) Equipment Grants—31.
Capital Assistance Grants—23.

(3) Equipment grants:
No record of incoming grant applications were kept in the period 1973/74. However, all other information is listed below—

1973/74 grants approved:

Applicant; Request

Eastern Goldfields Amateur and Little Athletics; Athletic equipment. Outcome—$300 athletic equipment.

Eastern Goldfields Basketball Association; Canteen refrigerator, hot water system, scoreboard. Outcome—$800 canteen refrigerator.

Goldfields Camera Club; 2 automatic slide projectors, 1 tape recorder. Outcome—$300 projector.

Eastern Goldfields Cricket Association; Practice nets. Outcome—$700 nets.

Eastern Goldfields Men's Hockey; Goals and Ground marker, coaching. Outcome—$130 equipment.

Eastern Goldfields Netball Association; Facilities, Equipment, coaching. Outcome—$180 equipment.

Eastern Goldfields Women's Hockey; Goal nets, travel assistance. Outcome—$130 goal nets.

Goldfields Archery; Archery equipment. $50 archery equipment.

Kambalda District Youth Committee; Initiate an equipment pool lighting. Outcome—$500 equipment and power plant.

Laverton Hospital Special Fund; Miscellaneous equipment. Outcome—$50 Table Tennis Table.

Eastern Goldfields District Youth Committee; Salary Part Time Worker. Outcome—$455 Part Time Worker.

Wiluna Cricket Club; Cricket equipment. Outcome—$200 equipment.

Eastern Goldfields Y.M.C.A.; Salary subsidy. Outcome—$3 500 salary subsidy.

1974/75:

Applicant; Request

Lake View and Star Division St. John Ambulance Brigade; Modern caravan to be used as mobile First Aid Post. Outcome—Referred to Lotteries Commission and approved by them.

Eastern Goldfields Kennel Club; Office furniture, tables and chairs, urn. Outcome—No funds available 74/75 transferred to 1975/76.

Kalgoorlie Play Group—Equipment suitable for running a kindergarten. Outcome—no funds available—advised to contact Childhood Services and Out of School Child Care.

Goldfields Rugby Football League; Floodlighting, rugby equipment. Outcome—a Grant of $350 as part cost of lighting was approved.

Police and Citizens' Youth Club —Kalgoorlie; Gym equipment. Outcome—no funds available 74/75 transferred to 75/76.

Kalgoorlie Croquet Club—Extension of greens playing area to make them regulation width. Outcome—A grant of $600 to assist with above request.

1975/76—No decisions have been made in respect of applications for 75/76.

Applicant; Request

Goldfields Speedway Association Inc.; Rebuilding safety fence and track.

Salvation Army Goldfields Youth Club; Pool table.

Eastern Goldfields Y.M.C.A.; Drink dispenser.

Goldfields Gliding Club; Refurbishing of Glider.

Kambalda Gun Club; Establishment grant for equipment.

Norseman Volunteer Fire Brigade; Resurfacing of training track.

Little Athletics Club—Norseman; Storage shed, equipment.

Eastern Goldfields Lawn Tennis Association; Fencing, lighting.

W.A. Police and Citizens—Kalgoorlie; Equipment, bus, upgrading facilities.

Eastern Goldfields Amateur Basketball Association; Equipment, Court resurfacing, renovation of seating.

1st Kalgoorlie Scout Group; Equipment.

Eastern Goldfields Senior High School; Development of cricket practice facilities for community use.

Applications for Capital Assistance—

Shire of Dundas:

Changeroom facilities and recreation rooms at the Norseman Memorial Oval.—Estimated Cost $60 000.

Swimming Pool and Sports Complex—Estimated cost $70 000.

Shire of Leonora:

Stage I sporting complex—Tower Street, Leonora—Estimated cost $38 540.

Shire of Laverton:

Erection of Swimming Pool—Laverton—Estimated cost $130 000.

Recreation ground and buildings — Laverton — Estimated cost $47 500.

Community hall, containing 2 badminton courts—Laverton —Estimated cost $127 000.

Shire of Menzies:

Sports Pavilion and ablution block — Menzies — Estimated cost $12 500.

Shire of Coolgardie:

Recreation Centre—Coolgardie —Estimated Cost—$44 000.

Squash Centre extensions—Kambalda West—Estimated cost $14 500.

Swimming/Tennis Club rooms—Coolgardie—Estimated cost $5 000.

Shire of Boulder:

Community Library in conjunction with the State Library Board plus adjoining recreation park.—Roberts Street, Kalgoorlie—Estimated cost $365 000.

Ablution block—Boulder Scout Group—Estimated cost $2 600.

A multi-purpose complex comprising 4 stages to serve as a Goldfields Community Centre —Eastern Goldfields Y.M.C.A. —Boulder—Estimated cost $245 000.

Water Pumping Unit—Volunteer Fire Brigade Association—Boulder—Estimated cost $2 755.

Second storey on present changerooms—Boulder Oval—Estimated cost not stated.

Town of Kalgoorlie:

Construction ablution block—Girl Guide Hall—Kalgoorlie—Estimated cost—$2 800.

Renovations club house—Kalgoorlie Bowling Club—Estimated cost $15 000.

Proposed heated pool (indoor) to existing Community Recreation Centre—Eastern Goldfields Branch of the W.A. Asthma Foundation—Estimated cost $75 000.

Sports Centre—D. R. Morrison Oval—Estimated cost $230 000.

Erection of Public Toilets—Edwards Park, Kalgoorlie—Estimated cost not stated.

Irrigation, landscaping—Hammond Park—Estimated cost $87 000.

Eastern Goldfields Lawn Tennis Association—Stage I of a planned 30 grassed courts tennis complex—Estimated cost Stage I $75 000.

No. of grants approved—

Equipment—15 with 12 applications yet to be considered 1975/76.

Capital assistance—
1973/74 — 1; 1974/75 — nil; 1975/76 to be determined.

2. RAILWAYS

Mullewa-Meekatharra Service

The Hon. S. J. DELLAR, to the Minister for Health representing the Minister for Transport:

(1) For each of the financial years 1972/73, 1973/74 and 1974/1975, what amounts were spent on maintenance work on the Mullewa-Meekatharra railway line?

(2) What is the allocation for 1975/1976?

(3) Are speed restrictions in force for sections of this line?

(4) If so—
(a) what are the restrictions imposed; and
(b) over what sections do the restrictions apply?

(5) What are the Government's intentions in respect of maintenance to the line to ensure a safe and reliable service?

The Hon. N. E. BAXTER replied:

(1) 1972/73—$211 800.
1973/74—$362 000.
1974/75—$1 009 500.

(2) $400 000.

(3) Yes.

(4) (a) and (b) A reduction of 10 km/h to 40 km/h has been imposed on the complete section; further speed restrictions are currently operative over the following sections:

Pindar to Wurarga—From 40 km to 63 km, maximum speed 30 km/h Yalgoo to Yoweragabbie—From 208 km to 211.50 km, maximum speed 20 km/h.

Moyagee to Cue—From 287 km to 300.10 km, maximum speed 30 km/h.

(5) Under the present traffic levels it is estimated the line can continue to be maintained to provide a safe and adequate service for the next three years. Complete rehabilitation of the Mullewa/Meekatharra railway is an extremely costly proposition. The Railways Department currently is examining all options available to it to assist in determining the most suitable course of action.

3. WYNDHAM HOSPITAL

Medical Specialists

The Hon. J. C. TOZER, to the Minister for Health:

(1) How many specialist medical officers have visited Wyndham hospital in the last 18 months?

(2) In which fields did each specialize?

(3) On what dates did they attend the Wyndham hospital for consultations?

The Hon. N. E. BAXTER replied:

(1) Five.

(2) Ophthalmology (2), E.N.T. (1), Obstetrics and Gynaecology (1), Surgical (1).

(3) Ophthalmology: 27/4/74, 9-10/8/74.
Ear, Nose and Throat: 9/7/1974.
Obstetrics and Gynaecology: Every 14 days.
Surgical: Every 14 days.

4. PRISONS

Parole of Rapist

The Hon. R. F. Claughton for the Hon. LYLA ELLIOTT, to the Minister for Justice:

(1) Did the Minister see the report in this morning's edition of *The West Australian* that a person convicted on the 20th June this year of raping two women, was released from prison by the Parole Board on the 25th September?

(2) Will he state each of the reasons upon which the Parole Board based its decision to release this man?

The Hon. N. McNEILL replied:

(1) Yes.

(2) No specific reasons, as such, are required to be given by the Parole Board. However, its decision was

based upon psychiatric reports, comprehensive reports on his social background, on information provided by the prison and parole services, and the trial judge's comments.

From my study of the reports, the Parole Board decision to release the person on parole, which was not made lightly, is an understandable one.

The person continues to be under close supervision of a parole officer, and I will, in the community interest, see that this is maintained.

5. BUSHFIRES

Control Plans

The Hon. R. H. C. STUBBS, to the Minister for Health representing the Minister for Lands:

What is the latest planning being carried out by the Bush Fires Board for the coming summer to try to avoid the repetition of the disastrous bush fires that raged on the Eastern and Northern Goldfields and Eyre Highway last summer?

The Hon. N. E. BAXTER replied:

Prevention of fire outbreaks over the wide areas involved is not possible.

Plans formulated prior to last summer have been developed. These plans rely on a high level of public awareness of the need to abate fire hazards prior to the severe summer weather.

Local authorities and pastoralists have been urged to prepare individual properties by reducing the amounts of fuel around fixed assets such as dwellings and fences.

On an overall district basis, local authorities and pastoralists have been encouraged, by dollar for dollar State Government subsidy, to plan and prepare strategic firebreaks designed to facilitate control of fires which do occur.

The State Government has agreed to meet half the fire suppression costs incurred by those local authorities which are active in the prevention field and take advantage of all the methods available to them to minimise the dangers.

Instructional schools have been conducted both at Perth and in the pastoral areas. The Bush Fires Board has stationed at Kalgoorlie an officer experienced in preparation and implementation of fire prevention plans in similar pastoral areas. He is now available to advise and assist local authorities in their planning and will remain in the area as long as is necessary.

6. FIRE STATIONS

Country Towns

The Hon. R. H. C. STUBBS, to the Chief Secretary:

(1) What are the criteria used by the Western Australian Fire Brigades Board in deciding to build new fire stations in country towns?

(2) How many fire stations have been built in country towns during the past seven years?

(3) At what towns were they built?

(4) What is the method used to provide the necessary finance other than local government assistance?

(5) What are the annual costs involved in servicing the loans?

(6) What is the aggregate capital involved?

The Hon. N. McNEILL replied:

(1) Volunteer fire brigades with temporary accommodation are provided with fire stations in priority order based on when the brigade was formed, and as funds permit. The W.A. Fire Brigades Board may replace or modernise an existing old fire station subject to available funds.

(2) 29.

(3) Albany, Broome, Carnarvon, Corrigin, Dalwallinu, Derby, Donnybrook, Dumbleyung, Eaton/Australind, Esperance, Geraldton, Kalgoorlie, Koolyanobbing, Kulin, Kwinana, Laverton, Mandurah, Narrogin, Northcliffe, Onslow, Pemberton, Pinjarra, Port Hedland, Quairading, Ravensthorpe, Rockingham, Walpole, Williams, Wundowie.

(4) The W.A. Fire Brigades Board meets the cost of new fire stations. The Fire Brigades Act requires contributions to the Fire Brigades Board *viz.*

Insurance 75%.

State Government 12½%.

Local Authorities 12½%.

(5) $87 000.

(6) $1 007 727.

BILLS (4): THIRD READING

1. Recording of Evidence Bill.
2. Auction Sales Act Amendment Bill.
3. Evidence Act Amendment Bill.

Bills read a third time, on motions by the Hon. N. McNeill (Minister for Justice), and passed.

4. Health Education Council Act Amendment Bill.

Bill read a third time, on motion by the Hon. N. E. Baxter (Minister for Health), and passed.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [2.42 p.m.]: I move—

That the Bill be now read a second time.

This Bill provides for amendments to a number of provisions of the Local Government Act.

With two exceptions, the proposed amendments have been considered by the Local Government Association and the Country Shire Councils' Association, and have received the support of each association. The two exceptions are the proposals affecting sections 174 and 561, both of which merely correct anomalies arising from previous amendments to the Act.

Subsection (6) of section 10 of the Act nominates when the annual election of a president shall take place. The provisions are, however, slightly inconsistent with those of paragraph (a) of section 73, which also deal with the timing of this election.

The former states that the election shall take place at the first meeting of the council held after "the fourth Saturday in May", whilst the latter provides for it to take place at the first meeting after "the annual election".

This Bill therefore repeals subsection (6) of section 10 and leaves the matter to be dealt with in paragraph (a) of section 73. For particular reasons, it is also desirable to amend the provisions of section 73 to which I shall later refer.

Sections 10 and 12 of the Act provide the Governor with certain powers to vary the number of members of a council, or the number representing each ward of a council. Elsewhere, the Act provides that the number of members of a council retiring each year shall be one third, or as near as practicable to one third, of both the total membership of the council and the number of members representing each ward.

Because an alteration to the total number of members of a council can sometimes upset the principle that one third should retire each year, the provisions of section 20 are available to permit the Governor, where necessary, to give directions specifying the dates on which the period of office of certain members shall expire.

Whilst the powers conferred by section 20 are quite adequate in dealing with variations to the total membership of a council, it is also desirable that similar powers be available when a change is made to the number of members representing a particular ward or wards of a council, and in 1974 the provisions of section 20 were, in fact, amended for this very purpose.

Recently, however, when it was proposed to apply the provisions of section 20 because of an alteration to the ward representation at a particular council, Crown Law advice was to the effect that, despite the 1974 amendment, this section was still not capable of being applied in a case where only the ward membership was being adjusted. In short, the 1974 amendment did not achieve what was intended.

It is now proposed to further amend the provisions of section 20 to make it clear that the section may be applied when a change has been made to either the total membership of a council or the membership of a ward or wards of a council.

Prior to the 1974 annual election taking place at a certain council, a candidate died during the period between the close of nominations and the election day. This contingency highlighted deficiencies in some of the provisions of the Local Government Act for dealing with such an occurrence. Proposed amendments to sections 41 and 73 are intended to remove these deficiencies.

In this connection, I would point out that subsection 2 of section 98 of the Act provides that, where a candidate for a municipal election dies during the period between the close of nominations and the declaration of the result of the election, the election is void, and the vacancies involved are to be filled by conducting an extraordinary election. The particular annual election for which the deceased person was a candidate is accordingly not held, but an extraordinary election is held subsequently in lieu.

Under the provisions of subsection (2) of section 41, the term of office of a member of a council who is elected at an annual municipal election commences on the day after the fourth Saturday in May, as the fourth Saturday in May is set by the Act as the date for annual elections. It also provides that in the case of an extraordinary election, the term of office commences on the day immediately following the close of nominations where the candidate is elected unopposed, or on the day following the taking of a poll if the election is contested. Elsewhere the Act provides that the term of office of a member of a council is three years, except that where a member is elected at an extraordinary election, his term of office concludes on the date on which his immediate predecessor would have retired, had he remained in the office for the period for which he was elected.

These provisions obviously do not cater for the situation where a member is elected at an extraordinary election as a consequence of the invalidation of an annual election because of the death of a candidate. Accordingly, it is to be provided in section 41 that where a person is elected in these circumstances, he shall, for the

purpose of determining the date on which his term of office expires, be deemed to have commenced his term on the Sunday following the previous fourth Saturday in May, which is the annual election date.

Under the provisions of section 73 of the principal Act, where the mode of election of the mayor or president is by the council, the councillors are required to elect a mayor or president at the commencement of the first meeting of the council held after the annual election. These provisions presuppose that there will always be an annual election at every council. However, as was found to be the case at a particular council in 1974, no annual election whatever was held, because members are elected to that council by the entire district—and not on the basis of individual wards—and, indeed, the death of a candidate invalidated the entire annual election.

The council then found that it was unable to elect a president in the absence of the prerequisite of a first meeting after the annual election.

The Bill proposes to remedy this anomaly in section 73 by providing that the Minister shall appoint a date for the holding of a meeting to elect a mayor or president in a case where no annual election is held on account of the death of a candidate.

Prior to the passing of amending Act No. 105 of 1973, which repealed and re-enacted section 174 with amendments, that section expressly prohibited a person who had a direct or indirect pecuniary interest in a matter coming before a council, from taking part in the consideration or discussion of that matter, or voting on it.

The re-enactment unfortunately excluded the explicit prohibition on voting which had previously applied. It is apparent that the omission of the prohibition on voting, which is basic to the whole principle involved in the pecuniary interests of council members, was by oversight, and indeed, as far as the Minister is aware, council members still consider the prohibition on voting as being applicable, even though it is not now clearly expressed in the Act.

Therefore, it is important that this prohibition be clearly stated, and this Bill clarifies the law in that regard.

A new section 222A proposes that councils be empowered to make by-laws to prevent any nuisance which may be occasioned by the use of floodlighting or other exterior lighting.

The Perth City Council, in particular, has had some experience of the problems which can be caused by the indiscriminate use of floodlighting, but at present there is no power available to allow the council to exercise any control. The proposed authority to control has the strong support of the Local Government Association.

Paragraph (o) of section 244 of the parent Act authorises councils to make by-laws to prohibit the leaving of animals or vehicles in a street, or other public place, so as to cause an obstruction, and the section allows any such obstructing animals or vehicles to be seized and disposed of.

Draft model by-laws, made under these provisions in 1962, provide owners with the right to recover seized vehicles on payment of the council's costs in removing the vehicle and keeping it in custody. These by-laws also provide for the sale of unclaimed vehicles and the retention by the council of the costs associated with the seizure, custody, and sale from the proceeds of such sale.

However, the by-laws do not permit a council to recover from an owner any part of the cost of removal, custody, and sale, as is not offset by the proceeds of the sale. The Perth City Council, which has had a good deal of experience in administering these by-laws, has found that in the majority of cases the costs involved exceed the amount recovered by sales.

In other words, the provisions of section 244 do not authorise the promulgation of a by-law giving councils the right to recover this shortfall in the sale proceeds. Legal advice which has been sought from the Crown Law Department is to the effect that there is also considerable doubt as to whether some of the existing provisions of the draft model by-laws relating to the sale and recovery of seized vehicles are, in fact, authorised by the existing legislation.

The Bill therefore proposes the re-enactment of paragraph (o) of section 244 to clarify the authority for the issuance of the provisions of the draft model by-laws and to give the additional by-law making power with respect to the recovery from the owner of the difference between council costs and the sale proceeds.

Section 271 authorises a council to sell halls, buildings, plant, machinery, and materials for which it has no further use. If the asset is recorded in the council's inventory at a value of less than $200, it may be sold by private treaty, but if the value is greater than $200, the sale must be arranged by public tender or auction.

The $200 limit on the sale of items by private treaty has been in the Act since its inception in 1960, and because of the change in money values since that time, this limit is now considered to be inappropriate, due to the inconvenience and cost of arranging the sale by tender or auction of relatively minor items having a value in excess of $200.

It is considered that the limit on the value of assets which may be sold by private treaty should be increased to $500, and the Bill proposes accordingly.

Section 274 provides that, except in cases of emergency, a council may not enter into a contract for the execution of work, or supply of goods, for an amount of $2 000 or more, unless it has first invited tenders by notice in a newspaper circulating in the district. The sum of $2 000 has been in force since 1967.

Again, changes in money values over recent years have made this $2 000 limit unrealistic, and it is proposed to increase the amount to $4 000.

Until a recent court decision, it had always been considered that the provisions of section 287 of the Local Government Act authorised the permanent closure of dedicated streets. Prior to the enactment of the principal Act, 1960, this power was specifically provided in the Road Districts Act, 1919-1959.

Although section 287 deals in a manner with the permanent closure of streets, legal opinion now is that those provisions merely set down the procedures associated with such a closure, but that the procedures are dependent upon a corresponding power. However, no such corresponding power is conferred by Act No. 84 of 1960, and its subsequent amendments.

This was surely an oversight, in that the requisite power was not provided for permanent road closures in the current Local Government Act, or on the other hand, it may have been considered at the time that the power was contained in this section of the new legislation passed in 1960.

The proposed amendment of section 287, and the insertion of new sections 288A and 288B, are intended to rectify the apparent weakness in the principal Act.

The Bill proposes the removal from section 287 of all reference to the permanent closure of streets, and the new sections cover both the power and procedures for closures.

A new section 288A empowers the Governor at the request of a council, to close a street permanently. The procedures set down are akin to those now contained in section 287 and which were previously believed to authorise the action, but with the important difference in that the new section confers the power, as well as detailing the procedures.

These powers are also made retrospective, through the provisions of a new section 288B. This proposed section will validate the many closures purported to have been made under the provisions of section 287 to this time.

Consequential amendment of section 289 becomes necessary through the insertion of section 288A. Section 289 authorises the Governor to make regulations to prescribe the manner in which requests may be made under the provisions of sections 287 and 288, and the consequential amendment merely emcompasses section 288A also.

Under the provisions of section 295, land delineated and shown as a new street on a plan deposited in the Titles Office becomes dedicated as a street. However, there are no corresponding provisions with respect to land delineated and shown as a new street on a plan of subdivision of Crown land registered in the Department of Lands and Surveys. The majority of new towns in Western Australia are, incidentally, subdivided from Crown land.

It is considered desirable for new streets created by subdivision of Crown land to be automatically dedicated in the same way as they are in private subdivisions, and the Bill so proposes. This amendment was requested by the Department of Lands and Surveys, and a new section 294A is to be inserted to provide for automatic dedication.

In 1974, paragraph (a) of subsection (1) of section 561, was re-enacted to provide that only pensioners who were eligible for medical benefits under the Commonwealth National Health Act could claim deferment of their municipal rates. This amendment has the effect of eliminating from the deferred rates concession, persons who had become eligible for pensions under the tapered means test.

Unfortunately, this amendment also did not provide for the necessary consequential amendment of subsection (5) of section 561. This subsection still makes specific reference to the repealed provisions of paragraph (a) of subsection (1) of section 561, whereas it should, of course, refer to the re-enacted provisions.

The Bill provides for this consequential amendment. It also re-drafts paragraph (a) of subsection (1), but only to facilitate the drafting of the consequential amendment to subsection (5). The Bill does not, in any way, alter the principle on which the 1974 amendment was based.

Subsection (5) of section 626 makes certain provisions for safeguarding funds received by municipal councils.

It requires—

firstly, for moneys collected to be paid into the council's bank within 7 days;

secondly, for council approval to be given prior to any payment from council funds; and

thirdly, for all payments to be made by cheque signed by the mayor or president—or their deputies—and countersigned by the treasurer of the council, or where there is no treasurer, by another member of the council as well as the council clerk.

Paragraph (d) of subsection (5) authorises the Minister to permit these requirements to be modified, but only where he is of the opinion that the absence of banking facilities in a district renders a strict compliance impracticable.

Some councils in the more remote parts of the State have found difficulty in complying with these specific requirements. There are cases where council meetings are held at intervals of greater than one month, and many council members reside many miles from the council office. These councils consider it undesirable to delay all payments until they can be formally approved by council. For instance, there are such aspects as discounts being allowed only if paid within a stipulated time. Likewise, there are problems in obtaining the necessary signatures on cheques. Although these circumstances create real difficulties, there is not authority at present for the system to be modified appropriately, because the difficulties are not occasioned by the absence of banking facilities.

It is desirable that special arrangements be made where difficulties of this nature occur, so that the problems can be overcome in some practical way whilst still maintaining adequate security and control of council funds.

It is therefore proposed to re-enact paragraph (d) of subsection (5) of section 626 to allow the Minister greater discretion in permitting the modification of the specific requirements.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. S. J. Dellar.

GOVERNMENT RAILWAYS ACT AMENDMENT BILL

Second Reading

THE HON. N. E. BAXTER (Central—Minister for Health) [3.00 p.m.]: I move—

That the Bill be now read a second time.

It is intended to provide parking facilities for both the general public and railway staff who will be employed at the new railway administration/terminal building, which is under construction at East Perth, and which is scheduled for completion early next year.

A large area will be set aside for this purpose, and control over parking will be necessary. This can be managed most effectively by raising fees by means of parking meters. As the Government Railways Act does not empower the Commissioner of Railways to do this at present, this legislation is being introduced to give him this authority.

It will be noticed that the amendment amplifies the Commissioner's existing general powers to make by-laws regarding parking, and extends them specifically so as to authorise the charging of a parking fee wherever these areas exist.

Members were assured by the Minister representing the Minister for Railways in another place, that at the present time there is no intention of charging for parking in any railway land other than the area at the East Perth terminal.

It is possible, however, that changing circumstances in the future may make this desirable. The amendment, therefore, has been made generally applicable to all railway land on which parking is permitted. This has been done to avoid the necessity of having to introduce further legislation through Parliament to amend the Government Railways Act, should other areas of railway land be set aside for motor vehicle parking in similar circumstances.

The raising of charges in other areas could, of course, be implemented only through a by-law approved by the Government.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. Thompson (Leader of the Opposition).

JURIES ACT AMENDMENT BILL

In Committee

The Deputy Chairman of Committees (the Hon. Clive Griffiths) in the Chair; the Hon. N. McNeill (Minister for Justice) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 18 amended—

The Hon. R. THOMPSON: During the second reading debate I said I did not think it was right and proper that the 15 jurors should sit together. This is not covered in the Bill, but it was covered in the Minister's speech. I think the reserve jurors should sit apart and should not fraternise with the other jurors until they are called to sit on the jury.

The Hon. N. McNEILL: Before adverting to the query raised by Mr Thompson, I make a comment, which I think is necessary in the light of discussions, that occasionally it is necessary to review—and I use the word advisedly—the position with such legislation. This relates to a matter other than that raised by the Leader of the Opposition and concerns the words I used when introducing the second reading. I regret that these words were also used in another place. The words in question are "a modified form of oath".

Actually the oath taken, and in fact provided for in the Bill, is the same oath as that provided for the other jurors; but inasmuch as it may have created some doubt in the person's mind and raised some query I think it is necessary for me to correct the situation and say that it was originally intended for there to be a modified form of oath, and it is on that Bill that the speech notes were prepared. The first draft Bill was subsequently amended in the form of the Bill before us.

On the question of reserve jurors, we should bear in mind that the Bill only gives

the power if it seems necessary in the court's opinion for there to be reserve jurors, and a limit is placed on three. In other words, there could be any number up to three. I believe even the use of one juror would be relatively rare occurrence.

Notwithstanding that this provision has to be made, it is not proposed that any reserve juror or jurors should in fact sit within the jury box. They would sit adjacent to it.

For the sake of clarity—as this was a matter concerning the administration of the courts—and for the benefit of the Leader of the Opposition and the committee, I propose to read a statement on this aspect.

We should also bear in mind that this matter was raised in another place and was to be the subject of amendment on the notice paper by Mr Hartrey in that instance. Accordingly, I direct part of this reply to that aspect because it was specific, and I am glad of this opportunity to comment on it.

The Hon. R. Thompson: I did not refer to that.

The Hon. N. McNEILL: A reserve juror or jurors must be able to ask questions through the foreman; this is from a position adjacent to the jury, and not necessarily empanelled in the same jury box. If appropriate, he must visit and inspect the scene of the crime with other jurors; and, lastly, he must be able to inform himself of all the facts as the trial proceeds.

On the point of reserve jurors also retiring with the jury, it is envisaged that they will be entitled to the privileges of other jurors as to morning tea, etc., but it is expected they will be accommodated separately from the main jury. However, it is not thought likely that a trial judge would allow reserve jurors to participate in discussions amongst the main panel of jurors during the periods of retirement when the jury was ordered to be kept together.

The Hon. R. Thompson: You have answered all my queries.

The Hon. N. McNEILL: May I carry on, because I think it is necessary to complete the statement?

Jurors are at all times subject to direction by the trial judge and it is intended to keep the legislation flexible enough to allow him to issue directions on these matters consistent with the circumstances of the particular trial.

It is anticipated that the number of occasions on which the trial judge will direct the choosing of reserve jurors will be rare. It would also be a rare occasion on which as many as three reserve jurors are chosen.

The Leader of the Opposition has indicated that his queries have been answered. I am glad he raised the matter because it provided an opportunity for me to make a more detailed explanation.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the 10th September.

THE HON. S. J. DELLAR (Lower North) [3.12 p.m.]: This Bill seeks to make certain amendments to the Town Planning and Development Act, 1928-1974. Perhaps at the outset I should say that some of the comments that may be made during the debate on this Bill will have reference to the following Bill on the notice paper which seeks to amend the Metropolitan Region Town Planning Scheme Act, because the latter Bill is more or less consequential to this Bill.

One of the major purposes of this measure is to amend section 9 of the principal Act; and the explanation given is that the amendment is mainly in respect of procedural matters concerning regulations made under the Act.

I would point out at this stage that the matter of town planning and the Metropolitan Region Town Planning Scheme Act to which I have just referred, is a matter which should not be taken lightly because it affects the whole range of citizens in Western Australia in so far as the future development of the State is concerned. So it is not a subject one can approach in a light-hearted manner, although perhaps the Minister for Urban Development and Town Planning has done just that. However, I will refer to that a little later.

The first amendment in the Bill we are now dealing with is designed to permit local authorities to recover from developers the cost of advertising amendments to town planning schemes. I believe this action is justified because in many cases the benefits arising from amendments to town planning schemes accrue to land developers. If the developers did not make approaches to the local authority concerned the local authority would not be required to expend its own finances in changing the provisions of its town planning scheme, if it agrees to do so, to suit the purposes of the developers. The developer is the one who receives the benefit from the amendment because it allows him to develop and subdivide land and dispose of it for a purpose different from that outlined in the original town planning scheme.

Of course, many amendments are requested by private developers without any prompting by the local authority concerned. Therefore, I believe it is reasonable

to expect the developers to contribute to the expenses of the local authority which makes available the opportunity for the developers to achieve the goal they set out to achieve; that is, to dispose of land for one reason or another.

I would point out that we are not violently opposed to this Bill as it stands. As I have said, I do not see anything wrong with the first major amendment.

With regard to the second major amendment, it is a matter of how one views the situation and whether or not one wants to be just a rubber stamp for the incompetency of certain people, whether they be officials or others.

The amendment provides Parliament—probably for the first time in the short period I have been here—with the opportunity to validate something which happened previously as a result of the actions of people who have not complied with the law. You, Mr President, and all members would be aware that the Town Planning and Development Act presently lays down a three-month period for the hearing of objections to town planning schemes. It requires that local authorities should advertise schemes and amendments so that objections may be lodged to them. This allows interested people to object to a proposal or to have something to say about the scheme as it was introduced.

The Minister indicated to us that in the case of the West Perth town planning scheme a challenge was made on the basis that the three-month period of advertisement was short by one day. Following that a legal opinion was obtained and as a result the town planning scheme was withdrawn.

Why do mistakes such as this occur? Is it the result of incompetence? Is it the result of somebody wishing to circumvent the process of the law? I am not saying that is the case, but it is a possibility. Or is it a case of pure laziness on the part of the officers concerned? For whatever reason the mistakes occurred, I do not believe Parliament should be required to validate errors made by people over whom it has no control.

Admittedly we make laws and pass amendments to them, but it is the duty of the people concerned to ensure that they administer the law correctly. As I have said, it is beyond my comprehension why Parliament is now being asked to validate a practice that has gone on in the past simply because of a mistake that has been made by somebody or by some bodies.

In his second reading speech the Minister also referred to the fact that town planning schemes have to be revised every five years. He went on to make the excuse —which may be valid—that perhaps when a scheme is under review some smart or irresponsible person in the community could say, "If you check back through the newspapers and the *Government Gazettes*, it will be found that the scheme is illegal because it was not advertised for the prescribed period." Of course if such a mistake is made it could be challenged as was done in the case of the West Perth town planning scheme.

The Minister went on to say, "The deficiency caused by the shortfall"—I presume we are not talking about top cuts—"is probably more apparent than real." I gather from that remark the Minister is indicating to us that perhaps what we are being asked to do now is validate mistakes that have been made in the past.

The Minister also indicated that amendments are to be made to this Bill. Probably members should listen to this because it was on the 10th September that the Bill was introduced into this Chamber. I have had to go back over it to refresh my memory as to what the Minister said when he introduced the second reading in this Chamber.

As I said before, we are being asked to validate mistakes that have been made in the past. The amendment to the Act we now have before us proposes to validate any town planning schemes or amendments to them prior to the Town Planning and Development Act Amendment Bill of 1975 coming into force.

As I understand the position, we are merely being asked to do this in respect of those acts that had taken place prior to the Bill I have just mentioned coming into operation. In regard to any subsequent events that occur the responsible authorities will be required to comply strictly with the advertising period laid down in the regulations which form part of the principal Act we are now seeking to amend.

I am not sure that we are happy to give blanket approval to actions that have occurred in the past. I believe inquiries were made in another place, but it was difficult to obtain an answer on whether or not there may have been one or 16 mistakes that had occurred in the past where the prescribed advertising period had not been complied with, but was not discovered by any person.

As I have said previously, I do not believe Parliament is the place where members should be called upon to pass legislation which will give blanket approval to errors that have occurred in the past, whether it be one error, as in the case of the West Perth town planning scheme, or 19, if that be the case.

When this measure was being debated in another place, the Minister for Local Government, who was in charge of the Bill, gave an undertaking that certain amendments would be proposed in this Chamber with a view to limiting the infringement period to a few days. The members of my party, including myself, have been wondering what is meant by a

few days. However in view of the amendments appearing on the notice paper today, the period set down for the commission of any mistakes that have occurred in the past—just in case there were more than one—is seven days. I do not wish to debate that with the Minister at this stage, because I am sure we will have ample opportunity in Committee to hear an explanation from him on why we should condone the inefficiency and incompetence of some people who have been concerned with these town planning schemes in the past, and pass an Act of Parliament to grant a period of seven days in which they can make a mistake.

Speaking of incompetency, this is not the first occasion that Bills administered by the Minister for Local Government have arrived in this Chamber with amendments proposed to them to be considered, and those were amendments not suggested by us, but others in another place. Why the Minister in question could not have taken the Bill to a stage in another place to effect the amendments and then allow this House of Review to consider the Bill as amended, I do not know.

For the past 18 months every Bill dealing with local government, town planning, or other legislation that comes under the jurisdiction of the Minister for Local Government—with rare exceptions—has been the subject of amendments moved by Ministers in this Chamber on behalf of the Minister in another place who is responsible for the legislation. It is their job, of course, to do that. However, surely the Minister in another place could make sure that his legislation is tidy and neat, and even if it is subject to criticism in another place he should be in the position to say, "I will have another look at it", instead of saying, "I will give an assurance that suitable amendments will be made to the Bill and that members in another place will have an opportunity to look at them when the Bill is introduced in that House." I understand, of course, that the Minister in question has been given the title of "Minister for Assurances".

The course taken by the Minister may be quite all right, because we have a good Opposition in this Chamber which is prepared to look at the situation that is presented to it on all occasions, and we can decide, whether or not, the amendments proposed are acceptable.

I have mentioned that a period of seven days is proposed in the amendment. Being an ex-officer of local government, I have been stood up against the wall many times to answer criticism. If I made a mistake it was a genuine mistake; I did not make any other type, I do not think. However, some people may be prepared to look at this and say, "If we can get away with it this time, in future we can go through a Stop sign and we can get an Act of Parliament passed to validate what we did on the 13th October, but after that we have to do everything right."

I know that it is only a hypothetical case, but it is true that this Chamber is being asked to validate the mistakes that may or may not have occurred prior to the coming into operation of the Town Planning and Development Act Amendment Act, of 1975. I ask members: Is this our role? Is it not our role to make laws to provide the machinery for regulations to be made in the best interests of the people of our wonderful State of Western Australia? It is then the duty of the people to comply with them.

Surely it is not our place to now pass legislation to validate something which may or may not have occurred, however good the reason. I understand there are good reasons; but why are we being asked to do this? We should know how many of these errors have occurred, if they have occurred.

The Hon. Clive Griffiths: Don't you recall my having given you a great list of them recently?

The Hon. R. F. Claughton: No.

The Hon. S. J. DELLAR: I usually listen very intently to Mr Clive Griffiths, but on that occasion perhaps I was not listening as intently as I should have been. If he did give a great list, and he is right—

The Hon. Clive Griffiths: I am not often wrong.

The Hon. S. J. DELLAR: I hope the honourable member is right, because then, going on that information, perhaps the Minister handling the Bill might be able to tell us when he replies to the Bill whether we are being asked to validate one error, two errors, three, 16—

The Hon. Clive Griffiths: I think I listed about 35.

The Hon. S. J. DELLAR: —or 35. Perhaps Mr Clive Griffiths, when he speaks to the Bill, can tell us what those 35 errors are.

The Hon. Clive Griffiths: They are in *Hansard*.

The Hon. S. J. DELLAR: Could the honourable member refer me to the page number?

The Hon. Clive Griffiths: You read all last session's *Hansards* and you will find it.

The PRESIDENT: Order, please!

The Hon. S. J. DELLAR: A Government member, by way of interjection, has told us—and the information is recorded in *Hansard*—that he has knowledge of some 35 occasions—

The Hon. Clive Griffiths: Or thereabouts.

The Hon. S. J. DELLAR: That is the same as saying "some" 35. Mr Clive Griffiths has stated that there is a list of about 35 errors which have been made under the requirements of the regulations

under the Town Planning and Development Act. We do not know whether these are serious errors, whether one day is involved, or whether two days are involved. Whether all the errors reflect on the advertising period, I do not know.

The Hon. Clive Griffiths: A different aspect altogether. Actually they have nothing to do with what you are talking about.

The Hon. S. J. DELLAR: If that is so, why did the honourable member keep interjecting? I am sure he was only trying to help me!

The Hon. Clive Griffiths: All I was trying to indicate was that they are far from infallible.

The Hon. S. J. DELLAR: Adopting that line, why should Parliament be required to pass legislation to validate something which is against the laws of the State imposed upon the people through the parliamentary system? Why should this Parliament then have to say, "We imposed a law and made regulations, but a few blues have been made. However, do not worry, we will fiix them up."?

I know complications do arise in connection with town planning. I also know that if town planning schemes can be challenged as a result of something not being done in accordance with the regulations, many people could find themselves in an invidious position. For instance, they could find that legally their home or development is in an area where it should not be and they may be required to shift it.

Knowing the goodwill of the present Government I have no doubt that in these circumstances such people would only have to go to the Government to be told not to worry because it would pass another Act to validate the mistake.

As I have said, I believe a great deal of discussion will ensue on this Bill in Committee, and much of the comment will apply to the next Bill as well. I am sure that in Committee the Minister will be able to satisfy most of our requirements, because we have quite a few. We have not as yet heard him explain the amendments he proposes, but I am sure he will do so and that will give us an opportunity to understand the new proposal compared with the present one.

We support the second reading with some reservations.

THE HON. R. F. CLAUGHTON (North Metropolitan) [3.38 p.m.]: I support Mr Dellar's remarks. The Minister for Urban Development and Town Planning has become known in Labor Party circles for the sheer incompetence he displays in the presentation of his legislation to Parliament, and this Bill has been no exception.

The proposition in the Bill before us not only validates past errors, but also future ones. Fortunately, members in another place were able to persuade the Minister that this was the case and consequently the Government has an amendment on the notice paper. Like Mr Dellar, I do not think it is proper that this Chamber should be dealing with the amendment in this fashion. It should have been dealt with in another place and then the amendment included in the Bill which would be sent to us in its amended form. I do not believe that we should make the amendment and then have it reassessed in another place.

In connection with the second proposal in the Bill—that is, to validate past mistakes—I consider it is quite wrong to allow a period of seven days. While we can, I think, agree that to err is human, then an error of one day in the three months' advertising period is forgivable.

Perhaps Parliament may agree that the period could be extended to two days, but I think seven days is beyond the pale. An error of three, four, five, six, or seven days could only demonstrate sheer incompetence or deception on the part of the local government officers concerned, and I do not think it is for us to undertake the role of covering up for that kind of practice. I hope the Parliament, in Committee, will give further consideration to the proposal of the Minister and provide a much narrower limit.

THE HON. I. G. MEDCALF (Metropolitan—Honorary Minister) [3.41 p.m.]: I thank the Hon. Mr Dellar for his limited support of the Bill and the indication that his party will support the second reading. I note the comments which have been made in relation to the Committee stage. I think Mr Claughton's comments related entirely to the amendment which will be dealt with in the Committee stage and I do not propose to comment on it further at this stage.

I would like to remind members opposite, however, that it is not unusual for members of a Government, of whatever political party, to arrange for amendments to be made in the Upper House. That may surprise Mr Claughton and Mr Dellar, but I recall many occasions during the Tonkin Government's term of office when Labor Ministers sitting just in front of where I am now standing moved amendments on the basis of assurances given in the Legislative Assembly that a matter would be corrected in another place. It is interesting to note that the Labor Party, which makes so many comments about the abolition of this House, has used it on innumerable occasions in order to correct errors in Bills presented in the Legislative Assembly.

At this stage I would like to say, generally, that if people do not like the proposals in this Bill, what is the alternative? It is true the Bill validates certain actions which, when taken, had very minor technical faults by being a day or two out

of time. They were very minor faults when one considers the number of town planning schemes now operating. There is no real alternative, and I think this matter can be discussed further in the Committee stage.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. I. G. Medcalf (Honorary Minister) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 9 amended—

The Hon. R. F. CLAUGHTON: Because the Minister in charge of the Bill rose to his feet, I will say only a few words and perhaps he will have an explanation which will satisfy me without my making any lengthy remarks. I merely repeat that I consider an error of perhaps one or two days is forgivable; an understandable mistake could have occurred in the advertising period; but I cannot see that any period beyond that time would be in the least excusable or that it is our role to validate what can only amount to incompetence on the part of the officers concerned.

Sitting suspended from 3.46 to 4.03 p.m.

The Hon. I. G. MEDCALF: I move an amendment—

Delete paragraph (b), line 19, page 2 down to and including line 24, page 3, and substitute the following—

(b) by adding after subsection (3) the following subsections—

(4) A town planning scheme, or an amendment to a town planning scheme, made or adopted before the coming into operation of the Town Planning and Development Act Amendment Act, 1975 or any act or thing done pursuant to such a town planning scheme or amendment to a town planning scheme shall not be regarded as invalid by reason only of one or more of the following reasons, namely—

(a) that, in the notice of that town planning scheme or amendment to a town planning scheme, as the case may be, the date specified by the Board as the date on or before which objections to the scheme or amendment could be made was a date earlier, but not more than seven days earlier, than the proper date;

(b) that the responsible authority did not accept for consideration an objection to that town planning scheme or amendment to a town planning scheme, as the case may be, being an objection that was made on or before the proper date but was not made—

(i) on or before the date specified in the notice of the scheme or amendment; or

(ii) more than seven days before the proper date;

(c) that a copy of the notice of that town planning scheme or amendment to a town planning scheme, as the case may be, was displayed in the offices of the responsible authority for a period, shorter, but not more than seven days shorter, than the prescribed period.

(5) In subsection (4) of this section—

"notice", in relation to a town planning scheme or an amendment to a town planning scheme, means the notice notifying persons of their entitlement to make objections to that scheme or amendment;

"prescribed period", in relation to a notice notifying persons of their entitlement to make objections to a town planning scheme or amendment to a town planning scheme, means the period prescribed by the regulations as in force at the time that notice was displayed;

"proper date", in relation to a town planning scheme or an amendment to a town planning scheme, means the earliest date that

the Board could lawfully have specified as the date on or before which objections to that town planning scheme or amendment to a town planning scheme could be made. .

I am suggesting that the Committee should accept this amendment in substitution for paragraph (b) of clause 2 of the Bill. The reason for this amendment is to overcome objections raised by members of the Opposition in another place.

Briefly, the situation is that many town planning schemes put forward by local authorities under the terms of the Town Planning and Development Act, and which were required to be put forward, did not allow the prescribed period of three months for objections. The local authorities involved had placed advertisements in the Press or the *Government Gazette* to the effect that objectors had three months from the date of the advertisement in which to lodge objections. I understand it has been held by the Crown Law Department that the three months' period should not include the date of the first advertisement. In other words, the three months should have been calculated from the day after the date of the advertisement.

The Town Planning Department submitted its view to the Minister, and the Minister told Parliament that this was the reason for the introduction of the measure. Had I not moved the amendment now before us, I would have asked members to accept the paragraph in the Bill, as it would give a blanket approval for all town planning schemes without any restriction as to the time factor. However, because of objections raised in another place, the Minister there suggested to the Opposition that a period of grace of seven days would be appropriate. This would then mean that if the period allowed for objection to any town planning scheme was short of the full term by up to seven days, the town planning scheme would still be validated, and the local authority would not have to go through the whole process again.

In effect, the amendment means that an objector will not be prejudiced, provided his objection was submitted within this three-month period less the seven-day grace period. There is no chance now that anyone will be prejudiced because of the amendment, as we are not talking about future town planning schemes. What we are concerned with is town planning schemes of the past, up to the date of the coming into operation of this Bill. Nothing we do now will validate any actions in the future.

I would like to assure Mr Dellar that it is absolutely essential to comply strictly with the regulations and I feel that there must be a full period of three months of advertising for all future schemes.

I would just like to reiterate why this is an important and not just a minor matter. It is a nonparty consideration—

The Hon. S. J. Dellar: We are not trying to make it one.

The Hon. I. G. MEDCALF: —for the simple reason that it is an attempt to validate technical inaccuracies on the part of numerous local authorities in regard to town planning schemes. We are trying to prevent local authorities being embarrassed by legal proceedings which could invalidate their town planning schemes and all action taken under them.

The Hon. S. J. Dellar: I think I said that.

The Hon. I. G. MEDCALF: Then I am just repeating what the honourable member said.

The Hon. S. J. Dellar: Words of wisdom!

The Hon. I. G. MEDCALF: Let us say, for instance, that the town of Cockburn discovered—

The Hon. R. Thompson: Find a local authority that makes mistakes.

The Hon. I. G. MEDCALF: I am simply using an example. I am not saying that the town of Cockburn did make an error, and I do not think it did. However, if an error had occurred, just imagine the situation it would be in because of its failure to advertise for the correct period. It is no good sacking the officer involved. The whole of the scheme and all actions taken under it would be invalidated. Proceedings could be instituted for a large sum of damages against the shire, the town clerk, and perhaps all the councillors. The possibilities are enormous.

This system of calculating the period was common practice with local authorities. I am not prepared to say how many local authorities are involved, as I believe it would be malicious to name them, and it would be a reflection on the shire clerks, the mayors, the councillors, and the officers of the Local Government Department who have acted in quite good faith, and in many cases, under advice. Often shire clerks had to act in a hurry because time was running out and an extension could not be obtained. For this reason it would be inhuman of us not to agree to the amendment. Obviously it is something Parliament should do. We are letting local authorities off the hook when they have made a human technical error. This is a nonparty matter, and I believe a Labor Party Minister would have initiated this legislation in exactly the same way.

The Hon. R. Thompson: We are not introducing party politics; you mentioned that.

The Hon. I. G. MEDCALF: I did not say that the Opposition was introducing party politics.

The Hon. N. E. Baxter: You took him wrongly.

The Hon. I. G. MEDCALF: What I am saying is that this is a nonparty measure and something on which the House should agree. For those reasons, I submit that the House should accept this amendment.

The Hon. S. J. DELLAR: I point out to Mr Medcalf that our desire to debate this issue is not based on political philosophies; our motivation is purely to ensure that the Western Australian public is protected. The Honorary Minister said that the Minister for Urban Development and Town Planning in another place gave an undertaking to have moved in this place an amendment incorporating the seven-day period. I do not believe that is quite correct. The Opposition in another place asked for some specific period of time to be mentioned in the Bill—certainly not seven days—and my recollection is that the Minister suggested a period of seven days when speaking to the third reading stage.

The Hon. I. G. Medcalf: That is not what I said.

The Hon. S. J. DELLAR: I understood that Mr Medcalf suggested the Minister in another place gave an undertaking to have moved in this place an amendment specifying a period of seven days.

The Hon. I. G. Medcalf: No, I did not say that.

The Hon. S. J DELLAR: Regardless of what Mr Medcalf said, the Minister in another place suggested seven days, which was neither accepted nor rejected by the Opposition there. The only comment made by the Opposition was to ask the Minister whether he agreed that a blanket approval should not be given, but that a specified period should be laid down. Following those remarks, the Minister gave his undertaking.

I refer members to page 6 of Mr Medcalf's speech notes when introducing this Bill, where he stated—

> Arising from an understanding given by the Minister for Town Planning during the third reading stage of this Bill in another place, I feel I am in a position to foreshadow further amendments being proposed in this House with a view to limiting to a period of a few days past irregularities in the timing of objection periods which this Bill proposes to validate.

We are now being asked to validate irregularities which may have occurred. To my mind, seven days is one week.

The Hon. I. G. Medcalf: I would not argue with that.

The Hon. S. J. DELLAR: To me, "a few" means two or three days at the outside. Perhaps the example could be used of advertisements being posted on a Friday by the shire or town clerks and intended for the following Saturday's and Sunday's newspapers, but which in fact did not reach the newspapers in time to be placed. Perhaps the advertisement may have appeared only in the Saturday newspaper, and may have missed the Sunday newspaper altogether.

However, the officer concerned may have expected honestly and openly that the advertisements would appear but, for reasons beyond his control—whether it was due to a deficiency in the mail service, or anything else one would care to name—the advertisements did not appear. It may even have been due to the incompetence of the officer; he should be in a position to know what time the mail closes, especially in the country areas, and should have allowed sufficient time for the advertisements to reach the city in time to be inserted into the relevant newspapers and the *Government Gazette*.

However, nobody could convince me that an officer in local Government would be so incompetent as to be seven days late; if the officer is such a dill that he cannot count, the solution rests with the local government authority. To my mind, seven days is far too long. We do not know how many such irregularities have occurred in the past, and although I accept that we are doing something now, I hope it will not become a precedent in this Parliament.

The Hon. I. G. Medcalf: I would hope so too.

The Hon. S. J. DELLAR: I believe it is wrong that this Parliament should be required to validate mistakes made by somebody outside, when those officers are required to comply with the laws made within these walls.

The Hon. I. G. Medcalf: I do not think it is necessarily wrong, but I hope it does not become a precedent.

The Hon. S. J. DELLAR: But the Honorary Minister is creating a precedent.

The Hon. I. G. Medcalf: Of course we are not.

The Hon. S. J. DELLAR: I believe the Minister is creating a precedent.

The Hon. Clive Griffiths: If you are talking about a precedent, that has already been created because this is not the first time such action has been taken in this place.

The Hon. S. J. DELLAR: I do not know what that interjection was supposed to mean. Perhaps mistakes will occur in the future and, by the precedent we are setting here we will say, "Because of the amendment moved to the Town Planning and Development Act in 1975, what you have done is quite all right." Apparently nobody knows how many irregularities

have occurred; even the Honorary Minister does not appear to know, because they have not been challenged.

I know many officers employed in local government throughout Western Australia and none would make mistakes to the extent of seven days. While I agree that this amendment will overcome the problem of a blanket approval being given to the officers, I believe the period of seven days is far too long. If the Minister knows of irregularities which have involved more than a few days, I should like to hear about them. A period of three or four days would be more in line with my thinking of what "a few days" actually means.

I would hate to be standing out in the middle of the Nullarbor during January for a "few" days, if I was going to be standing there for seven days. Similarly, I would hate to be on top of Mt. Kosciusko, where I was freezing and without a ski.

The Hon. I. G. Medcalf: Without a what?

The Hon. S. J. DELLAR: Without a ski, not a "she". I would hate to be in that situation, waiting for someone to come and succour and befriend me if a few days actually meant seven days.

The Hon. N. E. Baxter: A she would keep you much warmer than a ski, you know.

The Hon. S. J. DELLAR: It is not always possible to get a she on top of Mt. Kosciusko. Mr Medcalf mentioned that in the past, errors involving one day had occurred, and that was the case in relation to the West Perth town planning scheme.

The Hon. I. G. Medcalf: I did not mention the West Perth town planning scheme.

The Hon. S. J. DELLAR: Agreed, but the Honorary Minister mentioned that such irregularities had occurred.

The Hon. I. G. Medcalf: I said "one or more days".

The Hon. S. J. DELLAR: I am not sure whether Mr Medcalf said that, or implied it. What is his interpretation of "one or more days"?

The Hon. I. G. Medcalf: Seven days.

The Hon. S. J. DELLAR: It would not be our interpretation; in any case it is obvious that the Honorary Minister's definition of a "few days" has changed to seven days.

The Hon. R. F. Claughton: Perhaps it is a few on both hands, and a few on his toes as well.

The Hon. S. J. DELLAR: I had not thought of that; perhaps it is; it depends on how limited is one's counting ability.

I repeat that the Opposition is not happy with the amendment as it stands. We are happy that an amendment has been moved to prevent blanket approval from being given but we cannot agree with the suggested period of time. We oppose the amendment.

The Hon. I. G. MEDCALF: With all due respect, it is a very poor old argument against this Bill to say that "a few" does not mean seven.

The Hon. S. J. Dellar: It does not!

The Hon. I. G. MEDCALF: It is a very poor old argument on a point of principle, where many local authorities, shire clerks and councillors have imperiled their position and many town planning schemes —perhaps all of them—are put of order because of technicalities to say one is not in favour of the amendment because, "a few" and "seven" are not equal.

I would have thought that was a matter of opinion, and was purely relative; however, I do not intend to go on with that, because the argument seems to me to be rather silly and not in keeping with the gravity of the situation. If we do not agree to some arrangements along these lines, all these plans will be invalid and that to me is a matter of considerable importance, and outweighs the fact that we are being asked to validate incorrect actions by town clerks, shire clerks, or others. It is something on which we should be legislating properly. The matter, therefore, is a serious one, and I ask members to take it seriously. I take up the point made by Mr Dellar that he might be prepared to stretch the period to three days.

The Hon. S. J. Dellar: When I concluded I stretched it to four days.

The Hon. I. G. MEDCALF: He might be prepared to go to four days. When he was a shire clerk I wonder what he would have done if he had promulgated some town planning scheme, and the prescribed period of advertisement happened to end on a Good Friday.

The Hon. S. J. Dellar: I did not make a mistake in this respect while I was a shire clerk.

The Hon. I. G. MEDCALF: What would have happened if the prescribed period of three months ended on a Good Friday? Perhaps he will tell us what he would have done.

The Hon. S. J. DELLAR: Assuming Good Friday falls on a Friday, and assuming I have not made a mistake in any advertisement!

The Hon. I. G. Medcalf: Assuming the prescribed period fell on a Good Friday.

The Hon. S. J. DELLAR: That is a hypothetical question. What I would have done—

The Hon. I. G. Medcalf: Was to resign.

The Hon. S. J. DELLAR: The only reason I resigned was that I was elected to join the enlightened company in this

Chamber. The Minister has posed a hypothetical question and said that the prescribed period of three months could have ended on a Good Friday.

The Hon. I. G. Medcalf: That is right. Let us not worry about the first day of the advertisement. What would he do about the matter?

The Hon. R. Thompson: It would not make any difference.

The Hon. S. J. DELLAR: As far as I am concerned, as a layman—

The Hon. I. G. Medcalf: Do not take any notice of your leader!

The Hon. S. J. DELLAR: —I say it would make no difference. However, the Minister, as a legal man, might have something up his sleeve. It might be that Good Friday and Easter Sunday do not count under the law in respect of the period of advertising. What I would have done was to ensure that the councillors passed such resolutions with the prescribed period expiring on the Thursday before Good Friday.

The Hon. I. G. MEDCALF: I am quite sure the honourable member would not have made a mistake in this regard. Let us assume that as a shire clerk he had a town planning scheme prepared and allowed a period of three months for objections, and that he made a mistake as to the commencement of the period and started the period from the day of the first advertisement. In fact, the period of three months should start on the day after the first advertisement. That would be one day short of the prescribed period. Let us assume that the prescribed period would have ended on the Thursday before Good Friday.

Because of the mistake made by including the day of the first advertisement the prescribed period of three months would end on the Good Friday. However, it cannot end on a Good Friday. The next day would be Saturday which is a bank holiday, and the Sunday does not count. The following Monday is Easter Monday, which is a bank holiday, and the following Tuesday is a holiday for Government departments and banks; so, the end of the prescribed period of three months would be on the following Wednesday.

In those circumstances the first day of the advertisement, the Good Friday, the Easter Saturday, the Sunday, Easter Monday, and the following Tuesday will have to be excluded from the prescribed period. That would be a total of six days. Would that not be a reason for proposing that the period be seven days?

The Hon. S. J. DELLAR: Can the Minister tell us whether any town planning scheme which the Act requires to be advertised for the statutory period of three months has been affected in the circumstances mentioned by the Minister? Is the Minister merely using this as a vehicle for argument to convince members that the seven days should be agreed to? The Minister in another place could not supply the information as to how many of these cases had arisen or over what period they extended.

I do not think the example put forward by the Minister justifies a period of seven days. The Minister could have used the Christmas period, but he merely chose to use the Easter break. It was merely an argument to build up the period of seven days proposed by the Minister.

The Hon. N. E. Baxter: There will be a four-day break at Christmas.

The Hon. S. J. DELLAR: We are talking about what happened before the Town Planning and Development Act Amendment Bill of 1975 was introduced. Let us go back to any Christmas period.

The Hon. N. E. Baxter: If Christmas falls on a Thursday there will be a break of four days.

The Hon. S. J. DELLAR: It would be a period of a few days.

The Hon. N. E. Baxter: It would be a few.

The Hon. S. J. DELLAR: The Minister used the Easter break as the basis for his argument, and as soon as he mentioned Good Friday something twigged in my mind. He used this holiday break to justify the period of seven days. Can the Minister tell us whether any of these irregularities which we are being asked to validate were occasioned by the prescribed period of three months for advertising which ended on a Good Friday?

The Hon. I. G. MEDCALF: No. I will not attempt to do that. I do not know of any such cases. I can only repeat what the Minister in another place said. So far as he was aware it was a difference of only one day, but he also pointed out the end of the period might have fallen on a weekend. However, I assure members that I have no knowledge of any particular case which falls within the exact period of seven days short of the prescribed period.

The period of seven days was considered to be reasonable, because of the weekends, the public holidays, the Easter break, and the Christmas break. If we are to validate all the past town planning schemes that have been adopted by local authorities we should do it properly and we should ensure that all cases are covered. I am sure none of us want to see another amending Bill introduced just because one local authority is not covered. Therefore, we have simply taken the period of seven days as being the likely maximum period which could affect the situation.

There is no magic in the period of seven days, or in the four days suggested by Mr Dellar. If we agree to a period of three or

four days we might leave out one local authority through purely technical reasons.

Some of these town planning schemes have been in force for years; and houses, shops, and factories have been built on zoning arrangements under them. We would be foolish if we did not play safe and agreed to a period of seven days.

The Hon. R. F. CLAUGHTON: We do not oppose the deletion of paragraph (b) with a view to inserting another paragraph. One of our objections is that the provision in the Bill will apply not only retrospectively but also prospectively.

The Hon. I. G. Medcalf: This is to apply retrospectively only.

The Hon. R. F. CLAUGHTON: I am talking about the paragraph that is proposed to be deleted.

The Hon. I. G. Medcalf: It is only in relation to past town planning schemes.

The Hon. R. F. CLAUGHTON: When the Bill was dealt with in another place objection was raised to the wording of this provision, because it will apply not only to errors of the past, but errors of the future; furthermore there is to be a blanket cover for all past mistakes irrespective of how far back they extended.

The Hon. I. G. Medcalf: It does not relate to future schemes.

The Hon. R. F. CLAUGHTON: Does the Minister say this does not cover future schemes?

The Hon. I. G. Medcalf: It relates only to past schemes. If you read the words in the new provision you will find that is what it refers to.

The Hon. R. F. CLAUGHTON: The Minister says it will not relate to future schemes.

The Hon. I. G. Medcalf: In future the schemes must comply with the provisions of the Act.

The Hon. R. F. CLAUGHTON: The Minister has told us that this amendment is necessary, because of the serious implications that are involved. He pointed out that houses, shops, and factories have been built under town planning schemes which are now in question. Because this is a serious matter one would expect the officers of local authorities to deal with it in a responsible way.

Shire clerks, when setting the advertising period, would take good care to see that Good Fridays or public holidays were not included.

The Hon. I. G. Medcalf: But they do make mistakes, and that is why the legislation is before us.

The Hon. R. F. CLAUGHTON: We are aware that honest mistakes can be made involving the inclusion of the advertising day in the period of three months, and we have no quarrel with the validation for that reason. However, no instance has been quoted of any scheme having been placed in jeopardy because it was caught up with a public holiday or a Good Friday.

The Hon I. G. Medcalf: Because of a mistake at the commencement of the period it could end on a Good Friday. Therefore, the honest mistake would have been made at the beginning.

The Hon. R. F. CLAUGHTON: Just the same, no instance has been brought to our attention.

The Hon. I. G. Medcalf: There might be such cases, though.

The Hon. R. F. CLAUGHTON: Let us assume there were such cases.

The Hon. I. G. Medcalf: That is why we need a Bill to validate them. Honest mistakes have been made.

The Hon. R. F. CLAUGHTON: Mistakes have been made honestly in the past. Does the Minister say that honest mistakes will not be made in the future?

The Hon. I. G. Medcalf: I am not saying that. Now that the shire clerks will be aware of the provisions of the Act they will have to comply with it. The mistakes in the past were honest.

The Hon. R. F. CLAUGHTON: And they will not make any honest mistakes in the future?

The Hon. I. G. Medcalf: I did not say that.

The Hon. R. F. CLAUGHTON: That is the situation which the Minister is presenting to us. I would assume that shire clerks would be aware of the dangers associated with the advertising period becoming caught up with public holidays. Otherwise, they certainly could not be regarded as competent.

The Hon. I. G. Medcalf: Not if a mistake of one day was made in the first place, accidently, which caused the period to end on a holiday.

The Hon. R. F. CLAUGHTON: The Minister is saying it has happened in the past but it will not happen in the future.

The Hon. I. G. Medcalf: Would you like to extend it to the future?

The Hon. R. F. CLAUGHTON: I am not contesting the proposition put forward by the Minister.

The Hon. I. G. Medcalf: It is your proposition.

The Hon. R. F. CLAUGHTON: The Minister is telling us.

The Hon. I. G. Medcalf: Do you want to extend it, or do you not?

The Hon. R. F. CLAUGHTON: That is a question which the Minister will have to answer.

The Hon. I. G. Medcalf: The honourable member can put forward his own argument; he cannot put forward my argument.

The Hon. R. F. CLAUGHTON: The Minister has obviously found himself in a spot because he is starting to react. Quite obviously, if this type of error has occurred in the past it is quite conceivable that it could happen in the future.

The Hon. G. E. Masters: Do you not think the shire clerks will be aware of the danger in the future?

The Hon. R. F. CLAUGHTON: That is precisely my argument.

The Hon. G. E. Masters: Now that they will be aware of the danger they will not make the mistake.

The Hon. R. F. CLAUGHTON: A competent shire clerk would be aware of the dangers. He should have been aware of those dangers in the past, as he is expected to be aware of them in the future.

The Minister is suggesting that we set a precedent because the type of mistake which he mentioned in the hypothetical situation, as having occurred in the past, will occur again in the future and when it does we will have to come back to Parliament with a similar amendment.

The Hon. I. G. Medcalf: Is that what the honourable member is advocating?

The Hon. R. F. CLAUGHTON: No, the Minister is advocating that procedure.

The Hon. I. G. Medcalf: Thank you for telling me! I thought I said we were not legislating for the future.

The Hon. R. F. CLAUGHTON: The Minister put up the argument.

The Hon. I. G. Medcalf: I thought you had been putting the argument for the last 10 minutes.

The Hon. R. F. CLAUGHTON: The Minister raised the argument. We believe that an error of one day, in an advertising period of three months, could be an honest mistake which even a competent shire clerk could make. I accept that the Town Clerk of the City of Perth is an extremely competent person. Perhaps a mistake of two days would be acceptable, but a mistake involving seven days could only mean incompetence, or perhaps something worse.

The Hon. G. E. Masters: Mr Medcalf clearly said that one day was involved, and the error could be caused as a result of a bank holiday.

The Hon. R. F. CLAUGHTON: If the honourable member had listened he would agree that if we are to condone mistakes which have occurred in the past we will have to condone mistakes in the future.

The Hon. G. E. Masters: Of course we will not.

The Hon. R. F. CLAUGHTON: We are to set a precedent. It is our contention that this sort of mistake is not made by a competent shire clerk. It is not our duty to condone incompetent actions or, even worse, some sort of fraud. We would accept a period of two days and, perhaps reluctantly three days, but to allow flexibility for a period as long as seven days is beyond any stretch of our imagination.

The Hon. S. J. DELLAR: We are discussing the deletion of certain words for the purpose of including other words which have been proposed by the Minister. The Minister proposes a period of seven days. He posed a question to me and I tried as best I could, as a layman, to answer a very learned gentleman.

The Hon. I. G. Medcalf: I was asking you the question, as an ex-shire clerk.

The Hon. S. J. DELLAR: We did not have occasion to advertise a town planning scheme. The Minister raised the argument that the advertising period could finish on a Good Friday, and a period of six days could elapse before the public holidays concluded. That is the sole argument for the suggested period of seven days.

The Hon. I. G. Medcalf: That was only an illustration.

The Hon. S. J. DELLAR: All right, let us dispose of that as an illustration. Section 27 of the Interpretation Act reads as follows—

> 27. (1) The time prescribed or allowed by an Act for any proceeding, or for the doing of anything, or for suffering anything, shall be deemed not to include the day, or the day of the act or event from or after which such time is to be calculated, but to include the day whereon such proceeding is to be taken or such thing is to be done or suffered.
>
> (2) If the time so prescribed or allowed falls or expires on a Sunday, or on any day which is a bank holiday or a public holiday throughout the State, or part of the State in which part the proceeding is to be taken or the thing is to be done or suffered, such time shall be extended so as to fall or expire on the day next following such Sunday or bank or public holiday which is not itself a bank or public holiday or Sunday.

In view of that section of the Act I cannot see why we should allow a period of seven days. The Minister has admitted that most of the irregularities which have occurred in the past have been for a period of only one day, but he now wants to extend the period to seven days. The provision in the Interpretation Act allows for the situation of a Good Friday intervening during an advertising period. If Christmas Day happens to be the public holiday concerned the period can be extended to cover Boxing Day, and any other public holidays associated with Christmas Day.

If this Committee decides to accept the period of seven days we will see just exactly

how members in this place review legislation. I ask members to read the particular section in the Interpretation Act because I feel the situation is adequately covered and that the concern of the Minister can be defused.

The Interpretation Act covers the situation envisaged by the Minister and I do not think any member of this Committee can tell me of an instance where we get a period of seven public holidays in Western Australia. We oppose the proposition put forward by the Minister and I again ask him to reconsider the amendment.

The Hon. I. G. MEDCALF: The argument really is becoming quite silly. It is apparent that mistakes occur which are quite honest mistakes. Mr Claughton admitted that the mistakes were honest, and I do not think that anyone has suggested that there has been anything dishonest in what shire clerks have done in this connection in the past.

The Hon. S. J. Dellar: That has not been suggested.

The Hon. I. G. MEDCALF: We are talking about honest mistakes which may have been made in the past, and we are endeavouring to validate those mistakes and cover any possible contingencies.

It is true that the Interpretation Act provides for the extension of periods but I would not like to agree that all situations with regard to town planning would be covered by that Act any more than it would cover all the regulations made under any other Act.

Other factors can be involved which could preclude people from putting in objections. As I said at the outset, the case I mentioned was merely an illustration. There are many situations which we have not gone into. I have been asked why I have not mentioned the particular parties concerned. I think it would be totally unfair had that information been furnished to me. I would not want to see any person, who might have an axe to grind, take proceedings against particular shires or some person involved. I would not like to say who was involved. We are trying to be on the safe side in respect of past town planning schemes. I believe the comments by Mr Claughton might have implied we were dealing with future town planning schemes.

We are trying to validate what might have occurred in the past. The future must take care of itself; but, of course, in the future there must be compliance with the law. We are asking that the full period of three months be used in all future cases. We do not want to cut down the period of time for objections.

The Hon. S. J. Dellar: We are not talking about the three months at all.

The Hon. I. G. MEDCALF: If in the future it were discovered an honest mistake had been made, who am I to say that any Parliament of the future would not bring in another Bill to validate such an honest mistake which might be made by a shire clerk of a local authority or by a member of the Local Government Department?

It is silly to argue about a period of three, four, or seven days. The reason we have selected a period of seven days is to cover all possible contingencies. I do not know what these might be, but we consider this to be a reasonable time to meet most situations.

The Hon. R. F. CLAUGHTON: The Minister has struggled hard to justify this piece of legislation introduced by the Minister for Local Government. The measure has all the earmarks of earlier Bills with which we have had to deal. It is a very incompetent piece of amending legislation. The Minister in this House has not given any sound argument to justify what is proposed. It is quite possible that it will, indeed, set a precedent for similar legislation at some future time.

When the original Act was accepted in this Parliament, it would not have been the intention of any of the members at that time to condone acts of incompetence or negligence by an amendment of this nature. We are, in fact, dealing with this Bill because of one particular case before us, and that is the town planning scheme for West Perth.

The Hon. I. G. Medcalf: No, that is not before you.

The Hon. R. F. CLAUGHTON: It is mentioned in the Minister's speech notes.

The Hon. I. G. Medcalf: We have not been discussing that at all. It has been ruled out of order.

The Hon. R. F. CLAUGHTON: That is the only instance mentioned.

The Hon. I. G. Medcalf: We are not trying to validate that. That has already been declared invalid.

The Hon. R. F. CLAUGHTON: The period of time involved was one day. That is the only information we have before us on which to base our judgment.

The Hon. I. G. Medcalf: We have told you there are others.

The Hon. R. F. CLAUGHTON: I accept the Minister's interjection, that there are other schemes that would be at risk over the one-day period. Mr Dellar and I have both said we are prepared to accept that as something which we as members of Parliament should take care of. To say that we should go beyond that to seven days could result in all sorts of situations, good, bad, or evil.

The Minister cannot tell us what we are condoning in this particular Bill; he cannot provide any answers at all about these things. We are to take on good faith that anything objectionable will be validated and I really think that is too much to ask of us.

If the Minister were to fix the period at two days, or maybe three days, because of some mistake that might occur in the manner in which the scheme was developed, I think we could possibly accept that, because we would have particular instances on which to make a judgment. I do not think it is reasonable, however, to go beyond that and include all sorts of unknown situations.

I ask the Minister not to persist with his amendment. I ask him to go back to the Minister for Local Government and tell him what has been said in this Chamber and ask him if he will re-examine the Bill to see whether he can make a further adjustment on this proposal. Apart from this, we have no other query as to the Minister's proposal.

It is quite unreasonable to ask that we create a situation that will condone, perhaps, really objectionable instances which will create a precedent in which future incompetent and negligent actions by shire or town clerks can be condoned. That is the precedent we would create.

In advancing his point, the Minister said that after this has passed the local authorities will be notified and that they will be aware. That is not the only thing about which they will be aware; they will be aware that Parliament has agreed to make this amendment; they will not just be aware that they should take care of the date.

We know that responsible shire clerks are already doing that; but other people who may have an interest will feel it has been done in the past and they could reasonably expect it to be done in the future. This will mean that a lot of innocent people will be caught up without being able to obtain any redress from Parliament.

It is not reasonable that members of Parliament should be asked to agree to this proposition. I suggest the Minister should refer the matter back to the Minister for Local Government telling him of the objections that have been raised, and asking him to have a further look at the legislation to see whether the period of seven days could be further reduced.

The Hon. I. G. MEDCALF: I can assure Mr Claughton that the Minister in another place has already considered this aspect, and a reading of *Hansard* will perhaps convince him that the Minister in that Chamber did say there might be a few days —not only a one-day period—where perhaps a weekend intervenes, and that sort of thing. The Minister did instance one or two cases. The reason for the Minister having selected seven days was to be on the safe side in respect of past town planning schemes.

It would be futile for me to ask the Minister to review his decision and cut the period down to three or four days. If this were done it would be necessary to investigate every town planning scheme brought into force in Western Australia, and this would require an army of people to study the matter for weeks to see whether there were any technical faults that needed to be corrected. The Opposition has said that it is prepared to validate these schemes and go along with the principle of the amendment. The Opposition is not arguing with the principle; it agrees that honest mistakes can be made.

What we are trying to do in relation to these past schemes only is to stop any future argument about technicalities, and that is why the period of seven days has been selected. It is as simple as that. If the honourable member could have convinced me that there was any good reason for me to go back to the Minister, I would have been the first one to have agreed to do so.

It is no good Mr Claughton saying to me that I have not produced any actual cases involving more than one scheme; of course I have not. Mr Claughton has produced the West Perth scheme; I did not bring up the West Perth scheme, which has already been declared invalid.

The Hon. R. F. Claughton: You mentioned it in your speech notes.

The Hon. I. G. MEDCALF: We do not want any more schemes declared invalid in the courts and that is the reason for the legislation. It is possible that some smart person may try to have a scheme declared invalid for the sake of one, two, or three days. We believe the seven-day cut-off period will protect shire clerks from being incriminated.

Let us consider the West Perth scheme for a moment, even though it is not before us. That was only a proposed scheme. Nobody had done anything and the rezoning had not started. These were only proposals; they did not have the force of law.

Let us consider the town planning schemes of other authorities under which people may be building shops, hospitals, and so on; and specifically let us consider the town planning schemes of Belmont and Cockburn, or any other of our metropolitan local authorities, and try to visualise what a chaotic situation we would have if they were declared invalid, particularly when hundreds of thousands of dollars had been invested in the erection of shops, hospitals, and so on.

What kind of people would we be if we were to accept a cut-off date which has been plucked out of the blue in opposition to one which we know will be safe? We are not talking about the future. In the future the schemes must abide by the law and use the three-month period. If an honest mistake is made in the future some future Government could take care of it, even though it may perhaps adopt a different method in doing so.

I am surprised the Opposition persists in this line of argument.

The Hon. S. J. DELLAR: I sympathise with the Minister up to a point. It is obvious he cannot give us any examples, yet he is prepared to bandy around hypothetical questions as an argument to substantiate his case. I sympathise with the Minister here because the Minister for Local Government in another place could not give any examples either. His comments, as I understand them, went something like this, "If we went back to 1928, perhaps we might find instances where a weekend has been involved and where the period may have been extended up to three days."

I agree with the Minister in charge of the Bill in this Chamber that it would take a long time to examine all the situations to see whether we need seven days. We are not trying to remove the people in Belmont, or any other suburb the Honorary Minister mentioned, from their houses; and we must not forget this Act covers the whole of the State and is equally effective in Carnarvon. We are simply trying to see the logic in the argument that he cannot give substantive examples without going into detail.

The Minister for Urban Development and Town Planning could not give examples in the other place, and that is why I sympathise with the Honorary Minister here. He has done a reasonable job and has tried to cover up for the Minister in another place.

The Hon. G. E. Masters: He is not covering up.

The Hon. S. J. DELLAR: He has done a better job than the Minister who introduced the Bill in the other place; but then perhaps the Opposition in the other place was not as strong in its efforts to extract information as the Opposition in this place.

It is obvious from the comments of the Honorary Minister that he is not prepared to reconsider this matter. He admitted that perhaps on one occasion only one day was involved. I agree that if we are going to validate something which was done before—and this is something we should not do—we might as well validate the lot. I still am not prepared to accept the period of seven days, and I acknowledge that the Minister is not prepared to accept a lesser period.

The Hon. R. F. CLAUGHTON: If we are to have a period of seven days, why not make it eight days, nine days, or three months?

The Hon. I. G. Medcalf: Would you prefer that I withdrew the amendment and make it three months? Is that what you are asking?

The Hon. R. F. CLAUGHTON: That is the Honorary Minister's proposition.

The Hon. I. G. Medcalf: I asked you a question.

The Hon. R. F. CLAUGHTON: The Minister says that in order to provide for some cases of which details have not been made available the period should be seven days.

The Hon. I. G. Medcalf: I should have known better than to ask you.

The Hon. R. F. CLAUGHTON: We get nothing sensible from Mr Medcalf.

The Hon. I. G. Medcalf: I feel humbled.

The Hon. R. F. CLAUGHTON: Since the Act was first introduced it has contained a statutory advertising period, and if a person made a mistake he would suffer the consequences because he could be challenged in court. After this Bill is forced through we are told the position will be the same and that if a mistake is made it will be liable to challenge in the court; yet we are to excuse people who have made mistakes in the past by giving them a seven-day period. I think that is a most unreasonable proposition.

Despite the denials of the Minister, the case he used to support this Bill was that of the West Perth scheme which was withdrawn. We accept that in that case an honest technical mistake could have been made. However, we do not feel that is a basis for extending the period by seven days. That is stretching the matter beyond the bounds of reasonableness.

The Minister says it will not be allowed again in the future, but at the same time we are creating a precedent and if a person juggles the regulations in future he can say, "Parliament has already condoned it in a previous case."

We accept that one day is a reasonable proposition; and so is three days, although I would prefer two days. However, I am not prepared to go beyond three days. I think the Minister would be fulfilling his duties to the State more sensibly if he withdrew this Bill and gave it further thought.

The Hon. I. G. MEDCALF: I rise purely out of courtesy to the members opposite who have spoken. I have already discussed this point with the Minister, and he does not wish to place shires or shire clerks at risk. That is why the period of seven days was chosen; that is, in order to provide protection against unknown events.

This argument has become purely technical. I have told the Chamber why the period should be seven days instead of three days or four days; it is because we believe the seven-day period will cover all contingencies in relation to past schemes so that we do not have to bring the matter to Parliament again.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Bill reported with an amendment.

WORKERS' COMPENSATION ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. C. MacKinnon (Minister for Education), read a first time.

ADJOURNMENT OF THE HOUSE

THE HON. G. C. MacKINNON (South-West—Minister for Education) [5.27 p.m.]: I move—

That the House do now adjourn.

Work Load of Members

THE HON. J. C. TOZER (North) [5.28 p.m.]: I believe the Chamber should not adjourn until the content of an ABC news report this morning has been aired. I have a transcript of that news report, and I will read a passage from it. Referring to the Leader of the Opposition in the Legislative Council, the report states—

> He said the performance of the Council's members could not justify the money being spent. Some members were second, third, fourth and even fifth class politicians.
>
> Mr Thompson said the Legislative Council had lost its role as a house of review. It was costing the State $1m a year to maintain and could be replaced by a $5.00 rubber stamp.
>
> Mr Thompson suggested that members be subject to an examination of their workload to justify their place in the house.

I think we should look at what the honourable member actually said. I have here a corrected copy of Mr Thompson's speech.

The Hon. S. J. Dellar: Corrected or uncorrected?

The Hon. J. C. TOZER: I repeat that I have here a corrected copy of Mr Thompson's speech. He said—

> Over the years I have been here, I think I could narrow it down to about five of the 30 members of this Chamber who have ever made any contribution.

After a brief interjection by the Hon. Clive Griffiths. Mr Thompson repeated—

> Over the years there have been only four or five active members in this Chamber with the change of composition of the House from time to time.

He went on to say—

> It is within the province of all members to do that . . .

By "that" he meant that members of this Chamber could offer themselves as candidates for election to Legislative Assembly seats.

Mr Thompson went on to say—

> . . .if they consider themselves to be first-class members of Parliament and politicians, rather than third, fourth, or fifth-class members, as some of the contributions we have heard in this Chamber from time to time reveal them to be.

If the contribution in this Chamber is to be the criteria for the classification of the quality of a member, I think that would be a sad state of affairs. Some of our members, like Mr Gayfer and Mr Dans, are orators, but some are not; but I do not believe that their ability in this sphere should be the criteria by which a member should be judged. I suggest that Mr Thompson himself is on dangerous ground if he, in fact, is to be judged on his performance in this place.

In his speech Mr Thompson went on to say—

> It is a fact that many members of all parties in the Legislative Council refer matters and problems to the Assembly members.

He also said—

> . . .a member of the Council will refer a matter to an Assembly member, who is up for election every three years, in order to build him up by giving him most of the work to keep him in the public eye and in the hope that when he is elected both members will be carried through on the same ticket.
>
> I do not think that can be denied.

In fact, I think that can be denied. That is an incorrect statement and, in point of fact, it is typical of the speaker's politics. He implies that everything a member does always has to have some political implication. I somehow gained the impression that Mr Thompson, despite all his experience, thinks that the task of a member of the Legislative Council or a member of the Legislative Assembly is made up only of day-to-day duties, such as those relating to State Housing Commission tenancies. He does not seem to think that a member of Parliament should involve himself actively with policy questions in the whole ambit of Government activity. Mr Thompson then went on to say—

> In fairness to the taxpayer I think an examination should be made of the work load that is being carried by the members in this Chamber.

I do not believe Mr Thompson would have any knowledge of the work load that members in this place take upon themselves or, in fact feel obliged to accept. In addition, I point out that the Parliamentary Salaries and Allowances Tribunals has virtually carried out an examination of the work load, at least in relation to parliamentary allowances. The next comment made by Mr Thompson is a follows—

> One of the greatest exponents of retaining this Chamber has been the

> media, and I think it is the duty of the media now to examine and see just how much constructive work is done in this Chamber of the Legislative Council.

I suggest this would not be a bad duty for the media to undertake; perhaps the media should try to illustrate the actions of members within their electorates and provinces and within their respective Houses so that their electors may know what their members are contributing on their behalf and, of course, in general terms, towards the government of the State.

Strangely enough, I also couple my criticism of Mr Thompson's comments with criticism of the media. If, in fact, Mr Thompson's statement on the lack of usefulness of members of the Legislative Council was the most reportable comment made in this House during the debate yesterday, it is indeed a sad commentary on the existing state of affairs. There were far more important statements made during the course of the debate than the nonsense that was publicised.

The final part of Mr Thompson's comments I wish to quote, is as follows—

> . . . members should be made to justify how much work they do on behalf of their constituents; and how much of their time is taken up—when they are not in Parliament—by private excursions or private interests.

I have been here a short enough time to still be sensitive about any unwarranted criticism and it will be conceded that it is very insulting to a new member to have such a statement made about him when he has absolutely no private financial interests and, in 18 months, still has not had time to fit in any private excursions.

I strongly object to the publication by the Australian Broadcasting Commission of an item of this nature which, quite incorrectly, criticises my work as a Legislative Councillor. Further, in talking about myself, I am also talking about other members, because I am quite satisfied that this applies to almost all the members I see sitting around this Chamber, including the great proportion of those on Mr Thompson's side of the House. Is he suggesting that Miss Lyla Elliott or Mr Roy Claughton are not serious about their work and do not apply themselves to the full extent of their ability to the task that they have taken on? Of course he does not, and the same would apply to most members in this place.

I do not want everyone in Western Australia to be told that the money that is being spent on my salary cannot be justified.

The Hon. R. Thompson: You would be hard put to justify it, too.

The Hon. J. C. TOZER: I believe it is justified, but the fact of the matter is that this unfair and inaccurate comment was reported by the ABC and distributed to almost everyone in my province. One or two people might be silly enough to be impressed by such comments, and therefore I resent such statements being made.

I could go on, but I feel I have said enough and I will not persist with the matter. Having made these comments, I support the motion "That the House do now adjourn".

THE HON. G. C. MacKINNON (South-West—Minister for Education) [5.37 p.m.]: I feel constrained to add to the comments made by Mr Tozer. I believe that the comments reported almost constitute a transgression of the spirit of Standing Order 82. I consider that the reporting of such comments does none of us any good, because it must reflect not only on just one member, but also on whoever makes the comment to a lesser or greater degree, because one is hard put to absolve oneself from general exception.

There are many people who may say, "It is quite right; all members of Parliament are like that", and that automatically includes the one member. I have always believed—I think most of us do—that there should be some degree—to use a phrase—of Freemasonry among members.

The Hon. D. K. Dans: What about Hibernianism?

The Hon. G. C. MacKINNON: I think the phrase I used is one that is in fairly general usage. I do not believe the attitude adopted by some people in regard to making jokes about members does the system any good. It is important that there should always be a degree of regard for the system, particularly for one that has a history as great and as honourable as the Westminister system of Parliament. One may disagree with different aspects of that system as it applies to one State or another, but nevertheless I think we have all heard it said that, with all its imperfections, the system we have will remain until someone invents another that is better. That is the final and realistic crunch.

I believe that many of the statements referred to reflect on all of us. There is no way whatsoever by which any person can judge the degree of work performed by a member of Parliament or the efficacy of his work. I have have been here for a fairly long time and during that period I have taken over the duties of members who have either died, have retired, or who have become ill all of a sudden. On those occasions I thought that some members were extremely active, and I was surprised when I took over their duties. I also considered that other members were not so active and I was amazed at their efficiency, because I found that they could work much more expeditiously and effectively than could, perhaps, other members. So there is no way

for anyone to judge how effectively a member of Parliament carries out his duties.

If a member of Parliament is a bad member there is only one group to blame and that is the people who elected him. It is their responsibility. It is of no use talking about the system and method of endorsement by the party, because that is a sorting-out process. The responsibility for electing a member of Parliament is upon the electors. If they are sufficiently apathetic to return any individual who later is considered to be unworthy of his office, that is their business. It could be that one member of Parliament may not be our cup of tea; but, nevertheless, he may suit his electors. Time and again I have seen where a member's behaviour in this House and his apparent performances have led to a political party, of one colour or another, attempting to unseat him with abysmal results, because that member happened to be effective in his representation of his electors.

Mr Tozer spoke a real truth when he said that the ability of a member as an orator should not necessarily be the final judgment on him as a good or efficient member. I think it is a pity that at times we see media reports which are not as critically analytical as they might be. Of course, we must accept that, because in our position, we are a target, sometimes, for abuse by the media, it is a shame that that kind of criticism is reported. Facts speak for themselves and in making a comparison with other Governments around the world, this Government, and previous State Governments, and Governments and individual members throughout Australia, during the period I have been interested in politics, have been phenomenally free of the worst of all things that can be said about a politician; that is, that he is guilty of graft and corruption.

I can recall Sir Walter Murdoch in one of his brilliant essays—and this is many years ago—stating, "It goes without saying that people get the politicians they deserve. *Ipso facto*, they get the Governments they deserve although one can say about Australia that the people have had politicians who have been consistently better than they deserve". I believe that to be true.

I believe Mr Thompson, in his own rights, has been a good member of Parliament in his area. Whether or not I like Mr Thompson, I would still maintain that he is a good member of Parliament. He works. To my mind that is the ultimate accolade one can give to any member of Parliament regardless of whether he can put four sentences together; that is not the most important feature. He could be the most brilliant orator in the world, but that would mean nothing if he did not work in his electorate. I believe he works, but I wish he would give the rest of us credit—I am disappointed he did not—because whether he likes it or not, the majority of us work in our electorates because the majority of us last longer than one term.

The Hon. R. F. CLAUGHTON: Mr President—

The PRESIDENT: Order! The question is that the House do now adjourn. The matter which was before the Chair on that question, has been finalised by the Minister. I do not think I can allow any further discussion.

Question put and passed.

House adjourned at 5.46 p.m.

Legislative Assembly

Thursday, the 9th October, 1975

The SPEAKER (Mr Hutchinson) took the Chair at 2.15 p.m., and read prayers.

QUESTIONS (60): ON NOTICE

1. ENVIRONMENTAL PROTECTION

Hydroelectric Power Station

Mr A. R. TONKIN, to the Minister for Conservation and the Environment:

(1) Has the Environmental Protection Authority been consulted on the question of a pump-storage hydro-electricity station in the Darling Range?

(2) If so, on what date and what advice has been tendered?

Mr P. V. JONES replied:

(1) Yes.

(2) Recommendations from departments to the Minister on matters relating to a Cabinet decision are and will continue to be confidential.

2. HEALTH

Detergents

Mr A. R. TONKIN, to the Minister representing the Minister for Health:

(1) Adverting to question 11 of 1st October, 1975, does the 95% referred to in that answer apply to the total amount of detergent on the market by weight, by volume or by number of brands?

(2) What are the details of the 5% not abiding by the undertaking?

(3) What action is being pursued with a view to achieving total conformity?

Mr RIDGE replied:

(1) Weight but the estimate was approximate.