Progress

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

House adjourned at 12.23 a.m. (Thursday).

Legislative Assembly

Wednesday, the 24th October, 1973

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

EDUCATION ACT AMENDMENT BILL (No. 4)

Introduction and First Reading

Bill introduced, on motion by Mr. T. D. Evans (Attorney-General), and read a first time.

QUESTIONS (29): ON NOTICE

1. TOODYAY WEST RAILWAY STATION

Downgrading

Mr. MOILER, to the Minister representing the Minister for Railways:

(1) Is it proposed to downgrade the Toodyay West railway station to a non-attended station?

(2) If so, what is the reason and what are the present proposals?

Mr. TAYLOR replied:

(1) and (2) An examination of the Toodyay West-Miling branch working is being undertaken to improve the economic operation of the branch. These investigations have not yet advanced to the stage where definite proposals can be presented but possible down-grading of the Toodyay West Station is included in the proposals.

2. SWAN VIEW HIGH SCHOOL

Completion of Stage I

Mr. MOILER, to the Minister representing the Minister for Education:

Is stage I of the new Swan View high school scheduled for opening by the beginning of the 1975 school year?

Mr. T. D. EVANS replied:

A decision as to whether Swan View high school will be opened at the beginning of the 1975 school year will be made early next year after the annual review of the provision of secondary education throughout the whole State is completed.

3. *This question was postponed.*

4. DEVELOPMENT

Regional Planning Committee

Mr. E. H. M. LEWIS, to the Premier:

(1) Has the Government set up a committee to examine regional organisation and/or planning?

(2) If so, what are its terms of reference?

(3) When is its report expected?

(4) Will it be available to the House?

(5) Who are the members of the committee?

Mr. J. T. TONKIN replied:

(1) Yes.

(2) To examine regional organisation within the State and recommend on—

(a) the division of the State into economic regions;

(b) the selection of common regional administration centres;

(c) the selection of one of these centres for accelerated growth;

(d) the further decentralisation of Government administration;

(e) the rationalisation of departmental activities relating to decentralised development;

(f) the re-organisation of non-departmental regional planning development and promotional organisation and activities.

(3) Considerable research has been undertaken by the committee in association with the Commonwealth Bureau of Census and Statistics to define regional boundaries within the State. During the course of the work the Australian Government announced its intention to allow local government authorities access to the Grants Commission. Discussions have been held with representatives of the Australian Government in an attempt to ensure that their requirements for this new development are adequately met by the work being undertaken by the committee. It is expected this work will be completed shortly.

During the same period the membership and functions of the zone development committees have been revised. The committees have operated on the re-organised basis from 1st July, 1973.

(4) The report will be submitted to Cabinet for its consideration.

(5) The permanent heads, or their nominees, of the following departments—

Development and Decentralisation.

Treasury.

Town Planning.

Local Government.

5 and 6. *These questions were postponed.*

7. LAMBS

Prices for August

Mr. STEPHENS, to the Minister for Agriculture:

(1) Are the figures quoted by the Australian Meat Board in the publication *Meat Producer and Exporter* (September 1973) refering to market prices and yardings of lambs in Perth in August, correct?

(2) Are the figures for total yardings as quoted in the same context correct?

(3) If the prices quoted are correct, why is there such a difference between Perth prices and Eastern States prices?

(4) If the prices are not correct, what action is being taken?

Mr. H. D. EVANS replied:

(1) No. The figures quoted by the Australian Meat Board refer only to the price of old season's lamb which accounted for only a fraction of the kill at the time.

(2) No. The figures quoted bear no relation to yardings and in effect are the weekly slaughter figures for lambs delivered to the Western Australian Lamb Marketing Board.

(3) The figures are not correct. The differences in price have several contributing factors.

(i) The prices in the Eastern States are estimates only.

(ii) Only the summer lamb schedule price has been quoted for W.A. whereas the other States would be likely to include only prime suckers.

(iii) The prices quoted are gross price in the Eastern States and net return to growers in W.A.

(iv) The yardings indicate a much shorter supply in the Eastern States than here in W.A. which could be reflected in a higher price.

(4) To the extent that the prices are incorrect, that is quoting the summer lamb schedule only, the Western Australian Lamb Marketing Board has taken the matter up with the Australian Meat Board and is requesting that this important statistical record be corrected in such a way that the correction will become an established record. The Lamb Board is also asking the Australian Meat Board for a definition of the description of light and heavy so that a comparison between States can be correctly shown on the same basis as other States. The figures shown for Perth should be based on actual schedules which will be a more correct record, whereas figures for other States can only be based on estimates taken from auction sale returns. In addition to this the Perth figures are based on actual grading of lamb slaughtered while other States can only be on estimates as there is no grading for local markets.

8. HOUSING

Langford Project: Shopping Centre

Mr. BATEMAN, to the Minister for Housing:

In view of the extensive State Housing Commission development being carried on in the Langford area and the total lack of shopping centre facilities for these residents, will he advise when such facilities will be provided?

Mr. BICKERTON replied:

Public tenders, closing at the commission on Monday, 12th November, 1973, have been invited for the lease of approximately four acres of land and the development of the shopping centre on the land set aside and zoned for this purpose in the Langford local centre on Langford Avenue.

The successful developer will be required to finance the cost of all buildings and site works and tenderers may submit proposals for the development of the whole or portion of the site. The successful tenderer will be required to commence the project within three months of acceptance of the tender.

9. HIGH SCHOOL AT DIANELLA

Establishment

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

(1) Is there a need for the establishment of a high school in Dianella?

(2) What would be the likely first year intake if such a school were established?

(3) Which other high schools would be affected by the establishment of a Dianella high school and to what extent?

(4) What are the enrolments in each year of the following high schools at present—

Balga,
Morley,
Mirrabooka,
John Forrest,
Mt. Lawley?

(5) What is the anticipated enrolments for each of those schools for 1974, 1975 and 1976?

(6) If the answer to (1) is "Yes" what is the impediment to the construction of a Dianella high school?

Mr. T. D. EVANS replied:

(1) Yes. Three of the existing secondary schools in the area are already at maximum capacity. In addition, over the next three years, district enrolments will increase by the equivalent of one secondary school.

(2) and (3) All existing secondary schools will be affected by boundary alterations. Until a site has been finalised, it is not possible to state the enrolment figures with accuracy.

(4) Enrolment as at 1st August, 1973.

School	Year one	Year two	Year three	Year four	Year five	Special	Total
Balga S.H.S.	460	445	299	105	....	....	1,309
Morley S.H.S.	332	287	255	142	....	....	1,016
Mirrabooka S.H.S.	305	309	248	76	79	....	1,017
John Forrest S.H.S.	339	349	307	192	123	14	1,324
Mt. Lawley S.H.S.	329	368	322	224	213	....	1,456

(5)—

Senior High School	Predicted February Enrolments 1974	1975	1976
Balga	1,421	1,373	1,384
Morley	1,230	1,321	1,406
Mirrabooka	1,171	1,243	1,282
John Forrest	1,374	1,352	1,322
Mt. Lawley	1,457	1,414	1,389

(6) The initial impediment to the construction of a high school in Dianella is the acquisition of a suitable site.

10. *This question was postponed.*

11. HOUSING

Learmonth and Exmouth: Service Personnel

Mr. O'NEIL, to the Minister for Housing:

(1) Has the State through the State Housing Commission constructed service housing in either Learmonth or Exmouth and, if so, how many units have been built?

(2) What is the total cost to the State?

(3) Has he been advised of any proposal by the Commonwealth to close down or phase out R.A.A.F. operations at Learmonth?

(4) In the event of any action as per (3) who will bear the responsibility of paying for surplus service housing?

(5) Is there any programme to build State houses in Exmouth this year and, if so, how many?

(6) What is the demand for State Housing Commission accommodation at Exmouth?

Mr. BICKERTON replied:

(1) Twenty single detached houses and 28 units of medium density accommodation in the form of town houses, have been constructed for R.A.A.F. personnel associated with the R.A.A.F. operations at Learmonth.

The town houses are for a limited period only and on completion of construction activities by the R.A.A.F. they will become part of the commission's normal holdings for allocation to eligible applicants. The 20 houses are for personnel operating the base.

(2) The provision of this housing was part of a total annual services programme of 144 units in 1970-1971. Under the terms of the Commonwealth and State Housing Agreement, 1956, the State set aside $437,500 from the funds allocated by the Commonwealth for that year towards the cost of the total programme. On a proportionate basis the sum set aside towards the Exmouth housing would be in the vicinity of $191,700.

(3) No, but it is understood the construction personnel will be phased out in the near future.

(4) In the event of the 20 single detached houses becoming surplus to service requirements, such housing becomes available for normal commission operations and the commission will continue to make repayments in the normal manner, as prescribed in the Commonwealth-State Housing Agreement.

(5) No.

(6) Thirty one applications for housing at Exmouth are currently held as against the estimated annual turnover of approximately 20 houses.

12. SHORTAGE OF MATERIALS AND MACHINERY

Survey

Sir CHARLES COURT, to the Premier:

(1) Is he aware that there are acute shortages in many items over a wide range of products and equipment such as building materials, home appliances, motor vehicles, spare parts, farm equipment and the like?

(2) What survey has been made by the Government under the various headings of foodstuffs, building materials, vehicles, equipment, etc., in respect of—

(a) the current shortages;

(b) the potential supply situation as at the end of the year; and

(c) during the first half of 1974?

(3) Will he list the items where shortages are known or thought to exist, the reasons for these shortages and action taken by the Government to alleviate the situation?

Mr. J. T. TONKIN replied:

(1) There are shortages of steel and raw materials for the plastics industry. These shortages are being experienced world-wide and, although the causes are complex, fundamentally investment in production facilities has not matched the rise in demand. However, it is not correct that there is an acute shortage of building materials, home appliances, spare parts, farm equipment and the like, although the supplies of some of these are being affected by the steel shortage.

(2) No surveys have been made, but talks have been held with the major companies concerned, and the Government is fully aware of the situation.

(3) The Government is most concerned about the shortages of steel and plastics raw materials, particularly because of its effect upon local manufacturing firms, and the construction industry. However, because of the nature of the problem, the Government is unable to take action to increase supplies of these materials.

13 to 15. *These questions were postponed.*

16. ROYAL STYLE AND TITLES ACT

Effect

Mr. MENSAROS, to the Premier:

(1) Will the assent by Her Majesty to the recent Commonwealth Act amending the Royal Style and Titles affect any of the Western Australian Statutes or proceedings such as forms of oaths, etc.?

(2) As Queen Elizabeth I was not Queen of Australia, will Her Majesty now be known and addressed in Australia and Western Australia as Queen Elizabeth I?

Mr. J. T. TONKIN replied:

(1) The assent by Her Majesty to the Commonwealth legislation amending the Royal Style and Titles was followed by the publication in the *Australian Gazette* of Her Royal Proclamation on 19th October, 1973.

To give effect to the change upon that proclamation, the State Government, pursuant to the power conferred by the Royal Style and Titles Act, 1947-53 (W.A.) may, by Proclamation, declare that the style and titles as so altered, shall be substituted for the style and titles appearing in any Act, schedule, form, regulation, rule, rule of court, or by-law, enacted, prescribed or made in, pursuant to or under the authority of a Western Australian Act.

(2) No.

17. HOMOSEXUALS

Amending Legislation

Mr. MENSAROS, to the Premier:

(1) Has his so far held and stated policy changed regarding the amendment of the law affecting homosexual activities?

(2) If so, is this due to the recent motion adopted in the Commonwealth Parliament?

(3) If not, will he state again his policy?

Mr. J. T. TONKIN replied:

(1) to (3) The House of Representatives carried, by a substantial majority, a vote on a motion moved by a former Liberal Prime Minister, Mr. John Gorton, aimed at altering the law so that homosexual activities would no longer be regarded as a criminal offence. Within hours of the passage of this motion, the Australian Government issued an ordinance to give effect to the decision in the Australian Capital Territory, and the Attorney-General in Tasmania announced publicly that legislation was being prepared in his State.

Consequent upon the aforementioned decisions, it has become desirable for Western Australia to give further consideration to the matter, but a decision has not been reached.

18. HISTORIC WRECKS

Items on Display

Mr. MENSAROS, to the Minister for Cultural Affairs:

Referring to his reply to question 19 asked by the member for Mt. Lawley on 16th October, 1973, would he please say—

(1) How many of the approximately 50,000 items obtained from historic wrecks are displayed for the public to view in Western Australia?

(2) At which places are they displayed?

(3) How many, and what approximate proportional value to the aggregate value of all the items, have been given to Governments, institutions, or persons outside Western Australia?

Mr. J. T. TONKIN replied:

(1) About 1,110 items are on display.

(2) (i) Fremantle Branch of the Western Australian Museum—about 530 items.

(ii) Geraldton Maritime Museum—about 560 items.

(iii) Tourist Development Authority—about 20 items.

(3) (i) Governments: None, but the disposition of material recovered from Dutch wrecks since the Museum Act Amendment Act 1964 in view of the continuing interests of the Netherlands and Australia in the relics is being reviewed by an Australian/Dutch committee set up by the Commonwealth and Dutch Governments in accordance with an agreement made by Holland and Australia in November, 1972 under which any rights to the material possessed by the Dutch East India Company were made over to the Commonwealth. The Government of Western Australia has agreed to co-operate fully in the spirit of the arrangement.

Clause 21 of the Bill for the Maritime Archaeology Act refers, i.e.—

When the trustees are satisfied that any relic has been preserved and has been examined and recorded, they may make a recommendation to the Governor that the relic should be disposed of to—

(a) the Commonwealth, or any State or Territory of the Commonwealth;

(b) a person or body having historic associations with that relic; or

(c) the finder, or a person who recovered or assisted in the recovery of, the relic,

and if the Governor so directs, the trustees shall give effect to the recommendation.

(ii) Institutions: Western Australian Newspapers in 1961. To be used to obtain information on the voyages of early Dutch ships along the Western Australian coast, a clay pipe, a knife blade, a small cannon ball, and part of a wooden block for hoisting, all from

Zeewyk, collected on the Abrolhos Islands in 1895. (Material not valued: but little commercial value.)

(iii) Persons: One coin (8 reales, Mexico) from the *Gilt Dragon* was presented to Mr. G. van der Heide, Head of the Archaeological Survey of the State Department of Land Reclamation in the Zuiderzee area, and Director of the Museum for the Isselmeerpolders, in recognition of his service to the Museum in preparing the "Report about the research on ancient Dutch shipwrecks on the Western Australian coast to be done by the Western Australian Museum". (Material not specifically valued, market price at that time approximately $80-$100.)

19. RAILWAYS

Takeover by Commonwealth: Negotiations

Mr. MENSAROS, to the Minister representing the Minister for Railways:

(1) Is it correct, as reported in *The Sunday Times* on 21st October, 1973, that the legislative actions to transfer suburban railways to the M.T.T. and the provision of railways to the Weld Range project sprang from the Government's pre-determined policy to hand over the W.A.G.R. to the Commonwealth?

(2) If so, are the negotiations between State and Commonwealth officers only concerned with the technicalities of the *modus* of takeover, not the question of takeover itself?

(3) If answer to (1) is "No" what were the reasons for deciding on the two actions mentioned in (1)?

Mr. TAYLOR replied:

(1) to (3) The newspaper report is not factual. The situation regarding discussions with the Commonwealth on the future ownership of the W.A.G.R. was clearly outlined in the Premier's reply to question 9 of 23rd October, 1973. As already announced, the Government hopes to introduce legislation to integrate the management of urban public transport services during this session. This move has no connection with the discussions with the Commonwealth on the future ownership of the W.A.G.R. It has relationship only to the desire to better integrate the urban public transport services and better utilise the urban public transport facilities.

Quite contrary to the opinion expressed by the newspaper, integration of the management of the M.T.T. and the W.A.G.R. suburban services would simply add another very complex issue to those already identified in the discussions with the Commonwealth.

The newspaper is also in error in asserting that suburban services are among the most profitable of the railway operations.

The agreement between the State Government and Northern Mining Corporation N.L. concerning the Weld Range railway line does not require the State to provide the railway line. The railway line, locomotives and all rolling stock will be financed by Northern Mining. The W.A.G.R. will maintain the railway and all locomotives and rolling stock and operate it, for which services Northern Mining will pay an agreed freight rate. This agreement has absolutely no relationship to the discussions with the Commonwealth on the future of the W.A.G.R.

The newspaper report mentions a recommendation to construct a railway between Kalgoorlie and Geraldton. This possibility has been discussed from time to time over a number of years and the Minister for Railways is not aware of any recommendation that it should be built, nor is any proposal relating to it under consideration.

The two actions referred to in the first part of this question in no way bear on the discussions this State is having with the Commonwealth.

20. PRE-SCHOOL EDUCATION CENTRES

Recurrent Expenses

Mr. MENSAROS, to the Minister representing the Minister for Education:

How much is the amount to be spent according to the Estimates during the current financial year for recurrent expenses of pre-school education centres, excluding teacher training or the cost of maintaining the Pre-School Education Authority?

Mr. T. D. EVANS replied:

The amount of $1,600,000 provided in the Estimates covers the following—

	$
Administration and teacher training	216,000
Pre-school centres recurrent expenses	1,298,000
Building grants	74,000
Grants to needy centres	12,000
	1,600,000

21. LAND

Armadale: Reserve No. 4561

Mr. RUSHTON, to the Minister for Lands:

(1) For which purpose is the present surveyed route through reserve No. 4561 at Armadale being carried out?

(2) What is the acreage of this reserve?

(3) Has he requested the Director of Environmental Protection to use his good offices to ensure this scenic and tourist attractive area is afforded the best possible consideration from all aspects when the proposed development is implemented?

(4) If (3) is "No" will he do so immediately?

Mr. H. D. EVANS replied:

(1) The Lands Department has not issued any instructions for a survey within the boundaries of this reserve.

(2) About 456 hectares (about 1127 acres).

(3) The Lands Department is not aware of any proposed development. Class "A" reserve No. 4561 is vested in and held by the Shire of Armadale-Kelmscott in trust for the purpose of "park lands".

(4) Answered by (3).

22. *This question was postponed.*

23. HOUSING

Regional Offices, and Commissions

Mr. BLAIKIE, to the Minister for Housing:

(1) Is it the intention of the Government to establish regional centres and sub-regional centres for the purpose of complying with financial and other policy requirements of the Federal Government and would he give details of the—

(a) State Government policy;

(b) towns where these administrative centres are to be located?

(2) Would he advise the country towns where his department is seeking office accommodation?

(3) Would he give detail of the average commission paid to other departments, e.g., Crown Law and local government, and the total amount paid during the years 1970 to 1973 for services on behalf of the commission?

Mr. BICKERTON replied:

(1) The State Government has approved the policy of the State Housing Commission to establish regional administrative centres based on Albany, Bunbury, Geraldton, Merredin and Port Hedland and these will control the branch offices and local agents within their respective regions.

In the metropolitan region, centres will be established at Fremantle, Mirrabooka and in the Victoria Park/Armadale corridor. This decision is totally unrelated and independent of Australian Government policies.

(2) Busselton and Waroona.

(3) (i) Average per annum over last three years—

	$
Police	623
Treasury	2,265
P.W.D.	435
R. & I. Bank	5,074
Crown Law	20,202
Local authorities ..	6,297

(ii) Total paid in years 1970-1973 —$104,688.

24. TOURISM

Regional Councils

Mr. BLAIKIE, to the Minister representing the Minister for Tourism:

(1) When is it intended to introduce legislation proposing regional tourist councils?

(2) Would he give detail of those areas regarded as regional centres for tourist purposes?

Mr. T. D. EVANS replied:

(1) and (2) A first draft of a Bill of the proposed new legislation has been forwarded to all country tourist bureaux and others interested in tourism.

A final draft will be prepared on receipt of their comments.

25. HOUSING

Aborigines: Accommodation Provided, and Policy

Mr. RUSHTON, to the Minister for Housing:

(1) Since the commission assumed the functional responsibility for housing Aborigines in July, 1972, how many of these people has the commission accommodated in the—

(a) metropolitan region;

(b) country areas?

(2) How many Aboriginal people have been housed in each of the metropolitan shires?

(3) Is he and his department experiencing the same dislocation of the Aboriginal family and of the general community life in our metropolitan urban communities as reported to be the experience of the Federal Government and the Minister for Social Security, Mr. Hayden, in another way through their policies?

(4) Are extensive objections being received throughout our urban areas to the way the housing of Aboriginal families is being implemented?

(5) Does the Government intend to continue the present policy?

(6) If the Government intends to modify the policy will he advise me in which way these changes are to be implemented?

(7) How many homes for Aboriginal families are to be made available in this financial year in the—

(a) metropolitan region;

(b) country districts,

(i) by purchase;

(ii) by construction?

Mr. BICKERTON replied:

(1) (a) 313 families.

(b) 358 families.

(2)

Local authority	No. of Houses
Armadale-Kelmscott	28
Bassendean	5
Bayswater	10
Belmont	36
Canning	23
Cockburn	10
Fremantle	8
Gosnells	16
Kwinana	13
Melville	10
Mosman Park	1
Mundaring	4
Perth	8
South Perth	7
Stirling	54
Subiaco	1
Swan	51
Wanneroo	28
	313

(3) There is no evidence that the housing policies of the State Government are disrupting Aboriginal family and tribal life.

(4) Due to the pressing urgency of the problem of Aboriginal housing, the sizeable increase in available funds, and the rapid movement from the circumstances prevailing only twelve months ago, mean that the housing criteria operative to that time cannot be maintained with any degree of rigidity. No longer can the housing authority wait until an Aboriginal family has reached the previously accepted standards of domestic and social behaviour commensurate with the norms prevailing in the communities wherein they were to be housed. In light of the above it is understandable there have been some objections.

(5) Yes.

(6) Answered by (5).

(7) With grant funds made available by the Australian and State Governments the commission programme intention is as follows—

Metropolitan region—

New construction 40 houses.

Purchase of vacated houses—40 houses.

Country area—

New construction—256 houses.

Purchase of vacated houses—2 houses.

26. STATE BUSINESS UNDERTAKINGS

Interest from Investments

Mr. R. L. YOUNG, to the Treasurer:

In reference to the section "Funding Deficits" in his second reading speech on the Appropriation Bill (Consolidated Revenue Fund) 1973-74, how much of the $6.2 million received by State business undertakings from interest earned under the Public Moneys Investment Act were—

(a) paid over to those undertakings prior to 20th February, 1971; and

(b) paid over to those undertakings after 20th February, 1971?

Mr. J. T. TONKIN replied:

(a) $2,882,146.

(b) $3,260,825.

27. POST OFFICES

Country Towns: Closure

Mr. McPHARLIN, to the Premier:

(1) As it has been reported in the Press that thirty-five country towns in Western Australia may

soon lose their post offices, does the Government support the proposals?

(2) If not, what action is contemplated?

(3) Will the matter be brought forward at the next Premiers' conference?

Mr. J. T. TONKIN replied:

(1) to (3) According to Erskine May's *Parliamentary Practice*, questions to Ministers are not in order which do not relate to the public affairs with which they are officially connected, or to matters of administration for which they are responsible. The Leader of the Country Party should know that the provision of post offices is in no way a matter of State administration.

28. *This question was postponed.*

29. EDUCATION

School Buildings: Public Use

Mr. RUSHTON, to the Minister representing the Minister for Education:

(1) Is the department at present active in designing and planning educational/school buildings suitable for multiple use both for school and general community purposes?

(2) If so what progress has been made in this development?

(3) What expenditure has been provided and expended for this purpose to date?

Mr. T. D. EVANS replied:

(1) and (2) Whilst the committee appointed to investigate the planning and design of community schools has been seeking information on similar projects in other areas, it has been considered preferable to give first priority to the utilisation of existing facilities.

This policy has been adopted to obtain the greatest use of available finance over as wide an area as possible and so provide greater community involvement than would be the case in one specially selected centre.

It has also been necessary to consider the policies which are being developed by the Community Recreation Council to encourage as many people as possible to participate in an integrated programme.

The Education Department's policy is being developed through the construction of halls in six existing secondary schools and four new high schools in the current year, the use of sporting facilities in secondary schools and the establishment of adult programmes involving the use of workshops, home science centres, art and other specialist rooms.

(3) It is difficult to assess the normal recurrent expenditure involved in the provision of adult classes and general community use of school facilities. It should be noted, however, that the six halls to be built in the current year will cost in excess of $1.25 million.

QUESTIONS (3): WITHOUT NOTICE

1. ALWEST ALUMINA PROJECT

Communication from Prime Minister

Sir CHARLES COURT, to the Minister for Development and Decentralisation:

I refer to the Press report yesterday under the heading, "P.M. puts a damper on alumina plan", which indicates there has been correspondence or communication of one kind or another between the Mayor of Bunbury and the Prime Minister. From the correspondence and other information released by the Mayor of Bunbury, it appears the Prime Minister is not very optimistic about the Alwest alumina project. Has the Premier or the Minister received a communication or a copy of a communication from the Prime Minister? If so, could the Parliament be acquainted with its contents?

Mr. TAYLOR replied:

Although no notice has been given of the question, I fully understand the purport of it. I read the article referred to in the *Daily News* yesterday but I have no further information than that which the Leader of the Opposition read in the article. I perused it carefully and it appears the words quoted in the article as coming from the Prime Minister to the Mayor of Bunbury were in general terms; that is, he appeared to be merely indicating that the policy of the Australian Government had not necessarily changed from that earlier enunciated. From my recollection of the remarks attributed to the Prime Minister, they were not specifically oriented.

One or two observations could perhaps be made. This particular legislation—the Alumina Refinery (Worsley) Agreement Bill—went through Parliament a week or two ago. Some pains were taken to explain to members that negotiation for an export license could be

quite a delicate matter and that this State Government was working very closely with the company and had in fact refrained from making any specific approaches to the Australian Government until such time as the company felt it had all the information it needed from its co-venturers—in particular the American partners to the venture.

As I understand it, the company is preparing to make its approach to the Commonwealth next month, and the State Government will be associated with that approach. The company will be using as a basis for its submission the fact that its agreement with this Government had been made some considerable time before the Federal Government's policy was publicised. Therefore, I do not change my fairly optimistic opinion that in respect of the license all will be well.

My final comment may be reported elsewhere, and in a sense I hope it will be. With no disrespect to Mr. Usher, the Mayor of Bunbury, whom I know quite well, and respect, I feel such delicate negotiations between a very large company and the State can best be handled at the level of government, and although a community may be very interested in the outcome of negotiations its first avenue of approach is to obtain the information through its member of Parliament. In other words, perhaps some harm can be done in attempting an outside approach.

In answer to the question, I saw nothing in the article in yesterday's issue of the *Daily News* which would lead me to change my opinion. Certainly, nothing is known to have been expressed by this Government or by the Australian Government or the company to this point of time to indicate there is likely to be any rejection of the proposal.

The SPEAKER: I ask Ministers to make more concise replies, if possible.

Sir Charles Court: The people of Bunbury do not share your optimism.

2. STATE HOUSING COMMISSION

Listing in Telephone Directory

Mr. RUSHTON, to the Minister for Housing:

(1) What is the significance of the Department of Housing listed in the State Government section of the telephone directory being the Commonwealth Department of Housing?

(2) Is this symbolic of the Commonwealth Government's takeover of our State's rights and responsibilities?

(3) Has he objected to this encroachment?

Mr. BICKERTON replied:

(1) to (3) I would like the honourable member to place the question on the notice paper because I think I could give a very good answer to it.

3. TOURISM

Regional Councils

Mr. BLAIKIE, to the Minister representing the Minister for Tourism:

Relating to question 24 on today's notice paper, which was asked by me, in part (1) I inquired about proposed legislation. In part (2) I also asked whether the Minister would give details of those areas regarded as being regional centres for the purposes of tourism, to which I received no reply. Can the Minister give me that answer? If not, will he arrange to make the answer available?

Mr. T. D. EVANS replied:

I gather there are two questions, one being whether I am able to supply the information. As I only represent the Minister for Tourism, the answer is "No". In reply to the second question as to whether I will seek to obtain the information from the Minister, the answer is "Yes".

AUCTION SALES BILL

In Committee

Resumed from the 17th October. The Deputy Chairman of Committees (Mr. A. R. Tonkin) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Progress was reported after clause 3 had been agreed to.

Clause 4: Interpretation—

Mr. BLAIKIE: During the course of the debate on this Bill, I raised the point that the word "wool" had been omitted from the interpretations. The interpretation of "farm produce" includes skins, hides, tallow, tobacco, etc. but specifically excludes wool.

However, page 10 of the Bill contains a provision under which a magistrate can prescribe licenses for the purpose of auctioning wool. This query was raised during the second reading debate. Can the Attorney-General explain why the word "wool" has been removed from the interpretations?

Mr. T. D. EVANS: I thank both the member for Vasse and the member for Stirling —the latter in anticipation of his remarks —for making plain during the second reading debate the queries they intended to raise. I am now in a better position to answer them.

On the question of wool, the Sales by Auction Act, 1937, contained a provision —section 7—to the effect that in so far as it related to wool the provision would not come into force until a date to be proclaimed. It was never proclaimed. The Bill before us applies to auctions of wool as well as to auctions, generally. Wool is specifically mentioned in clause 10 (3) (c), because the selling of wool by auction is a specialised business and some auctioneers may not wish to be licensed for any other purpose. The classifications are not exhaustive. Wool is not included in the definition of "farm produce", so the provisions derived from the Sales by Auction Act shall not extend to wool in this Bill. I draw the attention of the member for Vasse to clause 31 of the Bill.

Clause put and passed.

Clause 5: Exemptions—

Mr. STEPHENS: During the second reading debate I asked the Minister to clarify the reasons for several exemptions which are not in the present Act being included in the Bill. The Attorney-General indicated that he would provide an explanation. Can he do so?

Mr. T. D. EVANS: The three exemptions mentioned were those relating to the Public Trustee, sales authorised pursuant to the provisions of the Rural and Industries Bank Act, 1944, and sales of impounded stock.

With regard to impounded stock, my inquiries suggest that this is purely and simply a question of convenience and economics. It appears that here, as elsewhere, because sometimes the value of an impounded animal is not very great, it is thought the most expeditious and economical method of conducting a sale is not to require the services of a licensed auctioneer. If the value of the animal were such that it would appear to be in the best interests of the owner to have the sale conducted by an auctioneer, that would be in order. The legislation does not prohibit such sales; it merely says the services of a licensed auctioneer are not required in all cases. I am sure the common sense which has been exercised in the past in the matter of sales of impounded stock can be expected to continue.

The exemption relating to the Public Trustee is also a matter of common sense. The Public Trustee is responsible not only for administering the estates of persons who have appointed him as executor, but he is responsible also for administering certain small intestate estates. It is in the matter of small estates that often the police must go to the abode of the deceased person and take certain articles into custody for security purposes. Usually those articles are sold at *ad hoc* sales and the value of the articles is generally small. It is intended to continue with that practice.

In the case of the Rural and Industries Bank exemption, I am advised that a similar exemption is extended to State-owned banks in each of those States which have one. I refer to the Rural Bank of New South Wales, the State Savings Bank of Victoria, and the State Savings Bank of South Australia. I am unaware of the position in Tasmania and Queensland. However, in the three former States this exemption is extended to the State banks. In Western Australia the most common form of sale conducted by the Rural and Industries Bank is the sale of land. I think it would be safe to say that bank is by far the largest seller of land, when compared with other banks. It is to regulate this practice that the exemption has been extended to the Rural and Industries Bank. The provision is in keeping with the situation which applies in Victoria, South Australia, and New South Wales.

Mr. BLAIKIE: Paragraph (f) refers to the sale of impounded animals under the laws relating to impounding. I do not believe the Attorney-General's explanation of this exemption is satisfactory. Who will sell the animals as they are impounded? Surely all registered auctioneers handle their accounts on either a percentage basis or at some other recognisable fee.

Mr. T. D. Evans: It is usually a minimum fee. If, for example, one stray goat is to be sold, the auctioneer would not rely on the *ad valorem* value; he would require a minimum fee for his services.

Mr. BLAIKIE: I realise that; but on the other hand elsewhere in the Bill there is provision for licenses to be granted for specific purposes. Has the present system been found to be lacking? Has it given real cause to exempt the sale of impounded stock from the provisions of this legislation? Can the Attorney-General quote any case of someone being disadvantaged under the present law?

Mr. T. D. EVANS: I am unable to quote any specific case. However, if the value of the animal or the group of animals is such that obtaining and paying a minimum fee for the services of a licensed auctioneer is not warranted, the question arises: Do we take the animals to the auctioneer, or must Mohammed come to the mountain? If the value of the animals is such that equity and justice require that the best possible price be obtained from a large forum of bidders, then common sense dictates that the services of a licensed auctioneer should be obtained. The provision does not prohibit the use of a

licensed auctioneer in those cases; it merely says that in given circumstances it is not compulsory to obtain his services. I think we can leave the situation to be dictated by common sense.

Mr. Blaikie: Who would you use?

Mr. I. W. MANNING: I advise caution here, because, without question, any impounded stock being sold would be the property of a third person. Usually a licensed auctioneer lifts the whole deal to the highest possible plane and this is most important with the compulsory sale of someone else's stock. Therefore I strongly advise the Committee to delete this provision from clause 5.

Mr. T. D. Evans: You would make it compulsory for the services of an auctioneer to be obtained even for the sale of one stray goat, would you?

Mr. I. W. MANNING: One stray goat could represent some particular value to a certain person, just as a racehorse represents some particular value to someone else.

Mr. Cook: That is stretching it a bit.

Mr. I. W. MANNING: No, it is not. If one lives in the country one knows that situations of this nature do arise from time to time. It is important to demonstrate to the owner, who may be found at some later date, that all possible steps were taken to obtain the best price.

Mr. T. D. Evans: I draw the attention of the honourable member to paragraph (f) of subclause (1) and suggest that he read that in conjunction with the law relating to the impounding of a valuable animal.

Mr. I. W. MANNING: I can only hope the Attorney-General will delete this provision from the clause, so that the provision he has referred to in the Act will continue to apply.

Clause put and passed.

Clauses 6 to 19 put and passed.

Clause 20: Justices Act to apply—

Mr. STEPHENS: Once again, in regard to this clause, I ask why there is no appeal from the decision of a magistrate. I point out that this existed in the previous legislation. It is rather an injustice, when a man's livelihood may be in jeopardy, that he has no right of appeal from a magistrate's decision.

Mr. T. D. EVANS: In this instance we are seeking to consolidate the provisions of the existing Act into a new Statute. Ever since the principal Act has operated in regard to the granting of a license, no appeal from the decision of a magistrate has been provided. Members may recall that I often raised this point myself, but I have made inquiries and I am advised that this provision has caused no concern. If a person applied to a magistrate for a license and he was refused, there is nothing to prohibit him—even the next day, if he wishes—from appearing before another magistrate.

Mr. STEPHENS: If a man did apply to appear before another magistrate the next day he may be at a disadvantage. It may not be as easy as the Attorney-General would have us believe, because magistrates are few and far between in the country.

Another point is that we suddenly find there is a provision in the existing Act to which nobody has taken exception, but which I think is generally considered to be a bad provision, and there is no reason that we should continue with it.

Clause put and passed.

Clauses 21 to 23 put and passed.

Clause 24: Misrepresentation—

Mr. BLAIKIE: Subclause (1) of this clause relates to misrepresentation and as I understand it it is placing absolute responsibility on any person, firm, or corporation who makes such misrepresentation, whether intentionally or otherwise. In view of this context I can visualise that at future auctions an auctioneer may say, "This is a very fine piece of land, I think." He may be offering cattle and could say, "These are fine steers, I think."

Mr. Bickerton: How long do you think an auctioneer would last if he said, "This is a fine piece of land, I think"?

Mr. BLAIKIE: The Attorney-General has made a valid point because one of the principles of the auction system is that the purchaser must still accept responsibility for his purchase. As the Minister for Housing has said, an auctioneer would not last two minutes if he said, "This is a fine piece of land, I think", because he could be committing an offence if he gave a false or misleading description. Auctioneers generally act on behalf of the vendor who has given the auctioneer an article to sell. In doing so he gives him some description of the article and the auctioneer then sells on behalf of the vendor. As I am fearful of the final consequences of a clause such as this, I move an amendment—

> Page 22, line 13—Insert after the word "who" the word "knowingly".

If the amendment is agreed to, the interpretation that would then be placed on this provision would be for any wilful intent to deceive the public an offence will have been committed. The clause as printed will certainly not allow any commonsense and good faith to prevail, because any unknowingly false description or misleading statement could be deemed to be an offence. After that limited explanation I hope the Committee will support the amendment.

Mr. T. D. EVANS: I draw the attention of members to subclause (2) which will provide auctioneers with adequate evidence in the case of a statement which is obviously not misleading or intended to be misleading. They must, of course, exercise caution and great care.

However, I have examined the amendment to which I have no objection.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 25: Mock auctions—

Mr. BLAIKIE: During the second reading debate I asked the Attorney-General for some explanation regarding subclause (2) (c) which relates to articles given away or offered as gifts at auctions. Basically the intention of the provision is to prevent mock auctions. I raised the matter because of the fact that at many auctions, which are not mock auctions, inducements are offered to encourage people to attend the sales. Has the Attorney-General any comment to make in relation to this matter?

Mr. T. D. EVANS: Yes. I think the member for Stirling also raised this point. Here we come to the nitty-gritty of the reform which is being submitted for approval. We are breaking new ground in seeking to, if not prohibit, at least curb the activities of persons who have engaged in the practice which, for want of a better name, has been referred to as a mock auction.

Although we all know what the brute is, it is sometimes difficult to define it. I have heard the expression applied also to pyramid selling. In those States which have already legislated concerning the activities of those engaged in mock auctions it has been found necessary to include a prohibition on that type of activity described in subclause (2) (c).

We must make up our minds what we want to do. If we wish to deal effectively with mock auctions then we must include the necessary provisions. While the provision in this case may result in the necessity for bona fide auctioneers to vary the practice they adopted in the past, we must still include it if we are sincere in our efforts concerning mock auctions. The bona fide auctioneers will just have to adapt their practices accordingly. This type of practice adopted by a bona fide auctioneer is merely a gloss to his genuine trading whereas in the mock auctions the practice is the very essence of their trading art. We must make up our minds about it one way or the other.

Clause put and passed.

Clauses 26 and 27 put and passed.

Clause 28: Inspection of records—

Mr. STEPHENS: Subclause (3) deals with the duties of a bank manager when a person authorised in writing by the Minister is making an inspection of records. However, I believe that under the provision such a person is given unlimited power.

We must bear in mind that many licensed auctioneers have diversified business interests and therefore have many accounts apart from those associated with auction sales.

My first thoughts on subclause (3) were that perhaps if a special auction sales trust account were kept into which all moneys received from auctions were deposited, the problem would be overcome. However, in view of the nature of the stock firm business this would be a very complicated procedure. In order to limit somewhat the powers of the person making the inspection, I move an amendment —

> Page 27, line 2—Insert after the word "account" the passage "that may be relevant to the examination hereinafter mentioned,".

I would point out that subclause (6) empowers the Minister to have an audit conducted if no satisfaction is gained in the matter. Consequently my amendment will not limit the powers of inspection of the records.

Mr. T. D. EVANS: I am afraid I cannot recommend that the amendment be accepted. I draw attention to the fact that a similar provision is to be found in section 16 of the Debt Collectors Licensing Act. I am advised that the provision, which has been in that Act for some time, has caused no trouble because no complaints have been received from either the investigating officer or those who have been investigated.

Until a particular account has been investigated it cannot be determined whether or not an inquiry is relevant. The member for Stirling referred to subclause (6), but before the provision in that subclause can be applied the Minister must be satisfied as to whether or not an audit should be made. Someone would have to advise the Minister as to the state of the moneys in the other accounts or the source of the moneys.

What the honourable member is seeking to do, of course, is to preserve some privacy for the auctioneer concerning the moneys arising from transactions other than auctions. However, human beings and human nature being what they are, it is always possible for some of the smart persons in our community to make things look what they really are not. Consequently moneys can be made to look as if they come from one source when, in fact, they have come from another source.

We must leave this to good sense, judged on the experience gained under the Debt Collectors Licensing Act. If the provision under that Act had been an irritant and a reason for complaint, then such complaints would have been received. My advice is that the provision does not appear to have caused the trouble the honourable member anticipates it could cause

under the legislation under discussion. For those reasons I do not recommend the acceptance of the amendment.

Amendment put and negatived.

Clause put and passed.

Clause 29 put and passed.

Clause 30: Sales of cattle, sheep, pigs or goats—

Mr. STEPHENS: Subclause (3) relates to the powers of the police and indicates that, for the purpose of this provision, a policeman is a person authorised by the Minister. The provision also indicates that a person appointed as an inspector for the purposes of the Stock Diseases (Regulations) Act, 1968, shall also be deemed to be a person authorised by the Minister.

When I spoke to the second reading I said I thought this provision was reasonable when it was a question of the inspector having the power to check the register and records relating to an auction at the site of the auction sale itself. It is quite usual for auction sales to be held in country towns and the nearest police officer could be 20 or 40 miles away at the time of the sale. However, it would be most unusual for a stock inspector not to be present.

Therefore, the provision to allow stock inspectors to check the records at the auction is reasonable. However, I do not think it would be reasonable to give a stock inspector the powers which he would have if the provision is left as printed. I am referring to subclause (3) of clause 28 in connection with which the Attorney-General has just refused to accept an amendment.

A stock inspector is not a person who is necessarily trained in records or accounts. Under the provision he would have the power to go to a bank manager and demand to see a series of accounts. This is giving a stock inspector unlimited powers, or powers in excess of what was originally intended. I would like to hear the Attorney-General's comments on the provision as it is printed.

Mr. T. D. EVANS: I do not purport to be an expert on the provisions of the Sales by Auction Act. In this regard very probably the member for Stirling may well be a doyen. However, I am advised by the Parliamentary Counsel that the provisions of clause 30 are similar to the provisions of the Sales by Auction Act as it is intended to be amended by the Bill which is still in the Parliament. I have also been given to understand that no new ground is being broken.

Be that as it may, I am not giving my personal guarantee because I have not checked the Sales by Auction Act specifically in connection with the point which has been raised by the honourable member. I did query the matter when the honourable member drew my attention to it and that is the advice I was given.

Clause 28 must be read in conjunction with clause 30 if the provisions are to be in any way effective. The member for Stirling will notice that no exception has been made in the current legislation in the case of stock sold at the Midland Junction Abattoir.

If the provision is to be effective, in many instances the stock inspector would be a person better equipped than a police officer. If I were to don a police uniform and happened to be two feet taller I could go along with all the authority in the world, but I would not know a bee from a bull's foot—and I would be the first to admit it. A stock inspector may well be the better person to exercise the power which the provision purports to give him.

Mr. STEPHENS: I do not think the Attorney-General is quite correct in his interpretation of the proposed amendments to the Sales by Auction Act which are currently before the Parliament. Although he is quite correct in saying that, under that Act, a stock inspector is included as a person who has the power to inspect records, the inspection is restricted to the register, the account sales, and the invoices related to that register. There is no provision in the Sales by Auction Act Amendment Bill to allow an inspector to go in and check bank accounts.

The present legislation goes a long way further than was envisaged when discussions took place on the Sales by Auction Act Amendment Bill. Personally, I feel that the powers of a stock inspector should be restricted to checking the register on the day of the sale, in addition to checking cart notes and invoices associated with the sale at the actual time of the sale.

I know the Attorney-General was engaged when I was speaking. I shall briefly repeat my remarks. Under the provisions of the Sales by Auction Act Amendment Bill a stock inspector would have no powers whatsoever to check bank accounts. His power would be restricted to checking the register, the account sales, the invoices, and the cart notes.

Having heard the Attorney-General's explanation I wish to move an amendment to which I trust he will give consideration. I move an amendment—

> Page 29—Insert after subclause (3) the following new subclause to stand as subclause (4)—
>
> (4) A person appointed as an inspector for the purposes of the Stock Diseases (Regulations) Act, 1968 shall not exercise, or be entitled to exercise, the powers conferred on him by subsection (3) of this section after the expiration of the day on which the sale is conducted.

This would limit the powers of the stock inspector to the day on which the sale is conducted. If on examination of the records of the sale, he felt that something was astray, he could go to the bank on that day and look into the matter. I think the effect of the amendment would be to restrict the power of the stock inspector to what was originally intended. I ask the Attorney-General to give earnest consideration to accepting the amendment.

Mr. T. D. EVANS: Consideration will be given to accepting the amendment at a later time. If it is found necessary, the amendment can be effected in another place.

I am not aware of any other proposed amendments to the measure. Perhaps it is relevant to take the opportunity to mention now that the measure has been amended once by the insertion of one word in clause 24. This amendment will necessitate a reprint of the Bill before it passes to another place.

I will suggest to the Committee that we recommit the measure to delete the word "knowingly" which the member for Vasse succeeded in having inserted in clause 24. The word can be inserted in another place. This would save a reprint of the Bill for the purpose of inserting only one word.

Mr. BLAIKIE: I do not wish to give the Attorney-General a description of the difference between a bee and a bull's foot. I wish to support the amendment moved by the member for Stirling. We have been co-operative in the past but this amendment is quite important.

The DEPUTY CHAIRMAN (Mr. A. R. Tonkin): There is no amendment before the Chair.

Mr. BLAIKIE: There is an amendment before the Chair.

The DEPUTY CHAIRMAN: I need a copy, but the honourable member may proceed.

Mr. BLAIKIE: We have been co-operative with the Minister on previous occasions but I do not think that the co-operation should extend to the deletion of the word "knowingly" which has been inserted in the measure. The amendment moved by the member for Stirling is quite important. I ask the Committee to study the measure.

We are now talking to clause 30 on page 29 and the member for Stirling has moved that a new subclause (4) be inserted.

Subclause (3) of clause 30 reads—

> (3) The provisions of section 28 apply, subject to this section, to any records relating to a sale of stock by auction, and any member of the Police Force of the State or person appointed as an inspector for the purposes of the Stock Diseases (Regulations) Act, 1968, shall be deemed to be a person duly authorized in writing for the purposes of subsection (1) of that section in relation to the records of any sale of stock by auction.

The whole purpose of the amendment moved by the member for Stirling is that the power conferred upon the stock inspector by the Minister in writing shall relate only to the day of the sale.

This is very important because clause 28 refers to the inspection of records and it sets out the powers to be given to duly authorised persons under the provisions of the Bill. Clause 28 (2) (a) provides that any person is required to produce for inspection to a person duly authorised by the Minister all records required to be kept by the licensee in accordance with the Act; and this includes all books, papers, records of transactions, and agreements.

Subclause (3) provides that the manager of any bank is required to disclose the details of the account of a licensee to this person appointed by the Minister. This provision involves a most important principle. I know many stock inspectors myself, and I do not believe they are persons sufficiently qualified in accounting procedures to undertake a thorough investigation of such records. We would be remiss if we did not put a curb on the length of time for which this power extends. The member for Stirling has moved an amendment proposing that the powers shall apply for the day of the sale only. This is a very important point, and I support the amendment.

Mr. T. D. EVANS: The Bill was introduced in this Chamber almost a week ago. Whilst the two members whom I have thanked for their co-operation so far had indicated amendments they intended to move and queries they wished to raise, this is the first indication of this particular amendment. There may well be merit in it, but I do not intend to accept it at this stage. This does not mean I reject it outright; I will have the point examined and if there is merit in the proposal, it can be incorporated in the Bill in another place.

Mr. STEPHENS: I would like to explain to members the reason that this amendment was brought forward at a late stage. The Attorney-General indicated that the Bill has been before us for a week, but from the time of his second reading speech I have had a limited period only to examine it. I brought up the point we are now discussing during my second reading speech. I had hoped that the Attorney-General would have considered it, and may have himself moved an amendment to limit the powers of stock inspectors. However, after hearing the Attorney-General's reply

to the second reading debate, I felt it was important to limit the period. I received the amendment late last night, and it was for this reason that I was unable to give prior warning to the Attorney-General.

Mr. BLAIKIE: I am aware that the Attorney-General has given an undertaking that the Government will carefully study this proposal. He has given an undertaking that the Government will support the amendment—

Mr. T. D. Evans: I gave no such undertaking. I said the Government would take the opportunity to consider it and to examine it. I have had no opportunity to examine the amendment this afternoon.

Mr. BLAIKIE: In that case I am afraid I must insist that we support the amendment moved by the member for Stirling here and now. A most important principle is involved. Stock inspectors are well versed in their particular job—inspecting stock. Unless we pass the amendment, stock inspectors will have the power to inspect personal bank accounts. These men are not familiar with accounting procedures. We are all aware of the intention of the provision in the Bill, but in my opinion it goes too far. The proposed amendment will include the safeguard that the stock inspectors may inspect the records and books generally in relation to the activities of stock firms, but only on the day of sale. I urge all members to suport the amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 31 to 37 put and passed.

Title put and passed.

Bill reported with an amendment.

Recommittal

Bill recommitted, on motion by Mr. T. D. Evans (Attorney-General), for the further consideration of clause 24.

In Committee

The Deputy Chairman of Committees (Mr. A. R. Tonkin) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Clause 24: Misrepresentation—

Mr. T. D. EVANS: The Committee has agreed to an amendment moved by the member for Vasse to add the word "knowingly" after the word "who" in line 13 of page 22 of the Bill. Members will be aware that the Bill will need to be reprinted to go to another place if the amendment remains. I wonder whether the Committee would see fit to agree to delete the word "knowingly" on my undertaking that the appropriate amendment will be moved in another place. The Bill could then complete its passage through this Chamber today.

I move an amendment—

Page 22, line 13—Delete the word "knowingly" inserted by a previous Committee.

Mr. NALDER: The Attorney-General is asking us to agree to a rather strange proposal.

Mr. Bickerton: It is a common-sense move.

Mr. NALDER: Yes I realise it is a common-sense one. In regard to another amendment the Attorney-General indicated that he would have the matter examined although he was not satisfied with it or did not have sufficient information about it.

The Attorney-General said he would have the matter looked at in another place. He should have reported progress because the legislation is important and we should know what we are adopting. After having accepted the amendment, the Attorney-General wants to delete the word previously inserted and have it reconsidered in another place.

Mr. Bertram: It is common sense.

Mr. NALDER: It is quite in order, but there were other amendments which were supported and in which the Attorney-General was interested but he could not give a decision. Accordingly progress should have been reported to allow the matter to be handled by this Committee instead of recommitting the Bill and asking that an amendment which has already been agreed to be struck out.

We have at least another six weeks before the session is concluded and accordingly Bills should be debated in the correct manner. The Bill will leave the Assembly without our knowing what the Attorney-General's views are on this matter.

Mr. O'NEIL: I want to add a relatively mild rebuke to the Attorney-General. It is true that if a Bill is amended in this place it is normally reprinted.

Mr. J. T. Tonkin: This has never been done since Parliament was established?

Mr. O'NEIL: It is done except perhaps in the dying hours of the session when a Bill would not need to be reprinted. I imagine the appropriate galleys of the Bill are still with the Government Printer and the necessary action could be taken.

This is certainly not the action to take when we have another six or seven weeks of the session ahead of us. It would have been better had the Attorney-General reported progress because there is a further amendment which he might or might not consider.

Mr. T. D. Evans: It has not been accepted here.

Mr. O'NEIL: At this stage of the session it is not the appropriate action to take.

Mr. H. D. Evans: What difference will it make to you or to the passage of the Bill?

Mr. O'NEIL: What difference would it make to the Government?

Mr. H. D. Evans: It is a common-sense approach.

Mr. O'NEIL: I am simply making what I said was a relatively mild rebuke to the Attorney-General because he is adopting a procedure which is usually adopted in the dying hours of the session. But we have at least six weeks to go yet.

I will accept the Attorney-General's assurance that the word he now seeks to have deleted will be inserted in another place so that the Bill will be in a clean form when it is reported. I wonder at the necessity to amend this Bill at all and I think it will be wise to have some additional reprinting done before the measure reaches another place.

I do not think the Bill in its processed form will appear in the folders of the Legislative Council. As I understand the position the Bill usually contains a reference to its having passed through the Legislative Assembly. On the front of Bills we generally have the words that they are introduced by so-and-so and I am not sure whether some modification needs to be done when the Bill in fact has not been amended. I ask the Government not to adopt these tactics so early in the session.

Amendment put and passed.

Clause, as further amended, put and passed.

Further Report

Bill again reported, with a further amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr. T. D. Evans (Attorney-General), and transmitted to the Council.

Sitting suspended from 3.46 to 4.03 p.m.

ADOPTION OF CHILDREN ACT AMENDMENT BILL

In Committee

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 4A amended—

Mr. R. L. YOUNG: In the second reading debate I asked the Attorney-General two questions relating to this clause. Firstly, I asked him to look at the clause to ascertain whether it required some additional wording, so that an order made by a judge would remain valid regardless of subsequent events which might make the original order doubtful.

The second point I raised was whether or not the date referred to in the clause as being "the date" on which certain consents are to be given by persons in the interests of the welfare of the child should not in fact read "the date of the application"; because in some instances several consents might be required. The drafting of the clause is in the singular. I feel that the term "the date of the application" would be more pertinent.

Mr. T. D. EVANS: I thank the member for Wembley for drawing my attention to the two queries which he raised. In the first he suggests that under the existing legislation a judge could make an order for adoption. He went on to say that at some subsequent stage that order of adoption might not be valid, and the parents could claim the child back. The Bill indicates the conditions relating to consents, where the judge may make an order. If these consents do not meet the requirements then he may not make the order.

It is most important that any order for adoption shall be valid. By specifying all the consents and the dates on which they are given the likelihood of the adoption being invalid or being upset is drastically decreased. The alternative proposed by the member for Wembley along the lines that the order will remain valid notwithstanding the requirement for further consents to be given would not be appropriate, as under the proposals before the Committee no further consents other than those which were given on the various dates would be necessary. If on those dates no other consents were necessary, then none would become necessary thereafter. In my view the proposals in the Bill deal with the problem adequately.

The member for Wembley has referred to the term "the date" and he proposed as an alternative the term "on the date of the application". It would appear to me that the variation which he has suggested could in some circumstances have serious consequences. I make the point that the Bill provides that the only consents necessary are those which, on the dates they are given, are required by law.

Often a child is placed with the proposed adopting parents some considerable time before the actual application is made to the court. Whilst the child is placed under foster or temporary arrangements, the adopting procedure is being pursued, the necessary inquiries are being made—such as further reports on the home, and other preliminaries which are required to be pursued—and it is important in the interests of the child and of the adopting parents to create the right atmosphere in the home to ensure that any insecurity is removed.

If at the dates when the consents are given they are the only consents which are required, and the child is in fact

placed in the care and custody of the proposed adopting parents, the application for adoption might not be made for some considerable time thereafter; in those circumstances the proposal before the Committee will in fact safeguard the possibility of some untoward event happening, and of another consent springing forth and becoming necessary under the law.

I suggest that the proposals in the Bill are the right and proper ones to achieve what we all seek to achieve.

Mr. R. L. YOUNG: I concede the first part of the argument, but I am not totally convinced in respect of the second part of the argument of the Attorney-General. I cannot see how a clause could refer to "the date" when it is possible for consents to be given on two different dates. I am not aware of any provision in any clause which requires something to be proved on a date.

Mr. T. D. Evans: In that event I concede the point that all the necessary consents would not be given on the one day, but the date of the last consent would be the cut-off point.

Mr. R. L. YOUNG: Can the Attorney-General see any drafting problems arising? I envisage the position where two consents have been given, and subsequently someone has to consider whether they are all the consents that are required. Those consents would not be given on the one day.

Mr. T. D. Evans: It is not implied that they would be given on the one day. The date on which the last consent is given is the one taken into account.

Mr. R. L. YOUNG: Is that the presumption under the law?

Mr. T. D. Evans: I would think so.

Mr. R. L. YOUNG: If that is the case I am prepared to accept the assurance of the Attorney-General.

Clause put and passed.

Clauses 4 to 6 put and passed.

Clause 7: Section 20 amended—

Mr. R. L. YOUNG: In the second reading debate I pointed out to the Attorney-General it might be possible that persons who adopt a child and wish to make an announcement of the adoption in the birth notices column of a newspaper would be caught up under proposed section 20 (1) of the Act.

I realise that section 20 (2) allows such advertisements to be made as are approved by the Director for Community Welfare. The Attorney-General has no amendments on the notice paper. I put it to him that a couple adopting a child, and inserting a notice in the newspapers, could be caught up under this provision in the Bill.

Mr. T. D. EVANS: The member for Wembley is quite right in claiming that under the law the placing of a prescription on certain advertisements, which are geared towards making public the identity of the principal parties to adoption orders, could result in adopting parents being caught up in the net of harmless and salutory exercises of expressions of goodwill and joy.

However, I would draw attention to the fact that if section 20 of the principal Act were implemented according to the letter of the law those people who are carrying out this practice even as of now would be guilty. The member for Wembley is right in drawing the attention of the Committee to subsection (2) of section 20 of the Act which provides that the section does not apply in relation to advertising or other matters for which approval has been given by the director.

The Director for Community Welfare has stated that it has been a long standing custom for adopting parents to announce in the Press the arrival of a child. It is a practice which he believes will continue and, as far as he is concerned, and as far as his officers are concerned, no adopting parents need fear the risk of prosecution even though they do not seek permission to advertise. It may well be, of course, that for his part he is turning a blind eye to the provisions of the law.

There again, I believe the law should be administered not only to the letter, but also according to the spirit and we have to determine our priorities. The Director for Community Welfare also makes the point that adopting parents who seek approval to advertise are requested to avoid specific details; for example, the name of the hospital concerned which may create a link between the natural mother and the adopting parents.

I think that explanation will indicate to the member for Wembley that his query was examined and was pursued through the Department for Community Welfare.

Mr. R. L. YOUNG: I accept the explanation from the Attorney-General, and, naturally, I am pleased to hear that the Director for Community Welfare has adopted the attitude which he has followed in the past. That is only right. I raise the question only for obvious reasons.

If the adopting parents were advised by the Director for Community Welfare regarding their advertisement could it be presumed that by giving such advice the director is giving consent to an advertisement of some kind? A second point which I query concerns the case where a jealous ex-wife or ex-husband, out of pure malicious stupidity, wanted to have someone

charged under this provision in the Act. Is there any obligation on the Crown to lay a charge?

Mr. T. D. EVANS: Under any Statute law, unless there is an expression to the contrary, I suppose a person could lodge a complaint. I am unable to advise the member for Wembley, in the time available to me, whether there is any express provision in the legislation which preserves the right to prosecute.

Mr. R. L. YOUNG: If the officers do not have discretionary power could I recommend to the Attorney-General that he advise the Director for Community Welfare to give permission for the insertion of a specific type of advertisement when an adoption takes place?

Mr. T. D. EVANS: The answer is "Yes".

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr. T. D. Evans (Attorney-General), and passed.

MARITIME ARCHAEOLOGY BILL

Second Reading

Debate resumed from the 4th October.

MR. E. H. M. LEWIS (Moore) [4.22 p.m.]: The first legislation dealing with wrecks in this State was passed in 1887 under the title of the Wreck Act. At that time wrecks were vested in the Receiver of Wrecks who was also the Chief Collector of Customs. With the advent of Federation that officer was no longer in the employ of the State and wrecks were not effectively controlled until the passing of the Museum Act Amendment Bill in 1964. The Museum Act was further amended in 1969 and it appears that the Government now desires to remove these provisions from the Museum Act and place them in the Maritime Archaeology Bill. That is the purpose of the legislation now before us.

The motive of the Government is to protect more effectively wrecks and relics from wrecks, and those of us in this corner of the Chamber go along with that principle. However, we do not agree with some of the methods which the Bill proposes for the achievement of these objectives.

As the Premier acknowledged, the Bill is essentially a Committee Bill. Besides including the various sections from the Museum Act, which cover wrecks and relics from the wrecks, the Bill defines "relics".

Another provision to which we object will remove the necessity to pay a reward to the finder of a wreck. The Bill also defines a "maritime archaeological site", and will establish protected zones. It will also impose for higher penalties than those provided under the present Act.

The Bill states that a maritime archaeological site may be situated below low-water mark, on or between the tide marks, or on land, or partly in one place and partly in another. I think one might interpret that as being almost anywhere. By exaggeration it would be possible to declare an archaeological site in the middle of the Nullarbor Plain. Nevertheless, even without exaggeration such a site could be inland away from the sea, and well above high-water mark. However we do not have a great deal of objection to that provision.

I find it a little hard to understand fully the definition of a "protected zone". Perhaps the Premier will make a note of this point and explain it further when he replies to the debate. A "protected zone" may be declared to include the waters lying above and the land or the bed of the sea below it. It is quite clear that this provision has particular application to the wreck of a ship. However, when we come to the "protected zone" around an archaeological site, which could be inland, I am not sure whether the boundary of 500 metres extends to cover those sites, or whether the provisions of subclause (3) of clause 9 will apply.

The subclause states that the declaration of a protected zone shall specify the boundaries of that zone, and it goes further and states that the boundaries of the zone need not be marked or delineated by a buoy, or surveyed. That is fair enough. However, a very heavy penalty will be imposed upon anyone encroaching upon any protected zone. I repeat: The penalties are very severe.

I will compare the penalties imposed under the Museum Act, and the penalties proposed under the present measure. The penalty for damaging or removing an historic wreck, or any part thereof, or for not notifying the trustees of the find, is at present $200. Under the provisions of this measure the penalty will be $2,000, or imprisonment for 12 months, or both. Also, the goods or the vessel will be forfeited. An additional penalty will be the payment of the full antiquarian value of the wreck, plus the repayment of any reward which the trustees may have offered for information leading to the conviction. The penalties in that respect are much more drastic than they were previously.

A penalty of $200 is imposed under the Museum Act for not notifying the trustees of any object recovered before 1964. Under the Bill now before us, the penalty for failure to notify the trustees of the finding

of a ship lost before 1900 is $500. It is difficult to understand how anyone would know a person had found a ship and failed to report it unless that person confessed to someone other than the Museum authorities. The penalty for failure to notify the trustees of the finding of a relic will now be $100. I will not deal with meteorites because they come under the Mining Act.

Although many penalties have been set down under the Museum Act, not many offences have been committed. In reply to a question asked in this House on the 16th October the Premier advised the member for Mt. Lawley that 85 wrecks had been located along the Western Australian coast, only one of which was located by the Western Australian Museum; 70 wrecks had been located by private individuals and 14 by other groups.

As the Minister in charge of the Museum in the previous Government, I know some trouble arose over the looting of a wreck off the coast of Western Australia, and this led to the unsuccessful prosecution of the individual concerned. Had I not known the Director of the Museum for so long, I probably could have been pardoned for suspecting this Bill was the result of a certain amount of vindictiveness. However, I repeat that I do not hold it against the Director of the Museum. I think he is quite sincere in his desire to ensure these relics are vested in the Museum and protected by law as much as possible.

At the same time, it is of little use passing legislation which will impose very severe penalties and which will not offer anything by way of reward. Rewards will now be waived altogether, thus discouraging skin divers and others from locating wrecks which may in turn be vested in the Museum. Although it is a very desirable objective to add to the historical assets of the State, the Bill proposes to achieve it by waiving rewards on the one hand and inflicting very drastic penalties on the other hand.

This Bill is mainly a Committee measure, and as my throat is not conducive to speaking today I propose to leave my second reading speech at that and reserve my comments until the Committee stage of the Bill.

MR. MENSAROS (Floreat) [4.34 p.m.]: We all agree it is very commendable to preserve historic relics, whether they are directly the property—if one can use that expression—of the community, the State, or the nation, or whether they are indirectly connected with the history of the State. In the past, on almost every occasion of a find, the situation has been that the relics are only indirectly connected with the history of the community, being from ships which were owned by other countries.

It is very commendable to preserve these relics and legislate accordingly, and we are all in agreement with this endeavour. This is the principle embodied in the Bill. However, it is very important that the legislation achieve this purpose and that in the enthusiasm to legislate in this way there should not be breaches of any basic principles to which we all agree. In this respect, I am sorry to say that although I agree with the principle of the legislation there are many parts of it with which I cannot agree because of the consequences they will have.

This is not a party-political question. Indeed, I imagine there are many people inside and outside this Parliament with whom I might agree politically but who might also take an extreme view, and it appears to me the legislation introduced by the Premier does take an extreme view which could lead to many side effects which are not very beneficial.

As the Premier said, although this is a Committee Bill it has general aspects which call for some discussion at the second reading stage. To my mind, there are two main faults in the Bill. Firstly, while it aims to preserve archaeological relics, at the same time it takes away any incentive which would lead to the finding of such relics, which are in most cases under the sea, without giving or promising any provision that these relics will be found in some other way—for instance, by the staff of the Museum or any other organisation which will busy itself with this task.

The second fault is that potentially it gives a very great power to the Director of the Museum in some cases, and to the trustees in other cases, to introduce harsh and unwarranted restrictions which could have an effect on virtually the whole population of the State.

The Premier advised the member for Mt. Lawley, in answer to a question, that only one wreck had physically been found by the Museum and 84 other wrecks had been found by other groups or individuals outside the Museum. A quick mathematical exercise reveals that consequently only 1.18 per cent. of the wrecks found so far have been found by the Museum. The reply to another question asked by the member for Mt. Lawley was that roughly 50,000 items had been classified as relics. If we take it that the proportion of the relics found by the Museum is the same as the proportion of wrecks found by the Museum, of those 50,000 items only 585 would have been found by the Museum. That is only a presumption but it is the logical proportion.

Despite these facts—and there is no indication that in the future the situation will be different—no incentive is offered because there is no provision in the Bill

for an obligatory reward. On the contrary, there is a provision which acts as a counter-incentive, in that people are not even allowed to pass these archaeological sites, let alone to search on them, if by a gazetted instrument, the Government declares those sites as protected areas.

If the Bill provided for the Museum or any other such organisation to take over a comparatively large staff with a reasonable amount of money to search, and thereby monopolise the search, the proposition might be logical. I would still not agree with it but it might be logical. However, under the present circumstances —and there is no indication that the Museum will do any more in the way of finding wrecks—by taking away incentive the whole proposition in the Bill is entirely illogical and the result must be that no more wrecks will be found.

I come back to my statement that if there were any provisions for someone else to look for the relics, it would be a logical proposition but I would still not accept it. I compare the Bill with the provisions in the Mining Act. The Mining Act covers the minerals under or on the surface of the earth and there are laws and regulations regarding those minerals. It is not said that nobody can pass an area where minerals may exist. Even where a road happens to cross reserves, it is not said that people cannot use those roads or sit down and have a picnic within 500 metres of that place where minerals might be, nor is it stated that the State and its authorities and instrumentalities are the only people who can search for those minerals. At least, that is not stated at the present time. In fact, rewards are offered. People can take out licenses to prospect, and if they are successful in their prospecting they can make an agreement with the State Government and exploit those minerals.

The situation with the wrecks is somewhat similar and one can make an analogy with the situation in regard to mining. Therefore, I cannot see the logic in the provisions in this Bill, which on one hand say that nobody is allowed to touch the wrecks or even go near them, and on the other hand does not make provision for somebody to find them. Neither by virtue of the provisions of this Bill nor by virtue of the Budget which has been presented to us, will the Museum be endowed with more personnel and a great deal more money which will enable it to search for these items. So I suggest that as a result of the lack of incentive no further wrecks will be discovered. Surely this is not what the Premier wishes to achieve.

The second fault I see in the Bill is that it can unduly harass the citizens and residents of Western Australia. When we look at clause 4 (1) we find that for the purposes of this measure "any area which, in the opinion of the Director, comprises the location of the remains of a historic ship . . . shall be a maritime archaeological site" and, by virtue of clause 9 (1), can be declared and gazetted as such. The site does not even have to be marked; it will be merely gazetted and described.

This, of course, will prevent the ordinary public from entering the areas. It will grossly interfere with the activities of ordinary people who want to pass through the areas, whether in a yacht or boat, and those who wish to swim or dive. It will even interfere with the activities of those who wish to picnic at places where relics from wrecks are likely to be found on the ground. I emphasise that not only will the Bill prevent such people from carrying out those otherwise perfectly normal activities, but it will also make it almost impossible for them to know which are the prohibited areas.

Let us be practical. How can we expect a normal yachtsman or someone in a boat to be equipped with the various *Government Gazettes* and also to be equipped with, and expert in the use of, the latest navigational equipment to tell him his exact position? I take it that if the Bill becomes law the regulations will prescribe the areas in terms of latitude and longitude. How would normal boating people know they are passing a site which not only are they not allowed to pass, but also if they do pass it they are liable to a heavy penalty of $1,000 and/or six months' imprisonment?

Furthermore, not only would the people who pass a prescribed area be liable to that penalty; the owner of the boat would also be liable. If you, Sir, lent me your boat and I passed a protected area you could be fined $1,000 and/or imprisoned for six months merely because I used your boat. Such a provision is included in the Bill. I suggest this is a somewhat unrealistic proposition. I know that the areas are not yet gazetted, but the Bill provides the opportunity for the Director of the Museum to gazette them through the normal channels.

I suggest that not only are the provisions which prevent people passing these areas too harsh, but also the further provisions—which appear to be more just—in respect of those who interfere with wrecks carry a penalty which is too harsh. The penalty for interfering with a wreck is $2,000 and/or 12 months' imprisonment; yet according to the reply to a question asked by the member for Mt. Lawley in not one single case has the prosecution been able to prove successfully that interference has in fact occurred.

I know that the Premier may be quick to say that there is a counter to my argument because if the protected areas are marked it might arouse the interest of some people and invite them to visit the areas and to do some damage which

otherwise they would not do. It could also be argued that it is very hard to mark these areas. But at the same time we see that in other provisions of the Bill it is provided that if somebody finds a wreck he must mark it. So the Director of the Museum does not have to mark any of the areas through which he will not allow people to pass; but the finder is obliged to mark the area in his capacity as a private person. One would imagine that the Museum, with the help of various State authorities or instrumentalities, would be better equipped to do that. Indeed, a provision which says that one cannot pass a site because there may be some malicious people who would interfere with the wreck—and according to the reply of the Premier so far that has not happened—and so the whole area must be closed down appears to me to be illogical in the extreme.

One could draw an analogy and say that people should not be allowed to walk past jewellers' shops because there are certain potential thieves amongst the public and, therefore, to protect the jewellers' shops and to prevent theft we should not allow people to walk past the shops. I do not think that is a realistic proposition.

In any event, we advocate that people indulge in recreation and make proper use of their leisure time; and it appears to me that if these provisions become law and many areas are gazetted, then recreation will be restricted virtually to fenced-in areas or people will be otherwise regimented. I, for one, would definitely object to that.

Nor do I think it is an acceptable argument—and I am sure this is one of the main reasons for the introduction of the measure—to say that the prosecution is frustrated because under the existing laws it has not been successful in certain prosecutions in which it was thought to have a good case. I am not arguing with that fact; however, I do argue that it is not a sound principle to place the prosecution —the Crown—on a basis in law different from that upon which ordinary citizens are placed. This is what is happening. Some people were prosecuted and the prosecutions were unsuccessful because of the way the existing law stands. Therefore, the prosecution has gone to the Government and said that the Government had better introduce legislation so that future prosecutions will be successful. I think that is a very bad principle.

I foresee that if the Premier comments upon this perhaps he will say that he can show me legislation passed by the previous Government and based upon the same principle. If the Premier does say that, I simply point out that it does not make such wrong any better, nor does it excuse it. I think special legislation which is introduced purely to assist the prosecution must be very well examined and justified, because it makes a farce of the law if we give an advantage to the Crown as against an individual citizen who might be involved in a criminal case or, for that matter, even in civil litigation.

When we examine the practical effects of the 500-metre protected area we find, of course, that 500 metres from a particular point gives a diameter of 1000 metres. If wrecks are scattered—and according to my understanding many of them are—then this provision could prevent a very large area from being passed by boats or yachts. Indeed, I have been given to understand that one of the most frequented of our holiday resorts, Thompson Bay at Rottnest, has many wrecks scattered around; so much so that if the area were gazetted on the recommendation of the director by virtue of this measure, people would be debarred entirely from coming from or going to Rottenst because the whole area would be protected. I understand the same situation exists at Narrow Neck.

Furthermore, it is my understanding—and we have discussed this with many people who appear to be experts on the subject—that it is estimated that about 1,900 undetected wrecks are lying around the Western Australian coast. One of the known wrecks, the *Zeewyck*, is scattered so widely that miles and miles of water in a very frequented fishing area would be protected; and this would affect not only people who go boating for pleasure, but also professional fishermen.

I do not think it is fair when we consider the situation which has obtained in the past in which people with considerable scientific knowledge have made it not only their pastime but almost a full-time occupation to dive upon wrecks and photograph them, and to supply the Museum with invaluable finds and information, that they should be debarred from doing so in the future. I also object very much to the principle embodied in the penal clause of the Bill which says that not only is an offender subject to the prescribed fine or imprisonment, but also any reward issued in respect of the finding of the wreck may be added to the penalty. Of course, one could call that a "pimping" clause because it virtually gives an incentive to the agents provocateurs, and this is always a very bad principle.

The other penal provision is that if a boat or yacht passes a protected area, then that boat or yacht and any diving or other personal gear may be seized upon apprehension, and may be forfeited subsequently when the matter goes before the court. Again this may be done even if no damage occurs and no interference to a wreck takes place, but simply if the boat passes the area.

I come back again to the very important question of incentive. If we agree to these provisions not only will we prevent people from going about their otherwise legitimate recreational activities, but we will also remove incentive and prevent wrecks from being discovered.

I would very much like the Premier to say whether some of the bodies which are interested in this matter have been consulted. I refer to the Historical Society and underwater divers' and explorers' clubs. It is my understanding that they have not been consulted; and, indeed, quite a number of the members of those bodies are very much opposed to this legislation on the grounds which I have tried to explain.

I wonder whether legislation in respect of this matter in other countries has been studied. The Premier did mention that this is a new concept in this field of legislation. However, it never hurts—and indeed mostly it is done—to study other legislation for the purpose of comparison.

I understand that in Florida in the United States, for instance, where there appears to be probably the greatest concentration of Spanish wrecks, the legislation provides that the finder of a wreck may have 75 per cent. of the booty found.

This is a tremendous difference from what is sought to be done under this Bill where there is no obligatory reward whatsoever. I understand also that in the United Kingdom the situation is that agreements are made between the finder and usually the Ministry of Defence and this sort of regulates the reward which is given. In most cases the reward which one can claim according to the terms of the agreement is about 50 per cent. of the value of all the precious stones, jewellery, gold, silver, and other objects recovered from the wreck.

So if we continue to make this comparison we also have to take into consideration, without being critical of the Museum, that in this field more has been done by private individuals and private groups than by the staff of the Museum itself. I do not know of any books that have been written by the Museum, but about a dozen have been written by private individuals in this State and in some cases they have been written by people who are lightly trained in archaeology.

The question that was answered today reveals that only a small proportion of the items that have been found—I think it was only about 5 per cent.—is displayed in the Museum. So in trying to make a summary, there appears to be a tremendous difference of opinion among interested people; there appears to be many more consequences that could arise from this legislation than one could think of initially; and there is definitely a breach of principle of the law when two of the provisions in the Bill place the onus of proof on the defendant; in other words, the case is more or less handed to the prosecution on a plate.

So considering all these matters, together with the two main objections I have raised—I repeat again that people could be unduly harassed, and there is no incentive whatsoever to find these wrecks—I consider insufficient study has been done, or consultation entered into to appreciate all the consequences that this Bill may bring about.

In my opinion, therefore, the measure is a perfect example of where the Government could agree to appointing a Select Committee to investigate these matters which have created such a difference of opinion among many interested people. This would be a perfect example, in the eyes of the member for Mirrabooka, of a Bill being made the subject of an exhaustive and fairly objective investigation. I also believe that that is the opinion of everybody who is concerned, interested, or who has a knowledge of this subject.

So I sincerely hope that if such a move is to be made the Government will consider the suggestion seriously and not just use its numbers to disregard it. I have placed some amendments on the notice paper but, quite frankly, I do not think they are the solution to the problem. I have tried, in part, to remedy the objections I have against the Bill, but I am not entirely happy with the amendments. I do not think, even if a miracle occurred and the Government agreed to them, they would represent a perfect solution, but to my mind they would improve the legislation. I would point out that the amendments were drafted necessarily in a hurry, and despite the fact that we on this side of the Chamber tried to consult with a number of people we do not agree that these amendments would bring about the perfect solution. So I return to the suggestion that if a move is made the Government should seriously consider that the whole matter—including the subject of the Bill which we will debate next, the Bill amending the Museum Act—should be examined by a Select Committee.

MR. A. A. LEWIS (Blackwood) [5.06 p.m.]: If anyone had suggested to me several weeks ago that the Maritime Archaeology Bill could contain so many clauses that would deny civil liberties I would never have believed him. This Bill probably strikes at far more individuals than do many of the Government's industrial measures, because this piece of legislation cuts across the leisure time of hundreds of people. I do not believe the Bill should be debated in a party political atmosphere. We should debate it with a view to putting forward some constructive suggestions.

As the member for Floreat has said, the amendments he has on the notice paper will not be satisfactory in trying to arrive at a solution. I do not believe the original Museum Act needed much amendment to provide the controls that are sought under this Bill. Basically the measure places all the power into the hands of one man. Even if he has only a suspicion that a ship may be an historic wreck he can declare it to be so. If subsequently he changes his opinion he has to go through all the rigmarole of having it released.

Not being very knowledgeable on these matters I was wondering whether we could have a situation where a temporary reserve could be granted over the area. The person in charge could say, "I will put a blanket over that area for three months and if it has not been proved it will then be open again to the public." To me, the main problem in this Bill is that it makes no allowance for private enterprise. It is obvious that the director will try to prove a wreck, as such, and do all the sorting out associated with the wreck by himself and with members of his staff without taking advantage of the services of any outside person.

In this State there are many people who could effectively, and voluntarily, assist the Museum under the guidance of the officers of the Museum. Instead, the Bill seeks to bring about a worse position where the Museum staff will, in effect, be pimps. They will be granted a reward if someone is found to be guilty of committing an offence against this legislation. This is not sound legislation in an Australian community; where members of an authority will be paid to pimp on a person—that is, they will be paid a reward.

In some cases the livelihood of crayfishermen could be taken from them, because at present they, probably more so than anyone else, are the men who are protecting our wrecks as they believe in preserving the history of this State and in looking after wrecks that are discovered. In the case of the *Zeewyck* four crayfishermen would be deprived of their livelihood.

The member for Floreat suggested that a Select Committee should be appointed to inquire into all aspects of this Bill, and I could not agree more. Once a Bill such as this starts taking away the livelihood of certain people and taking away the rights of people in general many problems could be created. For example, if I borrowed your boat, Mr. Speaker, and sailed over an area that had been declared a prohibited area and the boat was impounded the result would be that your boat would eventually be sold. I can just imagine what would happen when I confronted you after I had spent 12 months in gaol and paid a $2,000 fine, and said to you, "Your boat has been sold mate, and you have had it."

Mr. O'Connor: Mr. Speaker could also go to gaol.

Mr. A. A. LEWIS: Yes, you, Sir, could also go to gaol as a result of my committing such an offence. If that makes sense to you, Sir, it does not make sense to me.

Let me now refer to the reward situation. Private enterprise has performed the greatest bulk of the work in this field. If this Bill is passed and there is the possibility of a wreck being discovered we will frighten off the people who, in the past, have found various wrecks. There is the point, of course, that these wrecks were found before 1900 but I believe there are other wrecks around our coast—and probably inland—which could have been saved. There is one at Cape Leeuwin and I think it is the wreck of the *Michael J. Goulandris*. That is a wartime wreck that has just been found according to an article in the *U.E.C. News*. Of course this would not upset the Museum one little bit, because this is the magazine for all scuba enthusiasts and the Museum could not be regarded as being a scuba enthusiast.

I believe that that place should be looked at. By placing 500-metre rings around our wrecks we will not achieve anything. If we get down to tintacks this Bill has been brought forward virtually because of one man's reputation, which has not been proved. The courts had nothing against the man and all the charges against him were dropped, but because of this one episode we go overboard in regard to the matter.

The member for Moore said he did not accuse the Museum of being vindictive, but I believe that the way this Bill is framed somebody is being vindictive. I do not believe in any law that stops my kids or the kids of any other member from swimming across a certain area. The fact that a child, or any person for that matter, wishes to inspect an historic wreck under supervision, or even seeks to walk close to it is something to be proud of, in my opinion.

I believe that in Australia today we have in our younger generation people who appreciate history. In most historic areas they are not committing nearly as much damage as was done previously. With proper supervision we can preserve these wrecks. With the assistance of private enterprise the wrecks could be checked out, the sifting could be performed, and the wrecks could then be declared open for inspection by members of the public.

Half the fun of skindiving is to be able to descend under water and look at the wreck at first hand. It is not much fun for anyone having to sit in the boat on the surface of the water and watch some other person bringing up some bullion or relics from a wreck.

The member for Floreat covered the aspect of reward fairly well. We heard the Premier's answers to questions asked today and yesterday, and we have learnt that we have 50,000 pieces in our Museum and about 1,300 of those are being displayed. The remainder of the pieces will sit in the vaults of the Museum or on the shelves taking up room that could be better used for other displays.

We should be trading in these pieces and making more money for the Museum. Sufficient money might be made in this way to enable an art gallery to be erected.

The whole concept should be studied. I believe in the preservation of wrecks. We should certainly look after our history. However, I do not believe that the penal provisions in the legislation will help save a thing.

I am informed that very little major looting occurs at the moment, but looting will occur whatever provisions we include in any Bill passed by this House.

What is the use of passing a law if it cannot be implemented; or will the Museum staff be increased to form another gang of policemen like we will have in the Department of Agriculture under the Dairy Industry Bill? Will all the money be used in that way on policing instead of for a proper purpose?

I believe the Bill should be withdrawn to enable a committee to be set up to study the whole situation.

MR. O'CONNOR (Mt. Lawley) [5.16 p.m.]: I support the views of the two previous speakers. The Bill contains many objectionable clauses and indicates that the views of the members of the Museum Board are more archaic than some of the relics they are trying to retain.

I appreciate the reason the Premier introduced the Bill. Frankly, none of us want the relics to be destroyed. We want them retained for the State. However, the Bill hits at the civil liberties and rights of the individual. Scant consideration has been given to the other points I will mention.

At the outset I would say that the Bill in its present form is not good because it contains many anomalies, although these could be ironed out. Some of the points I will raise are contained to a certain extent in the present Museum Act.

Members have indicated that the Bill completely disregards the work done by those people who locate wrecks off the Western Australian coast and it will drastically retard future work in connection with the finding of these wrecks and the retention of the relics for the State.

Mr. J. T. Tonkin: I am very interested in this point of view. Will you give me some proof of your statement that the Bill completely disregards the interests of those who discover wrecks?

Mr. O'CONNOR: The board has indicated previously that it almost completely disregards these people, and I will cover that point later. The board has been very tardy in its consideration of these individuals. It has treated them very badly in the past. While the board has its present control, the private individuals who do the work will be cast aside, because that is virtually what has occurred in the past.

Mr. J. T. Tonkin: But your statement was that this Bill completely disregards the interests of those who discover wrecks.

Mr. Hutchinson: It wipes out rewards.

Mr. J. T. Tonkin: That is what I want you to prove.

Mr. O'CONNOR: The Bill gives the Museum Board the right to give some reward. I think that is the point concerning the Premier. However, the board is not prepared to give a sufficient reward, as has been proved in the past. We have only to consider the rewards which have been given so far. This is the point I will cover as I proceed if the Premier will bear with me for a while.

When the Premier was introducing the second reading, I interjected, as will be found by a reference to page 3687 of *Hansard*. The following, dealing with wrecks, is to be found on that page—

> Mr. O'Connor: Is the incentive retained for people to report things of this nature?
>
> Mr. J. T. TONKIN: Does the member mean will we be able to take action against them?
>
> Mr. O'Connor: No, if people find things and report them they receive a certain amount. Is this retained?
>
> Mr. J. T. TONKIN: The same protection is intended.

My reading of the Bill indicates that the same protection is not intended. I am not taking this up as a point, but the board can give virtually nothing if it so desires, whereas at present it is almost compelled to give an amount even though it is small. The board has given very small amounts in the past. I am criticising not only the Bill, but also the Act.

Mr. Bertram: It may be better to alter the concept of the board rather than the Act.

Mr. O'CONNOR: The ideal procedure to adopt would be for a Select Committee to investigate the whole matter and report on action which should be taken to rectify the present anomalies. As I have indicated to the Premier, at the conclusion of

the second reading debate, I intend to move for the appointment of a Select Committee to investigate the whole matter.

I have seen documents written by people who have been involved to a great degree with wrecks in this State. I know of people who have spent thousands of dollars investigating, searching, and trying to locate a number of the wrecks. Every member will recall the searches undertaken for the *Gilt Dragon*, and will be aware of the many thousands of dollars expended, and in most cases lost, by those who sent search parties to the area. Excavation plants were in use in an effort to retrieve the treasure from where it was believed to be located.

If people undertake this kind of work in the future, what chance will they have of a just reward for the amount of work they perform? I put it this way: If a person works for an employer for two years and earns the basic wage he is entitled to a round figure of, say, $7,000. The employer is obliged by law to pay him that amount. However, if a person spends two years searching, locating, and reporting on a wreck, he can receive the measly sum of $50 from the board.

Mr. Mensaros: He cannot do it without a permit.

Mr. O'CONNOR: That is so; but supposing a person does find the wreck after two, three, or four years' search, what then? Perhaps four years is a long time to suggest, but many people put in a great deal of time to this work. They devote their lives to it and receive virtually nothing as a reward. This is most unreasonable.

I applaud the Bill in that it is designed to protect historic wrecks; and we are all in favour of such a worthy ambition. I am certainly 100 per cent. behind it because such wrecks should be protected as much as possible, and people who indecently deal with them should be severely penalised.

However, divers obtain a great deal of pleasure from searching for wrecks. In some cases they locate various parts of the wrecks and these could be valuable to the board and to the State itself.

As I have said some of the provisions in the Bill are objectionable to me and I consider they should be deleted. Those provisions which eliminate the incentive for individuals to look for wrecks are objectionable and, in some cases, the penalties are far too severe.

As has been pointed out by other members, if implemented properly, the legislation could severely inconvenience people involved in the fishing industry. Reference has been made to the Abrolhos Islands where the *Zeewyck* is located over a one or two-mile area. If a 500-metre boundary is applied to that wreck, a tremendous amount of extremely good fishing ground will be lost because under the Bill fishermen cannot go within 500 metres of a known wreck. If they do they will be liable to very severe penalties.

I do not believe the board should have control of this nature. It should have control only over those who interfere with wrecks or relics because as many of these as possible should be retained.

Mr. Hutchinson: Do you intend to refer to Thompson Bay?

Mr. O'CONNOR: Yes, at a later stage. The Bill appears to have consideration for the board only. It disregards every other aspect. It is wrong that other interested parties, such as private individuals, fishing organisations, and sporting groups who are acting legitimately and honestly, should be disregarded.

We all know that looting of the wrecks did occur earlier, but over the last couple of years such looting has almost completely stopped. The board has a very competent archaeologist in Mr. Green and since he has been employed the looting has been eliminated and the board has gained much more control over the wrecks. As a matter of fact, when the original legislation was introduced the board had little capacity or ability to look after wrecks. Nevertheless, we have heard of only two cases which have been taken to court and both cases involved the same individual; namely, A. Robinson. Because of this one individual—whether he was right or wrong in what he did, I do not know, but the court cleared him of both charges—every person interested in boating, diving, crayfishing, or searching for wrecks, is to be affected.

In my opinion the legislation is ill-conceived because those people who are prepared to look for wrecks are responsible people and most of them have the interests of the State at heart. They are prepared to hand over to the board all the details they accumulate and this will be the situation in future provided they can be assured of some reasonable recompense for the work they do.

However, what will be the situation under the Bill? No-one will be able to swim or dive near historic wrecks. I believe that no-one should be able to interfere with the wrecks but I can see nothing wrong with people diving or being near them provided they do not interfere with them.

Divers gain a great deal of pleasure from looking at the wrecks and ascertaining how they are placed on the reef. They also enjoy searching for various parts of the wrecks and such a search could be of great advantage to the board.

No boat will be permitted within 500 metres of a wreck. Previous speakers have referred to Thompson Bay. If no boat is permitted within 500 metres of a

wreck, then no boat will be permitted in Thompson Bay. Is this reasonable? I believe that approximately seven wrecks are to be found in that bay, although I am not sure of this information. It must be borne in mind that most of the wrecks will be scattered because they will have broken up. Therefore because of the provision in the Bill all pleasure craft will be banned from Thompson Bay and other parts of Rottnest Island. I think this is quite unreasonable.

Let us consider the penalty which is $1,000 or, as the member for Floreat said, six months, or both. I thought that it was 12 months' imprisonment, but I may be wrong.

Another thing to be kept in mind is that these penalties do not apply only to the person in charge of the boat; they apply also to the owner, even though he is not on the boat at the time. The boat can also be confiscated and the owner can be found guilty and gaoled. This again, I think, is an unreasonable provision.

How are people to know where the wrecks are located unless they are marked? Quite frankly I do not see a great deal of merit in marking them because this would involve large areas and would become quite costly. In addition it would be an indication of where the wrecks are and would encourage more people into the area. However, without suitable markings, how would people know the wrecks were in a certain location? Most people would not have a clue.

I know that if I were on a boat or in charge of a boat I could quite easily go over a wreck without having any idea that I was doing so. Such provisions are completely unreasonable.

As I have said, even though the owner is not on board he can be charged and face the same penalties as the person in charge of the boat. The owner may not even have known the whereabouts of the boat at the time. This is not reasonable at all. Ignorance of the existence of a wreck is no excuse. I suppose we can say that in connection with all laws.

As I have said, an area of 500 metres around a wreck will be out of bounds to all pleasure craft and fishermen, even though good fishing grounds could be involved. What wrong could there be in people fishing in such an area? As a matter of fact many people derive tremendous pleasure from fishing in the areas I have mentioned. I do myself.

Mr. J. T. Tonkin: It depends on what they are fishing for.

Mr. O'CONNOR: They are usually fishing for what they do not catch—jewfish, or something of that nature. I think the Premier would agree with the statement that most people are legitimate fishermen who derive pleasure from their pastime. The number of people who want to interfere with wrecks would be limited to a very few. Only one individual has been taken to court during the whole of the period in which these laws have applied.

Mr. Bertram: It would not follow he is the only alleged transgressor.

Mr. O'CONNOR: The member for Mt. Hawthorn may know of others and I hope he will inform the House if he does. I have said that I know of only one person and I think the statement I made was quite reasonable. He is the only one who has been taken to court. Of course, many offenders in every sphere are not taken to court.

Mr. Bertram: That is right.

Mr. O'CONNOR: I have already said that in recent times there has been better control over the wrecks. People have been sent to the areas concerned and they watch the wrecks to ensure they are not tampered with. This applies particularly to the important ones. I am sure that with the new archaeologist there will be better control and that this control will be reasonable enough.

An objectionable feature of the legislation is that anyone who finds another person near a wreck, or realises that another person has located a wreck, is to receive a reward. The person who unwittingly has been in the area where a wreck is located will be picked up, taken back, and charged. Not only will he have to pay a fine and possibly face imprisonment, but he will also have to pay the reward to the pimp. Is this the sort of legislation we want in Western Australia?

Perhaps it could encourage members of the board who were watching out for possible offenders to be a trifle over-zealous. This could apply if they knew they were to receive $500 or $1,000 for bringing in a person who was in the area of a wreck. I do not want to see this type of bounty in the legislation.

I do not deny that portions of the present legislation are objectionable. But there is no limit in connection with this. I am strongly opposed to this portion of the Bill.

On top of this, the equipment, vehicle, or boat can also be confiscated, irrespective of whether or not the operator of the equipment, vehicle, or boat was in the area concerned with criminal intent.

Narrow Neck is another part of Rottnest which could be closed off in consequence of this legislation. If it is not closed off and boats go into the area, an offence could be committed.

It has been indicated by people who know much more than I do about this subject that there could be something like 1,500 historic wrecks along the Western Australian coastline. We must bear in mind that our coastline extends for something like 4,500 miles. Along this vast coastline only a small number of historic

wrecks—85 in all—have been found. Of these, one has been found by the Museum Board. Had it not been for the work undertaken by private individuals 84 wrecks would not have been found and this State would not have the benefit of 45,000 items which have been retained by the Museum.

Mr. Mensaros: The number is 49,500.

Mr. O'CONNOR: That may well be the case. I reduced the number a little because I do not want to seem unreasonable. Members must bear in mind that 84 wrecks would not have been found had it not been for the efforts of private individuals. Had it been left to the Museum alone, only one historic wreck would have been found.

What has the board paid out? It has paid only a measly $3,900 in connection with 85 wrecks which have been found. The relics from the 1,500 wrecks estimated to lie on our coastline could be worth millions of dollars. The Commonwealth Government can pay $1,300,000 for a painting but the Western Australian Goverment has paid only a measly $3,900 in connection with the finding of historic wrecks.

This is quite unreasonable and the matter should be looked into. A Select Committee could recommend something which is far more equitable as far as individuals are concerned.

The *Zeewyck* was located in one of the richest crayfishing grounds in the State —the Abroholos Islands.

I believe the proposals in the measure take away all incentive from the individual. If wrecks are found in future, people will keep away from them and will not advise the Museum as they have done up to date. The benefit the State has derived from such advice in the past will not be derived in the future.

As I have said, the Museum Board may pay, on the recommendation of the director, an unspecified amount. The director has shown how tardy he has been in the past. I ask members to refer to the answers given to questions I asked the Premier last week. In these answers they will see the meagre amount which has been paid in the past.

In Florida the reward is 75 per cent. of the bounty. In England the reward is by negotiation with the Government but normally it is approximately half of that which is obtained from the wrecks. If private individuals are forced out of this field, this will disadvantage not only the board but also Western Australians generally because we will obtain fewer historic items from the wrecks.

I ask members to consider the questions I asked the Premier and to reason out the replies in connection with what has been done. I asked—

(1) How many historic wrecks have been located along the Western Australian coast?

The answer given was—

(1) Eighty-five historic wrecks have been located along the Western Australian coast.

The next part of my question was—

(2) How many of these were located by—
  (a) the Museum Board;
  (b) private individuals;
  (c) other groups?

The answer given was—

(2) (a) One by the Western Australian Museum.
  (b) Seventy by private individuals.
  (c) Fourteen by other groups.

In other words, as I have already pointed out, one was located by the Museum Board and 84 were located by private individuals or groups. The board has proved, firstly, that it is incapable of finding the wrecks and, secondly, it is not prepared to see fair play for those who do find them. I also asked—

(1) How much has been paid by—
  (a) the Museum Board;
  (b) the Government,
  to persons locating historic wrecks on the Western Australian coast?

The amount is a total of $3,900. The answer indicates that this was paid as follows—

		$
(i)	H. Edwards	1,000
(ii)	E. Christiansen (on behalf of the finders of the *Tryal*)	2,000
(iii)	B. Castle and P. Boonman	600
(iv)	The Black Octopus Club	250
(v)	The Living Water Skindiving Club	50

It is impossible to imagine that a miserable amount of $50 only could actually have been paid to the Living Water Skindiving Club! That club located an historic wreck on the Western Australian coast.

I do not know what items have been found from the wrecks nor do I think the Premier knows. It is not reasonable to ask for details. We know that they have been valuable to Western Australia generally.

I asked how many prosecutions there have been and, in fact, there have been two prosecutions against the same individual. Another question I asked concerned the items which have been found on historic wrecks. The reply given indicates that 50,000 items have been registered. The amount spent by the Museum Board in connection with the wrecks has been $611,000-odd. This is a fair sum of money

but, of that amount, only $3,900 has been paid to people responsible for finding the wrecks.

No reward at all was given to the discoverer of the *Batavia* which was wrecked in 1629. This is an extremely important wreck so far as Western Australia is concerned.

Mr. Bertram: When was it discovered?

Mr. Hutchinson: I think it was in 1966 approximately.

Mr. O'CONNOR: I do not know the date. However, I do know that the *Batavia* went down in 1629 and no reward was given for the discoverers of that wreck. The *Gilt Dragon* was wrecked in 1656 and, once again, no reward was given to its discoverers. The discovery of the *Gilt Dragon* was probably one of the most important finds on the Western Australian coast. Many thousands of dollars were spent to discover it.

Mr. Hutchinson: That was during the term of the previous Government.

Mr. O'CONNOR: I am not blaming any Government but am merely indicating how little the board has been prepared to do for people who have done so much for the board. The *Zuytdorp* went down in 1712 but, once again, no reward was paid to its discoverers.

I have mentioned three extremely important wrecks which have been found on the coastline of Western Australia. Collectively the items from those wrecks could be worth hundreds of thousands of dollars. Probably the figure could run even much higher than that.

The Parliament has indicated previously that rewards should be paid to people who find wrecks and do the right thing after finding them. The rewards which have been paid have been small indeed. The board appears to have treated in a shabby manner and contrary to the views expressed in the Parliament people who have located wrecks.

It is easily understood that many divers have lost their trust in the board and its record is not to the credit of the State.

As I have said, the only two prosecutions were against one individual but it appears that, as a result of these prosecutions, the board may have become embittered because it lost the cases. If this is so, the board is wrong in its attitude and should be more realistic than it has been in the past.

Many innocent people could be caught up by this legislation. In most instances they would not have the slightest idea that they were trespassing in waters where they should not be. I say it is quite wrong for this type of reward to be offered to employees who, perhaps, could be overzealous in the circumstances.

I think I have probably covered all the ground I wish to cover at this stage. I hope I have indicated to the Premier and to other members that the legislation does not give private individuals a fair go. We should not pass the measure as it is printed, because that would not be fair, and I hope members will support my motion for a Select Committee which I will move at a later stage.

MR. HUTCHINSON (Cottesloe) [5.40 p.m.]: I believe this piece of legislation is an open invitation to piracy under the high seas. It embraces all the faults which have been mentioned by members who have spoken to the legislation so far.

The Bill is completely unfair to divers. In the main, divers are young people, although some are older. These people dive beneath the surface of the water, locate historic wrecks, and find interesting items. The legislation is unfair to the individual, to the Museum Board, and to the people generally. The very wording of the measure will prevent private individuals from locating wrecks. The private enterprise aspect will be reduced considerably.

As has been pointed out already, 84 of the 85 wrecks which have been discovered along our coast have been found by private divers or divers associated with private organisations. It is important not to kill the goose that lays the golden egg. The legislation before us does just that.

The Bill should have included in it a provision for adequate rewards. I do not quite know what they should be. The member for Floreat has suggested an amendment and perhaps the amount he mentioned would be appropriate. However, I am not certain and I do not think anybody else in the House is certain, either.

The onus of proof which, in the legislation before us, is placed fairly and squarely on the defendant should be placed on the Crown. This is something which should be done. Furthermore, the penalties have been lifted by an extraordinary amount. These harsh penalties are also too widely spread and, as has been pointed out, could affect innocent persons or an innocent group of people.

I submit the measure is wrongly based. It is wrongly founded and an inquiry is needed into the whole matter to try to ascertain the best way to handle it.

Most of the members who have spoken today have not merely voiced their own opinions. My opinions stem, to a large extent, from the advice of a person called Hugh Edwards. Hugh Edwards is a journalist who is or was employed by the *Daily News*. He has dived in our waters for approximately 20 years of his life.

A Cambridge marine archaeological team invited Mr. Edwards to assist them whilst salvaging wrecks in various parts

of the Mediterranean. Although others were involved, he was the prime force in locating the *Batavia* in 1966.

Mr. Bertram: Does he argue the need for money incentives?

Mr. HUTCHINSON: Yes, he says that unless adequate rewards are offered, there will be a cut down in the supply of information to the right quarters. If we all lived completely in the image of Christ, we would not need legislation of this kind—or indeed, any form of legislation. However, human nature being what it is, we must consider offering rewards for information about valuable historic wrecks. This is simple logic.

Hugh Edwards is not only a diver of world wide repute, but also he has written a number of very good books. I have here a paper back book of his entitled *Islands of Angry Ghosts*. This tells the story of the *Batavia* in a most interesting fashion. He does not really say straightout that rewards are necessary, but reading between the lines we see that it is the private endeavours which produce results. These are the people who discover the wrecks and make it possible for material from them to be exhibited in maritime and other museums. In regard to the *Batavia*, by the force of his own personality and energy, Mr. Edwards recruited assistance from people in many walks of life in Perth, but he had a very tough job to raise finance.

His own paper, as well as various commercial enterprises, helped him a good deal. The State Government at the time —the Brand Government—was advised by the Museum to give a sum of money—originally $1,000.

Mr. O'Connor: That is the amount quoted.

Mr. HUTCHINSON: As it turned out, the State Government contributed only $250, although the $1,000 would have been very valuable indeed to the enterprises. The Government of the day was parsimonious in its approach to the attempt to locate the wreck. Members will see I do not point the finger at the present Government only in regard to the presentation of this poor-type legislation. We have many things to discover when tackling legislation of this kind. Therefore, we should obtain the advice of people such as Hugh Edwards.

He also wrote the book, *The Wreck on the Half Moon Reef*, the story of the *Zeewyck* which was wrecked in 1729, about 100 years after the *Batavia* was wrecked in 1626, in a very similar location. Possibly many more wrecks are to be found, but unless we watch very carefully the type of legislation we introduce, we could well reduce the private enterprise incentive to negligible proportions.

It is for these reasons that I say this measure is an invitation to piracy under the high seas. I know it is not easy for a Minister having introduced a Bill prepared because his advisers suggest legislation to improve existing Statutes, to agree to a suggestion made by the Opposition that the matter should be referred to a Select Committee. However, in this case I urge that the Premier should adopt this course.

I believe a Select Committee to study the legislation would be in the best interests of all the people of Western Australia and Australia. Perhaps when the Premier replies to this debate he will agree with the proposition put forward.

Mr. Bertram: What evidence of unfound wrecks is there at the moment?

Mr. HUTCHINSON: The same sort of evidence *mutatis mutandis* which existed in regard to the *Batavia* and the *Zeewyck*. Ever since the *Batavia* went down in the 17th century, the world has known about it.

Mr. O'Connor: The unfound ones have not been marked yet.

Mr. HUTCHINSON: Details of this appear in the historical records. I am wondering about the drift of the former Attorney-General's question?

Mr. Bertram: My question is how many wrecks are out there apparently waiting to be found?

Mr. O'Connor: About 1,400.

Mr. HUTCHINSON: The number is estimated to be between 1,500 and 1,800. We have found 85 wrecks only. However, there is a school of thought—and this view is supported by Hugh Edwards whom I have been praising not a little—which believes that the most valuable wrecks have been found. But who knows? Hugh Edwards has come to his conclusion on historical research.

Another person who delved deeply into the subject of historic wrecks on our coastline was the late Henrietta Drake-Brockman. She also wrote a book called *The Wicked and the Fair*—another fascinating novel about the historic wreck of the *Batavia*.

I do not intend to be carpingly critical of the legislation, but I believe we must look at all the points which have been made in an endeavour to ascertain their value. We must know the exact type of legislation to introduce to protect adequately these objects for our State.

I support the principle of the legislation, but I hope the Minister for Cultural Affairs will agree to an inquiry.

Debate adjourned, on motion by Mr. Bateman.

MUSEUM ACT AMENDMENT BILL

Second Reading

Debate resumed from the 4th October.

MR. E. H. M. LEWIS (Moore) [5.53 p.m.]: This measure seeks to amend the Museum Act and it is closely allied to the Maritime Archaeology Bill. As I have already mentioned in the debate on the previous Bill, one of the provisions in this measure is to delete the reference in the Museum Act to historic wrecks and relics. It is proposed to add to the functions of the Museum to preserve any locality of historical or cultural interest, remains, wrecks, archaeological or anthropological sites, and other things, whether at the place of discovery or elsewhere.

Another provision is to enable the trustees to recognise a municipal museum where it is leased—and this is a new provision—by the local authority from a State or Commonwealth Department or agency of the Crown. During his second reading speech the Minister for Cultural Affairs said that he believed it is proposed to establish a museum in a now disused lighthouse—I may be wrong, but I think he said that.

We have no objection at all to this provision. However, I pose this question: In giving the Museum power to recognise a municipal museum when it is leased from a State or Government department, why should not we give the trustees power to recognise also a museum when it is owned by a private individual? I know that some private museums in this State—one or two of them in country towns—are leased from private individuals and contain articles of historic value. Doubtless, because of the cost of upkeep, etc., the proprietors of some of these museums would be quite willing to hand them over to local municipalities. Therefore, I suggest that the Minister for Cultural Affairs should consider this point. I see no objection to such a proposal because other safeguarding provisions exist if the trustees feel they are necessary. A provision in the Bill gives the trustees the power to impose conditions under which municipal museums shall be held. Unless the conditions are fulfilled, the trustees need not proceed with the recognition.

I see no reason that this provision should not apply also to privately owned buildings.

This measure deals also with meteorrites. Under the present Museum Act, meteorites are the property of the trustees and will be vested in the Museum on behalf of the State when they are found on Crown land. The Bill proposes to widen this provision so that meteorites, wherever found, shall be vested in the Museum on behalf of the State. This sounds to me very much like a takeover. No compensation is payable to a person who finds a meteorite on Crown land because the meteorite is vested in the Museum pursuant to, or by the operation of the Act.

With the approval of the Minister, the trustees may pay a reward for information leading to the recovery of a meteorite. I do not know how much money that will involve. It does not cost very much—just the price of a postage stamp—to supply the trustees with the information. The reward would not be very great!

The trustees may pay also reasonable expenses incurred in the notification of a finding, or in the recovery and delivery of a meteorite. So presumably one would have to justify a claim with evidence of the actual costs incurred. In other words, one would be recompensed for outlay only.

On the other hand, stiff penalties are imposed for removing a meteorite from the State—$200 or three months, or both fine and imprisonment. Perhaps we could go along with this provision.

This is only a small Bill, but we object to some of its provisions, particularly those dealing with meteorites and the fact that the finders of meteorites will not be compensated. With those reservations that concludes what I have to say on the measure.

MR. MENSAROS (Floreat) [6.00 p.m.]: This Bill is, of course, in part, consequential to the previous measure we have been discussing; that is, the Maritime Archaeology Bill.

I would like to take this opportunity to express my gratitude to the Premier for having had the good sense to permit the debate to be adjourned on the previous Bill in order that he may at least look at some of the arguments advanced by the Opposition members who have spoken to the second reading. I daresay he will have the speeches examined and see what merit they contain.

As this Bill is consequential—as the Premier pointed out—I cannot imagine that the second reading debate on the measure will have a fate dissimilar from that of the Maritime Archaeology Bill; because if the Bill is passed it presupposes that the other measure is also passed.

I will not touch on those parts of the Bill which are consequential to the Maritime Archaeology Bill. Neither is there a great deal to be said on its provisions which are consequential to the Aboriginal Heritage Act empowering the Museum trustees to have some control over anthropological sites.

The other group of provisions concerns itself with municipal museum sites. There again we offer no opposition, as it was clearly explained by the Premier that there could be certain circumstances—and indeed there are some—where a site could not be vested in a local authority, when according to the present Act it should be, because it belongs to some other instrumentality—it may even belong to the Commonwealth—and yet permission can be obtained for a municipal museum to be erected and used on such site.

As the member for Moore has said, however, we do take exception and raise an objection to the position concerning meteorites. I would go a step further than the honourable member because there are two main provisions in connection with this matter.

The first of such provisions proposes that every meteorite, no matter where it is found, will be vested in the Museum through the Crown. Of course we have certain laws—and again I draw a comparison with the Mining Act and its provisions which prevail in connection with minerals—where there is a difference between Crown land and privately owned freehold land depending on when the freehold was acquired. I for one cannot agree with the principle that every meteorite found on privately owned freehold property should be vested in the Crown, particularly when we realise that the vast majority of the State is on leasehold, and is therefore Crown land.

I do not think this is a fair proposition because to my mind it infringes the rights of the individual and his ownership of private property.

There is of course another aspect, particularly if we accept the explanation given by scientists—which is by no means entirely proven, but it is the latest supposition—that the so-called tektites are also meteorites.

As members will probably know, tektites are small glasslike objects which weigh about one or two ounces. They are of a fairly even shape and are called by various names. Australia happens to be one of the continents where they are to be found. They are found in South Australia, New South Wales, on the Nullarbor, and in some parts of the Kimberley.

If these tektites are deemed to be meteorites we could be confronted with two difficulties, one of which is that such tektites cannot be interfered with. How can anybody avoid interfering with such things when they happen to turn them up while using a shovel in the soil? But they will be guilty of this even though they are not deliberately interfering with pieces of such meteorite, some of which would be only half an inch in diameter.

I also consider to be unfair the second provision which prohibits the taking out from the State of meteorites or any part of them. I say this because it relates not only to the meteorites which are found on Crown property, but to all meteorites which will now be vested in the Museum, and consequently in the Crown. As I read the provision it states that a person who without the consent of the trustees removes a meteorite from the State commits an offence. According to my interpretation this refers to any meteorite and accordingly it is a most unjust retrospective provision.

Let us suppose that meteorites or tektites—which are usually treasured; and we know the Aborigines consider them to be holy objects—have been the legal property of a family for perhaps two or three generations. The family concerned might have made a jewel out of such meteorites or some other object which sits on the mantelpiece. According to this Bill such a family would be committing an offence if it took that jewel with it while travelling out of the State; this applies even if the family went only as far as South Australia. This provision will have retrospective effect.

The Premier can correct me if my interpretation is wrong. I will, however, read the provision again. It states—

> A person who, without the consent of the Trustees, removes a meteorite from the State commits an offence.

The provision does not say anything about where the meteorite is found or whether or not it is one that is vested in the Museum. It refers to any meteorite.

Accordingly, if tektites are also included—and this is only an assumption but it has not yet been contradicted—and these glasslike objects are considered to be meteorites coming either from the moon or being the remains of comets, the provision could place people who own them, in a very invidious and unjust situation.

I wonder whether that is the intention of the Bill. Accordingly, as I have said, I voice an objection to this provision not only because of the penalty, which appears to be fair enough for the offence and can justifiably be prescribed; but because of the offence itself in so far as it relates to something which is quite legitimately somebody's private property and the owner of which cannot take it ouf of the State without committing an offence.

The other question I wish to ask is how far this Bill would alter the position in connection with a meteorite which was found on private property prior to the coming into operation of this legislation; not from the point of view of its being removed from the State, but generally speaking? I ask this because to my mind it is not fair to vest property of meteorites in the Museum retrospectively, and to apply this provision to those meteorites which have been found prior to the introduction of this measure or rather before it has been enacted.

My suggestion is the same as it was in connection with the other Bill. The measures are related to a certain extent; they are consequential and accordingly I hope the Premier gives consideration to the arguments advanced; and since he introduced the Bills together he may consider referring both Bills to a Select Committee. Had the proposed amendments to Standing Orders been accepted they could have been handled conjointly.

MR. A. A. LEWIS (Blackwood) [6.14 p.m.]: I will not delay the House for long. I would like to ask the Premier when he replies to reassure organisations like the Royal Historical Society that the proposed amendment to section 9 of the Act by clause 6 of the Bill will not mean any of the functions of such societies being taken over.

There is concern in some areas that this will happen, and it would be a great help if the Premier could give us some assurance to the contrary. The only other point I wish to raise is that in proposed new subsection (4) of section 45—which is to be amended by clause 11 of the Bill—we insert our favourite word "knowingly"; and make it read, that if a person "knowingly" removes a meteorite.

I do not know about the Premier but I certainly would not know a meteorite if I saw one; particularly if it were turned up by a bulldozer and, consequently, I would not like to be subjected to a $200 fine or to three months' imprisonment, or both.

Debate adjourned, on motion by Mr. Bateman.

Sitting suspended from 6.15 to 7.30 p.m.

MENTAL HEALTH ACT AMENDMENT BILL

Council's Amendments

Amendments made by the Council now considered.

In Committee

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. Davies (Minister for Health) in charge of the Bill.

The CHAIRMAN: The amendments made by the Council are as follows—

No. 1.

Clause 3, page 2, line 29—Delete subsection (3) of proposed new section 37A and insert the following—

(3) No action or claim for damages other than a claim for damages for negligence shall lie against any person for or on account of anything done or ordered to be done by him and purporting to be done for the purpose of carrying out the provisions of this Division unless it is proved that it was done or ordered to be done maliciously or without reasonable and probable cause.

No. 2.

Clause 5, page 3, line 19—Add the following after the word "prescribed"—

provided however that the Director shall not take any action to dispose of any such article or thing unless he shall have given not less than one month's notice in writing to such person of his intention in that behalf.

Mr. DAVIES: I move—

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

This amendment has been made by the Council in order to provide some added safeguard. When the Bill was debated in this Chamber I did not accept an amendment from the member for Cottesloe, because it was considered that additional safeguards were provided. If the Legislative Council is of the opinion that this amendment is necessary, and I cannot see why it is unnecessary, then I am happy to agree to it.

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

Mr. DAVIES: I move—

That amendment No. 2 made by the Council be not agreed to.

This type of amendment was proposed in this Chamber when the Bill was debated here. If it is considered desirable to have this type of amendment, then the one which was proposed by the member for Cottesloe would cover the position far better than the one that has been made by the Council.

One provision in the Bill states that where there is unclaimed property, and there is no possibility of finding the whereabouts of the owner or the next-of-kin of the owner—this often happens in the various mental institutions—the director shall prescribe such regulations as are considered necessary to safeguard the interests of all concerned.

When the member for Cottesloe put forward his amendment I had it checked by the Crown Law Department. The department felt the position was fully safeguarded by the wording in the final line of the Bill, "in such manner as is prescribed". Members are no doubt aware of what happens when regulations are framed, the manner in which they are dealt with, and what challenge to the regulations exist. We believed that if the regulations did not provide a sufficient safeguard, then action could be taken to put the regulations right.

If we agree to the amendment by the Council, then despite the fact that the director has been given the right to prescribe regulations, he would have to comply with the proviso set out in that amendment. This could prove to be impractical. If the whereabouts of the owner or the next-of-kin of the onwer cannot be ascertained, the action proposed in the amendment would be taken long beforehand, and not one month afterwards.

I believe that the foreshadowed regulations will provide that at the expiration of six months, after certain action has been taken, the goods may be disposed of.

Whilst I appreciate the safeguard which is intended in the Council's amendment, I believe it is too restrictive and could inhibit the framing of the regulations.

The only other point I wish to make is that, as recorded in *Hansard*, when the Bill was debated in another place, the Minister handling it on my behalf indicated that I had no objection to these two amendments of the Council, and therefore they would be accepted.

It was a misunderstanding. I said that whilst I did not disagree to the first amendment of the Council, for the reasons which I have just given we should not accept this second amendment. Unfortunately the message to the Minister in another place was misinterpreted, and the members of the Council were told that I had no objection to these amendments. The fact is I do object to amendment No. 2. If it is considered necessary to have an amendment of this type, then I would prefer the amendment which was put forward by the member for Cottesloe previously, because the wording is more comprehensive.

Mr. HUTCHINSON: The situation is as described by the Minister. It is true that I moved a fairly lengthy amendment in the Committee stage to accomplish the objective which the Legislative Council's amendment now seeks.

At the Committee stage when this matter was discussed, the Minister was able to convince me that it would be better to leave the wording of the provision in clause 5 as it was. At the time I said I was agreeable to having regulations framed by the department, because I knew they would have to be laid on the Table of the House. I also asked the Minister to indicate to his department not to put through a number of regulations without giving me the opportunity to look at them.

Mr. Davies: I have put a note to that effect on the file.

Mr. HUTCHINSON: In those circumstances I was content to agree to the clause. Mine was an amateurish attempt to amend it; but I think the Council's amendment is also somewhat amateurish. If agreed to it could circumscribe the actions of the director in this regard, and it could prove to be a limiting factor. In this regard I agree with the Minister's contention.

Question put and passed; the Council's amendment not agreed to.

Report, etc.

Resolutions reported and the report adopted.

A committee consisting of Mr. Moiler, Mr. Hutchinson, and Mr. Davies (Minister for Health) drew up reasons for not agreeing to amendment No. 2 made by the Council.

Reasons adopted and a message accordingly returned to the Council.

IRON ORE (MURCHISON) AGREEMENT AUTHORIZATION BILL

Returned

Bill returned from the Council without amendment.

SALES BY AUCTION ACT AMENDMENT BILL

Order Discharged

MR. STEPHENS (Stirling) [7.45 p.m.]: I move—

That the Order be discharged.

By way of brief explantion, the provisions contained in this amending Bill are now incorporated in the Auction Sales Bill which passed through this Chamber today. It is, therefore, unnecessary to proceed with this Bill.

Motion put and passed.

Order discharged.

INDUSTRIAL ARBITRATION ACT AMENDMENT BILL

In Committee

Resumed from the 23rd October. The Chairman of Committees (Mr. Bateman) in the Chair; Mr. Harman (Minister for Labour) in charge of the Bill.

Clause 72: Amendment to section 144—

Progress was reported on the clause after the member for East Melville (Mr. O'Neil—Deputy Leader of the Opposition) had moved the following amendment—

Page 34, line 16—Delete paragraph (a).

Mr. HARMAN: I oppose the amendment because we are trying to remove subsection (2) from section 144 of the principal Act. Subsection (2) has an inhibiting effect on the commission when considering a matter. It reads as follows—

> (2) For the purpose of determining under this Part whether female workers are performing work of the same or a like nature and of equal value as male workers, the Commission shall, in addition to any other relevant matters, take into consideration whether the female workers are performing the same work or work of a like nature as male workers and doing the same range and volume of work as male workers and under the same conditions.

In the light of the recent developments in the State and Federal arbitration fields subsection (2) is no longer justified. It is worth while mentioning the comment made in the recent equal pay decision—the Commonwealth decision. In fact, the decision achieves no more than was achieved in the State basic wage case of 1972 before the Western Australian Industrial Commission.

The decision on the uniform claim, in respect of equal pay, was that its principle—equal pay for equal work—which had

prevailed since 1969, should now become, "equal pay for work of equal value". Any increase resulting from that decision would ordinarily be introduced through three instalments.

Prior to this the principle of equal pay for equal work, in Federal awards, was applied only where the work done by female employees was substantially identical with that done by males working in the same industry or under the same award. The new principle simply requires that award rates be fixed on a consideration of the work performed without regard to the sex of a worker. The starting point will ordinarily be a comparison of male and female classifications within the award. In some cases it will be necessary to make comparisons with classifications, male or female, in other awards. The phrase "value of work" is intended to apply to work in terms of an award wage, not to the particular employee.

In order that the commission can consider this question we do not wish to restrict it, and for that reason we propose to delete subsection (2) of section 144.

Mr. O'NEIL: I thank the Minister for the research he has done in providing what he believes to be an argument against my proposition. I want to point out that in this matter the Government is not working in the interests of the workers, as has also been the case with a couple of other matters.

To give an example, we have passed through this Chamber a Bill with respect to workers' compensation which grants a substantially increased sum for compensation—in round figures, double what it is at the moment. The Minister said that was an interim measure and would ultimately be absorbed by a national compensation scheme based on a report by Mr. Justice Woodhouse of New Zealand. If Mr. Justice Woodhouse recommends along the lines of the New Zealand compensation legislation, we know that the compensation will be 80 or 85 per cent. of average weekly earnings. So, in the event of a national compensation scheme being introduced the workers in this State will find themselves subject to a reduction in the benefits this Government purports to offer them.

A second example is in respect of housing. This Government has increased the income eligibility for State Housing Commission homes to $109 per week in round figures. The new Commonwealth and State Housing Agreement, which this Government has signed but which it has not yet brought to Parliament for ratification, will lower the eligibility from that figure to a point where 10 per cent. of those who are now eligible for State Housing Commission homes will no longer be eligible. That is a second example of how this Government—the workers' Government—has taken action at the behest of the Commonwealth Government to reduce the benefits available to the workers of the State: In the field of workers' compensation, and in the field of housing.

The provision now under discussion will do a disservice to the female members of the work force. The Minister, by his own admission in the reference which I quoted from *The West Australian* of the 1st October, 1973, indicated quite clearly that the survey currently being carried out in respect of domestics in hospitals will not necessarily produce women's wages at the same rate as men's wages. He said that the survey would be undertaken and that it would achieve, or grant, equal pay for work of equal value. If it was discovered that a woman was doing 75 per cent. of the work value of a man she would get 75 per cent. of the male wage. That would be equal pay for work of equal value. Women currently expect that if they are granted equal pay for work of equal value they will get the male rate; that is what they expect. Let us make no mistake about that.

Mr. Harman: The Deputy Leader of the Opposition is missing the point completely.

Mr. O'NEIL: The Minister referred to the fact that he wants to delete the subsection from the Act because of its so-called inhibiting effect on the Industrial Commission in Western Australia to make determinations with respect to women's awards. He said the deletion of the subsection will do what the Commonwealth has decided to do, and the Minister has just related the Commonwealth decision. That is what the Minister is doing in regard to hospital domestics.

Mr. Harman: In consideration of work performed, regardless of sex.

Mr. O'NEIL: That is correct; I have not missed the point. It simply means that when somebody applies to the commission, in the future, for equal pay for work of equal value—and this will apply essentially to females because males working in the same occupation get equal pay anyway—the Minister must admit it is not proposed to give females the same rate of pay as males. If we adopt the attitude which has been adopted by the Federal Industrial Commission there will be very few cases where women will get the same rate of pay as men because, as the Minister has said, the output of a woman will be measured against the output of a man in the same occupation.

Mr. Harman: No, I did not.

Mr. O'NEIL: The Minister just said it. Therefore, under those conditions if a woman does 80 per cent. of the work value of a man she will get 80 per cent. of the wage. However, women do not think that this is the meaning of the provision. They imagine they will get the male rate.

I remind the Committee that the Minister said this does not mean that men and women would necessarily receive the same rate. Increases from the reassessment would be given in two stages. He went on to say that the new rates of pay for female workers employed in Government hospitals would be assessed in relation to equivalent work done by men. We know now that the Minister has again been hoodwinked into removing this provision. We will never find the situation in the future where men and women employed on the same task will get the same pay. The Minister has just said that he wants to do what the Commonwealth Government proposes to do.

Mr. Harman: No, I did not. The Deputy Leader of the Opposition misinterpreted my remarks.

Mr. O'NEIL: I made the point that this is the third occasion on which the workers' Government, because of incompetence or inexperience, has done a disservice to the workers. I would like the Minister to read again the notes prepared for him.

Mr. HARMAN: We want to remove subsection (2) of section 144 because it imposes a limitation on the powers of the commission.

Mr. O'Neil: It does not do anything of the sort.

Mr. HARMAN: The argument put up by the Opposition is that we want to hamstring the commission. We do not want to do that. The Opposition has always argued that the Industrial Commission should be responsible for assessing sick leave and long service leave, and that such assessments should not be made by Parliament. We are now making it possible for the commission to do something about equal pay for work of equal value.

Mr. O'Neil: Not to give equal pay to men and women.

Mr. HARMAN: The Opposition wants this inhibiting provision left in the legislation so that the Industrial Commission cannot exercise its full powers. I believe the commission can already do this under the powers of section 61, without any consideration of section 144.

Mr. O'Neill: I ask the Minister to read the note from the Commonwealth.

Mr. HARMAN: The Press report referred to stated that we assessed it would cost something like $1,200,000 to introduce these three phases of payments to domestics.

Mr. O'Neil: We are concerned with comparative wage justice.

Mr. HARMAN: The question of equal pay for women is one which has been discussed in recent years, and quite a number of people have had different ideas about it. They are well-founded ideas, too, and there is room for disagreement. The Commonwealth decision says—

> The new principle requires simply that award rates be fixed on a consideration of work performed, without regard to the sex of the worker.

Mr. O'Neil: If a woman does only 75 per cent. of the work of the man, she receives 75 per cent. of the rate. Tell the woman that! You are following the Commonwealth and selling the worker down the drain.

Mr. HARMAN: All I want to do is give the commission power without any inhibitions at all, so that it can look at the question of equal pay. Prior to this decision, the principle of equal pay for equal work in Federal awards was applied only where the work done by female employees was substantially identical to that done by males working in the same industry or under the same award. It is a new principle. The situation will be looked at without regard for the sex of the worker. Therefore, if the commission can look at this question without being inhibited by subsection (2), it will have the opportunity to do what it wants to do.

Amendment put and negatived.

Clause put and passed.

Clauses 73 and 74 put and passed.

Clause 75: Amendment to section 170—

Mr. O'NEIL: We have indicated our intention to oppose this clause, which is intended to do two things—to substitute for the passage "necessary;" in line 14 the passage "necessary.", and to repeal paragraph (c) of section 170(1). Let us see what it is proposed to repeal. Section 170 deals with the powers of the court and the commission to direct investigation and institute proceedings—powers which we concede the court and the commission must have. The paragraph it is proposed to delete deals with the power of the commission to—

> (c) direct the Registrar, Assistant Registrar or an industrial inspector to institute proceedings for an offence against this Act or for the recovery of a penalty under section ninety-nine of this Act,

The Government is denying the commission the right to take appropriate action against any breach of an order of the commission by a party to an industrial agreement. Currently, the commission may direct the registrar or assistant registrar to institute proceedings for an offence against the Act or for recovery of a penalty under section 99 of the Act. Does the Minister want to draw all the teeth of the Industrial Commission and remove any power it has to have its own orders obeyed? If the Industrial Commission makes a determination and issues an order upon a party to an agreement to carry out its instructions

and the party does not do so, this proposal denies the commission power in its own right to take the appropriate action. What is the purpose of this?

Perhaps what I said last night could be said again now. If this is the attitude the Government takes towards the Industrial Commission, why did it not have the courage simply to repeal the Industrial Arbitration Act? I again make the point that there is nothing binding upon a union of workers to be registered with the Western Australian Industrial Commission, and there is nothing binding upon a union of employers to be registered with the Industrial Commission. If they do not want to be registered, they can go outside the provisions of arbitration law and make any kind of agreement they like with each other. They do not have to be bound by that agreement—it is optional—but if either party seeks the protection which the industrial arbitration law offers, they should accept the responsibility of abiding by the decisions of the commission.

However, the Government, hell-bent upon destroying arbitration—which, it must be remembered, is a law which has been supported by the industrial wing of the Labor movement ever since it has been in existence—is simply taking away any facility for the Industrial Commission to ensure its orders are carried out.

I ask the Minister what will happen now if after hearing the arguments put forward by the two parties to a contract—which in the terms of industrial law is an award or agreement—the Industrial Commission makes a determination and either or both of the parties go away and take no notice of the instruction? Currently the commission may direct the registrar to institute proceedings against the offending party or parties, but in future that will not be the case. The Industrial Commission can say, "This is what we have determined in the interests of both parties. We know we are sitting as arbitrators or umpires and our determinations will not be entirely satisfactory to both of you, but they are the rules of the commission." If one of the parties disobeys the Government's rule, what does the Government do? It strangles the umpire.

I ask the Minister why this has happened. Who suggested this diabolical torpedoing of the arbitration law? In respect of enforcement provisions—a term I prefer to "penal provisions" which makes one think of penal colonies and so on—I have said so often that it is not possible to have a law without also having some power to enable it to be enforced. If it is not necessary to enforce a standard of conduct, it is not necessary to have a law.

Probably the basic laws of the universe —or at least of Christendom—are the 10 Commandments and, if one believes all that is said about them, I think the penalty for a breach of those laws is far more diabolical than any penalty we can imagine: it's eternal damnation. So the very laws upon which the behaviour of mankind, generally, is based have far more serious penal provisions than does industrial law. If we take away the power of the Industrial Commission to request its registrar or other officer to carry out investigations and, if necessary, institute proceedings against parties for breach of the industrial law or the commission's determinations, we are making an ass of the commission.

There is no power in the Industrial Arbitration Act for the Industrial Commission to take action for contempt by a party which appears before it. I know of occasions when the commission has made a determination and one of the parties to the dispute who is bound by the determination has said some very rude and nasty things about the commission. In the heat of the moment, the commission asked me, as the Minister at the time, to amend the law so that it could institute contempt proceedings against that person or party, but after the tumult and the shouting had died and the captains and kings had departed the commission had second thoughts because the Industrial Commission as such—as persons and as a commission—does not want all-powerful penal provisions. Members of the commission believe their function is essenially one of conciliation, and of arbitration only as a final resort. Apparently the commission has no power to institute proceedings for contempt of its own determinations, but I am sure it has not asked to have taken away from it the power to request an officer of the court to investigate and institute proceedings against a party to a contract who is in breach of a determination of the commission.

I therefore ask whose diabolical idea this is. It is certainly not the Minister's idea. I think we have indicated quite clearly that we intend to oppose clause 75.

Mr. HARMAN: Under section 170 of the Act the commission may, of its own motion, do certain things, two of which are—

(a) direct any record to be kept by any person for the purpose of affording evidence of the compliance or non-compliance with any provision of an award, order, agreement or of this Act;

(b) direct the Registrar or the Assistant Registrar to make such investigations and reports in relation to the observance of this Act and the regulations and of any award as it deems necessary;

Mr. O'Neil: Having done that and found trouble, what does it do then?

Mr. HARMAN: It goes back to section 99 of the Act, which says—

> (1) Where a person contravenes or fails to comply with any provision of an award or agreement, the Registrar, an Industrial Inspector or any employer, union or association bound by the award or agreement, may apply in the prescribed manner to an Industrial Magistrate for the enforcement of the award or agreement.

The Deputy Leader of the Opposition says that in removing paragraph (c) of section 170(1), we will take away the power to enforce awards, but he will notice the provisions of section 99.

We see the role of the commission as one of conciliation and arbitration. Its role is to settle disputes and preserve industrial harmony. It has another role—that of the policeman—under which the registrar may apply to have cases of contravention of awards or agreements dealt with in an industrial magistrate's court. It is really for that reason that this amendment to the Act is sought. We are not removing any powers of enforcement from the Act, because they remain under section 99.

Clause put and passed.

Clause 76: Section 171 repealed—

Mr. O'NEIL: Clauses 76 and 77 are somewhat related, but I suppose we had better deal with them separately. Clause 76 repeals section 171 of the Act. I have already indicated that compulsory arbitration should be ordered only as a last resort, and that we should attempt to resolve industrial disputes by conciliation, because that is the purpose of the Act. The present Act has the word "conciliation" in the long title, although that has been amended by the Bill so that it is preceded by the word "mediation".

However, there must be occasions when arbitration must be used. Section 171 of the Act carries the side note "Commissioner may convene Compulsory Conference". The section gives to the Industrial Commission power to call a compulsory conference in the case of a dispute. It gives the commission the initiative to play its role as a conciliator or arbitrator. It is proposed to remove that power from the commission.

This move is somewhat related to the fairy-tale system of mediators, which I am convinced will not work. Once again, the Minister certainly should explain to us why he is removing this power from the commission which was established to administer the industrial law of this State.

Sometimes in the case of extreme disputes which, I suppose, ultimately end up in strikes, it is difficult to get a couple of hard-headed leaders to get together. So the commission is given the power under section 171 to command the people concerned to sit down and cool off and discuss their problems before a commissioner. This is a matter of expediting the consideration of the dispute sanely and carefully in the presence of a third party. But once again the Government wants to deny this power to the Industrial Commission. We as a Committee deserve to know why.

Mr. HARMAN: Section 171 of the Act becomes redundant as a result of the new part we added dealing with mediation and conciliation. The part we added is designed to give the parties the opportunity to negotiate and to endeavour to develop techniques designed to settle industrial disputes.

The principal Act is amended by clause 61 which adds a new section 108I. That section gives a commissioner power to summon any person to attend at a time and place specified in a summons at a conference presided over by him. So the commissioners will still have the power to summon persons to a conference.

Where the two parties agree provision already exists for them to go to the commission. The whole idea of mediation and conciliation is that the parties will be able to get together and develop negotiating techniques.

Clause put and a division taken with the following result—

Ayes—19	
Mr. T. D. Evans	Mr. Hartrey
Mr. Bertram	Mr. Jamieson
Mr. B. T. Burke	Mr. Lapham
Mr. Bickerton	Mr. May
Mr. Brady	Mr. McIver
Mr. Brown	Mr. Norton
Mr. T. J. Burke	Mr. Sewell
Mr. Cook	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moller
	(Teller)

Noes—19	
Mr. Blaikie	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Gayfer	Mr. Rushton
Mr. Grayden	Mr. Stephens
Mr. Hutchinson	Mr. R. L. Young
Mr. A. A. Lewis	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Pairs	
Ayes	Noes
Mr. Gibson	Sir David Brand
Mr. Thompson	Mr. W. A. Manning
Mr. Bryce	Mr. O'Connor
Mr. Davies	Mr. E. H. M. Lewis
Mr. Jones	

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Clause thus passed.

Clause 77: Section 173 repealed—

Mr. O'NEIL: This clause is related to the previous clause in that the two clauses repeal sections 171 and 173 of the Act. Section 172 was repealed in 1963. Section 171 gives to the commission the power to

call disputing parties together in order to see whether or not the dispute can be resolved. Of course, on occasions the dispute may not be able to be resolved; and in that case it is possible for the parties to say, "We are at arm's length on a number of issues; we are not going to resolve this at a compulsory conference; so we will each surrender our point of view to the Industrial Commission and we will agree in writing to submit our propositions to the commission, and to abide by its final decision."

It is not often that section 173 is resorted to because in most circumstances it is found that a section 171 conference —as it is called—will resolve the problem. Although this is called compulsory arbitration, it is essentially a compulsory conference of conciliation called by the commissioner. However, in the event of that conference being unsuccessful section 173 may be resorted to. That section is now to be repealed.

It is true, as the Minister said, that sections 171 and 173 may be regarded as redundant; but certainly if those who have better information and advice than the Government has see their way clear to do so, I would hazard a guess that those two provisions will remain in the Act.

A short time ago we willingly withdrew an amendment to save the expense of reprinting the Bill concerned. It may well be that the Government, in this instance will save a great deal of money by agreeing to leave the provisions in the Act. I point out that although we strongly oppose this clause in order to save time we do not intend to call a division.

Clause put and passed.

Clause 78: Amendment to section 178—

Mr. O'NEIL: Section 178 of the Act prohibits employers or workers, or persons acting on their behalf, from asking for or receiving any payment or reward for or in respect of the employment or engagement of any worker in any industry which is the subject of an award or industrial agreement. The section carries a proviso which states that nothing in the section shall apply to an employment or engagement through the agency of an employment broker acting in the ordinary course of his business under the Employment Brokers Act. It is now proposed to add words to the proviso to the effect that the proviso shall not render lawful the asking, demanding, or receiving by an employment broker of any premium, payment, or reward from any worker whose employment or engagement is or will be governed by the terms of an industrial agreement or award.

I would like the Minister to explain the amendment. It seems to me to be fair enough that if a person goes to an employment broker who is duly registered under the Employment Brokers Act and asks the broker to find him a job, then the broker should charge a fee.

However there is a proviso to be added which reads—

> ...but this proviso shall not render lawful the asking, demanding or receiving by such an employment broker of any premium, payment or reward from any worker whose employment or engagement is or will be governed by the terms of an industrial agreement or award".

So if we boil that down to what I believe to be the motive, it is simply this: If a member of a union engages an employment broker to get him a job and the broker does so, he does not have to pay the broker. If a man who does not happen to be a member of a union and is therefore not covered by an award or an agreement, and he asks an employment broker to get him a job, he has to pay.

Mr. Hartrey: A man does not have to be a trade unionist to be covered by an award.

Mr. O'NEIL: Let me tell the member for Boulder-Dundas that with the sort of conditions obtaining in this State at the moment, and with the so-called preference clause written into industrial awards and agreements, unless a worker is a member of a union he is not likely to get a job in an industry covered by an award or an agreement.

Mr. Hartrey: We are discussing this clause, which stipulates a "worker" not "unionist" covered by an award or agreement.

Mr. O'NEIL: I am asking the Minister to explain what I believe to be the subtle implications behind this proposition.

Mr. Hartrey: Suspicions or implications are not used to interpret Statutes.

Mr. O'NEIL: The thread of my argument has to be followed. Currently, if a worker uses the services of an employment broker to get him a job the employment broker is entitled to a reward. That is fair and reasonable. Whether the reward is fair and reasonable is a matter for the Employment Brokers Act, and not this Act. However the Bill adds a proviso which I have already read to the Committee.

Mr. Hartrey: It just says a worker; it does not say a unionist.

Mr. O'NEIL: Let us be realistic. With the provisions written into industrial awards these days a worker has to be a trade unionist before he can work in any industry covered by an agreement or an award. I want the Minister to admit that what he is doing here is to say that if a worker gets a job through an employment broker this exempts him from paying the prescribed fee.

Mr. Harman: That is right.

Mr. O'NEIL: The Minister has admitted that I am right.

Mr. Hartrey: He may have, but that does not make it right.

Mr. O'NEIL: It is dead right and my suspicions are correct.

Mr. Hartrey: In the definition of "worker" in the Act it does not say a person has to be a unionist.

Mr. O'NEIL: But this provision states "any worker whose employment or engagement is or will be governed by the terms of an industrial agreement or award", and therefore it is of no use the member for Boulder-Dundas taking a different point of view; the Minister has admitted that I am right.

Mr. Hartrey: He cannot make you right —you are just wrong!

Mr. O'NEIL: The Minister may accept the rebuke from the member for Boulder-Dundas, but I am sure he will not take any notice of it. I am confirmed in my suspicion. I have no need to worry about the interjections made by the member for Boulder-Dundas, because the Minister in charge of the Bill has admitted that I am right. Therefore I would like the employment brokers to know that when any unionist engages their services he does not have to pay them a fee.

Mr. Harman: Neither does a person who is not a member of a union.

Mr. O'NEIL: I would like the employment brokers to know that this provision makes it mandatory that a unionist does not have to pay an employment broker the prescribed fee.

Mr. HARMAN: The Australian Labor Party has always been opposed to any person who trades on labour.

Mr. Rushton: Goodness gracious me!

Mr. O'Neil: You will stand up and sing "The Red Flag" next!

The CHAIRMAN: Order!

Mr. Nalder: That statement is about 150 years old.

Mr. HARMAN: So is the Australian Labor Party.

Mr. O'Neil: Yes, with its feet in the past and its head in the clouds.

The CHAIRMAN: Order! The Minister will address the Chair.

Mr. HARMAN: One of the long-standing principles of the Australian Labor Party and the trade union movement is opposition to trading on labour, so what we are proposing in this Bill is that when a worker goes to an employment broker to obtain a job that broker shall not charge a fee to that person irrespective of whether or not he is a trade unionist. What we are saying is that an employment broker acts as an employment agency for an employer and as such is not entitled to charge the employee a fee for the services performed on behalf of the employer.

Members should also be made aware of the fact that in recent times many employment brokers in this State have not charged workers a fee. They certainly charge employers a fee, but not the workers. This is the whole reasoning behind this added proviso to section 178.

Mr. O'NEIL: The Minister's comments are very interesting. I have known for some time that there have been proposals to review the Employment Brokers Act. I know there is some dispute as to whether it is necessary to charge a fee both to the employer and the person seeking employment when an engagement is made. I know, too, that there is no compulsion for fees to be charged either way, and I also know that some employment brokers do not charge the employee a fee. It is mainly those brokers who canvass in a specific type of work for a specific type of employer who charge a fee. One has only to read *The West Australian* newspaper every day to note that there is, I think, a hotel employment broker. It will be noticed that this particular organisation deals essentially with hotel employees. It advertises in the newspaper on behalf of hotel owners throughout the State. In other words it renders a specialised service to the hotel industry.

I do not know whether a large private concern conducts this organisation, but certainly it operates in a specialised field. There are others who call themselves management consultants. In this case a major company can go to a management consultant and say, "We want you to select for us a particular class of executive officer. He must be able to do certain things and must possess certain qualifications." That consultant, of course, receives a fee from the employer, conducts inquiries throughout the nation through the medium of its various agencies, selects a list of candidates, and then says to this employer, "Here are three men who may possess the necessary requirements; we have talked to them and decided they are suitable, and they are willing to take the job. You may now make the final selection." The employer pays for that service.

However, there are others who, for some reason or other, attract the ordinary type of worker. In fact, they act on behalf of the worker and do not find a worker for the employer. It may well be, and it has happened, that in some cases those workers may have been people who have come from other countries and who do not realise that there is an employment service which renders that service free. In any case there are still people who operate in this way.

Mr. T. J. Burke: Are you aware of any employment broker who charges an employee a fee?

Mr. O'NEIL: I am aware that this certainly was the situation five or six years ago, because the Employment Brokers Act is administered by the Minister for Labour, and there is a provision in that Act which states that the broker may charge the employer a fee which is no more than the employee is charged. In many instances this has been interpreted to mean that he must charge both the same fee. If he has charged the employee I do not think any action has been taken but because of some conflict over the interpretation of the Employment Brokers Act, inquiries have been under way for some time in order to take steps to rewrite that Act. If we are to do this we may as well not have an Act. I am wondering whether the Minister can tell us what attitude he will adopt in respect of employment brokers.

Mr. J. T. Tonkin: That is irrelevant; that has nothing to do with this Bill.

Mr. O'NEIL: It is up to the Chairman to tell me that.

Mr. J. T. Tonkin: You should know these things; the Chairman should not have any need to tell you.

Mr. O'NEIL: The Chairman is the master of the Chamber and the custodian of the Standing Orders. For a long time I studied the Standing Orders of this Chamber until a wise old gentleman said to me, "You don't have to study those; that is for the man in the Chair to decide."

Mr. J. T. Tonkin: That was very poor advice.

Mr. O'NEIL: However I accept the advice of the Premier on this occasion. It is a fact that we are talking about the provisions in this Bill and not those in the Employment Brokers Act, and there is a provision in this measure which does not make it incumbent on a worker to pay a fee to the employment broker.

Mr. Bickerton: I know of a chap who went to one of these employment brokers and obtained a position in a small town in the north-west. He did not pay any fee, but the employer paid it. However, the employer took it out of his first week's wages.

Mr. O'NEIL: The Premier will become annoyed with the both of us if we proceed along these lines by referring to the Employment Brokers Act.

Mr. Bickerton: You are on the side of the employer.

Mr. O'NEIL: I am not. Unfortunately the employment broker is in dire fear that this will strangle him. However I have clearly indicated that we oppose the clause.

Clause put and passed.

Clause 79: Section 179A added—

Mr. HARMAN: I move an amendment—

> Page 36, lines 24 and 25—Delete the words "a wilful act or omission that constitutes a defamation" with a view to inserting the words, "a threat of such an act or omission, or a wilful act that constitutes a defamation".

Mr. O'NEIL: I think the Committee deserves some explanation in support of this amendment.

Mr. Harman: You will get one.

Mr. O'NEIL: I think it is up to the Minister to give an explanation when he moves the amendment, having regard for the rules that in Committee a member is permitted to speak on only three occasions.

Mr. Bickerton: It will save the time of the Chamber.

Mr. O'NEIL: At least the Minister has stopped giving as his reason for the amendment, "We want this because we want it". Proposed new section 179A is particularly contentious, because it seeks to remove certain actions from being subject to civil law; that is, with respect to the operations of unions or members of unions.

I think it is important that we know that in future if this Government has its way no matter what a union member, or executive officer of that union does in respect of destroying or damaging a man's business, that man will have no redress. That will be the effect of the provision the Government proposes to insert.

As I have mentioned, before we can have an industrial dispute which has developed to the point of being a stoppage of work, a strike, or a lock-out, and provided it is not related to an industrial award or agreement, nothing can be done about it because the provision which this Government proposes to insert is that action can be taken under industrial law only if the strike comes out of an industrial dispute related to an award or agreement in force by virtue of its term. If it is a strike, a stoppage of work, or a lock-out, for any other reason, it is not actionable under the arbitration law. A sympathy strike or a political strike is not therefore actionable; nor is the one I mentioned last night about a union going on strike because one of its colleagues is arrested in Greece. The Government's proposal ensures that those who engineer the strike and those who participate or contemplate action which produces the strike are not subject to civil law.

Mr. J. T. Tonkin: What law can we use against doctors who strike?

Mr. O'NEIL: I am not certain about that, but perhaps I could suggest the Premier take the advice he tendered me; that is, that he talk about industrial arbitration and not doctors.

Mr. J. T. Tonkin: This is dealing with strikes and whether there should be a law which prevents action being taken.

Mr. O'NEIL: I am not certain about this, but perhaps the Government will make the doctors subject to compulsory unionism, too. Even if it did so, the Government proposes to remove them from any action.

The Minister proposes a qualification in the clause as outlined in his amendment. There is redress at law for a wilful act or omission that directly causes death or physical injury, but there is no redress for an accidental act or omission—even though it is related to an industrial dispute—that causes death or physical injury, and the act of physical damage to a property must be wilful. In other words no action is available in respect of loss of earnings by virtue of a strike or for the destruction of a livelihood as a result of the withholding of labour, irrespective of whether it is a matter that occurs under civil law or otherwise.

What the Minister proposes is to make a magnanimous gesture by altering the provision to include a threat. Certainly there can be an act or omission which constitutes defamation, but how there can be a threat of an act that constitutes defamation, I do not know. Perhaps the member for Boulder-Dundas ought to join the discussion and explain what is meant.

Mr. Hartrey: I am not able to impart the information because I have not obtained it myself.

Mr. O'NEIL: The Minister has simply moved an amendment and I was appealing to the one man on the other side who has had legal training. Perhaps we had better leave it to the Minister to explain and then maybe the member for Boulder-Dundas and I will argue against him.

Mr. HARMAN: As the provision in clause 79 is so important I have gone to some trouble to prepare a statement concerning torts as they apply under this Act; and I propose to quote it as follows—

> The protection of unions from civil liability for torts is essential to any industrial relations system—

Mr. O'Neil: Not so up to date.

Mr. HARMAN: To continue—

> —whether it be collective bargaining or compulsory arbitration.

Mr. O'Neil: It does not exist elsewhere.

Mr. HARMAN: Let me have a go! To continue—

> The need for immunity in a collective bargaining system is obvious. Unions bargain with employers for their members' labour and the withdrawal of that labour (i.e. a strike) by its very nature carries with it the threat that the employer will suffer some material loss. If an employer is to be permitted to recover at law any loss that he suffers as a result of a strike, the right to strike becomes meaningless.
>
> The need for union immunity for torts in a compulsory arbitration system is also essential although the need is not so obvious. The conciliation and arbitration systems in Australia have evolved under the pressures exerted by the conflicting claims of labour and capital. Civil Courts have neither the flexibility of procedure nor delicacy of touch required for the solution of industrial disputes. Under civil law once liability is established, it is not within the competence of a court to award less than the extent of damages suffered by the employer. If resort to the civil courts became general, the damages against a striking union in the electricity supply industry can hardly be imagined. Any general resort to civil action in industrial disputes would destroy the conciliation, and arbitration system—

I will repeat those words as follows—

> Any general resort to civil action in industrial disputes would destroy the conciliation, and arbitration system, and lead to industrial violence and anarchy.

Mr. Rushton: Do not let us have justice.

Mr. O'Neil: This was written by either Father Christmas or Paddy Troy.

Mr. HARMAN: To continue—

> The reason the conciliation and arbitration system has survived notwithstanding the existence of union liability for torts, is because the industrial legislation in Australia has given the (erroneous) impression that the old resort to civil action was no longer part of Australian law. Employers either have not realised the existence of recourse to the civil court or have wisely refused to take such action. Civil action can only exacerbate an industrial dispute. In his book "The Law of Torts", Professor J. G. Fleming states—"In Australia, it is hardly presumptuous to say, the law is tolerable only because it is for all practical purposes ignored in favour of arbitration and conciliation".

Mr. Hartrey: That is true.

Mr. HARMAN: To continue—

> The two recent civil cases taken in South Australia have now highlighted the need for union immunity for torts. Now that employers are aware of these laws, civil action in lieu of the normal procedures, will become more and more general. If one argues that the law ought to assist in resolving industrial disputes quickly and equitably

with a minimum of disruption to the economy, then recourse to the civil courts is a clumsy and inappropriate tool and accordingly should be removed.

Civil liability of unions for Torts in Australia developed from common law in Britain. Its genesis was after the 1875 Conspiracy and Protection of Property Act and has continued to develop right up to the present day. Because employers have been reluctant to take civil action, there still remains a broad area into which tort liabilities could possibly be extended in the future.

There are three torts which unions could commit by calling a strike—conspiracy, inducing breach of contract and intimidation.

The first tort is conspiracy, and my notes on this read as follows—

The Trade Union Act 1871 provided that the purpose of a trade union should not, merely because they were in restraint of trade, render any member of the trade union liable to criminal prosecution; and the Criminal Law Amendment Act 1871 by restricting the definition of "threats" and "intimidation" made a mere threat to strike no longer a statutory offence.

A threat to go on strike by some workers in 1872 resulted in a charge of criminal conspiracy. The judge decided that the common law had not been abrogated by the Acts of 1871 so as to permit an act done with improper intent and amounting to an unjustifiable annoyance and interference with the employer's business. The consequence was that a strike or a threat to go on strike might lead to a criminal prosecution for conspiracy to coerce.

The 1875 Conspiracy and Protection of Property Act overcame this decision by providing that a combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade (i.e. industrial) dispute shall not be indictable as a conspiracy if such act committed by one person, would not be punishable as a crime.

The reaction of the conservative courts of the time was to develop between 1880 and 1906 something not previously attempted—a new civil liability for conspiracy.

Any combination of workers (i.e. unions) formed to harm or injure, could be sued for damages by the aggrieved party if the judges refused to accept the defendants' objects as "legitimate".

Although the courts accepted promotion of employers' trade interests (e.g. the circulation of lists of strikers and troublemakers by employers' associations was held not tortious) the promotion of union interests at the time (e.g. blacklists of non-union men, threats to strike to compel men to join the union, boycotts to procure the dismissal of non-unionists) were not considered legitimate purposes of unions.

The Taff Vale Case of 1901 established that trade unions could be sued and that they were liable for liabilities in tort incurred by those acting on their behalf.

Unions were therefore liable for damages caused by their members withdrawing their labour in combination even though each individual worker would not be actionable for withdrawing their labour individually (assuming they were not breaking a contract of employment).

From 1924 to 1942 (the Crofters Case) the more enlightened courts began accepting that unions had legitimate interests in calling strikes and other industrial action, and those interests constitute a defence.

This is the present common law position in Australia with respect to civil liabilities for conspiracies where the combination does not involve unlawful acts, however, prior to these decisions the British Parliament had already taken action to overcome the problem.

Mr. Hartrey: That is right—a Liberal Government.

Mr. O'Neil: Move for an extension of time! I will read the paper at the weekend.

The CHAIRMAN: I am being very tolerant because the Minister is speaking to the whole clause and not to the amendment. I am tolerant because the Deputy Leader of the Opposition requested some information from the Minister. I hope there is not much more to be read.

Mr. HARMAN: The information is important and I think the Committee should know the reasons for what we are doing. To continue—

The 1906 Trade Disputes Act provided that an act done in pursuance—

I interpolate to say that this is in England. To continue—

—of a combination shall not be actionable if done in furtherance or contemplation of a trade dispute, unless the act would be actionable if done without any such combination.

The position of conspiracy outlined above only takes into account lawful actions by individuals which

are actionable if done in combination. It should be noted that the breaking of a contract of employment by an individual is actionable. Although no case has been held, it has been suggested that liability for civil conspiracy might arise where a number of persons agreed together, in contemplation or furtherance of a trade dispute to break their contracts of employment in combination since they would be parties to an agreement to do an "unlawful" act.

The second tort refers to inducement of breach of contract and reads—

> Dating from a Decision in 1853, to induce a third party to break his contract to the damage of the other contracting party without reasonable justification or excuse is a tort. In calling out workers on strike or in procuring them to take other industrial action (e.g. blacking work) unions often induce inevitable breaches by the men of their contracts of employment and become liable in damages to the other contracting party—the employers.
>
> The courts decided that "moral or religious grounds" provided justification but "a motive to secure a money benefit" did not. Therefore, such things as sexual corruption justifies inducing breach, but starving wages alone would not.
>
> The 1906 Trades Disputes Act provided that "an act done by a person in comtemplation or furtherance of a trade dispute shall not be actionable on the ground only that it induces some other person to break a contract of employment or that it is an interference with the trade business or employment of some other person or with the right of some other person to dispose of his capital or his labour as he wills".

The third tort is intimidation and reads as follows—

> Since the 1906 Trade Disputes Act especially considering the more enlightened attitude shown by the courts from the 1920's (e.g. the Crofters Case) the union movement thought that it was fully protected. The 1964 Roskes V Barnard Decision introduced a new and previously unthought of tort—intimidation. It was law that a threat to do an unlawful act (assault for example) was also itself an unlawful act; but this had been established in criminal law not civil law. The latest case prior to 1964 involving civil intimidation was in 1793 and involved a threat of violence (a sea captain had to pay damages to a rival trader in Cameroon after firing cannons near native canoes to scare the natives from trading with his rival).
>
> The House of Lords classified breach of contract as similarly unlawful to violence. It was found that threats to break contracts of employment unless employers conceded their demands was a threat to do something unlawful and constituted the tort of intimidation.
>
> Once again the British Parliament was placed in the position of having to reverse a court invented law to provide immunity to unions. The 1965 Trades Disputes Act provided that immunity.

I repeat again that any general resort to civil action in industrial disputes would destroy the conciliation and arbitration system and lead to industrial violence and anarchy. These are the Government's reasons for this clause and the reasons for the amendment.

Mr. MENSAROS: The Minister, in reply to the Deputy Leader of the Opposition, made one point and he based his point somewhat tenuously on the argument that any damage sustained by the withdrawal of labour should not be actionable. That was the crux of his argument. That would be fair enough—at least from the Minister's point of view—if the provision in this section were to achieve this. As we all know the provision attempts to achieve—and does achieve—much more.

The Minister further said—and repeated before he sat down—that no system of conciliation and arbitration could exist without the provision that any damage caused in connection with a strike or industrial dispute should not be actionable. Previously, if I recollect correctly, the Minister said that no other bargaining system would be able to survive. He said that this is the situation in all countries.

I do not think the Minister is right because we know very well that a bargaining system exists in the United States, for instance, whereby the conditions are based on a contract. The only remedy to any party—whether labour, employment, or management—is the fact that a breach of the contract is actionable.

The provision in this clause would not effect only what the Minister said. The Minister said that labour should be able to be withdrawn. It is of course well-known jargon that the workers' only asset is their labour. In fact, the clause relates to any damage. Consequently I cannot see that the Minister's argument would have any relevance from this point of view.

However, this is only one fine point. I rose to my feet because I do not want to let this particular clause pass without making some comments. There are many hideous provisions in the whole of the amending Bill which cut right across many legal principles but this is one of the worst. I dare say that, even with the Minister's amendment, this provision opens the door to—and is only a step away from—the

circumstances which prevailed under the worst system of gangsterism in America. Without the Minister's amendment, the provision would have opened the door to such circumstances.

The Minister is saying in his amendment that it is still possible to sue if the damages are caused deliberately—or words to that effect. Even so, I suggest that if the provision is enacted, unscrupulous union bosses would find it very easy to make it appear that there had been no deliberate action. At least, it would be extremely difficult to prove that the action had been deliberate. Such unscrupulous people could make use of this provision and employers, or anyone else, could find themselves faced with heavy damages. This would be in addition to the strikes which can cause damage not only to the employer but, indeed, to the whole of the economy.

It is virtually the attitude, "If you do not obey and do not go the way we want you to go, you can be subjected to sustaining damages to your property or anything else". The provision goes that far.

The Minister should have been frank in his argument and should have drafted the provision in the clause so that it would apply only to damage caused by the withdrawal of labour—that is, lower profit, additional expenses, running costs, and the like. It should not apply to damage to property and person—or anybody else —as we know it does apply. Hence I contend and warn the Committee that this provision opens the door—perhaps less widely by virtue of the amendment proposed by the Minister—to a situation similar to the circumstances which prevailed in the darkest days of American gangsterism.

Mr. HARTREY: As I said at the second reading stage some time ago, the clause is not, by any means, a novel idea. The whole historic origin of it has been stressed tonight in the paper ably produced by the Minister himself and read with great clarity and emphasis to the Committee.

When we consider that all that dates from 1906, we must fully realise what a troglodyte, from the point of view of industrial relations, the member for Floreat is. I hope he will not leave the Chamber while I am complimenting him! Indeed, 1906 was a long while ago and I was a small boy of five at the time.

The astonishing part is that it has not percolated into the industrial minds of those in the capitalist class in Western Australia that the Liberal Government of Asquith and Churchill in 1906 brought about this necessary reform in England. A series of Acts, not necessarily initiated by Labour Governments in England, have, since that time, perpetuated the evolution of protection for unions and union officials, mainly for a reason which I have not mentioned before but which is a familiar and an important reason; namely, in the interests of respect for civil law and civil law institutions themselves.

If we are continually to have industrial arguments between workers and employers the subject of litigation in civil courts, those civil actions will be delayed by massive strikes, and the respect due to the civil courts will be undermined by injecting into litigation between citizen and citizen —which has always been held in the highest respect—a sort of civil war of an industrial nature. Such an employer-employee relationship is historic in England and in all countries which have inherited English institutions.

I do not need to remind members that Australia is partly populated by the descendants of people who were transported here for the offence of criminal conspiracy —they were members of a trade union. In those days the workers did not have to strike, threaten anyone, or do anything at all to commit an offence. The mere fact that a person became a member surreptitiously of a farm workers' union or a carpenters' union meant that he was guilty of the offence of criminal conspiracy, for which he was transported to Australia for 14 years. That is the history of industrial relations as it affected England—and indirectly Australia, by way of immigration or transportation. Members will see how disastrous it could be if we do not adopt this measure.

The Minister explained why we have not missed this provision in the past—we have not had civil actions arising out of industrial disputes. The employer class as a whole, has taken it as part of the game, not to cause internal strife of that nature in the community. These people have been very wise, and I give them credit for their attitude. Do not take my remarks to mean that I am at all derogatory of employers. We need them! Let us not regard the employer as public enemy No. 1—it may be that he is public benefactor No. 1. However, the workers have only one commodity to sell—their own labour. The interests of the people who buy that commodity will naturally clash with the interests of those who sell it.

We could say also that the interests of people who wish to buy motorcars clash with those of the huge monopolies which manufacture them. Clashes occur in regard to the price and the bodgie vehicles which are put on the road to keep the repair bills going. The consumers of motorcars, refrigerators, and all sorts of mechanical devices, are on their knees to the vendors. The worker is on his knees to the employer. This proposed law is by no means revolutionary or original legislation. It was instituted in England in 1906 and it has been steadily pursued ever since. We do not seek to destroy conciliation and arbitration, nor do we

seek to undermine the most fundamental basis of civilisation—respect for the civil law and the civil law courts. For that reason above all I advocate the addition of section 179A as proposed in this Bill.

Government members: Hear, hear!

Mr. O'NEIL: I know members will forgive me when I say I am becoming convinced that my learned friend probably wins most of his cases before a judge by—

Mr. Davies: Sheer logic.

Mr. O'NEIL: —sheer exhaustion. Let us get back to the language of the layman —the language we can understand.

Mr. A. R. Tonkin: I understood every word.

Mr. O'NEIL: I did not because I did not listen.

Mr. A. R. Tonkin: Oh!

The CHAIRMAN: Order!

Mr. O'NEIL: I did not listen to the Minister reading his paper. I indicated that I would read it at the weekend.

Mr. J. T. Tonkin: "My mind is made up—do not confuse me with facts."

Mr. O'NEIL: We are talking about civil action against unions, executives of unions, and members of unions, when they perform any act or omission in contemplation or furtherance of an industrial dispute. I think we can accept that the dispute referred to is strike action—the ultimate in industrial disputes. From here on, any action taken by a union in respect of the contemplation or continuance of an industrial dispute has no redress at civil law—that is the provision in the proposed section.

The proposals put forward by the Government would mean that no action is available under the Industrial Arbitration Act unless a dispute—we will call it a strike for the purpose of the exercise—is directly related to an industrial matter and therefore any other form of strike or the ultimate industrial dispute which occurs and is not related to the industrial matter, cannot be proceeded with under arbitration law, and in respect of this, there is no right of redress under civil law.

In his second reading speech the Minister referred to the 1971 Industrial Relations Act of Great Britain. In fact, this Act was referred to so often tonight that the implication is that this principle existed in British law with respect to industrial relations. I suggest firstly that the member for Boulder-Dundas has not read the Act recently. He may have recognised that it came into existence in 1906. As well as this, whoever undertook the research for the Minister did not read the Act. I have here a publication called *Fact Sheets on Britain*. This was prepared by the Central Office of Information in London, and printed in January, 1972. I would simply like to quote one reference and I advise members that "It" refers to the Industrial Relations Act. It says—

> Its main provisions include the right of an employee to join or not to join a trade union...

Members will note that. It continues—

> ...protection for employees against unfair dismissal, and the presumption that written collective agreements are legally binding unless otherwise specified.

This means that there is no redress to civil action in breach of the contract. That was as late as 1971.

Mr. Hartrey: You would have to read it in conjunction with all the other legislation.

Mr. O'NEIL: Now we are getting excuses.

Mr. Hartrey: Not excuses.

Mr. O'NEIL: This clearly shows that the British have recourse to common law litigation. Under the provisions of this Bill, we will not have this.

Mr. Hartrey: One swallow does not make a summer.

Mr. O'NEIL: Having explained that, I would now ask the Minister to explain the amendment we are supposed to be talking to.

Mr. Hutchinson: You are asking a lot.

Mr. HARMAN: The reasons for this amendment are very relevant.

Mr. O'Neil: We have not heard them.

Mr. HARMAN: I do not like to have to explain something that is obvious, because I have some regard for the fact that members are able to read.

Mr. O'Neil: Explain the obvious please for my benefit anyway. Everyone else probably knows.

Mr. HARMAN: An act or omission does not include a wilful act or omission which directly causes death or physical injury to a person. Today we say that a threat is equally obnoxious—

Mr. O'Neil: A threat has nothing to do with it.

Mr. HARMAN: If I threatened to punch the Deputy Leader of the Opposition in the nose—

Mr. O'Neil: The threat is applied to the defamation, not physical injury.

Mr. HARMAN: I do not believe the Deputy Leader of the Opposition is reading this clearly.

Mr. Hartrey: I would like to see that action!

Mr. O'Neil: I hope the member for Boulder-Dundas does not see it.

Mr. HARMAN: The amendment is to delete the words "a wilful act or omission that constitutes a defamation".

Mr. O'Neil: In what line?

Mr. HARMAN: In lines 24 and 25.

Mr. O'Neil: That is after "physical damage to property"? That is not what you referred to earlier—you were speaking about lines 20 and 21.

Mr. HARMAN: Wait a minute. I then want to substitute the words "a threat of such an act or omission".

Mr. O'Neil: Keep going, because you have the amendment in the wrong place.

Mr. HARMAN: Does the Deputy Leader of the Opposition see the comma there?

Mr. O'Neil: What does all that mean? You had it in the wrong place the first time, and you now have it in the right place. Tell us what it means.

Mr. Bickerton: You are being pedantic again.

Mr. O'Neil: The Minister does not know his own amendment or his own Bill.

Mr. HARMAN: I cannot help it if the Leader of the Opposition does not understand it.

Mr. J. T. Tonkin: You are promoting him a little too early.

Mr. HARMAN: This draft has been presented to me. We say that the threat of an act or omission in the case of physical injury or death is just as bad as the act itself.

Mr. O'NEIL: The Minister is quite incorrect. He said, "The threat of a wilful act that results in physical injury or death".

Mr. Harman: I did not say "wilful act".

Mr. O'NEIL: The Minister is putting his amendment in the wrong place.

Mr. Hartrey: I do not think so.

Mr. O'NEIL: The threat has no relation to an act or omission which causes the physical injury or death. When explaining this, the Minister put his substituted phrase in a different part of the clause.

Mr. Harman: You do not seem to realise that I do not seek to delete the word "or" in line 24.

Mr. O'NEIL: So that it now becomes—

Mr. Harman: "Or a threat".

Mr. O'NEIL —a threat that constitutes a defamation.

Mr. Hartrey: No.

Mr. O'NEIL: I suggest that the Minister again tell us what he proposes to do and then explain it.

Mr. Harman: I have explained it.

Amendment put and a division taken with the following result—

Ayes—19	
Mr. Bickerton	Mr. Lapham
Mr. Brady	Mr. May
Mr. Brown	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moiler
Mr. Hartrey	*(Teller)*

Noes—19	
Mr. Blaikie	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Gayfer	Mr. Rushton
Mr. Grayden	Mr. Stephens
Mr. Hutchinson	Mr. R. L. Young
Mr. A. A. Lewis	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Pairs	
Ayes	Noes
Mr. Bryce	Mr. Sibson
Mr. Jones	Sir David Brand
Mr. T. D. Evans	Mr. Thompson
Mr. Bertram	Mr. O'Connor
Mr. B. T. Burke	Mr. W. A. Manning
Mr. Jamieson	Mr. E. H. M. Lewis

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Amendment thus passed.

Mr. HARMAN: I move an amendment—

Page 36, line 24—Substitute for the words deleted the passage "a threat of such an act or omission, or a wilful act that constitutes a defamation".

Amendment put and passed.

Clause, as amended, put and a division taken with the following result—

Ayes—19	
Mr. Bickerton	Mr. Lapham
Mr. Brady	Mr. May
Mr. Brown	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moiler
Mr. Hartrey	*(Teller)*

Noes—19	
Mr. Blaikie	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Gayfer	Mr. Rushton
Mr. Grayden	Mr. Stephens
Mr. Hutchinson	Mr. R. L. Young
Mr. A. A. Lewis	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Pairs	
Ayes	Noes
Mr. Bryce	Mr. Sibson
Mr. Jones	Sir David Brand
Mr. T. D. Evans	Mr. Thompson
Mr. Bertram	Mr. O'Connor
Mr. B. T. Burke	Mr. W. A. Manning
Mr. Jamieson	Mr. E. H. M. Lewis

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Clause, as amended, thus passed.

Clause 80: Section 180 amended—

Mr. O'NEIL: We oppose this final clause in the Bill. It seeks to remove the limitation in respect of time for proceedings relating to earned remuneration for a period of 12 months.

Clause put and passed.

Postponed clause 57: Amendment to section 108C—

Mr. HARMAN: Last night I asked for the consideration of the clause to be postponed, because I wanted to produce some reasons for a proposed amendment to delete the words "may substitute its decision for the decision appealed against". I have looked into this matter, and I will accept part of the clause, but I will not proceed with the part which I have just mentioned. This fits in with the contention of the Deputy Leader of the Opposition.

If this amendment is agreed to the Commission in Court Session will have the opportunity to remit a case for further hearing and determination. I therefore move an amendment—

> Page 23, lines 29 and 30—Delete the words "may substitute its decision for the decision appealed against".

Mr. O'NEIL: When the Minister was persuaded to postpone the consideration of clause 57 he said he would give some case history in respect of this matter. I was not interested in that, but I was interested in the power to be given to the commission to substitute completely its own decision for the decision against which there is an appeal. I am happy to say the Minister has seen my point of view, and therefore I support his amendment.

Amendment put and passed.

Mr. HARMAN: I would ask the Committee to support the clause, as amended. This seeks to give to the commission the power to refer a case back to a commissioner for determination. The commission has advised me that this is a good principle to adopt, because a particular commissioner might have been involved in the industry concerned and with the inspections associated with investigation of the matter in question. Therefore the availability of this machinery to the commission is desirable.

Postponed clause, as amended, put and passed.

New clause 43—

Mr. McPHARLIN: I move—

> Page 18—Insert after clause 42 the following new clause to stand as clause 43—
>
> 43. The principal Act is amended by adding after section 69 a section as follows—
>
> 69A. Except as provided in section 173 of this Act, where a Commissioner has acted as a conciliator in an industrial dispute before the dispute is referred into the Commission or has presided over a conference, that Commissioner shall take no part in any subsequent hearing and determination of the dispute or matters in difference.

The debate on this industrial arbitration legislation has been very interesting to me.

Mr. Hartrey: We have voted to repeal section 173 of the Act.

Mr. O'Neil: That is still in the parent Act.

Mr. McPHARLIN: The point raised by the member for Boulder-Dundas did appeal to me, but I would point out the Act has not yet been amended. The reason for moving for the insertion of this new clause is that a commissioner may be empowered to participate in conciliation conferences. After making a determination of what he considers to be a fair judgment, one party or the other may not accept his judgment and may put forward a request that the commission sit as a full court.

The particular commissioner who has made the determination could be a member of such a full court. If he has already made a decision one way or the other—it could be in favour of one party or the other—he would possibly hold the same opinion when he became a member of the full court. In that case he could be biased against the decision of the commission as a whole. For that reason it is desirable that a commissioner who has acted as the conciliator in a particular case should not be a member of the full bench hearing that case.

Mr. O'NEIL: I support the proposal of the Leader of the Country Party to insert the new clause. I hope that the Minister will at least accept the principle contained in it.

The situation is that if the Bill passes the third reading stage in this Chamber, then as far as we are concerned it is intended that section 173 of the Act be repealed. The fact is that at present this section is still extant, and will remain so until the provisions of the Bill are proclaimed.

The basic principle which the honourable member seeks is, I think, one which is worthy of consideration in any circumstances. Where a case is heard before a single commissioner, that commissioner should not be a member of the Commission in Court Session which hears the case when it is referred to it. I think this is a fair and equitable proposition.

Mr. HARMAN: I must ask the Committee to vote against the proposal. The Deputy Leader of the Opposition referred to section 173 and was talking about the Commission in Court Session, but this proposal does not cover that situation only.

There could be cases where the parties get to know the conciliator and at the same time the conciliator gets to know the attitudes of the parties, and he obtains a deeper understanding of the industry involved and the various matters being negotiated. If agreement is not reached the case will go to arbitration and it could be possible that the two parties would prefer to have the conciliator arbitrate rather than have another commissioner who has had no association—or very little association—with the particular dispute. I ask the Committee to vote against this proposed new clause.

Mr. McPHARLIN: The commissioner acting as a conciliator could have made a decision, and if that decision is not accepted, then the matter will go to the full court for arbitration. The hearing would be conducted in a court atmosphere which would be different from that of a conference. A conciliator, having made a decision in a dispute, could be biased and he could be influenced in his decision in the full court.

Mr. Harman: But he would not be one of the three commissioners in the court of appeal.

Mr. McPHARLIN: That is the aim of the amendment; we want to ensure that.

Mr. HARTREY: The mover of the new clause referred to the Commission in Court Session. I think the addition of the words "in Court Session" would clarify the proposed new section. Therefore, I move—

> That the proposed new clause be amended by inserting after the word "Commission" in line 9 the words "in Court Session".

Amendment put and passed.

New clause, as amended, put and passed.

New clause 79—

Mr. HARMAN: I move—

> Page 36—Insert after clause 78 the following new clause to stand as clause 79—

Amendment to s. 179. (Regulations.)

> 79. Subsection (1) of section 179 of the principal Act is amended by adding after paragraph (vii) the following paragraph—
>
> (viia) regulating the establishment, management, investment of, and contributions to, and disbursement of any trust fund established under an order or award of the Commission for the purpose of paying or providing to workers within an area, industry or calling referred to in paragraph (h) of subsection (1) of section 61 of this Act, benefits in the nature of long service leave;

We discussed this matter when dealing with clause 61. We want to spell out beyond doubt that the commission has the machinery and the authority to deal with the question of long service leave. The provision will apply particularly to people not permanently employed, and who move from one employer to another, such as those in the building industry.

Mr. O'NEIL: The Minister, and the Committee, may be surprised to know that I intend to oppose this new clause. It is true we did discuss the enabling power which would provide for the operation and arrangement of a long service leave system with portability, essentially for workers in the building industry.

I indicated I had been aware that for some years discussions were taking place with the Master Builders Association and the Building Workers Industrial Union with a view to achieving this objective. When the Minister, by way of a previous amendment, indicated that things appeared to be right to set this in motion I accepted his remarks in good faith—and they were probably given in good faith. However, I have had an opportunity to make further inquiries of the organisations to which I have referred and I find they are a long way from reaching any form of agreement. I have been advised by people associated with the Master Builders Association and the Employers Federation that consideration of this matter has been going on since as long ago as 1971. The Building Workers Industrial Union conducted an exercise to estimate the cost involved, and the cost of the inquiry was met by the master builders.

Agreement was reached in December, 1972, on all but five items, one of which was provision for portability. It was quite clear that it was a difficult problem to solve. It is simply a matter of finding machinery under which to carry out the provision.

I am advised that two inquiries into the building industry are being conducted in Australia, and the terms of reference are wide enough to cover the aspect of long service leave. One inquiry is chaired by Mr. Howard Smith, Q.C., and the other inquiry set up by the Commonwealth is being chaired by Mr. Justice Baird.

It seems that the Government is, once again, jumping the gun in respect of this matter. There appears to be a willingness on the part of the Master Builders Association and the Building Workers Industrial Union to try to find a solution to the provision of long service leave for men who move from employer to employer.

I indicate we are opposed to the new clause, despite the fact that we have ceded enabling powers to the commission.

It is important I indicate my change of mind which results from additional information provided to me.

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

Ayes—19

Mr. Bickerton	Mr. Lapham
Mr. Brady	Mr. May
Mr. Brown	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moiler
Mr. Hartrey	*(Teller)*

Noes—19

Mr. Blaikie	Mr. Naider
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Gayfer	Mr. Rushton
Mr. Grayden	Mr. Stephens
Mr. Hutchinson	Mr. R. L. Young
Mr. A. A. Lewis	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Pairs

Ayes	Noes
Mr. Bryce	Mr. Sibson
Mr. Jones	Sir David Brand
Mr. T. D. Evans	Mr. Thompson
Mr. Bertram	Mr. O'Connor
Mr. B. T. Burke	Mr. W. A. Manning
Mr. Jamieson	Mr. E. H. M. Lewis

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

New clause thus passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

PAY-ROLL TAX ACT AMENDMENT BILL

Returned

Bill returned from the Council with a requested amendment.

PERTH MEDICAL CENTRE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 10th October.

DR. DADOUR (Subiaco) [10.03 p.m.]: When this Bill came before the House I was delighted in many ways because I felt all had not been well at the Perth Medical Centre, both within and outside the large site of more than 55 acres. We can now avail ourselves of the opportunity to endeavour to iron out some of the problems which have occurred and which still exist. In general, we on this side of the House agree with this Bill. However, we have a few reservations, and I shall enumerate them as I go along.

The Bill contains three amending clauses. In relation to the first amending clause, when introducing the Bill the Minister said—

> The purpose of the amendment is to enable the trust to appoint to committees, persons other than members of the trust in order to gain the benefit of such appointees' special experience. The functions of the trust are to undertake the development, control, and management of the reserve.

Members should note the word "reserve". It is extremely important because the functions of the trust are to undertake the development, control, and management of the reserve only. The Minister continued—

> The Joint Planning Committee of the Perth Medical Centre should be a committee of the trust and it is essential that persons other than trust members be eligible for appointment to that committee.

I agree that to have the very best is to have expertise, and it is very important to have a joint planning committee with the necessary expertise.

I probably view the amendment more broadly. At the present time there is no committee dealing with the day-to-day running of the Perth Medical Centre site. I believe there should be a management committee, comprising representatives of the people who work on the site and are familiar with the problems which arise, to deal with the every-day running of the site.

The second way I look at it is that in view of the amount of trouble and heartbreak that has occurred in the area surrounding the Perth Medical Centre site I consider a suitably qualified ratepayer should be appointed to the committee to ensure the development of the centre does not markedly alter the ecology of the surrounding area.

I will enumerate some of the problems which have arisen from the beginning of the Perth Medical Centre. They are quite considerable and I believe all of them could have been avoided had there been a representative of the ratepayers on the joint planning committee. The problems have arisen on both sides of the medical centre; that is, on the Monash Avenue side which is in Hollywood, and in Verdun Street and surrounding streets on the Shenton Park side.

I believe it would be a good thing to create a precedent by appointing an outsider to the committee. I say that unequivocally. I do not believe in secret government; I believe in open government. I have always said, "To hell with secret government!" I firmly believe that the larger the number of people who are involved with government the better that government must be. I do not believe it will develop into a horrible situation where

we will not be able to keep secrets, deal with tenders, and so on. I believe the outside person would support the committee and that his lips would be sealed in any matters requiring secrecy but at the same time he could ensure the overall ecology of the area was not altered to any marked degree. I believe the Minister's lot would have been much happier had such a person been appointed, and much of the panic and anxiety would have been avoided when the Perth Medical Centre and the Sir Charles Gairdner Hospital began buying up sites in Kingston and Campsie Streets in Shenton Park.

The Sir Charles Gairdner Hospital sent out a letter which was quite innocent but was not interpreted in that way by the residents. More personal contact would have paid off here and none of these problems and anxieties would have occurred. Unfortunately, they did occur, and some anxiety is still felt in the area. If the people in the area had been told what was going on and why their houses were being bought, none of these problems would have arisen.

One of the problems in the area resulted from the creation of a hospital road off Monash Avenue. It was almost at a right angle to Monash Avenue. This corner became a traffic hazard. M.T.T. buses were trying to negotiate it. It was only a two-way street and it had to be widened in a hurry. The corner of the hospital road had to be truncated and "Stop" signs were put up in the necessary places. All that could have been avoided had some prior negotiation taken place with the Subiaco City Council.

Mr. Davies: What were the two streets?

Dr. DADOUR: One was Monash Avenue and the other was known as the hospital road. It is now closed.

Mr. Davies. Is that the one that went off at an angle from Kings Park Road?

Dr. DADOUR: Yes, almost parallel to Winthrop Avenue. The second problem—and it was probably the worst of them all—resulted from the failure of the appropriate Government authorities to plan the traffic to and from the Perth Medical Centre site. We all knew the medical centre would grow to great proportions. We all knew that with the number of people working on the building site there would be an increase in the flow of traffic. We all knew that the people in the new areas opening up north of Perth and in Floreat Park and City Beach would have to use either the Hay Street subway or the Nicholson Road subway in order to reach the other side of the railway line. After going through the subways, the traffic has not been able to make a right-hand turn to go in a westerly direction. It has to go some distance along Hay Street or Nicholson Road to make a right-hand turn and filter its way down through Shenton Park. Shenton Park has become almost a sieve for traffic. Every street running at a right angle to Nicholson Road has been subject to a great increase in traffic.

There is no longer any peace and tranquility in the area. The roads on both sides of Shenton Park lake—which is a beautiful lake—have become race tracks. There is the dust nuisance which traffic always brings. It is of such an extent that many people have moved away because the increase in traffic has altered the area completely.

The Hay Street and Nicholson Road subways should have been widened. I do not know how many times the member for Floreat and I have made representations to the appropriate Minister to have these subways widened so that right-hand turns could be made to allow traffic to flow in a westerly direction along the main traffic artery; that is, Railway Road.

We have asked for this to be done on many occasions, and each time we have received the answer that, firstly, the future of the railway is not known; and, secondly, the Government has no money with which to do the work. This has been going on for years now; it has not occurred only last year and this year. If motorists were able to make a right-hand turn once they get through the subway, then they would be able to proceed in a westerly direction along Railway Road, which is the main artery, and then turn into Aberdare Road and filter through into the Perth Medical Centre site. But this has not been the case.

The majority of the traffic flowing through the subway is forced along Nicholson Road in an easterly direction, and then it filters to the right along Gray Street, Excelsior Street, Herbert Street, Derby Road, and other roads further along.

I do not think this flow of traffic is fair to the residents of the area. We have seen "Stop" signs appear, and we have seen parking prohibited in several of the streets. It has been necessary to make some streets one-way roads, and all of this has been detrimental to the area. I might add that an average of one accident a day occurs as a result of the increased traffic which is forced to filter through the residential area.

We get beaten-up old Volkswagens, belonging to two-car families, in which Mum goes to work. The traffic starts at about 6.00 a.m. and goes right through the day as the shifts change. We have a continual flow of traffic because some people work from 9.00 a.m. to 5.00 p.m., and others do shift work. So we do not have the traffic only twice a day; we have it several times during the day and night. A leading dermatologist who lives in Shenton Road has experienced no end of trouble and has

written to the Sir Charles Gairdner Hospital authority and other authorities asking why the traffic is not made to flow in certain directions, but he has received answers similar to those we have received.

I believe the first solution to this problem is the creation of an internal ring road inside the Perth Medical Centre site. If that were provided then all parts of the site would be easily accessible to traffic once motorists get onto the ring road. The second aspect is that points of entrance and exit should be carefully planned so that they are close to main traffic arteries. If that were done I am sure the traffic could be directed in a more orderly fashion. I sincerely hope we still have time to do this. Something must be done, and it must be done quickly because, I repeat, the traffic flow has been to the detriment of many people in the area.

I believe the proposed construction of a road east of the houses in Kingston Street and running to the service area from Aberdare Road is a step in the right direction. The Minister has assured us that probably something like that will be done.

Members who have visited the Perth Medical Centre site would surely have noticed what appears to be a great deal of sprawl, even though the centre has been properly planned. I was driving past the centre last week and for the first time in my life I saw a resident in his white coat and with a stethoscope hanging from his neck riding a bicycle from ward to ward. That is how far apart the wards are situated at the moment.

Mr. Nalder: Was it a motorised bicycle?

Dr. DADOUR: No. I point out that I am not decrying that situation because when the rest of the proposed buildings are completed no sprawl will be apparent and the whole complex will be in a straight line with its service tunnel, etc.

Sir Charles Court: Are you sure it was not one of the patients doing some therapy?

Dr. DADOUR: No, it was not a patient; and it would hardly be a painter because he had a stethoscope hanging from his neck.

The second provision in the Bill is to insert a new section 13A in the Act which proposes to give the trust the power to purchase land and to use any land acquired in the future for the purposes of the medical centre. Let us contemplate some of the purposes of the medical centre. We have clean storage, workshops, incinerating facilities, nurses' change rooms, a crèche, animal and research laboratories, noxious materials storage, parking areas, a boiler house, and a multi-storied development. All those buildings are contrary to the local town planning scheme, because the area is zoned residential. Some of the buildings are in the residential area of Kingston Street, Shenton Park.

The second provision in the Bill may be construed to give the trust the power to take over the whole area, with a subsequent loss of marketability of residential houses there. This has already occurred in Kingston Street. The Minister has given his word that all acquired properties will be used in conformity with the town planning provisions in force in the area. But I ask: What about future Ministers? Is the word of the present Minister binding upon future Ministers?

I believe the requirement that the trust should adhere to the provisions of the Town Planning and Development Act should be written into the Act, and I have an amendment for that purpose standing in my name on the notice paper. I realise this would create a precedent and that it could be argued that if such a provision were written into the Act it would also have to be written into other similar Acts. We also have a Cabinet decision of March, 1972, stating that all Government departments would adhere to the Town Planning and Development Act in respect of any properties they have acquired in residential areas. In an on-the-site meeting on the 6th January, 1972, with the Nedlands City Council, ratepayers, the Minister, and myself, the Minister reassured those present that the properties acquired would be used for residential purposes only.

I realise the houses will be replaced when the proposed buildings are erected, but a period of 20 months has gone by and some of the houses are still being used as nurses' change rooms, animal laboratories, and store rooms. I am not decrying the Minister over this because he has given his word and I know he will keep it. He has kept his word in the past. The properties concerned have been allowed to become run down, and they have a neglected appearance. The gardens are unkempt and the lawns almost nonexistent. All in all, it is quite a sorry mess. Although the lawns have been cut on occasions and an attempt has been made to clean up the houses not much can be achieved in this respect because there are so many people going in and out of the properties.

Parking is not allowed on one side of the street, and there is talk of making certain streets in the area cul-de-sacs, and making other streets one-way thoroughfares in order to prevent the traffic from flowing through the quiet residential area. However, I do not think that is the answer. I feel the answer is to provide an internal ring road, as well as widening the subways.

We have heard a strong rumour—the Minister has said this will not be so—that a crèche is to be established on the corner of Verdun Street and Campsie Street. The Minister has kept his word so far, and I commend him for it; but I wonder whether his word will be binding on future Ministers. As a result of my

doubt on that matter I have asked that the requirement to which I have referred be included in the Act.

The manner in which hospitals, including the Sir Charles Gairdner Hospital, are able to buy residential land adjoining the hospitals has always been a bone of contention with me. In my electorate I have three teaching hospitals and they are continuously buying residential properties. The Minister will recall that several times I have asked in the House what criteria are used in the purchase of these houses, and he has told me that each case is dealt with individually. I believe that is so; however, I am still not satisfied because the word "need" rhymes with the word "greed".

I am certain that many homes are being bought for purposes other than for use as residences for doctors. Often a house is dangled like a cherry before a doctor because if he is offered a home the hospital is much more likely to get him to work there. The doctors who work in our teaching hospitals fall into two categories. Firstly there are those who have a great deal to offer the hospital; and secondly, there are those who are there to learn. I believe the cherry should be dangled only before those doctors who are needed. I do not believe those doctors who are in the hospital to learn and possibly to study for a higher degree should be offered houses. I feel the Government should not have to buy homes for these doctors so that they may have the benefit of a very low rent. I have always believed that to be wrong.

Each teaching hospital should set out clearly how many positions it has for which it is necessary to dangle the cherry in front of applicants; that is, how many adjacent houses it needs. I believe the provision of houses for doctors should be limited in that way, unless there is a special request from the Minister. The Princess Margaret Hospital is buying houses on the west side of Hamilton Street and in Roberts Road. The King Edward Memorial Hospital has bought a house opposite its establishment in Bagot Road to be used as a doctor's residence, but it failed in an attempt to buy a block of flats, because the owner would not sell.

Mr. Davies: I think they got to the bank, but the owner did not turn up. That is what I heard.

Dr. DADOUR: Well, I am pleased about that. However, I am worried about this matter and I have continually asked questions about it. One day I will get an answer to the problem. I believe the houses must be justified by economics and need, because the number of houses owned by Sir Charles Gairdner Hospital and the Perth Medical Centre are quite sufficient for their needs at the moment. The Minister has assured us that those houses will be used as residences only. Therefore it will have to be proved now that that is what is required or else the hospital and the medical centre will have to sell some of them. We will have to keep this matter under close review all the time.

I believe that all the houses on the east side of Kingston Street, with the exception of two owned by private individuals, have been purchased by the Sir Charles Gairdner Hospital. The houses purchased on the west side of Kingston Street are owned by the Perth Medical Centre. So there are two bodies which are interested in purchasing houses in this area. The residences that have already been purchased must be brought up to the recognised standard of that area. They need painting and renovating and the lawns and gardens need to be re-established. In all fairness to the people in the surrounding area, these renovations should be carried out immediately.

I know there is a new proposal to pull down all the houses on the east side of the street and erect new houses in order to create a respectable residential area, but the way funds are at the moment we cannot afford to do this. The area of land now possessed by the Perth Medical Centre is 55 acres-plus. Surely that area is sufficient for the development of the Perth Medical Centre.

I believe that any houses bought in a residential area will be purchased only to house doctors. We have the assurance they will be used only in accordance with the zoning for that area, which is strictly residential.

Another point is that, in some way or other, the Hollywood Repatriation General Hospital is to be incorporated with the other hospital complex on the Perth Medical Centre site. I do not know how much land belongs to the Hollywood Repatriation General Hospital, but it must possess 40 or 50 acres; almost as great an area as in the other part which I have already mentioned. Therefore a large area of land is reserved for hospital use. This brings me to the argument I wish to put forward; namely, that there must be some way in which this land—purchased either by the Commonwealth or the State—can be put to better use.

Another point at issue is that the residents of the area in June, 1970, were rated for drainage. The occupiers of those houses at the bottom and on the sides of the hill in Shenton Park were rated for drainage. The reason that drainage had to be installed was on account of the large structures that had been erected on the site of the Perth Medical Centre. That is the price the people in the area have to pay for progress.

Those members who have travelled along Thomas Street and Winthrop Avenue will have noticed the central plant building,

the great tall chimney, and the large cooling tower. That structure was proposed to be erected in November, 1972, in the residential area in Shenton Park that had been acquired. It was only as a result of protests by people in the area and the holding of a large public meeting in November, 1972, that this structure was relocated on the Perth Medical Centre site. It does not constitute an eyesore where it is located at the moment, but it does detract from the appearance of the residential area.

Mr. Davies: It is an eyesore, anyway.

Dr. DADOUR: What I am trying to bring home is that there has been a great deal of trouble in regard to this which could have been avoided if what I suggested had been done; that is, a representative of the Nedlands City Council, which serves the area on which the Perth Medical Centre is erected, should have been appointed to the planning committee. Without doubt the residents of the area have had to put up with a great deal. Fortunately much of the trouble has been overcome by negotiation entered into by the Minister, but I do not think it should have come to this; it should have been avoided in the first place.

The trouble would have been avoided had there been further liaison between the parties instead of the negative attitude adopted by some of the authorities who work at the Sir Charles Gairdner Hospital or the Perth Medical Centre. Many lessons can be learnt from this mistake, and it is obvious that in planning for a project of this magnitude, planning is necessary both within and without the area. I think there must be co-operation between the Metropolitan Region Planning Authority and the Main Roads Department. Those two bodies have failed so far, but now it is time for action. We have to provide subways to permit the main traffic artery to make a right-hand turn into Railway Road and direct the stream of traffic along the main arteries. We have to establish ring roads in order to provide ingress and egress to the main traffic arteries and we will then have peace and tranquillity once again in the Shenton Park area.

The third amendment in the Bill relates to the schedule and to the area of land shown on the maps when it was vested. I have checked the maps and they now appear to be correct in accordance with this amending Bill.

If the House will bear with me I wish to bring forward some other points. I know the hour is late but I consider I must refer to these matters. The Minister states that the functions of the trust are to undertake the development, control, and management of the reserve, but who will look after and manage the centre, the buildings erected upon the land, and the people who work in the buildings? I pose the question: What is the duty of the trust? Is it the managing body for the site? The answer is definitely "No".

Let us look at some of the problems we have there. The trust owns the land and all lands are vested in the trust. It meets once every three months or more often if necessary but it does not have the function of management.

Mr. Davies: That is not quite right. The land is owned partly by Sir Charles Gairdner Hospital and partly by the trust. We have been trying to marry these two authorities ever since the Minister introduced the Bill in 1966. This is the difficulty and the real reason for the amendment.

Dr. DADOUR: The Minister intends to vest all the land in the Perth Medical Centre Trust.

Mr. Davies: No, only those areas shown in the schedule are vested. This gives them the right to either area in the future, but in accord with Sir Charles Gairdner Hospital. The difficulty arises because there are two owners on the one site.

Dr. DADOUR: This could easily be overcome if the Minister allowed the draftsman just to put it into effect.

Mr. Davies: If you told Sir Charles Gairdner Hospital that the trust was to control all its land in the future, or vice versa, I think you know what would happen.

Dr. DADOUR: That is only the start of the incongruity of the centre, because if I may be permitted I will let the House know the rest of it. The trust owns most of the land other than that on which the Sir Charles Gairdner Hospital is erected.

Mr. Davies: No, the Sir Charles Gairdner Hospital owns a great deal more land apart from that on which the hospital itself is situated.

Dr. DADOUR: I have had a look at maps Nos. 1 and 2 but these points are irrelevant. There are other points I wish to bring to the attention of the House. I wish to quote from a report tabled in the Legislative Assembly on the 17th March, 1970. This report was furnished in accordance with section 15 of the Perth Medical Centre Act, 1966, and is for the year ended the 31st July, 1969. The report is very long, and I intend to quote from part IX, which reads—

> Trust Authority.
>
> The Trust, although by the Statute named the "Perth Medical Centre Trust" has not, in terms, been given any power or authority with respect to "Medical Centre" as distinct from "Reserve". The Trust thinks it proper to bring this to the attention of the Minister.

What was done? Nothing.

Mr. Davies: This Bill is the result of that.

Dr. DADOUR: I am talking about the Perth Medical Centre as distinct from the Perth Medical Centre Trust.

Mr. Davies: You are thinking about Sir Charles Gairdner Hospital.

Dr. DADOUR: No, I merely read an extract from part IX of the report that was furnished in accordance with the provisions of section 15 of the Perth Medical Centre Act, 1966.

Mr. Davies: Did you ask your Minister what he did with that? As I understand it, this amendment now is the outcome of that. It deals with the future of the land and the right to trade.

Dr. DADOUR: This has nothing to do with land; those concerned are not worried about the land. They are worried about the management of the Medical Centre site.

Mr. Davies: Would you read it once again?

Dr. DADOUR: Yes. It reads—

> The Trust, although by the Statute named the "Perth Medical Centre Trust" has not, in terms, been given any power or authority with respect to "Medical Centre" as distinct from "Reserve". The Trust thinks it proper to bring this to the attention of the Minister.

I spoke to Mr. Justice Burt this evening concerning this and he assured me that the trust, as it is at the moment, does not have any control over the medical centre.

Mr. Davies: No, it would not, either.

Dr. DADOUR: No, nobody has any control over the medical centre. This is the point I am trying to bring home to the Minister. It took me a little time to understand this, too. I began to wonder whether I had missed the bus, because it is not an easy matter to understand.

If I may continue I will tell the House a few other problems that are facing us in regard to this site. Firstly, there are five "boarders" on the Perth Medical Centre site. The first "boarder" is the Sir Charles Gairdner Hospital, which is the hospital component of the site. It is responsible to its board which, in turn, is responsible to the Minister.

The second boarder or tenant, whichever we wish to call it, is the University Medical School of Western Australia which is responsible to the University of Western Australia and this, in turn, is responsible to the Australian Universities Commission.

The third boarder—and a very unwanted boarder—is the Public Health Department Laboratory Services which is responsible to its director who, in turn, is responsible to the commissioner who, in turn, is responsible to the Minister. The fourth tenant is the Medical Department's State X-ray Laboratory half the staff of which is responsible to the commissioner while the other half is responsible to the Director of Administration both of whom, in turn, are responsible to the Minister.

The fifth tenant is the Institute of Radiotherapy which is responsible to its board which, in turn, is responsible to the Cancer Council of W.A.

So we have five tenants many of which have different bosses. What means of co-operation are there for planning? I believe that without an overall managing body they have done very well and have co-operated as well as they know how. Considering their differences of opinion they have accomplished much. However, they do not seem to know where they are going.

Let us go a little further. The Perth Medical Centre Trust has two committees, the first being known as the joint planning committee which has representatives from the Medical Department, the laboratory services, the Sir Charles Gairdner Hospital, and recently a fourth member was added this one being a member of the Institute of Radiotherapy. This committee is responsible for the planning of the Perth Medical Centre except for the Medical School, the Institute of Radiotherapy, the laboratory services, and the State X-ray Laboratory.

Mr. Davies: Did you refer to the university being on it?

Dr. DADOUR: I forgot that one.

Mr. Davies: It is an important part. Also the Public Works Department is represented. It has two representatives in its own right, one being the site architect and the other being the principal architect.

Dr. DADOUR: The joint planning committee is responsible for the planning of the Perth Medical Centre except for the Medical School, the Institute of Radiotherapy, the laboratory services, and the State X-ray Laboraory.

Mr. Davies: No, the Institute of Radiotherapy—

Dr. DADOUR: I am quoting information supplied to me by those who say they know.

Mr. Davies: Dr. Nelson is also on the Institute of Radiotherapy.

Dr. DADOUR: I am saying that this is the situation at the moment.

Mr. Davies: No it is not.

Dr. DADOUR: The Minister may correct me, but this is the information supplied to me by a reliable source. Members must realise I have found this out for myself.

The second committee of the trust is a services committee which has a representative of each of the five tenants, but they are not bound by a majority vote.

If someone on the committee does not like what the committee has submitted, all he has to do is thumb his nose at the others and walk out.

It is only because the five organisations have been able to co-operate that they have achieved any planning. No overall managing body exists for the area and they could have been in a greater mess than they are. The only reason they are not is because all those involved are responsible people. How they have planned so far is quite a mystery to me.

Mr. Davies: I do not think any alteration has been made to the previous Government's stand on this.

Dr. DADOUR: I am not making this political in any way.

Mr. Davies: It is not by accident that they have got by, but by design.

Dr. DADOUR: I believe it is because of the calibre of the people concerned. They have made this their objective.

The Medical School was not built as it was first planned. The idea was for the first-year, second-year, third-year, and the whole lot of the Medical School to be orientated on the site. I say unequivocally that the dean is responsible for the present situation. It was stated that no-one could make up his mind and that the money had not come through from the Australian Universities Commission. The situation is that many of the first-year and some of the second-year subjects are not available on the site. This is unfortunate.

Mr. Davies: I think it will come though, will it not?

Dr. DADOUR: I do not know. It may come at the Monash University in the year 2000. I do not know. I realise the cost involved and how much more it will cost.

Mr. Davies: At present there would not be room, would there?

Dr. DADOUR: Not in the actual building because the space has been whittled down. The commission as well as the delaying tactics of someone else are responsible for this. I think a little intrigue has been involved. I am not being unkind when I say this. It is my opinion and that of other people. As far as I am concerned I am not being political. I have not tried to take anything away from this Government or the previous Government. I am merely indicating the situation as it is and as it has been and the way in which I believe the present problem could be remedied. Surely this is the reason we discuss Bills in the House. I first wish to discuss the laboratory situation in regard to which we cannot afford the duplication.

Mr. Davies: I agree with you.

Dr. DADOUR: It is absolutely necessary that sufficient material for teaching purposes be made available. This has been the appeal for a long time. Why cannot the laboratory services vacate the diagnostic field and hand it over to the university which could provide the service at half the present cost? Surely we must aim at economy. I do not care about who is keeping an empire or who might be trying to do so. I am speaking here for the sake of economy.

The private element, which was introduced only as a subterfuge to try to prevent the collapse of the services, should be eliminated. At the present time the members of the staff are working alongside each other but some are on different pays and serving different masters despite the fact that they are doing the same work. Where do we go from there? I have no vendetta against the director. I do not know him. I am concerned only with the economy. Time and time again I have indicated that we must rationalise. Health services are costing us too much now.

Mr. Davies: You can say that again.

Dr. DADOUR: They will cost us more and more. We must look to our cents and be economic and realistic or we will get nowhere. We must ignore the grievances of some people and try to amalgamate the resources we have for the sake of economy and for the sake of teaching. Surely that is what we want and what we must achieve.

As I have said, we can ill-afford to duplicate any part of the Medical School which is not a cheap organisation to run. I have heard it said that it costs $20,000 to train a doctor.

Mr. Davies: I have been told it costs between $20,000 and $40,000.

Dr. DADOUR: At one stage I averaged the number of doctors trained by our Medical School in six years and I then added up all the costs involved, including those for the fourth, fifth, and sixth years. I then divided the average number of doctors into that sum and I came up with a figure of $200,000. I must hasten to add that I did not make the mistake of adding too many naughts.

We must realise that in addition to this cost, for the first year a doctor is employed in a hospital he earns about $5,500. It is true that during this time he is rendering a service, but the main purpose of his employment is to enable him to learn. In his second year the doctor receives about $7,000. Consequently we are getting near to $250,000 per doctor. I can assure members I am not out in my figures because I double checked them and then had other people check them.

The more doctors we train the less is the cost involved per doctor produced, but the figure was never between $20,000 and $40,000. I definitely challenge that figure because it is a ridiculously low estimate of

the amount involved to keep one person at university for six years with all the specialities, hospitals, and equipment necessary for a person to learn. I am not decrying the expenditure. I am merely saying that the estimate of $20,000 to $40,000 is far too low.

I believe that the first answer to the problem is the necessity for an overall managing body on the Perth Medical Centre site. Under the Bill most of the land will be vested in the trust and the rest will be vested in the Sir Charles Gairdner Hospital. The two organisations will remain there and live in perfect harmoney for many years to come.

The Sir Charles Gairdner Hospital is the hospital component of the whole site. All new hospital buildings on the site are manned by nurses, doctors, and staff of the Sir Charles Gairdner Hospital. I know that the Minister is aware of this, but I mention it in case members are not.

Somewhere along the line an amendment is necessary to make some body the controlling factor for the medical centre. I was considering an amendment to proposed new section 13A (1) to provide for the functions of the trust to include the control and management of the medical centre. However, I will leave that to the Minister because I think it involves another aspect, although it is a very necessary one. Perhaps he will come up with an answer.

Let us consider how the Sir Charles Gairdner Hospital is run so efficiently. It has a hospital board comprising several members. Under the board there are three directors; that is, the medical director, the nursing director, and the administrative director.

The medical director looks after all clinical, paraclinical, and medical staff. The nursing director looks after the nursing objectives, as we call them. The administrative director looks after all other areas. There is some overlapping of the areas, one with the other but, basically, these are the functions of the respective directors.

I believe we should perhaps consider that the hospital board may perhaps become the Perth medical board. This would comprise several members. There would be five who would be representative of each of the five tenants. There would need to be an appointment from the repatriation hospital, because of the current position. Immediately under these there would be a director, who would be the chief executive officer. I believe the chief executive officer in a hospital must be patient oriented at all times. It is most important that everything which is done is done for the patient; in other words, the patient's care must be paramount. I have no hesitation, for this reason, in saying that the chief executive officer must be a doctor. He would be responsible to the Perth medical board—as we will call it—for all the objectives of the board. He would not deal with the day-to-day running but would be dealing more with future development and planning.

Immediately beneath the structure suggested so far there would be the hospital component. In the area of the hospital component we would have the three directors who, once again, would be looking after their respective areas. Immediately beneath and responsible to the chief executive officer would be the representatives of the Public Health Department Laboratory Services, the State X-ray Laboratory, and the Institute of Radiotherapy. Also responsible to this man would be an administrative officer who would be looking after the day-to-day running and problems of the Medical School. There will be a number of bodies which will be jealous of each other when it comes to the question of which body will be in charge. We will need to spell out the areas in a hard and fast way.

Mr. Davies: What about combining the Royal Perth Hospital and Sir Charles Gairdner boards?

Dr. DADOUR: My God, no.

Mr. Davies: Why not?

Dr. DADOUR: The Minister said, "Royal Perth Hospital"?

Mr. Davies: Yes.

Dr. DADOUR: Royal Perth Hospital!

Mr. Davies: Excellent.

Dr. DADOUR: Surely, Mr. Speaker, the Minister is baiting me. We could not superimpose one of those on the other. The respective boards cannot get on with themselves, let alone with anybody else. I am sure the Minister is only baiting me and could not be serious.

Mr. Hutchinson: What about the duplication in respect of those two?

Dr. DADOUR: The Minister is well aware of that duplication, but this is a different subject. I will not deal with it now because I am sure members want to go home to bed some time tonight.

Mr. Davies: If the honourable member draws up a family tree, I will be prepared to see what I can do.

Dr. DADOUR: I am sure we can achieve this with co-operation. We co-operated with the on-the-site meeting and with the deputation the other evening. I believe we could effect this and this is what we want. I would be only too happy to co-operate.

Mr. Davies: Draw up the tree and I will see how it works.

Dr. DADOUR: I will do this. I believe we must invest somebody with the power of control over the medical centre. This must be done. The position at the moment

is that the people are trying to work with each other and all are fighting for their place in the sun. However, there must be certain points of contention. This is why I suggest that the power could possibly be vested in the trust. Perhaps it may be better to invest the power in the hospital component or in the university —I simply do not know.

The Perth Medical Centre site will be the greatest in Australia. A great deal of money is being spent on it. A lot of fore-thought has gone into it, but we can see where errors have been made. I believe the errors can be overcome.

If it is not possible to put a ratepayer— or a nominee of the Nedlands City Council —on the planning committees we must look for ways of achieving better co-operation. There must be better co-ordination with the ratepayers of the area so that they may know what is happening by word of mouth instead of it filtering through by rumour, and causing heartbreak.

There was a great deal of heartbreak in the beginning when it was mooted that the Sir Charles Gairdner Hospital intended to buy up the area in Kingston Street. A close friend of mine was extremely worried about the matter and I am sure the anxiety caused by this, due to a misunderstanding, led to his early death. This kind of thing harasses people and we must avoid it. We are erecting a building for the purpose of saving lives. We do not want it to cause deaths in the interim period.

This is one of the reasons why I am upset about the traffic which filters through Shenton Park as if it were a sieve. If the main artery of traffic is allowed to make a right-hand turn into Railway Road on the way to Fremantle, the traffic will be able to negotiate its way down the centre by way of the main arteries. In this way Shenton Park would return to what it once was— a nice quiet area. I hope this will be done.

I wish to make one further point which relates to the diagnostic centre which is proposed and in connection with which the building has begun. The future diagnostic centre for the Perth Medical Centre will be sufficient to satisfy the needs of this State for years and years to come. I can assure members that this is the case.

I do not believe there should be a second diagnostic centre. Under no circumstances can we afford it. I impress upon the Minister that he look into this matter. He should obtain from the people concerned information as to whether we can afford two of these diagnostic centres. They are massive centres with all the back-up facilities which go with them. I can assure the House that when the proposed buildings of the diagnostic block are totally finished the cost will be something in excess of $60,000,000 when we take into account the bed back-up facilities. We cannot afford a second one in any other hospital in Western Australia. I do not think we should even contemplate it. I do not know where the money would come from to provide one for the Royal Perth Hospital. A massive amount of money will be required for the Perth Medical Centre diagnostic centre by the time everything which is absolutely necessary in a centre such as this is completed.

If I remember correctly the next thing to be done at the Royal Perth Hospital is to update the wards. The cost given to me was $1,000,000 to $2,000,000 but, by now, the cost is probably $4,000,000 because of the way costs have escalated. I am sure I am right in my statement about the wards because the facilities leave a great deal to be desired. Some of the wards are old and in a state of disrepair. They need to be updated.

Mr. Davies: Some have been done and some are proceeding.

Dr. DADOUR: I believe this is as far as we should go until there is another appraisal of the whole position. This is my opinion and it is certainly the way I look at the situation.

I have it on the best of authority that the Perth Medical Centre diagnostic block will be sufficient for this State for a number of years to come.

In conclusion, I say that we support the measure. There is an amendment in my name on the notice paper and I intend to amend the second proposal in the measure. Personally I think it is an extremely necessary amendment and I do not think it would create a precedent. If necessary, I suppose it could be incorporated in the Town Planning Act. However, I ask the Minister to look at the amendment to see whether we can reach some compromise on this point. I support the measure.

Debate adjourned, on motion by Mr. H. D. Evans (Minister for Lands).

House adjourned at 11.12 p.m.

Legislative Council

Thursday, the 25th October, 1973

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

QUESTION WITHOUT NOTICE

CLOSE OF SESSION: SECOND PART

Target Date

The Hon. A. F. GRIFFITH, to the Leader of the House:

I do not wish to take the Leader of the House by surprise, because the question I am about to ask is not intended to be difficult.