I move—

That the report be adopted.

Copies of the decision of the conference have been circulated. I apologise to the House for the length of time taken, but we could not even get to the stage of agreeing to drop the Bill because some members thought there was enough in it to make it worth while fighting for. Finally we reached this compromise which has been adopted unanimously by the conference.

The conference of managers agreed to the passing of the Bill, as amended, with the addition of the words to proposed new section 33B. This means that the Legislative Council's proposal to delete the words "in the vicinity of" and our argument to add the words "300 feet" have been discarded and we will return to the original wording of the Bill.

Question put and passed and a message accordingly returned to the Council.

Council's Further Message

Message from the Council received and read notifying that it had agreed to the conference managers' report.

ADJOURNMENT OF THE HOUSE: SPECIAL

MR. J. T. TONKIN (Melville—Premier) [10.54 p.m.]: I move—

That the House at its rising adjourn until 11.00 a.m. on Friday, the 2nd June, 1972.

Question put and passed.

House adjourned at 10.55 p.m.

Legislative Council

Friday, the 2nd June, 1972

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 11.00 a.m., and read prayers.

QUESTIONS ON NOTICE

Postponement

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [11.05 a.m.]: I ask leave of the House to deal with questions on notice at a later stage of the sitting.

The PRESIDENT: Leave granted.

WESTERN AUSTRALIAN PRODUCTS SYMBOL BILL

Second Reading

Debate resumed from the 31st May.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [11.07 a.m.]: Those who have spoken to this Bill have supported it and, therefore, I do not intend to take up a lot of time in reply. The crux of the Bill lies in the amendments which have been placed on the notice paper and in view of the fact that this is "good Friday" to me I do not intend to spend an undue amount of time discussing them. I have a general comment which I think is applicable to what has been said by previous speakers.

The first point is the degree of manufacture which has to be carried out on any product in Western Australia before that product may, within the provisions of this Bill, be identified as a local product through the use of the symbol. The Bill has been framed deliberately to allow a wide interpretation to be placed on what is a Western Australian product. This has been done so that companies which have viable and genuine manufacturing facilities in this State will be able to use the symbol to their benefit to provide greater sales and the subsequent industrial expansion that the Government is seeking.

There is no simple definition of what constitutes a locally manufactured product and any definition which could be incorporated in this Bill would necessarily be restrictive. It is not the intention of the Bill to place any more restrictions on manufacturers than are absolutely necessary. Because we want to encourage maximum expansion of industry in Western Australia we have framed this Bill to give freedom to the Minister and the department to permit the use of the symbol for that purpose; the job of getting on with industrial expansion.

However, while allowing this freedom, the Bill will also provide adequate powers for the department to stop the blatant use of the symbol on products which are not locally made, or which have insufficient local content to allow them to be identified with the symbol.

The second point raised by Mr. Logan was the actual design of the symbol. Whether he personally likes it or not, it is already doing a magnificent job in promoting local products. The latest survey of housewives carried out to test the market penetration of the symbol showed that 84.6 per cent. of housewives are aware of the symbol and know precisely what it means—that it, in fact, does identify a product made in Western Australia. It has been estimated that approximately 90 per cent. of all retail purchases are made by housewives, so the symbol is already doing its job.

Had its outline been more like a geographical replica of Western Australia it is doubtful whether it would have been as effective in carrying its marketing message to consumers. In its present form the symbol is a simple design which is quickly and easily recognisable, and it is clearly associated by consumers with goods manufactured in Western Australia.

On the matter raised by Mr. Williams, it is true that trade mark applications have been lodged in respect of this symbol. However, inquiries carried out by Department of Development and Decentralisation officers revealed that the symbol would have had to be registered in every category of manufactured products for full protection.

This inquiry showed that the cost of obtaining full protection through trade mark registration would have been undesirably expensive. The provisions of the Bill before the House are sufficiently broad to protect the symbol from misuse regardless of the product to which it is applied. At the same time, the Bill is sufficiently nonrestrictive to allow *bona fide* Western Australian manufacturers to use the symbol without fear of contravening the legislation.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. W. F. Willesee (Leader of the House) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Authority to use prescribed symbol—

The Hon. W. R. WITHERS: The Minister said it was not desired to place any further restrictions on manufacturers and, accordingly, he would not like to see any amendments made to the Bill. In my second reading speech I said no protection was provided. In fact, I asked the members on the Government benches to mark any clause which gave protection to the symbol. I said that if any such clause could be shown to me before I concluded I would consider it. No such marked clause was handed to me and I assumed, therefore, that the Government would agree with my opinion that no protection for the symbol had been provided. I move an amendment—

Page 3—Delete all the words in the clause and substitute the following:—

Authority to use prescribed Symbol or Facsimile

5. (1) Where it appears to the Minister that the production and preparation of any product or range of products is substantially carried out in the State, the Minister may on application being made to him in writing setting out particulars of the product or range of products and particulars of its production and preparation issue to the applicant a permit authorising him to attach to the product or to some or all of the range of products or to its or their container a prescribed symbol or a modification of the prescribed symbol.

(2) The Minister may include in the permit such conditions as, in the circumstances of the case, the Minister thinks fit to impose in respect of the use of the symbol.

(3) The Minister may, by notice in writing, served on the holder of a permit so issued,

(a) from time to time alter any of the conditions of the permit; or

(b) cancel the permit.

The clause I have suggested would allow any manufacturer who considered his goods had a fair content of Western Australian products to apply to the Minister, and on advice from the Minister he would know whether or not he could use the prescribed symbol.

Under the present provisions manufacturers do not know whether they are entitled to use the symbol. The required content of Western Australian products is not sufficiently delineated. In good faith a manufacturer could affix the symbol to his product but if an inspector or the Minister decided the product did not have sufficient Western Australian content the manufacturer would be guilty of breaking the law. The manufacturer would have been put to some expense in preparing blocks, stamps, and dies for the purpose of marking his goods with the prescribed symbol. I could continue and speak about clause 6.

The Hon. W. F. Willesee: You could embrace clause 6 because the two clauses are closely related.

The Hon. W. R. WITHERS: A manufacturer who in all innocence had broken the law by affixing the symbol to products which did not have sufficient Western Australian content could be fined under this Bill; yet another person could design and use a symbol with impunity and not break the law.

In my second reading speech I referred to a series of sketches of symbols. The first is a registered trade mark, to which Mr. Williams has referred. He commented that he is awaiting judgment on this matter and that possibly we may not be permitted to continue with this legislation in respect of trade marks.

The Hon. W. F. Willesee: I touched on that in my reply.

The Hon. W. R. WITHERS: Yes. The second sketch shows the enthusiastic misuse of the symbol by a club which is proud to be Western Australian, and uses the symbol on a saleable club magazine. Let us assume that it is the Western Australian association of Afghan hound breeders—I do not know if there is such an organisation, and if there is I apologise

for using its name. In this case the symbol used is the head of a dog, which looks like a condensation of the prescribed symbol. People would not notice that it was the head of a dog and they would think it was the symbol. In that case the club would not be fined because it had not used the prescribed symbol.

The third sketch shows a symbol which is meant to mislead, although not to defraud. It is identical with the prescribed symbol except that the edges of the centrepiece are not serrated, but smooth. In the centre may be printed the words, "Made in U.S.S.R., Distributed in Western Australia." Such a symbol may be used without breaking the law, and the people of this State may purchase articles bearing that symbol without knowing the articles are not made in this State.

As a result of those anomalies I feel we must protect those Western Australians who are manufacturing goods with a high Western Australian content. We do not argue about the success of the symbol; the figures produced by the Minister prove its success.

If the Minister does not wish to place more restrictions on manufacturers and feels there is no need to protect the symbol, why was the legislation introduced? It provides no protection, and my amendment is intended to offer protection. I trust if members do not agree they will produce good arguments as to why my amendment should not be accepted.

The Hon. R. J. L. WILLIAMS: I support the amendment because I feel this symbol needs further protection. I am still not at all sure about what would happen if the Commonwealth challenged this Bill at High Court level, but I feel the Commonwealth would win the day.

The word in point is "substantial." The dictionary definition, as related to the use of the word in this clause, is "Of real importance; of value or of considerable amount." Members will recall the argument which raged throughout the world over the use of the word "Scotch" as applied to a certain distilled beverage. The Scottish people brought an action against the Japanese for the use of that word on the label of a distillation prepared in Japan. Similarly, the French brought an action against the Spanish for labelling a beverage as "Spanish Champagne." They objected to the use of the word "Champagne."

Either we go all the way with this symbol or we are half-hearted about it. If the word "substantial" is used, does it mean that more than 50 per cent. of the product must be manufactured in Western Australia? If this is not so then items could be imported and assembled here and the company concerned may feel it is entitled to put the Western Australian product symbol on its packages. That would not be deceiving because the labour content of that product is substantially performed in Western Australia. The clause falls down in relation to the word "substantial." Mr. Withers has pointed out that people may draw symbols deliberately to mislead the public.

I was listening to the radio this morning and I was struck by the fact that the Premier was being congratulated left, right, and centre for supporting Western Australian products and campaigning for people to keep money in this State. Then a dear old lady phoned up and said she did not think the Premier was giving such good support to the State because she happened to know that he had just imported from the Eastern States a Queen Anne bedroom suite for the price of $1,000. The radio commentator did not know what to say.

The Hon. W. F. Willesee: Do you suggest I get him to send it back?

The Hon. R. J. L. WILLIAMS: No. Possibly the content of the furniture was produced in Western Australia, exported to the Eastern States, and then imported back into this State. I support the amendment moved by Mr. Withers because it will tighten up the clause. Either we have a products symbol which means something and is defined by Act of Parliament, or we should not bother with one at all.

The Hon. A. F. GRIFFITH: I do not understand the attitude of the Government. The points which have been made by Mr. Withers and Mr. Williams appeal to me as being very reasonable. The clause provides that a person who sells any product, the production and preparation of which is substantially carried out in Western Australia, is authorised to affix to the product a prescribed symbol.

That leaves the decision to the manufacturer as to whether or not he has a substantial proportion of local content in his goods. Having made that determination he then may affix a symbol to the goods. However, in clause 9 of the Bill provision is made to enable an inspector, together with any person he thinks competent to assist him, to enter any premises and make certain inspections or examinations.

Further on in the clause such an inspector is given a right of action against anybody who does not supply him with the information he is seeking, or who obstructs him in obtaining that information. All this complicates the legislation to an unnecessary degree.

Under Mr. Withers' amendment a manufacturer who considers he has a substantial portion of Western Australian

content in the goods he produces may inform the Minister of the fact, and if the Minister agrees with him he may issue the manufacturer with a certificate.

I agree the products symbol is a good idea, and it has received a tremendous amount of advertising through television and the Press. However, the attitude of the Government seems to be too narrow, in that it leaves the onus on the manufacturer to decide whether or not he has substantial Western Australian content in his goods. If it is considered he has not, then an inspector is given the power to question him.

I do not know whether there is any likelihood of people taking advantage of the products symbol, but it seems to be a hard and fast attitude of the Government that it is not prepared to listen to the proposition put forward by Mr. Withers which seeks to reinforce and improve the provision in the clause.

The Hon. R. F. CLAUGHTON: Much that has been said so far tends to confuse what appears to me to be fairly clear legislation. The Bill provides that the Government may permit a manufacturer to use the products symbol if he can satisfy the Government that a substantial portion of his product is manufactured in this State. The Government can investigate the degree of Western Australian content in his product. This legislation also provides protection to the manufacturer for any information he may supply to the Government. It further provides that any person who uses the products symbol without the Minister's approval may be investigated to determine whether or not his product has a substantial Western Australian content.

The Hon. W. R. Withers: People do not have to apply to the Minister for authority to affix a symbol.

The Hon. R. F. CLAUGHTON: It would seem the honourable member wants anyone at all to be given a free hand to use the symbol, whether or not his product has a substantial Western Australian content.

The Hon. A. F. Griffith: Tell us where in the Bill it is provided that a person has to apply to the Minister?

The Hon. R. F. CLAUGHTON: I prefer to make my own statement. I draw attention to section 496 of the Criminal Code which deals with offences as to trade marks and trade descriptions. It provides that any person who forges any trade mark, or falsely applies to goods any trade mark so nearly resembling a trade mark as to be calculated to deceive is guilty of an offence. A substantial penalty is already provided under the Criminal Code for the offences mentioned by Mr. Withers.

The Hon. W. R. Withers: Under this legislation you could impose a substantial penalty on an innocent person.

The Hon. R. F. CLAUGHTON: The term "substantial" is used commonly in legislation, so we need not quarrel with its use in the Bill. We must credit the Government with having good intentions in promoting Western Australian products, and accept that it will not take action which tends to discourage people from manufacturing goods in this State. A person who produces goods in Western Australia, the components of which are substantially of local origin, has nothing to fear from the Bill. If he is not sure whether he fits into this category of manufacturer, all he need do is to make a request to the Minister or his department for a determination to be made. This does give protection to genuine manufacturers.

The Hon. W. F. WILLESEE: I have some considered comments dealing with clauses 5 and 6 which are related, and which Mr. Withers dealt with jointly. The comments are as follows:—

> The prime purpose of the legislation is to protect the symbol from improper use, but it is imperative to the fundamental concepts of the whole local products campaign that this protection should not defeat any of the objectives of the campaign. The objectives are to encourage maximum sales within Australia of products made in this State. The use of the one symbol to identify all products with substantial local content allows blanket promotion of all products, and is a focal point for the promotional efforts of the Department of Development and Decentralisation.
>
> While it is essential that the use of the symbol be restricted to the identification and sales promotion of local products, it is equally essential that as many local manufacturers as possible use the symbol.

The Hon. A. F. Griffith: What is there to stop them, under the amendment of Mr. Withers?

The Hon. W. F. WILLESEE: That is a question for the Committee to decide. I am merely putting a point of view submitted to me. The Leader of the Opposition supports the point of view put forward by Mr. Withers and I support this point of view.

The Hon. A. F. Griffith: I am trying to reason it with you.

The Hon. W. F. WILLESEE: And, of course, I am trying to reason it with the Leader of the Opposition, but I do not think we are getting anywhere. To continue with the opinion that has been presented to me—

> Any suggestion of red tape, the application of a permit system such as is suggested in the amendment, or any other restrictions on its free and open use, can only defeat the main objectives of the campaign.

To achieve greater sales of local products within the State, we not only have to convince buyers of the value to them of making such purchases, but convince manufacturers of the need for them to use the symbol to clearly identify their products. If products are not identified with the symbol, they will be indistinguishable from imported goods, and will not achieve any sales advantages from the impact of the campaign on retail buyers.

The administration of a permit system such as has been suggested in the amendment, would be entirely non-productive and would require the diversion of funds which are currently being used for the active promotion of local products.

The suggestion that the present form of the Bill is inadequate to provide proper protection of the use of the symbol on manufactured products is entirely without foundation, as the conditions under which use is authorised are clearly set out in Clause 5 of the Bill, and the penalty provisions apply clearly to any misuse as defined in this clause.

As the Opposition agrees with the purpose of the Bill, but would like to see this purpose strengthened, perhaps they would like to suggest that we legislate to make it compulsory for every manufacturer in this State to use the symbol. Compulsory use of the symbol has not been suggested by the Government because the Government believes that maximum benefits can be achieved through encouragement and free use of the symbol as a common marketing concept. We are encouraging manufacturers to use this symbol because of the obvious and proven advantages its use has for increasing sales and building up their manufacturing capacity. But it must be remembered that there are still many manufacturers not convinced of this advantage, and who fear that identifying their products as Western Australian made would be detrimental to sales. To place further barriers between these manufacturers and use of the symbol on their products would be detrimental to the achievement of our ultimate goal—the identification of every Western Australian product.

The campaign has been conducted now for more than two years, and there have been no cases of deliberate abuse of the symbol in this time. Our problem has been the enthusiasm of people and organisations other than manufacturers trying to identify themselves with Western Australia by using the symbol. Any abuse by an individual or organisation can be effectively countered by the Department of Development and Decentralisation through adverse publicity by publicly identifying the person, organisation and the product as a counterfeit, and one not entitled to trade on the good image and marketing climate that Western Australian products already have in their home State.

The Hon. W. R. WITHERS: I could use exactly the same words that have been used by the Leader of the House in respect of my amendment though I would throw out the reference to red tape.

In a later clause the Government proposes to increase the burden on the taxpayer. I refer to clause 7 which states in part "The Minister may appoint any person to be an inspector under this Act." That is contained in subclause (1) of clause 7.

It is not possible for an inspector to do a job for nothing. He must be provided with a vehicle and be given some form of remuneration, whether it be a salary, an allowance, or a wage. The important point is that the Government proposes to increase the cost to the taxpayer quite apart from increasing and furthering bureaucracy.

We already have inspectors in connection with the Factories and Shops Act and also some very competent health inspectors who could be appointed to carry out this work.

I was rather annoyed to hear the Leader of the House refer to red tape. Not only does the Government propose to increase red tape in a later clause but it also seeks to increase the cost to the taxpayer. I am only trying to help the Government make the legislation worth while, so that people in the State will know when they can use the symbol without being fined in the courts.

The Hon. A. F. GRIFFITH: I know you will not permit me to speak to clause 7, Mr. Chairman, because it has not yet been reached. Could the Minister give me some indication, however, whether the amendment to clause 7 is acceptable to the Government?

The Hon. W. F. Willesee: I can tell you the amendment is undesirable.

The Hon. A. F. GRIFFITH: So what the amendment proposes to do is to convert the state of affairs which exists in relation to the use of the status symbol into a means for establishing another department and the appointment of inspectors to police the Bill. This was pointed out by Mr. Withers.

The Government's intention leaves me absolutely cold. I do not know why it is not possible to appoint men who are already inspectors and give them the necessary authority. The Government proposes to appoint new men to the job. If that is to be the attitude of the Government then, as far as I am concerned, it can tear the whole thing up.

The Hon. R. F. CLAUGHTON: I should have thought this symbol would be of little value if it did not increase the production of goods in this State. It would also be of little value if it did not give some protection to manufacturers in Western Australia from people who bring their goods in from elsewhere and use the symbol. If we have an increased value of goods produced, surely the cost of maintaining the inspectors necessary to police the Act will be a very small burden to bear.

The Hon. W. R. Withers: But your Bill does not do what is stated. That has been my point of view.

The Hon. R. F. CLAUGHTON: The honourable member would like to duplicate the provisions in section 496 of the Criminal Code and accordingly reduce the penalties.

The Hon. A. F. GRIFFITH: I am satisfied that Mr. Claughton would not be able to see a hole through a ladder. While he attempts to assist his Minister all he does is to confuse the issue. I do not know what the Committee will do but if this clause is amended the Bill would go to the Legislative Assembly and come back with an insistence from the Minister there that the Bill go through as it is. Is that to be the case?

The Hon. W. F. Willesee: I do not know what will happen.

The Hon. A. F. GRIFFITH: I know what will happen. The Government can have its jolly Bill and if it wants to make a mess of things it can do so.

The Hon. R. J. L. WILLIAMS: I have just had my breath taken away by the statement made by Mr. Claughton. What a piece of nincompoopery it is to say that the sale of goods with the symbol will increase the production of the State. So all we have to do throughout Australia is to get a symbol and every worker throughout the States will produce more because of the symbol.

The Hon. A. F. Griffith: Get one and put it on Mr. Claughton.

The Hon. R. J. L. WILLIAMS: What a fallacious piece of reasoning. There is nothing in the Bill to stop anyone in any other State putting this symbol on a carton and selling it in other States. It is not possible to tell me that the Criminal Code of Western Australia will apply in Queensland.

Never mind, I am delighted at Mr. Claughton's suggestion. I will ring a Professor of Economics, who has been struggling with this question of production for a long time, and ask him to consult a member for the North Metropolitan Province who has the answer.

The Hon. A. F. Griffith: Make sure you establish which member it is. I do not want to get mixed up in this.

The Hon. R. J. L. WILLIAMS: That was the most fallacious piece of nonsense I have heard in my life.

The Hon. F. R. WHITE: I have listened to the debate on these two clauses with a great deal of interest. The Minister has said there has been no abuse of the use of the symbol up to this date. Generally, when abuse occurs, legislation is brought in, to eliminate that abuse. In this case legislation has been brought in wherein it seems to me—particularly in clause 6—that anybody using the symbol could be considered a potential criminal, because it states that a person who knows that such product is not a product as prescribed could be taken to court in an attempt to prove that he knowingly has used the symbol incorrectly and is liable for a penalty.

I think many people could, with good intention, be using this symbol even today without knowing they could be breaking the law and be open for criminal action to be taken against them. I feel Mr. Withers' amendment is very desirable, because it dots the "I's" and crosses the "T's" as to who shall use the symbol. It will bring about some control. If control is not desired why has the legislation been brought down? We should let things operate as they have been doing if no abuse is occurring. I intend to support the amendment and, if it is not carried, I do not care if the Bill is defeated.

The Hon. R. F. CLAUGHTON: I can only say, not in respect of Mr. White's remarks but of those made by other speakers, their argument relies on invective against another member, which demonstrates the weakness of the argument.

The Hon. W. R. Withers: It relies on common sense.

The Hon. R. F. CLAUGHTON: Obviously members did not listen carefully to what I said—

The Hon. R. J. L. Williams: Check *Hansard*.

The Hon. R. F. CLAUGHTON:—or to what the Minister in charge of the Bill said.

The Hon. R. J. L. WILLIAMS: As Mr. Claughton stood up I wrote down what he said and I am prepared to stand by it and check it in *Hansard*. He said, "a symbol that increases production in the State." That is what he said. I know he meant to say, "a symbol which is increasing sales in the State." It was certainly not invective against him. I merely pointed out that he was stupid.

The Hon. A. F. GRIFFITH: On the last day of sitting I hesitate to take this very much further, but I have no alternative when I hear Mr. Claughton stand up and talk that sort of drivel. I remind him of

what he attempted to do to me last night when he deliberately referred to a *Hansard* of 20 years ago and misquoted me purposely with the idea of misleading the Chamber.

The CHAIRMAN: I believe the altercation has gone a little too far.

The Hon. A. F. GRIFFITH: With respect, Sir, I do not think it has gone far enough. I will not stand for that kind of thing.

The Hon. W. F. Willesee: Let us deal with this.

The Hon. A. F. GRIFFITH: I am dealing with what the honourable member said and how hurt he was that somebody would dare to introduce a personal issue into the debate. I merely remind him of last night. Having said that, I will let the matter go. He knows what he tried to do, but I have a long memory and I can go back and pick these things up quickly. It is a good thing we have *Hansard*.

I refer the Minister to clause 6 on page 3 of the Bill, particularly the words—

> knowing that such product is not a product the production and preparation of which is substantially carried out in the State, commits an offence.

In a prosecution of this nature, does the onus of proof lie with the accused in the Minister's opinion, or does the State have to prove the case that a person has used the seal, knowingly committing a breach of the Act?

The Hon. W. F. WILLESEE: I do not know the answer.

The Hon. A. F. Griffith: No.

The Hon. W. F. WILLESEE: It is obviously a trick question.

The Hon. A. F. Griffith: It is not a trick question. I do not pull tricks.

The Hon. W. F. WILLESEE: I think the Leader of the Opposition is trying to do so on this occasion. I am surprised he is doing so at this stage. I will defer further consideration and hold up proceedings to obtain a reply to suit him. It does surprise me that he has done this now, because he knows very well the amendment would be carried. However, I will endeavour to reply when I obtain an answer.

Progress

Therefore, I move—

> That the Chairman do now report progress and ask leave to sit again.

The Hon. A. F. GRIFFITH: Mr. Chairman, the Minister cannot address you and, at the end of his words, ask to report progress.

The CHAIRMAN: He can, Mr. Griffith.

Motion put and passed.

CRIMINAL CODE AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from the 31st May.

THE HON. I. G. MEDCALF (Metropolitan) [11.58 a.m.]: This is a comparatively small Bill and its purpose is to achieve three things. In the first place, it will correct a minor omission from the Criminal Code Amendment Bill which we dealt with earlier in the session. In the second place, it provides for the creation of a new offence of "a wilful false promise" in relation to false pretences and slightly varies the law in respect thereof. Thirdly, it provides a means of punishing people who wilfully damage aircraft.

I approve of the Bill and I think the three points mentioned are quite appropriate for inclusion in the legislation. I will briefly deal with these three points one at a time.

The first amendment is to section 322 of the Code. This is necessary because of a minor omission from the last Bill to amend the Criminal Code which was before the House. It is rather curious how this happened. I have not been able to work it out, but doubtless there is a reasonable explanation and it is not of any great consequence. When the Bill originally came before the Legislative Assembly it included in it this very amendment which we now propose to include today; that is, an amendment to section 322.

However, for some strange reason, perhaps a printer's error, there was no reference to section 322 in the long title of the Bill. Instead of amending the long title, the amendment to the section was deleted. This puzzled me, but no doubt there was some good reason for it and I do not attach any sinister significance to this fact.

Section 322 of the Criminal Code refers to aggravated assault, and it provides that the penalty for aggravated assault is hard labour for one year. Any member who is not sure of the technical meaning of the term "aggravated assault" must bear in mind that an assault can be as little as the lightest touch, even as was recently mentioned in the Press, a person pulling someone else's nose. The Code lays down the definition of aggravated assault, and this provides that if the person assaulted is a female, a male child under the age of 17, or a police officer acting in the execution of his duty, an assault is termed an aggravated assault. It is not proposed to alter that. The substantive law has not been changed, but the proposal contained in this Bill is simply that the Court of Petty Sessions, which is now to be constituted by a magistrate as distinct from two justices of the peace, will now hear these proceedings. Members will recall similar amendments to other sections of the Criminal Code in the earlier Bill.

There is one further amendment to the section, and that is the provision that a person who does not wish to be heard before a Court of Petty Sessions may now elect to be tried on indictment—that is, in other than a summary manner. Therefore, this amendment is the converse of the previous amendments to the Criminal Code. The previous Bills provided for offenders to be tried summarily if they so elected but we are now saying that a person charged with aggravated assault may be tried summarily but he has the right not to be tried summarily if he so elects. That is a quite simple and reasonable amendment.

The second amendment deals with the question of false pretences. The situation at present is that until an act of false pretence has occurred, there is little that can be done about it. However, we all know that confidence men do not operate in respect of things which have occurred in the past. They make representations about events which will occur in the future. They make promises and offer inducements to people to enter into contracts and they represent that a certain situation will come about.

I instance the case of a confidence man who went to the wheatbelt area and claimed he had a device which, when fitted to a car headlight, would switch the light onto the lower beam without the use of the dip switch at the approach of another car. He did extremely well with this in the days when farmers had a good deal of money. Many people subscribed to the company he represented, but he was making a false promise or misrepresentation as to a future event.

It is frequently difficult to catch up with some of these gentlemen, but the purpose of this Bill is to make it easier to do so. The section is now widened to include any other fraud, so even a fraud which took place in the past is caught by the section.

I often wonder whether we are aware just how many confidence men are in our community. It is surprising when one has contact with official quarters to find out just how many of these people are operating. I was told by a high official in a Government quarter—to whom I will not refer by name—that at the time of the mining boom there were very few confidence men operating in Western Australia. The confidence men come here from the Eastern States and he told me that his department received advance information from the East—it is not the police, Mr. Dolan. Our people are told about the latest confidence tricks which are being used and sure enough, within six weeks to two months the confidence men are using the tricks here. However, during the period of the mining boom the confidence men were making too much on the Stock Exchange in the Eastern States.

Unfortunately, due to the slack period here the confidence men are again operating, and therefore I ask all members to watch their wallets and other articles when they leave the House. I am not suggesting there are any confidence men in the House. Therefore, this legislation will provide the police with the right to bring prosecutions in respect of any other fraud of this type.

The final portion of this Bill deals with damage to aircraft, and it is fairly stringently worded. It has been discovered that there is no section which specifically deals with damage to aircraft, although damage to other vehicular or mechanical contrivances is provided for. Of course, in these days of hijacks and air bandits, who seem to think they can take the law into their own hands so far as the lives and property of people travelling on an aircraft are concerned, it is very necessary that we should have a strict provision, and I thoroughly support this. The measure provides for imprisonment for five years with hard labour, which is a fairly substantial penalty for the offence. This may be too stringent in the case of a university student travelling interstate who happens to pull a bit of cord from the binding around the seat, or something else of a minor nature. On the other hand, we do not know where this type of thing will end. A person who commences to wreck the inside of an aircraft is taking no account of the lives and safety of the passengers and crew. Therefore, I believe we should have a severe penalty. With those words I give my unhesitating support to the Bill.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [12.08 p.m.]: I thank the honourable member for his elucidation of the Bill and his support of it. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and passed.

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 31st May.

THE HON. I. G. MEDCALF (Metropolitan) [12.11 p.m.]: This is quite an important Bill and it seeks to do some extremely important things. Its general purpose is to transfer back to the courts the

jurisdiction they formerly held in motor vehicle cases prior to 1967. Traditionally the courts have exercised jurisdiction in motor vehicle damages cases for one reason —and perhaps for one very good reason— that it has always been considered impossible to differentiate between negligence arising from motor vehicle claims and negligence arising from any other claim.

Traditionally, in motor vehicle cases, the defendant is only required to pay damages if there is negligence proved, but not otherwise. Unless negligence is proved there is no obligation to pay damages. The same applies to many other claims that have nothing to do with motor vehicles. Provided there is some negligence proved, those who suffer injury as a result of slipping over when they enter a shop, falling off a ladder, or whatever other accident that may occur, have a claim for damages.

This applies even to workers seeking damages. Workers' compensation is a different branch of the law and has been for over 100 years, because workers' compensation depends not upon negligence, but upon a state of employment between master and servant; between employer and employee. Provided it can be established that an accident occurred during the course of employment, it does not matter whether there is negligence or not.

But if a worker does sustain an accident at his place of employment, not only may he have a right to claim under the Workers' Compensation Act, but also in certain circumstances proceedings may be taken in another court as well, claiming damages as a result of negligence.

It is a fact that courts have had a great deal of experience in negligence claims. I will not question what Parliament did in 1966, because I was not then a member of Parliament, but the Legislature must have had good reasons then for deciding to establish a tribunal which would take away one area of negligence from the courts. That area of negligence was the one dealing with claims arising from motor vehicle accidents; claims for personal injury. Claims for damages to the motor vehicle were still left to the courts. The courts still hear claims for damages to a motor vehicle, that is to say, the aggrieved person can go to a separate court; he can go to the District or Local Court. However, if a person suffers some physical injury in a vehicle accident the courts are not open to hear the claim in respect of that injury.

That was the effect of this legislation, although in logic there is no good ground for this. There may have been some grounds for it which appealed to Parliament in 1966, but time has shown that perhaps this was not the wisest course of action to take. Time has shown that many anomalies are created by granting to one particular group of people the right to judge an area which has always been judged by people who have been trained since their earliest life to judge cases coming within this area—either on one side or the other—and, eventually, as independent judges; and time has shown it is wrong that the courts should not continue to have the jurisdiction which they formerly had in motor vehicle claims.

I believe we would not be doing justice to the members of the public—and they are the ones I am thinking of principally— if we were not to pass this Bill. I believe time has shown that this jurisdiction should return to the courts. I will cite some examples why I think it should come back to the courts; because there have been some anomalies.

I have already mentioned the case of damage to a motor vehicle. If the vehicle is severely damaged a person takes his claim to the courts if no-one pays for the damage. If that person suffers severe physical injury—or anybody involved in the accident suffers severe personal injury —he must go to the tribunal. It has been said that the tribunal has a tendency to reduce the amount of damages that should be awarded. I believe this has also been resisted in certain quarters, but it was first put forward as a reason for this Bill when the debate on it first took place, and when the legislation was first introduced. I do not believe it is a good thing for damages to be reduced. My reason for saying that is that one has to place oneself in the position of a person who suffers the damage. The person who suffers the damage or the injury holds a very different view of things from others who have not suffered any personal injury. However, members of the legal profession come in close contact with people who suffer damage and, as advocates, they put forward the case of the person concerned, but, as human beings, they become acutely aware of the problems of people who have suffered personal injury.

Members of the legal fraternity have never been prepared to stand by and allow people, for some reason or other, not to receive the adequate and just compensation to which they are entitled. I must say —indeed the Minister has all but said it— that it has been a tradition of the members of the legal profession to take this particular point of view.

My point of view has never deviated, but I was not in Parliament in 1966, and it did not fall to me to exert any influence on the decision it then made, but even if I had been able to do so I do not think it would have had any effect because the thinking of Parliament then was, "Let us try this system." However, it has been found wanting, because it has been found that negligence claims arising from motor vehicles cannot be separated from any

other kind of negligence claim. It cannot be said that if a person suffers the loss of a foot he can claim a constant amount of damages. That cannot be said because the circumstances are different in every case. No two cases are alike; that is the truth. The people who are injured are different. They come from different walks of life; they are of different ages, and they have different life expectancies. There are different circumstances and different degrees of negligence.

The Hon. S. T. J. Thompson: Does not the tribunal take this into account when hearing claims?

The Hon. I. G. MEDCALF: The tribunal attempts to take this into account. I am not saying the tribunal has not tried to do this. I am saying it is wrong to take this particular area of negligence out and give it to a tribunal and expect it to operate in a kind of insulated area—an isolated island—where it is divorced from what is going on in all other fields of law and human experience. Human experience in respect of damages extends across the whole spectrum. One can suffer damage in almost any conceivable way. Motor vehicle accidents are one minor aspect of damages people can suffer through negligence. We cannot codify this law. It would be nice and convenient if we could have a little schedule at which we could look and say, "Right, you have lost a foot. Here is your amount of damages." We ing, and therefore I ask all members to could then give him the $100, $200, $2,000, or whatever amount of damages is stipulated in the schedule. We could say to another person, "You have suffered damage to your right leg. All right, we will give you $2,500," and so on. This cannot be done. I am not saying this is what the tribunal does. I have simplified it.

The tendency of many people is to think that this can be done, but it cannot be done because it would not be fair to people, and we cannot have laws which are not fair. We could have them for a while, but they would not last.

There are other cases where it has been discovered, as a result of experience, that the tribunal is not working satisfactorily; and this is an area of law. I am not criticising the tribunal. Let that not be thought. I have no criticism of the tribunal. It has done as good a job as could be expected of it. I am talking about areas of law and there is another one, apart from the one I mentioned, which is that the tribunal is limited to "the use" of motor vehicles. It can therefore judge a claim for negligence which comes up only as a result of the use of a motor vehicle.

All sorts of questions have arisen as to the interpretation of when a vehicle is being used. Is it being used when stationary? Is it being used when it is idle or when it is in a parking area? Some cases of negligence have arisen even though the driver has not been in the vehicle; he might have left it in a dangerous condition for some reason or other. He may have parked the car on a hill and left the engine running without the brake on, for example, while he went visiting. In those circumstances, could the car be said to be in use? These questions have arisen and decisions have been made which indicate that in certain cases the tribunal simply did not have jurisdiction and those concerned have had to go to the Supreme Court. This is extremely confusing not only to the public, but also to the legal profession. Since it is confusing to the legal profession, members can imagine just how much more confusing it must be to the public.

They run the risk, if they take proceedings in the wrong court, of losing at the tribunal by the argument that the case has not arisen out of the use of a motor vehicle. On the other hand, if they go to the Supreme Court, they may be told exactly the opposite; that the court does think that the incident arose as a result of the use of a motor vehicle, and that therefore the case should be taken before the tribunal.

The Hon. S. T. J. Thompson: Surely all lawyers should know to which court the case should be presented.

The Hon. I. G. MEDCALF: No, because there are circumstances which are very difficult to judge and it is just as difficult sometimes for legal men to judge them as it is for members of Parliament.

The Hon. F. R. White: But each side would have a lawyer.

The Hon. I. G. MEDCALF: That is exactly why each side has a lawyer; that is, so that the case may be presented fairly and squarely and that each side may have the opportunity to ventilate its view fully. Normally a legal man who is a judge then decides between the two.

May I add that it is not so difficult for the legal man who is the judge to do this because in legal practice a person does not always act for one side only. He will sometimes act for a landlord and sometimes for a tenant; sometimes for a driver and sometimes for a pedestrian. As a result a lawyer gets to know each viewpoint and consequently after a while he becomes reasonably sympathetic to the different situations which occur. Therefore, it is not so difficult for the legal man who happens to become a judge to decide between the two conflicting views submitted to him.

This problem is already in the Act. It is not possible always to decide whether the tribunal is, in fact, the right forum or court in which to bring the proceedings, and many instances of this can be

quoted. The Minister himself has quoted one in his second reading speech, and I need not go into its details because I am sure members would agree the Minister's comments on that are unquestionable.

The tribunal lacks quite a lot of other powers which courts have. The tribunal does not have any power, for instance, to grant injunctions which are very important because they allow one to prevent someone else bringing proceedings elsewhere when there are proceedings before the tribunal. The tribunal cannot do that. It cannot grant injunctions. Two cases for the one person may proceed in two different courts more or less at the same time. They could not be held on the same date, but the proceedings may be brought in two courts; that is, in the tribunal and in the Supreme Court. This is a most undesirable state of affairs and is also most costly for the litigants. Some people believe all that members of the legal profession are interested in is earning costs. I am not talking on that score at all. I am trying to advocate methods by which costs might be cut. In fact, if members will study the amendment I have on the notice paper they will see it is designed for this very purpose. This is one practice of the tribunal which could be adopted to save additional fees.

Such cases are not isolated. There are many borderline cases. If they were not borderline they would not be cases at all. If they were open-and-shut cases, there would be no need to litigate about them. If a person has a fairly obvious claim and comes in and states the facts and someone else who was clearly negligent has been prosecuted by the police and convicted, there is no argument. That is an open-and-shut case. The other side may concede the claim and the only question which arises is the assessment of damages.

However, there are many cases which are not so clear-cut and that is exactly why they are taken to court. They are borderline cases because there are shaded areas where neither lawyer is quite sure. If lawyers really searched their consciences —if they were facing the last judgment and that light shone on them—they would have to admit there are certain shaded areas when they are not quite sure whether their clients are on the right or the wrong side of the line. I do not mean they distort the facts. There are shaded areas of law because it is just not possible to codify the law to cater for every human situation.

When I was a law student this was a favourite subject of debate: Could we not have a completely codified system of civil law? It was quite apparent to me after participating in some of those debates that this is an impossible Utopian dream. It would be very nice if we could codify all aspects of the civil law, but we cannot. Napoleon tried to achieve it and he did a pretty fair job. However, the French law has varied in so many ways over such a great spectrum, that the Napoleonic law is only the bare bones of French law today.

We have tried to channel everything into the tribunal. We just cannot divorce motor vehicle accidents from all the other accidents of life because the man or woman who has suffered a personal injury does not feel it matters a great deal whether it occurred in a motor accident or a domestic accident, whether it was as a result of driving in a vehicle or being knocked over by a vehicle, or whether it was as a result of falling off a ladder when mending the drain pipe.

It amounts to the same thing. They have suffered personal injury and if that personal injury involves negligence the case should be assessed irrespective of whether or not the person concerned was involved in a motorcar accident. Personal injury is something which should be assessed on the basis of how much negligence is involved, where the degree of negligence lies, and what damages are suffered, irrespective of whether or not a motor vehicle is involved.

I will admit we have become preoccupied with the motorcar, and I also admit there are very good grounds for people to say and to think we should try to localise the motor vehicle accident work in an attempt to keep it in one area, because there are so many motor vehicle accidents. Well, we tried the system in Western Australia and we are one of the few places in the world that has tried it. However, I am afraid it has not worked satisfactorily, as far as the public is concerned.

I have mentioned the case of two actions which may run simultaneously, though only one should be involved. A number of illustrations appear in the Minister's second reading speech, and they are based upon the report made by a leading barrister who has studied motor vehicle accidents.

The report, although presented by a particular barrister, went to the Law Society and a committee of the Law Society studied it. In fact, I understand that the council of the Law Society unanimously endorsed the report. The Law Society is prepared to say that the legal profession is almost 100 per cent. behind the report and I think that is something which should be taken into consideration. We should not continue the existing system. I support the Bill and I have an amendment on the notice paper. My amendment will be of some assistance because it will provide a procedure for exchanging medical certificates. It will reduce some of the confusion which might otherwise take place if medical certificates are not exchanged.

The Hon. L. A. Logan: The amendment does not appear on the notice paper.

The Hon. I. G. MEDCALF: I do not know what happened to it; perhaps it is a printer's error. I apologise, but I handed the amendment in. It was given back to me and I understood that it had been placed on the notice paper. It may have been my error; I do not say the error was on the part of the staff. However, I can make a copy of the amendment available and I again apologise for its not appearing on the notice paper.

One further point raised in connection with the consideration of motor vehicle third party claims is that there must be consistency in judgments. There must be some relevancy between the decision of one judge and the decision of another judge. I have already mentioned that no two cases are the same but not everybody will agree with that opinion and they will say that one particular case is the same as another particular case. However, when the cases are examined it is usually found that they are not the same.

The argument has been put forward that there should be consistency, as far as possible, in awards made by the court. It was also suggested that the tribunal would provide that consistency because all cases would be heard by the tribunal. It is true that if the same people heard every case there would be more chance of consistency. If the same people are doing the same job all the time they will get to know roughly what they will do in certain cases so there should be some consistency.

The tribunal consists of a judge and two assessors who sit on every case. However, unfortunately a delay has already developed in the proceedings for the simple reason that the same people have to hear every case. We had the situation where the chief judge of the District Court was unable to sit on all cases so we have made it possible for the judges to rotate. We now have the situation where the tribunal consists of the same assessors but the chairman changes periodically because we have different judges.

It might be said that to a certain extent we have broken down the system. However, we still must have two assessors who hear every case which, in fact, is causing the delay. The only alternative is to appoint another tribunal and more assessors but that would immediately destroy the very argument that the same people should hear each case because people have different ideas.

We must decide whether we should keep the tribunal and appoint more assessors, or have another tribal to sit jointly with the present tribunal. However, that would destroy the consistency about which we have heard so much.

We should allow third party claims to go back to the courts where the actions can be heard independently by judges. Only one judge is required at a time so there will be five separate avenues in which to hear these cases.

The Hon. S. T. J. Thompson: How does the backlog of the tribunal compare with the previous backlog?

The Hon. I. G. MEDCALF: A case cannot be heard before the tribunal until October, at the present time. However, a case can come before the Supreme Court in three or four weeks' time. Also, another judge—Judge Kay—has been appointed to the District Court. The District Court now comprises five judges. I will not name them. I suggest that if any problems arise the District Court can be enlarged further if necessary because there is no limit on the number of judges.

When the tribunal was introduced we had only the Supreme Court in which to hear claims. Now, in addition, we have five judges of the District Court so it seems pretty obvious that we do not need the tribunal and we would be better off as a community if we allowed this jurisdiction to go back where it belongs; into the general area of negligence where damages can be assessed irrespective of how the injury is caused. No matter how a person suffers an injury because of negligence, he should receive the damages to which he is entitled.

I want it clearly understood that I am not criticising the tribunal personally in any respect at all. I have nothing but praise for the way the tribunal has conducted its hearings. I have not questioned the fact that the tribunal was brought into existence to answer a need at a time when there was no District Court. I do not question the good faith of the previous Government which brought this tribunal into being. I believe the Government had good reasons for doing what it did.

However, I say this is part of evolution. Every now and again there must be a change and we must rationalise our procedures. I believe we would do a service to the community by now reinstating this jurisdiction in the District Court.

THE HON. L. A. LOGAN (Upper West) [12.41 p.m.]: Like Mr. Medcalf, I believe this is a very important Bill, but my approach to it is somewhat different from his.

I remind Mr. Medcalf and the House that when this legislation was introduced in 1966 it was subjected to a great deal of consideration and investigation by a joint party committee on which were two legal advisers. They accepted the situation. It was one of those measures which the Leader of the Opposition was very adamant should be passed.

To bring in legislation in a manner like this for the abolition of this tribunal is, in my opinion, not giving Parliament what it deserves. I will not call them reasons

which the Minister gave; rather would I call them excuses because, despite the anomalies that have been mentioned, I challenge the Leader of the House and Mr. Medcalf to prove to me that even one individual has been disadvantaged because of the so-called anomalies. I challenge them to name one person who has been disadvantaged since the tribunal was brought into being.

What is more, I thought the Motor Vehicle Insurance Trust was responsible for third party insurance in Western Australia. I thought third party insurance had been the function of the trust since 1943. I did not think third party insurance was the Law Society's job. But despite the fact that third party insurance has been administered by the Motor Vehicle Insurance Trust since 1943, the trust was not consulted about this Bill. The trust has had the responsibility since 1943. Surely it should have been asked for its views and should have been consulted before this measure was brought to Parliament. I repeat that third party insurance is the responsibility of the trust, not of the Law Society.

The Hon. A. F. Griffith: The trust has the responsibility as an insurer, not as a law court.

The Hon. L. A. LOGAN: The trust has to decide every claim for third party insurance that comes before it and it has to work out to the best of its ability the damages and liability.

The Hon. I. G. Medcalf: But it is trying to cut the damages down all the time. The Law Society tries to obtain a fair measure of damages.

The Hon. L. A. LOGAN: A very small percentage of the cases that go before the trust ever find their way into court. It will be found that the trust is doing a very good job of assessment. I think in some respects we could cut out all the courts and let the trust do the job. Everyone would then get a fair crack of the whip.

I have not the figures of the total number of cases, but it is a large number—thousands more than ever reach the court. I repeat that not one person has been disadvantaged because of these so-called anomalies. Had our Government still been in office, amendments would have been made to section 16 of the Act to overcome these anomalies. I am certain the majority of them could be overcome by amendment of the present Act.

I would have thought the advice of the trust would be of prime importance not only to the Government but also to the members of this Parliament. I do not know that it could be classed as an insult but if I were a member of the trust I would feel I had been insulted on hearing this measure was before Parliament had I not been consulted about it.

One of the main aims in setting up the trust was to achieve some stability and uniformity in third party claims and speed up the hearing of claims. The tribunal has listed over 2,690 cases since its inception. It has finalised 2,074 cases, and of those 1,738 have been by consent. Surely that is proof that the trust has made suggestions in regard to the settlement of claims which never reached the court because the legal advisers had come to the conclusion that they would not have been awarded any more had the cases gone to court. They know what to expect; they know when to settle out of court. Of the 2,074 cases, 1,738 have been settled out of court. If any further proof is needed, of those 1,738 cases, 907 were listed for hearing; immediately prior to the hearing the legal advisers for the appellants decided to settle and the cases were not proceeded with.

This is where delay takes place when there is no need for it. If those 907 cases could have been settled 14 days prior to the time they were heard, they would not have had to go to the tribunal for hearing, and another 907 cases could have been listed. If other cases can be settled out of court without being listed, the majority of these 907 cases could have been settled before they were listed, but once they are listed they must go to the tribunal. Fourteen days' notice must be given for a case to be heard.

The Hon. I. G. Medcalf: How do you know that?

The Hon. L. A. LOGAN: How do I know what?

The Hon. I. G. Medcalf: That these cases could have been settled before they were listed.

The Hon. L. A. LOGAN: I said the majority of them, and I think if the honourable member examines some of them, he will find I am right.

The Hon. I. G. Medcalf: Have you examined the 900 cases?

The Hon. L. A. LOGAN: No.

The Hon. I. G. Medcalf: It is only a guess?

The Hon. L. A. LOGAN: What transpired in the 14 days that the parties did not know before?

The Hon. I. G. Medcalf: How do we know?

The Hon. L. A. LOGAN: Some of these cases are two or three years old and the parties could not make up their minds in a fortnight, and yet in one day they were able to do so. This needs examining and for this reason I say Parliament is being asked to decide something about which it knows insufficient. For this reason I would prefer the matter to go before a Select Committee.

The Hon. I. G. Medcalf: Would you like to be forced to settle your case if you did not want to?

The Hon. L. A. LOGAN: It is very obvious in that 14 days the solicitor has decided he will not obtain any more money for his client by going into court, so he settles out of court. Parliament is entitled to know these things.

Sitting suspended from 12.52 to 2.15 p.m.

The Hon. L. A. LOGAN: Before the luncheon suspension I was dealing with the tribunal and I referred to the cases which are listed, those which have been decided, and the appeals which, in my opinion, perhaps could have been avoided with a little more co-operation from the legal fraternity.

The present situation is that if a case is listed and is finalised before it goes to the court, then no other case may be listed within 14 days. Probably the judge can find something else to do with his time, but the two lay members of the court cannot find anything else to do. Therefore, their time is completely wasted. I am sure methods could be found to overcome this problem.

It is interesting to note that of the cases which have been finalised, 57 were listed for appeals in the Supreme Court. Of those appeals, 12 awards were increased, two were reduced, 18 were dismissed, six were withdrawn, and the information regarding the other 19 is not available. Presumably, some of those appeals will not proceed. So, all in all, we find that the Supreme Court has disagreed with decisions in only 14 cases. From this I think we can judge whether or not the tribunal has fulfilled its function.

I mention also the number of consent judgments. I think these two factors in themselves prove that the tribunal has been able to achieve a level of uniformity.

Probably one of the reasons that the Law Society objected in the first place is because it did not like the idea of laymen or assessors sitting on the tribunal. However, I stress again that those laymen are first class as far as determining quanta is concerned. I do not think one need have a legal mind to work out the quantum; one needs only common sense.

If we were able to return to the original intention of the legislation, and merely appoint a deputy chairman, I am sure the tribunal could handle the situation without much trouble. I think it is unfortunate that at the time of the setting up of the District Court system the Government of the day required Mr. Syd Good to leave the tribunal in order to undertake that task. In my opinion, that is when we started to go wrong. Had Mr. Good been allowed to carry on in his position we could have found a deputy for him and many of the present troubles would not have arisen.

If the tribunal is abolished we will have the situation of cases being heard by seven judges of the Supreme Court, five judges of the District Court, and even by magistrates. It is quite possible that magistrates will hear cases. So we will have a large number of people hearing third-party cases. I believe we will reach the stage we reached previously when we found judges giving a judgment on one case and an entirely different judgment on another. Whilst I appreciate that not all cases are similar, many cases are almost identical in value. What is more, as a result of amendments which are mooted, the District Court judges will be able to deal with cases involving up to a maximum of $10,000 in the ordinary course of their work. At the present time the limit is $6,000.

However, if they deal with third party claims, the sky will be the limit, which is indeed a strange situation. In the ordinary course of the law the district court can award damages only up to an amount of $10,000, but in regard to third party claims the sky is the limit. The sky would also be the limit if a magistrate presided over the hearing of a third party insurance claim. Therefore, this is a point that needs to be clarified.

In his introductory speech, the Minister stated that, in 1967, the Law Society and the Royal Automobile Club were opposed to the establishment of the Third Party Claims Tribunal. On this occasion I notice that the Minister conveniently omitted to make any mention of the R.A.C. This organisation has not supported the abolition of the tribunal.

As far as I can ascertain the request to the Government to abolish the tribunal came from only one spokesman of the Law Society, and on this basis the Government has taken steps to introduce this Bill to abolish the Third Party Claims Tribunal. So it is a case of one member of the Law Society putting up a case for the abolition of the tribunal and the Government supporting it.

During his speech Mr. Medcalf said that the reason we should have legal representation is to enable both sides of the argument to be put forward. I would like the same opportunity to be given in this House. I would like to see a member of the legal fraternity put forward the argument advanced from this side of the House in opposition to the case presented by a legal man on the opposite side of the House.

The Hon. I. G. Medcalf: You would have trouble finding one; perhaps you may find two.

The Hon. L. A. LOGAN: I think I could find more than that.

The Hon. I. G. Medcalf: You name them.

The Hon. L. A. LOGAN: I do not have to name them.

The Hon. I. G. Medcalf: You should.

The Hon. L. A. LOGAN: I would like to see a legal man argue some of the points that are being advanced from this side of the House, but we are being denied that opportunity. As I am not a legal man I do not argue the points that have been raised, except in regard to two of them, and I will mention those two fairly quickly. There is the case of a person who is insured in the Eastern States. I do not think anybody can say there have been any problems in regard to such a person, because a man is either insured or he is not. Further, if he is not insured he has a case against the Motor Vehicle Insurance Trust. I do not know of any person insured in the Eastern States who has been embarrassed on this account.

During the course of his speech, the Minister mentioned the case of a similar person being indemnified under the Workers' Compensation Act. However, he has not cited any particular case in regard to which these circumstances have occurred. It is not good enough to say that these cases occur when they do not. I think we should know all the facts and be given all the information when such cases are cited, because I think a serious situation will be created if this tribunal is abolished.

In the existing set-up, a registrar is attached to the tribunal. At the inception a statistical register should have been kept, but this was not done. However, a commencement was made on a register so that a record could be kept of all the information relating to the circumstances surrounding various motor vehicle accidents, the damages awarded, and all other relevant information. So I contend that the Government has not presented a valid case for the abolition of this tribunal.

I reiterate what I said earlier; namely, the Government cannot point to one case where a person has been disadvantaged because of any anomalies in the existing legislation, and I repeat it would not be difficult to amend the present Statute to rectify the anomalies instead of abolishing the tribunal, as proposed under this Bill.

I also stated that the Motor Vehicle Insurance Trust has never been consulted in regard to this Bill, and that no member of that organisation has ever asked for the tribunal to be abolished. Surely we are legislating for the benefit of every motorist, and I maintain that the tribunal has fulfilled its function in trying to achieve uniformity. Mr. Medcalf spoke of the delay in the hearing of cases. I cannot guarantee it, but the information I have received, for what it is worth, is that at the moment the tribunal is listing cases for October. This is the month of May; so October is not so very far ahead. However, I understand the District Court is also listing cases for November.

The Hon. A. F. Griffith: I understood this was the month of June and not May.

The Hon. L. A. LOGAN: That makes it all the better because it will not be long before October is reached. Therefore, there is not any great delay in the hearing of cases by the tribunal. I understand that the judges are also listing cases for October and November, and that some may be listed for 1973. So if all the claims that are before the tribunal now are transferred to the District Court, one can only reach the conclusion that there will be further delay in the hearing of these cases and I would hate to see us reach the situation in which we were placed previously.

Had there been a clamour from the R.A.C. and from motorists around the metropolitan area we could have understood the reason for this move but the request for this measure has come from the Law Society and the case presented to us by the Leader of the House was based mainly on one man's brief. I repeat—because I think it is worth repeating—that nobody has ever established to my satisfaction that any one person has been disadvantaged because of the so called anomalies in the existing legislation.

I do believe that in the interests of the public with which Mr. Medcalf and I are concerned the Bill should be referred to a Select Committee, so that we may be given all the facts. If after the Select Committee has made its inquiries it is proved that what the Law Society and Mr. Medcalf have said is correct, then I am willing to accept the decision. However, we are entitled to look into the matter first. At the appropriate time I intend to move for the appointment of a Select Committee.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [2.31 p.m.]: I feel it is incumbent on me to say a few words in this debate, and to declare my attitude towards the proposal of Mr. Logan to move for the appointment of a Select Committee at the appropriate time. I must confess that when I saw notice of intention given in the Legislative Assembly to introduce this legislation, and it concerned motor vehicle third party insurance, I became quite excited. Unfortunately shortly after that my excitement was quelled, and I became dismayed.

The reason for my excitement was the reference in the Governor's Speech to motor vehicle third party insurance, a matter on which I have been asking questions for a year; a matter which was before the public 18 months ago; and a matter which I believe has a considerable force on the thinking of the public in respect of a very vital issue.

Insurance in all its forms—life, third party, and comprehensive—is with us, and we cannot do without it. It is only a fool who insures his car, his goods, and his chattels, but not himself. If he does not then when he dies his car, his goods, and his chattels will no longer be insured because there is no-one to continue paying the premiums.

I refer to the Labor Party policy speech before the last election. One of the promises contained therein was—

> We are of the opinion that the State will be better served by the institution of an entirely new method of insurance for compensating victims of motor vehicle accidents than by a continuation of present procedures for recovery of damages arising out of such accidents which result in unnecessary dissipation of part of the funds which should be received by victims of accidents as compensation.
>
> The premiums on motor vehicle insurance are regulated in a considerable degree by the incidence of accidents upon the highway and the increases in premium costs which are imposed from time to time on the buyers of motor vehicle insurance emphasise the need for a better and less costly method.
>
> We propose to institute a scheme for insurance covering motor vehicle accidents to provide compensation for motor vehicle damage, injury and death regardless of fault.
>
> We expect a much lower premium cost of motor vehicle insurance to result and a principal factor towards this will be the encouragement of more defensive driving which is expected to result in fewer highway accidents.
>
> To attain this end there must be a greater encouragement of better driving habits. Poor driving habits lead to traffic violations and generally speaking the drivers who disregard traffic laws are more accident prone than those who observe these laws and the courtesies of the road.

Unfortunately this continues to be a pie in the sky.

The subject under discussion is one of the most important matters affecting the community, and I am tired of asking questions on it in this House. Obviously what was set out in the Labor policy speech was an election catch to attract the large number of people who drove motorcars. The great majority of the people realise that they have to bear the expense incurred by the small minority of motorists who drive carelessly and kill people on the road; and they are tired of the ever-increasing premiums. So, we can no longer regard the Labor policy speech and the promises to the people as being worth anything. I hope I am wrong. I think the Labor Party is still working hard on this problem, and I hope it will in the course of time be able to come forward with a solution, as was indicated to us.

I can understand the approach of Mr. Logan to this matter, because it was very largely he who was responsible for setting up the Third Party Claims Tribunal. Perhaps he is now seeing the good work which he did in those days being destroyed.

I must confess that I have never been happy about the setting up of the Third Party Claims Tribunal, as I have always believed that the administration of the law belongs to the law courts. Be that as it may, the previous Government made a move towards assisting that tribunal about two years ago, as a result of delays in the hearing of cases and the great lag that existed.

When the District Court system came into operation the chairman of the tribunal was made a judge. He was also made the chairman of judges of the District Court, and the jurisdiction of the Third Party Claims Tribunal was passed over to the District Court judges to a considerable extent. Now the Government is proposing to go the full way, and abolish the tribunal. It seeks to return the jurisdiction to the Supreme Court. I cannot find any fault with such a move, because I believe it to be correct.

Mr. Logan has suggested that this is being done by the Government on the report and recommendation of one person. That cannot be taken as correct, if a letter which I have received can be taken as any guide. I am sure it would not have been written if the facts it contains were not correct. The letter is dated the 1st June, and is as follows:—

> Dear Sir,
>
> As President of the Law Society I am writing to you in your capacity as Leader of the Opposition in the House concerning the Bill now before the House to abolish the Third Party Claims Tribunal.
>
> The Council of the Law Society recently decided to ask the present Government to take steps to abolish the Tribunal and suported its request with a report detailing reasons why the Tribunal should be abolished.
>
> My Council was unanimous in taking this course of action and I believe that an overwhelming percentage of members of the legal profession generally support the Council's action and approve the report forwarded to the Attorney-General.
>
> I therefore trust that the party you represent will support the move to abolish the Tribunal.
>
> Yours faithfully,
>
> P. F. BRINSDEN,
> President.

I did not invite that letter, but apparently the President of the Law Society thought I should be informed. If we accept what the letter says—that it was the unanimous decision of the council of the Law Society, which represents the legal profession of Western Australia—then the action being taken by the Government has its backing.

The only other matter on which I wish to comment is the projected move by Mr. Logan for the appointment of a Select Committee to inquire into the advisability of the Government's proposal.

If Mr. Logan were to move for the appointment of a Select Committee, without doing him an injustice in any way, I imagine that from his side of the report there would not come a strong recommendation that the third party tribunal be abolished.

The Hon. L. A. Logan: What did you say?

The Hon. A. F. GRIFFITH: I said that if a Select Committee were appointed, Mr. Logan would no doubt be chairman, and I would expect him not to adopt any other attitude than one which would recommend the retention or continuance of the tribunal.

The Hon. L. A. Logan: I take exception to that. If I were a chairman of any committee I would come up with a fair and impartial report!

The Hon. A. F. GRIFFITH: I tried to be careful about what I said and not make any accusation. I said I would expect—

The Hon. L. A. Logan: That is implying I would do it.

The Hon. A. F. GRIFFITH: No, it is not.

The Hon. L. A. Logan: Yes, it is.

The Hon. A. F. GRIFFITH: All right. As they say in some spheres of responsibility, let us strike that from the record and do not regard it as any accusation because it was not intended in that way. I merely meant to say that I know the honourable member holds very strong views on this matter, and that therefore it is unlikely his views would change.

However, be that as it may. That is not the peg upon which I hang my hat on this particular argument. I cannot see how any value would be obtained by appointing a Select Committee to inquire into this matter.

I have an equally strong conviction that the jurisdiction of the law courts belongs with the law courts and in fact that is where it should be. The trust is, in fact, an insurance company. It is a body to which all those who own a motor vehicle are obliged to pay a premium which goes into the funds of that trust in order that each and every motorist might be insured within the bounds of the responsibility of the trust in case he is involved in an accident.

To my mind that is where the responsibility of the trust starts and finishes, and I do not believe the Government has any responsibility to go to the insurance company to ask its opinion concerning what we are doing.

The Hon. L. A. Logan: It is not an insurance company.

The Hon. A. F. GRIFFITH: That is a matter of opinion. I do not believe the Government has that responsibility because if the Government were told by the trust that it should do something quite unreasonable in the opinion of the Government, then the Government naturally would not take any heed of its advice.

I do not intend to refer to that aspect any further except to mention that it is important to realise the trust is, in a manner of speaking, the defendant in connection with all the types of motor accidents in which we find ourselves involved. It is the defendant because it is responsible for the payment of damages which the tribunal awards to the parties as a result of what is commonly called a running-down case. That is the situation; and I repeat that I do not believe anything would be gained by the appointment of a Select Committee. Although I realise the strong views held by Mr. Logan on this matter, and I appreciate how he feels because he considers the tribunal has done a good job over a period of time, I regret I cannot join him on the vote.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.44 p.m.]: I appreciate the debate which has taken place on this Bill, but I particularly appreciate the situation in which Mr. Logan finds himself because he was what we might call the author of the tribunal. From memory I think that at the time he proposed the Bill I supported it because I believed at that time we could categorise situations and call them equal. I more or less believed we could place cases into pigeon-holes according to the circumstances of the injury. I thought that we could in this way relate case A to case B. However, in the course of time I have realised that this is not possible at law because although the facts may be the same, the essentials may differ in the way Mr. Medcalf so adequately described.

Consequently I sincerely believe that, having tried the system, the time has now come for a return of jurisdiction to the courts because they are more capable of handling the cases which arise as a result of motor vehicle accidents.

With regard to the honourable member's foreshadowed move for the appointment of a Select Committee, I do not think any good purpose will be served if such a committee were appointed because it could not, in my opinion, deal with the problem with

all its legal manifestations with the background knowledge it would require to adequately do so. Consequently, of course, I commend the Bill to the House, but must oppose any move for the appointment of a Select Committee.

Question put and passed.

Bill read a second time.

Reference to Select Committee

THE HON. L. A. LOGAN (Upper West) [2.46 p.m.]: I move—

That the Bill be referred to a Select Committee.

I do not think there is any need for me to enlarge on what I have already said. I have given all the necessary reasons for my motion. The Leader of the Opposition only confirmed my belief that this move is necessary because he said that the only approach made to the Government was by the Law Society—no-one else. I believe that Parliament could gain a great deal of information from the appointment of a Select Committee. I thought I had given enough reasons this afternoon to justify the appointment of such a committee. Once the tribunal is disbanded it could never be re-established and the people of this State would regret such a step. If this Bill is carried, history will record this, I am sure.

THE HON. I. G. MEDCALF (Metropolitan) [2.48 p.m.]: I am afraid I cannot by any stretch of the imagination believe any case has been submitted to the House to justify the appointment of a Select Committee on this Bill. I am quite certain Mr. Logan would not gain any more information as a result of his service on a Select Committee than he already has about this Bill and the tribunal proceedings generally. I say that without any hint of disrespect to him. I do not wish to be misinterpreted. All available information has already been submitted to Parliament and to the public on many occasions. I believe the community is well aware of the situation. In 1966 protracted debates were held on this subject. Mr. Logan will recall the debates which took place in both this House and in another place, but the debate in another place so ventilated the matter that the public and the Press were made well aware of it.

Since that time there has been a marked awareness in the community that matters such as this should be dealt with in their rightful place. The motion for the appointment of a Select Committee really restricts me to commenting on whether or not there is justifiable ground for a Select Committee on this Bill.

I do not believe it is out of place for me to say that I agree with Mr. Logan when he says that there are some lawyers who would agree with him. I am quite aware that some lawyers would agree and I do not want to give the impression that the legal profession is unanimous with regard to its outlook on this matter. I think it is 99 per cent. unanimous but I would never believe that the legal profession would be unanimous on any point for the simple reason that the whole essence of the profession is that it represents different parties and different points of view. Lawyers must look after the rights of individuals.

I believe lawyers are virtually unanimous when it comes to this matter except that there may be one or two people—possibly some lawyers who act for the Motor Vehicle Insurance Trust—who would be prepared to take the opposite point of view. I would be quite prepared to listen to that point of view and have an opportunity to debate it in this House. I should say, however, that there are three lawyers in the other House and they hold the same opinion as I do. They are all of the same mind and I think that is an indication of unanimity in the legal profession.

I believe the letter quoted by Mr. Arthur Griffith, from the President of the Law Society, indicated there was practically 100 per cent. unanimity. The original report might have been that of one man, but the Government is acting on the virtually unanimous opinion of those who have the greatest single burden in the community—looking after the rights of individuals. I say that advisedly because I know there are many other groups who do a magnificent job in respect of looking after individual rights.

The individual people and Ministers do a magnificent job. Indeed, Mr. Logan, himself, is a case in point. He often looked after individual rights in certain positions he formerly held. The legal profession is charged basically with this task and I believe it is proper for the Government to have taken its advice. If other sections of the community were canvassed it would be found that this procedure was supported.

I do not believe it is necessary that we should have a Select Committee to inquire into this matter. We have to draw the line a little on Select Committees, otherwise we could, by this means, inquire into everything which comes up. We should resist the temptation to appoint a Select Committee to inquire into anything which causes some difficulty to only one or two persons. I can sympathise with Mr. Logan in the position in which he finds himself. Perhaps the word "sympathise" is not quite right because Mr. Logan certainly does not want sympathy. I have the feeling that as the virtual author of this Bill he may feel that the child which he created is about to be done away with. It is natural and quite right for him to stand up and defend the situation. However, I do not decide this

matter because of my concern for individual feelings. Indeed, we have all at some time had the spectacle of seeing something which we created changed in some way.

I would like to draw the attention of the House to one further point which I believe is relevant. Since we established the tribunal in 1966 we have created an additional court with five judges. That makes a tremendous difference.

The Hon. A. F. Griffith: I mentioned the matter; the District Court.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.55 p.m.]: I do not intend to take up much time by repeating what I said during the second reading debate on this Bill when Mr. Logan foreshadowed that he intended to move for a Select Committee. I repeat: I can see no good purpose in the appointment of such a committee.

I believe this legislation will be better than that which it will supersede and, therefore, I oppose the proposal.

THE HON. C. R. ABBEY (West) [2.56 p.m.]: The motion moved by Mr. Logan does not seem unreasonable to me. We have had quite a number of Select Committees agreed to and appointed by Parliament during this session.

From the debate which has taken place I have no doubt that the legal profession speaks largely with one voice, and that is quite right as far as that profession is concerned. However, I can see no harm in ascertaining the public attitude and the public experience regarding this matter. Surely we should know how the public has been treated by the tribunal. I think it is very reasonable that we should inquire into this matter.

Question put and a division taken with the following result:—

Ayes—5	
Hon. C. R. Abbey	Hon. F. R. White
Hon. L. A. Logan	Hon. N. E. Baxter
Hon. S. T. J. Thompson	*(Teller)*

Noes—20	
Hon. G. W. Berry	Hon. G. C. MacKinnon
Hon. R. F. Claughton	Hon. N. McNeill
Hon. S. J. Dellar	Hon. I. G. Medcalf
Hon. J. Dolan	Hon. R. H. C. Stubbs
Hon. L. D. Elliott	Hon. W. F. Willesee
Hon. V. J. Ferry	Hon. R. J. L. Williams
Hon. A. F. Griffith	Hon. F. D. Willmott
Hon. Clive Griffiths	Hon. W. R. Withers
Hon. J. L. Hunt	Hon. D. J. Wordsworth
Hon. R. T. Leeson	Hon. R. Thompson *(Teller)*

Pair	
Aye	No
Hon. J. Heitman	Hon. D. K. Dans

Question thus negatived.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. W. F. Willesee (Leader of the House) in charge of the Bill.

Clauses 1 to 8 put and passed.

Clause 9: Amendment to section 33—

The Hon. I. G. MEDCALF: I regret that inadvertently an amendment I propose to move has not been placed on the notice paper. It was my intention to do this, but I did not take the final step necessary to achieve this through my attention to other matters. For that reason members have not had an opportunity to study the amendment. However, it is not particularly complicated and I will do my best to give as brief and as clear an explanation as is possible. I draw attention to existing section 33(3) which we propose to amend. That section says—

> For the purposes of proceedings before the Tribunal, a medical report the substance of which a party intends to adduce in evidence, at some stage of the proceedings, is not a document that may be withheld on the ground of privilege by that party.

This means that if a person is a party to a third party claim for damages and the trust wants to look at the medical report, that person must produce it. The normal situation is that a private person can claim he does not have to produce a medical certificate until he comes to the trial. At this stage the judge sees it and the other party also sees it. However, under the Motor Vehicle (Third Party Insurance) Act there is a provision that medical certificates must be produced.

The Bill proposes that the subsection in question be taken out of the legislation altogether and the effect would be that medical certificates would no longer be produced until the case came to trial.

I believe this is one of the very things Mr. Logan was considering referring to; namely, the fact that some of these cases may come to trial when they could be settled previously. I think I am right in interpreting him in that way.

The Hon. L. A. Logan: That is right.

The Hon. I. G. MEDCALF: My objective is to put back into the section of the Act the basic provision that medical certificates can be produced at the stage where the case is set down for trial. The case is normally set down for trial some time in advance of the actual trial. This would mean that at that stage a medical certificate can and must be produced upon the request of the other party. I believe this is good, because at the time a case is set down for trial—that is, the time it is entered for trial in the court—the party entering it should know what his case is and he should know what certificates he will produce. If he does not know, it is his own fault. At that stage he has not incurred the heavier counselling fees which would result if, in fact, it came to a court hearing. The time it is set down for trial could be perhaps three to five

weeks before the actual hearing. At that stage the other party could obtain all the medical certificates he proposes to produce in the court.

This will give both parties the opportunity to exchange medical certificates, because both parties have them. Not only the party claiming damages, but the trust, too, has certificates because it has the right to have a person examined by its own doctors. This will, in some cases, mean the settlement of an action, and I think that is what Mr. Logan wanted. The effect of the proposal will be to reduce costs which might otherwise be unnecessarily incurred.

I have been informed there is no such provision as this in Victoria and, consequently, in some cases it is not known until the day of the trial what the medical certificates are. Of course, fees paid to counsel are increased as a result of this.

The object of the amendment is to enable an exchange to be made as soon as the case is set down for trial when each party should know exactly what evidence it proposes to bring. If it is not known, it is the fault of the solicitors, because it should be known at that stage. I move an amendment—

Page 6—Delete paragraph (c) and substitute the following:—

(c) by deleting the passage "before the Tribunal," in lines one and two of subsection (3) and substituting the passage "making a claim for damages, in respect of the death of or bodily injury to a person caused by or arising out of the use of a motor vehicle, against the owner or driver of the vehicle or against the Trust which proceedings have been entered for trial".

The Hon. W. F. WILLESEE: I have discussed the amendment with the Attorney-General. He advises me he is quite happy with it and, therefore, I support it.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 10 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and returned to the Assembly with an amendment.

LAND AGENTS ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. V. J. Ferry, read a first time.

DISTRICT COURT OF WESTERN AUSTRALIA ACT AMENDMENT BILL

Second Reading

Debate resumed from the 31st May.

THE HON. I. G. MEDCALF (Metropolitan) [3.13 p.m.]: This is a small Bill which, in a sense, is a corollary of the Motor Vehicle (Third Party Insurance) Act Amendment Bill, in that it increases the jurisdiction of the District Court from $6,000 to $10,000. That is necessary in view of the changes which have been made.

Another important feature of the Bill is that it contains the same provisions as the Supreme Court Act—it provides power for the Treasurer to fix the interest on judgment debts from time to time. Instead of being a set amount it can be varied, depending on fluctuating interest rates in the economy. The Bill also enables the Registrar of the District Court to make rules for the business of the District Court in the same way as does the Master of the Supreme Court. I have no hesitation in supporting the Bill.

The Hon. W. F. Willesee: Thank you.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and passed.

IRON ORE (MOUNT BRUCE) AGREEMENT BILL

Second Reading

Debate resumed from the 31st May.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [3.17 p.m.]: Orders of the Day Nos. 4, 5, and 6 are all Bills which contain agreements, and these agreements were explained by the Minister when he introduced the Iron Ore (Mount Bruce) Agreement Bill.

At this very late stage in the afternoon, having regard for the Government's desire in respect of its legislation for the first part of the session, I feel it is unnecessary for me to go into a long statement on the various clauses of the Bills

and the agreements accompanying them. Suffice it to say that the Leader of the House gave us a very good explanation of these documents.

If one takes the trouble to read, as I have done, the debates in another place, one will see that the previous Minister for Industrial Development, my colleague, Mr. Court, gave a very detailed and clear account of the history of the original agreement and the reason for the amending legislation now before us. It would be a matter of repetition to go over all this ground. Any member who is interested in the history of the agreements would be well advised to refer to the debates in another place.

The areas given to the companies under this legislation were questioned, if not disputed, by Mr. Court in another place when he was speaking to this Bill.

Through the good offices of the Minister for Development and Decentralisation and the Minister for Mines an arrangement was entered into for the Co-ordinator of Development (Mr. Munro) to visit the House this morning and to bring with him the plans of the area to explain what had actually taken place. The explanation given by Mr. Munro satisfied The Hon. C. W. M. Court, and he in turn passed to me the information he had received from Mr. Munro. It appears that there is no longer any distance between the two Ministers and the member for Nedlands on this matter.

I would point out that these agreements are signed by the parties concerned. The first agreement is signed by the Premier, of course, and the common seal of Mount Bruce Pty. Ltd. is affixed to the agreement; and in the second instance the Premier's signature appears on the agreement and also the common seal of Hancock Prospecting Pty. Ltd. is affixed together with the signature of the governing director, Lang George Hancock, in accordance with the articles of association, and the common seal of Wright's Prospecting Pty. Ltd., is affixed as the authority for the directors of that company.

The third agreement again is signed by the Premier with the common seal of Hamersley Iron Pty. Ltd., affixed. Although this statement does not apply to the agreement contained in the Iron Ore (Mount Bruce) Agreement Bill, there is a great deal of legal complexity in the first and second Bills I have mentioned. Without in any way endeavouring to play any tricks on the Minister—because he knows I do not do that sort of thing—I would suggest that these agreements, to say the least, are extremely difficult to understand. I do not profess to understand the legal complexities of many of the clauses in the agreements, and I am afraid lawyers will have to work those out, but that is, of course, the work of lawyers.

Nevertheless I am prepared to accept the agreements as being those accepted by the State as a whole, following arrangements entered into by the Government and the companies concerned, and including variations of the original agreements. Therefore I cannot see any reason to go beyond saying that I support this Bill and the two measures that will follow it.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [3.23 p.m.]: I sincerely appreciate the approach of the Leader of the Opposition to these three Bills. If it so happens that he cannot, in any way, understand the legal complexities of them, I can only say that I have already demonstrated my simple knowledge of legal procedure, so I would not endeavour to explain the legal complexities to him.

I thank the Leader of the Opposition for his support of these Bills. They are important in the life and history of Western Australia and I trust the hopes and ideals of the people concerned, as set out in the agreements, will be fulfilled.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and passed.

IRON ORE (WITTENOOM) AGREEMENT BILL

Second Reading

Order of the day read for the resumption of the debate from the 31st May.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and passed.

IRON ORE (HAMERSLEY RANGE) AGREEMENT ACT AMENDMENT BILL

Second Reading

Order of the day read for the resumption of the debate from the 31st May.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and passed.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT AMENDMENT BILL

In Committee

Resumed from the 1st June. The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. J. Dolan (Minister for Police) in charge of the Bill.

Clause 6: Amendment to section 24—

The CHAIRMAN: Progress was reported after the clause had been partly considered.

The Hon. J. DOLAN: Yesterday I read from some information which had been supplied to me by the general manager of the board. During the discussion on proposed new subsection (2)(a) in clause 6(d) Mr. Medcalf suggested that three months was not a long enough period for a claim to be heard. I replied and indicated to him that rights of appeal were contained in the legislation. As I was not prepared, I could not indicate where these rights of appeal could be found so I moved that progress be reported.

I immediately contacted the general manager and told him that he had not indicated to me where the rights of appeal could be found. He referred me to proposed new section 57G(7). I then indicated to him that I did not feel this related to clause 6. He agreed with me and realised that no appeal had been provided in that clause. I apologise if I have misled members because I certainly did not intend to do so.

I consulted Mr. Medcalf and I now move an amendment—

> Page 3, line 13—Insert after the word "sustained" the words "or within such further period as the Minister may allow".

The general manager of the board is quite agreeable to this amendment because he said this was the practice already followed. If for any peculiar circumstances a person is not able to comply with this provision, the period is always extended. I have referred the matter to Mr. Medcalf and he has told me it meets with his wishes.

The Hon. CLIVE GRIFFITHS: I just want to correct the sequence of events, for the sake of the record. I would like to thank the Minister for the explanation he has given but I remind him that during the course of the debate yesterday he said there was provision for the right of appeal to the Minister, which is different from what he has said today. If he casts his memory back or looks at *Hansard* he will find that is what he said.

I then rose and asked the question whether in the Act there was provision for a right of appeal to the Minister. The Minister suggested it was my job to look into the Act and find whether this was so. However, the sequence of events was that Mr. Medcalf then rose and indicated he would insist because he, also, could not find in the Act this right of appeal to the Minister. The Minister for Police rose and indicated that because of the insistence displayed by Mr. Medcalf he would report progress so that he could ascertain this information.

It will be recalled that I interjected at that stage and said the Minister's notes referred to a right of appeal under an entirely different section; that is, a right of appeal to a local court. The Minister ignored that interjection. Therefore, we were not confused about his notes. The Minister said specifically that the right of appeal to the Minister existed. I questioned that.

That was the sequence of events leading to the reporting of progress and the subsequent explanation the Minister has given this afternoon. I thank the Minister for his explanation and advise that I will support the amendment he proposes.

The Hon. J. DOLAN: My purpose in asking that progress be reported was to enable me to arrive at the full facts so that I could report back.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 7: Section 57E added—

The Hon. CLIVE GRIFFITHS: I move an amendment—

> Page 4, lines 1 to 4—Delete subsection (3) of proposed new section 57E and substitute the following:—
>
> (3) (a) Before presenting a recommendation to the Governor pursuant to the provisions of this section the Board shall cause the proposed recommendation to be laid before each House of Parliament.
>
> (b) Either House of Parliament may pass a resolution rejecting the proposed recommendation, of which resolution notice has been given within fourteen sitting days of such House after the proposed recommendation has

been laid before it, whether or not the fourteen days or some of them occur in the same session of Parliament or during the same Parliament as that in which the proposed recommendation is laid before the House.

(c) The Board shall not present to the Governor a recommendation pursuant to the provisions of this section which—

(i) has not been laid before each House of Parliament;

(ii) is before either House of Parliament and is subject to rejection; or

(iii) has been rejected.

The Minister has already indicated that he is prepared to accept this amendment. It is a similar provision to that placed in the Aboriginal Affairs Planning Authority Bill earlier in the session. The purpose of it is to allow Parliament to have a look at the areas proposed to be proclaimed before they are proclaimed.

The Hon. J. DOLAN: I indicated yesterday that I was prepared to accept this amendment. I consulted the Water Board, which agreed to the procedure. Consequently, I support the amendment.

The Hon. N. McNEILL: I want to use this opportunity to elaborate on what I consider to be a matter of significance and importance which leads me to give my unqualified support to the proposed amendment.

Perhaps I can best illustrate this by giving the analogy of the circumstances which arose as a result of the construction of the Serpentine Dam for the supply of water to the metropolitan area. I was very closely associated with that in professional agricultural fields at the time.

Prior to the Metropolitan Water Board becoming involved and interested in that area, the local people—farmers and others—had access to and use of that water from the Serpentine River. When the dam was built the first effect was that the flow of the river water downstream from the dam was seriously diminished, making less water available for people who had riparian and irrigation rights. These people were very seriously affected because of this restricted flow of the water. Certain arrangements were made to release water downstream at least to keep the river bed clean, and that was the first action taken to make potable water available for stock purposes.

Subsequently, while people were still endeavouring to use the restricted flow of the stream, the Serpentine River was prescribed. This meant even the people who owned land on the river virtually lost the access which they had by long tradition, in many instances, and if they sold their properties or subdivided them the availability of water to subsequent owners was very seriously restricted.

That may, or may not, be justified. Undoubtedly the same situation will occur with the South Dandalup dam. However we are talking about wells and bores, and I have used that as an analogy.

The important thing is that, if this is laid on the Table of the House, it will give me—as well as other members, I am sure—the opportunity to ensure that due regard will be given by the Government to the availability of water for another purpose, say, metropolitan supply. We can safely assume that water will never be resupplied to those areas in as economical a form as it is at present available. This is tremendously important to all the people concerned and, I believe, ultimately to the entire State. It will never be as economical to supply water for irrigation or industrial purposes in these areas as is the existing supply. If that existing supply is restricted for, say, domestic consumption in the metropolitan area, people in those areas using water for farming or related purposes will forever be denied the opportunity of a supply which is as economic.

Perhaps I could instance the Snowy Mountains scheme. Some years ago very strong overtures were made to tap the Snowy Mountains scheme and use the water from Lake Eucumbene for domestic supply in Sydney. This never eventuated, in fact, but only because of the pressure that was exerted. To have taken the water for domestic supply in a big metropolis would have meant that the same water could not be used for irrigation and industrial purposes in the Snowy Mountains scheme. The water is, in fact, used both as a source of power and for irrigation purposes. It could never have been supplied anywhere near as economically as it had been in the past.

The corollary to this is that water for domestic and metropolitan supply can be obtained by other means which may, on the face of it, require very considerable capital expenditure, but it is still economic for this purpose. I am not referring necessarily to nuclear sources, although that may be one way. There will be distillation processes of one form or another, such as desalination. Under no circumstances is it foreseeable that those methods of producing water will ever be economic for other than domestic supplies.

We must bear in mind that if water is taken away from fringe areas, as they are now, those same areas will forever be denied that source of economic water, because there is no economic way of replacing it. For that reason—and if only for that reason—I welcome the inclusion of this amendment in the legislation. I feel it is most vital.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 8 put and passed.

Clause 9: Section 57G added—

The Hon. F. R. WHITE: Clause 9 is quite long. In fact, it covers some two to three pages and has seven subclauses. Yet, in his second reading speech the Minister covered the entire clause with the following words:—

> Clause 9 deals with the issuing of licenses and the conditions which may be applied, with a right of appeal set out in subclause (7) for any person aggrieved by any decision of the board in the matter. Appeal rights are as set out in section 57D which was inserted into the Act in 1970 when underground water pollution protection was applied.

I draw the Minister's attention to the first two lines, "Clause 9 deals with the issuing of licenses and the conditions which may be applied." I also draw attention to proposed section 57G(1) which reads as follows:—

> 57G. (1) An application for a licence referred to in section fifty-seven F of this Act—
>
> (a) shall be made to the Board in the prescribed form;

I have no objection to that. To continue—

> (b) shall be accompanied, if the application relates to the construction of a well or for the deepening, enlargement or alteration of a well, by the prescribed plans and specifications of the construction, deepening, enlargement or alteration of the well;

I draw attention, too, to the fact that "well" means any opening in the ground, whether it be a well, bore, or any other hole from which water is obtained.

When we were dealing with clause 6 I drew attention to the fact that the Minister was concerned it could be uneconomic for the board to enter onto land and have to purchase that land if a dry well resulted from its exploration. I maintain the same thing could apply to a private owner. If a private owner wants to put down a well or a bore—which is included in the same definition—he could strike a dry hole. He may have to put down a hole somewhere else and, yet, paragraph (b) will make it necessary for an owner who wants to put down a new well or alter the construction of an existing one to supply prescribed plans and specifications. I consider unwarranted expense would be incurred by anybody who wished to carry out this work. The clause does not give any indication of the extent of plans and specifications but, obviously, they will involve expense of some sort

For this reason I do not believe that paragraph (b) is necessary. I am sure paragraphs (a) and (c) would cover the requirements of the Water Board. Under paragraph (a) a person would make application in the prescribed form to the board for a license. I agree to that. Paragraph (c) reads—

> (c) shall be accompanied by a statement of the purposes for which the water from the well is to be used or is being used.

I agree to that, too, but I cannot agree to paragraph (b). As I have said, it would create an unwarranted expense and there is no justification for the action, because an owner may put down a dry bore and then have to go elsewhere. Very often an owner cannot even put down a bore until the bore plant comes in and he is given the advice of the operator. The operator may say the spot selected is not ideal and the bore should go elsewhere. This could mean that a second application has to be made. For this reason I shall take the opportunity to move an amendment.

Mr. Chairman, in order to move for the deletion of paragraph (b), must I move an amendment to add the word "and" to paragraph (a)?

The CHAIRMAN: The honourable member does not need to worry about that. It would be an automatic clerical adjustment.

The Hon. F. R. WHITE: Thank you, Sir, I move an amendment—

> Page 5, lines 23 to 29—Delete paragraph (b) of subsection (1) of proposed new Section 57G.

Sitting suspended from 4.02 to 4.18 p.m.

The Hon. J. DOLAN: During the afternoon tea break I contacted the General Manager of the Metropolitan Water Board to find out what is actually required under the proposed new section. He said that the board requires certain details, and when a person intends to construct, deepen, or enlarge a well the board will send him a form which he must fill out. Provision is made on the form for the person to draw a simple sketch. The general manager assures me that it would take not longer than five minutes to fill in the form. He said it is as simple as the case when a person applies to have his property connected to the sewerage system, and he must draw a simple plan indicating where he wants the sewerage to be installed. If that explanation satisfies Mr. White I would ask him not to pursue his amendment.

The Hon. F. R. WHITE: I am grateful for the Minister's explanation. However, having heard it, I believe that paragraph (a) of proposed new section 57G(1) satisfies completely the conditions stated by

the Minister, because it states the application shall be made in the prescribed form. Therefore, there is no necessity for paragraph (b).

The Hon. J. DOLAN: I repeat: The general manager has said that this provision is a necessity.

The Hon. G. C. MacKINNON: Perhaps it is late and everybody is getting a little fractious. I would point out to the Minister what would happen if The Hon. F. J. S. Wise were present. Probably his attitude would be consistent with the attitude he adopted when Mr. Griffith, Mr. Logan, and I occupied the Government benches. If we gave an answer such as the Minister has just given he would have taken us to task in no uncertain manner. This matter is the responsibility of the Minister, not of the manager of the Water Board.

The Hon. J. Dolan: I get my information from him.

The Hon. G. C. MacKINNON: I do not care whether the Minister gets his information from the good Lord himself; so far as we are concerned he is responsible. I know the Minister has a lot of admiration for Mr. Wise, who used to make this point. If, when we were Ministers, we made a point similar to that which the Minister made about Mr. Samuel—

The Hon. J. Dolan: Not Mr. Samuel.

The Hon. G. C. MacKINNON: —he would have torn strips off us. The Minister can verify that by referr ng to *Hansard*. This Chamber is a House of Parliament in its own right, and matters should be debated, argued, and explained, without this attitude of running off and asking somebody. So far as the explanation is concerned, I would be prepared to accept it. I must admit I cannot see the force of Mr. White's argument.

The Hon. F. R. WHITE: I have drawn attention to the matter, and we have received an explanation. I am happy to withdraw my amendment. I request permission, Mr. Chairman, to do so.

Amendment, by leave, withdrawn.

Clause put and passed.

Clauses 10 to 14 put and passed.

Clause 15: Amendment to section 103—

The Hon. CLIVE GRIFFITHS: In my second reading speech I gave a multitude of reasons for my opposition to this clause which purports to give authority to the board to seek excess water charges from the owner of any premises when the board finds it impossible to obtain those charges from the tenant. Therefore, for those same reasons I oppose this clause.

The Hon. J. DOLAN: I gave an explanation when I replied to the second reading debate, and nobody made any further mention of it, so I took it for granted.

The Hon. A. F. Griffith: What did you take for granted?

The Hon. Clive Griffiths: How would we make any further explanation?

The Hon. A. F. Griffith: What did you take for granted?

The Hon. J. DOLAN: That the explanation was satisfactory. These are the main points which explain why people are required to pay for excess water at the option of the board—

(1) Section 78(3) of the Country Areas Water Supply Act makes the owner ultimately liable. This provision was made in section 82 of the original Goldfields Water Supply Act of 1902.

That legislation was introduced for the Walter James Nationalist Ministry by The Hon., later Sir, C. H. Rason, M.L.A., M.L.C.

Thus, having stood the test of time without notable opposition over a period of 45 years, it was retained in the McLarty Country Water Supply legislation of 1947 and continues in operation to this day.

It is now proposed to apply the same principle to ensure that the Metropolitan Water Board may in case of necessity collect payment for supply of excess water from the owner if payment cannot be obtained from the occupier.

(2) The Country areas supply serves not only farms but market gardens, local industry, and householders.

(3) Section 105 of the Metropolitan Water Supply, Sewerage, and Drainage Act makes provision for apportioning charges when the occupier quits midway through the year. If by chance or due to lack of advice to the board the meter is not read the incoming tenant can become liable for excess water used by the outgoing tenant. In any event the board should not be put in the position of adjudicating between the two parties.

(4) The owner is covered by clause 15(c) which seeks to amend section 103(3).

(5) The occupier is covered by the existing section 103(3).

(6) It is important to emphasise that the proposed amendment in clause 15(a) clearly states the principle that all water charges are payable by the occupier in the first instance. Recourse to recovery from the owner is only as a last resort.

(7) In another place one member of the opposition stated that the owner would have no redress, while another member complained that owners would increase rents to cover eventualities. The first premise is not correct and the second has no foundation of fact from country areas experience.

(8) The basic principles of this proposal are the same as those operating in private enterprise; namely, to ensure that payment for the service being rendered will be recovered.

(9) The majority of the people are responsible citizens who will in no manner be affected by the proposed amendment. This is borne out by the experience of the Public Works Department in country water supplies.

I feel that that explanation should be satisfactory. Even in the most unusual circumstances the board has always made every effort to satisfy its customers. Should a person, such as a pensioner, be in some financial difficulties, in all cases the board makes every endeavour to do the right thing by its customers: to see that nobody suffers any disadvantage whatsoever; and it makes no exceptions to this rule.

The Hon. CLIVE GRIFFITHS: Apparently Mr. Dolan has forgotten the sequence of events that occurs when a Bill passes through this Chamber, because when he said that while replying to the debate on the second reading of this measure he gave an explanation as to why the Government considered this was a sound proposition, he went on to say that because no member had commented on it he took it for granted that it was satisfactory.

The next opportunity that a member has for offering comments on a clause is when the Bill is dealt with in the Committee stage; and this is the first occasion since the conclusion of the second reading debate that clause 15 has been discussed. How then can the Minister gain the impression that we have accepted this provision?

I do not accept the explanation given by him, that the Country Water Supply Board has adopted this provision. That does not cut any ice; it only means it is using a different method of charging for water. It seems to adopt a semi-pay-as-you-use method for country water supplies; but in the metropolitan area the owner of the property is charged a water rate which entitles him to a certain quantity, before excess water is charged. So it is not sound to draw an analogy between the two systems. For the reasons I have given I am opposed to the principle, and I intend to vote against the clause.

The Hon. A. F. GRIFFITH: I, too, am opposed to the principle in this clause. In the second reading debate I spoke rather heatedly in asking the Minister whether it was equitable to make an owner of a property responsible for a debt incurred by somebody else. I agree that the situation applying to country water supplies is entirely different. The Government seems determined to get the extra revenue, fairly or otherwise.

The Hon. S. T. J. THOMPSON: I agree that the situation in the country is different. We in the country pay for every gallon of water we use; and we do not get any allowance for the rate that we pay.

The Hon. A. F. Griffith: In the country you do not pay a rate.

The Hon. S. T. J. THOMPSON: Yes, we do at 7c in the dollar, and we get no allowance of water. We do not even get an allowance of water for sewerage, for which we pay a rate of 15c in the dollar.

The Hon. Clive Griffiths: I said you operated under a pay-as-you-use system.

The Hon. S. T. J. THOMPSON: No. We pay when we receive our bills, and that is once every three months. It is only fair that the owner of the property shall be responsible. If he is he will take some care in relation to his tenant, and ensure that the water is disconnected if the rates are not paid by the tenant.

The Hon. A. F. GRIFFITH: That is an extraordinary statement: that the owner will take some care in relation to his tenant. Does Mr. Thompson expect the owner to approach the tenant every day to see that the rates are paid?

The Hon. S. T. J. Thompson: What would you expect the Water Board to do?

The Hon. A. F. GRIFFITH: To get the money from the person who incurs the debt.

Clause put and passed.

Clauses 16 to 19 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. J. Dolan (Minister for Police), and returned to the Assembly with amendments.

IRON ORE (RHODES RIDGE) AGREEMENT AUTHORIZATION BILL

Second Reading

Debate resumed from the 12th May.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [4.37 p.m.]: This Bill is similar to the Pacminex Agreement Bill which Parliament dealt with in the last session. The similarity is that we have presented to us an agreement contained in the schedule of a Bill—an agreement which has not been signed—and we are asked by the Government to consider the schedule to the Bill in that form.

Having considered it we are expected to pass it, and leave it to the Government to sign the agreement in the identical form in which it is now presented or in another form; and in a form which could be different, provided the Minister in charge of the measure when it becomes an Act considers that a variation may not be of such consequence as to warrant bringing the matter before Parliament.

I have expressed my opinion previously that I disagree strongly with, and I object to, the introduction of legislation containing schedules of this type. The Government should have sufficient knowledge, experience, courage, and anything else that is necessary to negotiate an agreement with a company so that it obtains the best possible deal in the interests of the State, bearing in mind that it must always give the company concerned a fair go. After both parties have satisfied themselves that the best possible has been done, the agreement should be signed.

In the days of the Government of which I was a Cabinet member I brought before Parliament many of these agreements in a signed form, and I was criticised very severely for doing just that.

It was said, of course, that the agreement contained in the schedule could not be altered because it was an agreement and Parliament could not alter a schedule to an agreement Bill. Parliament had to accept the fact that that situation arose. We were trenchantly criticised for the variation clauses in those agreements, and we were told that those clauses were of such a nature that the agreements could be altered without any reference to Parliament. Now members know—certainly within my knowledge—that in the days of the previous Government no agreement was altered without the matter being brought to Parliament for ratification.

The fact that the Government has brought this Bill here in an unsigned form suggests to me that the Government is asking Parliament to express an opinion about its contents and about the schedule to the Bill. If the Government intends to do that then, of course, even at this late stage of the sitting—which the Government desires to conclude this afternoon —it must accept that a member in this House might move, firstly, to alter the clauses in the agreement or, secondly, to alter some clauses in the schedule itself.

The Government might also expect that close observation by members who have interested themselves in this agreement will bring forward points of which the Government should take some notice. If that is not to be the situation then I would regard the introduction of Bills of this nature—and at this point of time I am not criticising this particular Bill—to be completely and utterly worthless in relation to what Parliament means, what Parliament does, and what Parliament might do.

The Bill contains three clauses and the operative clause is as follows:—

> 2. The execution by the Premier of the State of Western Australia acting for and on behalf of the State of an Agreement in or substantially in accordance with the form set out in the Schedule to this Act is authorized.

I emphasise the words, "or substantially in accordance with the form." If we examine the variation clause, which provides for some other basis of arrangement in this agreement, we will find that where in the opinion of the Minister an agreement made under section 28.01 of that clause constitutes a material or substantial alteration of the rights or obligations of either party thereto, the agreement will contain a declaration to the effect and the Minister will cause the agreement to be laid before each House of the Parliament of the said State for a period of 12 days. It is then dealt with in the same way as a regulation.

I again emphasise the fact that it must be in the opinion of the Minister and until the Minister forms that opinion Parliament need not be consulted in any way in relation to this agreement, or any other agreement which the Government seems to persist in presenting to Parliament. I think that is a very unsatisfactory state of affairs. It is unsatisfactory because, ultimately, we do not know what the final words will be when this agreement is signed.

Having said that, I return to the point I have made on two or three previous occasions. I would like the Government to change its policy on this matter. When in Opposition it made great play about this sort of thing and it seems to have engineered itself into the position where it feels it should bring agreements to Parliament unsigned. I think the Government should have another look at this principle. In fact, this afternoon we passed three other agreements which were all signed. The reason given for not signing this agreement is that it is a new concept and, therefore, Parliament should have an opportunity to express an opinion on it. We could not alter anything in the agreements which had already been signed and were passed this afternoon, any more

than I believe we will be able to alter anything in this agreement, in the ordinary course of events.

During the last election campaign the Labor Party made great play of the fact that it proposed to renegotiate agreements and get the companies to make greater commitments in relation to those agreements, particularly in relation to royalties. I am sure everybody in the Chamber will recollect those statements. I will not dwell on that point now but suffice it to say that this agreement which the Government is negotiating as a new agreement does not provide increased royalties except in a very nominal way.

Certainly, it does not provide for processing commitments commensurate with the obligations which the Government placed on the pioneer companies some years ago. It was made clear at the time, before the Brand Government went out of office, that future agreements would have to accept, by negotiation, more far-reaching commitments than the pioneer companies had been obliged to enter into. Of course, the original companies took all the risks and provided all the capital, infrastructure, ports, towns, railways—everything one could think of, thank goodness.

I have heard it said in this House that the agreements which were entered into in those days have brought tremendous benefits to Western Australia because the iron ore province of the Pilbara is now the area on which the State is depending more and more for the provision of money for its Treasury. The Treasury receives a wonderful return from the mining which has resulted from the pioneering companies. People are aware of the fact that the obligations attaching to new agreements would have to change. Nobody can claim they were unaware of that fact because it was well advertised.

In other words, I believe the circumstances were available to the present Government to stiffen up the conditions in relation to agreements which it proposed to bring to Parliament. I also think the Government has a responsibility to negotiate agreements in accordance with its election promises.

If, one year, a political party hangs a flag of the Japanese nation outside Western Australia and refers to it as "The iron ore farce" because it suits that party for election purposes and, again, in the following year makes many flamboyant promises when it actually goes to the election, such a party, when in Government and negotiating agreements, should fulfil some of the promises it made at election time.

I propose to compare this agreement with another that has been entered into previously. There is not the same commitment on the joint venturers concerned under this agreement as there has been under others.

The Robe River agreement was greatly criticised in certain quarters. The Robe River agreement was based on processing lower grade ores, mainly limonite ores. It is reaching the stage where it will be able to export its first shipment of prepared material. This will be followed in the first half of 1973 by the production of high grade pellets. The installed capacity of Robe River will be over 4,000,000 tons and it will be in production by May, 1973. I am told this will be one of the biggest single pellet plants outside North America. The understanding the Brand Government had with the Robe River project was that it would quickly increase its volume of pellet production. We were confident that by 1980, at least 10,000,000 tons per annum would be reached.

Let us look at the requirements under this agreement. It provides a five-year proving period before proposals must be submitted. The joint venturers do not have to produce the first lot of pellets until 12 years after the export date. This means the date on which the ship carrying the first shipment of iron ore products exported by the joint venturers sails from the port at which it was loaded, and this does not include any ore shipped for testing purposes prior to this date. By that time it has to have an installed capacity of 2,000,000 tons of pellets per annum. By the end of year 21 it has to have not less than 4,000,000 tons a year, and by the end of year 30, not less than 6,000,000 tons a year.

In other words, the Robe River project, in spite of the fact that it is processing limonite—or lower grade ores—will be exporting nearly double the quantity of pellets by 1980 that the Rhodes Ridge project is committed to export 30 years after the export date which, in practice, could be 35 or 36 years after the actual signing of this agreement.

It is important in the context of the Bill to study what the definition of "secondary processing" means. I quote—

> "secondary processing" means the concentration or other beneficiation of iron ore otherwise than by crushing or screening and includes thermal electrostatic magnetic and gravity processing and the production of pellets iron ore concentrates metallised agglomerates and sponge iron;

It could be argued that secondary processing undertaken by the years 12, 21, and 30 could include metallised agglomerates and sponge iron, which is a more sophisticated process than the production of pellets.

One has to take the agreement literally, as it is written, and, in doing so, one comes away with the idea that something lesser than pellets would suffice to meet the "secondary processing" commitments within the terms of this agreement. It should be noted the secondary processing commitments are set out in part IV. It should also be noted that if the joint venturers do not submit proposals the agreement is not automatically cancelled but the company is allowed to continue operations at a certain scale.

The Minister in another place emphasised that under section 23.09 of clause xxiii of the agreement the joint venturers under certain circumstances are obligated to supply iron ore to a fourth party if such fourth party has agreed to establish tertiary processing facilities within Western Australia.

There does not appear to be any great disability in this. All it means is that the joint venturers would have an additional customer for up to 5,000,000 tons of ore, which most producers would be glad to have. The joint venturers would not have the commitment to undertake tertiary processing themselves. If the ore were to be supplied on a basis which would be disadvantageous to the joint venturers, the position would then be different, but the agreement provides that the joint venturers will charge the fourth party for all iron ore or iron ore products so supplied at "a fair and reasonable price."

I suppose one could say there is nothing wrong with expecting to be paid at a price mutually agreed between the joint venturers and the fourth party. Failing agreement, there is provision for arbitration. In other words, the operation will not only recoup its cost, but will be on a profit-making basis because of this. I suppose that is all right, too.

Another point is that neither the Government nor, I think, the Minister when introducing the second reading has spelt out the conditions that will prevail where the joint venturers are able to negotiate the use of established facilities, such as railways, towns, ports, water supplies, power, etc. I am referring to all facilities that have been established by others.

It is axiomatic that the costs for anyone establishing originally are higher than those for anyone else who is able to add proportionately to an existing installation. I emphasise the fact that the joint venturers would be in an advantaged position because of this. For example, if a town is to be doubled in size there are certain basic establishment costs already incurred and anybody else who comes along will have the advantage of sharing these. It is unfair to the original developer, who has had to meet all the costs, not to get some consideration for this.

It could be that even allowing a fair basis for the original developer and making charges against the newcomer, there is still a gain to the newcomer compared with the costs to the original establisher. The costs of establishing projects originally have been tremendous to say the least. Hundreds of millions of dollars have been put into providing these requirements.

It was the intention of the previous Government that there would be negotiations through which the region, as a whole, would obtain some benefit from the savings of the nature I have mentioned. The equity of this will be apparent because the new developer should not be able to come in on a basis more favourable than the pioneer companies which bore the original cost.

Arguments were advanced in another place that inflation has intervened and, therefore, newcomers are at a disadvantage.

I suppose it is true to say that inflation has intervened but I question whether inflation has put any newcomer to such a disadvantage. If any of the established companies, for instance, want to expand they must expand with the money market as it is today—an inflated money market—and they must operate on today's operation costs. There is no going back. I do not think it is inequitable to say that a newcomer should have to accept some of the increases in developing facilities.

The main point is to ensure that a newcomer makes a contribution to someone who has already had to bear the expense. Something of this was reflected in the agreement we passed the other day, where the Sentinel Mining Company had passed over to Goldsworthy; but I think the use by the newcomer of the developments carried out by the other companies that have had to bear the costs from the grass roots up requires some examination. A minor example of this is the Goldsworthy project, when a lump sum payment was made and applied for community facilities and not directly for Goldsworthy installations. Contributions of that nature which are ploughed back into the region not only assist in the overall development but also assist to a large extent the people who are already established in the region.

The Government intended to make available to this company some additional areas as "sweeteners." I understand that expression is accepted in the mining world. A "sweetener" is an additional deposit which sweetens the deposit already held. It may be an area containing less contaminants than the original area, or something of that nature. However, I cannot see any explanation of this in the introductory speech of the Minister.

The Government has subsequently announced that some areas have been made available to the Rhodes Ridge project but,

again, we have not been advised of the conditions, even though it is understood by the Opposition and the industry that those areas are very desirable ones.

It should be appreciated that the Government has submitted an unsigned agreement which virtually calls for the opinion of Parliament, as I said in my opening remarks. Some opposition to this Bill was expressed in fairly clear terms by my colleague, Mr. Court, and, following consultation with him, I have endeavoured to point out some of the matters in respect of this agreement that should be looked into. The Government should have regard for the points I have made and the points that were made in the Legislative Assembly.

I sum up by saying that the processing commitments are very small for an agreement written in the year 1972 and following the major breakthrough that has been achieved in the Pilbara in the last decade. The so-called increases in royalties are nominal, to say the least. One would have expected them to be greater in view of the Government's election statement that royalties and charges would be increased, even to the point of threatening to renegotiate the pioneer agreements.

The Government has already announced the allocation of further areas, which are the "sweeteners" I have mentioned. No conditions have been announced and we are left in the dark as to what they are.

The two main parties to this agreement are in the course of protracted litigation with the Government in respect of an important area of the Pilbara. Therefore, it is surely not good business at this point of time for the Government to leave itself in the situation where an appeal to the Privy Council by one of the partners to this agreement has not been determined. I wonder what the position might be if the Privy Council holds for the appellants and says they have the right to some areas of the Angela deposits which have been committed in another direction. If that were to happen, I think the Government would be in very difficult circumstances.

This is an unsigned agreement and I do not think the Government should sign it until some of the matters that have been dealt with have been examined more specifically by the Government. I will refer to those matters.

Firstly, I think the Government should not sign this agreement until the appeal to the Privy Council by Hanwright has been finally determined.

Secondly, the Government should re-examine the agreement with the parties thereto in an endeavour to obtain more realistic processing commitments, particularly in the light of the comparison I have made between this agreement and the Robe River agreement.

Thirdly, there is the question of the size of the deposits and the commitments accepted by companies which established facilities a considerable time ago.

I feel sure the recent discoveries of natural gas off the coast of Western Australia will prove to be of tremendous importance to us. I am extremely happy to know that Burmah Oil—the company that is exploring these areas—has had such great success up to date. At a function I attended the other night, I was pleased to hear the Premier say the Government of the State was 100 per cent. behind this company and the work it had done in the region offshore of the north-west coast. The Premier said the Government would do everything it could to work along with the company.

The real significance of that discovery of gas off the north-west coast is not appreciated by many people in the community. We are extremely fortunate to have this wonderful fuel supply so close to the large mineral province. The Government should have regard for this point.

I also think the Government should be able to make a clearer statement of the benefits that will flow to the State and the region from the negotiated sharing of facilities such as towns, ports, and railways. Sharing means a saving to a project, compared with the situation where a project had to establish the entire facilities right from the grass roots.

I can remember the occasion of my introduction of the Hamersley iron ore agreement when, if my memory serves me correctly, the late Harry Strickland, who sat in the seat now occupied by Mr. George Berry, told us of the time he had approached the rocky coast of Dampier. He landed in a fishing boat and he explained to us that many years ago there was absolutely nothing there except barren rocky coast. Those who have been fortunate enough to see the magnificent development which has occurred there will appreciate its great benefit to the State.

Also, we should have more information that there is a clearly defined programme of research into things like upgrading, beneficiation, and the integration of the lower grade and contaminated ores, and particularly ways and means of upgrading by local process the ores contaminated by such things as phosphorus. It is not within my competence to offer suggestions verbally or in writing as to the method by which this agreement should be improved. I am not a legal draftsman, and although I have had the benefit of helping to negotiate these agreements on behalf of the State, I cannot put into words my idea of the way these agreements should be improved.

To say the least, I do not think the agreement should be signed, and I have expressed this opinion to the Premier as

late in the afternoon as an hour ago at a conference which took place between the Premier, the Leader of this House, Sir David Brand, Mr. Charles Court, and myself. The Premier gave me an undertaking that the points I am now raising will be thoroughly examined by the Government before the agreement is signed, and also he will give us—perhaps Mr. Court and myself particularly—an opportunity to discuss these points with him. There will be some form of consultation before the agreement is signed. I accept that undertaking and for that reason I am prepared to support the second reading of this Bill this afternoon.

I do not want to hold the legislation up in any way. I wish the parties to this agreement, as I would wish all parties to agreements made with the Government, the best of success in the venture they are about to undertake. I repeat again, and I will keep on repeating, I regard it as most unsatisfactory that Parliament finds itself in the position of being presented with an unsigned agreement. This suggests that the Government would be prepared to accept amendments both to the Bill itself and to the schedule. However, at this point I will resume my seat having had the opportunity to express my point of view. I feel sure that when the Minister replies he will confirm the undertaking that was given to Sir David Brand, Mr. Court, and myself earlier in the afternoon in relation to consultation with us on the points raised here and in the Legislative Assembly before the agreement is signed.

THE HON. I. G. MEDCALF (Metropolitan) [5.15 p.m.]: I have listened with considerable interest to the Minister's second reading speech and also to the comments just made by the Leader of the Opposition. I share the concern which he has already expressed at the fact that the Government is at present facing litigation but, notwithstanding this fact, it has elected to proceed with the agreement.

It is true that the Government has not yet signed the agreement, and perhaps will not sign it until the litigation is satisfactorily completed. I would like to hear whether there is any possibility of this.

I do not raise this point in an endeavour to comment on the litigation, because I do not feel it is the right thing for a member to comment on a matter which is the subject of an appeal to the Privy Council. It is a matter for the courts and not a matter for Parliament to discuss. Indeed, the details of the litigation are not known to me as I am not personally acquainted with the details of the case apart from the Press reports. However, it strikes me that there may be difficulties ahead if the litigation is decided in favour of the appellant.

I am not suggesting that the appellant should not in fact win the case. If the appellant does win it will vindicate its rights. I have always upheld the right of any person to take his case to court—indeed, to the highest court in or outside the land. I have no objection to the parties to the dispute venting their rights in the Privy Council. I believe it is their right and duty to do so.

However, if the appellant wins the case, I wonder what situation will develop. I do not know, but I raise the point that this could mean the reserves—commonly known as the Angela reserves—which are being claimed in the litigation will go to the appellant. If the appellant acquires those reserves, will the Government be embarrassed in any way? I raise this point as the Government will have no control over the matter if the Privy Council finds in favour of the appellant. That may be the course of justice.

What will be the position if the appellant is granted the Angela reserves and the Government has also granted the appellant the Rhodes Ridge reserves? Of course, that is a matter for the Government and not for me, but I hope it has been taken into account. I trust that the Government will heed the warning already given by my leader in this connection and in regard to the other matters raised by him.

This is relevant to the Government and its advisers as a matter of commercial prudence. It may not be particularly relevant to the Legislative Council, except that we do not wish the Government to be embarrassed. I hope that the Government will well and truly take into account the comments which have been made; and bear in mind that it has an interest in seeing that the litigation is satisfactorily dealt with before it finally commits itself in respect of those additional reserves.

THE HON. R. J. L. WILLIAMS (Metropolitan) [5.21 p.m.]: I wish to be very brief. I do not think I can allow the measure to pass without making a few remarks. I wonder what is the reason for bringing this unsigned agreement before the Parliament at all. I think a promise was made by the Leader of the Government during election time in this regard. If one looks through *Hansard* one will find that he has waxed eloquent from time to time on the fact that the previous Government introduced to Parliament signed agreements—and rightly so because this is the administrative business of Government.

This Government seems to adopt what is called the "kipper" attitude—two-faced and no guts. It should go forward and sign its agreements, and let that be the end of it. If we interfere with this Bill then we are cleverly accused of interfering in the administration of Government; we

are usurping the rights of that thumping majority in the other place. I suggest to the Leader of the Government that when in future he is required to take administrative action, he take the action and then face the criticism as the previous Government did.

Am I to believe that the points enumerated by my leader this afternoon in criticism of the Bill will make the slightest difference? Not at all! Even if we throw out the Bill the Government may go ahead and sign the agreement anyway. I cannot understand this farce of bringing administrative matters to the Parliament and I do not think it should continue. If the Leader of the Government does not know how to go about the administrative business of Government I suggest that during the recess he repair to the Institute of Management at 279 Stirling Highway, Nedlands in order to learn how to manage the administrative business of this State.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.23 p.m.]: I am concerned with this agreement and its ultimate impact on Western Australia and its people, and the wealth it will bring to them. I regret some of the utterances which have been made regarding the Government. During the period when I was the Leader of the Opposition I do not think I ever accused my opponents of being gutless. I respected them too much to do that. However, I do not intend to be sidetracked by such utterances. I have the greatest respect for the men who hold the responsibility of Government from time to time—in fact, I now have a higher respect for them than I had previously. Irrespective of their political colour or whether they may make mistakes, they are not gutless. Let us choose our words carefully in the interests of democracy and common decency.

I wish briefly to confirm the remarks made by the Leader of the Opposition—a man of the highest integrity—who at the conclusion of his speech mentioned a meeting we held earlier this afternoon wherein an undertaking was given that the points he raised in his speech would be given careful consideration by the Government before this agreement is signed. I endorse what he said. I was present when that undertaking was given and there will be no backing away from it. Whether we sign the agreement before it comes to Parliament or after it has passed through Parliament, is a matter for deliberation by the people who form the Government of the day, and those people are justly entitled to their opinion. They should not be sneered at in any way. Ultimately there is no difference because the agreement will be signed by the Government of the day. I will pursue that point no further at this stage.

I thank the Leader of the Opposition for his constructive remarks and again reassure him that everything he said, along with the remarks made by Mr. Medcalf, will be given the consideration promised at our prior meeting.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and passed.

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Assembly's Message

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

QUESTIONS (12): ON NOTICE

1. MINING

Use of Roads on Pastoral Leases

The Hon. G. W. BERRY, to the Leader of the House:

(1) Are mineral exploration companies entitled to use private roads on pastoral leases?

(2) If so, what measure of compensation is the pastoral lessee entitled to for damage caused to such roads?

The Hon. W. F. WILLESEE replied:

(1) and (2) The holder of a Miner's Right is entitled to prospect and mine on pastoral leases, but can be subject to a claim for damages to pastoralists' improvements, and private roads could come within that category. Each case, however, would require individual consideration and legal interpretation.

2. EARTHQUAKES

Advisory Committee

The Hon. V. J. FERRY, to the Leader of the House:

(1) What are the names and qualifications of the members of the Premier's Earthquake Committee?

(2) In view of comments made in an article headed "Danger of new quake stressed", published in *The West Australian* on Wednesday, the 31st May, 1972, where it is stated that the committee had been making recommendations to the Government for two years, what recommendations have been made?

(3) What action has the Government taken to implement any of the recommendations?

(4) If no action has been taken, why?

The Hon. W. F. WILLESEE replied:

(1) G. B. Hill, B.E., D.Phil. (Oxon.), F.I.E., Aust., Chairman (Junior Vice Chairman of Division Committee, W.A. Division, Institution of Engineers, Australia).

J. Boon, F.A.I.I. (State Manager, Sun Alliance and London Insurance Group, Chamber of Commerce Representative).

W. Barton, F.R.A.I.A. (c/- Messrs. Forbes & Fitzhardinge, The Royal Australian Institute of Architects Representative).

F. R. Gordon, B.Sc., A.O.S.M., M.A.I.M.E., A.M. Aust., I.M.M., M.G.S.A. (c/- Geological Survey Department, Perth, The Geological Society of Australia, Western Australian Division Representative).

M. R. Bromell (Chief Operations Officer, Representing the State Civil Defence and Emergency Service).

D. E. Dunwoodie, B.E., M.I.E. (City Building Surveyor, Perth City Council, Representing Local Government).

L. R. Harding, B.E., A.M.I.E., Aust. (Engineer Structural Design and Construction, Public Works Department).

P. J. Gregson, B.Sc.(Hon.) (Observer in Charge, Geophysical Observatory, Mundaring).

(2) (i) That the Bureau of Mineral Resources be requested to provide for permanent installation of three component seismographs in the Port Hedland-Marble Bar and Broome areas.

(ii) That the Bureau be requested to install a local seismograph station in the Meckering district for a minimum of five years.

(iii) That people in the Calingiri, Yerecoin, Bolgart, Meckering area be warned that buildings should be reinforced.

(3) (i) The Bureau of Mineral Resources is in course of establishing a seismograph at Marble Bar to increase general coverage in that area.

(ii) The Bureau has provided accelerographs on two properties within the Meckering district to provide the required information.

(iii) Action has been initiated through the Department of Local Government to amend uniform building by-laws to provide mandatory requirements in respect of seismic loadings, and property owners within the Calingiri, Yerecoin, Bolgart and Meckering areas have been contacted in this regard through the various Shires.

(4) Answered by (3).

3. MARINE LIFE

Effect of Defoliants and Herbicides

The Hon. N. McNEILL, to the Leader of the House:

Further to my question on the 12th May, 1972, regarding the use of defoliants and herbicides, and the Minister's reply, and his reference to a need for a more specific question, and because I asked whether the Government had received a submission from the Shire of Waroona and his reply was "No—as far as the Department of Fisheries and Fauna was aware", I now ask—

(1) What was the particular matter upon which the Minister for Environmental Protection wrote to the Shire of Waroona on the 29th March, 1972?

(2) Is it correct that the Minister for Environmental Protection at that time also administered the portfolio of Fisheries and Fauna?

(3) Does the Government consider that the matter raised by the Shire of Waroona, and subsequently supported by resolution of the South West Ward of the Shire Councils' Association, is of sufficient significance to warrant further investigation?

(4) If so, what further action is contemplated by the Government?

The Hon. W. F. WILLESEE replied:

(1) Use of detergents, copy of reply is as follows:

29th March, 1972.

Mr. M. D. Gaston,
Shire Clerk,
Shire of Waroona,
P.O. Box 20.
WAROONA, 6215.

Dear Mr. Gaston,

Thank you for your letter of 1st March and the extract from "The Observer" dated 9th January, 1972, on the use of detergents.

I am advised with regard to phenol in aquatic systems that in the metropolitan sewerage system, the phenol content is minute and as long as it is low, there are bacteria capable of decomposing it.

With further regard to the phosphate content, I am advised that there has been monitoring by the Metropolitan Water Supply of phosphates in sewerage for four or five years and that during that time there has been no marked change in the phosphate content.

Before detergents became widely used, phosphates were used as water softeners in soaps. Thus it may be concluded that phosphate levels in sewerage today are probably not any higher than they were in the days before detergents.

The amount of phosphate being discharged into the sea from metropolitan sewerage appears of little consequence. The type of situation, however, where eutrophication could occur is when similar amounts of phosphate were discharged into relatively small bodies of water where little fresh water is added and little mixing of the water occurs.

Your interest in this matter of environmental protection is appreciated.

Yours faithfully,

RON DAVIES, M.L.A.,
Minister for Environmental Protection.

(2) Yes.

(3) and (4) Answered by (1).

4. NATIVE WELFARE

Housing

The Hon. D. J. WORDSWORTH, to the Leader of the House:

(1) Is the Native Welfare Department considering building transitionary homes for Aboriginals living in humpies in the Bandy Creek area near Esperance?

(2) Has a house in the main street of Esperance been purchased or leased for these or other natives?

The Hon. W. F. WILLESEE replied:

(1) No.

The situation of these people is known. There is no conventional housing available for them and the Esperance Shire Council has previously indicated that transitional housing is not acceptable in Esperance.

(2) No.

5. CONCORDE AIRCRAFT

Threat to Health and Property

The Hon. L. D. ELLIOTT, to the Leader of the House:

(1) Is the Government aware of—

(a) the serious concern being expressed at the threat to health and property from air and noise pollution created by the Concorde aircraft;

(b) an article in the English *Guardian* of the 1st January, 1972, which stated "The compensation paid out after Concorde's first series of supersonic tests over Cornwall worked out at £50 per mile of overland flight."?

(2) If so, will it oppose any move to allow landings of this aircraft at Perth Airport?

The Hon. W. F. WILLESEE replied:

(1) (a) Yes.

(b) Yes.

(2) The matter is being carefully considered.

6. *This question was postponed.*

7. FRIENDLY SOCIETIES' PHARMACIES

Fremantle Mayoral Election

The Hon. G. C. MacKINNON, to the Leader of the House:

(1) Is the Minister for Health aware that claims are being made that the offices, services and facilities of the Fremantle Friendly Societies Pharmacy organisation were utilised to assist in the campaign for the election of Mr. W. A. McKenzie as Mayor of Fremantle?

(2) Will the Minister cause an investigation to be made into the following—

(a) to what extent were the above utilised;

(b) who authorised their use, and whether such authorisation is in the minutes of any proceedings and the date thereof;

(c) who paid for any expense involved, and how was this apportioned;

(d) as accounts of these organisations are the subject of audit, will he identify the name of the person or firm performing this service and how often is this done?

(3) Would the Minister consider that activities of this nature are improper in circumstances where

there could be varying membership views on the propriety or otherwise of such procedure and therefore offensive?

The Hon. W. F. WILLESEE replied:

(1) No.

(2) (a) to (d) Enquiries will be made in relation to the points raised. The Society's auditors are Wallace, Campbell, Armarego & Co.

(3) This aspect will be considered when the facts are known.

8. HOSPITAL

Esperance

The Hon. D. J. WORDSWORTH, to the Leader of the House:

In view of the heavy booking for the maternity ward in the coming months, at the Esperance District Hospital, and the pressing needs for a larger out-patients' section, will the Government be continuing with the planned extensions to the hospital during the next financial year?

The Hon. W. F. WILLESEE replied:

Yes, subject to availability of Loan Funds in 1972-73.

9. INDUSTRIAL DEVELOPMENT

Proposed Projects: Premier's Statement

The Hon. N. McNEILL, to the Leader of the House:

(1) Will the Minister confer with the Premier and advise whether he was correctly reported in the statement appearing in *The Sunday Times* of the 28th May, 1972, which reads as follows—"Relief in Sight. The Premier, Mr. Tonkin, said yesterday relief was in sight for the State's heavy engineering industries. Several projects to be announced within weeks would provide work."?

(2) If it is a correct report, will the Premier elaborate on the statement and advise—

(a) a more precise period in which the announcements will be made; and

(b) the nature and location of the proposed projects?

(3) In view of the seriously depressed state of the heavy engineering industries in this State, and the current belief within the industry that there are no major projects in prospect, what further action will the Premier take to restore confidence, and to correct that apparently incorrect belief?

The Hon. W. F. WILLESEE replied:

(1) to (3) The Premier had at the time—and still has—good reason to believe that substantial building requiring supplies of structural steel will take place in this State in the near future. The Government is playing its part to the utmost to restore confidence and to counteract the adverse effects to Australia's economy because the management of it by the Commonwealth Government was based on a false reading of the problem of inflation resulting in stagnation and (in the opinion of *The Australian*)—"the loss in goods and services at the rate of more than $300 million a year."

10. KIMBERLEY RESEARCH STATION

Electrical Works

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

(1) In view of the reply to my question concerning electrical works on the Kimberley Research Station on Wednesday, the 31st May, 1972, and the Minister's reply—

(a) would he accept the information that has been provided to me from another source, that the cost of such works in 1969, 1970 and 1971, totalled approximately $9,000 in labour content over the three years; and

(b) if not, will he obtain the correct figure through his department?

(2) What is the annual cost of employing a married departmental electrician in the Kimberley, including housing, average overtime, vehicle costs, fares, allowances and other fiscal considerations, over a two year appointment?

(3) In view of the fact that consideration is being given to the employment of a departmental electrician, will the Minister advise how he would justify the high cost of bureaucratic employment in relation to the relatively cheap cost of private enterprise contracts?

The Hon. W. F. WILLESEE replied:

(1) Electrical and other maintenance on Kimberley Research Station is organised by the Public Works Department.

The actual work may be undertaken by contractors or their own staff. Subsequently the cost is reimbursed from Kimberley Research Station joint Commonwealth-State funds. The accounts

received by Department of Agriculture from Public Works Department for maintenance on Kimberley Research Station are not itemised adequately to give any data concerning either the total cost of electrical maintenance or the extent to which they use private contractors.

(2) The annual cost of employing a married departmental electrician in the Kimberley is estimated at between $9,000 and $10,000 per year.

(3) It has now been decided that an electrician will not be employed by the Kimberley Research Station and the work will, as in the past, be organised by the Public Works Department.

11. EDUCATION

Remote Areas

The Hon. G. W. BERRY, to the Leader of the House:

Referring to a passage of the reply of Hon. J. M. Fraser, Commonwealth Minister for Education and Science, to a question by Mr. Corbett in the House of Representatives *Hansard* of the 2nd March, 1972, page 474, regarding Education in Remote Areas, quote—"I certainly give a full undertaking that this whole problem of the relatively few but very important families living in these parts of Australia will be reviewed"—

(a) has the Western Australian Minister for Education received any information regarding the review;

(b) if not, will he please pursue the matter?

The Hon. W. F. WILLESEE replied:

This matter was discussed at the recent meeting of the Australian Education Council and, as a result, officers of State and Commonwealth Departments of Education will be meeting in Canberra on June 8th and 9th for discussions.

12. SYNTHETIC MEAT

Legislation.

The Hon. D. J. WORDSWORTH, to the Leader of the House:

(1) As artificial meat is already a marketable product, is it the intention of the Government to introduce legislation to restrict its sale?

(2) If the answer is "Yes"—

(a) when will the legislation be introduced; and

(b) will it preclude the use of names such as "meat" and "beef" from all advertisements of this non-natural product?

The Hon. W. F. WILLESEE replied:

(1) No.

(2) (a) and (b) Standards for artificial meat and labelling requirements are currently under consideration by the National Health and Medical Research Council.

QUESTION WITHOUT NOTICE

ST. JOHN AMBULANCE ASSOCIATION

Albany Sub-Branch

The Hon. D. J. WORDSWORTH, to the Leader of the House:

(1) Is the Minister aware of the grave financial difficulties in which the Albany sub-branch of the St. John Ambulance Association finds itself?

(2) Does he appreciate that officials in Perth have been unable to give the sub-branch any financial help?

(3) In view of the Minister's answer to The Hon. G. C. MacKinnon on the 31st May that an inquiry is to be held, will he indicate how long it will be before a decision will be made?

The Hon. W. F. WILLESEE replied:

The honourable member was good enough to give me advance notice of this question without notice in the early hours of today and I was unable to reply to it, but I am now in a position to supply answers to his questions. They are as follows:—

(1) I have read a Press report referring to this matter.

(2) The Government grant to the St. John Ambulance Association includes a specific sum for assistance to needy sub-centres and no doubt consideration will be given to the situation in Albany.

(3) I assume the honourable member is referring to the review which is being made of the association's financial position. This will be completed shortly.

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Assembly's Message

Message from the Assembly notifying that it had agreed to the amendment made by the Council, subject to a further amendment, now considered.

Assembly's Further Amendment: In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. J. Dolan (Minister for Police) in charge of the Bill.

The DEPUTY CHAIRMAN: The amendment made by the Council is as follows:—

Clause 3.

Page 3—Delete paragraph (b), and substitute a new paragraph as follows:—

(b) by deleting subsection (4) and substituting a new subsection as follows:—

(4) Where the Board has approved a plan of subdivision of land upon condition that a portion thereof be set aside and vested in the Crown for parks, recreation grounds, or open spaces generally—

(a) the owner of the land may, if the Board and the local authority in whose district the portion is situated approve, pay to the local authority in lieu of setting aside any such land a sum that represents the value of that portion; and

(b) where the owner of the land has agreed to pay cash in lieu of land referred to in paragraph (a) he shall, if the Board by notice in writing so requires, on or at any time after entering into a contract for the sale of any land to which the plan of subdivision relates pay to the local authority, within the time specified by the Board in the notice, in respect of that sale a sum representing the value of the portion of that land which he might otherwise have been required to set aside.

The further amendment made by the Assembly is as follows:—

Delete from the amendment the whole of the passage following the paragraph designation "(b)" where first occurring.

The Hon. J. DOLAN: When we were debating the clause in this Chamber an impasse was reached. Mr. White suggested the addition of certain words to paragraph (b) so as to resolve the issue. When I submitted the proposed amendment to the Minister in another place he did not agree to it. After some discussion he moved that the Council's amendment be agreed to subject to a further amendment. Accordingly I move—

That the further amendment made by the Assembly be agreed to.

The Hon. I. G. MEDCALF: I understand the effect of the Assembly's amendment is to reinstate the original subsection (4) of section 20 as it stood in the Act. If that is the effect I have no hesitation in supporting the further amendment of the Assembly.

Question put and passed; the Assembly's further amendment to the amendment made by the Council agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

LAND AGENTS ACT AMENDMENT BILL

Second Reading

THE HON. V. J. FERRY (South-West) [5.44 p.m.]: I move—

That the Bill be now read a second time.

Parliament passed legislation in 1964 to tighten up generally the laws relating to land agents particularly in relation to the degrees of qualification of land agents and land salesmen.

In 1966, amending legislation was passed to, in fact, allow for the difficulty being experienced by certain companies in meeting the requirements necessary for a nominee license holder of a company to meet the special qualifications as laid down in the Act as a condition precedent to the granting of a license.

The amendment which was subsequently agreed to was in three subparagraphs and allowed for local statutory companies, stock and station agents, and any other company declared by the Minister on the recommendation of the Land Agents Supervisory Committee; and it has operated in the first two instances satisfactorily.

However, with regard to subparagraph (iii), while it does allow for some form of appeal, it does not appear to be defined to give the Land Agents Supervisory Committee necessary direction.

The amendment I am proposing will not in any way weaken the structure of the Land Agents Act, nor will it allow for any persons to enter the industry indiscriminately.

I believe there have been cases where a company, other than a company already designated in the Act, has been disadvantaged by the untimely death of a person being a member of a company which held the license.

In a case such as this, it will be appreciated that the company finds itself in a serious situation and, in fact, its very existence could be in jeopardy.

I wish to remind the House I am referring only to an existing company that has been trading as an estate agent over a long period of time, and its reputation, standards, and code of ethics have been in accordance with the accepted principles of real estate business.

This measure is not designed nor intended to allow new agents or companies easy access to the profession which would be contrary to the intention of the Act.

I believe this amendment will assist the supervisory committee to use some degree of flexibility which is not available at present.

This is a very brief Bill. I feel that an explanation is due to the House in view of the mechanics that will be adopted to facilitate the closing of this part of the session. It is my understanding that the Bill was passed in another place with the concurrence of the Government and other members in view of the pending closure of this part of the session.

The Bill was passed in its original form with an understanding that an amendment could be inserted in the Committee stage if this House saw fit to do so.

It is my opinion that the Bill does not in any way weaken the provisions of the Land Agents Act. Unfortunately circumstances do arise from time to time whereby some companies can be disadvantaged. It is to meet the need to provide for some flexibility and safeguard that the Bill is before the House. The Bill is designed to enable the committee to make recommendations and to report on various circumstances so that the Minister, in his wisdom, may be able to give a company the right to conduct business as a land agent.

I understand such a circumstance has arisen on more than one occasion. It is not one which occurs in isolation. I commend the Bill to the House, and repeat that it does not weaken the legislation nor will it allow new companies to enter the profession. It merely allows firms already engaged in the profession to continue in an approved manner.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [5.50 p.m.]: I am somewhat surprised the Government does not have an opinion about this Bill. Am I led to believe the Government will just sit and let the Bill go through without making any comment?

The Hon. W. F. Willesee: No, you caught me on the hop.

The Hon. A. F. GRIFFITH: I wish I could sit down again and speak subsequently, but Standing Orders would not permit that.

When introducing this Bill, Mr. Ferry said that certain companies had been disadvantaged and it was not intended to widen the scope of the Act. Of course, the second statement is not correct. With due respect to my friend and colleague, it will widen the scope of the Act. It will enable a qualification to be conferred on a type of individual who now does not have such qualification, so it must widen the scope of the Act.

I stand to address myself to this Bill on a matter of principle. I employed a considerable number of years of my parliamentary life trying to improve the Land Agents Act to ensure that those who have in their control many hundreds of thousands of dollars were qualified and capable of carrying out their profession in a proper manner. As Mr. Ferry indicated—although I am not too sure he did indicate it—in the last few years Parliament agreed it was desirable that land agents should be qualified and the regulations under the Act now provide, after a period of time, that persons entering this field of enterprise should be qualified.

It will be recollected that at the time what we chose to call a grandfather clause was inserted to enable certain people to be included within a specified time before the doors were closed.

Because they were explained to me, I understood the circumstances which were responsible for the introduction of this Bill, and I am fully sympathetic to the persons involved; but I cannot remove myself from the principle that this Bill will possibly allow an unqualified man to obtain a license if it is the desire of the Minister that he should obtain it despite the fact that a person who is actively studying to be a land agent at the technical school does not have the same right.

Mr. Ferry spoke of companies being disadvantaged. I wonder about the individual who might be disadvantaged, and here I will quote an example. A person who has a land agent's license and who has been in the business of real estate for many years might suddenly die, leaving the business without a license; and that is an unfortunate state of affairs. However, this can be overcome, if this Bill passes, by the Minister conferring on some individual in that company the right to hold a license, which right he does not now have because he is simply not qualified. What is the difference between that situation and the situation of a man who is carrying on a business in his private name and who has a son studying to become a land agent?

When the boy's father dies, his son is not entitled to any consideration. Under this amendment he could not go to the board and say, "My father has died in a most unfortunate set of circumstances, and now I want you to give consideration to my being licensed as a land agent without being qualified." Is that fair? I do not regard it as being fair.

Some years ago Parliament accepted the principle that land agents should have qualifications. A proviso was accepted by Parliament in relation to stock companies where the company held a license for a long time, but because of an employee either retiring or leaving for some other reason, consideration could be given to replacing that man; but this Bill brings us into an entirely different field. It says that in the circumstances—and I know the circumstances and I repeat that I am sorry for the family involved—the man does not have to have a qualification. If a doctor has a son and the doctor dies and the son is unqualified would any member like to go to the unqualified son to have his appendix removed or something else attended to?

The Hon. W. F. Willesee: I think that is a pretty long bow in relation to this Bill.

The Hon. A. F. GRIFFITH: It is not a long bow. If an accountant suddenly died, would any member go to his unqualified son?

The Hon. W. F. Willesee: Yes.

The Hon. A. F. GRIFFITH: Only because an accountant does not necessarily have to pass an examination.

The Hon. W. F. Willesee: That is right.

The Hon. A. F. GRIFFITH: The Leader of the House strengthens my point. I know there is no requirement. I could put up a plaque in St. George's Terrace to indicate that I was practising as a public accountant, but I could not erect one to say I was practising as a chartered accountant.

The Hon. W. F. Willesee: Do you know what? I would go to you, too.

The Hon. G. C. MacKinnon: We have some interesting conversations.

The Hon. A. F. GRIFFITH: The originator of this Bill must have realised it did not fulfil its purpose, because half-way down the stream the course was changed. The Bill is designed merely to amend subsection (2b) of section 4. However, we are not to accept this Bill, are we? An amendment is to be moved to give it an entirely different concept altogether. Consequently we can tear this Bill up because it does not mean anything except for the title. We could virtually refer to the amendment as being the Bill.

The Bill simply provides that in the circumstances explained by Mr. Ferry people could be granted a license by the Minister although they were not qualified. It does not even state that the persons must qualify within a period of three years.

The Hon. W. F. Willesee: You surprise me on that point.

The Hon. A. F. GRIFFITH: Does it say that?

The Hon. W. F. Willesee: I understood there was that qualification.

The Hon. A. F. GRIFFITH: In the first place I understood it was the case, but I do not think it is now. I further understand that the Land Agents Supervisory Board does not hold with the amendment. The board advises the Minister, but apparently the Minister must have seen some value in it because he was prepared to give it his blessing. However, I cannot, on a matter of principle.

I repeat what I said in the first instance: I have spent a great deal of time having legislation prepared to ensure that land agents were qualified and this principle was accepted by Parliament.

I hasten to add that I have no doubts at all about the integrity and even the experience of any person or persons who are intended to be advantaged under this Bill. That does not come into question.

At the risk of boring the House, I say again that I am sympathetic to the circumstances that have arisen. However I cannot go beyond the principle that has been established; namely, men should attend the technical college and spend their hours becoming qualified in a profession that is important to the community.

When a set of unfortunate circumstances occurs, we say, "Push this to one side, because we are sorry for an individual." Not only is this the case but we are also sorry for an individual who happens to be a member of a company. We do not go so far as to have regard for the son of a man who is in practice on his own as a real estate agent and who happens to die.

I register my opposition to the Bill in the form in which it was originally and the form in which it is now which, of course, is a rewrite of that clause. It simply says that the Minister may do this. I know it may be said there is no undertaking in the amendment that the Minister will in fact grant a license. However, I suggest that the Minister, having accepted the principle of the Bill, would be extremely hard pushed to exercise any discretion in certain circumstances. Such circumstances could be a person coming to him and saying, "My father, who was managing director of our company, has died. I am his son. I am a member of the company and want a license so that my father's business may be carried on."

The Hon. W. F. Willesee: Be careful. There could be a managing director without qualifications.

The Hon. A. F. GRIFFITH: The important words would be, "My father, the managing director who holds the license." I say again that man would be advantaged, but the young man whose father was in practice on his own and not in practice as a real estate agent in a company would not have the same advantage. In fact, the son who happens to be a director in a private company—or for that matter a public company—would be greatly advantaged.

Therefore, I regret that, as a matter of principle, I cannot go along with the amendment.

THE HON. R. J. L. WILLIAMS (Metropolitan) [6.04 p.m.]: I rise to support the Bill and I shall be quite brief in my comments. The whole purpose of the amendment, as pointed out in Mr. Ferry's second reading speech, is to allow for flexibility and not to widen the scope of the legislation.

The Leader of the Opposition has pointed out that whilst he would have every sympathy with the person concerned he would object to the amendment in one way or another. I point out that at the moment such a person does not even have the right of objection to the Minister. I could quote two cases in this State where this has happened.

I will with your permission, Sir, read a letter dated the 24th April this year which a person wrote to a member of this Parliament requesting some help in this matter of the Land Agents Act. In fact, I think this is the case to which the Leader of the Opposition refers. The letter reads—

> Further to our discussions on the above proposed amendments, I wish to state:
>
> "I am in partnership with my father, who is the licensee on behalf of the partnership, and at present if anything should happen to him, I am left without a license to operate, even though I have worked with him for the last six years and in partnership for the last 2½ years. With the proposed amendment it is to cover companies only and not partnerships. At present I am studying for the necessary qualifications, but I want something that will give me the security until I can obtain the qualifications."

A week after writing that letter the fellow's father died. He is left with a young family and has to go out of business, because there is no flexibility in the legislation. He cannot approach the Minister on this unless he goes through the appropriate channels, which can refuse him the right even to go in front of the Minister. It seems to me that although we prepare legislation carefully we have not yet discovered the secret of perfect legislation and from time to time, these flaws do appear. I cannot see it is wrong for any person to put a case before a Minister who is reponsible for a certain Act.

The Leader of the Opposition, were he the Minister, and holding to the principles he does, would refuse the license. Quite rightly, too, if he feels this is the case. At the moment a person could not even approach the Minister and ask him for a ruling. That is the point at issue in the amendment.

The Hon. A. F. Griffith: Obviously you do not understand the legislation.

The Hon. R. J. L. WILLIAMS: Perhaps I should say that I am led to believe that this is the case. I was informed by a Minister that this was the crux of the matter and, if accepted, a man will be able to approach a Minister.

What happens in other cases where people apply for licenses only and are willing to give a solemn declaration that application for a license was sent? Perhaps it is not received and the agent did not bother to check because he thought he had it back. In point of fact he automatically thought it would come back.

In 11 months' time when the license which one person thought he had had sent back to him expired, he applied to license a salesman who was working for him and he was told he could not because he had no license.

The Hon. G. C. MacKinnon: We all know of these cases of course.

The Hon. R. J. L. WILLIAMS: In that case, I am wasting the time of the House and I might as well sit down. In so doing I say that I propose to support the legislation.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [6.07 p.m.]: Let me begin with an apology. Possibly I should have spoken immediately after the mover. I did not realise that a Government opinion was needed so quickly. However, let us not make apologies for that.

I do not like the principle behind what is happening, but I intend to support the Bill. I will be surprised if my thoughts are wrong, but I must pay credit to the Leader of the Opposition for his study of Bills. I thought this would apply to an unqualified person who is endeavouring to receive qualifications by study and who finds himself in the unfortunate situation where the head of the household has died. In those circumstances I think it is completely legitimate for us to say that we will help him out specifically, not as a general rule.

The Hon. A. F. Griffith: Even if you give him an interim license subject to his passing the examination.

The Hon. W. F. WILLESEE: Yes, subject to passing.

The Hon. A. F. Griffith: I might be inclined to mellow on this, but that was not my understanding of the position.

The Hon. W. F. WILLESEE: I should like to go briefly through the implications of what has been said. This could not apply in the case of a doctor's son who is studying to become a doctor. I would not like to have a student having a go at my appendix. Imagine Mr. Withers having a go at my appendix! However, in the case of a land salesman the position could be very different. It could be that a son, without qualifications, would be equally as good as his father. It is only a matter of the rote of answering questions and going through certain specified things to say, "This man is now a qualified land agent."

In some sections of our society a person gains his experience in a practical way. For example, let us consider a bush mechanic as against a qualified mechanic. Often there is very little difference between the two. Sometimes the practical man even has a little more than the other man.

The Hon. G. C. MacKinnon: Than the automotive engineer.

The Hon. W. F. WILLESEE: However, when we get to the hierarchy of training, then I would be a little reticent. There is a humanitarian element here which lends support to the measure. For that reason I support the Bill.

THE HON. G. C. MacKINNON (Lower West) [6.10 p.m.]: I wish to say a word about this measure because I find myself with a contrary view to my leader, which is very rare.

Over the last few years there have been a considerable number of provisions to register quite a few professional activities. Your deputy, Sir, once took a great interest in physiotherapists, chiropodists, chiropractors, and the like. In professions such as these there has been a great difficulty in allowing for the extensions of the grandfather clause. Strangely enough, at one time this clause existed for physicians and dentists. The legal fraternity is a little older and this problem is now in the past. However, whilst I was Minister for Health, at least one dentist had learned his profession as an apprentice and not through the university. This was in fairly recent years.

With the introduction of professional examinations and standards, there is the problem of a transitional period. This happened time after time and it will happen again. In the early stages I feel it behoves us to be lenient to the point of perhaps being a little too lenient. This may be a disappointment to those who are established in the profession or other activity, but I believe in the beginning there is a necessity for leniency in this regard.

The Hon. W. F. Willesee: The family business is still a great establishment.

The Hon. G. C. MacKINNON: Yes. Within five or 10 years this profession will be established on an examination basis and proper qualifications will be necessary, as has happened with barristers, accountants, doctors, dentists, and the like. I intend to support the second reading of this Bill.

THE HON. V. J. FERRY (South-West) [6.14 p.m.]: I wish to thank members who have contributed to the debate. May I say that I appreciate the point of view expressed by my colleague, Mr. A. F. Griffith. I have no doubt that many members here share his views in some respects. I do not think we need elaborate on that because we are conscious of the need to maintain the high ethics and standards of the profession.

In my earlier speech I did not dwell on the amendment, which is really the Bill, because I was speaking at the second reading stage. However, I would remind the House that this is, as has been stated, an avenue of appeal to the Minister in a peculiar and unfortunate set of circumstances. If the Minister allows some leeway when a problem arises, it would only be on the advice of the Land Agents Supervisory Committee. Therefore, I believe this is a reasonable proposition and has sufficient safeguards.

Question put and a division taken with the following result:—

Ayes—14

Hon. C. R. Abbey	Hon. N. McNeill
Hon. Lyla Elliott	Hon. R. H. C. Stubbs
Hon. V. J. Ferry	Hon. S. T. J. Thompson
Hon. Clive Griffiths	Hon. F. R. White
Hon. J. L. Hunt	Hon. W. F. Willesee
Hon. R. T. Leeson	Hon. R. J. L. Williams
Hon. G. C. MacKinnon	Hon. F. D. Willmott *(Teller)*

Noes—9

Hon. N. E. Baxter	Hon. A. F. Griffith
Hon. G. W. Berry	Hon. I. G. Medcalf
Hon. R. F. Claughton	Hon. W. R. Withers
Hon. D. K. Dans	Hon. D. J. Wordsworth
Hon. J. Dolan	*(Teller)*

Pair

Aye	No
Hon. R. Thompson	Hon. J. Heitman

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. V. J. Ferry in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 4 amended—

The Hon. V. J. FERRY: I move an amendment—

Page 2—Delete all words in the clause and substitute the following:—

Paragraph (a) of subsection (2b) of section four of the principal Act is repealed and re-enacted as follows—

(a) Where an application for a license, or for the transfer to him of a license is made—

(i) on behalf of a company by a director or an employee thereof appointed in writing by the company to hold the license on its behalf, and the company is—

(I) authorised by an Act to apply for and obtain probate of the will of a testator; or

(II) a pastoral company in respect of which an exemption granted under section eleven of the Banking Act 1959 of the Parliament of the Commonwealth, or that Act as amended from time to time; is in force; or

(ii) whether on behalf of a company firm or otherwise, and the Minister has in writing requested a report from the Committee as to the circumstances of the case and the manner in which it might be dealt with,

the Clerk of the Court of Petty Sessions with whom the application is lodged shall cause copies of the application to be delivered to the Minister and to the Committee.

The Hon. A. F. GRIFFITH: A few moments ago we had proof positive that Mr. Claughton and I are not always on opposite sides, and in our loneliness we sat on the front bench together in the interests of what I would call justice.

The Hon. W. F. Willesee: You attracted a remarkable vote between you.

The Hon. A. F. GRIFFITH: Does the Leader of the House think it was more than it deserved, because I do not? Of course, I do not reflect on the vote of the Chamber and in no way feel ill-disposed to the overwhelming majority who voted in favour of the second reading of the Bill.

As I stand here I think to myself: What have we done to a few people to whom we refused licenses in 1966 when this legislation was introduced to provide that unless a man was qualified he could not practise as a real estate agent? We turned away when that grandfather provision expired and to men who were not qualified we said, "As you have no qualifications to practise you will be obliged to attend the technical college to obtain them." Now, with one stroke of the pen, and in regard to one particular instance, we are prepared to push that provision aside and say to a man, "You can have a license without having to possess any qualifications." I cannot comprehend that action.

I would not mind so much if the amendment provided that that man should be granted an interim license whilst he continued his studies to enable him to qualify. I refer to the case that was cited by Mr. Williams; that of a man who entered business with his father who died a week later. There was as much sympathy on my part for that man as there is for a director of a company and the circumstances surrounding him. There would have been some justice if we had said to that man, "You can have an interim license and on the completion of your two-year course of studies you will be granted a full license," but, by comparison, there is no justice in saying to a man, "Without any qualifications you are free to practise as a real estate agent and take upon yourself all the benefits that go with that practice as if you had held a certificate."

Even if it is late in the scheme of things I think the mover should give some consideration to what I have just said and have some regard for the man referred to by Mr. Williams whose father was practising as a sole entity and not in partnership.

I can recall a man in 1966 who had been in business for 15 or 16 years with another man who held the real estate license. For some reason or other the partnership was dissolved and the man who held the license said to his partner, "I will go my way and you can go yours, but when I go I am taking the license with me, because it is in my name." The other partner, because he did not have a license, despite the fact that he had been in business as a real

estate agent for 15 or 16 years, was unable to practise and Parliament has said to him, "Time has gone by and you cannot qualify as a real estate agent," and so that man is turned away.

If we are now to turn a complete somersault and legislate the other way, I cannot understand such action. Surely it is not too late to introduce some equity into this amendment by reporting progress and so give us time to frame such an amendment which will grant a man an interim license. I put that forward as a compromise suggestion—that is, let us grant a man an interim license subject to his continuing his study to enable him to qualify. Surely there is some semblance of equity in that suggestion.

The other day a man who had been in the real estate business for 40 years telephoned me and said, "Arthur, a terrible thing has happened to me." When I asked him what had happened, he said, "I have neglected to renew my land agent's license," and I asked him, "What were the circumstances that caused you to do that?" To that question he replied that usually he was sent a notice to remind him to renew his license when it expired but on this occasion they had omitted to do so and he asked me if there was anything I could do. I advised him that I regretted there was nothing I could do; that he would have to apply to the Court of Petty Sessions to obtain the renewal of his license. That was a most unfortunate set of circumstances but the man concerned had to obey the law.

If a man forgets to pay his life insurance premium and his policy expires, surely no-one would expect his executor to approach the insurance company and put forward the case that the deceased had every intention of renewing his policy but had omitted to do so and expect the insurance company to pay his policy in full. The same applies to anyone who fails to renew his driver's license or his vehicle registration. If he forgets to pay the fee in either case he cannot expect to be free of prosecution or be granted his license merely on the excuse that he forgot to pay the fee when his license expired.

If we are to pass a Bill of this nature let us introduce some equity into it by giving us an opportunity to frame an amendment which would reasonably fit the circumstances.

The Hon. F. D. WILLMOTT: A few moments ago my leader said he was surprised at the overwhelming majority who voted in favour of the second reading of the Bill. I cannot speak for other members of the Committee, but I can speak for myself. The reason why I voted for the second reading of the Bill was to ascertain if we could bring the measure to the stage it has now reached. I agree with my leader in this instance; that we should try to frame an amendment that will be different from that now proposed.

I agree it would be far more equitable in the circumstances which have been outlined to issue an interim license so that the person might qualify.

The Hon. R. THOMPSON: On my first reading of this amendment I was not very happy with it. However, since then I have been able to discuss it with the Attorney-General and I find that the intention of the Bill is somewhat different from what I actually thought it was. Under the Act at present a committee may make a recommendation to the Minister, but the Minister cannot call for a recommendation. In the instance raised by the Leader of the Opposition regarding the license holder dying, under the amendment the Minister can call for a report if the man's son is studying to become a registered land agent. The Attorney-General assures me the amendment will give him the discretionary power to grant an interim license until such time as he qualifies.

The Hon. A. F. Griffith: You could read that into it?

The Hon. R. THOMPSON: No. I think I made it quite clear that I could not, but that I have discussed the matter with the Attorney-General who has assured me that this is what it does. There is no guarantee, of course, that people such as those about whom Mr. Ferry is concerned would be granted a license, but at least the matter could be the subject of a report, and also the Minister could make a decision. That is how I see it.

The Hon. V. J. Ferry: It has two safeguards.

The Hon. R. THOMPSON: It gives the Minister some control over a difficult situation. That is about all it does.

The Leader of the Opposition made some valid points, but I had a different idea of the amendment then. I can see it has some merit and if it had been in the original legislation probably not so many people would have been disadvantaged over the years.

The Hon. I. G. MEDCALF: I regret I am unable to quite follow the proposal. I know the intention which is a worthy one and I support it. Regrettably, however, I felt compelled to vote against the second reading simply because I was not able in the short time at my disposal to read it in conjunction with the Act. I cannot understand how the provision guarantees a license per medium of the Court of Petty Sessions. I have heard that there may be a score or more waiting to take advantage of this.

I would like more time to study it. With all due respect to the honourable member who introduced the Bill—I realise he has done so on behalf of a member in another place—I feel we should all give more consideration to the matter. I would be quite prepared to carry on tonight, but I do not think it would be a reasonable suggestion. However, we must take our responsibilities seriously, and we should all be satisfied we do understand this legislation. I, for one, do not. If the Bill is dealt with now, I would have to continue to oppose it until I was completely satisfied.

This is not the right time of this part of the session to introduce a Bill such as this one. I am rather surprised at the number of members on the Government side who supported this measure. Perhaps they were aware of its contents previously. However, according to the comments made by Mr. Ron Thompson, he was not fully aware of all the implications. In view of what I have said, I suggest to Mr. Ferry that he moves to report progress.

The Hon. F. R. WHITE: Unlike Mr. Medcalf I have studied this Bill and the amendments made in 1966 in conjunction with this amendment and the Act. I am quite satisfied that difficulties could arise if the advisory board failed to make a report to the Minister because the Minister does not have the power to request such a report.

At this point of time, I feel it may be desirable to adopt Mr. Medcalf's suggestion and report progress, so that every member can study all the implications of this Bill.

The Hon. V. J. FERRY: In all the circumstances of the debate that has so far ensued on this Bill, it is apparent to me that many members are a little unsure of the implications of the measure. In view of the late hour of this particular sitting, I believe it would be prudent for me to move to report progress.

Progress

Progress reported and leave given to sit again, on motion by The Hon. V. J. Ferry.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT AMENDMENT BILL

Assembly's Message

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

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [6.42 p.m.]: I move—

> That the House at its rising adjourn until a date to be fixed by the President.

Before resuming my seat, I would like to apologise to the Leader of the Opposition for the unfortunate event that occurred this morning. I regret the things I said and I hope the House will accept that I did not think quickly enough. I did not mean to say the things I said and I regret them very much.

I thank members for their help and I thank the Leader of the Opposition very much for all he has done during this session of Parliament.

Question put and passed.

House adjourned at 6.43 p.m.

Legislative Assembly

Friday, the 2nd June, 1972

The SPEAKER (Mr. Norton) took the Chair at 11.00 a.m., and read prayers.

MINING REGISTRAR'S OFFICE AND COURTHOUSE

Southern Cross: Petition

MR. BROWN (Merredin-Yilgarn) [11.05 a.m.]: I wish to present a petition from the Royal W.A. Historical Society which reads as follows:—

> To the Hon. the Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled:
>
> We, the undersigned, urge you to consider our request that the proposed Mining Registrar's Office and Court House be constructed on a new site and the old building preserved for the use of the Southern Cross Branch of the Historical Society.
>
> Your petitioners therefore humbly pray that your Honourable House will give this matter urgent consideration and your petitioners as in duty bound will ever pray.

I have certified that this petition is in conformity with Standing Orders and it contains 433 signatures.

The SPEAKER: I direct that the petition be brought to the Table of the House.

KWINANA-BALGA POWER LINE

Dual Route: Motion

Debate resumed, from the 12th April, on the following motion by Mr. Thompson:—

> That this House deplores the decision of the Government to adopt a dual route for the 330kV Kwinana-Balga power line resulting in environmental desecration and personal hardship to a greater number of people than would lines installed along one route. We ask that the Government