

Legislative Council

Tuesday, the 17th September, 1974

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (9): ON NOTICE

1. ROADS, SEWERAGE, DRAINAGE AND ELECTRICITY

Expenditure

The Hon. R. F. CLAUGHTON, to the Minister for Justice:

- (1) What were the amounts spent by the Government for the financial year 1973-1974 in the metropolitan area for the provision of—
 - (a) roads;
 - (b) sewerage drainage; and
 - (c) electricity?
- (2) By what amounts will funds be increased this financial year for each of these essential services?

The Hon. N. McNEILL replied:

- (1) (a) \$22 042 700.
(b) \$17 501 651.
(c) \$29 569 000.
- (2) Roads—\$251 200.
Sewerage drainage—Not yet determined.
Electricity—\$10 100 000.

2. SHIRE OF EXMOUTH

Traffic Inspectors

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

- (1) How many traffic inspectors are gazetted by the Shire of Exmouth?
- (2) Of these, how many are employed—
 - (a) full-time; and
 - (b) part-time and engaged in other duties or occupations?
- (3) In what other duties or occupations are part-time inspectors engaged?

The Hon. N. E. BAXTER replied:

- (1) 6.
- (2) (a) 2.
(b) 4.
- (3) Shire Clerk, Assistant Shire Clerk, 2 Base Police, United States Navy Communication Station.

3. ROCKINGHAM HOSPITAL

Suspension of Construction

The Hon. I. G. PRATT, to the Minister for Justice:

- (1) To what extent has work been delayed on the Rockingham hospital project?

- (2) What is the cause of this delay?
- (3) What action has been taken, or will be taken, to remedy this situation?
- (4) Is there any indication that the contractor intends to withdraw from this project?

The Hon. N. McNEILL replied:

- (1) and (2) Except for normal contractual extensions of time, the contract has been delayed since August 16, 1974, because of union-orientated industrial stoppage.
- (3) The Public Works Department has been advised by the contractor that, on the basis that the unions are now prepared to return to the site, arrangements will be made to re-commence work as soon as practicable.
- (4) No.

4. DRAINAGE

Maddington

The Hon. CLIVE GRIFFITHS, to the Minister for Justice:

Further to my question of the 17th September, 1974, relating to fencing of the Helm Street drain in Maddington, would the Minister advise—

- (a) who is the successful tenderer; and
- (b) what percentage of the contract has been completed to date?

The Hon. N. McNEILL replied:

- (a) J. Dolmans.
- (b) The contract is virtually completed.

5.

POLICE

Exmouth

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

- (1) What is the population of the area covered by the Exmouth Police District?
- (2) How many policemen are stationed at Exmouth?
- (3) Were additional police officers sent to Exmouth during the recent Gala Week celebrations?
- (4) If so—
 - (a) how many; and
 - (b) for what reasons?

The Hon. N. E. BAXTER replied:

- (1) Approximately 4 000.
- (2) Three.
- (3) No.
- (4) Answered by (3).

6. BUILDING BLOCKS

Prices

The Hon. R. F. CLAUGHTON, to the Minister for Health:

- (1) Does the Government maintain a watch on the movement of prices for residential land in the metropolitan area?
- (2) If so—
 - (a) what Government authority is charged with this duty; and
 - (b) what has been the increase/decrease in prices since the Government assumed office?

The Hon. N. E. BAXTER replied:

- (1) In general terms yes.
- (2) (a) It is not a responsibility given to any particular authority in terms of data collection and statistical analysis. Such an exercise would be of doubtful value as up-to-date sales evidence is not freely available for the purpose.
- (b) For the reasons given in (a), no accurate answer can be given to the question. Limited sales during the period specified provide a very small data base and there is no clear pattern.

which expects, by virtue of shareholding, to control a major proportion of the north and southbound trade. The co-operative when formed will function largely as a management and organising entity, hiring transport capacity as required.

- (b) (i) The vehicles engaged by the steering committee and the vehicles which will be similarly engaged by the co-operative when it is formed will be issued with licenses to operate on the same basis as Bell Bros. whom they replace. Gascoyne Trading Pty Ltd will retain its existing licenses.
- (ii) The steering committee is operating in the manner envisaged for the co-operative when it has legal status.
- (c) The steering committee and its carriers performed very well in the first week of operating which began on Monday, 2nd September. I have no knowledge as to how the second week of operations went but I would imagine it would have performed equally well.

The Government is encouraging the enterprise for we believe a locally-based organisation supported by all sectors of the community is probably the best answer to the problems which have beset Carnarvon off and on for some years.

7. ROAD TRANSPORT

Perth-Carnarvon: Co-operative

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

With reference to the report in *The West Australian* on Monday, the 19th August, 1974, that a co-operative transport organisation was to be established at Carnarvon, will he advise—

- (a) has the co-operative been formed;
- (b) if so—
 - (i) has it been issued with a license to operate between Carnarvon and Perth on the same basis as the license issued to Gascoyne Trading Pty. Ltd.; and
 - (ii) is it operating;
- (c) if the reply to (b) (ii) is "Yes" is the Minister satisfied with the way it is carrying out the service?

The Hon. N. E. BAXTER replied:

- (a) A very active steering committee, representing town and river interests, is in the process of forming a co-operative of transport users

8.

FISHERIES

Coastal Patrols

The Hon. W. R. WITHERS, to the Minister for Education:

- (1) Will the Minister please check the validity of the following rumours—
 - (a) that TV Channel 9 from Melbourne took photographs of a Navy patrol boat firing shots over the bows of Indonesian fishing craft off the Kimberley coast;
 - (b) that three Indonesian fishermen carried military identification cards; and
 - (c) that the television film has been shown this week in the Eastern States?
- (2) If the film exists, will it be shown on Western Australian television channels?

The Hon. N. E. Baxter for the Hon. G. C. MacKINNON replied:

- (1) I am informed as follows—
 - (a) TV Channel 9 from Melbourne did not take photographs of a Navy patrol boat firing shots over the bows of Indonesian fishing craft off the Kimberley coast.
 - (b) Four Indonesian fishermen had Army identification cards; the latest being for the year 1972. It is thought that these were personnel who had been in the Army and had now returned to their fishing villages.
 - (c) Melbourne Channel 9 did make a TV film on aspects of patrolling by the Navy of Indonesian fishermen.
- (2) The Melbourne Channel 9 film was shown on Western Australian television on Tuesday, 10th September, 1974.

9. EXMOUTH HIGH SCHOOL

Fourth-year Classes

The Hon. S. J. DELLAR, to the Minister for Education:

- (1) Further to the reply to my question on the 28th August, 1974, did the Premier make a statement at Exmouth on the 30th August, and if so, what statement was made?
- (2) Was a meeting held at Exmouth on Tuesday, the 10th September, 1974, to discuss fourth-year classes at the Exmouth school?
- (3) If so, were officers of the Education Department in attendance?
- (4) If the reply to (3) is "Yes"—
 - (a) who were these officers; and
 - (b) what are their respective positions with the department?

The Hon. N. E. Baxter for the Hon. G. C. MacKINNON replied:

- (1) Yes, as indicated in the following Press statement—
The Premier (Sir Charles Court) today received a deputation from Exmouth P. & C. Association about the provision of 4th and 5th year classes at Exmouth District School.
The Premier said he was willing to make arrangements for 4th year in 1975 and 5th year in 1976, but he would need to have a clear indication of parent wishes.
Some parents have arranged for the children to have their 4th and 5th year education outside the district, and would resent losing

the living-away-from-home allowance once the facilities are established at Exmouth.

The deputation was unable to be specific about the numbers who would elect to attend if 4th year facilities were available in 1975 and 5th year in 1976.

The Premier said he was not particularly concerned about the numbers for the first year of the higher classes.

He was more concerned about the future, and ensuring the stability and growth of the town.

The Premier said—"I am opposed to the old 'numbers game' that was practised for many years in determining whether higher education was to be provided.

There are times when you must make decisions backed by faith in an area.

The attitude of many Royal Australian Navy, United States Navy and civilian employees could be changed if they knew 4th and 5th year facilities are going to be available on a fixed programme."

Exmouth school resumes 9th September.

A meeting of parents will be convened for Tuesday evening 10th September.

The Premier promised to send the Association a series of questions which need answering by parents at the meeting and by other parents who can be contacted.

The Premier also said—

"It will be up to the parents to determine in the light of the facilities that can be provided and the alternative of living-away-from-home allowances, whether 4th and 5th year facilities are installed on a 1975 and 1976 basis."

- (2) Yes.
- (3) Yes.
- (4) Dr A. N. Stewart, Director of Special Services.
Mr H. Loudon, Director of Secondary Education.

STAMP ACT AMENDMENT BILL

Third Reading

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

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Further Report

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

SALE OF LAND ACT AMENDMENT BILL*Second Reading*

Debate resumed from the 10th September.

THE HON. S. J. DELLAR (Lower North) [4.46 p.m.]: The Bill before the House seeks to amend the Sale of Land Act, 1970-1973. The main provision of the amending Bill is to be found in clause 5 which the Minister indicated in his second reading speech was the crux of the Bill, and which provides for a prohibition on the public offering or soliciting of undivided shares of land except in certain circumstances.

We have no opposition to the amendment. We believe it is a very good move. Members are aware of the problems associated with undivided shares in land, where anything up to 200 people could have an equity in a parcel of land. This has created problems for local government and other departments in connection with programmes for road widening and works of that nature, and all the holders of undivided shares must be located in order that notice may be served upon them.

The first exception to the prohibition is where a scheme is already regulated under division 5 of part IV of the Companies Act. The amending Bill will not affect that situation.

The second exception relates to public offers for sale of a title to which there is a collateral right. This would be the case in a block of home units where a person buying a share in the building would have an undisputed right to occupy a part of the building. It would also apply to factories, where it would be physically possible to subdivide and the occupiers have an undisputed right to a section of the factory area.

A third exception relates to a private individual who may have had three parcels of undivided land in one particular area and who wishes to dispose of one or two of the parcels. There is no restriction on a private individual selling one or two of the shares in, say, a beach estate, a farm, or a block of flats. The private individual is permitted to advertise publicly in order to sell off one or two of his shares. The difference in this case is that if he found he could not sell them to one particular person it would be an infringement of the Act if at a later stage he attempted to sell parcels to other individuals.

The next exception is in the case of the sale of land or home units where negotiations have been commenced before the Bill becomes part of the Act. The Bill will have no effect on these.

Of course these exceptions will apply only if the Minister grants them, and this is provided for in the measure. It is also

proposed to extend the date shown in the Bill upon which its provisions will come into operation. I presume this is due to the delay in the introduction of the legislation to this House, and is to cover negotiations which might be proceeding at the moment.

The Bill does not attempt to restrict or to regulate the sale of undivided shares in land; it merely seeks to restrict the public advertising of undivided shares in parcels of land, and to prevent land being offered publicly for sale in undivided shares. Even then the restriction applies only to persons actively engaged in the business of promoting the sale of undivided shares in land or buildings.

I had intended to refer to another point, but as I cannot find the appropriate reference to it I will probably mention it at a later stage.

We offer no opposition to the Bill. We believe it is necessary and it will assist local government and other instrumentalities to control certain aspects of the sale of land. With those brief comments I support the Bill.

THE HON. I. G. MEDCALF (Metropolitan) [4.53 p.m.]: This Bill, which I support, seeks to stamp out the nefarious and reprehensible practice of selling undivided interests in land, where there may be many co-owners and where there are often elements of misleading advertising.

A case recently came before my notice in which there were no less than 757 shares or, presumably, separate owners in the land in question, which happened to be in an attractive locality. It was part of a farm which had a beach frontage. The title deed showed the Indian Ocean with a nice, wavy line and a blue background, and this was reproduced in the brochures. The area of the land happened to be 757 acres, so it was sold to 757 separate owners; and instead of each of them receiving one acre—as they thought they were receiving—they each became a 1-757th co-owner in the totality of the land. In other words, each of the co-owners owned the whole of the land, but also only a 1-757th share of it.

It is almost impossible for the mind to comprehend how anyone can enjoy a 1-757th share in an area of land equal to 757 acres. In such a case the average person would assume he owned one acre; and, unfortunately, this was the belief of the people concerned, and in this lies the misleading assumption conveyed in the advertising.

I know the people who advertise such land are often very subtle in the form of advertising they employ. The salesmen are either highly skilled or very practised in many cases and do not make the mistake of telling people they are buying one acre of land. It is impossible to sheet home to the advertisers the fact that they

have at any time told an unsuspecting applicant he will receive one acre of land. But what would the average person understand when he is shown an area of 757 acres with a nice wavy line on a blue background depicting the Indian Ocean? He would naturally assume that he is getting a beachfront block in Western Australia of one acre in area, particularly if he came from the United States, New Guinea, or any other place where such land is sold.

In fact, the case to which I refer concerned people from New Guinea who had gone so far as to buy two acres—or so they thought, but it was really a 2-757th undivided interest. There was nothing they could do about it. They received a nice little certificate which stated, "This is to certify that you are the owner of two 1-757th shares in this beach estate." Of course, they are all beach estates, even though they might have a frontage of only 20 chains, in front of which there may be a reserve!

So it is really a case of smart salesmen taking advantage of the gullibility of the public, and this practice gives a bad reputation to Western Australia. I have received letters written by solicitors in other parts of the world in which they have asked me whether this is permitted under the law of Western Australia. They could not believe that it was. Although no doubt these transactions have occurred in other places, the practice seems to be something rather peculiar to Western Australia, and the rash of these deals which has occurred in the last 10 years has quite rightly forced the Government to take some action.

Whilst I have said that I support the Bill, and while I believe it is worthy of every member's support—and I am glad Mr Dellar has indicated that his party supports it, so it seems it will have the unanimous support of the House—nevertheless I believe it does not go far enough. I have examined the legislation quite carefully and I have come to the conclusion that there are still a number of loopholes in it which will enable a smart operator to escape the retribution which he justly deserves for foisting one of these schemes on to a gullible public.

You may ask, Sir, as I have asked in the past, "Why should we protect people against their own foolishness?" That is a good question and one we should ask ourselves as legislators. Should we be worrying too much about the foolish people who get taken in by this sort of thing? I believe this is one of the cases in which we should, because it is just too easy to put over to the unskilled public this type of misleading advertising and this type of misleading transaction.

Therefore, if we have made the decision that we need to legislate in respect of this matter, I believe the legislation should be

tight. I believe we should leave no loophole in the Act. We should make quite sure we have not left a couple of loopholes which a smart operator can use and will use the minute the Bill becomes an Act.

If I may, I would like to instance what I believe to be two loopholes in the legislation, and there may well be more. These are two matters which occurred to me when studying the Bill. The first is that it is quite possible to grant an option to buy an undivided share in land. I know this is not the intention of the Minister because he referred in his second reading speech to preventing people from resorting to options. But when we examine carefully the wording of the legislation we find that it does not quite prevent people from advertising options. In other words, a person can advertise in the paper and, instead of offering undivided shares in land, he can say he is prepared to grant options free, and not for purchase.

That could not be regarded as a sale of an undivided interest in land. Subsection (2) (a) of proposed new section 19A, as set out in clause 4, reads as follows—

an undivided share in land includes any interest or right, whether legal or equitable, in an undivided share in land and includes an option to purchase such an interest or right;

On the face of it, one would say, "That includes an option", but when we analyse the wording of proposed new section 19 (B) (1), in clause 5, which reads—

A person shall not offer to the public for purchase . . . any undivided share in land . . .

and delete the words, "undivided share in land" to insert the words, "option to purchase an interest in any undivided share", the provision would then read—

A person shall not offer to the public for purchase any option to purchase an interest in any undivided share in land . . .

In other words, to commit an offence a person has to offer to the public an option for purchase. An option for purchase is quite different from granting an option, which could be granted free.

All that is required to get people involved is to grant them an option. One could advertise to grant options to people and when they reply one could proceed to tie them up in a contract, and I think this is what some unscrupulous people would do. That is one loophole, and I would be grateful if the Minister would look at it.

Another loophole which occurred to me is that a person could still advertise to state that he would accept offers to purchase. I am a man, say, who owns 750 acres of beach estate. Let us presume that I want to sell an undivided share. Instead of offering to the public shares in this land, I say, "I will accept offers from the

public to purchase shares in the land". So I do not offer anything. I simply say that I am sitting, say, in my little lair waiting for people to make me offers. Such a situation, I think, is not covered in the Bill either, and it seems to me that there is nothing to prevent people from making offers to the person who actually owns the land. In other words the transaction has been inverted; the person concerned is not making offers to the public to purchase; he is merely saying that he will receive offers. He is not advertising an offer to purchase because he is not making an offer to purchase. He is advertising, stating that he will be available if anyone wishes to make an offer to him. That is a simple way of turning the transaction round, and I think it may well escape the penalties of the Act.

This is another loophole in the Bill which I would ask the Minister to look at. I would be grateful if he did because it seems to me that these are two obvious ways by which an unscrupulous salesman, working in this particular line of business, could still continue to deceive the public. We know that many people examine legislation very carefully as soon as it is proclaimed, especially when they are engaged in a particular line of business. They examine the legislation and look for loopholes and then devise a scheme which will get through the loopholes in the legislation. Because of my conviction that Parliament should take action along the lines I have indicated and as this is a subject in regard to which we should offer the people some protection from being taken in by shrewd operators, I believe we should make the legislation as tight as possible and close all possible loopholes.

The recommendations of the Law Reform Commission, which examined this legislation very carefully and took opinions from all members of the community who cared to express them—including the Real Estate Institute, the banks, and a number of other people—were based on a very careful consideration of the situation. The Minister has indicated that his Bill has followed the general scheme of the Law Reform Commission's recommendations with a few addenda to cater for the fact that it is now to be placed under the Registrar of Companies.

A suggestion was made at one stage that this is a matter that should be controlled by the Town Planning Department and that no sale of an undivided interest in land should occur unless the Town Planning Department approves the transaction, but that suggestion did not find favour with the Law Reform Commission, and the suggestion which has been adopted and is now incorporated in the Bill is the best one.

With regard to some of the terms from company law which have been written into the Bill, I did express, during the debate

on the Companies Bill last year, my abhorrence at some of the terms now being used, and I see they have been repeated in this Bill in relation to associates and people who express a wish to do certain things. I notice that the relevant provisions of the Companies Act have been inserted in the Bill, so people who habitually act on the wish of an associate will find that they come within the purview of this measure.

This is odd law. There is very little, if any, precedent for it. It has been severely criticised in the Companies Act and we are now inserting similar provisions in this Bill. I do not really raise any objection other than to say I do not know how far it will get us. I hope it has the effect of tightening up the legislation and because I am in favour of the Bill I would not be prepared to do anything in this connection because in some way it may help to prevent other rackets from developing.

I have voiced my general support for the Bill, but I believe it needs strengthening. Accordingly I should be most grateful if the Minister would look at the points I have raised with a view to clarifying them to see whether something can be done to close the loopholes to which I have referred.

THE HON. R. F. CLAUGHTON (North Metropolitan) [5.07 p.m.]: Unlike the previous speaker I have not studied the Bill very carefully, so I was most interested in what he had to say. I have referred two companies to the Minister in charge of the Crown Law Department and both of them have had to cease operating. I was not certain whether or not our law was adequate. However, if we take it that the companies had to cease operating they must have been operating outside the scope of the law or in contravention of it. One of the companies was dealing with holiday properties and the one I referred to the Minister more recently was marketing pine plantations. This company was offering to a purchaser a share of the crop and, finally, a portion of the land.

The actions of both of these companies represent examples of the manner in which groups of companies have attempted to get around the laws governing the subdivision of land. The propositions of such companies are made quite attractive so that the ordinary person, not having had the position fully explained to him—and when it finally came to his receiving a share of what is being sold—would not understand it was not available to him.

We know that, particularly in the Eastern States, there have been some scandalous transactions of this nature. In Victoria and New South Wales quite recently it was reported that people who had invested in such companies thought they had a share in the properties that

were being handled by the companies. However, when it came to the subdivision of the land they found this was not the case. One proposal actually included Crown land which, of course, could not be released. We do not want a similar situation to arise here.

So far Governments have managed to keep the position under reasonable control and I am hoping this Bill will further tighten up the position. I must confess to having some little doubt, but we can only wait to see precisely what happens. Apparently we cannot stop unscrupulous people from promoting the sales of pine plantations, for example, which are disguised as subdivisions of land and which cannot be picked up by the people who become interested in the promotions. The particular company I cited circulated its prospectus around the area in which I live, through the medium of letterboxes, and a reply was attached to the circular for forwarding back to the company.

One of the company salesmen called on me. He was quite unaware of who I was otherwise I do not think he would have called. From what he said the ordinary person would not be aware he was entering into a trap of this sort. Fortunately the Crown Law Department, in some way, was able to prevent the firm concerned from continuing to operate. I am not sure precisely what law was used, because I was not advised.

I think the intention of the Bill is quite honest and I hope it attains its objective. In the end, of course, we cannot prevent all people from being deceived by an unscrupulous dealer. A scheme can be promoted and then the salesman can vanish. What can be done about that? No matter what law we have on the Statute book it is difficult to control a situation such as that.

I am wondering whether a company—such as the one I have cited—presents its prospectus to the Companies Office; whether it comes into the category of those which must present their prospectuses to the Companies Office. A company is obliged to lodge its papers with the Companies Office for approval. Is there not some way that they could be vetted?

The Hon. N. McNeill: No prospectus would be accepted if it contained anything contrary to the law.

The Hon. R. F. CLAUGHTON: I referred the matter through the Minister to the Crown Law Department and the company concerned had to stop its operations. That could be done only if the company were acting in contravention of the law. There seems to be a deficiency in the lodging of these prospectuses.

The Hon. N. McNeill: If they ever see them.

The Hon. R. F. CLAUGHTON: That may be so. It is very hard to visualise that this company did not lodge its prospectus because it was well set up. I regret that I did not look up the papers so that I could speak more specifically about the matter. I have a feeling that, in fact, the company to which I have referred had been registered as a company. Perhaps a more careful check can be made to ensure that a similar situation does not arise in the future.

THE HON. D. J. WORDSWORTH (South) [5.15 p.m.]: I do not wish to take up the time of the House for very long, but I would like to congratulate the Government for having introduced the Bill before us.

As you know, Mr President, I asked numerous questions of the previous Government in regard to a subdivision in Peppermint Bay—which is in my electorate—which caused myself, the member for the area and more particularly, the shire council much embarrassment. The shire council has, for some time, been trying to track down the company concerned and of course nobody has ever been found at the registered office in Perth.

The Hon. R. Thompson: That was not a subdivision.

The Hon. D. J. WORDSWORTH: It was a company.

The Hon. R. Thompson: It was selling undivided shares at Peppermint Beach.

The Hon. D. J. WORDSWORTH: That is so. The people, however, thought they were buying into a subdivision. We have been long wanting an Act which could help us tie such companies down.

As has been mentioned the instance of the pine plantation project was a typical case, and some 12 months ago the Liberal Party investigated the position of pine plantation projects and found that there was a great deal left to be desired in some of the set-ups connected with them.

For some time now there has been a considerable amount of hedging as to the necessity for the introduction of such legislation. I am somewhat apprehensive to hear Mr Medcalf say that he has some reserve about whether or not the measure will be effective. I only hope the Crown Law Department will jump in and fill any gaps that may occur should some of the unscrupulous investors decide to continue with their operations.

Debate adjourned, on motion by the Hon. V. J. Ferry.

EXPLOSIVES AND DANGEROUS GOODS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 11th September.

THE HON. R. T. LEESON (South-East) [5.18 p.m.]: This is a Bill to tidy up the provisions of the Explosives and Dangerous Goods Act, because it has been found that certain provisions in other Acts conflict with the parent Act. In order to have some uniformity I think the amendments are necessary.

I notice, for instance, the State Government departments have voluntarily agreed to be brought under the provisions of this particular Act; previously they were exempt. I think this is also a good idea.

As members know there is not a great deal of use for explosives in the metropolitan area, because it would be fairly dangerous to use them in built-up areas. They are, however, used on the outskirts of the city and in quarries. I noticed not so long ago there was an accident in the quarries in relation to explosives being used. Apparently some young people were playing with fracture and obviously they did not know how to handle it. I think, as a result one young fellow lost a hand but it could, of course, have been a lot worse.

Having considered the Bill I have three main concerns about the measure, the first of which is to check and see how the provisions of the Bill affect the prospectors; secondly how its provisions affect the big mining operators, and thirdly how the Bill affects the agricultural and pastoral areas and the outback of the State generally where, of course, there is good reason for the use of explosives, because such areas do not have access to machinery and equipment, which is readily available in the metropolitan area, and which is able to carry out the job more effectively.

One of the things that does strike me—and I know this to be a problem—is that although there is a certain amount of control of explosives in this State I do not think that at the moment it goes far enough; because in some areas explosives are readily available to all and sundry. I speak mainly of Kalgoorlie where, as members know, considerable quantities of explosives are used. It was only a week ago that 12 sticks of fracture were placed alongside a Kalgoorlie regional traffic office with the result, of course, that the traffic office is no longer there. This is not the first time this has happened.

I understand a similar operation has been carried out at least three times in the last three years and it is continually repeated. It is, however, a dangerous practice.

I recall that some six to eight months ago there was a tremendous explosion in Kalgoorlie at about two o'clock in the morning when 1½ houses disappeared. This was caused by somebody who apparently wanted to commit suicide but who could have done a far better job by using some other method. A case containing 160 sticks

of fracture were placed under the kitchen table and members can well imagine the explosion and confusion that ensued, which completely damaged the house in question and also damaged half the house beside it. It was as well there were not many people walking along the footpath or the death toll could have been considerable.

The Hon. N. E. Baxter: Did they find the bloke?

The Hon. R. T. LEESON: There were a few odds and ends lying around. Young people do occasionally get hold of pieces of fracture as do those who know nothing about handling explosives and, of course, this is dangerous, particularly in the case of children who happen to play around with such pieces of fracture.

I do not know how we can police this matter further because at the moment the police issue permits to people who they think are fit enough to handle explosives. Naturally approval must be given to the operation to be carried out. It is after the operation is carried out, however, that quite often explosives are left lying around the area concerned and this is where the trouble arises.

Those who find it necessary to use explosives should be made to keep such explosives in a safe place and under lock and key; preferably as close to home as possible. Magazines situated around the mines are located miles from anywhere and occasionally people do break in and obtain the necessary explosives for all sorts of purposes.

The Bill certainly goes some way towards tightening up the use of explosives and dangerous goods and for that reason I support the measure.

Debate adjourned, on motion by the Hon. N. E. Baxter (Minister for Health).

NICKEL REFINERY (WESTERN MINING CORPORATION LIMITED) AGREEMENT ACT AMENDMENT BILL

Second Reading

THE HON. N. E. BAXTER (Central—Minister for Health) [5.25 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to seek ratification of an agreement executed by the State and Western Mining Corporation Limited on the 29th March, 1974, to amend both the Nickel Refinery (Western Mining Corporation Limited) Agreement of 1968, and the supplementary agreement of 1970.

The 1970 agreement, while amending the 1968 agreement, also constitutes a separate agreement. The original agreement deals primarily with the establishment of a nickel refinery at Kwinana while the second provided for the establishment of a smelter near Kalgoorlie.

The resultant intricacies of these arrangements are now to be further compounded by the issue of yet another agreement varying the terms of each. Because of distinct limitations of time and the size and complexity of the task of amalgamating all agreements into one co-ordinated document, it is considered preferable at this time to proceed in the manner now proposed.

The matters covered by the amendment agreement now before members were prompted initially by requests submitted by Western Mining Corporation Limited in respect of the corporation's rights pertaining to a number of mineral tenements and to the operation of water and sewerage services. Concurrently the State desired some changes affecting the freeholding of townsite lots in Kambalda and also to write into the agreements some minor amendments in respect of the tailings lease; *force majeure* clauses; new clauses dealing with environmental protection and the format to be adopted in future variations of the agreement.

The most significant item deals with the company's rights in respect of its mineral areas. Doubt has arisen regarding the interpretation of the principal and supplementary agreements as to whether conditions relating to favourable renewal rights, labour and expenditure requirements, and concessional rating entitlements apply to certain of the corporation's mineral leases. As the application of the above conditions may be applicable in varying degrees according to the date of application and grant relative to the commencement date under the principal agreement, the corporation believed that its security of tenure in respect of these leases might be in jeopardy.

Consequently it was agreed that the status of the leases in question should be placed beyond doubt by the granting to the company the same favourable rights of renewal, exemption from labour conditions and concessional rating entitlement as apply to all other mineral leases held by it under the agreements. It is apparent that this was the original intention of the parties and that the company's request was justified.

The amendment agreement gives effect to this decision under clause 3, subclauses (1) and (3), and clause 5, subclauses (1), (4) and (5).

The company also sought at that time a further concession in respect of its obligations under clause 5 (1) of the 1968 agreement. The company must under that provision surrender 132 square miles a year of the area over which it holds occupancy rights, and it sought the right to include as part of such surrendered land any area over which it had applied for a mineral lease in the preceding twelve months. As the proposal conformed with

the normal practice of the Mines Department it was agreed that the agreements should be amended accordingly. Clauses 3 (2) and 5 (3) of the amendment agreement give effect to this provision.

I turn now to the matter of the company's rights in respect of townsite development and the discharge of its obligations in regard to water and sewerage services. The company has, since the inception of its townsite development controlled townsite land use and provided water and sewerage services for all consumers within Kambalda East and West. Finding it desirable to broaden the scope of its rights beyond those provided in the 1968 and 1970 agreements, the company sought the status of a supply authority under which to continue its operations.

The Public Works Department is not currently in a position to take over such responsibilities from the company, and it is agreed that the rights sought by the company should be granted provided, firstly, that charges for water and sewerage services be subject to approval by the Minister for Works and Water Supplies and, secondly, that should the Minister consider it desirable in the interests of water conservation purposes or water management purposes, or to maintain equity between consumers throughout the State, the Minister may, on giving six months' prior notice to the company of his intention to do so, take over the water supply and the sewerage schemes within the townsite, without payment of compensation. In that event, consumers within the townsite would become subject to rates and charges as prescribed under the Country Areas Water Supply Act and the Country Towns Sewerage Act.

Opportunity is also taken to clarify the company's obligation towards contributing to the capital cost of expansion of the water supply system necessitated by the company's operations. Clause 3, subclauses (5) and (6), and clause 5, subclause (1) of the amendment agreement give effect to these rights and obligations.

At about the same time as the company approached the State on these townsite matters, it was brought to the attention of the Mines Department that action should be taken to regularise a practice that had been established regarding freeholding of townsite lots.

The 1968 principal agreement enables the company to lease townsite lots and improve them under certain conditions, thus becoming eligible for freehold title. In practice, and by arrangement with the State, upon the company having arranged an approved subdivision it has bypassed the requirement for a lease and has proceeded directly to erecting the necessary improvements, subsequently being granted freehold title by the Lands Department. This arrangement is a practical one which avoids a large amount of tedious and

routine processing involved in lease documentation and surrenders that would otherwise be necessary.

In addition, the company has been developing some sites—particularly commercial sites—on behalf of third parties to whom it has undertaken to sell the land. In effect, the company is thus selling the site before it has title, and as such a sale is in conflict with the Sale of Land Act the State has agreed that this procedure should be regularised by an appropriate amendment. Clause 3 (4) of the amendment agreement gives effect to these provisions.

The State has also found the drawing up of the amending agreement an opportunity to include in the principal and supplementary agreements certain other policy and minor administration matters.

The first of these policy matters is the introduction of a variation clause which while not consistent with the present Government's policy is recognised as part of a contract executed by the previous Government. We are prepared to honour that contract and allow clauses 3 (7) and 5 (1) of the amendment agreement to be ratified in its present form. We also accept the terms of the environmental protection clause, the second policy matter, introduced by clauses 3 (9) and 5 (1) of the amendment agreement.

Finally, the amendment agreement provides for notice to be given by one party to the other in the event of a claim of *force majeure*, and, secondly, corrects some anomalies in respect of issue of a tailings lease or leases. They are both administrative changes considered to be desirable and are covered by clauses 3 (8) and 5 (2) respectively in the amendment agreement.

I mention in conclusion that this Bill seeks to ratify an agreement prepared and executed by the previous Government and its ratification is now sought.

Debate adjourned, on motion by the Hon. D. W. Cooley.

House adjourned at 5.34 p.m.

Legislative Assembly

Tuesday, the 17th September, 1974

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

TRAFFIC ACT AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

QUESTIONS (16): ON NOTICE

1. HOUSING

Remote Areas: Transportable Homes

Mr GREWAR, to the Minister for Housing:

(1) Could consideration be given by the State Housing Commission to using transportable homes in remote areas if efforts to obtain suitable builders cannot be obtained?

(2) If not, why not?

Mr O'NEIL replied:

(1) Yes. The commission has, in the past, provided this class of accommodation in some rural areas.

(2) Answered by (1).

2. TRANSPORT

Modernisation of Systems: Commonwealth Grant

Mr FLETCHER, to the Minister for Transport:

(1) Is he aware of Press comment in *The West Australian* of 10th June, 1974 that the New South Wales Government had written the Prime Minister accepting a long standing offer of \$300 million to be spent in the State over a period of five years to renew buses, trains and ferries and to modernise freight services?

(2) Is a comparable or *pro rata* amount available to this State for a like purpose as in (1)?

(3) If so, is the offer being taken advantage of, and again if so, in what areas of the transport system is such Federal grant being expended?

Mr O'CONNOR replied:

(1) I believe what the member is referring to relates to the Commonwealth Government's promise, made in February 1973, to contribute two-thirds of the cost of approved projects to improve public transport facilities in Australia's capital cities. All of the States have subsequently signed an agreement with the Commonwealth, which is to last for five years up to the end of the 1977-78 financial year. There is no commitment by anyone to any total figure over the five year period. For anyone who wishes to know more about this, and what we in this State shall be doing, I would suggest they look at the Director-General of Transport's Annual Report for 1973-74, pages 23 and following.