On the 15th December, 1969, the factual report of the Liberal Party read as follows:—

> The W.A. division of the Liberal Party has proposed that an independent commission be established to investigate the laws governing retail trading hours in the State.
>
> The proposal was one of four recommendations in a policy statement on retail trading.

Mr. O'Neil: That statement has been repudiated.

Mr. LAPHAM: Further on the report read as follows:—

> It accepted the need for laws to control trading hours where it could be demonstrated that regulated trading hours were needed for the good of the community.

We all agree with that; it will be found in Labor policy. To continue—

> It recognised the need to keep the laws under review so that they could be kept up to date and in accordance with good service and public demand, particularly in specialised trades.

No-one would disagree with that. To continue—

> The Government should consider legislation to set up a commission independent of trading interests before which any interested parties, including the public, could appear.

That is the object: that is something which is really worth while. There was an opportunity for the Minister to set up an independent authority to look into the question, but he did not do that. To continue—

> Provisions should be made in the Factories and Shops Act for any retailer to serve a customer with anything in an emergency.
>
> Mr. Lathby said the division decided that what constituted an emergency should be decided by the courts rather than be a rigid definition by regulation.

The object was to let the retailers serve, and if action was taken it would be in accordance with what the court decided. It would be found that there would not be a great number of emergency dealings in those circumstances. At that time the Minister said he could not see that the idea was a practical one. The report continues—

> Mr. R. E. Packington, secretary of the Retail Traders' Association, said last night—

The CHAIRMAN: I do not think I can allow you to go on quoting from that report.

Mr. LAPHAM: I am only quoting a factual report, and not the opinion of the newspaper. However, I will not quote further but state that Mr. Packington made it perfectly clear that, in his opinion and in the opinion of his association, it was not necessary to alter trading hours. The Minister and the Liberal Party are interfering with free enterprise, and free enterprise has asked that it be left alone.

Amendment put and a division taken with the following result.

Ayes—27

Mr. Bateman	Mr. Kitney
Mr. Bertram	Mr. Lapham
Mr. Bickerton	Mr. May
Mr. Burke	Mr. McIver
Mr. Dunn	Mr. McPharlin
Mr. H. D. Evans	Mr. Mitchell
Mr. T. D. Evans	Mr. Moir
Mr. Fletcher	Mr. Stewart
Mr. Gayfer	Mr. Taylor
Mr. Graham	Mr. Toma
Mr. Grayden	Mr. Tonkin
Mr. Harman	Mr. Young
Mr. Jamieson	Mr. Norton
Mr. Jones	

(Teller)

Noes—15

Mr. Bovell	Mr. Mensaros
Mr. Burt	Mr. Nalder
Mr. Cash	Mr. O'Neil
Mr. Court	Mr. Ridge
Mr. Craig	Mr. Runciman
Dr. Henn	Mr. Rushton
Mr. Lewis	Mr. Williams
	Mr. I. W. Manning

(Teller)

Pairs

Ayes	Noes
Mr. Davies	Sir David Brand
Mr. Sewell	Mr Hutchinson
Mr. Brady	Mr. O'Connor

Amendment thus passed.

Progress

Progress reported and leave given to sit again, on motion by Mr. I. W. Manning.

House adjourned at 9.43 p.m.

Legislative Council

Wednesday, the 15th April, 1970

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

MINING TENEMENTS ON CROWN LAND

Banning of Applications: Petition

THE HON. R H. C. STUBBS (South-East) [4.32 p.m.]: I wish to present a petition from the residents of Western Australia concerning the banning of applications for mining tenements on Crown land. I move—

That the petition be received.

Question put and passed.

THE HON. R. H. C. STUBBS (South-East) [4.33 p.m.]: I move—

That the petition be read and ordered to lay on the table of the House.

Question put and passed.

THE HON. R. H. C. STUBBS (South-East) [4.34 p.m.]: The petition containing 248 signatures reads as follows:—

To the Legislative Council of the Parliament of Western Australia.

The humble petition of the undersigned sheweth:

That on the 3rd day of February, 1970, the Minister for Mines for the State of Western Australia, the Honourable Arthur Griffith, M.L.C., announced a ban on applications for mining tenements on all Crown Land until March 31st.

As a result of the said ban, prospectors and miners engaged in examination and exploration of mineral prospects throughout the State of Western Australia have been arbitrarily prevented from exercising their rights to apply for mining tenements over areas prospected by them.

The said ban will discourage the progress and development of the said State which is dependent on the continued expansion and development of the mining industry.

To prevent any further damage to the mining industry the State Government should remove the said ban on applications for mining tenements and amend the Mining Act, 1904-1969, to prevent a similar ban being imposed at any future time.

And your petitioners as in duty bound will ever pray that their humble and earnest petition may be acceded to.

The Hon. A. F. Griffith: The first political move of the day!

The petition was tabled.

QUESTIONS (2): WITHOUT NOTICE

1. FISHING

Commonwealth Intervention on Continental Shelf

The Hon. V. J. FERRY, to the Minister for Fisheries and Fauna:

(1) Has the Minister read the news item headed "Commonwealth acts on coastal resources" published in *The West Australian* dated the 15th April, 1970, referring to Commonwealth legislation titled the Continental Shelf (Living Natural Resources) Act?

(2) As the legislation is reported to establish controlled areas, including the continental shelf off Western Australia, to ensure that the commercial taking from the listed areas of the shelf of any sedentary organisms specified must be done under Commonwealth license, what effect will the measure have on the fishing industry of the State?

(3) What are the names of the more common sedentary organisms to be found on the continental shelf off Western Australia?

The Hon. G. C. MacKINNON replied:

(1) Yes, I have read the article.

(2) I have no doubt that this has caused some alarm because of the recent reports regarding Commonwealth action concerning minerals in the ocean. However, this Act was passed in 1968 and was proclaimed yesterday. It has effect from outside the territorial waters only—that is, from three miles seaward below low-water mark—and as we have complementary legislation covering our specific fisheries in Western Australia, we do not expect that we will have any trouble. The Act also replaces the Commonwealth Pearl Fisheries Act with which we were able to work quite satisfactorily so far as our pearl shell and the like were concerned.

(3) I am unable to inform the honourable member of the more common sedentary organisms, because this would involve a tremendous amount of research. However, the ones the Commonwealth is interested in are—

Beche-de-mer
Pearl shell
Razor fish
Abalone
Trochus
Green snail

At a guess I would suggest that this Act might have been proclaimed now because of the great interest occasioned by the increase in the crown-of-thorns starfish.

2. GRAIN

Amount in Storage, and Freight Subsidies

The Hon. C. R. ABBEY, to the Minister for Mines:

(1) What are the quantities of

(a) feed barley;

(b) feed oats,

available in storage at this date for stock feeding in Western Australia?

(2) What is the price of both grains for stock feeding?

(3) What freight subsidies are at present available on grain for drought affected farmers?

The Hon. A. F. GRIFFITH replied:

(1) (a) The quantity of barley available for feed is as follows:—

(i) 3,600 tons feed barley.

(ii) 10,000 tons malting barley (which will not be required for malting purposes).

(b) All oats have been sold.

(2) Price of grains for stock feeding—

(i) Feed barley—90c per bushel, less freight to the natural port.

(ii) Malting barley for feed purposes—price not yet determined.

(3) Farmers in declared drought areas may claim 5c per ton mile, up to a maximum of 50 miles, for transport of wheat, oats, and barley for stock feeding purposes.

QUESTIONS (5): ON NOTICE

1. POLICE

Service of Summonses

The Hon. J. DOLAN, to the Minister for Mines:

Has the Police Department reached a decision that it will no longer be responsible for serving summonses taken out by Trade Unions against employers for breaches of Industrial Awards?

The Hon. A. F. GRIFFITH replied:

Regulations of the Justices Act were gazetted on the 19th December, 1969 to provide for the serving by post of summonses issued under the provisions of 34 Acts including the Industrial Arbitration Act.

Where the serving of a summons by post is not practicable or desired, it may be served by the complainant, his employee or his agent. Failing this, the summons may be served by an accredited officer of the Court, i.e. the Bailiff.

2. HEALTH

Number of Approved Public Hospitals

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

Will the Minister make available to the House a complete list of all approved public hospitals in this State, as defined in section 2 of the Hospitals Act of 1927?

The Hon. G. C. MacKINNON replied:

Yes; it is as follows, and I ask that it be tabled:—

METROPOLITAN

Board Hospitals—Special Hospitals

Alfred Carson Hospital, Claremont.
Homes of Peace, Subiaco and Inglewood.
J. T. Pollard Convalescent Hospital, Guildford.
King Edward Memorial Hospital for Women, Subiaco.
Lady Lawley Cottage Hospital, Cottesloe.
Lucy Creeth Hospital, Mosman Park.
Perth Dental Hospital (including metropolitan and country dental clinics).
Princess Margaret Hospital for Children, Subiaco.
Quadriplegic Centre Hospital.

Board Hospitals—General Hospitals

Fremantle Hospital, with Annexes at Mosman Park and East Fremantle.
Royal Perth Hospital, with Annexe at Shenton Park.
Sir Charles Gairdner Hospital, Shenton Park and Annexes.

Government Controlled Hospitals

Bentley Hospital, Bentley.
Devonleigh Hospital, Cottesloe.
Hawthorn Hospital, Mt. Hawthorn.
Mt. Henry Hospital, Como.
Osborne Park Hospital.
Sunset Hospital, Nedlands.
Swan District Hospital, Middle Swan.
Woodside Maternity Hospital, East Fremantle.

COUNTRY

Government Controlled Hospitals—South West

Albany Regional Hospital.
Armadale-Kelmscott District Memorial Hospital, Armadale.
Augusta District Hospital.
Bunbury Regional Hospital.
Busselton District Hospital.
Collie District Hospital.
Denmark District Hospital.
Donnybrook District Hospital.
Geraldton Regional Hospital.
Katanning District Hospital.
Lake Grace District Hospital.
Margaret River District Hospital.
Merredin District Hospital.
Narrogin Regional Hospital.
Northam District Hospital.
Wagin District Hospital.
Wooroloo District Hospital.
York District Hospital.

Government Controlled Hospitals—Goldfields

Coolgardie District Hospital.
Esperance District Hospital.
Kalgoorlie Regional Hospital.
Meekatharra District Hospital.

Government Controlled Hospitals—North-West

Broome District Hospital.
Carnarvon District Hospital.
Dampier District Hospital.
Derby District Hospital.
Exmouth District Hospital.
Kununurra District Hospital.
Marble Bar District Hospital.
Mt. Newman District Hospital (opening shortly).
Onslow District Hospital.
Ord River Dam Construction Settlement Hospital.
Port Hedland District Hospital.
Port Hedland Nursing Home.
Roebourne District Hospital.
Tom Price District Hospital.
Wittenoom District Hospital.
Wyndham District Hospital.
Wyndham Nursing Home.

Subsidised Board Hospitals—South-West

Beverley District Hospital.
Boddington District Hospital.
Bridgetown District Hospital.
Bruce Rock War Memorial Hospital.
Corrigin District Hospital.
Cunderdin District Hospital.
Dalwallinu District Hospital.
Dumbleyung District Memorial Hospital.
Eastern Districts Memorial Hospital, Kellerberrin.
Gnowangerup District Hospital.
Goomalling District Hospital.
Harvey District Hospital.
Kojonup District Hospital.
Kondinin District Hospital.
Kununoppin District Hospital.
Moora District Hospital.
Morawa District Hospital.
Mullewa District Hospital.
Murray District Hospital, Pinjarra.
Nannup District Hospital.
Narembeen Memorial Hospital.
Northampton District Hospital.
North Midland District Hospital, Three Springs.
Pemberton District Hospital.
Pingelly District Hospital.
Plantagenet District Hospital, Mt. Barker.
Quairading District Hospital.
Ravensthorpe District Hospital.
Upper Blackwood Soldiers' Memorial Hospital, Boyup Brook.
Warren District Hospital, Manjimup.
Wickepin District Hospital.
Williams District Hospital.
Wongan Hills District Hospital.
Wyalkatchem-Koorda District Hospital.
Yarloop District Hospital.

Subsidised Board Hospitals—Goldfields

Laverton District Hospital.
Leonora District Hospital.
Mt. Magnet District Hospital.
Norseman District Hospital.
Southern Cross District Hospital.

Subsidised Board Hospitals—North-West

Derby Nursing Home.

Government Controlled Local Medical Centres

Dwellingup.
Jarrahdale.
Menzies.
Wiluna.

Subsidised—Leased

Brookton Nursing Home.

Subsidised Local Medical Centres

Cue.
Jerramungup.
Kukerin.
Northcliffe.
Rottnest Island.
Sandstone.
Tambellup.
Yalgoo.

MISCELLANEOUS

Mission Hospitals

Aborigine Rescue Mission, Jigalong.
Australian Inland Mission Hospital, Fitzroy Crossing.
Australian Inland Mission Hospital, Halls Creek.
Beagle Bay Mission Hospital, Beagle Bay.
Cundeelee Mission Hospital, via Zanthus.
La Grange Mission Hospital, La Grange.
Lombadina Mission Hospital, via Broome.
Methodist Mission Hospital, Mogumber.
Mt. Margaret Mission Hospital, Mt. Margaret.
Pallotine Mission Hospital, Balgo Hills.
United Aborigines Mission Hospital, Warburton.

The list was tabled.

3. EDUCATION

Electricity Supply to South Boulder School

The Hon. J. J. GARRIGAN, to the Minister for Mines:

When will A.C. power be made available to the South Boulder School?

The Hon. A. F. GRIFFITH replied:

Arrangements are now being made with the Public Works Department for A.C. power to be connected.

4. *This question was postponed.*

5. EDUCATION

School Transport: Kojonup District

The Hon. J. DOLAN, to the Minister for Mines:

(1) Has the Education Department advised the Head Teacher of the Kojonup Junior High School, by letter, that Kojonup Convent primary school children are to be excluded from transport on the Government School Bus serving the Jingalup area?

(2) Has the Head Teacher accordingly advised, by telephone, the parents of the children concerned, of the direction of the Department?

(3) Have these children been carried by school bus to Kojonup for the past two years?

(4) Did the Minister for Education assure a member of the deputation which he received from this area on the 2nd December, 1969, that he need not worry about the position of the Convent school children so far as bus travel was concerned?

(5) Does the instruction to the Head Teacher at Kojonup mean that children in other parts of the State where similar situations exist will receive the same treatment?

The Hon. A. F. GRIFFITH replied:

(1) The Headmaster was instructed by letter on the 10th March, 1970, to exclude all primary children (including Convent primary children) from the special feeder bus service which was established to carry post primary children only from the Jingalup area to the Kojonup-Orchid Valley school bus.

(2) Yes.

(3) No. One family from February, 1969. The other family from February, 1970.

(4) No assurance was given.

(5) No. Each case will be considered and a decision reached on the circumstances.

LEAVE OF ABSENCE

On motion by The Hon. W. F. Willesee (Leader of the Opposition), leave of absence for 12 consecutive sittings of the House granted to The Hon. H. C. Strickland (North) on the ground of ill-health.

DISTRICT COURT OF WESTERN AUSTRALIA ACT AMENDMENT BILL

Third Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [4.49 p.m.]: I move—

That the Bill be now read a third time.

Before I ask the House to agree to the third reading of this Bill I think I should put the record straight in respect of some information I gave Mr. Willesee yesterday. I feel I may not have given as clear and concise an answer to his question as would be desirable. The question was in relation to clause 3 (b) of the Bill.

The principal Act has been assented to and was proclaimed to come into effect on the 1st April, 1970. The amending Bill, except for clause 3(b), will come into force on the date of assent. The purpose of clause 3(b) of the amending Bill is to preserve existing jury books and obviate the necessity to prepare new ones during the transitional stages of Circuit Court and District Court hearings in country centres. It has been necessary to proclaim additional Circuit Court districts of the Supreme Court, and it was considered desirable to bring clause 3(b) into effect on a date to be proclaimed to allow time for the new districts to be created.

As country sittings are not due to be held until May next the amendment does not affect the operations of the principal Act in respect of matters dealt with in Perth.

I apologise if I caused some misconception of the clause. I have since had an opportunity to check what I said and the foregoing is a clearer and more concise picture of the situation.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

BILLS (2): THIRD READING

1. Motor Vehicle (Third Party Insurance) Act Amendment Bill.

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

2. Health Act Amendment Bill.

Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Health), and transmitted to the Assembly.

TAXATION (STAFF ARRANGEMENTS) ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.53 p.m.]: I move—

That the Bill be now read a second time.

Two aspects of the Taxation (Staff Arrangements) Act, 1969, have been brought to the notice of the Government since that piece of legislation was passed last year and this has led to the introduction of this measure.

Members may recall that the introduction of the principal Act followed a decision to create a State Taxation Department. The Act provided the means by which the State might take over from the Commonwealth service those employees of the Commonwealth Taxation Office engaged on State functions and who elected to accept employment with the State.

The Act, in addition to making special provisions covering the transfer of leave rights, also preserved a Commonwealth officer's equity in the Commonwealth Superannuation Fund as at the date of takeover.

The Crown's legal advisers have since informed the Government that the proper functioning of the superannuation provisions contained in the Taxation (Staff Arrangements) Act of last year required the provision of specific authority to make certain financial adjustments associated with refunds of contributions should these situations arise.

This Bill accordingly provides that where an ex-Commonwealth officer or his dependants become entitled to a refund of contributions under the Superannuation and Family Benefits Act—

(a) a refund shall also be paid from the Consolidated Revenue Fund of an amount equal to the amount he paid into the Consolidated Revenue Fund when he elected to join the State Superannuation Fund; and

(b) a refund shall be paid by the State Superannuation Board to the Consolidated Revenue Fund of the amounts paid to the Superannuation Fund from the Consolidated Revenue Fund in respect of the officer.

The other aspect to which I referred necessitates the inclusion in this Bill of a provision allowing ex-Commonwealth officers who were contributors to the Commonwealth Provident Account to contribute to the State Provident Account. The provision has been found necessary to safeguard the interests of certain Commonwealth officers who were not eligible to contribute to the Commonwealth Superannuation Fund so that their equity in the Commonwealth Provident Account would be protected were they to transfer to State employment.

The provisions covering the provident account have been prepared after discussion with the Commonwealth staff associations and I have been advised that they have indicated their approval of the general proposals.

Debate adjourned, on motion by The Hon. F. J. S. Wise.

ACTS AMENDMENT (COMMISSIONER OF STATE TAXATION) BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.57 p.m.]: I move—

That the Bill be now read a second time.

The three objectives proposed in this measure are, firstly, to bring the various State assessment and taxing Acts under the control of the new State Taxation Department; secondly, to give the Commissioner of State Taxation authority to delegate his powers to officers appointed to assist him with the administration of State taxation laws; and thirdly, to ensure that the commissioner can exchange information with the Commonwealth and other State taxing authorities.

It is desired to advise members that the planning for the setting up of the new State Taxation Department is well advanced. A Commissioner of State Taxation and some of the key officers have been appointed.

The Public Service Commissioner, under the powers conferred upon him by the Taxation (Staff Arrangements) Act, has made offers to the Commonwealth officers engaged on valuation and land tax functions to transfer to the State Public Service. Replies to these offers are now coming in. Recruitment of other officers, whose services will be necessary to enable the department to function as an independent State department, is proceeding.

It is planned that the department will comprise 319 officers and be located initially in two separate buildings. The valuation division and part of the land tax division will be accommodated in leased premises in the Victoria Centre Building at the corner of St. George's Terrace and Victoria Avenue in Perth. The remainder of the land tax division and also the stamp duties and probate duties divisions, and the administration of the department will be accommodated in part of the area now occupied by the Mines Department in central Government buildings on the corner of St. George's Terrace and Barrack Street in Perth.

Arrangements have been made to effect the repairs and alterations considered necessary to enable the new department to occupy central Government buildings and measures necessary for the provision of appropriate furnishings, equipment, and telephones are in hand.

Present proposals are to bring the new department into full operation on the 1st July next and this is dependent on the accommodation being available in central Government buildings for occupation and staff training. However, as unforeseen delays in the completion of the accommodation arrangements may occur, the Bill now before members has the provision that it be brought into operation on a day to be proclaimed.

Upon reference to the Bill, members will see that most of its provisions are concerned with changing the titles of those now engaged in the administration of State taxing laws. Many Acts are affected by this measure and I shall run through the titles for the information of members. They are—

Land Tax Assessment Act;
Vermin Act;
Noxious Weeds Act;
Metropolitan Region Town Planning Scheme Act;
Local Government Act;
Stamp Act;
Cattle Industry Compensation Act;
Pig Industry Compensation Act;
Betting Control Act;
Totalisator Duty Act;
Totalisator Agency Board Betting Act; and
Administration Act.

Acts one to five, as listed are, in so far as valuations, rates, and tax assessments are concerned, administered by the Commonwealth, for which purpose the Commonwealth Deputy Commissioner of Taxation presently holds the appointment of Commissioner of Taxation under the State Acts.

Administration of the Stamp Act, compensation Acts, and certain sections of the betting Acts, is the responsibility of the Commissioner of Stamps. Assessments made under the Administration Act are now issued by the Commissioner of Probate Duties. The Bill provides for the deletion of existing titles and substitution of the title "Commissioner of State Taxation."

Another function of the Bill is to give the commissioner power to delegate his authority and duties to senior officers controlling the divisions of the department and, as may be necessary, to such other officers as are concerned with assessments and administration of State taxation.

Power of delegation is considered essential to enable the department to cope with the volume of work. Similar arrangements are contained already in each of the Acts concerned. The commissioner, of course, remains responsible for the actions of those officers to whom duties are delegated.

With respect to the final function of the Bill, I am advised that provision empowering the commissioner to exchange information with other taxing authorities already exists in the Stamp Act and it is proposed to insert similar sections in the Administration and Land Tax Assessment Acts. Arrangements of this nature commonly occur in Commonwealth and State taxing Acts and are necessary to ensure that inquiries to protect revenue can be made.

Members will appreciate that the proposals in this Bill are essentially machinery measures to enable the new State Taxation Department to operate and I commend the Bill to members.

The Hon. F. J. S. Wise: Before you resume your seat, could you give any indication concerning costs under this system compared with those under the present system?

The Hon. A. F. GRIFFITH: No. I am not in a position to answer the question immediately, but I will obtain the information. The honourable member will no doubt raise this point during his second reading speech. I gather the impression that he may even ask for the adjournment of the debate on this Bill. He sought and received it on the previous Bill. I may be wrong, but I do not think I am. I will certainly obtain the information for Mr. Wise.

Debate adjourned, on motion by The Hon. F. J. S. Wise.

LOCAL GOVERNMENT ACT AMENDMENT BILL, 1970

Second Reading

Debate resumed from the 14th April.

THE HON. R. F. CLAUGHTON (North Metropolitan) [5.4 p.m.]: This Bill contains several provisions, but the one with which I am chiefly concerned is that contained in clause 2 dealing with the terms of office of councillors.

Following the general election in the Shire of Perth, the returning officer found it difficult to determine what term of office should be held by the various councillors. However, I think that perhaps first of all we should study the provisions in the Act to ascertain how this difficulty may arise.

No difficulty can arise if there are no wards and the number of councillors is a multiple of three; nor is there any difficulty if the wards are represented by three members. There is no difficulty, either, once the pattern of retirement has been established. The number of councillors may be an odd number so that it is not

divisible by three. When this occurs, a determination is made by the Governor. This power is given under section 41 subsection (8). Also, if, by the inverse order of retirement, two councillors were to retire on the same date, this might be a situation which could be resolved under subsection (8).

The Act itself fixes the term of office of a councillor at three years. This is contained in section 41(1)(b). It is also contained in subsection (4) which provides a number of qualifications dealing chiefly with occasions when extaordinary vacancies occur through death or retirement, when additional members are added to the council, or when boundary changes are made. The Act provides that under these conditions, the term of office may be less than three years. This was the situation which applied to the Shire of Perth, and would apply whenever there were future amalgamations of shires.

A difficulty has occurred when there has not been a multiple of three, and I am thinking particularly of the situation which arose in the Shire of Perth where the ward members numbered fewer than three and there was a mixture of members elected unopposed and members who had to face a poll. In the Perth Shire there are 13 members. The shire is divided into six wards each of which has two members, and one ward which has one member. At the election six of these members in three wards were elected unopposed.

The provisions of subsection (7) (a) of section 41 seem to indicate that a third of the members should retire each year whether or not the district is divided into wards. Paragraphs (b) to (e) all stipulate that the order of retirement is to be the inverse order in which the councillors were declared elected. Paragraph (e) of this subsection deals with the situation when the members are unopposed. Subparagraph (i) of paragraph (e) deals with the situation when only one is elected unopposed, while subparagraph (ii) deals with the situation when more than two members are elected unopposed.

With regard to this, we could ask several questions. First of all, when the members are elected unopposed, do we decide by ballot the way their order of retirement is determined within a ward? Suppose two members in one ward are elected unopposed. Do we deal with this situation only, or do we ballot for all the members in the shire who were elected unopposed? There could be two different results, depending upon the method applied.

The view of His Honor The Chief Justice, (Sir Lawrence Jackson), is that "paragraph (e) (ii) is in wide and absolute terms and applies whether or not there are wards and whether or not the wards have the same or a different number of councillors." His judgment was that in each of the wards the order of retirement was to be determined by the drawing of lots by the returning officer. I will return to that matter later on because one of the amendments in this Bill gives the opposite impression and indicates that the retirement is determined by a ballot of all members.

I believe that the difficulty has arisen because an attempt has been made to combine two different situations. Dealing with the situation when a shire is not divided into wards, if we determined the order of retirement on the inverse order of election, there would be no difficulties at all. However, an attempt has been made to apply the same situation when a shire is divided into wards. Even in this case there would be little difficulty if each ward were represented by three councillors. However, a great problem is faced when there are fewer than three members.

I think one of the first questions we should ask ourselves is whether the amendments outlined in the Bill before us are to be preferred or whether we should try to amend section 10 (3) (b) so that no ward can be represented by fewer than three councillors. This would mean that, in the Shire of Perth for instance, there would be 15 councillors, rather than 13. There would still be an uneven number, but the difficulties which have occurred because of the uneven representation of wards would be overcome. I think this type of amendment deserves some consideration.

The real difficulty in the Act I believe occurs in section 41 (7) (d) (iv). Here the order of retirement is laid down as being in the inverse order to the percentage of primary votes received. Subparagraph (iii) of paragraph (a) of subsection (7) of section 41 is to be amended but, as it stands at present, it states—

> the term of office
>
> > is such that on the fourth Saturday in May of each year, the number of councillors retiring from office is, in the opinion of the Returning Officer, as near as practicable to one-third of that total number and to one-third of the number of councillors representing each ward . . .

The amendment proposes to delete the words "and to one-third of the number of councillors representing each ward." The idea of this is to remove any conflict.

In this regard the judgment reads—

> . . . the only alternative, as it seems to me, is to discard the whole phrase in lines 12 and 13 reading "and to 1/3rd of the number of councillors representing each ward"; and to do this involves much more violence to the language of the paragraph and appears in any case to conflict with the general intent of the subsection.

In other words, the Minister appears to have decided that the intention of the Act is not to determine the order of retirement within wards but within the council as a whole. If that is not his intention it seems as though that will be the effect of the amendment.

Another question has arisen as a result of the case that was taken to court. If we determine the terms of office for the whole of the council, and as a result of the amendment two members are to retire in the same year, is it the intention that an adjustment should be made by the Minister or the Governor so that the members from each ward retire in a different year? That difficulty appears to remain, even under the proposed amendment.

If we look at the effect of the amendment on the Shire of Perth we will see that further difficulties will occur so far as the councillors are concerned. In his second reading speech the Minister referred, first of all, to the fact that seven members would retire in one year, six the next, and none in the third year—in other words, one-third of the total council was not retiring each year. He then went on to say—

> However, the judgment resulted from the phraseology of section 41 of the Act, and it will be necessary, if the position is to be restored to enable as near as practicable one-third of the councillors to retire each year, for an amendment to give the Minister power to declare, prior to the nomination date of any election, the order of retirement from office of councillors to be elected at the forthcoming and any subsequent election. The amendment will not vary the determination of the Supreme Court but will provide for future retirements in accordance with the intention of the Act.

I think it is important that the councillors of that shire should have some idea of what is likely to happen to them. At the coming election seven councillors are to retire; six will retire in the following year; and there will be none to retire in the third year. Therefore, we could ask this question: Is it the Minister's intention to vary what will happen in 1971 or 1972? Will he, in the year 1971, adjust the number of members who are to retire and, instead of six having to retire, make the number five or four and make a further adjustment in 1972? In other words, will he increase the terms of office of one or two of those who may retire in 1971 in accordance with the terms of the judgment?

Also, what of the seven councillors who are facing election this year? Will some of them, because of a variation, have to face a further election in 1972? Some of them were re-elected only in 1968 or 1969 and, if what I have suggested becomes a fact, they will have to face a series of elections. So far the Minister has given no indication of what he intends to do but if the judgment is to be varied it should be varied now rather than in 1971 in order to resolve the situation. The difficulties are not likely to be any less at that time.

The other alternative, and perhaps the preferable one, is to leave the terms of office and the order of retirement as they were set out in the judgment. What does it matter if for one year there is no election in the Shire of Perth? It would be a saving for the shire and, after all, is there any real virtue in having one-third of the electors going to the ratepayers in a regular procession? We get election after election in this State and if we could save one it would be a cause for delight rather than regret.

The same line of thought could be extended and we could say: What, if any, is the virtue of the present system? Under a system where one-third of the councillors retire each year it is possible to have lines of policy decided in one year completely upset in the next; and the same thing could happen in the year after. It could cause great difficulties in forward planning. Why not have a system where there is a general election for the shire every three, four, or five years—whatever period is thought to be the most suitable.

I do not propose to move any amendments along those lines, but I simply raise the question, and I do so seriously. I wonder whether it is necessary to adjust the terms of office of the councillors of the Shire of Perth and, if it is the intention to do so, I feel it should be done before the next shire election instead of later on.

I am also somewhat puzzled as to why the determination as regards the term of office was not put into operation by the Governor previously. Maybe a request was made but it was not acted upon. However, it seems to me there is already sufficient power in the Act to have this done, not only under section 41 but also under section 20 which deals with the powers of the Governor. Paragraph (a) of subsection (1) of section 20 states—

> Where under this Act—
>
> > The Governor exercises a power conferred by section 12,
>
> the Governor having regard to the provisions of this Act relating to the number of offices of a member of a council, by Order may—

Then subparagraph (iii) goes on to state—

> order, settle, adjust and finally determine such rights, liabilities, questions and matters relating to the representation of electors of the council of a

municipality so affected, the constitution of the council, the audit of the municipal accounts, and such other matters as he thinks necessary to be ordered, settled, adjusted or determined, and in such manner as he thinks fit.

Those are wide powers; I think they would be wide enough to cover the situation.

We may also ask why it is necessary to repeal subsection (8) of section 41 which states—

> When in a district the order of retirement of any member will not be in accordance with the provisions of this section, the Governor may by order declare the date on which that member shall retire, being a date in accordance with those provisions, and on that date the member shall retire from office and the term of office shall expire.

There may be some reason for the repeal of that subsection; maybe it is felt that the position is covered by section 20.

If we compare the new subsection (8) with the existing one we find that it does not cover the same situation. At present subsection (8) deals with the situation where ordinarily there would be no vacancy in the office of councillor in a district in any one year. However, I think the Minister has the power to determine what the term of office shall be and the situation envisaged under the proposed subsection (8) seems to be entirely different from the situation covered by the present subsection (8). If it is thought to be necessary to have this new provision I think it would be better to include it as a new subsection rather than repeal the present subsection (8).

Also, proposed new subsection (8) does not do what subsection (8) in the Act does now as regards the term of office. Existing subsection (8) states that the term of office shall be laid down in accordance with the provisions of the Act, but there is nothing in the proposed new subsection to say that the Minister shall have regard for that. In other words, it does not lay down what the term of office may be. It may be longer but, here again, it would not be within the intention of the existing Act; and, after all, these amendments are introduced to make sure that the terms of office are within the intention of the Act.

I question the necessity to repeal subsection (8). I also suggest that if the amendment is accepted there should be a similar provision regarding limiting the term of office of the councillors, if the desire is to ensure that it conforms with the intention of the principal Act.

Paragraph (a) of clause 2 seeks to delete the words "the term of office is," which are patently unnecessary, and substitute the word "are." The passage begins, "The terms of office of the councillors," in the plural, and these words are in the singular. I think line 13 of the paragraph should also be adjusted by substituting "are" for "is." That is the substance of what I wish to say about that particular section.

I have little of value to add regarding the remaining clauses of the Bill, which refer to rates. If the amendments are found not to operate satisfactorily in practice they could be brought back to the House to be adjusted. I think this could only be discovered by trial and error. I find that I cannot wholly support clause 2, and because of the questions I have raised I would like the Minister to indicate what his intention is in regard to the Shire of Perth; whether things will be left as they are or whether the adjustments will be made before the next shire election. With those remarks, I support the Bill.

THE HON. F. J. S. WISE (North) [5.37 p.m.]: Mr. President, this Bill affects considerably and materially the rates to be paid by very large mining companies in the province I represent. In the initial stages of the development by these large companies, in at least one instance, that of Hamersley Holdings Limited, an *ex gratia* payment was made to the Tablelands Shire Council, not merely in lieu of rates but in good faith, because of the difficulty in assessing rates under the law as it existed then.

Only this afternoon I saw the report of the committee to which the Minister referred in his speech, and I am wondering whether, on the passing of this Bill with the formula based on cents per acre, reducible where the acreage is large, there will be any retrospectivity in the liability of the mining companies. I cannot see in the Bill any date of proclamation or date when the Act will come into operation. While I am very much on the side of the local governing bodies, it must be remembered that by an Act of Parliament, in the schedules which contain the agreements controlling the mining companies, certain responsibilities are provided which a local governing body would normally assume.

I presume that the Minister wishes to get this Bill through this afternoon, and I would like him to tell me in his reply whether the Bill clearly shows that mining tenements are not to be rated even though they are not expressly exempted. This Bill provides that a company shall be liable for rates on the area stated in the agreement between the Government and the company, which is mentioned in the schedules to Acts of Parliament. That is clearly expressed. In the case of Goldsworthy, Hamersley, Mount Newman, or any other company, the liability in clause 4 clearly refers to land "held or granted pursuant to an agreement that is made with the Crown in right of the State and

scheduled to an Act approving the agreement." That paragraph makes it clear that the future responsibility of mining companies will be on a basis which varies according to acreage.

I am concerned about two matters. With the exception of lands held by mining companies on which buildings, tenements, or structures exist, are leases held for developmental purposes not to be ratable before reaching production? If so, it will have a very wide effect in many local governing areas of the State. This Bill does not expressly mention that, and I am wondering what the situation is to be in that regard. I have made only a cursory examination of this, but it does appear to me that the committee had in mind that it would not recommend the rating of areas where companies had only the right of exploration. It is clear from the report that that is what the committee had in mind, but is that principle given effect to or expressed in this Bill? I repeat that it affects both companies and local governing bodies.

The Hon L. A. Logan: Have you got a copy of one of the agreements with you?

The Hon. F. J. S. WISE: They are all on my desk in my office because I required them for discussion on another Bill. If my memory serves me correctly, the provision in the agreements for the areas now held as towns by those companies, whether it be Mount Tom Price or Dampier, clearly expresses the responsibilities of companies, especially where areas are wholly company controlled, including harbour control. I think their responsibilities in regard to rates are also clearly set out.

I am concerned about the interests of the local governing bodies. In the case of Mount Newman, which is at the southern extremity of the Nullagine Shire district, the total rates payable would exceed $40,000, but under the formula contained in the Bill the rates will be reduced to $5,070. In another area nearly 1,000 miles away but still in my district, the Amax company, which is responsible to the Wyndham-East Kimberley Shire, is to pay $25,937 in rates.

The Hon. L. A. Logan: They have the alternative.

The Hon. F. J. S. WISE: They have an alternative prescribed in clause 5, but it can be seen how difficult it is for both the company and the shire council. It is difficult for the shire council to budget and to give service. Members present, in flying from Wyndham to Derby and from Wyndham to Dampier, will have flown over some of the terrain of North Kimberley. In some spots it would be dangerous for a butterfly to try to land, but there is a responsibility on the shire council to give service of some kind to such remote areas. The rates chargeable under the committee's report amount to $25,937, which is a very vast sum and one I am sure not even the Wyndham-East Kimberley Shire would contemplate accepting.

The Hon. L. A. Logan: Under the present rate they pay $9,375?

The Hon. F. J. S. WISE: That is right, because of the inability to give service to such a company.

I am wondering if the Government can advise whether, since this report has been produced by the committee and the Bill has been drafted with these provisions, the mining companies and local governing bodies affected have been approached about whether they consider the rates will be equitable.

The Hon. L. A. Logan: A copy of this report was sent to them.

The Hon. F. J. S. WISE: Yes, but we have no evidence in the Minister's speech, and particularly none in the Bill, that the imposts or rates are acceptable to both parties, and I think that is very important.

If one reads the schedule to the committee's report one finds, for example, that the Mount Goldsworthy iron ore company in the Port Hedland Shire will be liable for only $204 per annum. Therefore I presume it will elect to pay at that rate rather than pay in accordance with the provision in clause 4 of the Bill. I regret I had to take this opportunity to speak—otherwise I would not have been able to speak at all—because I only obtained this report after 4.30 this afternoon. However, although it appears that the companies and the shires had an opportunity to present their points of view before the report was written, have they expressed any sort of satisfaction with the provisions that will pertain after the Bill is proclaimed? That is what I am concerned about.

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [5.48 p.m.]: It is not always easy to answer questions off the cuff.

The Hon. F. J. S. Wise: It is not very easy, off the cuff, to think them up, either.

The Hon. L. A. LOGAN: Dealing with the amendment to section 41, it is unfortunate, I think, that circumstances arose whereby the procedure which has been followed in local government for almost 100 years has been upset. As near as possible, the procedure that is followed is that one-third of the councillors retire each year. It so happened that there was a change of ward boundaries in the Shire of Perth which meant that all the councillors had to vacate office and be re-elected. The question that then arose was what number of councillors would vacate office in rotation. In other words, how many would serve for twelve months,

how many would serve for two years, how many would serve for three years, and then continue with the rotation from that time on.

The department worked out the rotation according to the formula in the Act and that should be accepted by the shire. It was accepted by the Crown Law Department. We approached that department and asked its officers to check the formula for the Shire of Perth for the re-election of councillors in the period of time laid down, and that department agreed to the formula. It was unfortunate that the formula was challenged purely because of the phraseology in the relevant provision in the Act and that the whole system was upset.

At that time I could not issue a proclamation overriding the order made by the Chief Justice; it would have been wrong for me to do so. So I have taken the first opportunity during this session to bring forward an amendment to the Act to correct the situation that has been created. I cannot make a proclamation until such time as the Bill has been assented to, and it has to pass through both Houses before that can be done.

I could not override the order of the Chief Justice and say, "Irrespective of the order the Chief Justice has made I will take steps to rectify the position." Further, it must not be overlooked that in his judgment he ordered that the councillors vacate their offices over a period of two years. As I have said, it would have been entirely wrong for me to counter the order made by the Chief Justice. Until such time as the Bill is assented to I am not in a position to make a proclamation. The decision given by the Chief Justice will not be upset. I hope this Bill will be assented to before the 30th April. When nominations are called I will be able to issue a proclamation to prevent a similar situation arising in the future. This is the only method that could be followed.

Mr. Claughton suggested that all wards should have three members. However, there is nothing to prevent the Shire of Perth issuing a proclamation that it is reducing its number of wards to four and that each ward will be represented by three members.

The Hon. F. J. S. Wise: There will be little time between the date of proclamation of this Bill and the next shire election.

The Hon. L. A. LOGAN: That is the reason for my concern. That is the reason I have to get the Bill through so that I may issue the proclamation to correct the present situation. Otherwise I would have postponed the debate a little longer so that consideration may have been given to the situation that has been pointed out by Mr. Claughton. However, I think he will appreciate the position just as I do. It cannot be provided that there shall be three members for each ward and that some shires shall have five members, some seven, some eight, and some 10. A shire could be divided into four or five wards, so it cannot be provided that each ward has to be represented by three members. However, it is quite in order for the Shire of Perth to reduce its number of wards to four and have three members representing each ward. It could conduct a poll along those lines, if it so desired.

I know of a shire which for years was represented by nine councillors, but its numbers were reduced to seven, because it was considered that seven councillors could do the work just as well as nine.

The Hon. J. Dolan: It would depend on who the other two were.

The Hon. L. A. LOGAN: That was the procedure followed by that shire, but that is beside the point. Turning to the other point raised by Mr. Claughton whether in clause 2 (a) the word to be substituted should be "is" or "are," I think that if we read the wording we may get a better appreciation of the correct word to be used. If Mr. Dolan will listen carefully he may be able to decide whether it should be one or the other, because I am not an expert on grammar. Subsection (7) of section 41, referring only to the subparagraph that will be affected by this clause, now reads—

> The terms of office of the councillors of a council—
>
> (iii) where—
>
> the total number of councillors of a council is not a multiple of three; or
> the number of councillors representing a ward is not three or a multiple of three;
> the term of office is such that . . .

The amendment seeks to delete the words, "the term of office is" and substitute the word "are." I think we can have a further look at that amendment.

The Hon. R. F. Claughton: I was not referring to that one.

The Hon. L. A. LOGAN: Apparently the honourable member was worried about the next one.

The Hon. R. F. Claughton: I was concerned about where it occurs in line 13 of subsection (7) of section 41 as it appears in the Act.

The Hon. L. A. LOGAN: Was the honourable member referring to the words "the number of councillors retiring from office is, in the opinion of the Returning Officer"?

The Hon. R. F. Claughton: No. The amendment to which I was referring is further down still.

The Hon. L. A. LOGAN: Is the honourable member referring to the words "as near as practicable to one-third of that total number" ?

The Hon. R. F. Claughton: No. To the words "and is such that" in lines 13 and 14 of subparagraph (iii) of subsection (7).

The Hon. L. A. LOGAN: I think the honourable member is referring to two different things. In any case I will have a further look at the amendment. Dealing with the problems raised by Mr. Wise, I will have to obtain some clarification of what he desires. We would have to refer to the agreement which was signed. I would point out that this applies only where an agreement has been signed between the company and the Government.

Under the present formula a company pays 20 times the annual rent, on which the shire determines the rate to be charged. This charge would cover the whole of its leases irrespective of whether it has a mining tenement or otherwise, so I do not think the point raised by Mr. Wise would have any bearing on this situation. It would not be part and parcel of a separate rate because the rating would be 20 times the amount of the annual rent reserved by the lease, and on that amount the local shire strikes its rate.

The Hon. F. J. S. Wise: Would that be quite clear to the company concerned?

The Hon. L. A. LOGAN: I think so.

The Hon. F. J. S. Wise: You expressly state, "the area subject to the agreement."

The Hon. L. A. LOGAN: The area is laid down in the agreement, so I think that point would be covered. This, of course, is only an alternative and I think that when one looks at the figure which could have been raised by the shire council on the present formula—

The Hon. F. J. S. Wise: Would there be retrospectivity in the levying of rates?

The Hon. L. A. LOGAN: No. We had an amnesty declared between the shire councils and the companies, but because the rates were out of proportion we suggested that the companies make an *ex gratia* payment until the matter was resolved. I know it has taken a long time but this is a problem that affects not only Western Australia. It has been discussed at meetings of local government Ministers over the past three or four years, and on more than one occasion I have asked my fellow Ministers in other States whether they could give me some guide as to how we should rate in the circumstances.

I think Western Australia was the first State to come up with any reasonable answer. I think it is fair to point out that if Hamersley Iron had been subjected to the present rate of 5c in the dollar by the Tablelands Shire it would have been liable to pay $67,200 in rates. Therefore, one can appreciate the stupidity of trying to rate on that basis. Under the new formula the company will be liable to pay only $8,450. This is not bad revenue to be received by a shire council from a company, especially when one takes into consideration the work that is performed by the shire for the company. I think Mr. Wise will agree that the amount of work performed is not very great, because the companies do a great deal for themselves.

It is also provided in the Bill that where a company goes outside its own scope of activities to perform work for the shire, which normally the shire would do on behalf of the whole of the ratepayers, the rate paid by the company can be reduced by 25 per cent. in any one year. I think that is fair enough.

The Hon. F. J. S. Wise: Can the Minister answer whether shire councils and the mining companies have approved the committee's recommendations and the Bill?

The Hon. L. A. LOGAN: The Bill, as printed, has not been sent out, because this cannot be done until the second reading is agreed to in this House. However, a copy of the report referred to was sent to the companies concerned, to the local governing bodies, and to the Country Shire Councils' Association. Last week I received a letter from the Chamber of Mines dealing with some aspects of the report in view of the fact that legislation was forthcoming. I think, with the exception of one, I can satisfy the Chamber of Mines on the points it has raised. That chamber asked that the rates be reduced in those instances where a company supplied water and electricity. In general, throughout Western Australia, it is not a function of a local authority to supply water. Therefore, I do not think it is fair to ask that if a company makes provision for its own water supply its rate should be reduced.

The Hon. F. J. S. Wise: Could the Minister tell me whether the local authorities have had an opportunity to agree with this proposal?

The Hon. L. A. LOGAN: They know what is contained in the report and they are aware of the figures in the table I have before me. The reaction from them has been about fifty-fifty, as indicated from the replies received from the local authorities. About 50 per cent. of them say the companies concerned are rich and they can afford to pay the whole lot; that is, $67,000. That was their reaction. The other 50 per cent. say this is a fair and

reasonable proposition and they will accept it. To the best of my knowledge that is the situation which exists between the Chamber of Mines and the local authorities.

Getting back to the Amax Company, here is a problem. Under the present system of rating—not forgetting that the Wyndham-East Kimberley Shire is rating at about the maximum of 6.25c in the dollar —the amount payable is $9,375. If the company selects the alternative—which it will not—it will pay $25,937.

The only difficulty which I can see in trying to arrive at a proper basis is by laying down a standard value for the land on which the rate is to be assessed. However, we reached the position in Dundas where the rate in the dollar is 6.5c, in Exmouth 6c, in Port Hedland 2c, in Roebourne 1c, in Shark Bay 3.5c, in Carnarvon 2.8c, in Tablelands 5c, in Nullagine 3c, and in Wyndham-East Kimberley 6.25c. From these figures it is obvious that the rates vary greatly, but the same applies to agricultural land in the districts of the local authorities which had a revaluation this year. In one case a revaluation had not been made for 10 years. When the valuation is high the rate in the dollar is brought down. I cannot find any alternative to that method.

The Bill is to be transmitted to another place. If I have not satisfied all members who have spoken in the debate I hope to obtain the information for them before the measure is transmitted. The query raised by Mr. Claughton on the use of the word "are" will be considered, and if the amendment is considered to be desirable steps will be taken to move it in another place.

The Hon. R. F. Claughton: What about the reference to section 8?

The Hon. L. A. LOGAN: I will look into that during the tea suspension. One matter which has not been mentioned relates to the adoption of a special rate on the Collie coalfield. This again is a rather difficult matter to resolve. I received a deputation from the Collie Shire Council; and when the members of that deputation put forward a proposition I realised we had a problem. One of the suggestions they made was in line with a recommendation made by a Royal Commission in New South Wales which inquired into rating; in that State a rate on the tonnages produced was recommended. The authorities there were having difficulties with their system of rating and they were trying to find an alternative.

To arrive at reasonableness in this matter we took into account the figures for the past 10 years, to ascertain whether we could settle on a fair figure. Ten years ago the land belonging to Amalgamated Collieries was included. When we take into account the increased cost of local government and all the other rises in costs, I think the basis of rating at $5 per acre is not a bad one. This scale can be adjusted either upwards or downwards, where necessary.

Question put and passed.

Bill read a second time.

Sitting suspended from 6.5 to 7.30 p.m.

In Committee

The Deputy Chairman of Committees (The Hon. F. R. H. Lavery) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Amendment to section 41—

The Hon. L. A. LOGAN: We have already discussed clause 2 and whether the word "is" ought to be "are." I am informed that the word should be changed. I asked Mr. Dolan to look into the matter and it might be better if I ask him to supply the reason for the change.

The Hon. J. DOLAN: As the Minister has said, the subject matter was "the terms of office" which is in the plural tense. Consequently, the verb has to agree with the subject in number.

The Hon. L. A. LOGAN: The difficulty at the moment is to move an amendment to insert the word "are" in its right place. Perhaps it would be better for me to arrange for an amendment to be made in another place.

Clause put and passed.

Clauses 3 and 4 put and passed.

Title—

The Hon. R. F. CLAUGHTON: I would like to ask the Minister whether he would be prepared to leave subsection (8) in the Act, and make the proposed new subsection (9).

The Hon. L. A. LOGAN: I intended to get further information from the draftsman. I have had a look at the amendment and I tried to get in touch with the secretary of the Local Government Association, but he was not available. I will seek clarification and. if necessary, have the Bill amended in another place.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

BANK HOLIDAYS BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

EDUCATION ACT AMENDMENT BILL, 1970

Second Reading

Debate resumed from the 14th April.

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [7.38 p.m.]: During the course of the second reading debate last evening Mr. Dolan and Mr. Claughton raised certain matters and asked for some explanation. The Bill does not come within my portfolio so I thought it best to have the debate adjourned and receive a departmental report. I think it would be better if I were to read the information that has been given to me and then further comment can be made.

Any teacher joining the department, whether from one of our teachers' colleges or from overseas, is required to serve a probationary period. This enables the department to assess his worth as a teacher and allows the teacher concerned to prove himself in a new situation. The education regulations give a newly appointed teacher two years in which to confirm his ability as a teacher.

For many years now the department and teachers have accepted the principle that the first year of teaching for ex-students of teachers' colleges should be regarded as an extension of their training period. They are facing new and challenging situations when they first take control of their own classes. The department has adopted a policy of allowing these new teachers 12 months in which to find their feet and, during that time, they are given help and advice by superintendents, heads, and other staff members, but no formal assessment of their teaching ability is made. I think that is fair enough.

It is not until their second year of teaching, therefore, that they are assessed to have their certification and classification confirmed. In following this procedure the department believes it is acting in the best interests of these teachers. In fact, a serious disservice could result. During these two years the teachers have been suffering no disadvantages since their permanent employment has been assured and their salary progression has not been impeded.

Teachers recruited from abroad are covered by the same regulation which gives them two years in which to have their probationary service confirmed. However, as these people are experienced teachers, whose certification has already been confirmed by another authority, the classroom situation as such is not a new experience. One problem was mentioned by Mr. Dolan. These people can quickly adapt themselves to their new teaching environment and it is considered reasonable to expect them to demonstrate their teaching efficiency during their first year of service with the department. So the trainee teacher is not assessed until after the second year, but the overseas' teacher is assessed after the first year.

With regard to the reference to trade instructors, the department does not recruit these from overseas. Apparently the honourable member's remarks are intended to apply to teachers of manual arts.

The Hon. R. Thompson: That is what he said.

The Hon. L. A. LOGAN: Teachers recruited for service as manual arts teachers in secondary schools are subject to the same conditions whether they are recruited locally or from overseas. To become qualified teachers they must satisfy further academic requirements when they join the Education Department. Their salaries are in accordance with their qualifications as provided in the salary schedule. It is true that they are not eligible for promotion until they have obtained the requisite qualifications but the department gives them every assistance and encouragement to obtain them. That answers Mr. Dolan's query.

The department can give an assurance that teachers trained in our own teachers' colleges are not disadvantaged by comparison with teachers recruited from overseas. The departmental teachers' colleges will always constitute our main source of supply of teachers. However, the education system undoubtedly benefits by the influx of a number of teachers with different training, background, and experience. That is the assurance which the honourable member asked for. I hope the points raised have been covered. I commend the second reading.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 7A repealed—

The Hon. J. DOLAN: I thank the Minister for obtaining the information which he supplied, and for giving the assurance towards the end of his statement. I wanted an assurance that our teachers would not be disadvantaged by comparison with those recruited in England, Africa, Asia, and America. I thank the Minister, and I know that the teachers will be very happy with his reply.

Clause put and passed.

Clause 3 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

BUILDING SOCIETIES ACT AMENDMENT BILL

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. A. F. Griffith (Minister for Mines) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 4 amended—

The Hon. F. J. S. WISE: I wonder whether the Minister is in the position of being able to clarify the situation in regard to what approval is given to authorise building societies to state, by way of advertising on television or on the radio, that they are approved trustee securities. It does not necessarily mean that they are approved under the Act, as such, but it does mean that the scope of their operations is extended, because when inviting business, they are given the authority to claim that they are authorised trustee securities.

The Hon. A. F. GRIFFITH: Last night the honourable member put two specific questions to me. The first was: By what authority can a society say that it is an authorised trustee security? The second was: How many societies have trustee status?

Section 16(1) (e) of the Trustees Act, 1962, provides that a trustee may invest trust funds on fixed deposits in, or in shares of, any incorporated building society carrying on business in the State and certified by notice in the *Government Gazette* as a society in which trustees may invest. Ten of the 15 permanent societies in the State have trustee status.

The Trustees Act, 1962, does not give authority for a society to advertise that it is an authorised trustee security, but both the Trustees Act and the Building Societies Act do not preclude advertisement. It is put in the opposite way, as it were.

The registrar continuously examines advertisements in newspapers and publications, and, on a number of occasions, has examined radio and TV commercials. Discussion with the societies concerned has resulted in advertisements that the registrar considered not correct in fact or in the public interest being discontinued.

The Hon. F. J. S. Wise: Has that happened often?

The Hon. A. F. GRIFFITH: I do not know how often it has happened, but one advertisement which appeared to suggest Government backing or Government investment in a society was discontinued at the registrar's request.

Included in this Bill to amend the Building Societies Act is provision for the registrar to direct that any advertisement which, in his opinion, is not a correct statement of fact or is not in the public interest be discontinued. I think this will give the registrar power that he has not previously had, but which he has exercised by way of negotiation with building societies which, in his opinion, may have been infringing in this way.

Clause put and passed.

Clauses 5 to 8 put and passed.

Clause 9: Section 12B amended—

The Hon. A. F. GRIFFITH: I move an amendment—

> Page 6, lines 14 to 16—Delete the words "each of the directors of the society has approved in writing the making of the advance" and substitute the words "the making of the advance has been first approved at a meeting of the committee of management of the society".

I foreshadowed this amendment at the second reading stage. My colleague, the Minister for Housing, who administers this Act, undertook to have this amendment moved in Committee here. The effect of it is that an executive officer of a building society will not be prejudiced in his application for an advance.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 10: Section 15 amended—

The Hon. W. F. WILLESEE: I indicated at the second reading stage that I would move an amendment to clause 10 of the Bill which seeks to amend section 15 of the Act. The amendment was foreshadowed in another place and was favourably received by the Minister in charge of the legislation. However the amendment was not moved at the appropriate time so far as the conduct of the business in another place was concerned. I move an amendment—

> Page 6, line 17—Insert after the word "amended" the paragraph designation "(a)";

The Hon. A. F. GRIFFITH: I have no objection to the amendment.

Amendment put and passed.

The Hon. W. F. WILLESEE: I move an amendment—

> Page 6, line 19—Add after the word "depositor" the following—
>
> ; and
>
> (b) by deleting the words "during his nonage" in line 5 and substituting the words "until he is eighteen years of age."

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 11 to 29 put and passed.

Title put and passed.

Bill reported with amendments.

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th April.

THE HON. E. C. HOUSE (South) [8 p.m.]: I would like to make a few brief comments on this Bill which is both important and urgent. I am quite convinced in my own mind that pollution must be one of our major issues and one of the most important matters with which this Parliament deals. This matter is becoming critical not only on a Commonwealth basis, but also on an international basis, and as time goes by I think there will be nothing more important than pollution. I refer not only to pollution of water supplies, but also air pollution.

When one considers some of the surveys in which people's lungs are examined, which are taking place in America at the present moment, one finds that the surveys show it is almost impossible to tell the difference between a non-smoker and a smoker. The doctors can tell the difference only between a city and a country person. However that concerns air pollution, and we are not dealing with that subject in this Bill. I mention it because all sorts of pollution are virtually tied up in the one arena.

If I have any criticism of this Bill it is that I think it does not go far enough. In his second reading speech the Minister said that the effect of the Bill was to be confined to certain parts of the metropolitan area. So it is restricted to the metropolitan scene when the effect of its provisions should be extended throughout the whole State.

The Hon. R. Thompson: Absolutely.

The Hon. E. C. HOUSE: This is an important matter, particularly with regard to the health of the community. I do not think we can expect private citizens to understand the ramifications of the problem and the damage that can be created from pollution in an accumulated form in drinking water and in the vegetables and meat we eat, and even in the air we breathe.

We had a case not very long ago where the grass on a bowling green died and it was thought that the water had been polluted by a strong spray used to kill the grass along a railway line. There was definitely a concentration of the poison in the water used on the bowling green and had it not been for that grass dying probably no-one would have given the matter any thought, and the poisoning could have spread to stock feed and so on. I use this as an illustration of how the private citizen can be oblivious to what could happen to him, and the side effects that could ensue from such poisons.

The scientific field has advanced so rapidly and developed so many different sprays and poisons that we have now reached the stage where they are used in practically everything with which we are concerned—in food, in drinks, and in the domestic area generally.

I was greatly interested in an experiment which was carried out at the Glenlossie Research Station in Kojonup. Radioactive super was drilled into the ground on the side of a hill and as a result of the rain and the movement of water, when the research people put the geiger counters on the area they found there was hardly any super left at the top of the hill; it was all down at the bottom. Once again, I am using this to illustrate the point that these poisons can penetrate through the soil down to the water supplies.

It would be quite obvious to me from this and also other cases that one can cite—for example, in the agricultural country near Esperance where super was planted two inches below the wheat, and the super went down faster than the grain could catch up with it—that these poisons and so on permeate through the ground and get into the water supplies and the rivers and streams.

Although this Bill is mainly concerned with the domestic water supplies, I do think the Government must give serious thought to the effects it must have on streams, rivers, and lakes and also on the fish, birds, and so on. This applies also to humans in regard to drinking water taken from these water supplies. I am quite certain we are reaching the stage now, with the build-up of houses in various areas, accompanied by sewerage systems and so on, where a great many undesirable poisons and bacteria must be finding their way into the sources of water supply, and the water is being consumed by innocent people.

We also know the effect that DDT has had on streams, etc. Mr. Ron Thompson mentioned that it has been found in penguins in the Antarctic. It is not just the small amount of poison that infiltrates into water catchment areas which is dangerous; it is the accumulation of poisons—or certain of them—which must eventually lead to the destruction of many of the cells in the human body. I mention this because I am absolutely certain that when one reads this Bill and realises it is in a restricted form, one appreciates that we have not yet recognised the magnitude of the pollution menace which confronts the population as a whole—every citizen.

It has been said that we are a young country and have not yet built up a problem; however, I believe the effects of pollution are just as serious in Western Australia today as they are in many of the major cities in the world. I believe we should be looking at pollution problems as they

affect our drinking water, meat supplies, and vegetables. DDT is still being used in vegetable gardens although it is illegal. That poison is sprayed on the crops and penetrates into the ground. A lot of it is then brought back up in the water and sprayed on the crops once again, so it must have a double effect. With regard to fruit trees, once again underground water is used for irrigation, and after the trees have been sprayed a certain amount of poison must find its way into the fruit.

I only regret that this Bill has not a wider concept and I hope it is not long before the Government does have a full-scale investigation into the matter. I intend to make it an exercise for myself to go into this subject deeply because I can see that it is something which needs a great deal of study, and I think we should be taking notice of what is happening overseas. I have much pleasure in supporting the Bill.

THE HON. G. W. BERRY (Lower North) [8.9 p.m.]: I rise to support the Bill. Like previous speakers I do not think the measure is wide enough in its application. I remember many years ago the then Government Geologist (Mr. Ellis), was at a meeting which I attended —it was about the time that oil was discovered in this State—and Mr. Ellis told the meeting that our most valuable mineral was not oil, but water, and particularly fresh water.

The Hon. A. F. Griffith: It still is our most valuable mineral.

The Hon. G. W. BERRY: That has not changed; water is still our most valuable mineral. I am pleased to see that the Government is taking steps to ensure that our underground supplies are not polluted. However, like others I express alarm that we are not extending this principle throughout the State.

I think it would be a crime to pollute fresh water in any part of the State, and I sincerely hope that at some time we will have another look at this matter with a view to making the legislation apply throughout the State and not only to the metropolitan area. I support the Bill.

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [8.11 p.m.]: I would like to thank members for their general support of this measure. I did take the trouble to pass the comments of the various speakers on to the department concerned so that I might answer them this evening when replying to the debate. Unfortunately, the department does not appear to be as good as the Education Department because the comments have not arrived. However, I believe I can recall most of the points raised by different members who spoke.

I recall that Mr. Ron Thompson discussed the problems in his area, and particularly around the wool scouring works at Bibra Lake. Those works at the moment are using a man made dam, and the seepage from this could pollute the underground water supply. Mr. Thompson went on to talk about the plan which the department has of eventually putting in a system connecting all the lakes with Bibra Lake so that any surplus water above a certain level would be drained off. I would like to suggest that if the honourable member cares to lend us $1,000,000 free of interest we may be able to implement this fairly quickly.

The Hon. R. Thompson: Why don't you sell a few of your Poseidons?

The Hon. L. A. LOGAN: They are worth only $87 at the moment, so they are not much good today. However, I think the honourable member will appreciate that this is the department's policy on how the job can be done. This of course—as I think has been mentioned—is something new; it is an experiment in the embryo stage to a certain extent, and I do not know whether or not it has been done before.

Mr. House mentioned air pollution and I would remind him that we have had a Clean Air Council for the last three or four years and it is investigating all aspects of this matter. We may need to have a further board of this nature to investigate the pollution of water. Many experiments are being carried out right throughout the world into the effect of sprays and detergents not only on animals, but also on humans. I suppose that eventually someone will come up with a spray that is more soluble than DDT, which is indestructable. Probably something will be found which will eventually deteriorate and disappear. However, that is a job for the scientists.

Mr. Lavery mentioned the Alcoa company and the remarkable job it is doing at Pinjarra. I think the honourable member knows that even the ponds being used at Kwinana at present are lined with clay.

The Hon. R. Thompson: They are impervious.

The Hon. L. A. LOGAN: Yes, they are impervious. As a matter of fact, the company did this for two purposes. One was to ensure that there is no leakage to contaminate water supplies, and the other is that the company has to extract the caustic soda for reuse in the manufacturing process. I think the honourable member can rest assured that the company will do its best in this regard.

The Hon. F. R. H. Lavery: What I referred to was that the Water Supply Department told me last year that it was inquiring into my proposition that there is quicksand in the swamp known as the Specs.

The Hon. L. A. LOGAN: I can assure members that their comments have been passed on to the department concerned, which will take some notice of them. Mention was made of other matters, and one was the definition of an aquifer. I think that if those who know anything about boring—whether for water or oil—studied this definition, they would be satisfied that it is all right.

The Hon. R. Thompson: The definition of "aquifer" is all right.

The Hon. L. A. LOGAN: I think somebody else raised the point. We must appreciate the fact that when boring is carried out different types of country are encountered. Some of this country is not porous and no water is available. When, however, the bore goes further and reaches the porous areas we find that water is immediately available and this is where we hit the aquifer. The definition refers to water which rises from that porous country into the bore hole. The same applies to oil, which will gush to the top or above the level at which the bore is put down.

The Hon. R. Thompson: I think the Minister is mixing the definition of "aquifer" with that of "artesian bore."

The Hon. L. A. LOGAN: An artesian bore is only a bore, after all is said and done.

The Hon. R. Thompson: An aquifer is underground pondage or a catchment area.

The Hon. L. A. LOGAN: This is where the water is. When the water is forced above its natural level this definition applies.

I would ask members to consider the bore at the brewery. Because of the level the water in that area is flowing all the time. If a bore were put down in King's Park in the same aquifer it would rise to a certain level only; it would not come out over the top. Originally, when referring to artesian water, it meant water that was flowing out all the time. The definition has been changed, because under the previous definition we could not classify both as artesian bores.

The Hon. R. Thompson: I think you are confusing the issue.

The Hon. L. A. LOGAN: The other matter raised was in regard to the question of penalties. I have not been in touch with the Parliamentary Draftsman and therefore I do not know why the penalty was provided for under a by-law. I suggest we do not start playing around with this aspect at this stage of the game. As we know, another session of Parliament is coming up shortly and if we find that the penalty provided is not sufficient we will have ample time to change it. This legislation is experimental so let us try it out.

The Hon. R. Thompson: What about appeals to a higher court?

The Hon. L. A. LOGAN: I would not like to make any comment on that.

The Hon. R. Thompson: You are the Minister handling the Bill. Surely you do not want to place the department in an invidious position.

The Hon. L. A. LOGAN: I think the idea is that in certain cases the costs involved can be fairly substantial if the matter is taken to a higher court. This could work both ways.

The Hon. R. Thompson: That is the idea of the provision.

The Hon. L. A. LOGAN: Sometimes giving an extra right of appeal might be detrimental to the individual while in other cases it might be in his favour. I would not like to comment on that aspect.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. R. H. Lavery) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Amendment to section 5—

The DEPUTY CHAIRMAN (The Hon. F. R. H. Lavery): At this stage I would like to say that I propose to authorise the Clerks to correct a typographical error on page 2, line 18, by substituting the word "in" for the word "on."

The Hon. R. THOMPSON: From the reference books at my disposal I feel that the definition of "aquifer" is correct. In the case of artesian water I would point out that this principle was discovered by a Frenchman named Artois in the 17th century. His method of extraction of artesian water was to drill below the source of the water, which enabled the pressure to force the water to the top. I think this was the explanation the Minister was trying to give in connection with the brewery. I would suggest this is not an artesian bore; it is pondage in the true sense of the word. If we drill below the source of water in King's Park and force the water up, the success of the operation will depend entirely on the depth of the drilling in the first and second holes.

The Hon. A. F. Griffith: You can drill on a mountain and the water will not rise, but if you drill on the flat the water will rise.

The Hon. J. Dolan: This does not always follow, particularly in East Fremantle.

The Hon. G. C. MacKinnon: That further proves how difficult it is to arrive at a satisfactory definition.

The Hon. R. THOMPSON: The interpretation seems reasonable. I merely asked the Minister to look at it because there could be the possibility of someone being in trouble and the legal fraternity arguing that the Act was wrong.

The Hon. R. F. CLAUGHTON: The physiographical definition of an artesian water supply is water with an outlet below the intake area of the aquifer. There is also a further classification of subartesian waters to cover those waters that rise above the aquifers but do not reach the surface. The definition in the Act would cover artesian water and I do not think we should make too much of this. When I spoke I questioned the necessity for two differing definitions—that is, the one presented here and the one contained in the Rights in Water and Irrigation Act where artesian water is defined in much the same manner as it is here.

Clause put and passed.

Clause 4: Heading and section 57A added—

The Hon. R. THOMPSON: Last night I said I thought this provision should be given State-wide application, and Mr. House expressed the same view. We find, however, that under the principal Act the Governor may, by Order-in-Council, divide the respective parts of the area which are served by the metropolitan main drain, water supply, and so on. As the legislation before us is limited in its scope, I suggest the Government introduces a new Bill to cover the entire State or, if possible, amend the Rights in Water and Irrigation Act to meet this purpose.

The Hon. G. C. MacKinnon: This would cover the area most susceptible to pollution.

The Hon. R. THOMPSON: Yes, but we do not know the difficulties we will face in those areas outside the area of the Metropolitan Water Board because there is a limit to underground waters in Western Australia; if there were not we would not be as concerned and anxious as we are at the moment. The Minister should bring down legislation to cover the entire State, rather than just the metropolitan area.

I do not suppose any member in this Chamber could tell us the exact boundaries of the Metropolitan Water Supply, Sewerage and Drainage Board. These are altered from time to time by the Governor-in-Council.

The Hon. L. A. LOGAN: I can assure the honourable member that the very favourable reception the Bill has been accorded since its introduction will encourage the Government, and the Minister concerned, to have a look at the overall position in connection with the State as a whole.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Section 57C added—

The Hon. R. THOMPSON: I spoke against this clause last night and I think most people would be concerned about dispensation being granted regarding the observance of any by-law. I am not attacking the Minister, because I know he was unable to obtain the replies he required from the department. However, I do not like this clause at all. If it is right and proper for a control area to be declared, then no dispensation should be given. I pointed out that in the southern sector—and it may apply also in the northern sector—a multipilicity of sprays are being used, some organic and some non-organic.

In addition to what I said last night, I would point out that not so many years ago it was common to see a whole family working for a weekend, or perhaps two weekends, in their market garden in order to keep the weeds down. However, now, because of the intensive and extensive use of chemicals, which kill a particular weed, but do not affect the plant or vegetable being grown, it is possible for one man to work a five-acre plot on his own and obtain full production all the time, with selected crops. The sprays being used now are very sophisticated and they must ultimately find their way into the water supplies, as pointed out by Mr. House who dealt with superphosphate. I am speaking of an area which is far removed from Gnowangerup.

The Hon. E. C. House: It is the same principle.

The Hon. R. THOMPSON: However, if it is known that in Gnowangerup poison in underground water is killing a bowling green, now is the time to take action. It would be the responsibility of the Minister for Health or the Minister for Agriculture to ensure that non-poisonous sprays are used and that the more sophisticated poisonous sprays at present in use are limited and are allowed to be used only in an area where they cannot contaminate the underground water supply.

The Hon. E. C. House: Railway line spraying is a serious problem. There is a lot of that going on.

The Hon. R. THOMPSON: That is so. Being a farmer, Mr. House knows the damage which is done to farms when aerial spraying is carried out on a nearby property. How potent the spray is I do not know; but other members here could probably blind me with science concerning its poison content.

Apart from the penalty and appeal, this is the only provision in the Bill I do not like. I realise the board does not have to grant the dispensation but the provision will be in the Act and I hope and trust it will be used with the utmost caution.

The Hon. L. A. LOGAN: I am sorry I missed this point in my reply. I can well understand the concern expressed by the honourable member and I think it would be shared by most members in this Chamber. However, we are not to know what circumstances may arise in any declared area when some drastic action may be necessary in a hurry. For instance, if in a proclaimed control area a certain disease broke out, and it was known that only one particular spray could counteract the disease, then surely under those conditions the board would be entitled to grant dispensation for that particular spray to be used for that particular disease at that particular time. I may be stretching the bow, but I am trying to show why dispensation might be necessary.

I am sure the board would not grant dispensation lightly but circumstances may arise in the future when it would be necessary for it to do so, and therefore I do not believe it is such a bad clause to have in the Bill.

Clause put and passed.

Clause 7: Section 57D added—

The Hon. R. THOMPSON: I certainly do not like proposed new subsection (5) at the bottom of page 5. Last night I referred to a fisherman who broke every law under the Fisheries Act and had it not been for the right of appeal he would have been appropriately fined and penalised.

As I said last night I believe that the right of appeal is necessary in order that it might work two ways. If someone is unduly penalised by the Local Court he would have the right of appeal. On the other hand, if the department felt that the decision given by the Local Court was the wrong one it, too, would have the right to appeal against that decision.

I would like this provision amended, but I do not believe I am in a position to draft a suitable amendment. If we deleted proposed new subsection (5), we would be in trouble with proposed new subsection (4).

The Hon. A. F. Griffith: I think this would have to be looked at. Proposed new subsection (4) deals with the costs that can be awarded by the Local Court, while proposed new subsection (5) provides that the decision of the Local Court is final. If the latter proposed new subsection is deleted, the matter would be left in suspense. The whole thing would have to be redrafted.

The Hon. R. THOMPSON: Yes. I would like the Minister to report progress on this because I am sure the Committee would agree in principle to what I am saying.

The Hon. A. F. Griffith: Why not deal with the clause and the Minister will give an undertaking the Bill can be recommitted if there is good reason for doing so.

The Hon. R. THOMPSON: All right.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

TERMINATION OF PREGNANCY BILL

Second Reading

Debate resumed from the 24th March.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [8.42 p.m.]: Reference to the 1968 *Hansard* will show recorded the debate which took place in this House on the occasion Dr. Hislop introduced his Bill the title of which was "A Bill for an Act to amend and clarify the law relating to Termination of Pregnancy by Medical Practitioners."

Members will recall that that Bill, although quite substantially amended in Committee, passed the second reading stage on the voices. So far as I can recollect, the amendments which were made were also passed on the voices. There were no divisions in the Chamber, but the Bill was sent to the Legislative Assembly after it had been very substantially amended in this House. On that occasion, with the assistance of my legal officers from the Crown Law Department, I regarded it as a duty of mine, as Minister for Justice, to point out to the House the situation in relation to the law as it existed then—and the situation is still the same—and to relate to the House that I considered that the law needed clarification.

I told the Legislative Council that I was not prepared to go to the full extent to which the Bill went in 1968, and I indicated in the Committee stage the various attitudes I had in respect of many of the clauses of the measure.

Very substantially my views have remained unchanged. However, this evening we are confronted with a Bill the title of which is the same, but the body of which is substantially different from that contained in the Bill introduced in 1968. This Bill seems to contain a portion of what was included in the 1968 measure and a portion of what was written into a Statute in South Australia when the Parliament of that State introduced legislation similar to this.

The 1968 Bill which Dr. Hislop introduced—I shall not go back to the one that was introduced in 1966—was very substantially based on the English Abortion Act. As I have already indicated, the Bill before us shows a change inasmuch as some of it is based on the 1968 Bill, which was drawn from the English Act, and some of it appears to be drawn from the South Australian Act, which was passed some short time ago.

I have now reached the stage where I must refer to certain points and I regret that it will be necessary for me to speak at some length in order to point out to the House the fundamental differences between the two Bills—the 1970 Bill and the 1968 Bill—in order that a clear understanding might be left in the minds of members in relation to the contrast between the two pieces of legislation.

Firstly, I think it is appropriate that I make some general comments on the two measures before passing to a more detailed consideration of the differences, both in form and substance, between them. The 1968 Bill, as introduced, was to a very considerable extent, as I have already said, modelled on the United Kingdom Abortion Act of 1967, more particularly in so far as concerned the specifying of the conditions and grounds for the medical termination of pregnancy and the allowance of a conscientious objection.

During the passage of the 1968 Bill through the Legislative Council some fairly substantial changes were made to those particular provisions so that in their final form the conditions and grounds for the termination of pregnancy were narrower than those of the United Kingdom Act, whilst the provision allowing for conscientious objection was considerably widened.

Before proceeding further perhaps I should point out that except where I otherwise refer to this legislation, when I talk about the 1968 Bill I am referring to it as it had been amended and left this Chamber—in order words, the form in which it was introduced into the Legislative Assembly.

In South Australia, in the latter part of 1969, a new section was inserted in the Criminal Law Consolidation Act of that State—the Criminal Law Consolidation Act was dated 1935-1969. That section, comprising 10 subsections, formed the South Australian Abortion Act and, to the extent that it provides conditions and grounds for the termination of pregnancy, and allows for conscientious objection, it, too, is modelled on the United Kingdom Act. It should be noted that the South Australian Act does not include as a ground for termination the risk of injury to the physical or mental health of an existing child of the family of the pregnant woman, as is found in the United Kingdom Act; but the South Australian Act does provide for a residential qualification, which is not to be found in the United Kingdom Act, or in the 1968 Bill introduced into this Chamber.

The Bill we have before us for consideration has a provision for a period of residency in Western Australia and I will deal with that aspect a little later on. However, I repeat that the Bill we now have before us, in its seven clauses, has been clearly modelled on both the 1968 Bill that we dealt with two years ago and the South Australian Act of 1969. As I will point out later on, the provisions specifying the conditions and grounds for the termination of pregnancy, and allowing for conscientious objection are those of the South Australian Act and the 1968 Bill. There is a residential qualification in this measure identical with that in the South Australian legislation, inasmuch as it speaks of a residential requirement of two months in the State of Western Australia and the South Australian Act refers to two months' residency in the State of South Australia.

There are differences, formal, substantive, and possibly constitutional, in relation to the 1968 Bill and the 1970 Bill. I do not intend to emphasise or dwell in any way upon the possible constitutional aspects of this matter, but I do want to talk at this point of time about the formal differences and also the substantive differences in the two pieces of legislation. Inevitably between the two Bills there are certain formal differences in relation to clause numbers, the setting out, the paragraphing, and the language used. Those differences are obvious when one has a look at the two Bills.

However, for the most part, those differences are immaterial and where they have, or appear to have a significance or importance so far as they concern matters of substance, they are referred to in part 2 of my submissions. The conditions and grounds for the termination of pregnancy are set out in clause 4 of both Bills, and it would be useful to consider these differences under five subheadings. They are: the personal examination of the patient; the risk to the patient's life or the risk of injury to the patient's physical or mental health; the place of termination of the pregnancy; the emergency situations which may arise; and the environmental factors.

Let us deal first of all with the personal examination of the patient. The 1970 Bill, which is before us—and in fact the 1968 Bill—following the South Australian Act, in addition to requiring the medical practitioner who is performing the operation, and another medical practitioner, to confirm their opinion in good faith, specifically provides that these practitioners must reach their opinion after they have both examined the woman. This proposal is contained in clause 4 (1) (a) of the Bill. I merely say that it might reasonably be expected that a prior examination by both medical practitioners would take place—this would be normal medical practice in such matters—in order that they could reach an opinion in good faith that the operation should be performed. Therefore, it seems to me to be unnecessary verbiage in the legislation for this to be a prerequisite; because any responsible medical practitioner would surely make it a prerequisite.

The existence or nonexistence of such an examination would almost certainly be a factor which a court having to determine an issue would take into consideration, whether such a provision was in the Bill or not. However, to spell it out is to some extent a further measure of control and is apparently consistent with the view of the Australian Council of the Royal College of Obstetricians and Gynaecologists on induced abortion. A statement was made to a Select Committee inquiring into this matter.

As regards the risk to the patient's life or the risk of injury to the patient's physical or mental health, the two provisions in the 1968 Bill and the 1970 Bill are very important. The 1968 Bill, as originally introduced into the Legislative Council, provided for termination where, (a), the continuance of the pregnancy would involve risk to the life of the pregnant woman, or of injury to the physical or mental health of the pregnant woman greater than if the pregnancy were terminated; or (b), there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

The 1968 Bill, as it finally passed this House, read differently, and it provided for the termination where, (a), the continuance of the pregnancy would involve a substantial risk to the life of the pregnant woman, or of serious injury to the physical or mental health of the pregnant woman; or (b), there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Members will recall that in the Committee stage we spent a good deal of time in sorting out those words and we felt compelled to say that the risk must be substantial. We rewrote the clause, or amended it, to read in those terms.

The 1970 Bill provides, as does the South Australian Act, for termination where the continuance of the pregnancy would involve greater risk to the life of the pregnant woman, or greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated; or there is a substantial risk that if the pregnancy were not terminated, and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped.

It will be seen that apart from minor differences in language the second ground is unchanged but the differences between the two Bills are very substantial in the specification of the first ground; so that what we have, in fact, is a resumption of the ground that was in the 1968 Bill as it was presented at the second reading, and before it was amended in Committee. We seem to have returned to the original position. I do not think that particular clause will be acceptable to the Committee in the event of this Bill reaching the Committee stage.

Clause 4 (1) (a) (i) of the 1970 Bill refers to the comparison basis contained in the 1968 Bill as originally introduced, and as I have just referred to it. This was rejected for the reason that as risk to life and risk of injury were probably less in a properly performed abortion than in a pregnancy carried to the full term, such provision was really authorising abortion on demand. Members will recall that a number of statements were made in the Committee stage in connection with the use of this expression.

The Hon. R. F. Hutchison: May I ask a question? Is this a Government Bill?

The Hon. A. F. GRIFFITH: The honourable member knows as well as I do that it is Dr. Hislop's Bill. If I may continue: I have not changed my mind on the question whether abortion should be available on demand. I have not changed my mind about the seriousness of the regard that we, as legislators, should have for the welfare and for the substantial risk to the life of the mother. In some respects the law already provides that a doctor may attend situations of this nature. As a result, the 1968 Bill qualified "risk" and "injury" adjectivally—that is, "substantial risk" and "serious injury"—and not in comparative terms. They have been left out of the 1970 Bill.

The next heading refers to place for termination. The 1968 Bill provided for ". . . any treatment for the termination of pregnancy (to) be carried out in a hospital approved for the purposes of this Act by the Commissioner of Public Health appointed under the Health Act, 1911." That is contained in clause 4 (3).

Clause 4 (1) (a) of the 1970 Bill provides for the carrying out of such treatment "in a public hospital," and in clause 3 "public hospital" is defined as "a public hospital within the meaning of the Hospitals Act, 1927."

Yesterday Mr. Wise put a question to my colleague, the Minister for Health, the answer to which was given today. The question related to a list of public hospitals declared under the Hospitals Act, 1927.

The principal purpose of both provisions is obviously to provide a very necessary measure of control by ensuring the carrying out of such treatment in proper clinical surroundings, but there is a very substantial difference, and an important reason for the difference, between the two Bills, as to the way in which this is sought to be achieved. It seems to be more relevant to deal with this difference when considering possible constitutional aspects in part 3 of my submissions. I indicated

that I did not intend to spend a great deal of time on this, but I think it is important that I should mention it a little later on.

It is relevant to mention here that the requirement that treatment be carried out in a public hospital, as defined, would seem to exclude as authorised places for treatment all private hospitals operating under regulations made under division 2 of part XII of the Health Act, 1911, unless such hospitals in some way come within the definition of "public hospital" in the Hospitals Act. I think the Minister for Health has some power to define these as hospitals that do come under that Act.

The Hon. G. C. MacKinnon: Only on the agreement of the hospital in question.

The Hon. A. F. GRIFFITH: The basis is some financial assistance from the Government?

The Hon. G. C. MacKinnon: If they receive a subsidy.

The Hon. A. F. GRIFFITH: The next matter I deal with is emergency situations. Both Bills provide for termination by a medical practitioner in certain emergency situations without prior consulation with another practitioner or the necessity to carry out the treatment in a hospital. One can imagine that such a state of affairs could arise.

Under the 1968 Bill the medical practitioner was required to be of the opinion "that the termination is immediately necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman." In this Bill his opinion must be "that the termination is immediately necessary to save the life, or to prevent grave injury to the physical or mental health, of the pregnant woman."

It will be noted that whilst the 1968 Bill referred, as does the English Abortion Act, to "grave permanent injury," the 1970 Bill refers, as does the South Australian Act, to "grave injury" only. To this extent the present Bill may be thought to represent a lessening of the responsibility of the medical practitioner in the emergency situation. It could, however, be argued that it might be imposing too great a burden on the medical practitioner to require him to form an opinion, particularly in an emergency situation, that the injury to the woman may or may not be of a permanent nature. It is also possible to foresee difficulties in this respect in any subsequent court proceedings where permanence of injury is an issue in the matter.

The fifth heading concerns environmental factors. Both Bills provided for "account (to be) taken of the pregnant woman's actual or reasonably foreseeable environment." In my recollection, we spent a good deal of time on this particular clause. The differences in the language in the two Bills of 1968 and 1970 are not material and do not appear to be significant. I was not very happy in 1968 about the clause which provided for the pregnant woman's actual or reasonably foreseeable environment. I know that a great deal can be said one way or the other. I shall not try to give examples because I think it is well known what they are. Suffice it to say that there could be some arguments for, and some arguments against. As far as I am concerned, in the early stages of legislation of this nature, I feel less happy about that particular clause than I did in 1968, particularly when I read about the early stages of the experiences in South Australia with the legislation which that State has introduced.

The next question is conscientious objection. The 1968 Bill as originally introduced provided for conscientious objection in the following terms:—

> 6. (1) Subject to subsection (3) of this section, no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection.
>
> (2) In any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it.
>
> (3) Nothing in subsection (1) of this section shall affect any duty to participate in treatment which is necessary to save the life or to prevent grave permanent injury to the physical or mental health of a pregnant woman.

This provision was substantially amended in this Chamber when we dealt with the matter in Committee. It emerged as follows:—

> 6. (1) Subject to subsection (2) of this section, no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act.
>
> (2) Nothing in subsection (1) of this section shall affect any duty to participate in treatment which is necessary to save the life or to prevent grave permanent injury to the physical or mental health of a pregnant woman.

Clause 5 of the present Bill, again following the South Australian provision, reads—

> 5. (1) Subject to subsection (2) of this section, no person is under a duty whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection.
>
> (2) In any legal proceedings, the burden of proof of conscientious objection rests on the person claiming to rely on it.

(3) Nothing in subsection (1) of this section affects any duty to participate . . . . .

The present provision therefore seems to revert to the 1968 provision before it was amended, so as to afford a far wider measure of conscientious objection.

From an evidentiary viewpoint the inclusion of the words "to which he has a conscientious objection" in subclause (1), and the burden of proof provision in subclause (2), are not unusual, and, I would submit, are necessary for the proper working of the measure; but assuming there still exist the same objections to their inclusion as existed in 1968, it seems reasonable to anticipate proposals for similar amendments.

It should be noted that whilst clause 6 (2) of the 1968 Bill referred to "grave permanent injury," as in clause 4 (4) of that Bill, clause 5 (3) of the 1970 Bill refers merely to "grave injury," consistently with clause 4 (1) (b). I referred to the implications of this difference when dealing with emergency situations.

There appears to be some error in clause 5 (1) of the Bill. The reference to "subsection (2)" is obviously incorrect.

I do not propose to spend much time on residential qualification. There was no residential qualification in the 1968 Bill. The South Australian Parliament adopted it, as I said earlier, and the 1970 Bill adopts a residential period. I mention the constitutional side of this merely on the outside. There may be some constitutional aspect of this as far as the courts are concerned, but I do not think I need dwell on that because to my way of thinking it does not affect the substantive working of the legislation in the event of its being amended and being passed through this Chamber.

The question of regulations under both Bills is not unimportant. The powers, both general and specific, to make regulations are substantially the same and call for little comment, except perhaps for the following:— Clause 8 (2) (a) of the 1968 Bill provided for regulations "requiring any such opinion as is referred to in section 4 of this Act to be certified by the medical practitioner or practitioners in such form and at such time and to such person or persons as may be prescribed by the regulations." There was a condition in the 1968 legislation for notification.

Clause 7 (2) (a) of the 1970 Bill provides for regulations "requiring any such opinion as is referred to in section 4 of this Act to be certified by the medical practitioner or practitioners concerned in such form and at or within such time as may be prescribed, and for requiring the preservation and disposal of any such certificate made for the purposes of this Act."

Once again the additional words are identical with those in the South Australian Act, and also similar to the words in the United Kingdom Act.

Clause 7(2) of the 1970 Bill provides, as did the similar clause in the 1968 Bill, for regulations requiring any medical practitioner who terminates a pregnancy to give notice of the termination, and such other information as may be so prescribed, but there is no subsequent or complementary provision stating to whom such notice or information shall be given such as that found in the South Australian Act, and in that case a person is defined.

I mention the possible constitutional aspects of this Bill, first of all under the heading of "Place of Treatment." Reference has been made to the differing requirements of the two Bills as to the place in which treatment for termination of pregnancy is to be carried out. The 1968 Bill provided for this to be done—excepting in an emergency situation—in a hospital approved, for the purposes of this legislation, by the Commissioner of Public Health, and clause 5 of that Bill further provided that the provisions of section 336 of the Health Act shall apply *mutatis mutandis* to a death of a woman which results from a termination of pregnancy under this measure.

This latter provision was included because whilst there was some doubt whether the wording of section 336—that is, "Whenever any woman shall die as a result of pregnancy . . . or as a result of any complications arising from or following upon pregnancy . . . "—covers deaths following abortion induced by an outside agency, it was understood that in practice the section was so interpreted, and it was thought advisable to include the provision of the 1968 Bill to ensure that it did apply to cases of induced abortion.

This provision is absent in the present Bill which factor may also be a matter for further consideration, but I do not regard that factor as one upon which I need to dwell. It is now well known that the 1968 Bill came before the Legislative Assembly after being substantially amended in this House, and the Speaker ruled it out of order on the ground that it imposed an expenditure on the Crown and was not accompanied by a Governor's Message, basing his ruling on the consideration of the content and effect of these particular provisions. The reasons for this are recorded in the *Hansard* of the day.

I do not seek, of course, to criticise the Speaker in any way, but I think it is important that I record what took place for the purpose of the record. At this point I would like to state that it was a great pity the Bill was not debated in the Legislative Assembly at the time, because whatever that House decided in relation to the passage of the legislation it

would have been final and a decision by Parliament would have been made. However that was not the case.

The present Bill, I think, seeks to avoid a similar result simply by providing for treatment of termination of pregnancy to be carried out in a hospital within the meaning of the Hospitals Act, 1927. I think it seeks to provide that. However, with great respect, I think there is some doubt whether the new provision in Dr. Hislop's Bill we are now discussing overcomes all the deficiencies in the earlier measure which resulted in its being ruled out of order.

Assuming that this present provision would remain unchanged, and assuming also the absence of a Governor's Message, as occurred with the 1968 Bill, the Bill may meet similar objections to those which were raised in the Legislative Assembly in 1968.

The PRESIDENT: Order! I would point out to the Minister that he cannot anticipate the fate of a measure in another place.

The Hon. A. F. GRIFFITH: Thank you, Mr. President, but I was not trying to anticipate the fate of the measure in another place. It will be recalled that the Speaker was invited by the Leader of the Opposition at that time to rule that the 1968 Bill was out of order on the ground that it involved incidental expenditure in the form of a greatly increased demand for accommodation in public hospitals, and consequently needed to be introduced with a Governor's Message. The Speaker did not agree with that but he ruled the Bill out of order on another ground and he said—

> If this Bill had been introduced as an amendment to the Health Act, in view of previous rulings given, it would have been in order . . .

I merely draw attention to the fact that the title of this Bill reads—as the title of the 1968 Bill read—

> An Act to amend and clarify the law relating to Termination of Pregnancy by Medical Practitioners.

I do not seek to forecast what might happen, but far from preventing an assumption that patients will, in fact, be treated in public hospitals, the present Bill specifically provides that they must be, and further, it is not introduced as an amendment to the Health Act or any other Act. It has a title and a beginning of its own.

Having dealt with that side of the legislation I propose to leave it at that. However I want to say that, in 1970, we are confronted with a Bill which is substantially different from the Bill that was first introduced in the Legislative Council in 1968 and is certainly substantially different from the Bill which was amended in this House, following debate both in the second reading and Committee stages, before passing to another place. Therefore I find that I cannot accept the 1970 Bill in the form in which it is at present. I have already expressed my view that my particular interest in matters of this nature is to have a clarification of the law because, as I said in 1968, the law needs clarification.

I feel that where the legislation involves a risk in regard to the life of the mother; where it involves a substantial risk in regard to the life of the mother, and where it involves grave permanent injury to the mother, then my sympathy rests with the mother, and in these circumstances I think that, from a medical point of view, if there is any uncertainty in the law, the law should be clarified in this respect.

When we concluded the debate on the 1968 Bill, I said then that I was not anxious to see this Chamber open the door widely to practices which had been occurring in England. You, Mr. President, have read reports, and I am sure all members of this Chamber have read reports, of what has taken place in England since the abortion law in that country was passed by Parliament. To me, indications seem to present a picture in South Australia which, although not as bad as that which may be portrayed in England, does not appear to be right. Perhaps this is because the cases are being brought under a legal light; I do not know. I am not informed in this matter, but it does seem that the number of pregnancies terminated in that State has risen since the law came into force.

I felt inclined to watch the progress of the South Australian legislation to see how it turned out, but before I was able to do that for very long I found that the House was confronted with this Bill once more. So I will leave the position at that point. If the Bill goes into Committee—and if on this occasion the same procedure is followed as was followed in 1968 it seems that it may go into Committee—I cannot forecast its fate in this respect. However in keeping with the principles I have enunciated, I think in certain respects the law needs clarification. Having at heart the welfare of people who find themselves in the circumstances I have related and who need medical attention, the law in this respect should not be uncertain.

THE HON. J. DOLAN (South-East Metropolitan) [9.27 p.m.]: In making my remarks I take a different line from that taken by the Minister who, I think, has given an excellent exposition of the various differences as between the Bills that were introduced previously and the Bill that is now before us. I opposed the Bill on the last occasion and, on this occasion, in view of what I have seen happen not only in Britain but also in South Australia since I last spoke before this House, I am

more convinced now than I ever was that the passing of a Bill of this nature is not in the interests of the State nor in the interests of its people.

Firstly, I would refer to the fact that three Bills of this nature have been introduced into this House. The first one had a second reading on the 25th November, 1966, and was allowed to remain on the notice paper. If I could plagiarise Sir Walter Scott, I would say that it disappeared "upwept, unhonoured, and unsung." On the second occasion, the Bill was subjected to a very full debate, and I can express my pleasure, anyhow, that members did join in the debate and express their views.

Some people are always inclined to criticise others by saying that they wish to force their views on people. I would say that in a matter of great public concern debated anywhere in a democratic country both sides should have the right to present their views as strongly and as forcibly as possible, and neither one side nor the other should criticise its opponents because of the force or vigour shown when presenting argument, or the reasons given for it; provided, of course, they are fair and sincere. The second Bill, after amendment, left this House and went to another place, and there, as the Minister has explained more specifically than I could, the Bill was ruled out of order.

I intend to speak in more general terms. There are many critics who know the position better than I do. They have been here long enough to know about these matters, and all those people who have read about what happened in this Parliament in regard to the last Bill claim it was rejected on a mere technicality.

Such, of course, was far from being the case. There was no mere technicality about it. The rule that any expenditure of public money must be accompanied by a Message from the Governor, in effect from the responsible Ministers, is probably the oldest and the most soundly based rule in parliamentary procedure. The rule ensures that people will not be taxed to pay for expenditure not authorised by a majority of their elected representatives.

The point that the Bill would commit the Crown to expenditure, and therefore required a Message from the Governor, was not raised in the Legislative Council, because the Council, like the House of Lords, has no power to do anything with a money Bill, except to pass it or to reject it. Whether or not the ruling is right I will not canvass an opinion; whether the ruling is right or whether the merits of the Bill are right are two entirely different matters, and they do not conflict.

Now we have a Bill before us. I think the initial clauses are framed to avoid its foundering on the rock, as the last measure foundered. I propose to make my remarks in two sections. The first section will deal generally and much more briefly with the matter than I did on the last occasion; and I will supplement the reasons I gave on the case then by what has transpired since, and I will also refer to some weaknesses and dangers that are existent in the present Bill, as they also were in the previous Bill. I express the hope that the measure will not reach the Committee stage on this occasion.

I start off by referring to the question that is often heard: Does this Bill represent abortion on demand? As we have heard from the Minister for Mines who spoke earlier, whether the Bill is based on the English Act, on the South Australian Act, on a bit of each, or on a bit of something else, I am not at this moment concerned. Previously I expressed the view that the authorities I shall quote will be those who hold exalted positions, particularly in England, in the medical world, and in those branches of the medical world associated with obstetrics and gynaecology.

With regard to the position in England I repeat what was said on a rather famous occasion by Professor Ian Donald who is the head of the Department of Obstetrics and Gynaecology in the University of Glasgow. In addressing a public meeting at the Free Trade Hall in Manchester on the 5th December, 1966, what he had to say about the British Bill is what I am prepared to say, along with him, about the Bill before us. Before doing so let me point out that the views of these critics I have named are not the views of those belonging to a religion which some people claim is the main opponent of abortion in any form. None of these people are Catholics. As I said before, they hold exalted positions in the medical world. Professor Donald is not only the head of the particular department I mentioned in the University of Glasgow, but is also the Superintendent of the Queen Mother Maternity Hospital in Glasgow where, I understand, every year some thousands of births take place. This was what he had to say—

> Let us recognise this Bill for what it is worth and not be deceived by protestations without proof to the contrary. It is abortion on demand.

He was quite outspoken about the matter. We always hear protestations about many kinds of things, whether the incidents happen to be rape or abnormalities; but I have never heard any figures which would indicate that those things talked about were real. I know that some of them do occur, but let us be definite and positive. Let the proponents quote figures to show how serious these incidents are. One wonders whether the statements made by Professor Donald have been proved or not.

Repeatedly we read of what has been happening in Britain. In regard to this matter it has reached the stage where the

people joke about abortions. When we find cartoonists joking about such things then the situation has reached a sorry plight. Look at this cartoon in my hand, which appeared in the London *Daily Express* showing a graph, and referring to abortions and the arrival in Britain of foreign girls with foreign currency. The Chancellor of the Exchequer is talking to the Prime Minister and is saying—

> "Don't stop our most brilliant foreign-currency-earning growth industry—just as I'm about to tell the good news to the International Monetary Fund!"

The legislation has been in operation in England for approximately three years—since 1967. In an issue of the *Sunday Mirror* in March of this year, which is only a month ago, the view was expressed that there was growing concern that the abortion on demand business is turning public opinion against the Abortion Act. It makes no bones about what it says.

The Liberal member of Parliament (Mr. David Steel) who sponsored the Abortion Bill in England set up a working party to report on the operations of the Act. He has reported to the Secretary of State for Social Services (Mr. Richard Crossman) and recommended ways of tightening control of abortions outside the health service. The person who sponsored the Bill realises it is getting out of control; it seems the authorities cannot control it. The legislation has become a problem.

It is all very well to introduce measures such as this, but they are like bolting horses. They are very difficult to stop, and that is why I am fearful of this legislation. These things are happening in England to legislation which has been adopted and considered by the Mother of Parliaments, which is steeped in centuries of parliamentary tradition. If that Parliament comes up with a Bill one would think that it would be almost foolproof; yet it has not been able to come up with anything that can stop what is taking place in this regard. Surely no-one will say that some of the practices which are taking place in England can be condoned in any way. I would like members to think about this: What has happened in Britain and in South Australia can happen here. Do not let us kid ourselves.

The South Australian legislation has been in operation for only a few months, and already the South Australian Government is considering a committee of doctors to check on abortions and to recommend changes in the law. The Chief Secretary (Mr. De Garis) who is responsible for the operation of the Act, said he would like to see the committee set up as soon as possible. After only a few months he is worried. What sort of difficulties have the authorities in South Australia run into, and what sort of difficulties will we in this State run into?

I have to refer to this, because I think everybody must be—I seem to be stuck for the word—amazed; possibly they have also been staggered by, and at least disgusted with what has happened in Victoria. These things continue to be reported in the newspapers. Do not let anyone tell me that what has been done in Victoria by a group of men who set themselves up as professional abortionists, and who degraded the most noble of professions, cannot happen here. Let us not think that because there is provision in the Bill for a decision to be made by two doctors that will stop the undesirable practices. That did not stop those practices where there were 10 or 12 doctors involved; these men used to have regular meetings to decide the next move in order to protect their interests.

The Hon. A. F. Griffith: Could I make this comment? I do not think anybody is trying to tell you anything. You are making your own speech.

The Hon. G. C. MacKinnon: Actually that has not been proved in Victoria.

The Hon. J. DOLAN: I appreciate what the Minister has said. I expressed no opinion while he was speaking; I did not utter one word. Let me refer to what Dr. Heath had to say. He gave some evidence, and this was reported in *The West Australian* of the 26th February, 1970. He said he had dealt with 13 or 14 abortions a day, and most of them were done by his associates—Dr. Finks, Dr. Arthur Stapleton, or Dr. John Levin. Thirteen or 14 a day works out at, say, 60 a week; or 3,000 a year. Did they have any reason for carrying out those abortions? Were they performed because of any possible abnormality to the unborn children concerned? Was there a danger to the lives of the prospective mothers; or anything of that nature?

To talk about abortion on demand, I say there were two demands: There was a demand by the patient for an abortion, and there was a demand by the doctors for the fee—the last being the primary consideration of all of them. We should ask: Can that possibly happen under the Bill before us? Of course, it can.

I think it is worth repeating a statement that was made by Dr. Beech, who was the President of the Western Australian Branch of the Australian Medical Association at the time the statement was made on the 14th September, 1968. He said—

> Some of the doctors have worries because this W.A. law will presumably override the traditional law of medicine which prohibits the taking of life and performing of abortions—a law which has been binding on the consciences of doctors for years.

He also uttered these words which are very appropriate—

> It should be clearly understood that it is the community and not the medical profession which is seeking to legalise abortion.

To give more factual evidence to members, the editorial in the *Sydney Morning Herald* of the 28th June, 1969, which is the main newspaper in Sydney, had something to say on this particular subject. It is worth reading, so that members can appreciate the editorial view—

> The case for abortion on social grounds should be considered in the light of the British experience. And it is probably too early to decide what permanent benefits, if any, this aspect of the British legislation will bring. We can, however, see some of the benefits it will not bring. It has not, for example, done away with the backstreet abortionist. "It seems to have been the experience of other countries where abortion has been legalised," says Professor Rhodes of St. Thomas' Hospital, "that an Act simply generates a new clientele for the operation." In Britain this clientele has increased from 2,800 in 1962 to 41,496 this year, with results that have been in many ways a social scandal. Hospitals are crowded; private clinics have flourished to exploit the abortion trade. The main difference in medical practice has been that the old illegal rackets have been replaced by more lucrative legal ones.

Could we have words stronger than those? These are words which were written by a leader writer for the most influential newspaper in Sydney. Of course, the editorial tempered the question a little. The editorial continues—

> But we should give the British Act a longer trial.

That is to say we should not condemn a man offhand; if he has committed five or six murders, we should give him another chance! He might not commit any more! I do not use that in the abortion sense; I am using it in the sense of giving it another trial. To continue—

> And in the meantime, the case for abortion on social grounds can best be met by attacking the causes: inadequate social services, poor housing, the complexities of adoption, and, above all, ignorance of contraceptives.

I will leave it at that but it is something which members should ponder and think about. One of the doctors involved in the abortion racket in Melbourne—and I am not saying anything that is not absolutely true; it is on the man's own admission—told the abortion committee today that he paid $1,000 to the abortion society.

Evidently that man knows where his bread is buttered. I suppose he thought it was better to pay out $1,000 to help a body which will fight for abortion so that he could do under the protection of the law what he has been paying $167,000 over the last six or seven years to be able to do. One lady giving evidence said that she had worked for a doctor for three years and he carried out six to 10 abortions a day. That practice was later sold. It was not a medical practice, but an abortion practice. What a state we have reached when such a noble profession is degraded to that extent! I ask: do those people need any protection?

Let me refer briefly to some of the common arguments or statements which have been advanced. First of all, when does life begin? All kinds of statements are made, and I have heard them repeatedly. It has been suggested to me that a foetus is an appendage of some kind which can be discarded at will. I will quote the opinion of Sir John Peel who is the Queen's surgeon and gynaecologist. He was responsible for bringing the Queen's lovely children into the world. I wonder if anyone would say that he was not a competent authority. He would not hold such a responsible position unless he was one of the greatest.

He had the following to say:—

> You must remember that each time you terminate pregnancy (the euphemistic name for abortion) you are killing foetus, a potentially normal human being. Life begins when a baby starts.

Nothing could be more definite than that, and no authority could be more responsible or better qualified to express an opinion than Sir John Peel. I have repeatedly heard it expressed that the purpose of introducing a Bill for abortion reform is to clarify the position because some doctors fear the law. I wonder how that argument will stand up. I will refer to Professor Donald again. I could refer to others but I will be satisfied to rest my argument on his practical knowledge. He said—

> It would be a mistake to think, for example, that doctors are refusing to terminate pregnancy because of the law—

It has to be remembered that the law in England, before the Abortion Act was passed there, was almost identical with the law which exists in Western Australia today. Professor Donald continued—

> —and that all that they are waiting for is a Bill such as this to let the brake off. Provided we act in good faith and on sound medical evidence supported by competent second opinion we have nothing to fear of the law as it stands.

I would ask the sponsor of the Bill, with all respect, if he would answer the following questions when he replies because I need clarification in my own mind. First of all, I will quote a cutting from *The West Australian* of May, 1967, as follows:—

> Dr. E. Edwards, Reader-in-Law at the University of W.A. is reported as saying that up to 400 abortions are performed each year at the King Edward Memorial Hospital in Perth.

The Hon. G. C. MacKinnon: Quite legally, of course.

The Hon. J. DOLAN: Quite right; I would say nothing to the contrary.

The questions I ask are as follows:—

1. Are abortions, such as those reported to have been carried out at the King Edward Memorial Hospital, actually carried out?

I would say that the number might probably not be as high as 400, but it is 20, 40, 50, or 100? To continue—

2. Have any doctors who have performed such operations been prosecuted under any section of the Criminal Code?
3. How many doctors have been prosecuted under the Criminal Code in the last 20 years?

Let us widen that question, and ask how many doctors in Western Australia have been prosecuted under the Criminal Code in the last 20 years for performing illegal abortions. My last question is—

4. Have any doctors ever been found guilty and, if so, have they ever been punished?

Doctors do not fear the law as it exists, and they perform abortions. In the course of their duty they find it is an absolute necessity, particularly to save a woman's life.

The Hon. G. C. MacKinnon: I do not think they fear the law, because they obey the law in the main.

The Hon. J. DOLAN: Certain sections of the Criminal Code place a responsibility, to a certain extent, on any doctor who performs an operation. There are terms in the Criminal Code which make doctors think twice before they operate.

Hundreds of abortions are carried out each year at the one hospital I have mentioned and not one doctor has been prosecuted. That statement was made publicly by a reader-in-law at the University, and the statement has never been denied.

The next question I raise is that of abnormalities. In this case I will quote another man whom I consider an authority. His name is Professor Scott, and he is Professor of Obstetrics and Gynaecology at Leeds University. He was not appointed to that position without being suitably qualified. Professors in that position have to teach others and they are responsible for turning out hundreds of doctors every year.

In an address to the National Association of Theatre Nurses Congress at Brighton, on the 28th October, 1966—and I quote from the *Nursing Times* of the 11th November, 1966—he had the following to say:—

> I find termination of pregnancy, because of a chance that the baby is abnormal, an unacceptable procedure.

Figures have shown that no matter how careful doctors are they might diagnose correctly only once out of every four or five examinations that there is likely to be an abnormality. Surely we cannot sacrifice four or five lives to prevent one abnormal child being born.

I have known men with whom I have worked in this State who were born with abnormalities. I have never known their abnormalities to control their lives one way or the other, or to spoil their lives. They have been able to make wonderful contributions to the welfare of the State. If anybody is interested I can name the people concerned but I do not think, in fairness to them, that their names should be made available publicly. I can assure members—and I do not lie—that what I have said is perfectly true.

Mental health has been mentioned in the Bill. Again, I will quote Professor Donald. It must be remembered that apart from being a professor in the University of Glasgow, he is supervisor of the new Queen Mother's Hospital in Glasgow. He addressed a public meeting in the Free Trade Hall in Manchester on the 5th December, 1966, and he had the following to say:—

> Any difference between the number of terminations of pregnancy between one hospital or city and another depends upon how readily either accepts psychiatric indications.
>
> In one Scottish city one in every 50 pregnancies has been terminated mainly on psychiatric or social grounds whereas at the new Queen Mother's Hospital in Glasgow the doctors have seen fit to terminate only two out of 7,500 pregnancies supervised so far.

At the first hospital referred to one in 50 pregnancies has been terminated, which is 2 per cent. At the Queen Mother's Hospital in Glasgow only two pregnancies have been terminated out of 7,500. The fact that two pregnancies were terminated would indicate that there are occasions when even a hospital such as the one I have mentioned is prepared to carry them out.

Professor Donald added that none of the patients out of the 7,498, who had normal births, has died, has gone mad, or has committed suicide—all the events we are told might happen when a woman wants an abortion and cannot get it.

Two great occasions are being celebrated in Australia this year, In Western Australia there is the Centenary of Methodism. Some people have rather peculiar ideas that the followers of one religion only believe in big families. Well, the founder of Methodism was John Wesley the 17th child in a family of 19. Some people claim that three or four children are a big enough family and that to go beyond that figure means one is not a good citizen.

A sailing boat left Fremantle today to sail to Sydney where celebrations will be taking place. The occasion is the bi-centenary of the finding of the Eastern part of Australia by Captain Cook in 1770. James Cook, who was the discoverer of Eastern Australia, was the ninth child in his family. Suppose his parents stopped having children after four or five. What a wonderful man would have been lost to the world and we would not have this country. It could have belonged to somebody else.

The Hon. E. C. House: That has not much to do with the Bill.

The Hon. J. DOLAN: The honourable member will find that when he speaks to the Bill I will not interject. Some people think that the religion of which I have spoken is the only one in opposition to the abortion law. I would suggest that if one were to read the opinions of other religious orders, published in the Press on the 27th March, 1970, one will see the views of the Anglican Archbishop of Perth. In addition, one will see the argument of the Roman Catholic Archbishop, leaders of the Methodist and Presbyterian churches, and the General Secretary of the Baptist Union. Last week 600 members of the Church of Christ opposed this Bill on the principle that it will provide abortion on demand. The view of the Primate of Australia (Archbishop Strong), appeared in *The West Australian* on the 11th December, 1969, as follows:—

> Widening the grounds for legal abortion could lead to a general lessening of respect for human life, the Anglican Primate of Australia, Archbishop Strong, said tonight.
>
> He regretted South Australia's widening of its abortion laws and hoped that would not lead to a general easing of Australia's abortion laws.
>
> He thought that abortion should be permitted only when the mother's life was in danger.

And that, of course, was re-echoed this evening by the Minister. Continuing—

> He was particularly critical of the clause that enabled doctors to take into account the pregnant woman's actual or foreseeable environment. "I think we have to find some solution to social problems other than the terminating of a life that has begun," he said.
>
> Archbishop Strong criticised the clause permitting abortion where there was a substantial risk that the child would be seriously handicapped.

Men like the Primate do not make statements of that nature without giving serious thought to them.

I am now getting near to finishing my remarks, and I want to say that when this matter was first mentioned in the House I anticipated it would be debated—I, of course, have always had strong views on the subject—and consequently I thought I would seek some information. Of course, when one wants information that one can rely on one goes to authorities, so I wrote to the authorities I have already mentioned—Professor Scott, Professor Donald of Glasgow, and organisations which were fighting the British Bill.

Let me clearly make this point: Professor Donald and Professor Scott, along with a number of other professors of medicine in the leading universities of England, belong to the executive of the Society for the Protection of Unborn Children. One of the conditions of membership of that society is that a member may not be a Roman Catholic. It was felt that people would use the argument that this was the religion which was fighting tooth and nail against abortion law reform.

Let me read out to the House some of the names of the members of that society. The membership includes Sir John Peel, the Queen's gynaecologist and surgeon; Dr. Hector McLennan, President of the Royal College of Obstetricians and Gynaecologists of Britain; Professor J. C. McClure-Browne, of the London University School of Medicine; Professor Sir Andrew Claye; and Professor H. C. McLaren, who is in charge of Britain's largest and greatest hospital for women, the Queen Elizabeth Hospital.

Surely we can take notice of those men. When I sought information on this subject I did not ever expect to come up with these sorts of people belonging to organisations which are fighting tooth and nail against abortion law reform in England. Might I also say that the Royal College of Obstetricians and Gynaecologists of Britain voted 192 to five—a conclusive vote—against the acceptance of the British Bill. That can be found in the *British Medical Journal* of 1966, volume 1, pages 850 to 854.

In London—and I have a newspaper cutting here to support what I say—there is mounting evidence that doctors are authorising abortions without ever seeing the patients. The least they could do is to have a look at the patients. That was probably the intention of the British Bill, but it has already been revealed that a

doctor will sign on the dotted line so long as he receives his fee.

The Hon. R. F. Claughton: Where was that reported?

The Hon. J. DOLAN: I will find it for the honourable member before I sit down. Mr. President, I wish to obtain a ruling from you on one subclause of the Bill and I would be grateful to you if you would give it to me. I think the Minister referred to this matter without going into details.

The PRESIDENT: Before the honourable member asks me for a ruling, would he complete his address and then request a ruling? I could then perhaps look at it before the House next assembles.

The Hon. J. DOLAN: Yes, Mr. President. I have found the newspaper cutting for Mr. Claughton. I do not make statements unless they can be authenticated; and I referred to the *Daily News* of the 16th March, 1970, which the honourable member could easily find in a few minutes in the library. This is a report taken from the *Sunday Mirror* in England. It says—

> There is mounting evidence of doctors authorising abortions without even seeing the patients, of clinics that put patients at risk by operating on mass production, discharging them in a matter of hours.

I think I have said sufficient at least to indicate my views and I would conclude by referring a particular subclause of the Bill to you, Mr. President, for a ruling. I refer to the residential clause, to which the Minister also referred, and I think it is indicative of the small amount of thought that has gone into the assembly of the Bill. Clause 4 (2) states—

> (2) Paragraph (a) of subsection (1) of this section does not refer or apply to any woman who has not resided in Western Australia for a period of at least two months before the termination of her pregnancy.

I would ask you to rule, Sir, on the basis of section 117 of the Constitution of the Commonwealth which takes precedence over ours. That section reads—

> 117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

Now, Mr. President, I will change those words a little and give you this example: Mrs. Smith resides in New South Wales and is visiting Western Australia to obtain an abortion. Indeed, this could be a couple of months after a pregnancy had started. She shall not be subject while in Western Australia to the abortion exclusion on account of short residency because it would not be equally applicable to her if she were resident permanently in Western Australia.

I would ask you for your ruling on this subject, and I conclude by asking members to give the utmost, serious consideration to this Bill—as I know they will—before expressing their views on it, and I ask them to be guided by their consciences.

The Hon. A. F. Griffith: Let me guide you a little. Do you propose asking the President whether the Bill is out of order?

The Hon. J. DOLAN: No, only whether that particular subclause is out of order. That is all I am challenging and I do it for the express purpose of seeing that things do not go into Bills without any real thought being given to them. I trust that members will not let this Bill pass the second reading stage.

President's Ruling

The PRESIDENT: Mr. Dolan has asked for a ruling on whether a subclause is in order. I would think that, as he is not asking whether or not the Bill is in order, but whether a specific subclause is in order, this is a subject which should be dealt with in the Committee stage.

The Hon. J. DOLAN: Thank you, Mr. President. I oppose the Bill.

Debate adjourned, on motion by The Hon. N. E. Baxter.

House adjourned at 10.11 p.m.

Legislative Assembly

Wednesday, the 15th April, 1970

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

QUESTIONS (27): ON NOTICE

1. FREMANTLE GAOL

Prisoners: Religious Category

Mr. JAMIESON, to the Chief Secretary:

What is the number of each stated religious category of prisoners at present in Fremantle gaol?

Mr. CRAIG replied:

Church of England	205
Roman Catholic	208
Methodist	19
Presbyterian	17
Church of Christ	15
Atheist	26
Buddhist	1
Spiritualist	1
Four Square	1
Mormon	1
Jewish	1