were charged with contributing to the neglect of children and it provided a penalty of £30 or imprisonment for three months. Those were the maximum penalties. That penalty is considered inadequate for some of the worst cases brought before the Court, and it is recommended that it be increased to £50 or imprisonment for six months, and that an irreducible minimum of £5 should be set down. Dealing with the definition of "neglected child," it is desired to include the word "welfare" in the old Section 137. At present a child is deemed to be neglected if his life, health or safety is endangered through employment in a circus or acrobatic entertainment, but no thought has been given to his welfare, and it is therefore proposed to incorporate that word in the new section.

The Bill also contains certain additions to and deletions from the list of subsidised institutions in order to bring the Second Schedule of the Act up-to-date in the light of present day conditions. Summed up, the measure is intended as a contribution to the better management and welfare of those children who, through no fault of their own, in the great majority of cases, not having the advantages available to those more fortunately placed, become wards of the State, or are adopted and looked after by foster mothers, or who are placed at institutions as wards of the State, and others who may come under the aegis of the Child Welfare Department. It is thought that much more can be done for such children, and many other aspects of the attention that should be directed towards them will be discussed by me when the House deals with the Estimates related to this department. For the moment it is desired to make a start on the alterations, the principal ones of which I have mentioned, in order that there may be a commencement in the improvement of the machinery that deals with these children, and some contribution towards better opportunities for them in their adult life. I move—

That the Bill be now read a second time.

On motion by Hon. J. T. Tonkin, debate adjourned.

House adjourned at 4.18 p.m.

Legislative Assembly.

Tuesday, 2nd September, 1947.

The SPEAKER took the Chair at 4.30 p.m., and read prayers.

QUESTIONS.

NATIVE CHILDREN.

As to Education Policy and Segregation.

Hon. J. T. TONKIN (on notice) asked the Minister for Education:

(1) Has the policy for the education of native children been altered since the present Government has assumed office?

(2) If so, in what way has a change been made?

(3) Is it intended to segregate native school children from white children at all schools where native children are in attendance?

The MINISTER replied:

(1), (2), (3) Generally co-education of white and native children must continue, but in any particular case where this gives rise to difficulties the position will be dealt with in the light of the conditions prevailing in the school and the district concerned.

DEPARTMENT OF AGRICULTURE.

As to Loss of Professional Officers, Etc.

Mr. ACKLAND (on notice) asked the Minister for Agriculture:

(1) Is he aware of the loss of highly experienced officers of the W.A. Department of Agriculture to other States because of the better salaries offering?

(2) Is he aware of the tendency of young graduates in agriculture to seek positions outside the State because of the better career ranges and facilities available?

(3) Is he aware of any agreement between the Commonwealth Government and the State Government which hinders State officers accepting positions with the Commonwealth Government, and is he aware of any recent occurrence in which the State officer was unable to accept a Commonwealth appointment for which he was qualified because of any such agreement?

(4) Is he aware that several officers of the State Department of Agriculture, with up to twenty years' experience in agricultural science were refused promotion to the top class for agricultural advisers by the Appeal Board at its recent hearing of claims in connection with the last Civil Service reclassification?

(5) In view of the above, what action does he propose to take to stop the loss, and is he prepared to immediately review the salaries and conditions of professional agricultural officers with a view to increasing them?

The MINISTER replied:

(1) Yes.

(2) Yes.

(3) Yes.

(4) Yes.

(5) The matter has been receiving consideration.

POINT OF ORDER—FORTY-HOUR WEEK.

As to Tabling File.

Hon. F. J. S. Wise: I rise, Mr. Speaker, on a Point of Order! It will be remembered that at the conclusion of the Address-in-reply speech of the Minister for Education I asked for the tabling of papers from which he had quoted. I did so under the authority of May's Parliamentary Practice, 14th edition, page 433, which gives the ruling that a Minister of the Crown is not at liberty to read or quote from a despatch or other State paper not before the House unless he be prepared to lay it on the Table. The authority goes on to say that the principle is so reasonable that it has not been contested. I asked, Sir, for your direction that those papers be tabled. On the following day papers which purported to be the papers from which the Minister had read were tabled. The papers are labelled on the cover as Volume 1 of the file dealing with that subject, but in that volume are not the papers from which the Minister quoted. I ask through you, Sir, that a request be made to the Minister that the complete file from which he quoted be tabled.

Mr. Speaker: The question on the ruling is in order and has already been dealt with. In view of the explanation of the Leader of the Opposition I think the Minister will have no objection to tabling the very papers from which he quoted.

The Minister for Education: The file from which I quoted was laid, as quoted from, on the Table of the House. I know of no other papers in connection with that file.

Hon. F. J. S. Wise: The Minister for Education quoted from a file that gave to the House a reply from counsel employed by the Government in the 40-hour week case, and those papers were not laid on the Table.

The Minister for Education: I did not quote the statement made by counsel for the State Government from any file. I quoted from a completely separate memorandum which had been given to me for quotation.

Hon. F. J. S. Wise: It is significant that the file, of which I sought the tabling, ends with a letter from Mr. Menzies, counsel for Victoria, dated the 6th April, but there was quoted from that file—I think all members have it clearly in their minds that it was quoted from the file—the reply from counsel following the instructions sent to him, and those papers were not tabled.

The Minister for Education: I have already given my assurance to this House, and I repeat it now, that the document that I quoted from the file was not the document to which the Leader of the Opposition refers. The one that I quoted from the file was the minutes of a conference held in the Eastern States, at which I think the Minister for Railways represented Western Australia. The whole of the file which contained the document from which I quoted, as the file was in my hand at the time, has been tabled. The other paper was an entirely separate one, given to me as a copy of a memorandum from counsel appointed by this State, which did not come from any file from which I quoted.

Hon. F. J. S. Wise: I would therefore ask, if that be the case, whether the Minister will table Volume II of that file.

The Minister for Education: It was not quoted from! I have never seen it.

Hon. J. B. Sleeman: What have you to hide? Why do you not put it on the Table?

The Minister for Education: I have not seen it!

Hon. J. B. Sleeman: It deals with the 40-hour week. Put it on! Be a man!

BILL—CONSTITUTION ACTS AMENDMENT (No. 1).

Read a third time and transmitted to the Council.

BILL—RURAL RELIEF FUND ACT AMENDMENT.

Message.

Message from the Lieut.-Governor received and read recommending appropriation for the purposes of the Bill.

Second Reading.

Debate resumed from the 28th August.

HON. F. J. S. WISE (Gascoyne) [4.42]: The Rural Relief Fund Act of this State was introduced following the introduction in the Federal House of a Bill to ratify an agreement that had been made in November, 1934, in connection with rural relief for distressed farmers of Australia. The decision to grant that relief to the farmers was reached at a meeting of the Agricultural Council held in Canberra in November, 1934. Shortly after that time, there was a Federal election at which many promises were made with regard to rural relief. As a matter of fact, much argument arose in consequence as to whether the promises made during that election campaign were to the effect that £20,000,000 would be made available for the relief of the indebtedness of farmers throughout the Commonwealth. Between the time of the decision of the Agricultural Council being reached and the introduction of the Federal Bill, two States had introduced legislation to provide for the composition of farmers' debts along the lines suggested at the Canberra conference, and the two Bills in question in those States differed very widely.

I make that point first because at a later stage I shall return to it. At that time it was within the knowledge of the Commonwealth Government when it introduced its Bill that the two States had passed legislation dealing with the matter. There is no doubt whatever that at this period during 1934-35 the farmers of Australia were in a very bad plight generally, and their debt position was extremely serious. They had had unprofitable prices during the depression years while the export values of their products were extraordinarily low. Many farmers in different avenues of production were very seriously circumstanced. I know that about that time there were approximately 230,000 farmers of all descriptions in Australia, and of these 70,000 wheat farmers owed, on a very reliable estimate, £151,000,000 and 90,000 wool growers owed £147,000,000. Those were the debts of farmers in those two main avenues of production.

It was my view then, and is still, that the legislation introduced at the time by the Commonwealth Government was merely so much tinkering with the problem of farmers' indebtedness. To my way of thinking, it did not touch the fundamentals of the problems associated with production in Australia or with any catastrophe of a national kind. In the Commonwealth statute of 1935 will be found what was intended by the Commonwealth Government when the Bill was introduced. In the course of the debate Dr. Earle Page, who was later to be Sir Earle Page, said—

> I desire first to deal with the nature of the proposed grant. The £12,000,000 to be raised by the Commonwealth is to be allocated among the States in the form of a grant free of interest. The Commonwealth will find the interest and sinking fund, and thus become responsible for the ultimate repayment of the amount borrowed to the bondholders who subscribe it. The money will be used by the States for the purpose of effecting debt compositions, and such amounts as are repaid by the farmers who receive assistance will pass into the control of the various State institutions and instrumentalities that implement the scheme, for the purpose of building up a revolving fund that will provide those institutions and instrumentalities with interest-free capital. This will enable them to reduce the general rate of interest on whatever advances they make in the future to settlers in the ordinary way of business, and, because of that fact, will have a general tendency to lower the rate of interest on money obtained for agricultural purposes from both private and public sources. Certain of the States propose to regard it as a loan; some may give it outright.

I draw particular attention to those words—

> South Australia is attempting to spread it over the widest possible area and thus effect a

bigger amount of debt composition by using it as a bonus to get creditors to make the biggest possible reduction in their debts. The Commonwealth is quite satisfied with the conditions which that State proposes to impose. The matter is one purely for the States themselves in accordance with their general rural policy; all that the Commonwealth says is that any amount repaid must be hypothecated for the purpose of further debt compositions or for advances to farmers to enable the interest rates to be reduced generally.

That quotation from a long speech by Sir Earle Page gives a clear indication of two points. One is that they were conscious at that time that one State at least intended to make some of that money a free gift to the farmers. It also makes it definite that where money was collected by the State it was to be under the jurisdiction of that State, to be used as a revolving fund for the purpose of alleviating distress and indebtedness in the farming industry. The Commonwealth legislation brought forth much criticism and comment. There was an excellent speech by the Rt. Hon. J. Scullin on this subject, and many others followed. It was made very clear in the complaints that the lack of uniformity, which the Commonwealth was encouraging in State spheres, would lead to trouble later on. The Commonwealth, as a matter of fact, was accused in that House and in State Legislatures with passing the buck on to the States—not an unusual happening—to undertake the unpleasant tasks associated with the adjustment of debts.

Mr. Archie Cameron, the well-known member from the South Australian division of Barker in the Federal sphere, was vehement and outspoken against his own Government in that connection. Mr. Cameron made it clear that he not merely supported the writing-down and composing of unsecured debts but also insisted that the principle should apply to secured debts as well. To get an understanding of the prescribed requirements of the Commonwealth is important if members are to have an appreciation of the position when they vote on the Bill. The Commonwealth Loan (Farmers' Debts Adjustment) Act, No. 23 of Vol. 35, contains the following provisions:—

7. (1) Any moneys granted to a State under the last preceding section shall be paid upon the following conditions:—

(a) The moneys shall be used by the State, in pursuance of a scheme authorised by or under the law of the State (in this section referred to as "the State scheme"), for the purpose of discharging, in whole or in part, the debts of farmers by means of compositions or schemes of arrangement between farmers and any or all of their creditors;

(b) No payment of any of the moneys shall be made to or for the benefit of any farmer unless, in the opinion of the authority administering the State scheme, the farmer will have, as the result of any composition or scheme arranged, a reasonable prospect of successfully carrying on farming operations;

(c) No payment of any of the moneys shall be made to or for the benefit of any farmer for the purpose of discharging, in whole or in part, any debt of the farmer, unless in the opinion of the authority administering the State scheme, some discharge of the debt is necessary to ensure that the farmer will continue to carry on farming operations and to give him a reasonable prospect of carrying on those operations successfully;

Paragraph (f) of this section is a vital one, as also is paragraph (d), which reads—

(d) If—

I stress the word "if."

If any of the moneys are advanced to or for the benefit of the farmer and are repaid wholly or in part to the State, the moneys so repaid shall be applied by the State for the purposes of the State scheme, and, for the purposes of this section, shall be deemed to be moneys granted to the State under this Act.

That section, to which I shall again refer, anticipates on the part of the Commonwealth Government—and it is implicit in the statute—the prospect that moneys might not be repaid. It states that if moneys are repaid, they shall constitute a part of the grant made to the State concerned. Following the passing of the Commonwealth Act, a Bill was introduced into this Chamber by Hon. M. F. Troy in August, 1935. That Bill, which subsequently became an Act, was, I believe, the last of the State measures to be introduced. The then Minister for Lands pointed out quite clearly that the Commonwealth had made a grant of this money, that it was to be a loan to farmers free of interest; and he also made it clear that, for the money loaned for the composition of debts, a mortgage was to be taken over the then existing assets and upon assets subsequently acquired by the farmer.

To those who were here at the time, it is very interesting to recall—and those who were not here will be able to note from "Hansard"—that no objection was raised from this side of the House at the time against the Minister's proposal that the

mortgage should attach to after-secured assets. The general debate centred around the question whether the money should be a loan or a gift. As a matter of fact, there was considerable discussion, as well as sharp differences of opinion, between the then Leader of the Opposition, the then member for Avon, the member for Pingelly and the Minister for Lands, but, in spite of the pleadings of members, the Minister was adamant on this point.

It will be remembered, too, that this was not the first attempt by this Parliament to adjust farmers' debts. A Farmers' Debts Adjustment Bill was first introduced in this State in 1930, but with the limitations which State finances imposed upon State actions, it was not possible, without tremendous assistance to the tune of millions from other sources, to do justice to those who had suffered through the depression years and the fall in prices at that time and subsequently. Although it may be suggested that the Commonwealth did a splendid thing by advancing this £10,000,000 to the States—the total of £12,000,000 was not advanced—it might have thought that it was for all time disposing of debt adjustment problems. If the Commonwealth did think so, there was very loose thinking on the part of the administrators of the Commonwealth at the time and those advising them.

The matter gave rise in this House to a big discussion on the question whether the money should be a free gift to the farmers. There will be found in the comments of Mr. Troy a very definite statement that the advances should be repaid and that provision should be made in the statute for repayments to go into a fund, which would be a revolving fund. That was very clearly the intention of the Government of this State following the desire and expressed intention of the Commonwealth.

By those opposed to the principle of repayment, it was argued that it would be of very little use to a farmer to compose the debts of those who were unsecured, even at the rate of shillings in the pound, and add to his secured debt the amount of money advanced to arrange for the composition of his unsecured debts. There was some substance in the argument because, as I shall attempt to show a little later, it is very important for the national wellbeing of Australia that, where there is a threat of catastrophe in major industries, because of a debt burden, these things should be considered, regarded and ameliorated in a broad sense and as a national undertaking.

In spite of the fact that the question that the mortgage should simply be over the then existing assets of the farmer was not raised in this House at the time, the point has been raised in legislation introduced by several members, primarily by the present Minister for Education, that there should be removed, from within the ambit of the mortgage applying to the sums loaned, the after-acquired assets. The hon. gentleman did not succeed in two attempts, but he was successful in an attempt he made in 1939. I well remember the presentation of that Bill to the House. Heated exchanges occurred between the members of the then National Party and members of the Country Party. An excellent speech on the subject, which members will find in the 1939 "Hansard," was delivered by the present Attorney General, but he was sharply criticised, and in a personal way, too, by the then Leader of the Opposition because of his opposition to the 1939 Bill. The Bill passed this Chamber, but the effect of the Attorney General's criticism in this Chamber sealed its fate. The Minister for Education said that it passed this Chamber accidentally and he said, too, that he had no fault to find with the attitude of the Legislative Council because of certain circumstances. I was surprised at that remark.

The Minister for Education: It was the same attitude as the Assembly adopted on two previous and one subsequent occasion.

Hon. F. J. S. WISE: That is so. At the same time, it was well debated in the Council. There were 12 speeches on the 1939 Bill in that Chamber. I repeat, the effect of that splendid speech by the Attorney General sealed the fate of the Bill in the Council.

The Attorney General: I am rather suspicious of this flattery.

Hon. F. J. S. WISE: It is genuine. The Attorney General might recall that the present member for Geraldton sharply rebuked him for his attitude in this House particularly as he was a man who had farmed in the Central Province. But after the 12 speeches had been made, it is very interesting to notice the division list on the 1939 Bill. There were 10 for and 16 against it. In the 10

voting for the Bill there were three Labour members and all the Country Party members; but in the 16 voting against, there were 12 Nationalists and four Labour members—a very interesting division! There is no doubt that not one member of the Nationalist Party in the Legislative Council supported the 1939 Bill.

The Minister for Education: It is a matter of interest that if you people had, it would have been passed.

Hon. F. J. S. WISE: It is a matter of interest that if the Attorney General had not made such an excellent speech the Bill would almost automatically have passed.

The Minister for Education: That is suppositious.

The Attorney General: I think you overrate my powers.

Hon. F. J. S. WISE: I can recommend to members a study of the principles expounded in that excellent speech; they are as sound today as they were then. The 1942 Bill, which also was referred to by the Minister for Education, was introduced by me as Minister for Lands. Having then been Minister for Lands for several years, having an interest in this subject and having studied it from an Australia-wide angle, I knew that very many of the points which had formerly been put forward by the present Minister for Education had some merit. Therefore, after a consultation with the Rural Relief Fund Trustees and certain questions being put to them, the 1942 Bill emerged. It made provision for the writing-down and the writing-off entirely of the debts in certain circumstances. It did give to the trustees an opportunity to write off considerable sums entirely, provided these sums came within the specific formula set forth in the Bill. Following that experience and still continuing to be extremely interested in this subject, and again having had the opportunity to analyse it further from an Australia-wide angle, I discussed with the trustees in 1945 the prospect of attacking the problem from the angle of making a free gift of the moneys represented in these debts to those to whom it would be a matter of difficulty and some embarrassment to repay any or all of the money outstanding.

In putting the proposal before the trustees, I, as Premier of the State, received a minute from an officer which said that I should have nothing to do with this, that I should not interfere in any way with the fund, with the sums outstanding or with the trustees. I regret that all the papers from that time on are not available to Parliament. The Minister for Education has doubtless perused them and will know that that officer was sharply rebuked by me. He will know that in spite of that officer's statement that it was not my business to do what I intended to do as Premier of the State, I put him in a very awkward position in asking of him the way to clear up the fund and abolish the trusteeship, thereby rendering the trustees and himself unnecessary. Communications were then sent to the Prime Minister. It will be recalled that I asked the Minister for Education the other evening whether he would make available the correspondence that passed between me and the Prime Minister at the time.

I think it would be very important in the consideration of this Bill if those papers were made available to members. Firstly, the opinion of the Crown Law authorities was sought on the way to go about the cancellation of the mortgages, the refund of the payments then made by the farmers and the matter of their disposition, and the way to determine the trustees' appointments. The Crown Law officers advised—and they were in consultation with the Under Treasurer and the Director of the Farmers' Debts Adjustment Act, Mr. Smith, who is now Under Secretary for Lands—that Mr. D'Arcy stressed the opinion that the State could not cancel the mortgages or refund the payments without Commonwealth approval. It is most important that the House should know that opinion, that it is or was the view of the Crown Law Department that the State could not cancel the mortgages or refund the payments without Commonwealth approval. I asked by interjection whether the Minister knew whether that was still the opinion of the Crown Law Department. His reply was that the Bill he presented would be a practicable proposal. So I still ask whether the Crown Law Department has altered the opinion it gave in 1945 that Commonwealth approval was necessary.

I think it important for me to say that the last I knew of the replies from the Prime Minister was that he would not agree to the introduction of legislation in the Commonwealth Parliament to cancel the debts, to cancel the mortgages, or to

provide for refunds of payments that had been made, and I think from discussion with the Minister for Education that that would be the position still. If that be so, what is attempted in this Bill is by another method, by the taking of 20 per cent. from all debtors, to arrange for the cancellation of the mortgage and the cancellation of the total amount owing. It is very necessary to appreciate that there are varying arrangements in the States of Australia.

The Minister for Education: I think that is the chief point.

Hon. F. J. S. WISE: South Australia has arranged for 50 per cent. of the sums loaned to compose debts not to be repaid. Tasmania has arranged that 20 per cent. of the sums advanced in that State be not repaid, and in this proposal Parliament is being asked to approve of 80 per cent. being not repaid. I think it will be interesting for the House to know just what the position is in regard to the amounts advanced and repaid in all States. The figures I have are accurate as at the 30th June, 1943. They are as follows:—

State.	Number adjusted.	Debts settled.	Expenditure in settlement.	Amount repaid.
		£	£	£
N.S.W. .	1,069	3,720,000	2,327,000	269,000
Vic. . .	2,777	6,851,000	2,691,000	398,000
Qld. . . .	630	1,303,000	819,000	124,000
S.A. . . .	1,583	3,958,000	1,107,000	173,000
W.A. . .	3,698	4,374,000	1,250,000	17,000
Tas. . . .	431	414,000	261,000	41,000

The total collections are also interesting. There were 10,188 cases composed and the collections totalled £1,022,000. The success of such a scheme cannot be measured at all by the amount of money expended, or the amounts of the debts cancelled. The only real indicator to that problem must be the number of farmers who have been successfully rehabilitated in their industry. Therefore, I think the first basis upon which the Commonwealth built was unsound. The formula for the granting of money to the States was arrived at by the Commonwealth Statistician after he had been furnished with all sorts of information regarding debts during certain periods, and the production of certain States from certain groups of farms in certain periods; and from his deductions it was arranged that Western Australia should receive only £1,300,000. I submit that in a State such as Western Australia, which undertook its development when things were most costly and when most of the States had finished their development in a general way, and when we felt the full impact of the tariff policy of Australia, there should have been at that time a far greater consideration of the debts of farmers who numerically were as many as those in New South Wales, but who received a much less sum for the settlement of their debts.

That being so, I come to this point: That we have to decide whether it is fair to endeavour to collect only 20 per cent. of the outstanding debts, which collections are to form a revolving fund to help farmers in distress in the future. While I am in no way opposed to the intentions of the Bill and am not averse to the mortgage attaching only to the assets held by the farmer at the time of the composition of his debts, I am concerned as to whether it is fair, firstly to those who have repaid a substantial part of their indebtedness; and, secondly, to those to whom it would be an embarrassment today to pay even 20 per cent.—I am concerned, I repeat, whether it is fair to say to those who are in successful circumstances today, who are hanging back, and who could have paid all their debts some time ago and who have by reason of the composition of their debts since 1935 been placed in sound circumstances, "You, too, shall only pay 20 per cent. of the amount outstanding." It is obvious that if those who could afford to pay, paid what they were able to, the sum to be a revolving fund would be more than £250,000. Is it not very sound to anticipate, even if this Bill passes in its present form, that there will be, as surely as day follows night and night follows day, a necessity for farmers in this State to receive consideration for advances because of some circumstances outside their control?

I therefore, come to the main questions which I think the Minister in charge of the Bill has to weigh in deciding that this measure as presented should not be amended. The questions I raise for his consideration are these: Is a flat rate of 20 per cent. just when many farmers can pay fully? Is a flat rate fair to the still worthy man who cannot even pay 20 per cent. without borrowing some of it? Is the paying of 20 per cent. fair to the farmers of the

future who will need large sums of money collectively to ease their burden of debt? Is the Bill fair to the men who have already re-paid £60,643? No matter what we do with this legislation, that money cannot be refunded to the farmers. Those are the men for whom I have the greatest respect and to whom I extend the greatest amount of regret, because if none had re-paid at all, the passing of this measure would have been a very simple matter. But the fact that an amount has been repaid by some farmers who found it an obligation and a responsibility to pay will put them in the worst position.

Further, I would ask the Minister whether there is any risk of a Commonwealth challenge. It is necessary also to consider whether it will be difficult for farmers of the future to obtain finance from Governments if any action of ours in this Chamber can be regarded as one of repudiation. Will it injure the credit of farmers in the future, and have we a responsibility in regard to the revolving fund? I can answer most of those questions myself. I think it will not injure the farmers' credit at all.

The Minister for Education: I am glad you think that.

Hon. F. J. S. WISE: I think that even if the Commonwealth Government were foolish enough to challenge such an action as this, it would not get that Government very far in the event of an agricultural disaster in Western Australia requiring from the Commonwealth purse a large sum of money to counterbalance its effects. Therefore, I think our main responsibility is to the revolving fund. Not by anything that can be salvaged from funds outstanding in this case can we imagine that we can alleviate the distress of any sections of the farming industry in the years to come. On that point, I repeat that I think it is important for the State Government and the Commonwealth Government to appreciate that the rural credit position and the farmers' debts position of Australia demand a national plan.

A suggestion I once made to the Prime Minister was that it would not be out of proportion for a substantial part of the profits of the Commonwealth Bank and the note issue to be paid into a separate fund to form the foundation of a rural credit plan for the rural industries of Australia. But, of course, that did not fall on very friendly ears. In the days of plenty, with profits continuing, it would not have been many years before the profits would have grown to a colossal sum, and the amount required in this connection, if left to accumulate for a period of years, would be very worthy as an investment for stability in the rural industries of Australia. Therefore, as I pointed out earlier, any odium attaching to the administration of rural relief, fell on the States, and any benefit from the improved stability of farmers since that time has been a gain to the Commonwealth as well as to the States.

So, I look for justification for the winding up of this fund, and I find it in the first point I made, that the Commonwealth Government knew at the time of the passing of its legislation that one State had passed a Bill to provide for 50 per cent. of the money to be a free gift, and it raised no objection. I find it, too, in Section 7 of the Commonwealth Act, which anticipates no repayments, and which I previously read, because it says—

> If any moneys are advanced to or for the benefit of the farmer and are repaid wholly or in part to the State, the moneys so repaid shall be applied by the State for the purposes of the State scheme.

So, if no moneys were repaid there would be no addition to the original sums advanced or granted to the States, that were subsequently loaned to the farmers. If the Minister is attempting to wipe out the fund in another way, by seeking payment from the farmer of 20 per cent. of his indebtedness he will find his action will have exactly the same effect as if the Commonwealth Government agreed to pass a Bill to permit the State to cancel the mortgages. Whether there will be any difficulty in the contract entered into between the State and the Commonwealth, because of the present Commonwealth objection, the Minister may know, and if he does, I think the rest of us should. I am wondering whether the Minister has given consideration to the prescribing of a formula in regard to these repayments, based on capacity to pay and, in addition to that, on the benefits received by the farmer because of the difference of his position since 1935. I do not know whether such a proposal which would be practicable and equitable, could be evolved. If it could, it would

certainly remove much of the injustice to those to whom it would be a hardship to pay anything, and much of the injustice to those who have repaid and to whom the money so repaid cannot be refunded.

So, in approaching this subject in the friendliest way possible, I want to say that I would like the Minister to give consideration to the points of difficulty I have raised, to see whether there is any legal objection likely to be raised by the Commonwealth. And, in spite of there being four lawyers in the Cabinet, I ask him to take Crown Law opinion—it was definite at that time—because it would be very useful to know whether there is any difference in the legal view now from that given two years ago. With these considerations, I support the second reading of the Bill.

On motion by the Minister for Education, debate adjourned.

BILL—CHILD WELFARE.

Message.

Message from the Lieut.-Governor received and read recommending appropriation for the purposes of the Bill.

Second Reading.

Debate resumed from the 28th August.

HON. J. T. TONKIN (North-East Fremantle [5.27]: When introducing the Bill, the Minister for Education said that the amendments were aimed at making a start on improvements in the control of children. It can be truthfully said that these amendments do make such a start. During the past 12 months I had, myself, given very close attention to a number of alterations which I thought were desirable. During my search for information regarding child welfare activity, I came to the conclusion that the best Act on which to base our own was the New Zealand Act, passed in 1925, which makes the Child Welfare Department a branch of the Education Department. I had made up my mind that I would, in due time, ask Parliament to agree to such an amendment in this State, as I believed there were definite advantages to be derived from such a course. I am still of the opinion that the few amendments which the Minister has brought forward do not advance us very far towards giving proper attention to the children.

Far greater advantage would have been derived by the State had the Minister waited a little and given more consideration to the question, and made more comprehensive alterations. I agree with some of the amendments which he proposes, but not with others, and I hope to give my reasons. Before doing so, however, I commend to him a study of the New Zealand Act which I believe to be an admirable one of its kind. As I have already said, it was the best that came under my notice at the time. In the Bill the Minister proposes to take from the jurisdiction of the court what are called affiliation cases. He made one or two exceptions, but it can be taken that he proposes that practically all affiliation cases are to be removed from the jurisdiction of the Children's Court. I do not think that is a right step to take. When these cases are at present heard in the Children's Court it is the practice for an officer of the Child Welfare Department to attend in court and give every assistance to the unmarried mother. The officer makes inquiries beforehand and on going into court supplies information that is of value to it and of great use to the unfortunate woman who is in difficulty. That is without cost to the woman concerned, who, more often than not, is in poor financial circumstances.

If the proposed change is made such cases will be heard in a Court of Petty Sessions or some other court where an officer of the Child Welfare Department will not be able to appear on behalf of the unfortunate woman. She will therefore be obliged either to engage a lawyer or do without the assistance of counsel. Some of these cases are adjourned from time to time, and in such circumstances the costs could be considerable. I see little advantage that could follow from the proposed alteration and I see those disadvantages that I feel we should endeavour to obviate. It is proposed also that cases involving offences against children shall not be heard in the Children's Court, and I disagree with that proposal. I am firmly convinced that all cases involving the attendance of children in court should be heard in the Children's Court.

There might have been some argument for the proposal previously, when the magistrate in charge of the Children's Court had no legal experience and was not trained in law, but the Minister proposes to appoint some-

one trained in law, or a magistrate, and therefore someone who is familiar with the rules of evidence, and so any objection that there might previously have been to hearing cases involving offences against children disappears, as in the Children's Court there will be a magistrate, skilled in law, just as is found in other courts. It is most undesirable that children of tender years should be forced into a court other than a children's court. The whole object of the Child Welfare Act has been to keep children away from the ordinary court atmosphere.

If the Minister's proposal is agreed to, any cases involving offences against children, requiring the attendance of the children in court, will necessitate their going to courts other than the Children's Court. I do not like that, and I intend to vote against such a proposal. As to the suggested composition of the court, I agree it is desirable that there should be in charge of the court a man familiar with the rules of evidence, and one who has had legal training. I think it is an excellent idea that he should have with him on the bench a trained social worker, someone with a wide knowledge of children and their habits, someone of sympathetic nature who is able to give advice to the magistrate, but why should that be confined to women? I think the Minister might very well provide for associate members of the court, either male or female.

The Minister for Education: The Bill does not provide only for women.

Hon. J. T. TONKIN: During his speech the Minister mentioned the appointment of three women—

The Minister for Education: As an immediate intention.

Hon. J. T. TONKIN: —of whom one at a time would sit with the magistrate.

The Minister for Education: Males could equally well be appointed.

Hon. J. T. TONKIN: I suggest that the Minister might consider the appointment of associate members, either male or female, who could sit with the magistrate, and there should not be any question of there being more than one there at a time, if provision is made that it will not be necessary for the magistrate to have the concurrence of the associate members in any decision that he gives. As a magistrate, with associate members sitting with him to advise him, it will not be necessary for him to have their concurrence in his decision, and then there will be no difficulty about having more than one such member present at a time. It might be desirable to appoint persons to deal with specific cases.

There might be an unusual offence committed and the child might have to be brought before the court. It might be a case where someone with special knowledge could be of great assistance to the magistrate. By the simple expedient of a notice in the "Government Gazette" it could be made possible to appoint such a person as an associate member of the court for that specific case. Such a person could then sit with the magistrate and advise him. The idea is not original, as I got it from the New Zealand Act to which I have already referred. I commend the idea to the Minister for his consideration, in preference to the proposal that he has submitted.

I come now to the prohibiting of publication of reports of cases in the Children's Court, and on this I agree entirely. For a long time I have felt that on occasions far too much publicity has been given to what has taken place in children's courts, but the Bill makes no provision for any penalty and I am wondering how it would work in practice. While it definitely states that the publication of any report of proceedings before the Children's Court is unlawful, it says no more than that.

The Minister for Education: There is a general penalty clause.

Hon. J. T. TONKIN: I did not notice it. The New Zealand Act provides that reports of proceedings shall not be published without the special consent of the presiding magistrate. It then says, that "every person who commits a breach of the preceding sub-section shall be guilty of contempt of Court and shall be liable." It further says "and in addition shall be liable, on summary conviction, to a fine of £100." I have not seen the provision to which the Minister referred. It might be better than that.

The Minister for Education: I would not like to say that.

Hon. J. T. TONKIN: It is also proposed that there shall be an alteration in the procedure as to the committal of neglected children. I think the proposed alteration is more apparent than real. I am not a

lawyer and therefore might possibly not be able to appreciate the finer points of difference that lawyers can see, but, as I understand the present position, it is that in order to have a child committed an officer of the Child Welfare Department must make a complaint that the child is neglected or destitute.

Mr. Leslie: In effect, he lays a charge against an innocent child.

Hon. J. T. TONKIN: That is not the position.

Mr. Leslie: That is the effect.

Hon. J. T. TONKIN: Nonsense! He lays a complaint, which is in the form of a charge.

Mr. Leslie: That is the same thing.

Hon. J. T. TONKIN: He asks the court to hear evidence on the point and to decide whether the child is neglected. That is the present procedure. The Minister now proposes that, without any warrant, any officer of the Child Welfare Department, or a police constable, may apprehend a child and then ask the court to declare that it is neglected. That is what the Bill says.

Mr. Leslie: No.

Hon. J. T. TONKIN: Let the hon. member read it.

The Minister for Education: That is not quite the position.

Hon. J. T. TONKIN: That is practically what it means.

The Minister for Education: He can make an application before the warrant is issued.

Hon. J. T. TONKIN: The Minister would not suggest that what I say is incorrect.

The Minister for Education: I would say that what you stated was inverted.

Hon. J. T. TONKIN: But it would not be wrong.

The Minister for Education: No.

Hon. J. T. TONKIN: The Bill sets out that—

> Any officer of the department authorised by the Minister and any police officer may, without warrant—

The Minister for Education: That is mainly for the country districts.

Hon. J. T. TONKIN: Possibly so. The clause continues—

> —apprehend any child appearing or suspected to be a destitute or neglected, or incorrigible or uncontrollable child, and when any such child is apprehended, pending the hearing of the application, charge or information, or during any adjournment thereof, such child shall be disposed of in one of the following ways:—

Then the clause sets out what may be done.

The Minister for Education: Obviously, there are times when the officer would have to apprehend a child.

Mr. Marshall: Then you admit what has been stated?

The Minister for Education: I said that the statement made was inverted.

Hon. J. T. TONKIN: An application is to be made to the court for a declaration that a child is destitute or neglected.

Mr. Leslie: Under what clause?

Hon. J. T. TONKIN: I am not entitled to mention clauses. I freely admit that I cannot see very much difference.

Mr. Leslie: There is a lot.

The Minister for Education: Yes, of course there is.

Hon. J. T. TONKIN: I cannot see much difference.

The Minister for Education: The difference is quite obvious.

Hon. J. T. TONKIN: In one instance an officer of the Child Welfare Department says to the court, "We lay a complaint against this child and say that it is neglected. We ask you to declare whether or not the child is neglected." The court declares that it is neglected, and the child is handed over to the care of the State.

Hon. A. H. Panton: That is the conviction.

Hon. J. T. TONKIN: That is so. That is what will happen under this proposal, because the Bill sets out that the application shall be made to the court to declare that the child is neglected.

Hon. A. H. Panton: That is also the conviction.

Hon. J. T. TONKIN: The child welfare officer will have to give information to the court in support of the application for a declaration. The magistrate, having heard the evidence, is then asked to declare that the child is neglected. If he does so, the child leaves the court with the record against it that on a certain date it was declared to be neglected. Whether we say the child is neglected in the form of a charge and then

ask the magistrate to agree with it or whether we say to the court, "We ask you to declare that this child is neglected" and the court agrees to do so—I fail to see that there is much difference. It may satisfy some people that in one case we are charging an innocent child with the offence of being neglected, whereas in the other we say to the court that we want it to declare the innocent child is neglected, but personally I cannot see much difference between what is proposed and what happens now. It may appeal to the susceptibilities of some people and in the circumstances I can see no great objection to the proposal. It may seem to some people that a change is suggested in that regard, but I cannot see much in it.

The Minister for Works: The change is for the better.

Hon. J. T. TONKIN: I think we could go further and improve the position still more. Again I refer to the New Zealand Act, which contains a provision that any parent, guardian or person who, for the time being, is in control of the child, can ask the court to commit that child to an institution and the magistrate is under no obligation whatever to hear any charge. He can do what he thinks ought to be done. I would like to see the same procedure adopted in connection with the proposal embodied in the Bill. If it is obvious that the child has been abandoned and therefore is neglected, or that children are not being properly looked after, in consequence of which they also are neglected, then, without asking the court to declare that they are neglected, the children could be committed to an institution in their own interests. Thus the court would not hear any charge whatever against those children; it would merely listen to the information submitted and, if satisfied as to the true position and if it was in the interests of the children themselves that they be committed to an institution, it should be in a position to act accordingly, without declaring anything or having any record noted against a child. If the Government desires to remove this stigma, it should secure that result in reality and not be content with the small alteration in the Bill which, in my opinion, does not amount to anything at all.

There is also a proposal in the measure with regard to street trading by children. This matter was the subject of a somewhat lengthy debate in this House some time ago. On that occasion the present Honorary Minister proposed an amendment to the Child Welfare Act to provide that the minimum age at which a child could be licensed to engage in street trading would be 14. I attempted to make the age 15 years, and I am still of the same opinion regarding the matter. I believe that if we, as a Parliament, decide that children should continue at school until they are 15 years of age, that being the compulsory school-leaving age, then we should also provide no opportunity for children to carry on street trading during the time when they should be learning.

If we determine that it is desirable for children to remain at school until they are 15 years of age, we must bear in mind that in the higher classes it is difficult enough for the children to cope with their studies without having any outside distractions or being obliged to work. Furthermore, children engaging in street trading usually do so during hours when they should be resting. It would be far better to provide that, for the time being, the age should be 14 years with a proviso that when the legislation is proclaimed fixing the compulsory school-leaving age at 15, the age limit should automatically be 15 years. If that is not done, the age will remain at 14 years for a very long time, just as it has remained at 12 years up till now.

The Minister for Education: I want to pass the Bill, but some members seem to have gone in for selling newspapers in their young days and love the profession.

Hon. J. T. TONKIN: There may be that difficulty. If such members had any logic and were prepared to go to 14, then they should agree to go to 15 when the compulsory school age is raised to that figure.

Hon. A. H. Panton: The Factories and Shops Act provides for 14 years.

Hon. J. T. TONKIN: My view—and I speak as an ex-teacher—is that it is too big a strain on lads of 13, 14 and 15 to cope with their school work in upper standards and spend hours on the streets every night of the week as well. That is what they do. I have seen newsboys on the streets on Saturday night—though this may not interfere with their schooling—but some of them are out very late, even until midnight. If we are going to take a step in the right direction,

and I think this is such a step, we should provide that the age for street trading shall be similar to the age for compulsory schooling.

If we provide that a child shall compulsorily attend school until attaining the age of 15, which means that he will be obliged to attend school and do his lessons, we should not make it possible for anyone to cause the child to do extra work outside of this schooling. Let him get the fullest advantage from the additional education that the State intends to provide. I should like the Minister to consider providing for an age of 14 now, which is the present compulsory schooling age, and making it automatic that, when the Act providing for a compulsory schooling age of 15 is proclaimed, this shall be the age for street trading as well. That practically covers the remarks I desire to make on the Bill. The measure, as the Minister said, represents a start, and the alterations for the most part are in the right direction. I shall oppose those of which I have given an indication, hoping that something better will be achieved towards attaining the very worthy object which the Minister, when moving the second reading, said was his purpose.

MR. LESLIE (Mt. Marshall) [5.52]: I listened with considerable interest to the remarks of the member for North-East Fremantle. I am happy to see this Bill introduced by the Government, but I also consider that possibly it does not go far enough. In view of the fact that we have had a Child Welfare Act—and the welfare of children administered under the Act—without alteration for such a long period—I believe that over 20 years have elapsed since an alteration was made—we should not make some drastic alteration in one hit, but should be content to progress by stages. I, too, hold some revolutionary ideas as to how the question of children should be handled. I feel that to introduce them straight away would cause quite a lot of opposition unless the people were gradually educated up to accept those ideas, for otherwise the proposals would not receive the sympathetic consideration which they deserve.

As regards the difference between a declaration and a charge, I consider that it is a big one. In one case the child is charged with being a neglected child; in other words, it is named as the person responsible.

Hon. J. T. Tonkin: Does the charge make the child responsible or does the decision?

Mr. LESLIE: If the child is found guilty of being a neglected child—

Hon. A. H. Panton: That is what the court declares.

Mr. LESLIE: Yes; in fact, it places the guilt upon the head of the child. The Bill goes some way towards remedying that.

Hon. J. T. Tonkin: Show us how.

Mr. LESLIE: Because it proposes that the child shall be deemed to be a neglected child, not that it is guilty of being a neglected child. Thus the guilt would lie upon the person responsible for allowing the child to be in that condition. There is only one way in which the Minister's desires and mine can be met and that is by the deletion of the words "destitute and neglected," used in connection with child delinquency. We are trying to bring too much under one charge. We are trying to make a charge that a child is neglected by its parents and is destitute, and a second charge that, being a neglected child, it is definitely guilty of an offence. Thieving or the breaking of windows is a delinquency, but we also bring a child guilty of that charge under the heading of a destitute and neglected child. Some of those children are not neglected; they come from very good homes. Yet they are charged with being neglected and are ordered to be sent to an institution. What is required is that such a child should be definitely charged with being a delinquent child.

Hon. J. B. Sleeman: Do not you think there are neglected children in good homes?

Mr. LESLIE: If they have good homes, it is not possible for them to be neglected.

The Minister for Works: That is the right answer.

Hon. A. H. Panton: Is not the declaration really a conviction?

Mr. LESLIE: I believe this Bill represents a move in the direction we should take, namely, that there shall not be a charge against any child of being destitute or neglected.

Hon. A. H. Panton: Let us do it now.

Mr. LESLIE: I do not see how we can. In a movement like this, we ought to make progress gradually. I have met outside of Australia people who are proud of the fact that they were State wards. Some of them were made wards of the State by their parents, who had been obliged to seek the assistance of the State and made application accordingly to the court.

Hon. J. T. Tonkin: Who would make the application?

Mr. LESLIE: The parent.

Hon. J. T. Tonkin: That cannot be done here.

Mr. LESLIE: I do not know that it would be wise to do so. I am afraid many parents would be glad to be quit of their responsibility if we made it too easy. A necessary step is to educate the people to these improvements. In this case we are dealing with children who have been definitely neglected by their parents; that is, the parents have taken no action to carry out their duties to their children. When such a case is taken, we say that the child must be declared to be a neglected child and, in effect, it is the parent that is charged with neglect.

Hon. A. H. Panton: Suppose a baby were picked up on a doorstep and we did not know who the parents were, what then?

Mr. LESLIE: The child would be taken to the department, which would make an application to the court setting out the circumstances and ask what the court was going to do.

Hon. A. H. Panton: No, the department says we want you to declare this child to be a neglected child.

Mr. LESLIE: If I make an application to the court for anything, I do not tell the court what it is to do. The court decides.

Mr. Reynolds: It determines.

Mr. LESLIE: Yes. Therefore, if an application is made to the court in respect of a child, the court arrives at a determination. That is a different position from the case of a child welfare officer laying a charge against a child in the court that it is a neglected child. The court then finds, to use legal language, that the charge laid against the child is proved and therefore the child is deemed to be guilty of being a neglected child. Under this Bill, the court itself will declare the child to be neglected.

Hon. A. H. Panton: That is what will happen under the Bill.

Mr. LESLIE: Yes, and no stigma at all will attach to the child. That is a big step in the right direction. Eventually we may get to the stage where the parents of a child, because of their circumstances but fully appreciative of their responsibility, will themselves apply to put their child—perhaps because of the home life—under the control of the State. They will say, "We are not able to look after our child, but we are willing to pay the State for caring for it." The child would then become a ward of the State. I know State wards who are proud of the fact that they have been cared for by the State; the State continues to manage their affairs and they are content to allow it to continue to do so. There should be no stigma attached to State wards. Our present difficulty—a difficulty which this Bill will overcome—is that we place all the children together, the criminal child with the neglected child, and charge them with being neglected children.

This Bill, if passed, as I interpret it, will enable the court to declare a child to be a neglected child. The delinquent child will be charged with an offence, not with being a neglected child. No matter how young a child may be, it must to some extent appreciate the difference between right and wrong. If it is charged with an offence, such as stealing, and the charge is proved, a conviction will be recorded against it. I have no objection to that course. Possibly later a psychologist, or some practical man, may find a way to formulate a policy to deal with children committing criminal offences. Personally, I do not think that children can be prevented from committing offences; this seems to be inherent in some of them. They know something is wrong, and yet do it.

Mr. Reynolds: Human nature!

Mr. LESLIE: You can say it is human nature. Very often the only offence the child commits is to be found out.

Hon. A. H. Panton: That applies to adults.

Mr. Reynolds: To all of us.

Mr. LESLIE: Possibly many of us are free now because we have not been found out. I do not say that this Bill is a vast improvement on the position that has hitherto prevailed. I am not satisfied that it will overcome all the difficulties and I shall not

be content to allow the measure, if passed, to remain in its present form. I believe it will be necessary, as the years pass, to effect progressive improvements to it, in order to meet the situation that will be created by the re-education of the people who are inclined to dodge or do not fully appreciate their responsibility to their children. Although I agree to a considerable extent with what the member for North-East Fremantle said, I do not think we are justified in making drastic changes at this stage.

Mr. Hoar: Not before educating the kind of person to whom you refer.

Mr. LESLIE: The Minister is on the right track. Do not forget that this matter has not been touched for years. The present unsatisfactory—I almost said disgraceful—state of affairs has not been tackled for years. To suggest that we should put the whole matter into the melting-pot at once is unwise. So I am content at the present time to leave the Bill as it stands. I am quite happy about the suggestion of the member for North-East Fremantle that, if the school age be raised to 15 years, children shall not be allowed to engage in street trading until they attain that age. I agree that the child must go to school and he cannot learn if he is working on the street. If he has to go to school until he is 15, well and good. But as for the other part, I suggest that we progress slowly. Once we have a Children's Court set up: once a new order —I think that would be the best way to express it—is in train—

Hon. J. B. Sleeman: When you get that lawyer on the bench you will be all right!

Mr. LESLIE: Well, there are some wise men among the legal fraternity. I could name at least four in a prominent building in Western Australia.

Hon. A. H. Panton: The trouble is they are too wise when they get there.

Mr. LESLIE: I do not know that they are that wise! Once the new set-up is operating, we will be able to see ways in which it could and should be improved. It may be that there will come into being my idea of a definite division between the neglected and the destitute child—the one that is the victim of unfortunate circumstances due to no fault of his own. I suggest maybe the time will come when this unfortunate child will be treated entirely separately from the one who is guilty of an offence or who is deemed to be so guilty. That is what I would like to see ultimately, but just when we can commence to set such a practice in train is a matter which time alone must reveal to us. It would not be wise to attempt such a division at the moment, but there must be one later on.

Probably there could be two separate Acts governing the different types and two courts, one dealing with State wards and the other with delinquent children. That, however, is going to take time. Rome was not built in a day, and that is a good principle to apply in this case. I congratulate the Government on tackling the subject. If those who are appointed to administer the Act are filled with sympathy and an understanding of the fact that many of the children who will come before them will be children placed in circumstances for which they were not responsible, and that others will be children who appear in court as the result of misdemeanours, we will have a far better administration of the law than we have had in the past. As time goes on, we will perceive the weaknesses that exist and can make the necessary amendments to the Act to bring about a better state of affairs such as I would like to see. I have pleasure in supporting the Bill.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Perkins in the Chair; the Minister for Education in charge of the Bill.

Clauses 1 to 19—agreed to.

Clause 20—Power of Court:

The MINISTER FOR EDUCATION: I was interested in the observations of the member for North-East Fremantle concerning the transfer of affiliation cases, in the manner provided and subject to the condition made in the Bill, to other courts. It is true that there is a wide divergence of opinion on this subject. Not only does it exist in this Chamber but also in other places as far afield as America where there are in different States differing systems for the hearing of such cases by what are known as the juvenile, or children's courts. Therefore I propose in a moment or so to

suggest that progress be reported because I am desirous of meeting the hon. member in that particular aspect and propose to put on the notice paper amendments which I think will meet with his approval.

The CHAIRMAN: It will be necessary for someone else to move that progress be reported.

Sitting suspended from 6.15 to 7.30 p.m.

Progress reported.

BILL—INDUSTRIES ASSISTANCE ACT AMENDMENT (CONTINUANCE).

Message.

Message from the Lieut.-Governor received and read recommending appropriation for the purposes of the Bill.

Second Reading.

Debate resumed from the 28th, August.

HON. A. H. PANTON (Leederville) [7.31]: As the Minister for Lands said, when introducing the Bill, it is a very small one, but also, as he said, it is an essential Bill and the reason for that is that there is still an amount of £48,049 owing under the Act. That sum, I presume, has been built up over a period, because during the last twelve months an amount of £40,870 has been advanced to necessitous farmers. The measure was first introduced in 1915, the year after what was, I suppose, the worst general drought ever experienced in this State. The Act has been of importance ever since, because each year a certain amount of money has been advanced to farmers, and the Crown's only security has been the re-introduction of the Bill each session.

When I was giving consideration to this measure, prior to the 15th March last, I often wondered why we did not bring down a Bill every three or five years. It seems rather ridiculous to have to introduce it each year. As this measure will continue to be essential—because of our large wheat-growing area there will be droughts in some parts of the State, the climatic conditions being what they are—I suggest to the Minister—

Hon. F. J. S. Wise: Another point is, payment is not pressed for in one year.

Hon. A. H. PANTON:—that he gives consideration, next year, to the bringing down of a Bill for, say, five years. That would perhaps, get rid of many annual Bills of this type. In addition, the farmers would know that it would not be necessary to rush in to meet their liabilities during the twelve months. I commend that aspect to the Minister and support the second reading.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—FATAL ACCIDENTS.

Second Reading.

THE ATTORNEY GENERAL (Hon. R. R. McDonald—West Perth) [7.38] in moving the second reading said: It is the desire of the Government to bring before the House this session some measures dealing with law reform. During the war years it was not practicable to bring forward measures of this kind because the Governments were very occupied with the problems and responsibilities inevitable at such a time. But now that we have reached more normal times, I think it is desirable that we should pay some attention to our general law with the idea that we should not be behind the progress being made in other countries and other States; and that we should endeavour to make our legal system as progressive as possible. The law with which I propose to deal tonight is generally known as the Fatal Accidents Act.

Under the common law of Australia, and indeed that of England, from where we derive our common law, in the case of certain rights of action, if the person entitled to bring action dies, the remedy dies with him. By "common law" members will, of course, understand that I refer to that body of law which is not incorporated in statutes. There is still a vast body of law that is not the subject of any statute, but is the customary or unwritten law that we have inherited from early times and that has been stated from time to time and defined by our courts of law, though it does not find specific place inside a statute. Under the common law, in the case mainly of actions known as personal actions, or actions for the violation of a personal right

as distinct, for example, from a breach of contract, such actions ceased when the person entitled to bring the action died. The legal phrase was that a personal action died with the person.

The result was that, although a person had sustained an injury, if he died before bringing an action for compensation his personal representatives could not bring an action against the wrongdoer for damage sustained through that injury, and his dependants, who may have suffered grievous loss, had no right of action at all against the wrong-doer. Actions of this class were mainly those which involved an injury due to some person's negligence. For example, if a man was injured by the negligence of a railway company, or by somebody who assaulted him, and he died before taking action against the wrong doer, his family or dependants had no redress, even though the family had lost the bread-winner. They were left without a remedy.

As long ago as 1845 an Act was passed in England in order to give a remedy in cases of that kind. The Act was known as Lord Campbell's Act, or as the Fatal Accidents Act, and its reference is 9 and 10 of Victoria, chapter 93. It was adopted shortly afterwards in this State, in 1849, by our Western Australian statute No. 12 Vict. Cl. 21. The Fatal Accidents Act as passed in England and adopted in this State, does not appear in the ordinary volumes of statutes. It can be found in a special volume, known as "The Adopted Statutes of Western Australia." I might mention that this volume of The Adopted Statutes of Western Australia—of which there are quite a number, and which do not appear in the ordinary statutes—is now out of print, and many people are put to some inconvenience in not being able to obtain a copy.

It is with the object of remedying that situation that, instead of making amendments to the existing Fatal Accidents Act applying in this State, and as adopted in this State from the English statute, I have thought it desirable to repeal the Fatal Accidents Act as adopted and to re-enact it with amendments, as appearing by this Bill. The result will be that this legislation will appear in our ordinary books of statutes and will be available for consultation by those who have occasion to examine it. There was one amendment to the Fatal Accidents Act as adopted in this State. That was in 1900, by an Act of our Parliament No. 64 of Victoria, No. 37, but that amendment was substantially one of procedure and I do not think it is necessary for me to go into details as to what it contained. The substance of the Fatal Accidents Act, as adopted in our State from the English statutes, is contained in Section 1 of the adopted Act and in Subclause (1) of Clause 4 of the Bill now before the House. In the Bill the substance of the provision is in these terms:—

> Whenever the death of a person is caused by a wrongful act, neglect, or default, and the act, neglect, or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death has been caused under such circumstances as amount in law to felony.

To take an illustration, today a man may be injured by the negligence of a motor-driver, and may be killed before he commences any action against the wrong-doer. His dependants, under the existing law, can then bring an action against the motordriver, through the executor of the deceased man. If the deceased man himself could have held the motordriver liable, if he had lived and brought an action against him, then his dependants can sue and hold the motordriver liable. There is this difference, that if the man himself had lived and sued the wrong-doer he would have recovered damages—for example—for a broken leg or the loss of an arm, and the loss of wages or salary, medical expenses, and so on, but if he dies and his dependants through his personal representatives bring an action by virtue of the Fatal Accidents Act as now existing in this State, the dependants recover damages on a different basis. They recover by way of damages what they might be reasonably expected to have lost by the death of their relative.

If, for example, the husband was killed and the wife sued under the existing legislation, she would get damages for the maintenance and support that she might reasonably have expected to receive from her husband had he continued to live. In the same way, if a father is killed by negligence, the child or children can, under the existing

legislation, sue, and they may recover by way of damages the estimated benefit that they would have received if their father had continued alive; that is to say, a sum equal to what might have been expected to be paid out for their maintenance and education until such time as they were able to fend for themselves. That is the basis of the existing law. Whereas previously if a man were killed by someone's negligence, his dependants had no remedy against the wrongdoer, by the existing law, which we adopted from England, if they have lost by his death, they are able to sue through the deceased man's personal representatives and recover by way of damages a sum equivalent, as far as it can be estimated, to what they would have received had their relative continued to live.

Mr. Rodoreda: So far it is as clear as mud! We can make neither head nor tail of it. What alteration does this make?

The ATTORNEY GENERAL: I think it is necessary, and desirable, that the House should have some idea of what it is we are attempting to amend. The object of the Bill is to re-enact and amend the Act; and we should know before we attempt to amend, exactly what the law is.

Hon. E. Nulsen: This is really a consolidation of the existing Act, together with some amendments.

The ATTORNEY GENERAL: It represents the re-enactment of the existing law, with some amendments, which I will describe if members opposite will be patient with me for a few minutes. At the present time, the amount of damages that may be recovered by the dependants or the widow on account of the death of a man through the negligence of someone, does not include anything in respect of suffering or blow to the affections involved by the death of the man. Such compensation is known as a solatium. The present law does not allow anything to be given by the courts by way of solatium or compensation for any sufferings that may be involved by the death of a relative. As the law now is, the relatives who can take advantage of it, if they have suffered some loss through the decease of a man or a woman, are a son, a daughter, a grandson, a granddaughter, a stepson, a stepdaughter, a father, a mother, a grandfather, a grandmother, a stepfather, a stepmother, a husband or a wife. Those are the ones that can go to court and say they were dependants of a deceased person and had suffered in a pecuniary way by his death, in consequence of which they ask for compensation against the negligent wrongdoer who has caused the man's death.

Further, under the present law compensation that may be recovered by a dependant or dependants in the circumstances I have described, has to be reduced by any benefits that may come to them through the death of the deceased person. For example, if a man who has been killed by the negligence of a motordriver, left a widow and children, and had not insured his life, and his widow and children therefore did not derive any benefit from his death apart from his estate, then the damages as assessed against the wrongdoer might be £1,500 and the wrongdoer would be obliged to pay that amount to the widow and children to compensate them for the loss of pecuniary expectations, which was occasioned by the death of the husband and father.

On the other hand, if the man had insured his life and the widow and children became entitled to £500 under his assurance policy, then, as the law now stands, the damages otherwise recoverable against the negligent motordriver must be reduced by that £500. The liability confronting wrongdoers may therefore vary according to the prudence of the deceased man. If he had not been prudent in the way of life assurance, the wrongdoer would pay the full damages. If, however, the deceased person had been of a responsible character and had insured his life for the benefit of his widow and children, then the wrongdoer would be in the fortunate position of having to pay less than he would otherwise have had to do.

Hon. E. Nulsen: Does it affect the compensation Act similarly?

The ATTORNEY GENERAL: It does not affect the Workers' Compensation Act at all, but it does affect assurances and life policies payable on death. That has been regarded as a very unsatisfactory feature of the present law. Recently in this State, the case of Hanna versus Riseborough was heard before the Chief Justice and in the course of his judgment, as recorded in "The West Australian" of the 1st May, 1947, His Honour is reported as follows:—

The Chief Justice observed that in a case of this nature the necessity of bringing into the

calculations the deceased's insurance when assessing the amount of compensation, seemed very unfair—unfair to a man who had made sacrifices to provide for his family. The matter appeared to be brought into the calculations more for the benefit of the man responsible for the death. In the court's opinion this state of affairs merited the attention of the Legislature. It was desirable that there should be some enactment which would follow the English statutory provision removing insurance money from the computation of damages.

To meet the observation of the member for Roebourne, I will now come to the Bill. In the first place, it corrects the position with regard to insurance money and provides that, in the calculation of damages recovered by a dependant against the wrongdoer who has occasioned the death of the man on whom he or she depended, partly or wholly, no assurance money he has left shall be applied in reduction of damages that would otherwise be paid.

In fact, the Bill now before the House is more comprehensive still in its nature, because it provides that damages payable by a wrongdoer shall not only not be reduced by the amount which the deceased person has left by way of assurance money but that it shall *not* be reduced by any superannuation, provident fund, friendly society or trade union fund or pension which might become payable to the dependant following upon the death of the deceased man. I think it can be fairly said that, if the dependants have sustained a pecuniary loss in the way of the expectations they would have enjoyed had the deceased continued alive, then the reasonable damages in compensation that should be paid for the loss should not be reduced by any pension or superannuation or provident fund payment that the dependants might receive, any more than it should be reduced by any payment under an assurance policy.

Other countries have been beforehand in removing this weakness from their legislation of this character. In England, by the Statutes 24 and 25 of Geo. V, Chapter 41, insurance moneys are not to be taken into account when computing damages under such legislation. Similar legislation excluding insurance moneys from compensation for damages has been passed in Tasmania, New South Wales and Queensland. While I have the relevant statutes for those States, I shall not occupy time by quoting them, but will make them available to any member who would care to examine them.

The terms of this Bill with regard to the prohibition against the deduction of insurance moneys, superannuation payments, trade union funds, provident funds and so forth from the computation of damages are similar to those passed comparatively recently in South Australia. In fact, the Bill now before us is similar to the South Australian Wrongs Act, 1936-40, which statute can be found in the 1943 volume of the South Australian Statutes. The amendment relating to life assurance and other benefits that may come to dependants following the death of a man is the first one that this Bill makes to the existing law.

The next amendment relates to children. Under existing legislation, an illegitimate child or an adopted child is excluded from the benefits of the Act. Conversely, a mother or father who may sustain loss through the killing by some person of an adopted or illegitimate child also cannot obtain compensation under the Act. By this legislation we propose to include adopted and illegitimate children.

Hon. A. H. Panton: Does that mean legally adopted children?

The ATTORNEY GENERAL: It means children who have been legally adopted through the proper process of law. In England, Victoria, South Australia and Tasmania, amendments of the law were passed some time ago that placed illegitimate children on the same basis as legitimate children. In South Australia, by the Wrongs Act, 1936-40, adopted children are given the same status as natural children. That is the second amendment included in the Bill.

The third amendment is one that extends the measure to brothers and sisters of the deceased. This provision is taken from the South Australian legislation. I am not aware that brothers and sisters are included in the legislation of any other country. I am not wedded to the inclusion of brothers and sisters in this Bill, but I have included them in order that the matter may receive the consideration of the House and because the recent Act in South Australia extended legislation there to brothers and sisters. It may well be that a brother—or sister—of a deceased person sustains pecuniary loss and may be a dependant of the deceased and, if he can prove damage

through the death of that person, should be given the same opportunity of pursuing the remedy as is given to the other relatives I have mentioned.

The fourth amendment is that, in addition to the pecuniary damages which may be obtained by a dependant or dependants, that is to say, in addition to compensation for the material loss proved to have been sustained by the death, they may also claim a sum of money by way of what is called solatium. If a wife is killed through somebody's negligence, in addition to pecuniary damages, the husband may, under this Bill, also claim, by way of solatium against the wrongdoer, damages for the loss of his spouse, and he may be awarded a sum not exceeding £500. The same provision applies in the case of a husband who is killed; his wife, in addition to the ordinary damages recoverable under this legislation, may claim a solatium or compensation for the loss of her spouse up to the same figure, £500. Further, if a child is killed, the parents, in addition to any pecuniary damages they may claim, may also claim a solatium up to £300. The principle of a solatium applies only as between husband and wife and in the case of a claim by a parent in respect of the death of a child. The Bill provides that in connection with solatia—

Hon. F. J. S. Wise: I do not think the Quiz Kids would be able to understand that one.

The ATTORNEY GENERAL: The House might be better informed, if not wiser. In connection with solatia, the court may not award anything at all. The court is required to take into consideration the relations existing between husband and wife, or parent and child and can, if it wishes, say that there shall be no solatium at all. The word "solatium" is a convenient term; to try to describe it as compensation for pain and suffering to one's feelings is a very lengthy business. Thus, the awarding of a solatium is purely at the discretion of the court, and if the circumstances are such, the court may say that nothing at all shall be awarded by way of solatium but the court can award any sum in the case of the death of a husband or wife up to a maximum of £500, and in the case of the death of a child up to £300. That provision regarding compensation for the bereavement of a near relative is taken from the South Australian legislation.

I want to tell the House that I am not aware of a similar provision being made in any other State or country, although there may be such a provision, but I have not so far come across it. So by this Bill the existing law is continued, but there are four amendments. The first is that insurance moneys and other benefits of that description shall not be taken into account in reduction of damages. The second is that illegitimate children and adopted children may be included in these remedies. The third is that the brother and sister of a deceased man or woman may also be included, and the fourth is that, in addition to material or pecuniary loss, the court has a discretion, in the case of a husband or a wife, to award the spouse a solatium, and in the case of the death of a child to award the parent or parents a solatium.

Those are the terms of the Bill. It has been brought in to consolidate and re-enact and reprint the Act, which is now out of print, and it incorporates amendments that I think are well worthy of the consideration of the House. In particular it deals with a weakness in the Act with regard to life insurance and similar payments which has been corrected by England, and I think by every other State of Australia, and was the subject of comment by His Honour the Chief Justice and was suggested by him as meriting the attention of the Legislature.

Mr. Fox: Would it apply to industrial accidents?

The ATTORNEY GENERAL: It applies to injuries which are occasioned by negligence.

Mr. Fox: Then it would apply to industrial accidents.

The ATTORNEY GENERAL: That may be, but in the case of negligence the injured worker or his dependants can obtain a certain amount of money under the Workers' Compensation Act.

Hon. J. B. Sleeman: About half as much.

The ATTORNEY GENERAL: If they think they can get more, they can take an action under this legislation, but I do not think they could take both.

Mr. Fox: No. What would that be limited to?

The ATTORNEY GENERAL: Under this legislation there is no limit; it depends on the actual loss which they prove. This is a technical Bill and I am afraid I have to promise the House more Bills of a somewhat technical nature; but I feel the House will welcome an opportunity to incorporate in its legal system amendments which have been made in other States and other countries and which will help to bring our legislation up-to-date in its operation in the community. I move—

That the Bill be now read a second time.

On motion by Mr. Graham, debate adjourned.

BILL—TRAFFIC ACT AMENDMENT.

Second Reading.

THE MINISTER FOR LOCAL GOVERNMENT (Hon. A. F. Watts—Katanning) [8.15] in moving the second reading said: This is a Bill to amend the Traffic Act and members who were in this House last year, in glancing through the first two or three clauses, may see therein a decided resemblance to a measure which was passed last session, and in seeing that resemblance they would not be wrong. It will be remembered that last year an amendment to the Traffic Act was brought in which provided for what was known as the staggering of licenses throughout the State, and that in this House an effort was made to confine the staggering principle to the metropolitan area as defined by the Traffic Act.

Hon. J. B. Sleeman: The motorists have been staggered now by the new license fees.

The MINISTER FOR LOCAL GOVERNMENT: In this House the proposal failed. At the same time a clause was inserted in the proposed amendment then brought forward which dealt with licensing, for short periods of the year, of caravans, trailers and the like. When the measure reached another place, however, the provision which had been attempted in this House, to confine the staggering of licenses to the metropolitan area was inserted in the Bill, without however the necessary consequential amendments, so that in the ultimate I am advised that it was only possible to license a trailer, a caravan and so forth for a short period in the metropolitan area. That was the antithesis of what was originally intended.

There was also in that measure no such provision as appears in this one—as I shall indicate in a few minutes—for the Commissioner of Police to be required to license two, three or more vehicles, or a fleet of vehicles, owned by one person, at the same time. So it was pointed out some time afterwards that the provisions of the section, as it had gone into the Traffic Act, were anomalous, and it was decided that the best course would be to re-enact it, with those alterations, in another measure. Therefore, the first operative clause in this Bill proposes to make provision for the licensing, for short periods, of road tractors, semi-trailers, trailers or caravans and for the payment of a proportionate license fee.

The next operative section of the measure proposes to confirm the staggering of licenses in the metropolitan area, as was intended to be the position under the Traffic Act last year, and to make provision for the Commissioner of Police to be able to license two, three or more vehicles of the one owner at the one time under the staggering provisions, and also to enable the Commissioner of Police to grant a license for a shorter period than that which may be applied for by any owner so as to complete, as it were the staggering system. I think that the reasons for desiring the staggering of licenses, particularly in the metropolitan area, were thoroughly debated in this House last session; and I think that there was universal agreement that so far as the metropolitan area was concerned, in order to minimise to the greatest possible extent the congestion which took place at the traffic office during the only licensing month—or the main licensing months—it was most desirable that the Commissioner of Police and his officers should be clothed with this authority. But because it was by no means as clear that any benefit would accrue, but rather the reverse was thought to be the case, in the country districts, a controversy arose and was continued with the idea of obliterating from the Bill all reference to the country districts so far as the staggering of licenses was concerned; and this Bill—and I wish to make this perfectly plain—only provides for the staggering of licenses in the metropolitan area as defined in the Traffic Act and not in any other part of the State.

I said that this Bill proposed to confirm the staggering of licenses as proposed last year and put into operation as we understood the position; and there will be found in it a special clause for that purpose, as it appears to be the opinion of the legal gentleman concerned in the drafting that it is necessary to ratify and confirm what was done under last year's Act as though it had been done under this one when it becomes an Act. There are also certain other amendments with regard to the power of the Commissioner to grant licenses to drive passenger vehicles. If members will later on refer to Section 22 of the Traffic Act they will find in Subsection (1) that—

> The Commissioner of Police and any member of the Police Force acting with his authority may, subject to this Act, on the application of any person grant and issue an annual license to such person to drive any motor vehicle of the kind or kinds to be therein specified:
>
> Provided that no license shall be granted until the applicant has proved to the reasonable satisfaction of an examiner, to be appointed by the Commissioner of Police, that the applicant is qualified to drive a motor vehicle of the kind for which the license is required.

It is proposed to add a proviso that in the case of an application to drive a passenger vehicle the Commissioner of Police may, subject to the right of appeal to a resident magistrate which is contained in an earlier part of the parent Act, refuse to grant a license to the applicant or may at any time or from time to time suspend or cancel any such driver's license after its issue.

Mr. Graham: There are no specified grounds.

The MINISTER FOR LOCAL GOVERNMENT: There is the right of appeal to a magistrate, and it is very difficult, I am advised, to specify the grounds. It may be that the person is of bad character as known to the police; and for driving a passenger vehicle—and the hon. member will note it only applies to that—it is extremely desirable that no person of doubtful character in the opinion and from the records of the police should be granted a license. In consequence, it is proposed that the remedy or safeguard of the applicant refused a license in that case had best be the right of appeal to the resident magistrate as stated by Section 5 of the Act. I understand the Commissioner of Police regards this as a very important safeguard in view of the considerable number of passenger vehicles that are now in the metropolitan area and the increase which is likely to take place within a very few years. The next amendment is to bring tramcars and trolley buses within the definition of the word "vehicle" in Section 30 of the principal Act. That section provides that—

> (1) If any person drives a vehicle on a road recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition, and use of the road, and to the amount of traffic which actually is at the time, or which might reasonably expected to be, on the road, that person shall be guilty of an offence under this Act.

But under the existing traffic laws it would appear that the definition of "vehicle" does not include such things as trams or trolley buses, and it is possible to drive those vehicles recklessly and negligently and to the danger of the public. It is thought, therefore, that such vehicles and the drivers thereof, in consequence, if negligence or recklessness can be proved against them, as it can against any other individual, should in those circumstances be subject to the like penalties because of the prospective or even actual danger that they may be or are to the public at any time.

Mr. Graham: What do you define as a "tram motor"?

The MINISTER FOR LOCAL GOVERNMENT: I propose to secure a definition for the hon. member because I require one for myself.

Hon. A. H. Panton: It is a certainty that the driver will be penalised twice, because he will lose his job.

The MINISTER FOR LOCAL GOVERNMENT: I will have the matter put straight in Committee because I require an explanation for myself. Section 35 of the principal Act will be found to contain this provision—

> (1) Any person on a visit to the State for business purposes who desires while on such visit to drive a motor car owned by him and licensed in another State of the Commonwealth, may obtain a temporary license for that purpose on payment of the prescribed fee to the Commissioner of Police, but the issue of the license shall be in the discretion of the Commissioner.

It has been found that more vehicles than motorcars are coming across from the East-

ern States from time to time, and under that section the Commissioner of Police is not lawfully entitled to issue a permit for their use in Western Australia although they are otherwise within the purview of the section. So it is suggested that the words "motor car" be deleted and the word "vehicle" inserted in lieu so that all types of motor vehicles that might be travelling for those purposes, and at the Commissioner's discretion—which it is not proposed to remove—should be licensed under this section.

It is also proposed in view of the fact that reciprocity of this nature is now in existence in some of the other States, to allow the Commissioner to issue these licenses—provided the vehicles are licensed in another State—without fee instead of on payment of the prescribed fee. Section 46 of the Act provides that the Commissioner may license persons, if they are of the prescribed age and have passed the examination to drive motor vehicles. But it is now proposed that he should be in a position, as I mentioned in regard to the licensing of passenger vehicles, to determine whether the person who is applying for a license for the vehicle is of good character or no. If he is of opinion that he is of good character and of the prescribed age—and the age has been prescribed from time to time, and will be continued to be so prescribed under regulations, I take it—then the Commissioner will license him as at present. But if he is not, then the right of appeal under Section 5, to a resident magistrate, against the refusal of the Commissioner or his officer, to grant a license to drive, will apply, and if the magistrate, as has always been the case, gives a favourable decision, then of course the magistrate's decision is final. That is an outline of the alteration to the Traffic Act which this Bill proposes to make and the reason for the alteration. I move—

That the Bill be now read a second time.

On motion by Hon. A. R. G. Hawke, debate adjourned.

BILL—PUBLIC SERVICE ACT AMENDMENT.

Second Reading.

THE ATTORNEY GENERAL (Hon. R. R. McDonald—West Perth) [8.33] in moving the second reading said: This is a Bill to repeal Section 63 of the Public Service Act, 1904-1935. Members will find that Act in consolidated form in the 1930 volume of the statutes. Section 63, which is the whole subject of the Bill, deals with long service leave. By that section the Governor, on the recommendation of the Public Service Commissioner, may grant to any officer, who has continued in the Public Service for at least 14 years, long service leave for six months on full pay, or 12 months on half pay; or he may grant to any officer who has continued in the Public Service for seven years, long service leave for three months on full pay or six months on half pay; or he may grant such leave as he thinks fit to any officer employed north of the twenty-fifth parallel of south latitude; and there is a special provision, which is now out-of-date, referring to officers who were without long service leave in 1902.

The object of the Bill is to repeal Section 63 and to insert a new section in its place. The history of this measure is one which involves the recent war. Up to 1939 long service leave was, on the whole, taken as it became due. As each officer qualified by seven years' continuous service he became entitled to three months' long-service leave, and was able to receive that leave. It was possible, in the circumstances of the Civil Service, for him to be dispensed with for that time, and up to the commencement of World War II the Public Service of this State was reasonably up-to-date in the awarding of the long-service leave as it became due to officers who had qualified for that period of recreation.

Hon. F. J. S. Wise: There are several hundreds of years due now, are there not?

The ATTORNEY GENERAL: I think the Leader of the Opposition knows a good deal about this Bill and about the circumstances that have given rise to it. After the war commenced, it became impossible to grant long-service leave to many officers—especially the senior officers whose work was important and whose services could not be dispensed with at a time when departmental officers were depleted to a large extent by those who volunteered for the Forces. The result was that many officers could not and did not take their long-service leave although it was due, and have not taken it right up to the present time. More than 200 officers became due for six months

long service leave either before February, 1942, or in the intervening four years to February, 1946. The majority of them, being senior officers, could not be allowed to take any part of the leave which had accrued due to them.

As the law stands, an officer becomes due for leave at the end of, say, seven years, and if he does not take it but continues in the service, the period that he serves after his leave has become due does not count for his next leave. The result is, for example, that a man may have been entitled, through length of service, to three month's long service leave in 1942. If, under the existing law, he was not able to take that leave in 1942 but kept on working in the department until 1949, the seven years that he worked from 1942 onwards would not qualify him for a further three months' long service leave. He has, from that point of view, received no benefit for that period of service. That, I am advised, is the correct and accepted interpretation of the Act as it now stands.

The result is that many officers in the Public Service who have, from devotion to the work of the State, remained at their post during the war years without taking the leave due to them, find that the intervening service given during the war time does not count towards their next long service leave. That is felt to be an injustice which, in the case of those officers, should be corrected. The Government led by the Leader of the Opposition and his predecessor was fully sympathetic regarding the difficulties involved under the terms of the existing law as applied to the circumstances that had arisen during the war, and, by a Cabinet decision, determined that the period of four years between the 1st February, 1942 —when the position as to leave became acute—and the 1st February, 1946, should not be lost by public servants as a qualification for their next leave.

In other words, Cabinet decided, and very reasonably, that the four year period between 1942 and 1946 should count towards the entitlement to a further period of long service leave in the case of those officers who had been prevented from taking long service leave that had already accrued to them. The difficulty, however, is that the decision of the Government, although entirely reasonable and proper, could not over-ride the Act. It was no doubt the intention of the Leader of the Opposition to do what I am doing now, and to put this matter on a regular basis by providing in the Act itself that officers who remained at their posts during the war years should not lose those years as a qualifying period towards their next long-service leave.

The Bill now before the House provides, as does Section 63 of the existing Act, for long-service leave to accrue after each seven years of continuous service. It protects, not completely but substantially, all those officers who continued to serve during the war years after they had become entitled to long-service leave, and ensures that the period of service during the war years shall count as a qualifying period for their next period of long service leave. The Bill is more elastic than the old Act, because under it an officer may continue to serve for seven years after becoming entitled to long service leave, and by doing so he does not prejudice his right to his next ensuing leave. That is to say, that if he had three months' leave due to him in 1940 and could not take it, he could go on serving till 1947, when he would be legally entitled not only to the three months that had accrued during 1940, but to a further three months due in respect of the period from 1940 to 1947.

Under the Bill, although an officer may go past his accrued leave and continue his service without taking such leave, the additional period counts towards the next period of leave, while under the existing law it would not so count.

Hon. A. H. Panton: Will it require Ministerial approval for it to accumulate?

The ATTORNEY GENERAL: Up to six months, as I read the Bill, Ministerial approval is not required, but if an officer so wishes he may, under the Bill, accumulate long service leave up to 12 months. If he seeks to accumulate long service leave beyond six months, it must be on the application of the officer and on the recommendation of the Commissioner, and by approval of the Governor which, of course, means approval by the Minister.

Hon. F. J. S. Wise: Is that only in the case of a 12 months' accumulation?

The ATTORNEY GENERAL: As I read the Bill, for up to six months' leave no Minis-

terial approval is required, and no approval by the Governor, but if the officer seeks to accumulate leave beyond six months he has to get the Governor's approval, which is the Minister's approval. The Bill provides a more elastic system than does the existing Act and prevents officers being penalised by losing part of their qualifying period if they are not able, through the requirements of the service, to take their long-service leave at the normal time. Railway officers and wages men employed by the Crown are at present able to accumulate leave up to 12 months, but that does not, so far, obtain legally under the Public Service Act. It is proposed by this Bill that under the Public Service Act leave may be accumulated up to 12 months.

Hon. A. H. Panton: Wages men get it only every ten years.

The ATTORNEY GENERAL: That is so.

Hon. E. Nulsen: How will this affect schoolteachers?

The ATTORNEY GENERAL: They do not come under this Act.

Hon. F. J. S. Wise: The inspectors and the staff do.

The ATTORNEY GENERAL: That is so, but the general body of schoolteachers would be covered by different regulations. The Bill also provides more elasticity in the way in which long service leave can be taken. It has been the practice in the past that when an officer so desired he could have long service leave for three months on full pay or six months on half pay, but under the Bill he may, with the consent of the Public Service Commissioner, have part of his leave on full pay and twice the balance on half pay. Moreover, under the Bill, if a man becomes ill and has long service leave due to him he may, if he wishes, be allowed to take, in addition to his normal sick leave, part of his accrued long service leave on full pay, to enable him to have a longer rest period before resuming his ordinary duties.

With more elasticity in this Bill, the long service leave can be utilised to a degree that I think will be acceptable to public servants and will meet the various circumstances that may arise during the course of their public service careers. Further regulations may be made under the Bill to make lump sum payments in the case of long service leave to officers retiring at the age of 60 or after that age, to officers retiring on account of ill-health and to female officers on their resigning in order to marry, and to the widows of deceased officers. There has, so far as I can understand, been some question as to the authority of the Crown to make lump sum payments in the case of long service leave. The desire is to put that matter beyond any doubt at all so that if an officer is due to retire, say, at the end of this year through reaching the retiring age, he may go on long service leave that is due to him on, say, the 1st October, or the 1st July, as the case may be, and as soon as he goes on his leave he may receive a lump sum payment of the salary that would be due to him during the period of his leave; and at the end of that leave he goes on superannuation.

Hon. A. H. Panton: Are you quite certain that if he goes on six months' leave, he will not get any superannuation until the end of that period?

The ATTORNEY GENERAL: I ought to ask notice of that question.

Hon. A. H. Panton: It is very important, in view of what has happened just lately.

The ATTORNEY GENERAL: I think the position will be quite clear in respect of the matter referred to by the member for Leederville.

Hon. F. J. S. Wise: It is a very sore point.

The ATTORNEY GENERAL: The part dealing with the lump sum payment is to be provided by way of regulation, under the general authority set out in the clause. I am advised that the regulations for this purpose would inevitably be rather detailed and would unduly prolong the length of the clause if an endeavour were made to include everything in it. In the circumstances, the general power necessary is provided in the clause, and the regulations will deal with the individual requirements in respect of lump sum payments that may be made in the various circumstances I have mentioned.

Hon. F. J. S. Wise: There is no alternative to making it retrospective to 1942 is there?

The ATTORNEY GENERAL: No. The legislation is retrospective to the 1st February, 1942, and the result will be substantially that officers of the Public Service will in due course receive all the long service leave they would have received, had the position not been disturbed because of the recent war. There will be delay, and they will have to await an opportunity to get away from their duties in due course. However, as rapidly as possible, they will be given the leave that they should have received in accordance with the intention of the Public Service Act.

Hon. F. J. S. Wise: So that all who served, or were not able to serve, will have their interests safeguarded.

The ATTORNEY GENERAL: That is so. That was the intention of the Government led by the present Leader of the Opposition, and that is the objective now sought to be given effect to by the Bill. There are two other points to which I desire to refer. Section 63 of the principal Act is to be repealed. It did not refer to temporary workers who, under the Public Service Act, are covered by Section 36 and have to work under conditions that are at the discretion of the Government. That is to say, the Government can prescribe conditions for temporary workers which may be outside those that are indicated by the Act dealing with members of the permanent service. It is thought that provision should be made in the Act, as it is in the Bill, for temporary public servants to receive long service leave because, due to the exigencies of war or perhaps through other causes, there may be temporary employees who have served ten years or more. The Bill provides that if a temporary public servant has served for ten years, he shall be entitled to three months' long service leave. A permanent public servant becomes entitled to that leave at the end of seven years.

Hon. A. H. Panton: Why the difference between the two?

The ATTORNEY GENERAL: That is an important question, which I shall endeavour to answer. I am advised by the Public Service Commissioner that, on looking up the records of public servants who originally were temporary employees and then became permanent civil servants, he found that 8½ years appeared to be the fair qualifying period lying between the ten years for temporary public servants and the seven years for permanent employees. The Bill provides, therefore, the necessary statutory authority for long service leave for this section of Government employees, after they have served for the qualifying period specified in the Bill.

There is another amendment to the existing law provided for in the Bill. Service by an officer who is under the age of 18 years goes towards qualifying him for long service leave. The Bill provides that service before the age of 18 years shall not count in the qualifying period for long service leave. The view taken is—perhaps it is not a very gallant one—that many ladies enter the Public Service, say, at the age of 16 years, serve a couple of years till they are 18 and then perhaps for two or three years more, after which they marry and draw their pro rata long service leave or pay in lieu of it. That is rather hard on the Public Service. I understand that in the case of wages employees, service when rendered by an individual under 18 years of age does not count, and, in view of the reasonably generous terms for long service leave which the Government grants in comparison with outside employers, it is considered that service below the age of 18 years should not count towards the qualifying period.

Hon. F. J. S. Wise: In the case of the marriage allowance to teachers, does not all the service period apply?

The ATTORNEY GENERAL: I had better not answer that question, because I am not too sure on the point. Shortly, this is a Bill that will in due course, as the position in the Public Service permits, enable officers to pick up the long service leave which they should have received, and would have received, had the war not dislocated leave arrangements. It has been referred to the Civil Service Association and is presented to the House with the approval of that body. I move—

That the Bill be now read a second time.

On motion by Hon. A. H. Panton, debate adjourned.

House adjourned at 8.59 p.m.