Mr. COURT: What is the use of trying to discuss anything in this place! The Leader of the Opposition has not elected to speak on this measure. If he will listen to me for a moment I will explain it to him.

Mr. Tonkin: You should face up to the argument and not run away from it.

Mr. COURT: There is no obligation on the Government to refrain from amending a private Act; if there was, Parliament would lose control of its legislation. The time might come when Parliament wants to repeal an Act of that kind, so surely the Government, or any member, should be able to introduce a Bill to repeal it.

Mr. Tonkin: It is being amended.

Mr. COURT: I will not get involved in a storm in a teacup. The crossing of T's and the dotting of I's is what it amounts to in this case, although that is important. When the Bill has passed the second reading stage I will get confirmation of the advice which I sought when the Bill was brought to my notice for handling in this House. I will submit that confirmation to the House when we get into the Committee stage on this legislation. I did inquire whether there was anything unusual in the procedure by virtue of the fact that this measure was brought in as an ordinary one to amend what we know as The West Australian Trustee Executor and Agency Company Limited Act.

I was told there was not, and that it was quite in order to do it this way, particularly as there was no intention of interfering with the mechanism under which this Act and The Perpetual Executors, Trustees and Agency Company (W.A.) Limited Act operate. I would suggest to the member for Mount Hawthorn that this Bill be passed at the second reading stage, and if he feels he is right—and he is entitled to feel that way—I will obtain confirmation of the advice which I received before I handled the Bill, to ensure that everything is in order. That I intend to do.

Mr. Bertram: That advice need not be right.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr. Williams) in the Chair; Mr. Court (Minister for Industrial Development) in charge of the Bill.

Clause 1: Short title and citation—

Mr. COURT: I preface my remarks by saying that I propose to move the formal amendment to delete the year 1968 and insert the year 1969, and after that I will move for progress to be reported. I move an amendment—

Page 1, line 9—Delete the figure "1968" and substitute the figure "1969."

Amendment put and passed.

Clause, as amended, put and passed.

Progress

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

House adjourned at 5.6 p.m.

Legislative Council

Tuesday, the 1st April, 1969

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

QUESTIONS (14): ON NOTICE

RAILWAY HOUSING AT MERREDIN

Allocation of Funds

1. The Hon. J. J. GARRIGAN (for The Hon. R. H. C. Stubbs) asked the Minister for Mines:

   (1) What will be the allocation of funds for the financial year 1968-69, and the anticipated allotment of funds for the year 1969-70, for Western Australian Government Railways employee housing at Merredin?

   (2) Is it expected that the allocation of funds for 1968-69 will be fully expended by the 30th June, 1969?

   (3) How many houses will be erected as the result of the 1968-69 funds?

   The Hon. A. F. GRIFFITH replied:

   (1) Year ending the 30th June, 1969 —$14,500.
   Year ending the 30th June, 1970 —This has not yet been determined.

   (2) Yes.

   (3) One complete house, and extra rooms added to two existing houses.

ROAD HAULAGE

Goldfields Area: Restrictions

2. The Hon. G. E. D. BRAND asked the Minister for Mines:

   Can the Minister explain why it is that certain large transport companies and contractors are authorised to carry goods from the metropolitan area to country centres, such as towns in the Murchison and goldfields, whereas local companies and pastoralists are prohibited?

   The Hon. A. F. GRIFFITH replied:

   General policy does not permit the carriage of goods by any operator from the metropolitan area to the Murchison area or the eastern goldfields, but where

special circumstances exist applications are dealt with on their merits. This applies whether the applicant is a large transport company, a local carrier, or a pastoralist.

INDUSTRIAL DISPUTE AT PORT HEDLAND

Threats to Workers

3. The Hon. H. C. STRICKLAND asked the Minister for Justice:

With reference to the recent industrial dispute at Port Hedland between Bell Bros. and waterside workers when a radio news broadcast stated that somebody either urged or ordered drivers of heavily laden trucks to drive over workmen who were lying in their path, and if the news report is factual—

(a) what action can be taken by the Crown against such murderous-minded persons; and

(b) is it the intention of the Minister to order an inquiry, and to see that necessary action is taken before somebody becomes a victim of such viciousness?

The Hon. A. F. GRIFFITH replied:

(a) If an offence was committed, any person who counselled or procured any person to commit the offence is, under the Criminal Code, deemed to be guilty of the offence.

(b) This is a matter for the Commissioner of Police.

CANNINGTON HIGH SCHOOL

Gymnasium

4. The Hon. C. E. GRIFFITHS asked the Minister for Mines:

(1) In view of the fact that in a letter dated the 27th March, 1968, and again at a meeting in his office on the 16th May, 1968, the Minister for Education made it quite clear to me and to the members of the Parents and Citizens' Association, that completion of the gymnasium at the Cannington High School would very likely take place in the 1968-69 financial year, would the Minister advise—

(a) will the gymnasium be completed during this financial year; and

(b) if the answer to (a) is "No," when will it be completed?

(2) As it is basically only the roof that is required for the completion of this gymnasium, does not the Minister agree that serious deterioration to the erected portion of the building is taking place?

The Hon. A. F. GRIFFITH replied:

(1) (a) No.

(b) The completion of the hall-gymnasium at the Cannington High School has been listed on the 1969-70 departmental estimates, but is subject to the necessary loan funds being made available.

(2) No.

RAILWAY HOUSING AT MERREDIN

Purchase by Tenants

5. The Hon. J. J. GARRIGAN (for The Hon. R. H. C. Stubbs) asked the Minister for Mines:

Concerning tenants who have occupied W.A.G.R. houses at Merredin for approximately 20 years, and who have contributed largely to the capital value of these houses during that time, would the Government consider allowing interested tenants who desire to remain in their houses, to purchase the homes that they have occupied for so long?

The Hon. A. F. GRIFFITH replied:

The position of long-standing tenants, particularly those about to retire, is appreciated. Disposal of houses as suggested, however, could prejudice the interests of other employees and the department because provision of replacement dwellings would undoubtedly make an otherwise unnecessary demand on loan funds, thus reducing the extent to which the department's housing position can be improved with the funds available each year.

COUNTRY HOTELS

Sunday Trading Hours

6. The Hon. G. E. D. BRAND asked the Minister for Mines:

Will the Government consider granting to country hotel licensees, who now open for trading for two one-hour periods each Sunday, the option of varying these hours to having a two-hour period between 4 and 6 p.m.?

The Hon. A. F. GRIFFITH replied:

The provisions of the Licensing Act are to be reviewed in the near future and this matter will be considered.

SULPHUR

Development of Bacterial Process

7. The Hon. J. J. GARRIGAN (for The Hon. R. H. C. Stubbs) asked the Minister for Mines:

In view of the fact that 700,000 tons of sulphur is used in agriculture and industry in Australia annually, valued at over $30,000,000, will every encouragement be given to the development of the bacterial process developed by the South African geochemist, Dr. Douglas Coghill, whereby gypsum sulphates can be converted to sulphides from which sulphur can be produced?

The Hon. A. F. GRIFFITH replied:

The Government will encourage any activity which can produce sulphur within the State at a price competitive with that of imported supplies.

To date the Government has not received any information to indicate that the process suggested by Mr. Douglas Coghill will provide sulphur at a competitive price.

NATIVE CHILDREN

Educational Difficulties

8. The Hon. R. F. CLAUGHTON asked the Minister for Mines:

Does the Education Department recognise that the teaching of aboriginal children involves special difficulties, and if so, what special measures is it adopting to ensure that teachers educating such pupils are equipped to perform this task?

The Hon. A. F. GRIFFITH replied:

Yes, as another group of underprivileged children handicapped by a different cultural background and ranging in ability and achievement levels from those fully assimilated and achieving very satisfactory academic standards to those with serious retardation problems.

The adaptations of teaching skills to suit these differing situations are not beyond the capacity of competent trained teachers. However, periodical in-service courses are arranged, advisory work is carried out in the schools, and teachers are encouraged to modify courses and curriculum requirements to suit varying local environments.

MALE NURSES

Qualifications of Migrants

9. The Hon. G. E. D. BRAND asked the Minister for Health:

(1) Is it a fact that a migrant who is a qualified male nurse, and has a certificate of proof which is acceptable in the New South Wales Department of Health, is not acceptable in Western Australia?

(2) Why cannot a qualified medical person from outside of Western Australia undergo an examination or suitable test to prove his qualification within a reasonably short time after arrival in this State?

The Hon. G. C. MacKINNON replied:

(1) (a) A nurse who is registered with the Nurses' Registration Board of New South Wales is normally accepted for registration in Western Australia.

(b) A nursing aide who is enrolled with the New South Wales Nurses' Registration Board is normally acceptable for enrolment in Western Australia, provided that he or she has completed a formal course of training equivalent to that which operates in Western Australia.

(c) The Nurses' Registration Board in Western Australia recently received an application for enrolment by a male migrant who had been enrolled in New South Wales without having completed a formal course of training as required in Western Australia. His application was not approved but he was given the opportunity to sit for the nursing aide examination in January last, but declined to do so.

(2) (a) Persons medically qualified in the United Kingdom, Northern Ireland, Eire, Malta, South Africa, New Zealand, other Australian States, and Hong Kong are eligible for immediate registration in Western Australia.

(b) Persons medically qualified in other countries are considered on their individual merits in the light of detailed evidence of their course of training, their experience, and their knowledge of the English language. Some of these may be permitted to sit for

an examination approved by the Medical Board of Western Australia, within a reasonably short time.

PEACHES

Propagation: Trials at Manjimup Research Station

10. The Hon. V. J. FERRY asked the Minister for Mines:

In view of the endeavours of the State Government to encourage the establishment of a permanent major fruit canning factory in the south-west, particularly in respect of negotiations with the Shepparton Preserving Company to operate at Manjimup, will the Minister please advise—

(a) how many acres of land have been set aside for trials of new varieties of peaches at the Manjimup Research Station;

(b) in addition to the proven canning variety Golden Queen, and with the object of obtaining a wider range of fruit to give a processing plant a longer season, are all of the seven varieties of peaches referred to in Mr. Melville's report *Some Aspects of the South African Fruit Industry* being used in trials at the Manjimup Research Station;

(c) are any other varieties of peaches under consideration;

(d) from what sources is virus-free propagation material available for this work; and

(e) are supplies of this material sufficient for Western Australian needs?

The Hon. A. F. GRIFFITH replied:

(a) Two acres of land have been set aside at the Manjimup Research Station as a preliminary trial to compare new varieties of canning peaches.

(b) All except one of the varieties listed in Mr. Melville's report are established at the Stoneville Research Station and will be used in trials at the Manjimup Research Station. The variety Walgant has not yet been introduced in Australia but steps have been taken for this to be done.

(c) One other variety not mentioned in the report will be included in the trial.

(d) Certified virus-free material is not yet available for these varieties but each variety undergoes quarantine testing at the time of introduction into Australia and this would include testing for major virus diseases.

(e) Propagating material is being multiplied at the Stoneville Research Station and this will be available to meet requirements of Western Australian nurserymen in due course.

MANAGEMENT TRAINING

Provision in Western Australia

11. The Hon. R. F. CLAUGHTON asked the Minister for Mines:

(1) In view of the criticism made by the Managing Director of Broken Hill Pty. Co. Ltd. in *The West Australian* dated the 12th March, 1969, of Australia's lag in management training—

(a) has the Government studied the provision of such training in this State; and

(b) if so, what were the results of this study?

(2) If the answer to (1) (a) is "No," does the Government intend to carry out such a study?

The Hon. A. F. GRIFFITH replied:

(1) (a) and (b) No.

(2) No. Courses in management have been provided in this State since 1953. The Western Australian Institute of Technology offers an associateship in administration and the Education Department offers diplomas in management studies, marketing, importing and exporting, personnel management, transport administration, work study, supply management, public administration, and local government.

All courses have been developed in close consultation with employers in industry, commerce, and government.

EDUCATION

Second Primary School at Manjimup

12. The Hon. V. J. FERRY asked the Minister for Mines:

(1) Will the Minister consult with his colleagues, the Minister for Education and the Minister for Works, to ascertain whether they are aware of the urgent need for a second primary school at Manjimup?

(2) As the present enrolment of some 777 students at the existing primary school is causing overcrowding, and temporary accommodation has been added on the already overcrowded site, could the Minister please advise the progress of negotiations to acquire a suitable site for a second primary school in Manjimup?

(3) Is it considered likely that the second school will be available for use at the commencement of the 1970 school year?

The Hon. A. F. GRIFFITH replied:

(1) The department is aware that a second school will be required at Manjimup in the near future but the need is not yet urgent.

(2) The existing school is not overcrowded. Normal classes have an average size of 40 pupils per class with a special class of 13 pupils in a modified cloakroom. Negotiations to acquire a suitable site have been proceeding but at the moment are at a standstill temporarily.

(3) It is hoped to commence the building of the second school before the end of 1969.

STANDARD GAUGE RAILWAY

Inaugural Run: Presence of Goldfields' Parliamentary Representative

13. The Hon. G. E. D. BRAND asked the Minister for Mines:

Would the Minister for Railways please arrange for a goldfields' parliamentary representative to travel from Kalgoorlie to Perth on the first official interstate passenger train on the standard gauge line?

The Hon. A. F. GRIFFITH replied:

Consideration will be given at the appropriate time.

DENMARK JUNIOR HIGH SCHOOL

Additional Classrooms

14. The Hon. V. J. FERRY asked the Minister for Mines:

In view of the increased enrolment of students attending the Denmark Junior High School this year, will the Minister please advise what steps are being taken to provide additional classrooms at this school?

The Hon. A. F. GRIFFITH replied:

Two classrooms are listed on the 1969-70 departmental estimates for the Denmark Junior High School but their erection will be dependent on the necessary loan funds being available.

BILLS (5): RETURNED

1. Offenders Probation and Parole Act Amendment Bill.
2. Fisheries Act Amendment Bill.

   Bills returned from the Assembly with amendments.
3. Criminal Code Amendment Bill.

   Bill returned from the Assembly with an amendment.
4. Administration Act Amendment Bill.
5. Dividing Fences Act Amendment Bill.

   Bills returned from the Assembly with amendments.

PLANT DISEASES ACT AMENDMENT BILL

Receipt and First Reading

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

MINING ACT AMENDMENT BILL, 1969

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.1 p.m.]: I move—

That the Bill be now read a second time.

I have received applications under the Mining Act for the quarrying of sand which is required in some mining areas for building operations, and for some construction works. Sand was urgently required, for instance, by a construction company making up concrete forms at Port Hedland. While it is desired to process applications of this nature, this cannot be done under existing legislation because we cannot grant a mineral claim for sand—except for silica sand; silica being a mineral—nor, as the regulations stand, can we grant a quarrying area for sand required for such purposes.

It is permissible under section 26 of the Act, as at present existing, for the holder of a miner's right to be entitled to remove any stone, clay, or gravel for his personal use in connection with mining, from any Crown land not exempted from mining operations.

Pursuant to this authority a miner may, under regulation 84 (g), apply for registration of a quarrying area not exceeding 24 acres for the purpose of obtaining stone or gravel for building or other purposes. It will be apparent to members that the quarrying for sand, either for personal use in connection with mining, or for industrial or commercial purposes, has no mention either in section 26 or in regulation 84 (g).

In order, then, to meet the demand which is persisting in some of the mining areas which are the subject of widespread developmental works, it is necessary to

amend the Mining Act to enable the holder of a miner's right to remove not only stone, clay, or gravel as at present, but also sand from any Crown land not exempted from mining operations; and that is the simple purpose of this Bill, which I commend to members.

Debate adjourned, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

INSPECTION OF MACHINERY ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.5 p.m.]: I move—

That the Bill be now read a second time.

The introduction of this measure arises from a decision made some little time ago to transfer the inspection of machinery—other than mining—from the Mines Department to the Department of Labour.

When the Inspection of Machinery Act was first introduced, nearly all machinery in the State was used in connection with mining, and hence it was reasonable that the Inspection of Machinery Act should be administered by the Mines Department. Of recent times, industrial development in the State has changed the situation and now most of the machinery in this State is connected with secondary industries. It is therefore necessary to remove the administration of the Inspection of Machinery Act from the Mines Department to the Department of Labour, which department is more concerned with the operations of secondary industries. Arrangements have been made, however, to keep that part of machinery inspection which applies to mining under the control of the Mines Department, and for this reason several inspectors of machinery will be seconded from that department.

This Bill, which is a very small one, repeals subsection (5) of section 6 of the Inspection of Machinery Act for the reason that, under subsection (5), any duly appointed inspector of machinery is authorised to exercise any or all of the powers of an inspector of mines under the Mines Regulation Act, 1906, and its amendments.

In support of the removal of the subsection from the Act, I would point out that the qualifications of an inspector of machinery do not provide him with the knowledge required to fulfil the duties of an inspector of mines. In the past inspectors of machinery have been part of the Mines Department and often have been housed in the same office buildings as the inspector of mines. There has always been close co-operation and understanding in their working capacities, but the inspectors of machinery have never assumed the duties of inspectors of mines.

However, now that the Inspection of Machinery Branch is to be removed from the Mines Department, the position alters considerably. It has never been necessary for those inspectors of machinery in close contact with the mining industry to undertake any of the duties of an inspector of mines—as I have already indicated—and, indeed, it would certainly be extremely unwise to allow inspectors of machinery, with little or no knowledge of mining and with inadequate qualifications in that direction, to assume the duties of an inspector of mines.

While the two groups were under the control of the Minister for Mines there was no need to deal with this section, because the administration ensured that there was no encroachment into differing duties. However, now that that Inspection of Machinery Act is to be under the control of the Minister for Labour it is undesirable and impracticable, I submit, that an officer of one department should assume the duties or responsibilities of an officer of another department.

This matter has been examined by officers of the Public Service Commissioner, the Public Works Department, the Department of Labour, and the Mines Department, at which meeting it was agreed that section 6(5) of the Inspection of Machinery Act, 1921-1958, be deleted; and this is the purpose of the Bill.

Before concluding, I might add that an inspector of machinery could sometimes be co-opted under the Mines Regulation Act for certain purposes, and for those purposes he would be appointed a special inspector of mines. Provision for this is made in section 10 of the Mines Regulation Act, which is the relevant Act, and which covers the position adequately.

Debate adjourned, on motion by The Hon. J. Dolan.

MINES AND MACHINERY INSPECTION ACT REPEAL BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.10 p.m.]: I move—

That the Bill be now read a second time.

Mr. President, you will observe that this Bill is also a very small one, and, as its title implies, its purpose is to repeal the Mines and Machinery Inspection Act of 1911, which is a brief Act containing two sections enabling the Governor to confer upon the chief inspector, or any inspector appointed under the Mines Regulation Act, 1906, the Coal Mines Regulation Act, 1902, or the Inspection of Machinery Act, 1904, all or any of the powers of the chief inspector or of an inspector, as the case may be, under all or any of the said Acts, subject to such conditions and restrictions, if any, as the Governor may see fit.

Any such chief inspector or inspector upon whom such powers are conferred is accordingly deemed to have been duly appointed under such Acts, respectively, and to have the necessary qualifications for appointment. Accordingly, they may exercise the powers and perform the duties of a chief inspector or an inspector, as the case may be, under the said Acts.

I would mention for the information of members, and for the record of proceedings in this Chamber, that at the time the Act now proposed to be repealed was assented to—on the 16th February, 1911—most of the work of the inspectors of machinery was in relation to mining, and inspectors of metalliferous mines, inspectors of coal mines, and inspectors of machinery worked very closely together. Those officers were all under the control of the Minister for Mines, and their complete liaison and co-operation was departmental policy.

At that point in our history, transport facilities could in no way be compared with the speedy facilities now readily available to everyone in the community. It was essential, therefore, at that time, in the event of an accident or an unusual happening occurring on a mine, for the inspector on the job—that is, the inspector of mines—to undertake investigations on behalf of the inspector of machinery, and so prevent unnecessary delays in industry.

Thus it will be seen that the Mines and Machinery Inspection Act of 1911 was introduced and passed to permit one inspector to do the work of another, should this be found necessary. However, as far as can be ascertained, this Act has affected only one officer, and for a long time the State Mining Engineer has been the Chief Inspector of Mines, State Coal Mining Engineer—who is an inspector under the Coal Mines Regulation Act—and the Chief Inspector of Machinery.

This officer is currently Chief Inspector of Mines, Chief Inspector of Machinery, and acting State Coal Mining Engineer. The title of Chief Inspector of Machinery is to be taken from him with the proposed transfer already mentioned. However, I would like to make it clear that the provision in this Bill will not affect the dual position of Chief Inspector of Mines and acting State Coal Mining Engineer.

With the Inspection of Machinery Act being placed under the control of the Minister for Labour, as I have already explained when dealing with another Bill, the Chief Inspector of Machinery will be controlled by the Minister for Labour, and it is undesirable and impracticable for officers to come under the split control of two departments.

Mining engineering has advanced to the stage where high academic qualifications are necessary for appointment as district inspector of mines. Inspectors of machinery are not required to possess such qualifications, and it is considered that the Mines and Machinery Inspection Act of 1911 has now outgrown its purpose.

This is also a matter which was discussed at a meeting attended by officers of the Public Service Commissioner, the Public Works Department, the Department of Labour, and the Mines Department at which it was agreed that the Mines and Machinery Inspection Act should be revoked. I commend the Bill to the House.

Debate adjourned, on motion by The Hon. J. Dolan.

COMMONWEALTH AID ROADS FUNDS

Protest against Change in Formula: Motion

Debate resumed, from the 26th March, on the following motion by The Hon. W. F. Willesee (Leader of the Opposition):—

> That in the opinion of this House a most emphatic protest should be recorded and forwarded to the Prime Minister against the decision of the Commonwealth to change the formula for the allocation of Commonwealth Aid Roads Funds to the States from one which was deliberately intended by successive governments to favour those States with heavy developmental responsibilities and the country areas in those States, to a new formula which deprives unclassified rural roads of their hitherto privileged position, places emphasis on centralism and accords priority of aid to the most populous and wealthy States of Australia.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.15 p.m.]: I think you, Mr. President, will be aware, just as the other members of this Chamber will be aware, that a motion with the same wording as the one now before us was debated in another place last week. That is not to say, of course, that I object to that; nor am I suggesting this motion should not be debated in the Legislative Council. I suppose it is rather natural, under circumstances of this nature, for an Opposition to take the opportunity to register some protest in respect of the recent meeting held in Canberra, and which was attended by all the State Premiers.

Be that as it may, having read and reread the motion, having listened to the remarks made by Mr. Willesee, and having subsequently studied the speech he made, I came to the conclusion that, in the first place, he spent a considerable time in endeavouring to trace the history of the Commonwealth allocations to the States

for road works. However, he has not presented the full picture and there are some more relevant facts that I think should be brought to the notice of the House.

The Commonwealth Government first introduced a customs duty on petrol in 1902, and it was not until 21 years later, in 1923, that the initial road grants to the States were made. It can be seen, therefore, that in the early years there was no direct link between the petrol tax and road grants. However, in the period 1930 to 1959—a span of almost 30 years—there was a direct link between the fuel tax and road grants as successive Commonwealth Aid Roads Acts provided that the road grants paid to the States each year would consist of a proportion, but never the whole, of the petrol tax.

In the year 1959, the link between the fuel tax and road grants was broken when the Commonwealth passed a new Aid Roads Act. From this time, the whole of the proceeds from the fuel tax was taken into Consolidated Revenue, and the road grants were made from the pool of Consolidated Revenue rather than from an individual tax. The Commonwealth Government no longer recognises that there is any connection between the fuel tax and road grants.

I am not necessarily supporting the Commonwealth Government's stand in this matter but merely relating the facts to members. The total amount allocated by the Commonwealth Government to the States for roads at the present time represents about two-thirds of the amount collected from the fuel tax, and the Commonwealth Government uses a formula to distribute the road grants between the States.

Over the years the Commonwealth has varied the formula used to divide the road grants between the States. The formula used from the year 1923 was three-fifths of the money on the basis of the population of each State, and two-fifths on the basis of the area of each State. In 1937, the formula was altered by the Commonwealth to provide 5 per cent. to Tasmania, and the balance to be distributed on the three-fifths population-two-fifths area basis. In 1959, important changes were again made by the Commonwealth when it reduced the area component from 40 per cent. to 33⅓ per cent.—in other words, from two-fifths to one-third. The population component was also given a weighting of one-third, and a new component—the number of motor vehicles—was introduced with a weighting of one-third. Tasmania retained its share of 5 per cent. of the funds. This year the Commonwealth is again making important changes in the formula, of which more will be said later.

The Commonwealth policy with regard to specifying how the money may be spent has also varied over the years. Between 1923 and 1931, the Commonwealth specified that the road grants could be spent only on trunk roads between important towns, arterial roads, and main roads which open up and develop new country. These restrictions were lifted in 1931, and it was not until 1948 that a rural roads provision was introduced. In the 1948 Act it was specified that a stated amount must be spent on rural roads other than highways and main roads.

This provision was also included in the 1950 Act, wherein it was specified that a State must spend 35 per cent. of the funds it received on "other rural roads." This provision was also retained in the Commonwealth Aid Roads Acts from 1954 up to this year, with the amount to be set aside for expenditure by a State on "other rural roads" being specified at 40 per cent.

With respect to the reduction in Western Australia's share when the Commonwealth introduced the 1959 Act, experience with previous Commonwealth Aid Roads Acts has shown that when the Commonwealth has made up its mind to alter the distribution formula it has not been prepared to accede to the requests of the State Governments.

When the Commonwealth Government cut back the area component in the formula in 1959 from 40 per cent. to 33⅓ per cent., the protest of the then Premier —who was not a Liberal Premier, but The Hon. A. R. G. Hawke—to the Prime Minister regarding the effect this move would have on Western Australia was of no avail. This change in the formula had the effect of reducing the Western Australian share from 19.5 per cent. to 17.6 per cent., and this State lost more than $2,000,000 a year in road grants. I think as this story develops we will find that situation comparable with the present one. In fact, at the time of which I am speaking, it was necessary for the Commonwealth to introduce a system of supplementary grants to prevent the Western Australian allocation for the year 1959-60 falling below the level of that for the previous year.

The Commonwealth Bureau of Roads' report on Australia's road needs was the reason for the Commonwealth Government altering the present distribution formula. After renewing the 1959 formula in the 1964 Commonwealth Aid Roads Act, the Commonwealth Government set up the Commonwealth Bureau of Roads in 1965 as a specialised agency to advise it on Australian road needs and the allocation of road funds to meet these needs. In an attempt to assess on a uniform basis the adequacy of the road systems in all States, the Bureau of Roads, in conjunction with the National Association of Australian

State Road Authorities, in 1968, designed and conducted a survey of Australian roads. The purpose of the survey was to endeavour to identify those portions of the Australian road system which, during the next 10 years, due to their present condition, or because of increasing traffic, would not provide a level of service in accordance with the standards laid down in the survey specifications.

The State road authority in each State co-operated with the bureau in the taking of the survey. Therefore—and I just mention this in passing—the reports in an Eastern States newspaper of Mr. Askin's claim—he is the Premier of New South Wales—that he had obtained an advantage over the other States by spending $750,000 on a special survey, and sending his officers throughout Australia to collect information, are open to doubt. Each State bore its share of the cost of the survey, and officers of the State road authority of each State made inspections of the road system within their own States to provide information for completing the survey. Also, I believe each local authority did its own survey in regard to its own roads.

The survey was conducted in accordance with the specifications laid down by the Commonwealth Bureau of Roads and the National Association of Australian State Road Authorities, and these specifications were applied on a uniform basis in all States. The State road authority of New South Wales carried out its part of the survey in New South Wales, as did the State road authority in each other State.

As a basis for its report to the Commonwealth Government, the Bureau of Roads took the more important road projects listed in the road needs survey and refined them by means of cost-benefit analysis techniques, using a computer programme. Those road projects which qualified on the basis of a selected economic rate of return, and which could be carried out in the next five years, were then listed by the bureau on a priority rating scale in what it termed its scheduling programme.

The scheduling programme contained in the Bureau of Roads' report was one of the principal factors used by the Commonwealth Government in forming its new proposals for the distribution of road funds to the States for the next five years. This scheduling programme, based on scientific findings produced by the bureau, dashed our hopes of maintaining our percentage share of the Commonwealth Aid Roads Act allocations. The scheduling programme showed that the Western Australian proportion of Australia's road needs was only 8.6 per cent. of the total compared with the 18 per cent. of the Commonwealth funds that we were receiving.

While the bureau considered that the scheduling programme was a realistic indicator of the road needs of each State of Australia, it was aware that if the scheduling programme was used completely for the new formula, Western Australia would have received less road moneys from the Commonwealth in the next five years than we had received in the last five years. Therefore, in its final recommendations to the Commonwealth Government, the bureau made two alternative recommendations to provide for a distribution which would represent a transition from the old formula to the scheduling programme, and which would ensure that no State received less than it had received in the last five years.

The Commonwealth Government accepted the bureau's recommendation that the basis for the new formula should consist of allocating half of the funds between the States in accordance with the scheduling programme and half of the funds in accordance with the old formula. This final recommendation of the bureau meant that Western Australia would receive over the next five years 13.3 per cent. of the road funds to be distributed compared with 8.6 per cent. as indicated in the scheduling programme and 18 per cent. under the old formula. I think it would be useful for us to reflect on those figures, to see what could have happened in relation to what did happen.

The Commonwealth Bureau of Roads' report was only made available to the State Premiers a couple of days before the Premiers' Conference was held in Canberra, and it was in the sober light of the bureau's findings and recommendation that our Premier (The Hon. D. Brand) had to front up to the conference with the Prime Minister.

I would like to deal with some points that were made by the Premier in his speech at that conference in Canberra. At the opening of the conference in Canberra the Prime Minister outlined what the Commonwealth intended to do in the way of a new distribution formula, and throughout the conference the Prime Minister refused to budge from this position.

He stated that the Commonwealth would make available $1,252,000,000 for roads in the next five years compared with $750,000,000 in the last five years. While the Prime Minister indicated that the Commonwealth Government had accepted most of the findings of the Bureau of Roads, he stated that his Government had added an additional recommendation to the bureau's recommendations. This additional recommendation made by the Commonwealth Government was that no State would receive less in the next five years than the amount of the grant received in the last five years, plus 50 per cent.

This additional offer made by the Commonwealth Government was of great importance to Western Australia as it raised, by means of supplementary grants, our share of the total fund from 13.3 per cent., as recommended by the bureau—bearing in mind the original 8.6 per cent.—to 16 per cent., and means that we can expand our road expenditure programme from Commonwealth funds by 50 per cent. during the next five years. I think we ought to let this sink in: that this is to be the situation.

Following the usual custom, the Prime Minister invited each State Premier to speak in turn on the Commonwealth proposals, starting with Mr. Askin of New South Wales. I suppose New South Wales regards itself as the senior State. The South Australian Premier was to speak before the Western Australian Premier.

The South Australian Premier in his speech claimed that Western Australia was receiving very generous treatment. He pointed out that the Commonwealth Bureau of Roads' scheduling programme had shown that South Australia and Western Australia should both receive the same share; that is, 8.6 per cent. of the total funds to be distributed. However, in its proposals the Commonwealth was giving Western Australia a much larger amount; namely $200,000,000 over the five years compared with $129,000,000 to South Australia. Mr. Hall requested that South Australia should be placed on the same generous footing as Western Australia.

I would like Mr. Willesee to be in the position in which our Premier must have found himself to be in on that occasion, when he followed the South Australian Premier, and received the information which Mr. Hall, the Premier of South Australia, had to hand at that particular moment of the conference.

The Hon. W. F. Willesee: You will note that I have never made any reference to the position of our Premier.

The Hon. A. F. GRIFFITH: I am not suggesting that the honourable member did in any shape or form, or that he was critical of the situation. I merely think this should be pointed out. That was the position in which the Premier of Western Australia found himself to be, when we look at the lots of the two States.

When our Premier spoke in his turn, he informed the Prime Minister that he was not happy about the percentage drop in the Western Australian share from 18 per cent. to 16 per cent. The Premier also stated that he was concerned over the future of the supplementary grants, without which the Western Australian share would have been much lower. He requested the Prime Minister to give an assurance that the supplementary grants should be included in the Western Australian base amount when the next Commonwealth Aid Roads Act was being negotiated. The Prime Minister would not give this assurance.

The Premier—I am referring to The Hon. D. Brand—also pointed out that the Western Australian road needs in our large State were great and that we did not have sufficient road funds to meet these needs. A considerable portion of our road expenditure was on roads such as the Eyre Highway, which were part of a national highway system. Just as the area component was of great benefit to Western Australia, our expenditure on national routes, such as Eyre Highway, was of benefit to the Commonwealth, and to everybody who travelled over that road.

Mr. Brand also requested the Prime Minister to reinstate in the new Act the section which enabled a small amount of funds to be spent on "other works in connection with transport." This section enabled some work to be done on jetties and was of benefit to fishermen and small boat owners who pay petrol tax on the fuel used in their boats. The Bureau of Roads had recommended that this section should be deleted from the new Act on the grounds that there was no longer a connection between the petrol tax and road grants; and this had been established some time before by the Commonwealth. The Prime Minister would not agree that this section should be reinstated in the new Act.

The Premier also pressed the Prime Minister to allow as road construction expenditure for the spending of Commonwealth funds, money spent on the purchase or replacement of road construction plant. There had been some doubts as to whether this would be an allowable item of expenditure, and in this instance the Prime Minister agreed to look into the matter.

Bearing this motion in mind, I think it is very important to realise that more money will be available for expenditure on "other rural roads" under the new Commonwealth Aid Roads Act. The Commonwealth Bureau of Roads' report not only stated the percentage of road needs for each State but it also recommended the proportions which should be allocated to the various road classifications in each State. The bureau's assessment, based upon the findings of its cost-benefit studies, was that Commonwealth funds should be allocated in specified proportions for three road classifications. These classifications were—

(a) non-urban arterial roads;

(b) other rural roads; and

(c) urban arterial and sub-arterial roads.

These classifications broadly cover the groupings of principal country roads, other roads in rural areas, and capital city arterial and sub-arterial roads. The main

feature of the bureau's recommendations was that approximately only 20 per cent. of the funds should be set aside for expenditure on "other rural roads," and that a special allowance should be set aside for capital city roads.

While the Commonwealth Government accepted the principle in the bureau's report that the funds should be allocated to these three classifications of roads, it varied the bureau's recommendations with regard to the proportions which should be allocated to each classification. In particular, the Commonwealth Government has provided for a greater proportion of the funds to be allocated to "other rural roads" than is recommended in the bureau's report.

The proposals for the new Commonwealth Aid Roads Act are that the amounts to be allocated to "other rural roads" shall be at the level of the allocations for the year 1968-69, plus an increase of 5 per cent. After this amount has been taken out, the balance of the funds will be allocated between the country main roads and the capital city arterial roads in the proportions as recommended in the bureau's scheduling programme.

When applied to the basic grant of $160,000,000 to be received by Western Australia over the next five years under the new proposals, this State will be required to allocate $71,000,000, representing 44 per cent. of the basic total grant, on "other rural roads in country areas." This amount is higher than the 40 per cent. which has been specified in previous Commonwealth Aid Roads Acts. The previous Commonwealth Aid Roads Act had provided that Western Australia must spend 40 per cent., representing an amount of $52,000,000, on "other rural roads": whereas the new proposals provide that $71,000,000 must be spent on "other rural roads." Therefore, it can be seen that a larger amount than ever before has been provided for expenditure on "other rural roads." I repeat: a larger amount than ever before has been provided.

The allocations of the Western Australian basic grant to the other two road classifications under the new proposals are that $24,000,000, representing 15 per cent., shall be spent on country main roads, and $62,000,000, representing 39 per cent., shall be provided for capital city arterial and sub-arterial roads. The remaining 2 per cent. is to be spent in planning and research.

In addition to the basic grant of $160,000,000, Western Australia over the next five years will receive a supplementary grant of $40,000,000, making a total grant of $200,000,000. The supplementary grant may be spent on any of the three road classifications and therefore provides additional flexibility to Western Australia. Over the next five years the Commonwealth Government will provide $200,000,000 for road works in Western Australia compared with $133,000,000 under the previous Act.

In effect, what the Commonwealth Government has said with regard to its new Commonwealth Aid Roads Act is that it will continue to provide an increasing allocation of funds for "other rural roads," but it has also recognised from the Bureau of Roads' report the pressing problems of the capital cities. It is therefore making a special allocation of funds to meet the road problems of the capital cities. Following the priorities listed in the Bureau of Roads' report, the larger capital cities of Sydney and Melbourne have received a larger portion of the capital city allocation than the capital cities of the remaining States.

As Western Australia could have been much worse off had the Commonwealth Government followed the Bureau of Roads' report, and as the amounts provided by the Commonwealth for "other rural roads" are now larger than ever before, support of the motion would be pointless. What makes Mr. Dolan smile?

The Hon. J. Dolan: I will tell you in my speech.

The Hon. A. F. GRIFFITH: It seems pointless to me. I have explained that had the Commonwealth Government followed the report of the Bureau of Roads. the effect on the Western Australian road allocations would have been very damaging. Mr. Dolan would agree with that point I think.

The Hon. J. Dolan: I will tell you later.

The Hon. A. F. GRIFFITH: Silence is consent. Western Australia came out badly from the report of the Bureau of Roads; there is no doubt about that; and it was the bureau's report, and the tendency of some Commonwealth agencies like the bureau to further the interests of centralisation, which the Minister for Industrial Development was criticising when he said that Western Australia had been given a raw deal.

The scheduling programme contained in the report of the Bureau of Roads would have given Western Australia only 8.6 per cent. of the total funds, as I have already said. The final recommendation of the bureau to the Commonwealth Government would, as I also have already said, have given Western Australia only 13.3 per cent. of the total funds.

However, the Commonwealth Government did not accept this recommendation and by using its own judgment it allocated Western Australia 16 per cent. of the funds to be distributed. At the same time, the Commonwealth has provided that more moneys will now be available for expenditure on "other rural roads" than ever before, and this I have already mentioned.

As the Premier has already made strong representations to the Prime Minister with regard to Western Australian road needs, I cannot see any reasonable grounds upon which this motion can be supported. I can see no advantage to be obtained by the House passing the motion. From the story I have given to members—and this is based on advice I have received from a source upon which we can rely—I think no purpose can be achieved by passing the motion, and I therefore trust it will be defeated.

THE HON. J. DOLAN (South-East Metropolitan) [5.48 p.m.]: I support the motion. I noticed that in his motion Mr. Willesee referred to four main points. The first was that we should register an emphatic protest against the decision of the Commonwealth to change the formula for the allocation of Commonwealth Aid Roads Funds to the States. There has been a change. I have heard no denial that the formula as it existed prior to the meeting has been changed.

The second point to which he referred was that the new formula deprives unclassified rural roads of their hitherto privileged position. I will demonstrate in unmistakable terms that that is exactly what has happened. The third point is that the formula places emphasis on centralism, and I hope to develop that theme also. The fourth point is that the formula accords priority of aid to the most populous and wealthy States.

I think it can be simply established that those four points referred to by Mr. Willesee have an absolute basis of truth. Let us see what really did happen. I believe we are inclined to delude ourselves with the fact that we are to receive an amount of $66,800,000 more than in the previous five years, and that has been clouding our thinking.

In 1964, when the last agreement was made, the Commonwealth grants totalled $793,600,000, and for the next five years, the allocation is $1,251,610,000. That is an increase of 57.8 per cent. over what was allocated for the previous five years. Let us see how we fared by comparison with other States. The figures have been published in every paper in the Commonwealth, including our own. Of the increase of 57.8 per cent., New South Wales for the next five years will receive $380,400,000 which is an increase of $171,300,000 on the previous formula. Victoria is to get $254,000,000, which is an increase of $107,500,000. Queensland is to get $231,600,000, an increase of $94,600,000. South Australia's increase was $43,000,000, and Tasmania's $18,750,000.

To get back to the percentage increase, I remind members again that the Commonwealth granted an increase of 57.8 per cent. on the amount for the previous five-year period. The share for New South Wales was 81.9 per cent., which is an increase of approximately 24 per cent. over and above what that State was entitled to receive under the previous formula. Victoria received an increase of 73.2 per cent.; Queensland 69 per cent.; and Western Australia, South Australia, and Tasmania received an increase of 50 per cent. The last three States were those which received less than they would have received under the previous formula, whereas the three more populous States—New South Wales, Victoria, and Queensland—to which Mr. Willesee referred, received priority. There is no doubt about that. No-one can deny it.

Naturally the Sydney papers reported the situation in New South Wales and indicated that that State was quite pleased about it. In other words, New South Wales accepted the fact that it had a priority, and the papers did not forget to mention that it was an election year and that the Prime Minister showed considerable acumen in keeping the election in mind when making allocations.

Two of the other States—Victoria, which has received a big increase over and above the amount it would have received under the previous formula, and Queensland—also had no complaints or protests whatever to make. They were very happy to receive preferential treatment.

The position is different so far as Tasmania, South Australia, and Western Australia are concerned. Let us see the reaction of those States. The Premier of South Australia (Mr. Hall) claimed that South Australia had received a very raw deal. He was very upset because that State received considerably less than Western Australia, but that is by the by. That is another reason for a grizzle. However, he did complain that under the new formula South Australia had lost approximately $15,000,000. He was supported in his protest by the Leader of the Opposition in that State. I want members to get the picture very clearly in mind. Here was a Liberal Premier complaining about the deal the State had received—a reduction to 50 per cent.—and he was supported in his protest by the Leader of the Opposition.

In Tasmania, Mr. Reece also protested; and he had very good reasons for doing so. Under the old formula Tasmania was entitled to 5 per cent. of the money to be distributed. The Commonwealth Bureau of Roads recommended that Tasmania should receive 6.2 per cent., but what did Tasmania actually receive? It was 4.5 per cent., which was a reduction of approximately $3,750,000. These figures cannot be disputed. Mr. Reece also offered the opinion that this was only the start. He said that his State could suffer by a similar amount in another five years when the position is again reviewed. He

also said that the reduction could be even greater next time. Mr. Reece, who is a Labor Premier, was supported by the Leader of the Opposition in that State in his protests about the raw deal they had received.

So there we have two States which are dissatisfied and in each case a protest was made by the Premier, that protest being supported by the Opposition, whichever party it happened to be. However, that did not occur with regard to Western Australia, and the party to which I belong believes it should have occurred.

We do not disparage for one moment the efforts of the Premier, whether at this conference or any other, in presenting his case. In his motion Mr. Willesee made no criticism whatever of the Premier. I am reminded of the story of the rooster who happened to come into possession of an emu egg. He brought it before the hens and said, "Listen, I am not criticising you or making any disparaging remarks about you. All I want to do is to tell you what is happening in other places."

In the two other States which received a bad deal—that is, Tasmania and South Australia—complaints were made by those on both sides of the House. However, Western Australia made no complaint. There were plenty of complaints in the papers after it was a *fait accompli*. Has our position really changed? Have we still the same case for preferential treatment which we have enjoyed for some time?

I remember Sir Earle Page, who was a great stickler for the formula which existed at the time of the conferences he attended. He would not have a bar of cutting down on the needs of country roads; but that is what has happened now. The allocations for country roads have been cut from 40 per cent. to 32.88 per cent. Do not tell me that the accent has not been taken off country roads and given to urban roads. It is quite obvious that has occurred and that is why Mr. Willesee included in his motion the fact that the new formula places emphasis on centralism.

That is perfectly true and cannot be denied on the facts. If anyone desires to know the position regarding our roads, I would recommend that he read one of the latest additions to the parliamentary library. It is a paper entitled, *The Problem of Urgent Road Development in Remote Areas of Western Australia*, which is a term used very often in the agreement. The paper was prepared by Mr. D. H. Aitken, the Commissioner of Main Roads in Western Australia. He pointed out that the need still existed, and this is not a report of five years ago when the previous claim was presented. This paper was prepared and issued before the claims were made on this occasion.

I will quote a few points from his paper which is excellent and one with which I am in complete accord. This man holds a very high and important office and it should be the policy of any Government not to impede him in his planning. In a matter of this importance, the commissioner's statements should carry the utmost weight. He said that Western Australia is facing a tremendous problem in providing adequate roads in a rapidly developing State. He of course referred to the question of area. We represent one-third of the Commonwealth.

Under the old formula, we were always entitled to our share of a certain percentage which, without exception, was always allocated for area. Consequently, Western Australia was entitled to one-third, but that no longer applies because the old formula has been removed.

Mr. Aitken said—

> Western Australia is facing a tremendous problem in providing adequate roads in a rapidly-developing State. This problem is greatly accentuated by the rapid development taking place in minerals . . . in areas which are not so remote but where roads do not exist.

Mr. Aitken refers to the railways that have been built in the north, and says—

> These railways, of course, are built for the special purpose of transporting iron ore at the rate of millions of tons per year, and are not intended for general freight and passengers, and therefore do not help the general transport situation to any extent.

Further on, he says—

> Prior to these rapid mineral activities, road development in the Pilbara region had necessarily been restricted . . . Obviously sealed roads could not be provided for the transient construction traffic, but it is now clear that sealing of the main through routes must be undertaken as soon as possible.

In his report, Mr. Aitken is quite aware of the absolute necessity to keep spending more and more money on developing roads if the State is to be developed as it should be developed.

The Hon. A. F. Griffith: Of course the Commissioner of Main Roads is aware of it.

The Hon. J. DOLAN: Of course; I agree with that. The Minister is only supporting my statement. I did not imply that the Minister said that the commissioner was unaware of the situation.

The Hon. A. F. Griffith: You are emphasising it unnecessarily.

The Hon. J. DOLAN: The report continues—

> The road providing access to the iron ore mines by the inland route, i.e., the Great Northern Highway, is

urgently in need of upgrading to a sealed stage, but this is financially impossible at the present time.

The commissioner is, of course, saying that we need more money, not less. Let me point out one fact at this very moment; namely, had Western Australia received the amount it was entitled to claim as a reasonable share of the 57.8 per cent. by which the Commonwealth increased the grant, we would have received another $10,000,000. Do not let us deceive ourselves because we happened to receive $60,600,000 more; had we received our just deserts, under the old formula we would have received another $10,000,000. That amount of money could have done a great deal for country roads in those places which badly need developing.

The commissioner referred to the part that has been played by various bodies which have helped in the construction of roads. The U.S. Navy paid $930,000 to upgrade roads in Exmouth. That amount was spent just to seal 34 miles of road, I think. In both Exmouth and Kambalda groups which are developing the areas have made substantial contributions.

Consequently, we are getting money which we badly need and the principle of developing groups contributing is one which I wholeheartedly support. However, we are getting this extra money because the places have to be developed.

We do miss out in that the report says—

> Even with the accelerated growth local authorities will be hard pressed to provide a minimum of the road facilities required in the developing areas.

Let us be realistic and face up to the problems that confront us. If we feel we have a right to protest because the formula has been changed, and this State did not receive as much money as it was entitled to receive, then we should protest. I have good reasons for making that statement. What will happen in another five years? I might not be a prophet, but I could be in line with Mr. Reece of Tasmania and Mr. Hall of South Australia who predict a further cut in their respective proportions at the next distribution. Perhaps Western Australia will fare even worse, because the obvious answer to this State as it made no protest whatsoever would be, "The last time there was a distribution and we changed the formula, Western Australia did not protest about it. Now, we might be inclined to listen to the Premiers of South Australia and Tasmania because they did protest, as they did not receive the amount to which they considered they were entitled."

In my opinion, Western Australia did not receive the amount to which it was entitled and, because we did not receive it, we have the right to protest. In company with my leader, I hold nothing whatsoever against the Premier, but I consider he should have criticised the Federal Government's action in this matter.

Sitting suspended from 6.5 to 7.30 p.m.

The Hon. J. DOLAN: Before the tea suspension I had made an earlier comment that New South Wales had been particularly pleased with the share it received, as I suppose it had every reason to be. There was one dissenting voice in New South Wales about the share that State received from the Commonwealth and it came from the Country Shires Association. Mr. Connellan, the president of the New South Wales Country Shires Association was quoted in *The Sydney Morning Herald* of the 14th March as having said that the country shires were bitterly disappointed because they expected $130,000,000 as their share but received only $110,000,000. He was also reported as having said that they were dismayed at the proposal to reduce the allocation for country main roads by $28,000,000. He was then reported as having said that in view of the grave reduction in funds proposed for country main roads the shires association must ask whether the State Government would be prepared to make up the balance from State revenue.

The reply he received from the Premier of New South Wales (Mr. Askin) was that the country shires would get the same amount as they had received in the previous year—that is, 40 per cent. of the total funds available—plus 5 per cent. on an accumulative basis for each of the years covered by the new agreement. Mr. Askin could afford to be generous to keep their support, because he obtained the best share of the current handout. Mr. Connellan was also reported in *The Sydney Morning Herald* as having said failure to give the country shires their share and to make up the difference between what they were getting and what they had hoped to get meant that all the previously advocated policies for decentralised development would be nullified by the failure to develop country main roads.

That was the opinion expressed by the Country Shires Association of New South Wales, and it was the same opinion that was expressed by Mr. Willesee when he moved his motion; namely, that such a move would be on the way to centralisation. I would now like to take up the time of the House for a couple of minutes to refer to some of the comments made by Mr. Askin.

I do not know whether I understood the Minister correctly, but when the Minister referred to the sum of $750,000 I understood this was the amount referred to by Mr. Askin, and I think the Minister said that this was part of the State's contribution to the Commonwealth Bureau of Roads.

The Hon. A. F. Griffith: No. What I was trying to do was to point out that Mr. Askin's plea that he had done so much better because of what he had spent was not really the truth, because all the States had contributed to the cost of the survey.

The Hon. J. DOLAN: I will let Mr. Askin speak for himself, and this is what he had to say, as reported in *The Australian* of the 15th March, 1969—

> In the past 18 months the New South Wales Government, as well as local government bodies, has spent approximately $750,000 on the roads.
>
> In preparing the case for a better deal for New South Wales our officers were sent all over Australia to get exact knowledge of conditions.

The Hon. A. F. Griffith: That is right; that is what he said.

The Hon. J. DOLAN: Mr. Askin continued—

> Proof that these tactics paid off is the fact that New South Wales received the lion's share in the cut-up in Canberra—an 82 per cent. improvement on the old agreement, compared with 73.2 per cent. for Victoria.

This was the reaction of the Country Party in New South Wales—

> Some Country Party ministers said privately last night they would be pressing for substantial extra State funds for country roads to make up for the Commonwealth's city-directed guidelines for spending the grants.

That is another factor Mr. Willesee referred to; namely, that it was centralised policy. Let us now hear how Victoria regarded this.

The Hon. A. F. Griffith: Before you go on, I would like to say that we thought Mr. Askin said that in order to justify his own situation, but he did not complete the survey all on his own.

The Hon. J. DOLAN: I would not attempt to read Mr. Askin's mind.

The Hon. A. F. Griffith: You read his speech, but do not want to read his mind.

The Hon. J. DOLAN: I would not try to.

The Hon. V. J. Ferry: It might be interesting.

The Hon. J. DOLAN: It would be, but one would come up with some interesting facts if one tried to read another's mind. Let us see what happened in Victoria. This is what was reported in *The Australian* of the 15th March—

> At the conference, Sir Henry secured a record $254.4 million on the understanding that half of it should be used for Melbourne freeways and traffic interchanges.

And he concluded by saying—

> The Commonwealth introduced a new formula which favours the more populous States.

That is what we believe; namely, that the new agreement has favored the three more populous States at the expense of the other three. We are disappointed in the change of formula. We feel that the principle enunciated by men like Sir Earle Page who attended the earlier conferences was a just one; that is, that the money should be spent in those parts of the Commonwealth that need it most. We go along with that, and that is why I support the motion moved by Mr. Willesee.

The basis of the South Australian complaint was that it lost $15,000,000 it was justly entitled to, and another one was that Western Australia got more than South Australia.

The Hon. A. F. Griffith: That is more to the point!

The Hon. J. DOLAN: That is more to the point! We imply no criticism what ever of the Premier. The fact that he did not make a protest is neither here nor there. We are looking forward to the fact that in five years' time Western Australia will go back again seeking a new agreement, and on the next occasion, if we can be prophetic, we will get an even worse deal than we did this time.

The Hon. A. F. Griffith: Do you regard this as a vote of no confidence in the Government?

The Hon. J. DOLAN: Of course we do not! There is nothing of that nature implied. We think mistakes can be made, and consider the mistake made in not protesting against the allocation to Western Australia a normal human error. We do not want to merit the application to us of the Shakesperian quotation, "The lady doth protest too much, methinks."

We think this State had every right to protest, as did the States of South Australia and Tasmania, but here the protest came from only one side, and I think that in the interests of the State—not in the interests of parties or of politics, because I do not play politics to the extent they are generally played as I am probably an amateur—a protest should have been made.

We feel the motion moved by Mr. Willesee is justified and that it should have the support of all members. In the interests of the State a protest should be made so that when we attend the next Premiers' meeting on the question of road grants we will get a much better deal than we did this time. I support the motion.

THE HON. E. C. HOUSE (South) [7.40 p.m.]: One can appreciate the sympathies that lie behind the moving of a motion such as this, and yet when one examines it

one cannot believe one has any need to protest, for the simple reason, as the Minister pointed out in his speech, these formulas have been changed over a period of time and it is necessary to meet the ever-changing conditions that occur over a period of five years.

Mr. Dolan has just said that the main cause for complaint and one of the principal reasons that prompts this motion was a protest against the change of formula. I think one has to be sensible and appreciate that the total Australian population is increasing, and therefore the Commonwealth could not possibly adhere to the same formula it agreed to five years ago. One reason for this would be that when the last road grant agreement was reached it was recognised that there was a definite need for Western Australia to have more money for its rural roads and its road system generally, because of its large undeveloped areas.

The Hon. R. Thompson: Under the new formula do you think the shires you represent will get more money or less?

The Hon. E. C. HOUSE: I am not prepared to answer that question at this stage, but I do not think they could get any less, as I will try to point out to the honourable member. As I was saying, the allocation of road grants money to Western Australia five years ago was made on the basis that it was recognised we had a particular problem, and a large proportion of that grant was therefore channelled towards the construction and maintenance of country roads. Since then the Commonwealth Bureau of Roads has been formed and has made a complete survey and it has now reported that Western Australia's needs represent only 8.6 per cent. of the total funds available.

Far from protesting to the Commonwealth Government we should be thankful we have a Government to deal with and not a bureau of statisticians which simply lays down a formula with no chance of redress. Therefore I feel very pleased that we have men in the Commonwealth Parliament who did look after our interests. I think the figures prove quite conclusively that they did just this. We are not interested in formulas so much as the amount of money we are to receive, and if we receive more than we did before, and a reasonably generous share of the total funds available, we should be satisfied.

It is easier to quote figures for the five-yearly period than on an annual basis, and if we examine the old formula it will be seen that Western Australia received $53,421,000, which represented a 40 per cent. allocation for rural roads. The other 60 per cent. amounted to $80,179,000, being allocated for other purposes; mostly for urban roads. There was no latitude granted in that allocation for any diversification of funds. However, if one examines the new figures it will be seen that a sum of $62,000,000 has been allocated for urban roads, $23,913,000 for main trunk roads, and $70,880,000 for rural roads, plus a special grant of $40,800,000 to be expended on whatever category the State wishes. Over and above what we were granted before, this is a tremendous increase in the amount of money.

If we take the main trunk roads, many of which are rural roads, we will find it is necessary for part of the $23,000,000 to be set aside for country roads. We must also expect a certain proportion of the $40,000,000 to go into the country areas. Accordingly, we could be receiving in the vicinity of $90,000,000 for country roads against the $53,000,000 we received in the past. As a country member I am very happy with this situation.

I am pleased to think that Mr. Dolan should be so concerned that the urban roads are receiving too much and the country roads not enough. This is a very good sign, because actually I think the boot is on the other foot and the country roads are getting a very generous proportion.

When we start talking in terms of millions of dollars and the extras we need, we must take a fairly broad view of the general economy of the State. At the moment our economy is bursting at the seams —a great deal of money and a shortage in the work force, which is causing serious inflation. This position, too, must be reflected in the millions of dollars that are to be put into the road system. In other words, there is a saturation point or an equation that must be worked out between the number of dollars we can spend compared with the work force, the plant, and the planning that is available to the engineers.

This is a very serious matter. The same problem is evident occasionally in the shires when they rate for the amount of money they can justly use. They often drop the rate several cents in the dollar per acre of land because they know that if they rate after revaluation at the same amount over the whole they will not be able to absorb the money received. I think this factor must be considered.

The Hon. R. Thompson: If you start taking revaluations into consideration the people will not be able to pay the money. That is a stupid argument.

The Hon. E. C. HOUSE: It is not. If the honourable member has those thoughts he should look at the expenditure and the rate revenue per head of population in each State. The local authority expenditure on roads from rate revenue per head of poulation was $19 for New South Wales, $19 for Victoria, $15 for Queensland, $8 for Western Australia, and $13 for South Australia. The amount of rate revenue raised by local authorities

per head of population was $27 for New South Wales, $22 for Queensland, $21 for Victoria, $16 for Western Australia, and $19 for South Australia. If we dissect the revenue raised from rates by local authorities for metropolitan and non-metropolitan areas we find the following:—

	Metropolitan	Non-Metropolitan
	$	$
New South Wales	25	30
Queensland	18	25
Victoria	20	22
Western Australia	16	16
South Australia	16	24

So if the other States can rate more heavily, and their people can afford to pay the rates—and Western Australia is well down the list on these figures—that argument does not hold water.

The Hon. R. Thompson: Yours did not.

The Hon. A. F. Griffith: Whether we like it or not, these are the hard facts.

The Hon. E. C. HOUSE: That is so.

The Hon. R. Thompson: You are trying to equate a drop in valuations with the rates.

The Hon. E. C. HOUSE: All I am saying is that when the revaluation is done for a shire on the same figure it would have so much money for the work force and plant as not to be able to absorb it.

The Hon. R. Thompson: People could not pay it either.

The Hon. E. C. HOUSE: We are down a long way when compared with the Eastern States and this is one of the arguments used to suggest Western Australia is not justified is asking for more money than it is receiving now.

The Hon. R. Thompson: Take an overall figure for the State.

The Hon. E. C. HOUSE: The honourable member has done a good job; would he like me to sit down for a while while he carries on?

The Hon. R. Thompson: I do not know why you got up.

The Hon. A. F. Griffith: He got up, as you do, to make his own contribution.

The Hon. E. C. HOUSE: I got up because I sincerely believe that Western Australia has come out of the deal very well, when we consider the total amount of money that has been allocated to it, especially in the rural sections. I also point out it is not new to change a formula. This is done every time the agreement is reviewed, and it must be done.

The very fact that the Prime Minister saw fit to allocate a special amount of $50,000,000 to the three States in question —South Australia, Tasmania, and Western Australia—speaks for itself. Incidentally, Western Australia received $40,000,000 of the $50,000,000, and, once again, I think the Premier would have been in a very awkward position had he suggested that we had not got a fair share of that amount.

Had the States remained on the old formula it is obvious the amounts would have got ever-increasingly out of proportion to those the States were justified in receiving, when compared with the increase in the amount of money allocated to them.

After looking at the figures, I do not think that Victoria received a tremendous increase in the overall percentage, and the New South Wales increase would only be proportionate to what one might expect in a State with that population, and the fact that for a long time it has been well down the list on the amounts that have been handed out.

Mr. Dolan also quoted Tasmania. Tasmania received $18,000,000 more than it received on the last occasion. Surely its road system would not be comparable with those in the other States! Tasmania is a comparatively small State. In spite of its complaining, South Australia received $43,000,000 more. So it, too, would have quite an extra amount of money to spend on roads.

Mention was also made of the fact that Mr. Aitken reported we had a serious problem in this State and that we needed more money for rural roads. One can understand his saying this, because a great deal of concern was expressed when it was known that the Commonwealth Bureau of Roads was about to suggest a reduction in the formula and, as it turned out, it was down to 8.6 per cent.

After revising this we went up to only 13.3 per cent., and the Premier came back with over 16 per cent. I think we can justly say that the Commonwealth realised we had particular problems and accordingly allowed for them. We are very fortunate in the road system we have in this State. It would be one of the best in the Commonwealth. It has taken a great deal of money to reach this stage, and it will continue to take a lot more. We are, however, the envy of the other States, particularly in relation to our bitumen roads. One can visit Esperance via two different routes, and over a distance of 450 miles one will not leave the bitumen. This applies almost everywhere in the State; we do not run into very many dirt roads.

The Hon. H. C. Strickland: Except in the north.

The Hon. E. C. HOUSE: Actually that part has only just been heard of whereas the south was developed many years ago. In a very short period of time this trouble will not be experienced in the north.

The Hon. H. C. Strickland: You cannot go past the wheatbelt.

The Hon. F. J. S. Wise: It was the loss of acreage in the north that gave the contribution to the State to build the south-west roads.

The Hon. E. C. HOUSE: The north has wonderful seaway approaches and some very good aerodromes which help to balance out for the roads required in the south.

The Hon. F. J. S. Wise: I cannot swallow that.

The Hon. E. C. HOUSE: I know Mr. Ron Thompson set out to disrupt my speech.

The Hon. R. Thompson: I am prepared to sit back and listen to your bad speech.

The Hon. E. C. HOUSE: That is the opinion of the honourable member. I am happy I covered the issues I wanted to cover. I cannot support the motion, because I feel we should be fairly happy in the situation in which we find ourselves. It is a normal one, and we have done so much better than we might have done had we accepted what was first suggested; or had we even accepted the second choice. Had we done so we would have had real cause to complain. While we have the Commonwealth Government looking to our interests here I doubt that the day will ever come, or the situation will ever arise, when we are desperately short of money. If we are desperately short of money to spend on our main roads that will be the time to complain.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [7.58 p.m.]: At the outset let me say it is a most interesting exercise to move a motion of this nature and to believe that the people who would most fervently support it would be the members of the country electorates. But here we have the honourable member who has just resumed his seat happily supporting the action of the Commonwealth but not supporting the motion.

The Hon. F. J. S. Wise: He would like a motion from this Parliament thanking the Prime Minister.

The Hon. W. F. WILLESEE: I only hope the honourable member tonight was expressing the true views of his electorate, and that his electors view the result with the same enthusiasm as he does.

It is undeniable, however, that the honourable member is entitled to his opinions and his views, and he has certainly put them forward. He has indicated that he is clearly satisfied with the position as it now stands. We have quoted and reiterated the figures given by the Minister, by myself, by Mr. Dolan, and by the last speaker. We have traversed these figures and their attendant percentages from every angle.

However, I think we had taken from us the greatest bargaining power in this State when we lost the recognition of our great area. I thought it justifiable and right that we in Western Australia make a parliamentary protest because the principle in our favour has been taken away. It is true that the new set of values is before us and cannot be altered, but there is nothing in the wide world to stop Parliament from saying that it is disappointed and that it protests at losing something that for so many years was a principle in the basis of adjustment. It is something that has been ruthlessly taken from us. A new system has been developed without any forethought or regard for the basis of the old.

In the introduction of the motion I tried to traverse the history to show that over the years there had been a whittling away of the total concept that was originally Western-Australian based. The Minister, I think, to some extent supplemented my views in this regard, as he approached his remarks from a slightly different angle. If there is to be a disability in the present formula, it must surely lie in the fact that we rely so heavily upon the basis of the special grant, and it appears to me that it will be at the whim of a Prime Minister whether it will continue or whether it will be cut out.

Then we are back to the basic issue and what will be a very detrimental figure to Western Australia. It is true that on this occasion it is supplemented by the special grant, but it could happen that within the next five years we do not have anything like that money by way of a special grant. I sincerely believe that within the next five years we will find a sharp decrease in the mileage going into our rural roads. Other people think differently, and time alone can tell.

Whatever can be said with regard to the moneys that have been allocated on this occasion, there is one undeniable fact and that is that the two largest States have gained something which I believe is to the detriment of the smaller States and, in particular, to this State, because of its great area. It is too late perhaps to get a reimbursement on the area formula, but it is not too late to protest about it. I feel we are in a most invidious position in regard to this new formula with its mean base for Western Australia; and we are in the deplorable situation where we have to rely on a virtual handout of special allocations.

I hope my motion will be accepted on the basis of a protest, and on that basis only. No personalities whatsoever need emerge from the issue. We of Parliament represent the electorate of Western Australia and we are entitled to raise a protest over a basic concept that has been lost. I felt it my duty to place this motion before the House and I trust that it will be accepted.

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

Ayes—9.

Hon. R. F. Claughton	Hon. R. Thompson
Hon. J. J. Garrigan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. J. Dolan
Hon. H. C. Strickland	*(Teller)*

Noes—16.

Hon. C. R. Abbey	Hon. L. A. Logan
Hon. G. W. Berry	Hon. N. McNeill
Hon. G. E. D. Brand	Hon. I. G. Medcalf
Hon. A. F. Griffith	Hon. S. T. J. Thompson
Hon. C. E. Griffiths	Hon. J. M. Thomson
Hon. J. Heitman	Hon. F. R. White
Hon. J. G. Hislop	Hon. F. D. Willmott
Hon. E. C. House	Hon. V. J. Ferry
	(Teller)

Pair

Aye	Noe
Hon. R. H. C. Stubbs	Hon. G. C. MacKinnon

Question thus negatived.

Motion defeated.

STAMP ACT

Amending Legislation: Motion

Debate resumed, from the 26th March, on the following motion by The Hon. C. E. Griffiths:—

> That in the opinion of this House the Stamp Act, 1921-1968, should be amended to extend the organisations eligible for exemption from paying duty on cheques drawn, to include all youth and junior sporting bodies.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [8.8 p.m.]: The remarks I want to make in connection with this motion will be somewhat short, but to the point. I trust when I have addressed myself to the motion moved by Mr. Clive Griffiths, I will leave him with very little to say in reply.

I have had an opportunity to confer on the subject matter of this motion with the Premier, in his capacity as Treasurer, and he is prepared to agree to it. I ought to put that in its correct perspective: The Premier can hardly agree in this House, but as Treasurer he advised me he is not opposed to the motion. However, I want to make it quite clear that one or two things will have to be done. First of all there will have to be, in due course, an amendment to the Stamp Act.

The Treasury will have to work out some basis on which to deal with the motion in the manner in which it is written, to exempt youth and junior sporting bodies from the application of stamp duty. These youth and sporting bodies will have to be classified, and the Government is prepared to agree to the motion in its present terms. By using that expression I want to make it clear that whilst one can go on and on with this sort of thing, slipping in one or two extra exemptions here and there, the motion in the form in which it is now worded is what the Government is prepared to agree to. Having made that clear, I am prepared to accept it.

The Hon. W. F. Willesee: How is it you agree to some motions and not others?

The Hon. L. A. Logan: This one was introduced by Mr. Clive Griffiths.

The Hon. A. F. GRIFFITH: I am terribly sorry that at this stage in his political career the Leader of the Opposition cannot understand that!

THE HON. C. E. GRIFFITHS (South-East Metropolitan) [8.11 p.m.]: The Minister has left me speechless—

The Hon. A. F. Griffith: You must admit that is quite a change.

The Hon. C. E. GRIFFITHS: —and my reply to this motion must be necessarily short because of the few words he had to say on it. I want to say how pleased I am that the Minister has given me the opportunity to make this reply very short, because I can assure him it need not have been so.

I am pleased the Premier, in his capacity as Treasurer, has agreed to my motion. I must admit I was concerned about the point the Minister raised about exemptions going on and on, and I had quite a deal of difficulty in arriving at the words of the motion I finally moved, which restricts the exemptions to youth and junior sporting bodies.

I hope it will not be long before the necessary amendments are forthcoming, and I trust that my original request that the motion be passed unanimously will be effected.

Question put and passed.

PROPERTY LAW BILL

Second Reading

Debate resumed from the 25th March.

THE HON. I. G. MEDCALF (Metropolitan) [8.13 p.m.]: It may be thought rather strange that it has taken so many years—so many decades; half a century at least—for Western Australia to catch up to the other States, to New Zealand, and to the United Kingdom, in bringing in a modern property law. It is true that Queensland does not yet enjoy a modern law of property; and perhaps one could be excused if one were to think the reason for the delay in bringing down such a Bill in Western Australia was because of the academic nature of the subject matter of the measure. It may have been thought that the Bill was so academic and so removed from ordinary life that it was of little interest to the man in the street; that there was just cause for delaying it for a long period and for Western Australia not having brought in the legislation earlier.

It has also been said that property law is lawyers' law. That, of course, means that it is law of peculiar interest to lawyers and of a peculiar technical interest

without any real interest to the man in the street, or the layman. Although this is true, to a certain extent, and although there is a lot which is very academic in this Bill, it is of great concern to the average man. It affects property rights which are of great interest to the ordinary citizen. It affects the small as well as the big, and it affects a great number of subjects which, strictly speaking, one might consider are not merely matters of property. It is, therefore, not only lawyers' law but everybody's law. Whilst it is undoubtedly academic in many aspects, nonetheless it touches the very basic structure of our society.

The author of the Bill, Mr. Adams, Q.C., who has been referred to by the Minister and by Mr. Willesee, deserves a great deal of credit for having, himself, produced this Bill almost singlehanded. He was the inspiration of the Bill. He thought it was time that Western Australia had a comprehensive law of property. He felt very keenly, from his former position as lecturer in Real Property and Conveyancing at the University—which position he enjoyed for many years—and from his general pre-eminence in property law matters in the legal profession, that he could do a service to the State by using, entirely of his own volition, his knowledge in order to give us a modern law of property. He went about the task of looking at all the Statutes from other parts of the world and other Australian States on this subject in order to produce the combination which we have in the Bill before us today.

But let it not be thought that this Bill simply represents a bringing together of bits and pieces from a lot of other jurisdictions. That is only part of the story. In the first place, as has been explained, the Bill repeals a lot of old Statutes which students of law have been learning for generations, and repeats the main portions of those old Statutes in one convenient Bill. This, of course, is a tremendous service to Parliament, and to the legal profession, and to the community, because instead of their having to delve into a lot of old Statutes stored on dusty shelves looking for Acts which many people are unable to find, they will now be able to find the substance of all those laws in one convenient Act.

In addition to repealing those Bills, Mr. Adams has introduced innovations from other places and he has, in effect, used his own experience of many years of practice and of lecturing, and of studying the law, to incorporate many ideas which he believes—quite justifiably and with the support from the legal profession—to be of value to the community. He has introduced ideas which he has culled from his own experience, and where he has seen a defect in the applicable law he has rectified it in the Bill.

Therefore, it is a tremendous service to the community, and I consider—and I am quite sure that the Legislature will consider also—that as the author of the Bill he deserves great credit for his public effort in this respect. It is very pleasing that the Government has adopted his suggestions and put forward the Bill.

As has already been mentioned by the Minister and Mr. Willesee, the Bill has already been scrutinised by a number of people and a number of bodies. It was referred, in the early stages, to the Law Reform Committee of the Law Society, and to the Chief Justice, and it has been referred to other bodies. As Mr. Willesee mentioned, it was discussed at the Summer School of the Law Society at the University early in February.

A lot of comments were made on the Bill by various speakers, and by the people who listened to the addresses, and they were, on the whole, very constructive. Some of the criticisms were shown to be quite unnecessary and they were discarded, but others which touched on points which could be improved were put forward as subjects for amendment. The Minister has indicated that he proposes to bring those up at the appropriate time. I do not propose to touch on any of those matters because they are too technical and I do not think it would be at all profitable to waste the time of the House in dealing with them.

If I can be of assistance to members I would like perhaps to put forward interpretations of some parts of the Bill without, I hope, wearying the House. If I do I apologise in advance and I will expect to be stopped. However, I will touch on some matters which may be of value in interpreting the Bill. Before doing so, however, I would like to suggest how some of the matters which are dealt with in the Bill came to be there in the first place.

Mr. Willesee referred to the explanatory memorandum prepared by Mr. Adams, and to which the Minister referred in his opening remarks. The Minister referred to the technicalities of a historical nature in the Bill. It is a curious thing but those technicalities, which we now regard as being completely outmoded, were in fact, at the time they came in, the means of promoting justice and equity amongst citizens.

We must cast our minds back a long time and recall that originally the law of property was governed by the federal system of land tenure or land holding in England. It involved such things as the inability to make a will and the inability to dispose of one's property because the property had to pass on the death of the landholder, in accordance with the well-known rules of the feudal system to the eldest son. The land could not be disposed of in any other way. If there was a failure of sons—for instance, no eldest

son or no son at all—and only daughters, then the land passed to the daughters equally.

Upon failure of heirs altogether, the property escheated or went back up the chain of title—one might say—to the feudal lord. He was the mesne lord, the one in between the king and the particular landholder. The whole structure was like a pyramid with the king at the top and various gradations of lords and other people in the system down to the lowest landholder at the bottom. The landholder held the land as a tenant: Hence, the origin of the expressions, "tenancies," "tenancies in common," and "joint tenancies" and similar expressions. All land was held as a tenancy from the one above, in this system.

Consequently, it was very difficult to change the system because the lord—that is, the one who was immediately above the landholder—derived certain well-recognised rights from his position. On the failure of an heir the property escheated to the lord, and he thereby enlarged his own landholdings.

If there were infants the lord had a right of wardship, and he even had a right of marriage over female members of the deceased landholder. He could, if he wished, choose a particular female infant as his wife in marriage or he could allot her a suitor. If she did not obey his edict and marry accordingly then a fine or a penalty was payable to the lord. This was a valuable right.

The right of military service also had application to land ownership. Hence, the lord was very keen to see that land went to people who would render military service to him and would provide him with ransom in the event of his being captured by enemies. Generally, he enjoyed a number of other rights which I will not enumerate now. The result was that it was very difficult to change this system. It was changed, largely, by virtue of the devices of lawyers in those days who devised ways and means, including "uses." The "use" is thought to be the origin of modern equity. It was possible to devise one's land by will to whomever one pleased. One gave one's land to persons upon certain uses and they had to hold that land available for the use of some other person, and thus the system of the land passing through the feudal tenure was defeated.

Now this system of "uses" would have been of no avail without the co-operation of the Lord Chancellor who was the Keeper of the King's Conscience, and head of the Court of Chancery. He was also an ecclesiastic, and in his ecclesiastical jurisdiction he decided that he had to do equity, and in the interests of morality and good conscience he insisted that the "use" be carried out. If the land was devised to someone for his use, then the person who had the trusteeship—one might call it—would be forced to carry out that use or trust.

This was thought to be the origin of modern equity as the use developed into the well recognised trust. We now have a general law of trusts, as we know it. It is curious that there was no such system in Roman law, and the continental systems of law, which are largely based on Roman law, never had this system of trusts. It is peculiarly of English origin. I understand it is found in some oriental systems of law.

If one looks at this particular property Bill one will see that quite a lot of it deals with uses and trusts. This is how they originated and whilst they, themselves, were one of the means of freeing people from the feudal system of property law, nevertheless, in our day they have grown to be so well recognised and so well documented and have now become so much a part of the law of the land as we all know it that the references to them are quite anachronistic in some of the laws we are repealing in this Bill. So when we talk about the technicalities of the law let us not forget that the very technicalities we are now proposing to sweep aside were, themselves, the means of liberating the people in past centuries.

I would like, if I may, to mention some of the broad matters in the Bill which I think are of interest, and I will touch on them briefly and thereby bring them to the attention of members.

Firstly, I would like to refer to some of the definitions. The word "conveyance" is defined in the Bill as including a number of transactions. In the Bill the word is merely defined by saying that it includes certain transactions; but of course that is not what a conveyance means. The word "conveyance" really means a transference of property from one person to another; in its simplest form it represents a means of transferring or conveying property.

A "deed" is referred to in the Bill, and this word in its normal connotation simply means a document under seal. A seal, curiously enough, was, and still is, necessary for the absence of consideration. This has a little red seal attached to it, and that seal has a certain very important legal connotation. For example, if there is no consideration in a transaction—that is to say, if it is a gift from one person to another—it is usually considered desirable to affix a seal, because the seal makes up for the absence of a consideration. This is one of the formalities which will no longer be required if the Bill is passed.

Deeds are referred to in clause 9, which greatly simplifies the formalities in regard to them. Instead of the old system whereby a document was signed, sealed, and delivered, which for centuries has been the method of attesting documents, in future

it will be necessary only to sign the document. The necessity for sealing and delivery does not mean anything nowadays, and indenting is also done away with. Where formerly one had to place one's finger on the seal and say, "I deliver this as my act and deed," after the Bill is passed this will no longer be necessary. When some of the older members of the University Law School were discussing these changes, I could see that to them it was like having their teeth pulled out.

"Indenture" is the term which is generally used to apply to any article or conveyance which is under seal. In its original meaning, it meant the marking or cutting of a document into an original and its duplicate, and the exchanging of those documents. Indenting is no longer required.

Mr. Willesee referred to his curiosity, or surprise, at discovering that marriage could be a consideration; and I can well understand his surprise. However, marriage settlements were, of course, a very common form of property transaction in older times. They occur very rarely now, but in days gone by on the marriage of a woman of some means, her father would frequently make a settlement in her favour, or in favour of her children; and add what is called a restraint on anticipation, which meant that she could not anticipate the income or the property. She was debarred on the theory that she would not know what she was doing and she would be under her husband's power.

The Hon. R. F. Hutchison: One of the injustices women meet.

The Hon. I. G. MEDCALF: Well, I think that applies to both sexes.

The Hon. R. F. Hutchison: I was referring to women.

The Hon. I. G. MEDCALF: However, that has gone by the board; and the honourable member will also be pleased to hear what is called the restraint on alienation which prevents a woman from alienating or divesting herself of her property has also been abolished.

Clause 10 refers to a corporation aggregate, which is simply a company; that is, an ordinary private or public company incorporated under the Companies Act would be a corporation aggregate. This is the old term for it, as distinct from a corporation sole, which was a king or a bishop or some person or body acting on his or its own, but with the rights of a corporation.

Then there are methods of simplifying the execution of documents by companies and by attorneys, all of which will save time, and save expense. Whenever a company executes a document, searches which are sometimes complicated have to be made to find out exactly how that company should execute the document.

This is simple enough in the case of a Western Australian company whose articles are registered at the Companies Office, but in the case of an American or foreign company which is incorporated overseas it is sometimes extremely difficult to find out how that company is bound when it executes, and clause 10 is a method of simplifying that and cutting out all the inquiries. The sealing generally is carried out by a secretary and a director of the company, and the seal is affixed in their presence, and the document is then binding on the company.

Clause 11 is a most important one which gives what are called third party rights whereby a person who has no connection with a particular contract is able to enforce that contract. One of the cardinal rules of contract is that it is only the parties to the contract who have any rights in respect of that contract, and some other person for whose benefit the contract may have been made, but who is not a party to it, cannot do anything about it.

This clause gives third parties the rights to sue and enforce the contract, and so members can see just how important it is. This is explained in the explanatory memorandum where there is a reference in connection with persons for whose benefit an insurance contract is made, or where two partners join together in a contract to provide that there will be a benefit to the wife of one of them and on the death of that one, the wife cannot sue. At present she cannot enforce the contract if the surviving partner does not do the right thing.

Other examples which come to mind and which are, perhaps, closer to home, are things like the contracts and subcontracts to do with the Exmouth naval base. Members will recall all the trouble which occurred, and which was unresolved, when various subcontractors were unable to get paid because they were not parties to contracts between people higher up in the arrangements, and it is very likely they will have rights under this clause. At any rate, I am sure that is the intention of the clause.

Clause 26 refers to contingent remainders, and I will not go into detail on this clause because it is fairly technical. However, a remainder is simply what is left over after an intervening estate. The simplest example is where some person enjoys an estate for life in property. The person has the right to income or enjoyment of the property for life, and upon the death of that person there is a remainder over to someone else. That remainder is what is left of the estate after the intervening life estate has expired. A contingent remainder is a remainder that will only come into being if certain conditions are fulfilled, as distinct from other types of remainders.

Clause 27 refers to the Rule in Shelley's case, and I do not propose to go into the details of it, because I do not think it is necessary. This rule was one of the principle means whereby the old feudal system of tenure was defeated. We have had Shelley's case with us all this time, and now we do not need it any longer, because the defeat of the old feudal system of tenure is so well enshrined in our land laws.

Mr. Willesee referred to joint tenants where one is a company, under clause 29. A corporation may now hold property as a joint tenant. One of the incidents of joint tenancies is that the survivor of the joint tenants takes the whole of the property on the death of the other, and in the case of a company joint tenant, on its dissolution, the survivors, be they private citizens or not, would acquire the whole of the estate. Likewise, if the company were in existence when the private persons who were joint tenants died, the company would take the whole of the estate. It is possible to have joint tenancy without the right of survivorship, but I believe what I have outlined is the probable use of the clause.

Clause 30 gives married minors the right to sign receipts. The present situation is that a minor cannot give a receipt. If property, for example, is left to a minor or is to be given to a minor—that is, any person under the age of 21—that person cannot give a valid receipt for it until he attains 21. The only circumstances in which a minor can enter into a contract are in cases of necessity or benefit, and sometimes there may be argument as to whether what a minor is doing is for his benefit. For example, if a minor wishes to buy a motor cycle, is that for his benefit? This is highly debatable.

The Hon. A. F. Griffith: If it is argued that he needs it to go to school or to the University it may be a necessity of life.

The Hon. I. G. MEDCALF: Yes, it may be a necessity. This is where the argument lies. Under the proposed legislation, if a minor is married, that minor will be able to give a receipt and this will overcome a large number of difficulties such as getting orders from the court, or paying the money to a trustee, or paying the money to a parent and getting an indemnity, and various other things.

Part IV deals with conveyances under the old system of law. This has largely been done away with since the introduction of the Transfer of Land Act, 1893; but there are still a lot of old titles in Western Australia, particularly in the south-west and in other places. They are gradually disappearing, but there are still a number of them, and this clause will greatly simplify the method of dealing with these old conveyances.

There are all sorts of curious old rights attaching to these conveyances. One cannot go along and search the title as one can with an ordinary title under the Transfer of Land Act. One has to call for all the bundles of deeds which constitute that title, and go right back to the Crown grant, perhaps over 100 years ago, and trace the title through to see that it is a good title. A good root of title at least 40 years old has to be found before one can feel that one is going to be able to convey the property safely.

This still applies, but under the proposed legislation it will be much easier to convey the property. Instead of complicated clauses, the simple phrase that one conveys "as beneficial owner" may be used. If one says that one conveys the property as beneficial owner, one immediately imports into that document all the covenants that are set out in the third schedule to the Bill —covenants which previously had to be included in full.

So there is now a conveyance of about 10 lines—about the same size as a transfer —which will do exactly the same job as the lengthy old document, and it is obvious what a tremendous advance that is.

There are various other things to do with conveyances where uses were implied by law. For example, if a person wished to convey one of these titles to somebody by way of a gift, and he simply conveyed it to that somebody, then the law held that there was no conveyance at all, because there was a use or trust back in favour of the party conveying the resulting use and this is cut out. It is no longer necessary to interpose a trustee and to overcome other difficulties. One can now make a conveyance direct in the form to which I have referred.

There are various other things in the Bill to do with conveyances which I will not go into, but they will greatly reduce the time spent on this work, and will reduce the cost of the work. They will also simplify the work and be to the great advantage of anyone who is still concerned with an old system title, or with land which is still affected by the old system.

There is a reference in the definitions clause of the Bill to "periodic tenancies." This is something that affects everybody who is the tenant of a house. A periodic tenancy is a tenancy for a period, be it a day, a week, a quarter, a half-year, a year, or any other particular period; and, curiously enough, one does not have to specify what the period is. There is a presumption that there is a periodic tenancy if the rent is paid in a particular way. If, for example, the rent were paid quarterly, monthly, or half-yearly, there would be a presumption that the tenancy was for that period; and that tenancy

could not be terminated unless the same period of notice was given. Also, the notice had to end on a rent day.

All these little difficulties are now overcome in clause 72 of the Bill which provides for one month's notice; and that notice does not have to end on rent day. Here again, the law has caught up to the present day and the Bill will simplify procedures. However, we should bear in mind that landlord and tenant law has been a rather peculiar subject in which the law has leaned very heavily in favour of the tenant. The reason for that was because the tenant was considered to be at a disadvantage compared to the landlord. The landlord owned the property and had so many rights that where the courts could find some technicalities they found them in favour of the tenant.

In the same way the law has always favoured guarantors—people who give guarantees under contract. They are in a strict position and there is a necessity that the other party must behave equally strictly before any penalty will be found against the guarantor in the same way as I have just referred to penalties against tenants.

Therefore, clause 72 is a modern expression of the situation with respect to the termination of tenancy.

Clauses 86 and 87 deal with powers of attorney and, as Mr. Willesee pointed out, those powers can be irrevocable under these clauses. The reason it is necessary to state that they can be irrevocable is that normally a power of attorney is revoked by the death of the person who gives it; and the clauses provide that those powers will not be affected by the death of the person who gave them if they are expressed to be irrevocable.

Clause 86 refers to the power of attorney which is given where there is valuable consideration; in other words, where a price of some sort is paid in one form or another—maybe by marriage.

The Hon. W. F. Willesee: But they would still be revocable by the person giving the authority.

The Hon. I. G. MEDCALF: Not those expressed to be irrevocable. But, of course, a person does not have to express those powers as being irrevocable. Clause 87 provides similarly if powers of attorney are expressed to be irrevocable whether or not they are given for valuable consideration. Sometimes, of course, it is necessary to have an irrevocable power of attorney because if people engage in property transactions, and they make certain dispositions of their property, those dispositions may not be based on a good title, and therefore they must be prepared to give an irrevocable power of attorney if there is valuable consideration, otherwise they are not really giving what they are purporting to give.

Likewise, in recent times it has always been possible for a person to contract to leave his property in a certain way in his will, and to execute the contract that he would make his will in a particular way. That has been possible whether or not valuable consideration was involved. In other words, if it was a proper *bona fide* arrangement which was that person's part of the bargain.

Clause 121 deals with easements of light and air but in Western Australia it has never been possible, really, to obtain an easement or right to light or air for a building by what is called prescription or long use. In England it is still possible to obtain an easement of this sort through having enjoyed the right to light and air for a certain period. It is important, of course, in respect of windows and light coming into buildings, particularly in big cities; but it has never been possible in Western Australia to obtain an easement of this sort since the passing of the Light and Air Act, 1902; and that is confirmed in clause 121. In five lines that clause summarises the Light and Air Act 1902. The clause leaves a little out, but I think with advantage.

Clauses 122 and 123 are the only other clauses to which I propose to refer. These are most important because they cater for the situation where an unfortunate person may have built his house, his fence, or some other part of his building on the block next door. Where this happened in the past there was but one outcome; he was usually required to remove the offending structure, buy the block next door, or pay heavily. Naturally, of course, such a person was in a position to be held to ransom by the owner of the block next door, and there are many cases where the people found themselves in that position and had to pay heavily, sometimes by buying the block next door at a greatly enhanced value because of the mistake which had been made, perhaps by the builder or perhaps by themselves.

Clause 122 gives the right to a person who has built his house, or part of his house, or any structure, on an adjoining block, to approach the court and to get an order made that the portion of the land on which the structure is built shall be vested in him; or that he be given an easement or right to use that portion of the land for the purpose to which I have just referred, or get some similar order for his benefit. On the other hand, he may have to pay such compensation for it as is fixed by the court, rather than be held to ransom, and he must be able to prove that the encroachment which he made was not intentional and did not arise from gross negligence.

So there are certain safeguards to protect the owner of the block next door; in other words, it must be just and equitable and it must not be a deliberate action on the part of the encroaching owner.

Clause 123 is a very similar clause which applies in the case of a person who makes a mistake in building as to the boundaries or title of the land, but the clause is in similar terms. It is notable that both of these clauses have, in the last subclause, a stipulation that the court shall not make any such order without the prior consent of the Town Planning Board and the council or municipality in whose district the land to which the order relates lies.

The Hon. F. J. S. Wise: That is not an ancient law.

The Hon. I. G. MEDCALF: No, that is very modern. In other words, the court cannot act independently of the Town Planning Board and the local authority, and I suppose there is good reason for that otherwise the provision would be open to abuse. I hope the Town Planning Board and the local authority will use their powers wisely in any genuine case.

That is all I propose to say about the Bill. I could go into it at greater length but I do not think that would profit members. I would like finally to say that I believe this is very progressive legislation in that it has not only brought us up to date, but has put us ahead in certain respects in the same way as we went ahead with the trustees legislation of 1962. I think we owe Mr. Adams, and other people—but Mr. Adams particularly—a debt of gratitude and I commend the Government most heartily for bringing down this legislation.

THE HON. J. DOLAN (South-East Metropolitan) [8.55 p.m.]: I would have liked to precede Mr. Medcalf because a number of the matters that I had marked in my copy of the Bill and about which I proposed to say something were dealt with by the honourable member. However, I join with the Minister, Mr. Willesee, and Mr. Medcalf in expressing our indebtedness to Mr. Adams and others who had a share —but Mr. Adams of course, had the lion's share—in the preparation of the Property Law Bill.

I would refer, of course, to the use of the term "lawyers' law"; and I would also refer to the fact that I saw an account of a lecture on this Bill given by Mr. Adams in which he expressed the view that the passing of the legislation should make the teaching of property law, and the learning of it by students, much easier. Had he been able to go a little further and had he been able to say that it would make it much easier for the ordinary layman to understand what is employed in "lawyers' law" I would have appreciated it much more.

However, I would refer to one matter. I notice there are some Latin terms in the Bill. Presumably, of course, they are legal terms but I believe that when they are used, either in the interpretation clause, or elsewhere in the Bill, an English explanation should be given alongside them for our benefit. After all, we have to try to work out what these phrases mean and I had to go to the trouble of doing some research in the library to find out the meanings of the terms to which I have just referred.

Members may recall that Mr. Wise was good enough to give us all a little booklet of Latin, French, and Italian words and phrases that were in common use; but, strangely enough, neither of the two that are specifically mentioned in this Bill is to be found in that booklet, so they could not be classified as ordinary Latin phrases such as *pro bono publico*, or similar Latin phrases which almost anybody can understand. I would suggest that consideration be given to that aspect.

In the lecture to which I referred Mr. Adams said that the Bill does not in any way affect the operation of the Transfer of Land Act, or the Torrens title system of registered title as is embodied in that Act. I was interested enough to find out who Torrens was, something about the Act he produced, and what the system was. I shall not inflict the details on members except to say that Sir Robert Torrens was the Premier of South Australia in 1857 and he introduced the Act which embodied the Torrens title.

I doubt whether any Act ever passed in a House of Parliament in Australia has received such widespread recognition and acceptance in other parts of the world. The legislation and the system he introduced were accepted in America, Norway, Denmark, Sweden, France, Germany, Austria, and Switzerland. All those countries were prepared to accept the principle he introduced almost as it was presented to the South Australian Parliament. That system has stood the test of time despite the fact that in America it was challenged in many States and on many occasions. In all cases the Supreme Court of America upheld the legislation, and so I think we can pride ourselves on the fact that over the course of years we have had politicians who could introduce laws which were a complete reformation of the old idea of land titles and have them accepted as something worth while in all parts of the world.

Mr. Medcalf made reference to the fact that a married minor can give a receipt and it is accepted as legal. I notice that in another part of the Bill there is a reference to the fact that the age of the person concerned has to be 25 years. I wonder whether we are moving in the right direction when we talk about the giving of certain rights to people of 18 years, such as the right to vote, and so on. I do not know whether the fact that a married minor is given the right to issue a legal receipt is the start of this. I do not see that a minor who is married is more responsible

than one who is not married. I know many people will say it is not showing a sense of responsibility to get married!

The Hon. F. J. S. Wise: That is why many are not married.

The Hon. J. DOLAN: I was interested in some portions of the Bill. For example, it proposes to repeal some Acts, and parts of others are picked out. I refer to one instance, because a case involving this Act happened a couple of weeks ago. The thought ran through my head as to what would happen in legal circles. In the second schedule it will be seen that the Simultaneous Deaths Act is to be repealed; that deals with cases where a husband and wife are killed simultaneously. I always wondered what the legal interpretation was, and I find that is included in the Property Law Bill before us where it is presumed that the elder of the two died first; so that matter can be sorted out. That is quite a simple explanation and it intrigued me.

I was interested to find that provision is made in a particular case referred to, where the unborn child carries privileges. In England such unborn children used to carry the right of inheritance, even though they were—to use a French expression—*ventre so mere*, or within the mother's womb. They carried the right of inheritance, but there was no right of purchase associated with such cases. That is being altered in the Bill before us. While unborn children retain the right of inheritance they also will have the right of purchase on their behalf, and this is considered to be legal.

I think that Bills such as this are a challenge, and are very valuable exercises to members. I regret I was only able to look at it in the last three weeks, and that I only examined parts of it. If I had taken the advice of the Minister when he introduced it last year I would have looked at it in the recess. Had I done so I am sure as a layman my knowledge of the law would be greatly improved. I am indebted to the many explanations given by Mr. Medcalf. It has made me resolve that the less I have to do with lawyers the better for myself; that is not to say I have anything against them. Lawyers' law and my knowledge of these matters are wide apart.

I support the legislation, because its main virtue is that it will make property law throughout the Commonwealth fairly uniform—uniform with the exception of Queensland which has still to move. It is nice to know that we have people like Mr. Adams who can give us the benefit of their legal training and experience by coming up with a Bill like this. I have much pleasure in supporting it.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [9.5 p.m.]: Naturally I am very pleased with the reception of this Bill, and I am grateful for the remarks that have been made by those who have addressed themselves to it. I do not propose to go on with the Committee stage this evening. As a result of the activities of the Summer School of the Law Society, and as Mr. Dolan indicated, a considerable amount of study has been done on the paper that was delivered by Mr. Adams. The Bill has also been circulated widely in circles which are interested in it.

As a result of this there are a few amendments which I will offer at the Committee stage. I thought it was desirable to enable members to deliver their second reading speeches to ascertain whether any other suggestions were forthcoming. At this point of time there are none.

I will proceed as soon as I can to place the proposed amendments on the notice paper so that members will have the opportunity to peruse them.

The Hon. F. J. S. Wise: Does the Minister think this Bill will be passed by the other House during this session?

The Hon. A. F. GRIFFITH: It is a very important piece of legislation. If it does not pass through that House during this session then it will be dealt with in July next.

The Hon. L. A. Logan: In that event it will have to go through both Houses.

The Hon. A. F. GRIFFITH: In that event it will have to. I would like to see it passed this session, and I will do my best to ensure that that happens. I am sure Mr. Adams will be very pleased with the reception of the Bill. I expressed my gratitude to him on the introduction of the second reading, and I do so again because this is a difficult and complicated piece of work on which he has spent a great deal of time in preparing and in giving to Western Australia the benefit of his knowledge and experience on this phase of the law.

Question put and passed.

Bill read a second time.

House adjourned at 9.8 p.m.

Legislative Assembly

Tuesday, the 1st April, 1969

The DEPUTY SPEAKER (Mr. W. A. Manning) took the Chair at 4.30 p.m., and read prayers.