Legislative Council

Tuesday, the 12th September, 1972

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

QUESTIONS (8): ON NOTICE

1. FISHING

Licenses: Pensioners' Exemptions

The Hon. T. O. PERRY, to the Leader of the House:

As regulations applying to the Fisheries Act taking effect from the 1st July, 1970, exempted invalid, widow and old age pensioners from the necessity of obtaining an inland fisherman's license, will the Government extend this concession to holders of a miner's pension?

The Hon. W. F. WILLESEE replied:

I regret I am obliged to again ask for a postponement of this question as the Minister for Fisheries and Fauna is absent from the State.

2. ROCK LOBSTER INDUSTRY

Importation of Bait

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

(1) What quantity and types of bait for Rock Lobster catching is imported into Western Australia annually?

(2) What are the main countries of origin of this bait?

(3) How many fishermen are currently substantially engaged in Western Australia in catching bait for the Rock Lobster Industry?

(4) What quantity of bait (approximately) is used each year in the Rock Lobster Industry?

The Hon. W. F. WILLESEE replied:

(1) Fish heads are imported into Western Australia for Rock Lobster catching. The quantity imported annually is not known.

(2) The main countries of origin of fish heads for bait are New Zealand, Canada, Scotland and Hong Kong.

(3) It is estimated that up to 150 fishermen are engaged in catching bait for the Rock Lobster Industry to some degree.

(4) It is estimated that up to 18 million pounds of fish bait is used each year in the Rock Lobster Industry together with an unknown quantity of hocks.

3. DOG RACING

Betting

The Hon. W. R. WITHERS, to the Chief Secretary:

In view of the answer given to my question on the 17th August, 1972, concerning supplementary legislation on betting for the Greyhound Racing Control Bill, will the Minister advise when he expects the Legislation to be presented?

The Hon. R. H. C. STUBBS replied:

Within two weeks.

4. BUILDING SOCIETIES

Merger

The Hon. D. K. DANS, to the Leader of the House:

With further reference to my question on Thursday, the 24th August, 1972, regarding the merger between the Park Permanent Investment and Building Society with the Town and Country Building Society—

(a) what was the financial position of the Park Permanent Investment and Building Society as known to the Registrar for Building Societies immediately before merger;

(b) who was the chairman of directors immediately before the merger;

(c) was the chairman of directors of the Park Permanent Investment and Building Society consulted before the merger took place;

(d) if not, why not;

(e) was the whereabouts of the chairman of directors known at the time of the merger; and

(f) what was the principal reason for the failure of Park Permanent Investment and Building Society?

The Hon. W. F. WILLESEE replied:

Again I apologise for having to ask for a postponement of this question, but the Minister for Housing, who is also the Minister for Fisheries and Fauna, is still absent.

The Hon. A. F. Griffith: Don't you have acting Ministers?

The Hon. W. F. WILLESEE: Yes. I will tell the Leader of the Opposition who he is later on.

The Hon. A. F. Griffith: Well, you ought to be able to answer the question if you are he.

5. FISHING

Shark Bay Area

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

Further to my question on Wednesday, the 6th September, 1972, regarding the banning of fish traps in the Shark Bay area, would the Leader of the House please define Commonwealth Waters as referred to in paragraph (2) of the reply?

The Hon. W. F. WILLESEE replied:

State territorial waters include the sea to three miles from high-water mark.

Commonwealth waters means Australian waters beyond State territorial limits.

6. POTATOES

Sales at Esperance

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

(1) Has the Government received any complaints about the price of potatoes in Esperance?

(2) Has the Potato Marketing Board given a monopoly to one wholesale agent?

(3) (a) Is the Government aware that some Esperance retailers obtain their supplies from Kalgoorlie wholesalers and rail them to Esperance;

(b) if so, can the Board explain the reason for this?

(4) Are most potatoes sold in Esperance pre-washed and packaged?

(5) (a) Has the person who sells washed and packaged potatoes to Esperance supermarkets at any time requested a license as a wholesaler so that he may reduce the cost of his product;

(b) if so, why was his application refused?

The Hon. W. F. WILLESEE replied:

(1) No, although one letter expressing concern has been received.

(2) The Board appointed one registered wholesale merchant in Esperance in March, 1966.

(3) (a) No.

(b) Answered by (3) (a).

(4) To the best of the Board's knowledge approximately 3 to 4 tons are washed and pre-packed weekly.

(5) (a) Yes.

(b) Except in unusual circumstances the Board requires a merchant to handle at least six tons of potatoes per week to warrant appointment.

Sales to Esperance are currently averaging about 7 tons per week, and on this basis it would appear that there is insufficient business for two merchants.

7. TRADES HALL BUILDING PROJECT

Government Guarantee

The Hon. A. F. GRIFFITH, to the Leader of the House:

(1) Will the Minister lay upon the Table of this House all files, correspondence and other documents relating to the financial guarantee of $1.9 million to be given by the Government to Trades Hall Incorporated in connection with the proposed re-development and building programme for the site in Beaufort Street known as Trades Hall?

(2) Will he also lay upon the Table of this House all files, correspondence and other documents dealing with any other proposition put forward for the consideration of the Government relating to accommodation for the Department of Medical and Public Health?

The Hon. W. F. WILLESEE replied:

(1) and (2) It is not known whether the Hon. Member's questions relate to propositions considered by the previous Government as well as the present one. In any event the request is considered to be unreasonable and it is not proposed to grant it.

Requests for information on specific matters related to building propositions generally or the proposed new Trades Hall building will be given consideration.

8. TOTALISATOR AGENCY BOARD

Geraldton Agency: Closure

The Hon. J. HEITMAN, to the Minister for Police:

(1) Has the Totalisator Agency Board shop serving the eastern end of Marine Terrace in Geraldton, bordered by the Freemasons Hotel, the Murchison Inn Hotel and the Railway Hotel, been closed?

(2) Is the Minister aware that many people are unable to place a bet at the Totalisator Agency Board shop serving the western end of Marine Terrace due to over-crowding?

(3) Will the Minister arrange for an investigation with a view to improving the situation?

The Hon. J. DOLAN replied:

(1) Yes.

(2) No. On one occasion a larger than normal queue formed. However, persons were able to place their bets.

(3) All aspects of Agency operations are being watched in order that an adequate service is provided.

A report on the first week's operations indicated that an additional machine may be required for peak periods.

ABORIGINAL HERITAGE BILL

Assembly's Amendments

Amendments made by the Assembly now considered.

In Committee

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

The CHAIRMAN: The amendments made by the Assembly are as follows:—

No. 1.

Clause 47, page 29, line 10—Delete the figure "40" and insert in lieu the figure "43".

No. 2.

Clause 54—Delete.

The Hon. W. F. WILLESEE: The first amendment seems to be a printing or clerical error. It is as well it was picked up and I have no objection to the alteration. I move—

That amendment No. 1 made by the Assembly be agreed to.

The Hon. G. C. MacKINNON: I agree with the Leader of the House that this must be a misprint or was not picked up. Clause 43 sets the conditions and obviously is the one which should be inserted. We feel that the Committee should agree to this amendment.

Question put and passed; the Assembly's amendment agreed to.

The Hon. W. F. WILLESEE: The Committee will recall that several members in this Chamber objected to clause 54 on principle. However, because of the special circumstances of the legislation they reluctantly allowed the clause to pass.

The Minister in charge of the Bill in another place was considerably agitated when he found that the previous Minister (The Hon. E. H. M. Lewis) was opposed to the clause on the basis that it was new material which he had never encountered. He thought it should not remain in the Bill.

In view of the gathering support in another place, and after being consulted on the matter I took it up with Dr. Ryde, who was chiefly responsible for drawing up the guidelines of this Bill. He agreed that in the circumstances it might be as well to delete the clause altogether because of the opposition to it in both Chambers. I move—

That amendment No. 2 made by the Assembly be agreed to.

The Hon. G. C. MacKINNON: What the Leader of the House has said is perfectly true. Seven members spoke to this clause and, in addition, at one stage there was a deal of interjection between Mr. Ron Thompson and Mr. Griffith.

The Hon. A. F. Griffith: What page in *Hansard*?

The Hon. G. C. MacKINNON: The debate occurs on pages 1250 to 1252 of volume 7 of *Hansard* for 1972. At one stage I said I would give notice of my intention to vote against the clause to test the feelings of the Committee. The debate was an interesting one. Although many were opposed to it, the Leader of the House had said the clause had been written into the Bill because of the experience with *Tryall*, a boat of great historical importance. This led Mr. Medcalf, who is something of an authority on matters historical, to give us some information. In the long run we accepted the information of Mr. Hunt and Mr. Withers and, with great reluctance, agreed to the retention of the clause.

I am a little surprised that a clause in a Bill introduced by the Government, one to which the Legislative Council finally gave its reluctant consent, has been deleted in another place with the agreement of the Minister acting on behalf of Mr. Willesee. I am also somewhat surprised at the apparent alacrity with which the Museum authorities acceded to the request. A number of us had had discussions with the Museum authorities and despite considerable opposition on our part, they convinced us that it was desirable to incorporate the clause in the Bill on the grounds that most of the areas which it is important to retain are in remote parts of the State and difficult to police.

It therefore came as a surprise that the Assembly, where the Government has a majority, agreed to the deletion of the clause and that the Museum authorities also agreed with such alacrity when there had been so much discussion.

In fact the discussion on this one clause in *Hansard* covers over two full pages. When we consider that it is fairly closely printed material, this represents a fair amount of discussion. Also, the discussion was well thought out as is apparent from its reading. On that occasion the Government did not see fit to drop the clause and the Museum authorities did not come in with alacrity and say it should be dropped.

Under the circumstances I think we should be charitable and say that greater consideration has revealed that it is wise

to delete the clause. I do not think any of us would be anxious to see an informer clause included in a Bill of this nature; a Bill which is designed to preserve historical features, artifacts, and the like pertaining to Aborigines when they were living in a virtual Stone Age situation. For these reasons I agree with the Leader of the House that we should support the amendment made by the Legislative Assembly.

The Hon. R. F. CLAUGHTON: On this occasion, I must echo the sentiments of Mr. MacKinnon. I was one of those who supported the inclusion of the clause originally because I felt it would be necessary to preserve the remaining vestiges of Aboriginal sites, artifacts, cave paintings, and the like in remote areas. It is extremely difficult to preserve these, especially when they occur in remote areas. It is extremely difficult to obtain evidence against people who remove or damage them in any way.

There is a very lucrative market overseas for items of this nature. I certainly would not wish to act as a common informer, but I felt this clause was justifiably included in the legislation. However, I will accede to wiser advice and support the proposed amendment.

The Hon. A. F. GRIFFITH: If my colleague, Mr. MacKinnon, thinks that the word "charity" will keep me from my feet on this particular occasion, he will realise he is wrong. Members will recall my attitude to this clause. I did not move to delete it because I felt the Committee was very much against this, particularly the Government members. Mr. Ron Thompson took us back to the days of starting-price bookmakers. He and I engaged in some discussion on this point as he thought there was provision in the legislation to reward people who pimped on starting-price bookmakers. I do not think that was so, but it does not really matter.

In principle I am opposed to any person receiving a reward for, to put it colloquially, dobbing someone in. It goes against the grain to think that a person should receive a reward for informing upon someone else.

There was strong opposition from Government members to the deletion of this clause. I am pleased that the Legislative Assembly thought otherwise. I become more and more satisfied when looking back at the history of this period, that a lot of people will say, "thank God for the Legislative Council." I can see Miss Elliott smiling in complete agreement with me.

I fully support the request of the Minister to agree to the Legislative Assembly's amendment.

Question put and passed; the Assembly's amendment agreed to.

Report

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

STATE GOVERNMENT INSURANCE OFFICE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th September.

THE HON. D. J. WORDSWORTH (South) [5.05 p.m.]: I find it rather ironical that this Bill is being introduced by the Labor Party to enable the Government to enter the field of mutual life assurance. Historians will recall that the trades halls and co-operatives had a common foundation in England during the industrial revolution in the 1870s, when many farm workers streamed into the slums in the large industrial towns of England. These people had several choices open to them to better themselves. They could seek anaesthesia in alcohol, consolation in religion, they could join a trade union in the hope of a higher wage, or form a co-operative to make their wages go a little further. Of course, they could also gamble in the hope of gaining happiness. This was the atmosphere when John Wesley founded the Methodist Church.

Obviously many of these people emigrated to Australia and some of the largest co-operatives in the world commenced here —I am thinking particularly of the Australian Mutual Providence Society.

It is interesting to note that in this day and age the Labor Party has made it easier to gamble and certainly easier to form a trade union—in fact, one might say this is compulsory. The Labor Party has not encouraged a return to religion, but Mr. Hawke is busy now in the field of co-operatives. One wonders why the co-operatives ran into trouble in their early years.

The Hon. D. K. Dans: Do you think they did?

The Hon. D. J. WORDSWORTH: Yes, very few of them were left by 1900.

The Hon. D. K. Dans: Quite a few of them are still around and entering into life assurance.

The Hon. D. J. WORDSWORTH: That is quite correct, but unfortunately the aims of the co-operatives to supply cheaper food and clothing to the workers appear to have fallen by the wayside.

I mentioned the history of co-operatives and trade unions because one sees such life assurance companies as the T & G Mutual Life Assurance Society Ltd., and wonders why the word "temperance" was included in the title. I gather this goes back to the very early days when the trades hall, the Methodist Church, and the co-operatives were founded during the industrial revolution.

These facts have a bearing on the Bill. The most important point about mutual life assurance companies is that they are owned by the policy holders and the profits are returned to the policy holders by way of bonuses. Undoubtedly this has been of great benefit to many. The average Australian is not in a position to invest on the stock exchange because a minimum amount must be invested. However, by investing in a mutual life assurance society, the worker is able to enter into this field. Investments are undertaken by professionals and policy holders benefit in this way.

The bonus is the meat in the sandwich when one is considering life assurance. The policy may be worth $2,000, and obviously, with inflation, the actual amount of the policy is not so important after 20 or 30 years, but it is the bonuses that make it a good investment. Will we get the same bonuses from a Government life assurance company?

The Minister has indicated that the Government wishes to enter the life assurance field so that the money obtained may be channelled to low-return investments. These investments are not possible with the funds from such organisations as the R. & I. Bank. Obviously, when a life assurance company is forced to invest in low-return fields the bonuses will deteriorate. The return to the policy holder after lengthy long-term loans will not be worth the same amount of money because of inflation. However, if the money is invested in shares, the policy holder receives an inflated value.

The Hon. G. C. MacKinnon: It will be worth the same amount of money, but it will not have the same purchasing power.

The Hon. D. J. WORDSWORTH: That is so.

The Hon. W. F. Willesee: You are putting a lot of faith in shares.

The Hon. J. Dolan: Many people go broke in that game.

The Hon. D. J. WORDSWORTH: That is the point. If the money is invested by professionals with the expertise, many benefits accrue to the policy holders which would not come to the small Stock Exchange investor.

Another point which must be considered is the investment of money by the life assurance companies, and I am thinking particularly of developments in the north-west and in agriculture. Money must be borrowed from somewhere, and the large assurance companies supply a great deal of it. If the Government channels the money from the S.G.I.O. into its own fields, what will happen in the north-west? We will probably own less of Western Australia if the companies do not have a similar amount of money to invest. After all, money may only be spent once and if the Government feeds it into the areas it proposes, it will not be available in present areas of investment.

In their old age the policy holders will not end up with as much money as they do under the private enterprise system because of the effects of inflation.

What will happen to the superannuation fund? Obviously many of these policies will be directed to the government office.

The policy holders will experience another difficulty, which is the lack of offices in other States. The S.G.I.O. does not have interstate offices and this will cause many problems when we consider the number of people who nowadays move interstate.

One also wonders what would happen to the insurance companies themselves. I think this is fairly important to anyone who has a policy, because after all the policy holders do own the mutual companies.

I do not think any of us has many tickets or places much worth on the way governments run businesses. I do not wish to begin a direct attack on the Minister for Railways, but I did recall during a previous Bill that I knew what occurred when a government starts running a business. It gets into all sorts of trouble. One wonders what will happen if the Government decides to enter the life assurance field.

If there were good reason for the Government to move into this field—for instance if it were held by a monopoly or something of that nature—there may be some justification for the Government to enter the field. I am told, however, that there are some 30 insurance companies in W.A. at the moment. I can well believe this when I see the number of people around the place trying to sell insurance. I certainly do not wish to be instrumental in putting another company into the market.

The Hon. J. L. Hunt: They must be doing well.

The Hon. D. J. WORDSWORTH: I have received a letter, or perhaps it may be better termed a petition, from some 20 life assurance salesmen from Albany alone, expressing fear of the Government's proposal to enter this field. They pointed out many of the advantages which a Government office would have over a normally run private-enterprise company; and in this context one cannot help but think in terms of advantages which may accrue as a result of the provision of taxation facilities.

I gather the State Government Insurance Office already makes an appropriation to the State Government to cover income tax. There are also other fields in which the Government office would have an additional advantage.

The Hon. R. Thompson: I suppose you advised these people they are wrong, because they have not read the Bill if they think as they do.

The Hon. D. J. WORDSWORTH: What does the honourable member mean?

The Hon. R. Thompson: You said the State Government was going to have an advantage. It is not.

The Hon. D. J. WORDSWORTH: I have just said that the State Government Insurance Office does make an appropriation on the income tax side.

The Hon. R. Thompson: And the Bill provides it will.

The Hon. G. C. MacKinnon: That is what he said.

The Hon. D. J. WORDSWORTH: There are also other considerations which come into this. I am now thinking in terms of rates on buildings, the use of Government offices, and the use of other Government agencies to seek and collect life assurance. That is surely an advantage.

The Hon. R. Thompson: You have not read the Bill.

The Hon. D. J. WORDSWORTH: There are many other avenues in which the Government can activate itself, not the least of which is unemployment, decentralisation, and in making an attempt to solve what is a most serious rural problem. I certainly feel that life assurance is one field from which the Government should exclude itself.

THE HON. D. K. DANS (South Metropolitan) [5.18 p.m.]: I propose to support the Bill, because I think it seeks to do something to allow the Government access to further revenue that could be used for the good of the people of Western Australia.

In no way does the Bill, I am sure, seek to disadvantage private insurance companies. It will be interesting, of course, to ascertain the number of people in this Parliament who use the facilities afforded by the State Government Insurance Office to insure their motor vehicles.

As I understand the position from an advertisement in the paper today, over 45 years this company has insured some 250,000 vehicles and their owners. We all know this is a very high-risk type of insurance—this and workers' compensation insurance.

The Bill sets out to widen the franchise to permit the State Government Insurance Office to engage in all forms of insurance. I would be very interested to hear more from Mr. Wordsworth on some of the things that may happen to insurance salesmen and insurance companies. I do not think there is any evidence in the States that at present operate State Government Insurance Offices to indicate that the fear expressed by members is justified. I am now thinking particularly of Queensland and New South Wales where there is nothing to show that these things happen.

What does worry me is the fact that here we are, a House of review, where legislation is sent to be reviewed in an impartial manner and yet we see from *Hansard* the sort of thing that is said in another place which disproves this fact.

On reading some of the *Hansard* statements made by members in another place I find a number of those statements completely destroy the principle of this being a House of review. I would like to quote a statement made on page 2170 of *Hansard* which states—

> If we on this side have our way about the only thing left in the Bill will be the full stop at the end.

That certainly does not give us very much to debate. It would be rather difficult to debate a full stop. On page 2175 of *Hansard* is another statement of a supposed request from an insurance company. It states—

> They probably suggested that the only acceptable amendment would be to delete all words before the full stop at the end.

Again, I do not know how we could debate a full stop.

The Hon. L. A. Logan: Are you quoting from debates in another place?

The Hon. D. K. DANS: Yes.

The Hon. L. A. Logan: Isn't that against Standing Orders?

The Hon. D. K. DANS: It is printed in *Hansard;* apart from which I am in the hands of the President.

The Hon. L. A. Logan: I realise that.

The Hon. D. K. DANS: One final comment I would like to make is in reference to another statement which appeared on page 2176 of *Hansard.* It is as follows:—

> I am certain that our colleagues in another place—acting as responsible elected members of Parliament—will, in fact, make sure that all that is left of this Bill will be the full stop at the end.

So much for our being given the opportunity to review the Bill. I would like the public of Western Australia to be aware of that situation.

Mr. Wordsworth very kindly gave us some history connected with people flocking to the cities in the United Kingdom. He did not tell us why they moved to other cities; he did not say that this was possibly because of the iniquities of the Acts dealing with enclosures and so on. That is probably what prompted people to move to the cities.

I was interested in an article which appeared in *The National Times* dated 11-16th September, 1972. With your indulgence, Mr. President, I would like to read this article to the House because it discloses there is a large number of insurance companies in this country which

in fact pay no income tax; and one of them, of course, is at present advertising for business in the State. Let us be honest when we face up to these things. I will agree that some of these are offshoots of other co-operative movements and offshoots that affect trade unions, but nevertheless I quote, and I intend to quote the lot—

> Biggest tax loophole is growing
>
> Business expansion of the ACTU focuses new attention on one of the greatest tax loopholes available in Australia. It is also one of the least known. But it has been exploited by employers' organisations for decades.
>
> And some industrial observers estimate that it is costing the Treasury $10 million to $12 million a year in lost revenues—or something more than the Federal Government is to spend each year in its various expanded housing assistance schemes.
>
> This loophole has financed some stiff competition with conventional businesses. And they are growing restive about the likelihood of further competition as the ACTU spearheads its new advances into business.

I grant that trade unions have this right. To continue—

> Despite the risks of inequities or the distortions which it creates in the "free enterprise" system, the loophole is unlikely ever to be closed under the present political system. It is too valuable to establishments which hold too much sway on both sides of the political fence—and in the Country Party paddock too.
>
> The loophole is that allowed under section 23 (F) of the Income Tax Assessment Act which makes free of income tax "the income of a trade-union and the income of an association of employers or employees registered under any Act or under any law in force in a territory being part of the Commonwealth relating to the settlement of industrial disputes."
>
> The great exploitation of this provision has been by employer organisations. It has enabled them to spawn businesses and highly profitable "services" which can provide tax-free benefits to the organisations and to their members.
>
> It has enabled some of them to develop the startling position where they are almost independent of their members. In fact, some employer organisations have the appearance of independent power bases—funded by the tax-free benefits associated with their "side line" businesses.
>
> The figures from just one major enterprise in this category demonstrate the value of the union-association-loophole. It is the Federation Insurance (FIL), an offshoot of the Victorian Employers' Federation (VEF). The FIL has paid a total of more than $3.5 million to employer organisations in the past three years in commissions alone. (They and their members, of course, have also received favourable insurance rates.)
>
> The commissions are, effectively, sales commissions paid to the employer organisation which refers business to the company. The FIL does not disclose its commission scales in its annual reports, although they appear to work out to between 7 and 8 per cent of gross premiums.
>
> Commissions in other sectors of the insurance trade range up to 20 per cent of premiums. But the FIL allows part of the normal commission proportion to go to the client who gets a more attractive premium—if he is a member of an affiliated employer body.

The Hon. D. J. Wordsworth: Are they not life assurance companies?

The Hon. D. K. DANS: I ask the honourable member to wait a while.

The Hon. L. A. Logan: No.

The Hon. D. K. DANS: They are not? To continue—

> There are dozens of varied employer organisations so affiliated—many of them in "small business" categories like shopkeepers or plumbers. But in addition to these organisations and their members, the VEF itself gets additional benefit from both commissions and from its ownership of the FIL.
>
> The ownership gives the VEF an asset base worth probably $8 million or more, and generally growing at a rate well in excess of inflation. In dividends the VEF has received just on $400,000 over the past three years. Dividends are low because the company itself must pay tax, and it consequently tends to allow real profits to go to its beneficial owners in the form of commission.
>
> Dividends, anyway, have very similar tax status in the VEF as in a normal business operated as a public company where they are effectively tax free. The benefits remain in the commissions.
>
> This must clearly make organisations like the VEF and its federated members much less dependent on their membership than in a simple trade-union or association. The VEF's books, of course, show affiliation fees

from its federated members, but part of that is financed by the members' commissions from FIL.

Less complex (because of its more centralised structure) but much the same in principle is the taxation advantage worked by the Chamber of Manufactures in Victoria, which runs the Chamber of Manufactures Insurance Co. Ltd.

There are other insurance companies which operate on similar lines —linked with Farmers' Unions or similar organisations—and there are dozens of major underwriters who trace their history back to semi co-operative starts with employer or merchant organisations in Australia or Britain.

The name "employers'" in their titles still, however, is about as realistic as the names "Shanghai" or "Canton" in some other insurance companies.

Difficulties of nomenclature collide with the more important questions in the whole issue of the union-association-loophole in the case of another insurance company, larger (in terms of premium income or assets) than either the FIL or the CMIC.

This is the VACC Insurance Company Ltd. a listed associate of the Victorian Automobile Chamber of Commerce. The VACCIC not only pays commissions but it involves some serious questions about foreign investment.

Enterprise of the size and scope of these employer-linked businesses has long been anathema to the trade union movement. Union activity in business has tended towards the less profitable, more ideological end of the spectrum. Unions have secured interests in the media—a radio station here and a few printing presses there.

But the Hawke moves into retailing through Bourke's Melbourne and now into travel jointly with TNT are testing and extending the boundaries of ideology. They can be justified—like TAA in the "fight" with Ansett—on the grounds that they are keeping the field competitive and lowering prices. However, the claimed (but as yet unrealised) profit potential of Bourkes is openly cited as a source of funds for all sorts of further ventures.

The Hon. D. J. Wordsworth: What has this to do with insurance?

The Hon. D. K. DANS: It has plenty to do with insurance, if the honourable member will just listen.

The Hon. Clive Griffiths: Do you think we should close the loophole?

The Hon. D. K. DANS: The honourable member has no chance of doing that! To continue with the quote—

> And the ideal of just providing services is being blended with the traditional entrepreneurial tendency to empire build—even if mainly with words at *this stage*.
>
> Broadening of the ACTU entrepreneurial ambitions like this brings a dimension which employers bodies have generally avoided by not competing with too many of their members.
>
> When the union-association-loophole is used for such a wide variety of businesses, some philosophical problems are raised. If these businesses enjoy a taxation advantage not shared by their rivals in conventional commerce, their competition could be seen as inequitable.
>
> Some businessmen are already comparing the prospect of such competition with that from friendly societies (which also compete in insurance and life insurance) or from churches (which compete in property mainly) or even from the occasional loss companies (which compete everywhere).

An aspect which worries me is an advertisement that appeared in *Motor Industry*, the official publication of the W.A. Automobile Chamber of Commerce. This appears under the heading, "Our branches will protect you." The advertisement is inserted by the Amev Life Assurance Co. Ltd., a company incorporated in the Australian Capital Territory.

That advertisement should be an answer to the comment made by the honourable member who said that it does not engage in life assurance. The advertisement reads—

> Amev Life Assurance Company Limited, which is now partly owned by the V.A.C.C. and VACC Insurance Co. Ltd., is being sponsored in Western Australia by W.A.A.C.C.
>
> W.A.A.C.C., apart from becoming shareholders in AMEV will receive over-riding commissions on business transacted by the Company in W.A.'s motor trade—thus whenever you require assurance of the type listed above, contact AMEV.

The telephone number of the company and the name of the manager are listed in the advertisement.

So much for the benefits that will flow to the people of this State through the right being granted to the State Government Insurance Office to engage in insurance business generally. It appears to me that certain sections of the community have the right to all the benefits of free enterprise, but when it comes to the people

themselves getting a little benefit then certain persons, including some in this Chamber, maintain this is not fair.

It also appears the Government should be permitted to engage in any kind of business, so long as that business makes a loss. However, I would not like to suggest that a private transport operator take over the running of the railways, or a private shipping company take over the running of the State ships. If that were done I am sure all hell would be let loose.

I commend the Bill to the House, despite the fact that its fate seems to be predetermined. I think the people of Western Australia are entitled to be given a chance to insure with the State Government Insurance Office. I believe that none of the restrictive trade practice measures should be applied to this State enterprise.

I believe we should grant the State Government Insurance Office a wider franchise, and we should be prepared to learn from what transpires when people are given the opportunity to make their own choice. I got the impression from what Mr. Wordsworth said that this Bill sets out to make it compulsory for people to insure with the State Government Insurance Office. Let me conclude on this note: It does not.

The Hon. D. J. Wordsworth: I did not say that.

The Hon. D. K. DANS: I got that impression, but I might have been wrong. The people of Western Australia should be given a freedom of choice of the services being offered in respect of insurance, and they should not be subjected to what I would regard as restrictive trade practice measures in their desire to insure with the State Government Insurance Office.

THE HON. S. J. DELLAR (Lower North) [5.35 p.m.]: I rise to support this Bill, the purpose of which is to extend the franchise of the insurance business conducted by the State Government Insurance Office into areas in which it is not now permitted to operate. Previous speakers in this debate have referred to the policies and ideals behind this legislation, but whether they be Liberal or Labor is not the important aspect. I do not believe this is the main argument before us.

I am not a historian, but I wish to relate a few facts to the House. As the name implies, the State Government Insurance Office is a Government instrumentality. It is a very efficient organisation which does show a profit; in many avenues it has assisted the people of Western Australia, by way of loans to local authorities or by paying the profits it made to the Government for the benefit of the people generally.

This instrumentality offers State-wide coverage in the limited fields in which it is now permitted to operate. However, private insurance companies have other classes of insurance which they can conduct. They are only able to make the profits by being selective in the type of coverage they offer. It is mainly through the premiums paid by people who insure with the private companies that those companies have been able to offer bonuses, pay dividends, and erect magnificent buildings, as is evident along St. George's Terrace; whereas the profits from the State Government Insurance Office are returned to the people, as these moneys are paid into Consolidated Revenue. Even if only in a small way these profits do confer some advantage on the people of the State.

Recently Mr. Withers spoke on the subject of housing and told us how the Government had discriminated against the people living in the north. I do not believe this to be so, but whether or not that is correct there are certain facts which relate to this question. I believe that some insurance companies—I am referring mainly to companies dealing in motor vehicle insurance—are discriminating against people living north of the 26th parallel, and these include the Royal Automobile Club of which I was a member. When I was living in the southern part of the State I was a member of the R.A.C. and insured my vehicle with that company. However, when I went to live at Carnarvon I was told by the R.A.C. in a gentlemanly manner that as I was to live north of the 26th parallel it could not continue the insurance cover on my motor vehicle. The R.A.C. told me that if I still wanted to retain my membership I could pay the annual subscription, but it could not offer me insurance cover. I suppose that if I retained my membership, and my car broke down while I was travelling between, say, Carnarvon and Gascoyne Junction I would be entitled to ask it to send a van along to effect repairs. I doubt whether it would be prepared to do that.

When I transferred my insurance policy to the State Government Insurance Office, with which I am still insuring my vehicle, it was prepared to take over my no claim bonus rate which applied with the R.A.C. Unfortunately this policy of taking over the no claim bonus rate was discontinued some three or four years ago, the reasons being that those who were transferred in the course of their employment to areas north of the 26th parallel found they could no longer carry on their motor vehicle insurance policies with the existing companies. Consequently they transferred the policies to the State Government Insurance Office which, at the time, accepted their no claim bonus rate and gave them other concessions. A great number of these policy holders were posted north of the 26th parallel for two or three years, after which time they returned to Perth.

On returning to the southern part of the State these people transferred their insurance policies to private insurance

companies. For the two or three years during which they were insured with the State Government Insurance Office they were covered for the higher costs of repairs, and other associated costs involved in the repair of motor vehicles in the north. This disadvantaged the State Government Insurance Office as it had allowed the no claim bonus rates to apply, although the cost of repairs to motor vehicles in the north could be twice as high as the cost in the metropolitan area.

The State Government Insurance Office does accept the liability of insuring motor vehicles belonging to people residing in the north of the State, in areas where the costs of repairs are much higher than those applying in the metropolitan area. It is my opinion that private insurance companies will not offer motor vehicle insurance cover north of the 26th parallel. The private companies want the cream of the insurance business, and they are not prepared to accept all the risks.

The Hon. R. J. L. Williams: I do not think that statement is correct.

The Hon. R. Thompson: Tell me one private company that does offer this type of insurance.

The Hon. S. J. DELLAR: I have before me two insurance policies. The first is with the State Government Insurance Office and the second is with Swann Insurance Ltd., a company incorporated in Queensland. The last mentioned policy covers a vehicle belonging to a person living in the metropolitan area. If we disregard the name of the insurer on the two policies, the two crests, and the details contained in the schedules, we find that the clauses are almost identical.

Turning to the exclusion clauses in both policies we find they are identical; and this provision applies throughout Australia. However, in the policy with Swann Insurance Ltd. there are two endorsements attached. The first is—

> The first $100.00 whilst the vehicle is being driven by or is in the charge of any person who has not attained the age of 21 years.

The second endorsement is—

> This policy does not cover any vehicle normally kept and/or used north of 26th parallel.
>
> Prior arrangement in writing must be made with the company if the vehicle is to be taken north of 26th parallel and an appropriate extension of the policy is required.

It appears that if the policy holder wanted to take his vehicle north of the 26th parallel he would have to obtain permission from the company.

In many instances this procedure has had to be followed. I refer to families of R.A.A.F. personnel who have been transferred from Queensland to Learmonth in Western Australia. Invariably those people had policies with companies in other States, and these had been operative for some years. On being transferred to Learmonth they had to forego their no claim bonuses, and take up policies, presumably with the State Government Insurance Office, to cover their vehicles while they were at Learmonth.

The Hon. Clive Griffiths: What would motivate a person, who had been insured with the State Government Insurance Office while he lived north of the 26th parallel, to change over to one of the private insurance companies on returning to the metropolitan area?

The PRESIDENT: Order! The honourable member will proceed.

The Hon. S. J. DELLAR: It has been said in another place that private insurance companies do conduct motor vehicle insurance business and take all the risks involved. I maintain they do not. They only want the cream of the business; they are not prepared to enter areas of the State where, because of vast distances, additional costs are involved in the repair of vehicles, as a consequence of which their profit margins would be reduced.

If it is good enough for private insurance companies to pick out the best areas of the State in which to operate, then it is good enough for the State Government Insurance Office to enter into all fields of insurance for the benefit of the State and its people. I support the Bill.

THE HON. R. THOMPSON (South Metropolitan) [5.44 p.m.]: I am somewhat amazed to hear the contributions that have been made in this debate. It is obvious that most of the members of the Opposition who have spoken have not come up with anything to justify their arguments. In the main they have claimed they believe in private enterprise, and that the State Government Insurance Office should not enter into other fields of insurance. They are fearful for the jobs of some of the people living in Albany, and they are fearful of many other factors that are not written into the Bill, or will be included in the Act if the Bill becomes law.

At the present time the State Government Insurance Office has a very restricted franchise which covers employers' indemnity insurance. This, of course, includes workers' compensation, motor vehicle comprehensive insurance, students' personal accident insurance, and insurance excepting life assurance covering local authorities and Government properties.

This Bill purely and simply requests that the franchise of the State Government Insurance Office be extended so that the company can enter the field of general insurance. The S.G.I.O. does not seek any unfair advantage over other companies, and this is clearly spelt out in the Bill.

The company will pay the same rates and taxes and the same commissions as apply at the present time. I cannot understand the reasoning of those who say that the State Government Insurance Office should not enter the life assurance field.

Mr. Wordsworth tried to convey to members in this Chamber that all life assurance and insurance companies in Australia—or those which operate in Australia—dispense their profits to their shareholders or policy holders by way of dividends, and that everyone who has a policy in a company is an interested party.

The Hon. D. J. Wordsworth: I did not say that.

The Hon. R. THOMPSON: I think if the honourable member checks *Hansard* he will find he said that policy holders share in company dividends, and that they are the owners of mutual companies.

The Hon. D. J. Wordsworth: I said that life assurance is the home of the mutual companies.

The Hon. R. THOMPSON: I do not think the honourable member knows what he did say.

To claim that the Bill is aimed at life assurance and insurance companies which operate in Australia and in Western Australia—and which are owned by the shareholders and policy holders—is no criterion for the rejection of this Bill because most of the policy holders may not even reside in Australia, or more particularly, they may not reside in Western Australia. Every person in Western Australia is a shareholder in the State Government Insurance Office and if we deny the S.G.I.O. an extension of its franchise I think our credibility will be at stake. We are virtually telling the people of Western Australia that they can invest in overseas companies, or in one of the Australian-owned companies.

The Hon. G. C. MacKinnon: The rejection of this Bill does not imply any such thing. People can go to any of the other companies, some of which are Australian owned.

The Hon. R. THOMPSON: That is so. I have no objection to Australian-owned companies and I do not intend to change my insurance companies. I have policies with two public companies and I am satisfied with the treatment I receive. However, I do not think we have the right to stop a person insuring with the State Government Insurance Office.

The Hon. G. C. MacKinnon: We have the right.

The Hon. R. THOMPSON: Members opposite may have the brutal numbers, but not the right.

The Hon. G. C. MacKinnon: We have the right, too.

The Hon. R. THOMPSON: It may be as well to quote an article which appeared in *The West Australian* of Wednesday, the 19th July, 1972. It appeared under the heading, "Foreign control of insurers grows," and it was as follows:—

> CANBERRA, Tues.—The Commonwealth Actuary and Insurance Commissioner, Mr. S. W. Caffin, said today that of 49 life insurance companies operating in Australia, 36 were foreign-owned or controlled.
>
> He said this compared with only two foreign companies operating in Australia under the Life Assurance Act in 1946 out of a total of 22 life insurance companies.
>
> Mr. Caffin was giving evidence before the Senate select committee on foreign ownership and control of Australian enterprises.
>
> He produced figures showing that the share of new sums insured by foreign controlled companies had increased from 5.7 per cent. in 1951 to 26.1 per cent. in 1971.
>
> Mr Caffin said that a 42 per cent. share of ordinary business obtained by foreign controlled companies last year had been largely due to a substantial rise in the volume of term insurances obtained overseas by one company and placed on Australian policy registers.
>
> **IDENTIFIED**
>
> An executive officer, Mr. R. J. Brophy, who appeared with Mr. Caffin, identified the company as Hallmark, an Australian incorporated subsidiary of an American company.
>
> He said the business arose from short-term policies on lives in North America and re-insured under the one policy which was placed on Australian registers.
>
> Mr. Caffin admitted to Senator Cant (Lab. W.A.) that one reason for the growth in new sums insured by foreign controlled companies was the increase in the number of foreign controlled companies.
>
> He maintained, however, that the increased share of business obtained by them should be related to the small base from which the companies started in Australia, and an "explosion" in the amount of new business written between 1951 and 1971.
>
> In reply to another question from Senator Cant, Mr. Caffin said that he, as Insurance Commissioner, had power to ask life insurance companies to divest themselves of unwise investments.

He also had the authority to investigate, to issue directions, to have a judicial manager appointed through the court, or, in extreme cases, to have a company wound up.

Mr. Caffin said there had in fact been cases where unwise investment had been made by both Australian and foreign-owned or controlled companies.

And so the article goes on. I will now refer to the companies which operate in Australia, and which are owned by outside interests. They are as follows: The Mercantile and General Reinsurance Company, Limited, U.K. owned; Munich Reinsurance Company of Australia Ltd., Germany; Norwich Union Life Insurance Society, U.K.; Phoenix Life Assurance Co. of Australia Limited, U.K.; Producers & Citizens Life Insurance Co. Limited, Italy; The Provident Life Assurance Company Limited, New Zealand; The Prudential Assurance Company Limited, U.K.; Royal-Globe Life Assurance Company Limited, U.K.; Scottish Amicable Life Assurance Society, U.K.; Security Life Assurances Limited, U.K.-Australia; Skandia Australia Insurance Limited, Sweden; South British United Life Assurance Co. Limited, New Zealand; Swiss Reinsurance Company, Switzerland; Switzerland Life Assurance Society Limited, Switzerland; The Victory Reinsurance Company of Australia Ltd., U.K.; Yorkshire-General Life Assurance Company Limited, U.K., and so they go on.

Of the 48 registered life companies, 15 are totally Australian owned. Of that total of 48, some 31 are administered from New South Wales; 16 from Victoria and one is administered from New Zealand. Not one of the companies is administered from Western Australia, South Australia, Queensland, or Tasmania. So it can be seen that a very profitable business is available to people who come to Australia and open a branch office—which requires registration in one of the States—and then move into Western Australia or any other State of the Commonwealth and open other branch offices. As Mr. Dans pointed out, a new company recently opened up and is now in business. It is deplorable that we should allow dividends and profits to go out of Western Australia when we so badly need the money in this State.

Mr. Wordsworth is continually asking questions and wanting to know what is to be done in the Esperance area. He would spend the whole Budget in that area if he had his way. However, when it comes to the State Government Insurance Office entering into the field of general insurance, and being able to make a profit while providing a choice for the people, he is opposed to the proposition. That attitude is un-Australian and particularly un-Western Australian. It seems that we are to allow party ideologies to come into the debate, and the people of Western Australia are to be denied the opportunity to choose which insurance company they will select. Where does free enterprise start and finish?

The Hon. D. J. Wordsworth: With your Bill.

The Hon. R. THOMPSON: Is it a case of free enterprise for friends only? The proposition contained in the Bill now before us offers free enterprise for Western Australians, in the true sense of the word. I hope that Mr. Wordsworth has now read the Bill because I am sure he had not read it before he made his speech. I am sure he will realise that the State Government Insurance Office would be on an equal footing with every other insurance company in Western Australia.

The Hon. R. F. Claughton: Not those companies which do not pay tax, though.

The Hon. R. THOMPSON: They all pay tax.

The Hon. R. F. Claughton: There are some companies, apparently, which do not pay tax.

The Hon. R. THOMPSON: There are ways and means of evading tax. A few years ago we heard a member in this House tell us, on innumerable occasions, of the methods used by companies to dodge tax. Although that person was not on our side of the fence he was realistic. He detailed the "wroughts" which were perpetrated by foreign companies in Australia.

The Bill we are debating provides that the State Government Insurance Office will employ agents and pay commissions, and that it will not have any unfair advantage over other companies. I think it was Mr. Baxter who made the point that this was a dangerous precedent and said he could envisage the State Government Insurance Office having an unfair advantage because it would be able to obtain the business of the Police Union, the Teachers' Union, and the civil service. On reflection, I think it must have been Mr. Logan who made the remarks, and I apologise to Mr. Baxter. Mr. Logan said that the employees of the organisations I have mentioned could have insurance premiums deducted from their pay, which would create a monopoly for the State Government Insurance Office. However, no monopoly would be created because this is already happening with public insurance companies. It has been the situation for years. An authorisation is given to the department employing a person, and the insurance premiums are deducted and paid directly to the insurance company.

The Hon. R. F. Claughton: I did that myself.

Mr. R. THOMPSON: The same thing happens in the case of the Army. A very good friend of mine sells life assurance only to Army personnel. He had a wonderful business because he had the necessary contacts, and he was an honest operator. He would sign up recruits as they entered the Army. It is possible that he had some sort of advantage over other agents; I do not know.

So it can be seen that public insurance companies are quite prepared to create their own little monopolies. However, when it comes to offering Western Australians competition from the S.G.I.O. the answer is, "No." It seems that such a proposition is socialistic and there is something bad about it.

I want to see more hospitals and schools constructed throughout Western Australia; I want to see pre-school education introduced for all children; and I want a host of other things—as does Mr. Wordsworth —which I do not think the present Government, or the next Government will be able to finance in my lifetime. Therefore I want to see the S.G.I.O. profits work for the benefit of Western Australians.

The Minister pointed out in no uncertain terms that members of the staff of the State Government Insurance Office are at the present time qualified in all aspects of insurance work, from actuarial work down.

The Hon. G. C. MacKinnon: They are obviously not qualified in life assurance because they have not done it. How could they be?

The Hon. R. THOMPSON: That could be true, but the Minister said a suitable person would be engaged.

The Hon. W. F. Willesee: The A.M.P. started from nothing.

The Hon. R. THOMPSON: All insurance companies start from nothing.

The Hon. G. C. MacKinnon: I am fully aware of that. I am picking you up on your statement that the staff had expertise in every branch of insurance. According to the Minister's speech, they have not.

The Hon. R. THOMPSON: I acknowledge what the honourable member is saying, but all insurance companies have had to start somewhere. In New South Wales, Queensland, and Tasmania, where the Government insurance offices have a full franchise, millions of dollars have been ploughed back into Consolidated Revenue over the years. I have the figures in front of me and they are available to anyone who wants to know how much money has been paid into Consolidated Revenue by the various State Government insurance offices. The State Government insurance office in Queensland was opened in 1922 and it has had a full franchise since 1924. Insurance is not a monopoly in Queensland, Tasmania, or New South Wales, and the public has a choice. The offices compete openly, as would the State Government Insurance Office in this State. The Government insurance office in Victoria has a limited franchise and we are therefore unable to ascertain what has been paid into Consolidated Revenue by that office.

The Minister mentioned the moneys that have been paid into Consolidated Revenue by the Western Australian State Government Insurance Office. Since its inception it has built up assets to the tune of $28,600,000, without Government assistance. If it can do that with a limited franchise, is there any good reason why the public would not insure with the State Government Insurance Office and accept it in open competition?

Everybody is in favour of buying goods made in Western Australia, irrespective of which Government is in office, but the Opposition is not prepared to let the public buy Western Australian insurance. How sincere are we? Because of something that happened in the past—I think it must have been before I came into Parliament because Mr. Logan said he had opposed this suggestion for 21 years—

The Hon. L. A. Logan: I did not say 21 years.

The Hon. R. THOMPSON: It must have been 16 years.

The Hon. L. A. Logan: I did not mention any number of years at all.

The Hon. R. THOMPSON: Mr. Logan said he had opposed it on every occasion.

The Hon. G. C. MacKinnon: You seem to be making up speeches for everyone.

The Hon. R. THOMPSON: Mr. Logan said he had opposed it on every occasion it had come before the Chamber. Predetermined ideas are not much good because we are living in 1972 and people are entitled to have a choice. I hope they will be given the option to invest their money in life assurance with the State Government Insurance Office. I support the Bill.

Debate adjourned, on motion by The Hon. J. M. Thomson.

Sitting suspended from 6.05 to 7.30 p.m.

LAND DRAINAGE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 17th August.

THE HON. N. McNEILL (Lower West) [7.31 p.m.]: The Bill, as explained by the Minister, makes provision for three amendments in particular. The first proposed amendment is of a relatively minor nature and whilst I will a little later make some reference to it, it is not my intention to oppose it. The remaining two amendments are of some considerable significance, and

it is my intention to devote a little time to an examination of the implications surrounding them.

The first comment I would like to make is that a good deal of discussion ensued in another place regarding the significance of these amendments. In view of the debate which took place and the nature of the comments made elsewhere, it is a matter of considerable regret to me and, I am sure, to the House in general, that the Minister when introducing the legislation in this House did not give us greater detail or elaborate a little more on what is proposed.

The implications of the amendments in the Bill in my view certainly warrant a good deal more explanation than we received, more particularly—I repeat—because of the attention which was drawn to the significance of the proposals in another place.

The first amendment is to section 60 of the principal Act. That section contains a statutory requirement that before any works in excess of $1,000 in value may be carried out the approval of the Governor-in-Council must be sought. Under the proposed amendment it will be necessary to obtain such approval only where the amount of expenditure on the work will be in excess of $5,000. That is the significance of the amendment.

I think it is not unreasonable that such a change should be sought, because work amounting to the value of $5,000 is of little consequence in relation to the overall drainage works carried out throughout the State. It would seem to me to be quite unnecessary to seek statutory approval for works of a lesser value. So with that amendment I agree.

The next amendment appears to have arisen as a result of a certain case heard some years ago in the Supreme Court, and in connection with which judgment was given in favour of certain plaintiffs. Those plaintiffs were, in fact, three farmers of the Harvey district who had taken action against the Minister for Works for damages and compensation as a result of flooding which had occurred from the Harvey River diversion during the severe floods of 1964.

In his explanation the Minister indicated that, as a result of that judgment and of the examination of matters relating to it, both technical and otherwise, the present requirement in the Act is impracticable and meaningless. The requirement in the Act referred to by the Minister is that which is found in section 60 (2) (c) and states that when drainage works are to be carried out or have been constructed it is necessary for the engineer-in-chief or officer deputed by him to provide a certificate to the effect that he is satisfied that the proposed works will be of sufficient capacity to carry off all waters which may reasonably be expected then or at any future time to flow into such works from the catchment area which will be served thereby, and that a reasonably sufficient outlet to the sea has been provided.

The Minister indicated that, as a result of the judgment given in the Supreme Court, the requirement I have just stated had, in fact, never been met in connection with any construction works of a drainage nature. No certificate has ever been furnished. Certainly in the case which went to the Supreme Court reference was made to the existence of such a certificate but, of course, no certificate actually existed. I interpret the Minister's statement to mean that because no certificate was available in respect of those particular works, which were the subject of a complaint and of a suit for damages and compensation, that in itself is sufficient reason to remove from the Statute the need for any such requirement. That is the impression I gained from listening to the Minister and from reading his speech.

I would like to devote a few minutes to explaining what happened in this particular case. This is what I was referring to when I said it is a matter of some regret that the Minister did not make available more information and did not elaborate in more detail on all of the circumstances surrounding the case. Because of the lack of time and also because of the inconvenience involved I have not had available to me the Supreme Court judgment, but I have had the opportunity to discuss the matter with the legal firm which acted for the plaintiffs. I would like to refresh members' minds about what happened in 1964.

The works in question and to which this Bill refers are known as the Harvey River diversion. As you may well recall, Mr. President, the Harvey River diversion was a construction work of considerable size which took place during what are known as the depression years when large drainage works were carried out in the Harvey-Waroona-Dardanup coastal plain area. It consists of a channel which was provided for the purpose of taking top flow from the Harvey River and also some waters from the Wokalup River on a straight artificial cut through to the sea directly west of Harvey.

As I am sure members will know, the Harvey River on leaving the Harvey district proceeds generally in a northerly direction and feeds directly into that stretch of water known as the Harvey Estuary, and then into the Peel Inlet. So two watercourses are associated with the Harvey River.

In this particular instance the works relate not to the Harvey River but, in fact, to the Harvey River diversion, which, I

say again, was designed to take top flow water from the Harvey River and also some water from the Wokalup River.

In the years which have transpired since that work was carried out the Harvey River diversion has taken much more water than ever comes out of the Harvey and Wokalup Rivers; in fact, it is a gathering place for a great many other drains in the Harvey district. A number of drains feed into the channel. Whereas when the channel was constructed it was designed to take those waters which I mentioned initially, it was not necessarily designed to take the waters which have been fed into it in the last 30 to 40 years. The net result, of course—and this is quite important—is that it has an incapacity for the water directed into it and, more particularly, an incapacity in a year such as 1964 when considerable flood conditions prevailed.

Under those circumstances, and because the design was such as to take river and not drainage flow, I understand from my inquiry from the source I previously mentioned that in the Supreme Court the matter was raised that the drainage waters have contributed to a silt condition; in other words, the design is such that the channel is somewhat prone to silting up. Added to that, of course, is the fact that there is a continual need of maintenance to facilitate the free flow of water, as well as what we describe as desnagging work and other work on the lower reaches of this watercourse to ensure a free flow of water into the sea.

These are the considerations, as I understand them, upon which the Supreme Court judgment rested and hinged: that because the design was not for the purpose of drainage water but, in fact, for river water, the fact that no certificate was made available in respect of the works was of some importance but not of overall importance in the resolution of the question. Had a certificate been submitted by the engineer-in-chief or a drainage board officer, it is conceivable that it would have indicated that the diversion watercourse would have had a capacity sufficient to handle the top flow water from the Harvey and Wokalup Rivers, but not necessarily sufficient to handle the other waters which have been added to that stream subsequently.

In 1964—and we will all recall that we experienced considerable flood conditions in that year in most parts of the south-west—the watercourse was not of sufficient capacity to cope with the flow, and serious flooding took place, as a result of which three farmers in particular took action against the Minister for Works. The importance of this—and I acknowledge it—is that at the time the works were constructed the country was in a state of depression and, therefore, money was in short supply. We can accept that fact. But, in trying to determine the economics of the works, one imagines that due regard would have been had for the overall question of providing with the money available a sufficient outlet to take the surplus water from the two river systems.

In this Bill it is indicated that because of that Supreme Court judgment and, in the words of the Minister, because the requirement is meaningless, that provision will be taken out of the Act altogether. I would like to indicate to the House what the reading of the Bill will convey to me if that requirement is removed. We must bear in mind that if a certificate were issued for any works the department would be held responsible for the design of those works. If we say that the works were designed to cope with flood conditions which, in the parlance of the department meant conditions such as a one in 50 years flood, and in fact there was a flood which was a one in 100 years flood, then clearly that work would not be adequate to cope with the flow of the flood water, and because the works were not adequate and some flooding would ensue, in all probability land owners in the vicinity would have grounds for proceeding against the Minister for compensation.

Clearly that is a situation in which the department and the Minister would not wish to be placed. So we could overcome it by an engineer issuing a certificate to cover even a lesser possibility; to cover a set of conditions where a one in 100 years, or a one in 500 years, flood may be encountered, and stating that the works were so designed to cope with flood water resulting from such conditions. However, the inconceivable may happen, where the flood conditions would be of the order of one in 1,000 years. It is clearly not reasonable for drainage works in particular to be constructed on a basis such as that, as the Minister has mentioned, because the cost would be out of all proportion, and therefore the works would not be carried out.

If a flood did occur under the conditions I have mentioned, once again, under the Act, the department and the Minister would be liable, because the certificate issued would clearly show that the drainage works constructed were not sufficient to provide an outlet for the water in a one in 500 years flood. So once again the Minister would not wish his Government to be placed in that position; that is, to be so susceptible to a damages or compensation claim.

What is the alternative? It was discussed in the Supreme Court that there should be a statutory exemption. This is one way, perhaps, whereby the Act could be amended rather than seek to amend it in accordance with the provisions contained in this Bill. There could be a statutory exemption to the extent that the certificate, if it were

provided by an engineer, could be qualified by containing a condition that the works were designed for only a certain capacity of water. I appreciate that even that could pose some difficulty at some time in the future if an extremely unusual flood took place.

By way of a parallel I would like to indicate that any major catchment works, reservoirs, and the like, such as the Serpentine Dam and the Canning Dam, would have to be designed to cope with any possible eventuality. In other words, they would virtually have to be guaranteed as safe, no matter what flood or rainfall conditions eventuated. This is clearly not the situation in relation to drainage works, as indicated by the Act. However, to amend the Act to provide for the removal of the provision allowing for the issue of a certificate by an engineer would mean that in future cases, where a person wished to proceed against the Minister and the Government with a compensation or damages claim because of flooding that has occurred on his property as a result of the inadequacy of any drainage works, the onus would be on the plaintiff to prove all the technical detail in relation to his case.

In other words, all responsibility and all onus would be removed from the department and the Minister for Works. In my view that is the real significance of this particular amendment.

In the future the size and the nature of the construction carried out by the department would not matter, because virtually there would be no requirement and no necessity for the department to provide for any particular volume of water. In the Act the words "reasonable flow" and "reasonable outlet" appear. The word "reasonable" is a legal term and, to a large extent, depends on interpretation; but clearly there would not be any necessity for the department to provide works of any particular nature which would be adequate to handle any particular volume of water. Even if the works were, in fact, totally and completely inadequate and if, in fact, flooding occurred every year as a result of these works being constructed, clearly it would not be within the realms of possibility for any landowner making a claim against the department—because of the responsibility that would be thrown back on him—to prove in every detail that the works constructed by the department were inadequate. It is quite clear that the ordinary person has not available to him, and has not access to, design detail and all the hydrographic and other studies that would be necessary for him to prove his point.

I will refer once again to the cases that were brought by three plaintiffs before the Supreme Court. They took action against the Minister for Works and the onus was on the Minister or the department to prove that they had carried out construction works to a certain capacity, and the fact that they were unable to substantiate their case contributed to the grounds upon which the plaintiffs won their case.

If the Bill is passed, all this would be changed in the future. Virtually the department would have no responsibility. Quite seriously I think this is a most unfair situation in which to place any landowner who has had drainage works—and some of which are quite major works—constructed on or near his property on which flooding at some time may occur. After all is said and done the landowners in all these drainage areas are rated and they contribute a large amount of money to Consolidated Revenue by way of drainage rates. In view of the fact that these people are paying large amounts of money for the service to the Public Works Department and the drainage boards, surely they should have some redress in the event of flooding or other damage occurring. However, in the future, should this clause in the Bill be passed, that responsibility will be removed from the department.

The Bill provides, in the event of any compensation being paid—

> The compensation payable to any person for any damage sustained by him through the exercise of the powers conferred by this Part shall be reduced by—

I place some emphasis on two expressions used there; firstly on the words "conferred by this Part" and secondly on the use of the word "shall". This amendment continues to the effect that any claim for compensation made by him shall be reduced by—

> The amount, if any, by which the value of any property of that person wherever situate has been directly or indirectly enhanced by the construction of any drainage works in the course of the exercise of those powers; and

Those words form part of the first paragraph in the proposed new section 65A. I will now go into a little more detail on that amendment.

I would have no objection to the inclusion of that clause in the Bill if it related only to section 64 of the principal Act, the marginal note of which reads—

> Branch drains. Board may authorise owner to construct branch drain.

That section deals only with branch drains which are those located on private property and which feed into the mains. There are all sorts of powers conferred under section 64. An adjoining owner can construct branch drains and bear the

liability of their cost and if this is not done the department may carry out the work itself and charge the owner accordingly. The important factor is that section 64 relates simply to the construction of these small drains, as I will call them. These small drains are located on individual properties, or on two or three properties in the proximity.

It is clear—and I would agree—that in those circumstances, if there were to be any compensation claims for damage as a result of flooding because of the inadequacy of those works, it would not be unfair for the department and the Government to put forward the argument, "Well, after all, as the landowner, you have been receiving considerable general benefit from those drains, and whilst you may, in one year, have a case for compensation, over a great many years you have derived considerable benefit from the construction of those drains. Therefore, it is reasonable that any compensation claim you make shall be reduced by the value that those works have been to you, or the extent to which your property has been enhanced as a result of the drainage works."

Therefore I qualify my remarks to say that I agree with that subclause to the extent that it refers only to the works carried out and the powers conferred under section 64 of the Act; but section 64 of the Act is not mentioned. The Bill states, "by this Part", and the part referred to is Part VI—The Construction and Maintenance of Works. In other words, it is not just the works constructed under the powers conferred by section 64 that we are referring to; it is all construction and all maintenance of any sort of work that is carried out under the sponsorship and under the authority conveyed by the Land Drainage Act.

In those circumstances I do not think it is reasonable that if a person who has suffered some damage from flooding makes a claim against the Minister, the Minister should say, "Well, you have derived great benefit, from these drains. We will assess the value of the drains to your property and to you personally and we will take it from the amount of your compensation." I say that that would be fair enough where the reference is to works of a small nature on that particular landowner's property, but it could well refer to major construction works.

It may relate to lochs and barriers at the end of a watercourse leading out to the sea or to other works of enormous value which, for some reason or other—perhaps inadequacy—have contributed to the flooding condition on this person's property, possibly many miles back. However, because that person is deriving a benefit from the departmental works, the cost of his compensation shall be lessened by the amount of benefit he has derived from the works. In the circumstances I just do not think this is reasonable. Paragraph (b) of proposed new section 65A reads—

> (b) the value, if any, of any immediate or proximate benefit that has been gained by or become available to that person by reason of the construction, use or maintenance of any drainage works under this Act.

I could well imagine that under those circumstances some landowners—and particularly the larger ones—would never be making a claim irrespective of the amount of damage experienced as a result of the flooding; because, firstly, they would have to prove all the circumstances relating to their claim; and, secondly, how difficult would it be to try to assess the value of the work done? If a property were in the foothills, how could an assessment be made of any proximate benefit of works carried out in the Peel Inlet? In my view this would be almost an impossibility except by an expenditure of a great deal of money on investigations. Consequently I believe it would not be reasonably done by most people.

Once again I emphasise that the onus and responsibility are removed from the department and thrown back on the landholder simply because he derives some benefit.

In the course of my researching I could not help but refer to the debates which ensued in another place in 1925 when the legislation was first introduced. Reference was made then to the lack of drainage and the potential of the countryside. The Pinjarra and Harvey areas were specifically mentioned.

Much of the attention of people like Sir James Mitchell, W. J. George, and others in that debate, was focused on the great potential and the benefits which could be derived by and afforded to landholders in that area if only drainage could be provided as a result of the legislation then being discussed.

We must remember, of course, that the Act of 1925 was merely a successor to previous legislation enacted in 1900 and I found it very interesting to refer to what was said on that occasion. You, Mr. President, would be interested to know that the sentiments expressed then were much the same as those expressed in 1925, and again the Harvey and Pinjarra coastal plain area was mentioned specifically.

Clearly the intention of the Governments of those days was to provide a drainage service and system which would facilitate the opening up of that countryside and take advantage of the enormous agricultural potential which was latent in it in those years.

Now, after 72 years, the wheel has turned and we are perhaps no longer necessarily concerned about the future of our agricultural production or the potential for the landholder because now we must protect the interests of the department to an extent which I am sure would not even have been envisaged by the fathers of this legislation. So the wheel has turned and the onus of responsibility has been shifted completely, and I express my considerable disappointment at the introduction of this amending legislation.

We can go a little further and deal with the third amendment which has been described as consequential. Because it is intended to delete from the Act the requirement for the submission of a certificate by the engineer-in-chief, a change is necessary in another place, and it is proposed to make this change by including a new section 164A which will make the provision completely retrospective.

This amendment will mean that all the drainage works which were carried out before the coming into operation of this Bill of 1972, shall in fact not be deemed to have been constructed without the authority conferred by section 60 or 62 of the Act by reason only that a certificate in the form set out in paragraph (c) of subsection (2) of section 60 was not obtained before the construction of those works was undertaken.

In other words we are to wipe the slate clean. For 70-odd years the Act has been in operation and presumably—I must confess I have not checked on this point back to 1900—this provision has been in it for that time; but now we are to remove it and provide that there never was such a requirement. Consequently at any future time if a person in any of the drainage board areas wishes to make a claim, the department will not be required to have a certificate to indicate that the works in question were designed to cater for a certain flow. It relieves the department—perhaps justifiably; this can be argued—of the necessity to design and construct works according to what may well be a need some time in the future. It has been claimed by the Minister that if the department had to stand on its own certificates and indicate that the works constructed would withstand a flood or rainfall of one in 100 years, and we were unfortunate enough to get a rainfall of one in 500 years, then the department would be liable. What the department would then have to do would be to construct the works to take a flow of one in 500 and that would be expensive and might not be justified. For 499 years out of 500 it would be completely uneconomic; so why should the State be up for a huge expenditure in order to cater for the possibility of a flood of great magnitude?

I suppose that could be a reasonable argument. However, on the other hand the use of one in 100, one in 50, or one in 500 is not really a true gauge because it could well be that we could have three such rainfalls in 100 years and then might not get an equivalent one for another 200 years. However, this does not alter the fact that when flooding occurs in the future, the landholders will have very little on which to proceed against the Government on the grounds of the incapacity of the works carried out.

In making my next point I do not believe I am making an unnecessarily wild statement, because I have some personal knowledge of the subject. During the flood year of 1964 it was very apparent that the outlet to the sea, which is the expression used by the Minister—and I think it is in the Bill and in the Act as well as in the Minister's second reading speech—was not clear. In other words, Peel Inlet, the Harvey River, and possibly the Harvey River diversion—of that I am not sure—and certainly many of the lower reaches of a number of watercourses which serve as drainage courses for the coastal plain, were heavily snagged and the water was not getting away. Consequently it backed up during those flood conditions. I am not saying the department was remiss in this direction. It may well have been that insufficient funds were available to enable the desnagging of the rivers to be carried out. However, it is certainly apparent to a great many landholders in the coastal plain that since 1964 a tremendous amount of work has been done and a great deal of money has been spent on clearing and desnagging the lower reaches of the rivers and the lower streams. I am sure that anyone travelling off the coast road in those localities would have seen some evidence of the desnagging and dredging which have taken place in recent years. It is clear to me as a result of a case which was taken to the Supreme Court that one specific requirement of the Act was not being complied with; that is, that there had to be free access of the flow of water to the sea. Because this free access was not available, the department became liable.

I wonder what will be the situation in the future. A great deal of money has been spent on the drainage works and desnagging but perhaps flooding may occur at some time in the future despite that work. On what grounds will the landholder be able to take proceedings when that flooding occurs? I do not know. I think that is open to conjecture.

I have one other point to make. I wonder whether this Bill may not open up a completely whole new world for the department in its revenue raising. At present a large number of parts of the State are not within a drainage district, and I am referring to natural watercourses. I recall some years ago being told by a departmental engineer that a portion of my property was not rated because it was outside the drainage area, but that my

property enjoyed the benefit of tremendous drainage from the natural watercourses. I was told not to complain too much because the department might well be justified in including my property as a gazetted drainage area and then charging me a drainage rate, even though it was served by a natural watercourse.

I have often wondered over the years why the department did not include within drainage areas my property and similar properties with a natural watercourse.

The Hon. J. Heitman: Did the shire provide any of the finance to do the desnagging?

The Hon. N. McNEILL: Not to my knowledge. It may well have done, but I doubt it very much. I think it was departmental work.

To come back to the natural watercourses on my property and similar properties, it could well be that one reason for their not having been included in a drainage district is that if they had then of course there would have been a responsibility on the department to have effected desnagging. Some construction work of necessity would have had to be carried out because if flooding had occurred and a case was taken against the department and it was shown that insufficient work was done or desnagging had not been carried out and as a consequence there was not a free outflow of water to the sea, then clearly the department would have been responsible.

To come back to the point, and I am prepared to be corrected, I believe that as a result of the passing of this legislation the responsibility in future will be removed from the department to provide a free outlet to the sea; and quite clearly I just do not think this is fair. The department imposes rates—fairly considerable rates—and it derives a great deal of revenue from this source. Perhaps it does not pay for all the work done—I acknowledge that—but the fact remains that landholders are required to pay the rates imposed. Therefore they expect to receive a service at least of a certain standard so that they know that when they pay those rates and they are prepared to have the construction works on, through, or near their property, they will at least enjoy the benefit of those works for perhaps five to 20 years of ordinary climatic conditions even if they do not necessarily cope with the occasional extra flooding—the one in 50, the one in 100, or the one in 500 about which I spoke.

In view of the rates which they pay I believe they have a right to expect that for all normal purposes the works on their properties or beyond their properties will be of a certain standard. Under those circumstances, instead of removing the requirement for a certificate and instead of relating the question of compensation to the exercise of the powers conferred by this provision, these should be qualified to the extent of relating them only to works carried out on a person's property and not to the total works constructed under the powers conferred by the legislation. In my view, too, the onus of responsibility should not be shifted completely onto the individual landholder but to a large extent should still rest with the Government agency which is responsible for the works.

The Hon. G. C. MacKinnon: Your explanation of the natural watercourse is interesting, because it was strange how that rumour died. It was strong for a few years, was it not?

The Hon. N. McNEILL: It was, and that is why I say I can well imagine the department or the Government considering that a whole new world is opening to them—

The Hon. G. C. MacKinnon: That is right.

The Hon. N. McNEILL: —in terms of revenue. This could be so if, in future, the Government does not have to measure up to the responsibility of a course being clean and in a free-flow condition.

All this arises out of the judgment given in the Supreme Court case to which the Minister referred. All in all, I believe the amendments are far too embracing and I am not in favour of them.

In view of the remarks I have made as well as those made in another place I hope the Government will appreciate the necessity to think again in connection with these amendments. I am sure they need clarification. I cannot bring myself to believe that the administering authority, the Department of Public Works, will really wish to go as far as the amendments will allow. Certainly I know there is some concern in drainage districts as to what the result will be and how the amendments will affect the compensation position in future years.

The Lower West Province includes all the areas referred to by the legislation. I would be uneasy and quite remiss if I did not indicate that I intend to oppose these clauses in Committee in the hope that the Government will undertake to reconsider the implications of the amendments in the legislation before us. With those remarks, I am prepared to support the second reading of the Bill, but I shall refer to the clauses again in the Committee stage.

Debate adjourned, on motion by The Hon. R. Thompson.

LAW REFORM COMMISSION BILL

Second Reading

Debate resumed from the 6th September.

THE HON. I. G. MEDCALF (Metropolitan) [8.20 p.m.]: This very important Bill which the Government has brought down will have the effect of establishing the Law

Reform Commission as a permanent body within the legal fabric of Western Australia. I am very pleased to support the Bill.

I have always maintained that law reform is a matter which should be given greater emphasis. In various places over the last 20 years or so law reform has been treated as far more important than it was in previous decades. I recall this well, because the first time I ever spoke in this House—some four years ago—I spoke on the subject of law reform. This is a matter which has been very close to my heart for many years because I was formerly a member of the Law Reform Committee of the Law Society. One of the last resolutions passed while I was a member and before I entered Parliament was that a permanent Law Reform Committee should be established. This resolution was put to the Government and we were pleased to receive the reply that the Government favoured the establishment of a permanent Law Reform Committee. As we now know, because it is a matter of history, one was set up in 1967 by ministerial action of the then Minister for Justice (The Hon. A. F. Griffith).

The Law Reform Committee which was then appointed consisted of three part-time members. One of them was a legal practitioner, one a member of the University Law School staff, and one an officer of the Crown Law Department. In addition the committee had the services of a legal practitioner who more or less devoted herself full time to legal research. Really it was a team of four and a great deal of the actual practical research was done by the three part-time members with the assistance of the full-time lawyer from the Crown Law Department.

Since then we have advanced a fair way because there is now a full staff of four legal practitioners. Just at the moment there are only three, but that is a temporary situation. The position now is that four legal practitioners are employed full time apart from the three part-time members of the committee; that is to say the legal practitioner, the member of the Crown Law Department, and the member of the University staff.

I believe the State has been served well by the committee in the five years which it has been in operation. In fact it is almost five years to the day because it was set up early in September 1967. The system has worked very well indeed.

When the committee was first established the chairman who was then appointed was the legal practitioner from a private legal firm. More or less by the committee's own arrangement the chairmanship has changed around so that each member has occupied this position in turn for a year. This may seem an odd arrangement to some, since the committee has never had a permanent chairman, but it has tended to preserve independence and to mean that the committee has not been subjected to the views of one person. All have been able to sit in the chair, to lead the discussion, and to take responsibility for the law reform measures being introduced.

The committee has done a great deal of valuable work. It has produced working papers which have been submitted to judges, the university, and other interested people such as private legal practitioners and the Law Society. It has also supplied its papers on law reform to private people in the community who are not lawyers. I am sure the committee would be the first to admit that it has received a great deal of benefit from the replies received and the reports made on proposals for law reform.

This emphasises that law reform must keep in touch with the general public. It must never get into an ivory tower. It would be fatal for law reform ever to become the specific preserve of lawyers or of people who are not in touch with the community in some way. For this reason it is extremely desirable that the part-time committee should continue to operate and function; that it should be the permanent commission for which this Bill provides.

As I have said, law reform was a sadly neglected subject and, before the war, there was very little law reform as such in Western Australia. Admittedly laws were amended from time to time by Parliament but there was hardly any concerted attack on the problem of bringing laws up to date.

It is a sad fact that the law usually lags many years behind the social situations of the times. It is almost unavoidable that the law does tend to drag its feet, as it were, in relation to social matters. Times change and perhaps there has never been any period in the whole history of the world when times have changed as rapidly as they have in the last 50 years. Consequently a great deal of the law has been shown to be outmoded. This emphasises the constant, continuing need for law reform.

Various other States and countries have adopted certain measures to keep their laws in a continuous state of being reformed. New Zealand was one of the first countries really to go into this in an important way apart, of course, from the United Kingdom which, frankly, seems to have led the world in most civilized matters over many centuries. By taking a leaf out of the book of the United Kingdom, New Zealand seems to have led the way in this part of the world.

Other Australian States have law reform committees or commissions of various kinds and it is quite noticeable how different they all are. We can well comment on the constitution of our own Law Reform Committee because, as I have said, law reform committees and commissions elsewhere are of various kinds. Usually a judge presides over the committee or commission. He is the chairman or president and, in many cases, the committees are closely connected with people who are active in the law. This is extremely important.

Above all else, law reform should be practical. I would like to quote very briefly a couple of comments from a world authority on law reform, Dr. Goodhart, Professor of Jurisprudence at the University of Oxford. The reference to what I am about to quote is the *Australian Law Journal*, Volume 33, at page 126. He says—

> Law reform, if it is to prove successful, must be a practical exercise. It depends on three things: (a) The law reformer must know what are the practical defects of the present law; (b) he must ascertain what practical steps can be taken to overcome these defects; and (c) he must attempt to foretell what will be the results of those steps. If he keeps these three elements in mind he is not likely to exceed the limits that ought to circumscribe his attempts.

Later on in the same paper at page 132 he says—

> Unless a target shows a certain degree of wear it is doubtful whether it can be regarded as a satisfactory one for law reform, except where the point at issue is concerned with a technical matter which has unexpectedly arisen in a recent case. I doubt whether a law reform committee ought ever attempt to be original. It is its function to deal with situations which have given rise to practical difficulties, and if there is no evidence that they have arisen then it is better for the law reformer to remain inactive.

This is very important. If it is not a practical matter, it is better for the law reformer to keep his fingers out of the pie. In other words, the best results are achieved in practical fields where it has been demonstrated that something is wrong and needs to be corrected.

Therefore, we should have evidence of practical difficulties in the law before we start reforming it. Law reformers should always keep this in the forefront of their minds because there is an all-too-easy tendency for a law reform committee of any type—and I am not speaking of a particular committee, but in general—to become rather imbued with its own omnipotence. In other words, it may reach the stage where it realises its peculiar position of leadership and that the Government is likely to follow its lead on a particular line. This is a danger with law reform committees. They should not lead Parliament into areas which are not practical areas to serve some need for the good of the public. As I said, we have been well served by our own Law Reform Committee, but we must keep this warning in the forefront of our mind.

Another problem likely to confront law reform committees is the conflict between law reform and policy. Policy is a matter for the Government elected by the people. Policy is not a matter for a law reform committee. A law reform committee is essentially a technical committee to assist the Government to keep the law up to date with the practical needs of society, to cure difficulties which are known to exist in the law, to suggest remedies, and to analyse remedies suggested in other places. A law reform committee should not initiate policies.

I would like to make a further general observation, and that is that we constantly hear the law criticised as being out of date. Reference is made to modern times and the modern age. There are many old laws which are just as good as the day they were passed. Just because a law is old we should not automatically believe it needs reforming. Some of the early legislators were very wise men and they considered the laws very carefully before they passed them. Some laws have a general application from one generation to the next. Just because a law was passed in 1885 does not mean it is a bad law.

I would like to illustrate this point by comparing the Companies Act, dealing with corporate bodies, and the law relating to associations, another type of corporate body.

In 1893 this Parliament passed the first Companies Act. Commerce in this state developed so quickly with the discovery of gold in Coolgardie and in the goldfields generally about that time, and the population grew so rapidly, that the Companies Act of 1893 was very quickly out of date. We then had two World Wars and a depression, but the 1893 Act remained in force. It was completely out of date by the beginning of the second World War, and yet it was not until 1948 that we passed a new Act. That Act was very soon out of date and another Act was passed in 1961.

The point I am making is that the legislation relating to companies was shown to be behind the times. It was amended and it has been kept in touch with current commercial thinking.

I would now like to refer to the legislation relating to associations. Two years after the Companies Act was passed in 1893, the Associations Incorporation Act

was passed. Although this Act may be considered to be old fashioned, it is still an extremely useful Act. Not many of the States of Australia have such an Act.

I frequently hear comments from people who should know better that any organisation which has a constitution under the Associations Incorporation Act should in its own interests implement a new constitution under the Companies Act. This is not always good advice. It is most unwise to turn an association inside out so that it becomes a company with all the additional problems, expenses, annual fees, and returns, and other work entailed.

I am trying to illustrate, although not particularly well, that some of the old laws are just as good today as when they were passed by Parliament. Law reformers should bear this in mind. The word "modern" is not magical. The important thing is to bring the law into tune with the times.

Those are my general comments on this legislation. I commend the Government for the introduction of the Bill. I believe it is important that we have a permanent law reform commission. However, there are one or two points which I would like to draw to the Minister's attention.

I would first of all like to refer to clause 6 of the Bill which refers to the qualifications of the three members of the commission. One member must be a certificated practitioner who is practising on his own account. It is usual to have a judge on a law reform committee or commission and I would suggest to the Government that such a practitioner, if not a judge, should be eligible for judgeship. In other words, if the practitioner is not a judge, he should at least be a senior practitioner; that is a practitioner of seven years' standing. As a matter of fact, the legal practitioner on the committee at present has this seniority and I do not intend the slightest reflection on him. He has done an excellent job. I feel that clause 6(a) should be strengthened by including the words "a practitioner of seven years' standing."

The second member must be a full-time member of the academic staff of the Law School of the University of Western Australia. In view of the fact that the chairmanship is rotated among the three members of the commission, I feel this gentleman should be a senior member of the Law School. I do not suggest that this should be written into the legislation because difficulties may arise with the appointment. However, I feel quite sure that the Government would agree that the person to be appointed should be of at least Reader status at the University, as only a senior man should be appointed to such an important position.

The Hon. L. A. Logan: What will be the salary of the commissioners?

The Hon. I. G. MEDCALF: These are part-time positions. This particular member would have his salary as a Reader, which is about $11,000, as well as a salary as a member of the law reform committee. I do not know what this salary will be, but the Minister may be able to supply the information later.

The third member must be a legal practitioner employed by the Crown Law Department. He is described in the Bill as an officer of the Crown Law Department. I would hope that this could be amended to "a senior officer of the Crown Law Department." The Crown Law Department has its own hierarchy, as does every department, and I do not know the correct expression, but I do hope this appointee will be an officer of some seniority. In fact, the present representative of the Crown Law Department is a senior officer and has done an excellent job. I know this from my own observation, and I hope that the legislation will be strengthened so that future appointees are of the same high standard as the present representative.

I feel that the Government could well answer me and say, "Of course we will do this." I am thinking of the future and I can see no harm in the strengthening of the qualifications in the legislation. I hope this suggestion will commend itself to the Government.

I wish to refer to clause 12 of the Bill which reads as follows:—

> The Commission shall if so requested by the Attorney General submit a confidential advisory report to him on any topic.

As I understand it, the whole object of the law reform commission is that in future it will be (a) permanent, (b) independent, or relatively independent, and (c) a public body in the sense that its reports and papers will be tabled in Parliament, and, therefore, available to the public.

The commission will be able to exchange papers with the commissions in other States and countries. Therefore, its recommendations will have a certain status and it is proper that they be made public.

The law reform commission will not be able to investigate any subject of its own choosing; it must first of all obtain the approval of the Attorney-General. However, both the commission and the Attorney-General may suggest topics. If the commission suggests a topic the Attorney-General must approve of it. Once a topic is approved by the Attorney-General as being suitable for the law reform commission to work upon, I hope that all the papers and reports will be made public. Therefore, I feel it is a little out of keeping that the Attorney-General may ask for a confidential advisory report on any topic. My reason for saying this is that the Attorney-General may at any

time obtain a confidential advisory report on any topic from the Crown Law Department which, of course, is extremely well-equipped to advise him on any subject.

I should hope the Crown Law Department would provide sufficient advisory information and that the Law Reform Committee, now being a permanent, independent, and public body, would operate like any commission and produce its report to Parliament and for the public generally. It does not mean, of course, that the Attorney-General must act on those reports. If the Government of the day decides it is not going to take action on any of the particular subjects contained in the report, that is its prerogative.

I have been a little puzzled as to why clause 12 is in the Bill, because it seems to me to be out of keeping with the concept of the Bill, which I applaud.

I do not think there is anything more I need say on the measure. I hope the Government will listen to the suggestion I have made in relation to the seniority of the members, and that it will perhaps do something to tighten up the particular section for the future, and I say this without any reflection whatever on the members who, I believe, are doing a very fine job. With those words I commend the Bill.

Debate adjourned, on motion by The Hon. J. Dolan (Minister for Police).

PERTH REGIONAL RAILWAY BILL

In Committee

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

Clauses 1 to 4 put and passed.

Clause 5: Authority to construct the Perth Regional Railway—

The Hon. J. DOLAN: I move an amendment—

> Page 3, line 9—Insert after the clause designation "5" the passage "(1) Subject to subsection (2) of this section,".

Perhaps I could put in perspective the discussion that took place concerning the financial arrangements. The steering committee worked at great length on the preparation of these arrangements, and I was present at a number of meetings of the committee and also on the final day when it eventually agreed to the proposition presented.

One of those present was the Deputy Under Treasurer (Mr. McCarrey). I recall an occasion a few years ago when the Leader of the Opposition was on this side of the House and Bills involving considerable finance were being debated. I was speaking on behalf of the Opposition of the day and I well remember Mr. McCarrey sitting near the present Leader of the Opposition—who was then the Leader of the House—advising him, and giving him good advice.

I was doing my best to raise difficulties and make all kinds of inquiries and every so often Mr. McCarrey would advise the Leader of the Opposition on the points I had raised.

I have tremendous respect for Mr. McCarrey, and I indicate that at the final meeting before the proposition we presented to Parliament was agreed to, Mr. McCarrey—who was present by virtue of his position on the steering committee—gave the scheme the green light. I daresay that is as good a term to use in connection with a railway Bill.

Mr. McCarrey said the financial arrangements were quite satisfactory from the Treasury point of view and he could see no difficulties arising. I would not pretend to be a financial wizard. All my life I have had the ability to do one thing—to balance my own personal budget on what I always felt was a salary which was less than that to which I was entitled. But, of course, I have not yet seen a teacher who does not feel he is entitled to more than he receives.

I know that there are great financial institutions and financial magnates who know all about these things. It is strange, however, that those who think they know about these things are those who have so little. That is perhaps why I thought I knew so much about the matter. Anyway I was satisfied to accept Mr. McCarrey's judgment when he gave the matter the all clear from the Treasury's point of view.

The Hon. A. F. Griffith: What did he really say?

The Hon. J. DOLAN: I cannot recount the details of what took place at the last meeting, but questions were asked as to whether there were any difficulties so far as finance was concerned.

The Hon. A. F. Griffith: I am interested in his comments on that.

The Hon. J. DOLAN: I would not try to repeat his exact words, but Mr. McCarrey signified there were no difficulties; that the project could be financed with satisfaction to the Treasury—at least that is what I took it to mean.

Let us consider some of the members of the steering committee who were represented either in person or by their representatives. For example, Mr. Pascoe, the Commissioner of Railways, was represented by the Assistant Commissioner, Mr. McCullough, who was a former Chief Mechanical Engineer and who, in discussions of this nature, would probably have been better equipped than would Mr. Pascoe, because Mr. Pascoe came up from the traffic side whereas Mr. McCullough had come up through the engineering. Sir

Thomas Wardle was represented by his engineering representative; and the Town Planning Commissioner and the Chairman of the Metropolitan (Perth) Passenger Transport Trust were also present, as were representatives of the Main Roads Department—if it was not Mr. Aitken it was his deputy who was present.

Although I do not pretend to be an expert in finance and engineering I am prepared to accept the advice of experts in this field. Only this morning I did a trip almost as far as Bunbury in connection with my portfolio and I took with me those who were experts in their particular field and who were able satisfactorily to convince the Shire of Harvey on certain matters.

As members will see, my second amendment will provide the opportunity for the matter to be discussed fully here and then sent to another place. It cannot be proceeded with without the sanction of Parliament. I felt this was reasonable and that it would answer Mr. Logan's submissions. In reply to Mr. Logan's other submissions I said in my speech which was prepared by qualified officers that the spade work and homework had been done by Dr. Nielsen and those appointed during the term of the preceding Government. All the information was available.

I am sure that members of this Chamber and of another place will obtain all the information they require by the time this matter has been examined and debated in both this Chamber and in another place.

If on the other hand we cannot reach satisfaction and agreement I am prepared to report progress and bring back answers which may be necessary. I would not attempt to answer questions on technical and financial matters, but I will obtain the answers required by members.

The Hon. L. A. LOGAN: I cannot accept the Minister's amendment. In the first place it has no bearing on the first part of the Bill which deals with the removal of the Perth-Fremantle railway; secondly, it only deals with the clause under discussion and the schedule which says nothing about either Chamber debating the issue or approving or disapproving it. The second amendment merely states that the report will be laid on the Table of the House.

I do not think the Minister has gone far enough. He keeps referring to the experts and I would like to know the names of the experts who gave the report to the Government on this aspect of the Bill. Are they members of the steering committee that made the PERTS report available to the Government?

The Hon. J. Dolan: I told you those who were present when the final report was adopted.

The Hon. L. A. LOGAN: The members of the steering committee enumerated in the PERTS report are alleged to have reported to the Government on the proposals contained in the Bill. There is no mention whatever of those proposals in the 1972 report; there is not one word in that report which deals with the ramifications of this Bill.

Where is the report of the steering committee to the Government? Of course, we have not seen it, and I suggest neither has the Minister. The other report I mentioned was not published until April, 1972; yet the Minister for Development and Decentralisation made a statement at Kwinana on the 17th March that the Government intended to sink the railway line in accordance with the proposals in the Bill before us. Have the members of the steering committee been consulted on these proposals? I am not satisfied with the information that has been given to us. How much time was given to the steering committee to consider the alternatives?

Nowhere in the PERTS report of 1972 is there any mention of the proposals in the Bill. As a matter of fact there is reference in that report to electrification of the railway line between Perth and Fremantle, but there is no reference to pulling up that line. The report contains recommendations for the sinking of the railway line in its present position.

Let me draw attention to the brief that was received from the steering committee. It was to carry out a study of certain alternatives. This was the brief from the steering committee to the technical section, which reads as follows:—

(a) Retain the existing suburban railway line but divert the through-city section from its present location in the centre of the C.B.D. to the median of the North Leg of the Inner Ring Freeway. Provide transport links from a new city railway station (or stations) to the centre of the commercial area.

(b) Leave the central station where it is but lower it in order to allow landscaping of the area and to remove the barrier to the northward expansion of the City.

Those were the two aspects which the steering committee requested the technical section to study. The first was quickly forgotten, but the second was studied. There was no mention of the closing of the line; in fact there was a reference to upgrading it.

From where did the Government get its information? Who made the report which enabled the Government to come forward with this Bill? It is not good enough for the Government to say that the members of the steering committee reported favourably to the Government. One Minister was able to talk about the proposals in the Bill long before the report was completed.

The other night the Minister for Railways distributed some figures to members. He said he had asked one of his officers to take out the figures so that members would not have to go through the whole of the PERTS report. He might have produced the first four lots of figures from the PERTS report, but he certainly did not produce the fifth lot of figures from that report. Members are entitled to know what has been going on. I do not know whether somebody has been pulling the wool over the Minister's eyes, or whether someone is trying to do the same to us.

The Hon. J. Dolan: We do not do such things.

The Hon. L. A. LOGAN: The figures I have mentioned certainly do not coincide, and this report does not coincide with what the Minister has told members. It is therefore essential to obtain a report from an independent committee. The figures mentioned by the Minister in his second reading speech indicated that the cost for the building of roads and the sinking of the railway line will be $32,000,000 per year for each of the next 14 years. In view of that I am sure the Under-Treasurer will experience many problems in trying to provide the finance. If he says there are no problems in this connection then he has changed his mind considerably in the last 18 months, because 18 months ago he was very loth to find $11,000,000 for the sinking of the railway line in its present position. There is a lot of difference between the $11,000,000 we required and the amounts envisaged in the Bill.

Even the Railways Department must have changed its view considerably, because when the previous Government was talking about the sinking of the railway line the department said that would be of no advantage to it. It therefore asked why it should be expected to bear the cost of sinking the line. Apparently for some reason or other the department has now changed its view.

Statements have been made in this Chamber about various reports and the findings of an expert committee, when in fact nobody has made a report except the 1972 report I have mentioned, and this has nothing to do with the matter.

On the 6th September there appeared a report in *The West Australian* under the heading of "Victoria to slow city expansion." It states—

> In Perth last night, the Minister for Development and Decentralisation, Mr. Graham, said he hoped that a committee studying the concept of W.A. being divided into regions would have its report ready within six months. It would be necessary to concentrate on the development of a few regional areas.

If the Government has any ideas about decentralisation, decentralising cities, and splitting the State into regions, then these must have some effect on the Perth metropolitan region and its transport needs. In view of that why should the Government try to rush this Bill through Parliament at this stage?

I have a good idea where all these proposals come from. I suggest it is from a report by Mr. Wilson on a preliminary study of the integration of the existing rail and road facilities, and the construction of an underground railway. This report was printed on the 2nd March, 1972. If it was in the hands of the Government on that date, if the steering committee was dealing with the PERTS report, and if the PERTS 1972 report was to be presented, why did not the Government make any comment about the Wilson report? If it is the intention of the Government to discard the PERTS 1972 report and to adopt the Wilson report without further investigation, then the Minister should have mentioned this fact.

The Hon. J. Dolan: In my book it has not been considered.

The Hon. L. A. LOGAN: Is the Minister aware that the plans contained in the Wilson report are the plans he has displayed outside this Chamber?

The Hon. D. K. Dans: What does that prove?

The Hon. L. A. LOGAN: It proves where the plans came from.

The Hon. D. K. Dans: Why does it prove that?

The Hon. L. A. LOGAN: Because the plans are the same.

The Hon. A. F. Griffith: Let us say it is a coincidence.

The Hon. D. K. Dans: It is only an incident. It is a coincidence when something occurs twice.

The Hon. L. A. LOGAN: As far as I am concerned the proposals contained in the Bill require further consideration. If the Minister has not seen the Wilson report then I am amazed.

The Hon. J. Dolan: I have seen that, but it has not entered into any of the discussions in which I took part.

The Hon. L. A. LOGAN: Yet the Bill is based on the Wilson report.

The Hon. J. Dolan: I do not think so.

The Hon. L. A. LOGAN the Minister should read it. On what is the information the Minister has supplied based?

The Hon. J. Dolan: I gave it in my second reading speech.

The Hon. L. A. LOGAN: The Minister said it was based on the PERTS 1972 report; yet there is not a word about this Bill in that report.

The Hon. J. Dolan: All these things were taken into consideration before we came up with the Bill.

The Hon. L. A. LOGAN: This was mentioned by the Minister for Development and Decentralisation at Kwinana on the 17th March. Surely if the steering committee and the technical committee were dealing with this complex there would have been some mention of this Bill in the report.

I find from a report in today's newspaper that the Government is experiencing trouble in financing the building of the Medical School. We should therefore have another look at the proposal before us, in view of the large amount of finance that is required. As far as I am concerned I would wipe out this report and the PERTS 1970 report. We should get back to what the State can afford, and I am certain the State cannot afford the $32,000,000 for each of the next 14 years envisaged under the proposals in the Bill. The Under-Treasurer should not be asked to raise $32,000,000 each year for the next 14 years when he cannot find enough finance for the Medical School, or the money that is required to establish a school of veterinary science. The latter was agreed to only after a great deal of pressure. Now, all of a sudden, the Government can apparently find the huge amount required for the sinking of the railway line and associated works.

I suggest that the Minister should look at this question again, and should put forward a proposition which the State can afford; one which will meet the requirements of the city for the next 25 years.

The Hon. A. F. GRIFFITH: I want to raise a couple of matters. I have been refreshing my memory on the reply of the Minister, in which he summed up the debate on the second reading. That reply was very good and it had its shades and colours. At times the Minister did a little pleading; at other times he was dogmatic about certain things.

The Minister then came to the small contribution I had made to the debate, and he dealt with me. It appeared that the Minister wanted to apologise to the House. He said—

> . . . I owe an apology to the House. May I say that every member of this House knew about that PERTS report when I did. As soon as I received the report I saw that it was most desirable that it be placed on the Table of the House, and I did so. If any member wanted an extra copy I had a number available.

I interjected and asked the Minister when he received it, and he replied, "the day before I tabled it." I then asked the Minister if that was when his Government received it, and the Minister replied—

> No, I did not say that. That is when I saw it. When I saw that it might be of some use to members in their study of the Bill I made it available to them. I have tried to place as much information as was available to me before all members.

Now this is a Bill the subject of which, as in the case of all Bills, comes to Parliament, I take it, with the concurrence, in the first place, of Cabinet. I take it that this Government conducts its business in a manner similar to the way all Governments conduct their business when it comes to propositions for Bills to come before Parliament. The situation usually is that the Government is the first body to see what is proposed to be put into legislation. I do not want the Minister to convey any Cabinet secrets to me but I think that would be the way Cabinet would work.

The Government would also keep the same type of minute book as that used by every Government. A record would be made of the minutes of the proceedings, and the decisions of the Government would be recorded in that Cabinet Minute Book.

Forgive me if I am amazed to find that the Minister for Railways, whose portfolio is substantially, materially, and quite drastically affected by this position, did not have a copy of the PERTS report No. 2 until the day after he introduced the Bill into this House. I genuinely feel sorry for the Minister in his obviously embarrassed situation. If the Minister is not embarrassed then we are deserving of some other explanation. Perhaps he was not at the Cabinet meeting when the decision was made to introduce this Bill.

The Hon. J. Dolan: I was present.

The Hon. A. F. GRIFFITH: The Minister was present. If the Minister was present, and if the decision substantially affected the manifestations of his own portfolio, surely to goodness someone was holding a well-guarded secret back from him if copies of the PERTS report No. 2 were not made available to him until the day after he introduced this Bill into Parliament.

Can members forgive me if I am completely confused? I just do not understand. On top of that the Minister gave us a nice "palsy-walsy" explanation of the day I had the Assistant Under-Treasurer in the House to give me some advice about a taxation measure which the previous Government was putting through. I was told that I had Mr. McCarrey advise me on that occasion because he knew the answers. But the present Minister for

Railways said he talked to the same gentleman, Mr. McCarrey, and the words of Mr. McCarrey were to the effect that he was satisfied.

The Hon. J. Dolan: I did not talk directly to Mr. McCarrey. As I said, Mr. McCarrey was one of those present when the final decisions were made. I explained that a representative of the Treasury would have told those present if this was a proposition which could not be proceeded with. Mr. McCarrey, with all his utterances on the committee, gave the indication that so far as the Treasury was concerned the Government could handle what was proposed.

The Hon. A. F. GRIFFITH: I accept the explanation of the situation given by the Minister. In other words, Mr. McCarrey seemed satisfied that the money side of this proposition was all right.

The Hon. J. Dolan: That is right.

The Hon. A. F. GRIFFITH: Does the Minister recall how he concluded his remarks when he introduced the second reading of the Bill? He said that the Commonwealth Government had shown great interest in urban development—or words to that effect—and if it did not come good with the money the Government would have to rely on its own resources.

The Hon. J. Dolan: That is right.

The Hon. A. F. GRIFFITH: And yet the Minister was able to tell us that the Assistant Under-Treasurer appeared satisfied that the money was all right. Where is the money coming from? Is it coming from the Commonwealth or from the State Treasury? Does the Minister know?

The Hon. J. Dolan: Well, I am making an explanation and you are asking the questions. I have previously said that if I could not supply answers on behalf of the Government I would report progress and obtain the necessary information.

The Hon. A. F. GRIFFITH: I am sorry; but this, Mr. Minister, is your portfolio and this is a matter you ought to know about. Instead of this Chamber being discredited by the Press to the effect that we are holding up legislation the Minister ought to be able to give us the answers and supply us with the information we want.

The Hon J. Dolan: I wish I were able to.

The Hon. A. F. GRIFFITH: The Minister obviously cannot. He cannot say where the money is coming from. I repeat: In his final remarks on the introduction of the Bill he said it would either come from the Commonwealth or, if the Commonwealth did not come good, it would come from the State. He will find that is the case if he checks his remarks.

The Minister then got to the point where he gave me special mention. He said—

> Mr. Arthur Griffith raised the question as to whether or not the M.R.P.A. had been asked to give an opinion on the Perth Regional Railway Bill. By virtue of common membership between the Perth Regional Transport Co-ordinating Committee and the Metropolitan Region Planning Authority, and as a result of a series of deliberate findings—

The Hon. J. Dolan: Deliberate briefings.

The Hon. A. F. GRIFFITH: Thank you, the word is "briefings." As a matter of fact, the word, "briefings" is more important than the word I used. To continue the extract from *Hansard*—

> —briefings of the M.R.P.A. by the Director-General of Transport at its regular meetings, the M.R.P.A. is fully aware of the Government's transport proposals. That statement was conveyed to me by the Director-General of Transport himself.
>
> The Hon. A. F. Griffith: What did Dr. Carr say?
>
> The Hon. J. DOLAN: I do not know, I was not there. No specific M.R.P.A. discussion has taken place because there is obviously no conflict between the M.R.P.A.'s corridor concept and these proposals. The corridor concept requires a strong public transport system, arranged radially, serving the corridors. The Government's proposals provide precisely that—by rail rather than by bus which would have been the situation had the previous Government remained in office.
>
> The Hon. A. F. Griffith: Can the Minister imagine what made Dr. Carr say that the M.R.P.A. had not been consulted?
>
> The Hon. J. DOLAN: I was not there and I do not know.
>
> The Hon. A. F. Griffith: He was the Chief Planner and, therefore, land utilisation was one of his principal functions, but he did not know.
>
> The Hon. J. DOLAN: I heard what the Leader of the Opposition said, and I referred to this matter specifically.
>
> The Hon. A. F. Griffith: Did you ask Dr. Carr?
>
> The Hon. J. DOLAN: I have not seen him.
>
> The Hon. A. F. Griffith: Well, you could.
>
> The Hon. J. DOLAN: I may if I get the opportunity.

Now, has the Minister had the opportunity?

The Hon. J. Dolan: I have not.

The Hon. A. F. GRIFFITH: Well, Mr. Minister, you should have availed yourself of the opportunity because you have an absolute conflict. I apologise to the man concerned because I involved him—perhaps unwittingly—but I wanted to know the thoughts of the M.R.P.A. at that meeting when all members of Parliament were briefed.

I asked Dr. Carr what the M.R.P.A. thought of the Bill and he said that it had not been consulted. Now, somebody is not telling the truth. Either the M.R.P.A. was consulted or some other information was being conveyed to Dr. Carr —and not only to him, but also to the meeting of members of Parliament.

The Hon. J. Dolan: Well, there was a report at the last meeting. I was there.

The Hon. A. F. GRIFFITH: I believe the Minister has now hit the nail on the head. I am certain, in my mind, that Mr. Knox was there and he is a member of the M.R.P.A., is he not?

The Hon. J. Dolan: That is more than I could tell you.

The Hon. A. F. GRIFFITH: The Minister ought to know because he is a Minister of the Government. All he has to do is to look at the composition of the steering committee.

The Hon. J. Dolan: Mr. Knox is the chairman of the committee.

The Hon. A. F. GRIFFITH: To my knowledge Mr. Knox is a member of the M.R.P.A.

The Hon. R. F. Claughton: The Leader of the Opposition qualifies his remark with, "To my knowledge." Is he not sure?

The Hon. A. F. GRIFFITH: Don't you come into this Mr. Claughton; not yet, anyway.

The Hon. G. C. MacKinnon: Of course he is sure.

The Hon. J. Dolan: Mr. Knox is chairman of the steering committee, and he also represents the steering committee on the M.R.P.A. I feel Mr. Knox is not there as a member of the M.R.P.A., but that he is there as chairman.

The Hon. A. F. GRIFFITH: Why is he there as chairman?

The Hon. J. Dolan: Because he was appointed to the position.

The Hon. A. F. GRIFFITH: Perhaps my friend and colleague opposite is sure of whether or not Mr. Knox is a member of the M.R.P.A. Does he know?

The Hon. R. F. Claughton: No.

The Hon. A. F. GRIFFITH: Then, why the cocksure interjection?

The Hon. R. F. Claughton: You are making the statements. I was seeking information from you.

The Hon. F. R. White: Mr. Knox was appointed in 1966.

The Hon. A. F. GRIFFITH: Of course he was. The other man is Mr. Aitken, the Commissioner of Main Roads.

The Hon. D. K. Dans: Be careful before you answer that!

The Hon. A. F. GRIFFITH: I know those two men are members of the M.R.P.A. and I suggest the only contact the M.R.P.A. has had with this proposition is by reason of the fact that Mr. Knox is on the steering committee.

Dr. Carr said that the M.R.P.A. had not been consulted, and the Minister said that no specific discussion had taken place with the M.R.P.A. because there was obviously no conflict between the M.R.P.A. and the corridor proposals. We can rest reasonably assured that the authority which is responsible for planning in this community, including the utilisation of land, has not been consulted about the Minister's Bill. If I could be told otherwise I would be more satisfied.

To return to the other point: I think the Minister should tell us what the situation is. We have a Bill introduced into Parliament, and the Minister was present at the Cabinet meeting that decided it should be introduced. I would like to know on what premise the Government decided on this course of action. Was there any consultation with the M.R.P.A.? If the Minister had not seen the PERTS report No. 2, was the Government hiding that? Had any other member in the Government seen it?

The Hon. J. Dolan: I could not answer whether or not they have.

The Hon. A. F. GRIFFITH: That simply amazes me. It leaves me completely dumbfounded that the Minister for Railways is prepared to bring this Bill here. He would have introduced it here had it not required a Message. It required a Message because under it the small sum of $546,000,000 will be spent.

The Hon. J. Dolan: This Bill will not spend that money.

The Hon. Clive Griffiths: It will commit us to spending it.

The Hon. J. Dolan: No, it will not.

The Hon. A. F. GRIFFITH: If the Commonwealth Government is an unwilling debutante, the money will come from the State Treasury.

The Hon. L. A. Logan: A sum of $450,000,000 in the first stage, which covers 14 years, and that is $32,000,000 a year.

The Hon. J. Dolan: This Bill does not commit the State to that at all.

The Hon. A. F. GRIFFITH: To what does it commit the State?

The Hon. J. Dolan: I covered that twice, in my second reading speech and in my reply.

The Hon. A. F. GRIFFITH: Would the Minister agree this Bill is the basis upon which the money will be expended?

The Hon. J. Dolan: We cannot proceed with the whole concept unless this Bill is passed.

The Hon. A. F. GRIFFITH: If that is not two ways of frying the same egg, I do not know what is.

The Hon. J. Dolan: I do not think it is.

The Hon A. F. GRIFFITH: Let me ask one other question. What will happen if this Bill does not pass? Could the Government go ahead with the expenditure?

The Hon. J. Dolan: No.

The Hon. A. F. GRIFFITH: Of course it could not.

The Hon. J. Dolan: We could not even go ahead with the planning.

The Hon. A. F. GRIFFTH: In other words, this Bill, incomplete as it is, in its few clauses provides for the planning and the expenditure of $500,000,000 or thereabouts. What is the good of saying it does not? It does. I leave it at that at the moment, but I want the Minister to explain to the Chamber—if he can—whether anybody else in the Government saw this 1972 PERTS report.

The Hon. J. Dolan: They probably have, but I told you when I saw it.

The Hon. A. F. GRIFFITH: The Minister for Railways, whose portfolio is substantially affected, did not see it until the day after he introduced the Bill?

The Hon. J. Dolan: That is correct.

The Hon. A. F. GRIFFITH: Goodness gracious me!

The Hon. F. R. WHITE: A few false statements have been made today—for example, the Minister's last statement. He just stated that he tabled the 1972 PERTS report the day after he introduced the Bill. He introduced the Bill on the 9th August. I spoke on the 15th August.

The Hon. L. A. Logan: He introduced the Bill in the period before that. I spoke on the 9th August, after a delay of two months. It was adjourned at the end of the last period.

The Hon. F. R. WHITE: That is correct. I spoke on the 15th August. The Minister tabled the 1972 PERTS report on the 16th August. Many members in this Chamber had spoken on this piece of legislation without any knowledge whatsoever of the 1972 PERTS report; so everybody who spoke to the Bill and made reference to the PERTS report referred to the 1970 PERTS report, which was the only one in existence to their knowledge.

The Hon. A. F. Griffith: Including the Minister.

The Hon. F. R. WHITE: At an earlier date, this Bill was debated in another place. None of the debate in another place showed that any member was aware of the existence of this report. It was not even tabled in another place and to my knowledge it has still not been tabled in another place.

Members spoke during the second reading debate in this Chamber, and that debate must have been based only on knowledge which was in their possession. If they made reference to the PERTS report, the reference was to the 1970 PERTS report. In my opinion, much of the second reading debate lost its value because of the lack of available information. On a number of occasions the Minister has disputed certain costs of the project. He did so a few moments ago when the Leader of the Opposition was speaking. I will quote from page 1451 of *Hansard* on the 10th May, 1972. In another place, Mr. O'Connor asked a question of the Minister for Works.

The DEPUTY CHAIRMAN (The Hon. F. D. Willmott): Order! The honourable member cannot quote from the *Hansard* report of a debate in another place in the same session.

The Hon. F. R. WHITE: The quote is not from a debate. It is an answer to a question.

The DEPUTY CHAIRMAN: Very well.

The Hon. F. R. WHITE: The question was—

> (2) What is the monetary figure estimated as required expenditure for creation of the scheme recommended under the Perth Regional Railway Act, 1972?

That is the Bill with which we are dealing at the moment. The answer was given in two parts—

> (2) (a) $124,600,000—in 1972 dollars —for public transport interim and underground;
>
> (b) estimated $422,000,000—1972 dollars—for road component, being absolute upper maximum.

If we add $124,600,000 to $422,000,000, we have a total of $546,600,000, which is the figure I quoted in the second reading debate and the figure which has been disputed on a number of occasions; yet it appears in *Hansard* in an answer to a question asked of a Minister.

It is no wonder that Mr. Medcalf and many others in this place are confused about the financial statements that have been made when dealing with this Bill. Confusion has reigned supreme. A list of figures was given to us, then the Minister asked that they be not used and he substituted for them another list, which

states what the 1972 PERTS report proposes under its plan for a rapid rail transport system. Then, as the Minister said, the 1972 PERTS report gives figures for the busway plan "adopted" by the previous Government. To my knowledge, the previous Government did not adopt any proposal. The previous Government considered it but did not adopt it. That was misleading information.

Then we have the 1972 PERTS rail sinking plan, which would be the report that did not see the light of day until the 16th August, after the majority of the members of the Parliament had debated the Bill. That report states figures totalling $469,431,000. That figure does not appear in the list at all. The only figure on the printed sheet that coincides with the report is the figure of $66,761,000, which is the cost of the rail system and the rolling stock. I have not been able to find any reference to the estimated $400,000,000 involved in the road system, but that is of no consequence because it is not involved in the Bill before us. The rail sinking plan is not involved in the present Bill.

Surprisingly, I have been able to find one publication that contains almost an exact duplication of the proposal on the map outside. It is a document that has been published and printed by a private individual. Apparently it has not been ordered or requested by the Government. It sells an individual's idea of a new method of concrete structure for railway cuttings and so forth. Yet it is the only reference I have been able to find to a proposal similar to the one in the Bill.

The Hon. I. G. Medcalf: Who wrote that?

The Hon. F. R. WHITE: I am referring to the publication quoted by Mr. Logan; that is, *Perth, Western Australia—Integration of Existing Road and Rail Facilities and Construction of an Underground Railway—Preliminary Study*, which is written by A. D. Gratton Wilson, who is a civil engineer. If that is not the publication which forms the basis of the Bill before us, where are the proposals? There must be something in writing somewhere. We have not seen it. The Government has not made any reference to the proposals. Today, the Minister made reference to the final meeting of the steering committee for the 1972 PERTS study. I do not know what he meant by "the final meeting."

The Hon. J. Dolan: When everybody was there, including the representatives of the Government. We did not go to every meeting.

The Hon. F. R. WHITE: The final meeting based on the findings in this report?

The Hon. J. Dolan: No; on the submission that has been made to the Parliament.

The Hon. F. R. WHITE: On the Bill which we now have before us?

The Hon. J. Dolan: On the Bill plus the entire scheme.

The Hon. F. R. WHITE: We do not have a scheme. We have only a Bill. There are three schemes. There is no scheme showing the proposed railway other than what is contained in the maps outside and the Bill before us. If such a scheme has been printed in report form, why have we not seen it? And will we see it?

Until I can be answered on these questions, I must ask that the Minister hold up any further proceedings with this Bill. If it is eventually proceeded with, I will oppose the Minister's amendment because it asks us to agree to the contents of the Bill on the condition that at some time in the future he will table reports and studies on each aspect of the proposal; but he does not say that Parliament must agree to them. In agreeing to his amendment we would be agreeing to the Bill, virtually without any information at all, because the Government would be able to proceed with its project, anyhow.

During the debate there was one thing I did not like. The Minister more or less said, "No matter what Parliament says, any part of this Bill or this project which can be proceeded with legally will be proceeded with."

The Hon. L. A. Logan: Dictatorial!

The Hon. F. R. WHITE: I do not like statements of that nature. If those actions were carried out just because it was legal to do so, and irrespective of the effect of the planning on the metropolitan area, I think it would be very poor government. The Minister said, "If we can legally do any part of this without getting parliamentary approval, we will do it, just as we are building the bus station off Wellington Street."

The Hon. J. Dolan: I did not say it in that frame of mind.

The Hon. F. R. WHITE: The Minister says a lot of things without realising what he is saying.

The Hon. J. Dolan: So do you. I told you some the other night.

The Hon. F. R. WHITE: The Minister certainly did, and if I had been wide awake I would have taken exception to some of the things he said. I had marked them in a publication. He said I spoke a lot of bunkum. He should look up his dictionary to see what "bunkum" means.

The Hon. J. Heitman: I did not think the Minister would use that word.

The Hon. A. F. Griffith: I did not think the Minister would look at a dictionary.

The Hon. F. R. WHITE: I hope the Press reporters are listening to this. In the dictionary "bunkum" is defined as "bombastic speechmaking intended for the newspapers rather than to persuade the audience." When I rise to my feet I speak to persuade the audience and not the newspapers. I think we all know that when anything really worth while is said the newspapers do not print it, anyway. I oppose the amendment.

The Hon. G. C. MacKINNON: The Minister referred a number of times to the report mentioned by Mr. White; that is, the Perth Regional Transport Study 1972. I must admit that I absolutely agree with everything Mr. White said, because it is extremely interesting to read the report. I will raise matters to which I would like the Minister to provide answers.

For example, it is pointed out at page 2 that one of the objectives was to establish a realistic central area size and to determine transport system alternatives. That is item (c) of the objectives. The report then states—

> It was in attempting to satisfy item (c) above that the greatest amount of confusion and criticism has arisen.

It then goes on to discuss the figure of 90,000 which was arrived at and was much discussed. Frequently we heard talk of it being unrealistic. Yet we find the following on page 4:—

> It is therefore incorrect to say that the Nielsen transport plan limits the central area workforce to 90,000. It does not. But it does indicate that certain measures will need to be taken to avoid vehicle congestion as the figure rises above 90,000.

Further on, paragraph 1.16 states—

> Nor does the Nielsen transport plan commit the Region to only one possible land use plan as has at times been implied by its critics. There is a considerable degree of flexibility in it and should an alternative land use plan be considered, then a similar transport evaluation test could be carried out. The transport planning tools are available and the necessary experienced staff are available in this State as a result of the 1970 Transport Study.

Therefore, it is obvious that the figure of 90,000 is an extremely flexible one. For example, on page 4 paragraph 1.13 states—

> Certainly the public transport system incorporating the busways would be adequate for the higher figure of 120,000; a figure which is not likely to be exceeded by 1989.

Then paragraph 1.14 continues—

> On the other hand it was shown that even if the central area workforce was to reach a figure of 120,000 by 1989 a sophisticated, standard gauge rail oriented public transport system could not be justified and the indications were that a much larger population than anticipated by 1989 would be required to support such a system.

I turn now to page 67 of the report. The Committee will recall that the Nielsen "Do Nothing" plan was used as the basis for comparing costs of the five plans. Paragraph 5.40 of PERTS 1972 states—

> As the Do Nothing Plan was the base against which the improved plans were being compared, the capital cost used in the calculation was the additional capital cost of each improved plan over the Do Nothing Plan. All the estimated capital costs for a 30 year period, from 1974 to 2003, were taken into account in the calculation of the present value of the costs. This enabled the longer life of an electric railcar (30 years) as compared to a bus (20 years) to be taken into account.

A table is provided and, if I were in the Federal Parliament, I could simply move that it be incorporated in *Hansard;* but we do not do that in this State.

Paragraph 5.41 on page 68 states—

> The present value of the benefits of each plan was calculated in the same way as the present value of the capital costs had been. Benefits from 1989 to 2003 were assumed to continue at the same level as in 1988/89.

Then there is a table. Paragraph 5.42 is most interesting. It is as follows:—

> The ratio of the present value of the benefits to the present value of the costs was then calculated for each improved plan as shown in Table 5.12. This table shows that although the benefits of the Rail Sink Plan exceed the costs, they are not as high as in the Busway Plan and that the ratio of benefits to cost is significantly higher on the Busway Plan for any discount rate between 7% and 15%.

In other words, the busway plan is the one in which we should be interested. Under the heading of "Underground Section in Central Perth," paragraph 5.45 states—

> The cost of lowering the railway through central Perth, or of putting the bus terminal underground has been excluded from the economic analysis, because the benefits of this expenditure would be environmental ones which could not be evaluated in the same way as the other benefits of the improved system.

So it goes on. I would like an answer to the questions which Mr. White posed. Where is the study, the research, and the planning that has gone into the proposal which

is the subject of the Bill? It may be in the PERTS 1972 report, but I cannot find it. When he tabled the report the Minister did not say, "This is the report which the Government is not prepared to accept; it has gone off on its own and produced something entirely different." I do not think any members heard the Minister say that.

The Perth Regional Transport Study 1972 contains items assessed by highly-qualified men who composed the steering committee. The M.R.P.A. was specifically represented by Mr. J. E. Lloyd, Commissioner of Town Planning. The study was also assisted by a technical advisory committee, a study team, and consultants. The report was considered by all those people. Even Mr. Knox worked on it, not in his capacity of representing the M.R.P.A., but purely and simply as the Director-General of Transport. Yet nowhere in the report can I find anything to justify the introduction of the Bill. I simply have not a clue why the Minister even mentioned the report.

The Hon. J. Dolan: It was to provide as much information as possible about the whole proposition.

The Hon. G. C. MacKINNON: It contains no information about the Bill.

The Hon. J. Dolan: What if it doesn't? That is just too bad. I tabled it so that any member who wished to speak could use it if he felt so inclined.

The Hon. G. C. MacKINNON: I recall a certain member of this Chamber who used to sit near where I am standing now. When we were the Government if any of us had the cheek to make such a remark to him he would have said—and I quote—"I will keep the House here until the morning, if necessary, in order to get a satisfactory answer."

The Hon. D. K. Dans: Don't you say that!

The Hon. G. C. MacKINNON: He was a member for whom the Minister had a great deal of admiration.

The Hon. W. F. Willesee: He never did it, though.

The Hon. G. C. MacKINNON: No, but he threatened it regularly and frightened hell out of us. He had the capacity to do it because he was a brilliant speaker and thinker.

The Hon. W. F. Willesee: But he did not do it.

The Hon. G. C. MacKINNON: No, fortunately he grew tired just as we do. However, if any one of us had laid the report on the Table of the House he would have said that the implication was that it had something to do with the Bill.

Just look at the size of the report. I admit that such is my respect for Mr. Dolan that when he tabled the report I thought it had something to do with the Bill, so I went through it about three times. I thought I had missed the item which recommended the proposal contained in the Bill. It is misleading for the Minister to mention the report in association with the legislation. Anyone who thinks it is not misleading is pure-minded to the point of absurdity.

The Hon. A. F. Griffith: Perhaps the answer to my question is that nobody in the Government saw the report.

The Hon. G. C. MacKINNON: I have the feeling that Mr. Griffith may be on the right track; that perhaps the Government was told that it was a good report, and someone said the undergrounding was a good idea, and so automatically the Government tied the two together. That is the only reason one can think of that an honest man like Mr. Dolan would table the report at the same time as he introduced the Bill.

The Hon. W. F. Willesee: There would be a tendency to do that over the years.

The Hon. G. C. MacKINNON: The Leader of the House said that, not I.

The Hon. W. F. Willesee: I am just thinking back over the last 15 years.

The Hon. G. C. MacKINNON: I would like the Minister to answer the various questions I have posed.

The Hon. A. F. Griffith: He is not thinking very accurately when he makes a comment like that.

The Hon. W. F. Willesee: Reasonably accurately.

The Hon. G. C. MacKINNON: I would like to know how the Minister can justify the statements he has made regarding the Bill.

The Hon. CLIVE GRIFFITHS: I do not quite agree with what Mr. MacKinnon said in connection with the tabling of the PERTS 1972 report by the Minister. As I recall the circumstances, when the Minister tabled the report he did not say that it had anything to do with the Bill. I might be wrong, but I cannot recall his doing that. I do recall that when I was about to speak during the second reading debate I discovered that the document had been tabled the previous day. Certainly I did not find out about it as a result of the Minister making special reference to it. I was astonished to find that we were presented with a Bill which proffers a rapid transport system for the metropolitan region in conflict with the contents of the PERTS 1970 report.

The Hon. G. C. MacKinnon: You know, I think you are 100 per cent right.

The Hon. CLIVE GRIFFITHS: Then I was suddenly confronted with the PERTS 1972 report. I think perhaps Mr. MacKinnon was a litle unjust in his criticism of the Minister in that regard.

I was really astonished to hear the Minister say quite honestly that until he tabled the report he did not know of its existence.

I cannot understand why we were not told that a committee had been charged with the responsibility of producing the document. It could not have been produced in two, three, or four weeks, so obviously the committee had been working on it for some time and surely the Government would have been responsible for authorising the establishment of the committee. So any criticism of the Government involves the fact that we ought to have been informed, as we were with the 1970 Nielsen report, that a report would eventually be presented to members to study. However, until the report hit the table we did not even know it was being compiled. This is a questionable and deplorable state of affairs.

The Hon. A. F. Griffith: Would it not be competent to get the Minister to tell us the date on which the Government appointed the steering committee which produced the PERTS report No. 2?

The Hon. CLIVE GRIFFITHS: Yes. During the second reading I stated I had not had time to ascertain whether the report referred to the Bill. However, Mr. MacKinnon has read it since—and so have I—and it certainly contains nothing in it about the Bill. That very fact is all the more reason the Minister had no real necessity to suggest we should read it in relation to the Bill. If the Government established the committee to produce the document why did it do so if it intended to produce the Bill prior to receiving the report?

The Hon. J. DOLAN: I do not believe I should answer some members—

The Hon. A. F. Griffith: We do not mind. You can make part of your explanation tonight.

The Hon. J. DOLAN: I think it would be more desirable if I moved to report progress. I could then have all aspects carefully examined and all questions answered.

The Hon. A. F. Griffith: You will ascertain for us the date on which the steering committee was appointed, the reason it was appointed, and to whom it was to report? You will give us an outline of the document?

The Hon. J. DOLAN: I will make every attempt to have all queries carefully examined and give all the answers I can.

The Hon. A. F. Griffith: You might endeavour to ascertain why they did not give you a copy.

The Hon. J. DOLAN: That is fair enough too. What I said was completely correct. The report may have been in existence for a month or more, but I did not know of it until the day before I tabled it. I said that it might be of some value to members and therefore it was right and proper that I should table it. I was not aware whether or not it contained anything of value. I accept no responsibility for the fact that members found nothing of value in it. I think I did the correct thing in tabling it.

Progress

Progress reported and leave given to sit again, on motion by The Hon. J. Dolan (Minister for Railways).

House adjourned at 10.06 p.m.

Legislative Assembly

Tuesday, the 12th September, 1972

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

QUESTIONS (17): ON NOTICE

1. EDUCATION

Free Books Scheme

Mr. HUTCHINSON, to the Minister for Education:

(1) Will he list the range of books produced by the Education Department together with information regarding the author and where printed?

(2) Will he table the range of books on social studies that are produced by the department, or, alternatively arrange for their presentation in the Parliamentary Library?

Mr. T. D. EVANS replied:

(1) The range of books produced by the Education Department is very extensive and includes publications for the achievement certificate at secondary level, free text books for primary schools, workbooks, supplementary materials, professional journals, teacher guides and handbooks, administrative handbooks, correspondence booklets, etc.

The number of titles is so great that it would be nearly impossible to compile a complete list. If the Member would be more specific the department will endeavour to supply the information requested.

Apart from a small number of professional papers, all publications are the result of collaboration between staff members and are not attributed to a single author.

It is policy for all printing to be arranged by the Government Printer.