(2) (a) Is this station under-staffed; and

(b) if so, to what extent?

(3) If a station is under-staffed, are employees given overtime to carry out the extra work, or are other arrangements made to ensure that the police duties are carried out?

(4) Do such organisations as Police and Citizens' Youth Clubs suffer when stations are under-staffed?

(5) Is there a reasonable chance that the well patronised Esperance Club will fold because officers are no longer able to help with supervision for three hours on two nights weekly?

The Hon. J. DOLAN replied:

(1) One Sergeant, seven Constables.

(2) (a) Yes.

(b) One Constable currently undergoing a training course on vehicle examination before proceeding to Esperance.

(3) Yes.

(4) Not if it can be avoided.

(5) No.

6. COURTHOUSE

Esperance: Gardens

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

(1) Are similar provisions made for the keeping of gardens at the Esperance Court House as at the various schools, the hospital and the Department of Agriculture?

(2) Will the Minister look into ways of improving such provisions at the Court House so that the established gardens around the fine building are attractively maintained by experienced workmen?

The Hon. J. DOLAN replied:

(1) No.

(2) Yes.

7. LIVE SHEEP

Restriction of Export

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

(1) Has the Leader of the House seen the headline on page 1 of the *Daily News* dated the 11th April, 1973, which states "Curb export of live sheep: TLC"?

(2) Will he acquaint the House as soon as possible of the views of the Government in respect of the reported request of the Trades and Labor Council in view of the possibility of the loss of overseas markets?

The Hon. J. DOLAN replied:

(1) Yes.

(2) The Government believes that the export of live sheep would have a minimal impact on the price of meat.

House adjourned at 4.24 p.m.

Legislative Assembly

Thursday, the 12th April, 1973

The SPEAKER (Mr. Norton) took the Chair at 11.00 a.m., and read prayers.

BILLS (4): INTRODUCTION AND FIRST READING

1. Fatal Accidents Act Amendment Bill.
2. Constitution Acts Amendment Bill.
3. Electoral Act Amendment Bill (No. 2).
4. Electoral Districts Act Amendment Bill.

Bills introduced, on motions by Mr. T. D. Evans (Attorney-General), and read a first time.

ACTS AMENDMENT (ROAD SAFETY AND TRAFFIC) BILL

Third Reading

MR. JAMIESON (Belmont—Minister for Traffic Safety) [11.05 a.m.]: I move—

That the Bill be now read a third time.

MR. O'CONNOR (Mt. Lawley) [11.06 a.m.]: I rise very briefly to express my disappointment that the Government has given little or no consideration to the views put forward by the Opposition in relation to this legislation.

Irrespective of whether or not the submission put forward by the Opposition would have saved more lives than the provision outlined in the Bill, the Government gave it little consideration. Further fragmentation of the control of road traffic will achieve nothing, and will certainly not achieve the expressed desire of the Government to reduce the number of fatalities on the road. In my opinion the only way to do this is to bring control under one authority. For this reason I wish to express my disappointment at the third reading stage of the Bill.

MR. NALDER (Katanning) [11.07 a.m.]: Because of my actions on Tuesday night I feel it is necessary to take this opportunity to put my point clearly to the House. I believe the proposals outlined

by the Minister are of some value, and it was for this reason that I joined with the member for Narrogin to support the second reading of the Bill. One of the main reasons for the introduction of this legislation by the Government is an aim to reduce the road toll. Any action undertaken to achieve this end needs support.

Mr. O'Connor: This Bill will not achieve it.

Mr. NALDER: The Bill provides for research into the causes of road accidents. When we discussed the legislation which was before the House last year, I said one of the main problems was insufficient research into the causes of road accidents. I therefore believe we should support any move in this direction.

Mr. Hartrey: Hear, hear!

Mr. NALDER: I supported the measure because the problem is not given sufficient consideration at the present time. To do this we must set up a department to research every aspect of the problem. Drunken driving is indoubtedly one of the contributing factors to the high road toll and every member of the House will agree that further action on this aspect must be taken. In this and every other State of the Commonwealth, the Police Force says that alcohol is involved in 50 per cent. of the fatal road accidents. At this time I am not dealing with accidents where people are maimed for life but no doubt similar figures would apply in these cases.

At this stage no-one is game to take any further action in relation to drunken drivers. We sit back doing nothing because of public opinion. The legislation before us will allow the public to express the view—as I am sure it will—that further action must be taken in regard to drunken drivers.

Governments are not game to take action to try to reduce that part of the road toll which is caused by drunken drivers; we simply talk about it. If a hole appeared in the Narrows Bridge and a car fell through it we would hear a scream throughout the world that something should be done to prevent a recurrence. We know very well that people are being killed as a result of overindulgence in liquor yet we are not game to take action.

Mr. Lapham: Are you concerned about drunken driving or the effects of alcohol on driving?

Mr. NALDER: There are two aspects to this matter and they are both very important. I am pleased to see that the Victorian Government is to take further action. The action that State has taken previously has not been effective; nor has the action we have taken. Every day people are brought before the courts as the result of driving under the influence of alcohol. They are fined $200 and their licenses are suspended for a certain period. Yet we find some of them appear a second and third time. Our current legislation is not having the effect we hoped it would have. One has only to drive on the roads to realise that probably three or four times the number of people apprehended are actually driving on the road under the influence of alcohol. I am only hazarding a guess there, but when one follows these people one can see they are affected by liquor. Probably when public opinion reaches a certain point something will be done about the matter, but nobody is game at the moment.

Mr. A. R. Tonkin: The public are not serious about it.

Mr. NALDER: They will be.

Mr. A. R. Tonkin: I hope so, but I do not think they will.

Mr. NALDER: I think they will when they realise the problem.

Mr. A. R. Tonkin: As soon as you suggest some new method of dealing with the problem they object in the name of civil liberties.

Mr. NALDER: I do not think penalties are the answer.

Mr. O'Connor: What do you suggest?

Mr. NALDER: I say more research is required because presently we have insufficient information. During the second reading debate I interpreted the Minister to say that more than 50 per cent. of the people in hospitals today as a result of motor accidents have a record in regard to their driving. I have placed a question on the notice paper today in relation to that point. I want to find out whether those people are there as a result of alcohol. I am pleased the Minister referred to the matter because I do not think anybody has thought of this aspect.

Mr. O'Connor: I have been conscious of it for a long time.

Mr. NALDER: Well, I have not seen any evidence produced in respect of it.

Mr. O'Connor: It has been.

Mr. NALDER: I think we should follow up this matter because if what the Minister said is correct we might be able to do something about the licensing of such drivers.

I supported the legislation at the second reading on the basis that any information that may be produced in an effort to lessen the road toll will be of great value. It is vital that we tackle the issue. I feel the legislation goes part of the way towards satisfying country local authorities as far as taking away part of the responsibilities of the police is concerned. I think local authorities have indicated that is one of their requirements. On the other hand those country local authorities which

control their own traffic will not be interfered with in any way. I cannot overemphasise the fact that I see great value in the research aspect outlined in the legislation, and for that reason I give it my wholehearted support.

MR. RUSHTON (Dale) [11.15 a.m.]: When addressing myself to the Bill previously I said we had an opportunity to forget about our political differences and make a unified effort to produce something acceptable to the people. But like an ostrich the Minister has put his head in the sand. He is proceeding with this legislation for which the Government has not a mandate simply because the Government is reacting to the loss of life on the roads.

Mr. Jamieson: Don't you believe something should be done?

Mr. RUSHTON: Of course. I believe the Government should do what it promised it would do.

Mr. Jamieson: Rubbish. If we did that you would say we were wrong. You argue simply for the sake of arguing on every Bill.

Mr. Graham: The member for nonsense.

Mr. May: Little Sir Echo.

Mr. RUSHTON: Our whole argument is based on the fact that the system is fragmented at the moment and now it will be more fragmented. The people of Western Australia have backed a unified system, but here we have a fragmentation of what they asked for.

The fact that more and more lives are being lost has spurred the Government into taking this late action. Every time a life is lost the blame is sheeted home to the police and it is said there is a lack of attention; but that is not reasonable or acceptable. If we leave the control of this vital issue in the hands of fragmented authorities that situation will continue. In its policy speech the Government claimed —and we supported it—that people should be involved in order to obtain the desired result. Here is an opportunity to involve people throughout the length and breadth of the State; but that is not to be; the matter is to be placed in the hands of a small departmental authority. I suggest that whilst the people proposed to comprise the authority are first-class men, this is not the way to handle the matter.

We must involve more and more people and face up with courage to some challenging decisions in respect of traffic control, research, and all the other aspects involved. We should not act merely because we are spurred on by a spate of fatalities. It is most regrettable that that seems to be the factor which has prodded the Government into action.

It is well known that in its two years of office the Government has not spent extra money on this problem, so any claims that it is realistically concerned are defeated immediately. This highlights the fact that the Government is not sincere in carrying out its election promises.

In contradistinction to the remarks of the Leader of the Country Party, whose opinion I respect, I believe this legislation discriminates against local authorities who have not handed over control. Those authorities are being placed under pressure because extra attention is to be given to authorities which have transferred the control of traffic to the police. We cannot make a fair comparison between one system of control and the other because each has advantages and disadvantages.

The traffic control system that has been adopted by many well-administered local authorities does at least involve people which is the greatest asset one can have in trying to achieve the ultimate in road safety. At the moment the Government is merely holding out a financial carrot to various local authorities to come across to its way of thinking, if they have not already done so. It has been rumoured that such local authorities will enjoy special privileges if they do agree with the Government's thinking.

Mr. Jamieson: You know what Dame Rumour is, don't you? Just a lying jade!

Mr. RUSHTON: This is the sort of thing that has been going on throughout the country districts and it is not hard to understand. The best contribution they can make—

Mr. Graham: The best contribution you can make is to resume your seat.

Mr. RUSHTON: Rudeness is a contribution that is made by those on the other side of the House.

Mr. Graham: You have been so polite this morning, haven't you? What about the insinuations you are making?

Mr. RUSHTON: I am only stating the facts.

Mr. Graham: Yes, rumours are facts.

Mr. RUSHTON: We should get down to doing something positive to prevent the tragic loss of life and the maiming of individuals on the roads instead of adhering to ideas that are obsolete. There are many people who are prepared to change their ideas to solve this problem, so why should we not assist by bending our ideas a little?

Mr. Graham: Thank the Lord!

MR. JAMIESON (Belmont—Minister for Traffic Safety) [11.23 a.m.]: I think a few comments that have been made during the course of this debate require some reply. Firstly, I object strongly to the attitude shown by the member for Mt. Lawley when he said that no consideration was being given to the suggestions put forward by members of the Opposition.

During the course of the debate on the Bill he put forward only one strong suggestion in the form of an amendment.

Mr. O'Connor: What I said was that virtually no consideration had been given.

Mr. JAMIESON: The honourable member did not use the word "virtually"; he said that no consideration was being given.

Mr. O'Connor: I was not referring to the amendments, but to the system which was suggested.

Mr. JAMIESON: The words used by the honourable member were that no consideration was being given. He has to be a little pleasant in his manner when he attacks a proposal just for the sake of attacking it. The other evening I stated that I did not believe this Bill was the ultimate in trying to solve the problem with which we are faced, but we have to try something, and the best advisers we have been able to obtain suggest this is the best way to tackle the problem. We did not make the suggestions; our best advisers made them, because they want us to hold to something. I mention that for the benefit of the member for Dale. After conducting research on a world-wide basis and being told, "That scheme is not on; go ahead with some other scheme", we find that the scheme embodied in this legislation conforms quite well with our policy.

We then come to the word that has been used time and time again; the word "fragmentation". What we are trying to do is to combine those bodies already working in the field of traffic safety with a view to obtaining some sound suggestions towards solving traffic problems. I presume the local authorities do some research when they get a black spot in their centres. They have their problems and very often they call for the assistance of the Main Roads Department, but I admit that sometimes they do not. In some instances they try to work out for themselves the best way to solve the conflicts in regard to traffic problems, or those problems that occur on straight sections of road which often are as a result of faulty road construction.

Also the police carry out some slight amount of research. If they are called out to an accident quite often they submit reports, and no doubt the Commissioner of Police, after perusing them, makes suggestions towards improving traffic black spot situations.

Then, thirdly, but not lastly, we have the Main Roads Department which also conducts some form of inquiry into accident problems. We are hoping that the sort of structure embodied in the Bill will marry these three individual sections which are concerned with traffic into one entity that can closely study the problem as a whole. Already progress has been made by taking action along these lines.

The Leader of the Country Party indicated that the Bill represented something that was moving in the right direction and, although it does not meet with the approval of everybody, he expressed the view that he would like to see something done. We are obliged to try some new approach. The alternative is to do nothing and to worry every time we get an additional onrush of deaths on the roads and then try to solve the problem some other way. Unless we have a properly combined research organisation into which local authorities, the Police Department, and the Main Roads Department can feed their ideas from the results they have obtained from their investigations, we have no concerted effort being made to solve the problems which exist on the roads.

I repeat that this Bill is not the ultimate towards solving the problem, but we will introduce other means as we go along. Whilst I was in South Africa last year I was pleased to see the methods adopted by the Pretorian Government in trying to solve traffic problems. That Government has moved right away from the police. It has a smash squad composed of trained psychologists and operatives who rush to the scene of any accident and take photographs of those who have been involved in the accident lying in various positions on the road. The objective of this smash squad is that, as soon as the accident occurs, it rushes to the scene of the accident before anything is altered or moved. The squad takes many photographs and obtains a different impression from that obtained from the police reports.

The smash squad considers that the different impression gained by them is due mainly to the fact that police officers are inexpert in questioning witnesses of a road accident. These witnesses are often too badly shocked to answer questions, and in other instances if they consider that they are in the wrong they are guarded when making answers to the questions put to them. As a result the right kind of person is not giving a proper report on an accident situation.

We hope to overcome this. We can model our system on the various ideas that have been put into practice in countries all around the world, and so achieve the ultimate goal.

The other factor that was mentioned by the Leader of the Country Party related to those persons who drive under the influence of liquor. I know the view of the Leader of the Country Party on this question and that it is the same as that held by other members of the community, and probably I could say we should follow the Swedish system; that is, that no form of

drinking be indulged in after a certain point before driving a vehicle. If this were done probably it would bring about the best possible circumstances on the road. However, I have ascertained that the Swedish people, unlike those in this country, have different drinking habits. They drink more at home and less in hotels. As a consequence, the people of that country have a different temperament.

I am glad to see that the publicans, through the A.H.A., have accepted the responsibility of putting up posters in their hotels which remind their patrons that one should not drink too much liquor before one attempts to drive a vehicle. When this matter was previously before the House and Mr. Craig—who is no longer with us—was a Cabinet Minister, I suggested—and members can read this in *Hansard*—that the publicans should place these posters on the walls of their hotels to indicate the danger level at which any person could start to become affected by liquor. Whilst some members may say that this does not achieve the ultimate, the posters may be successful in reminding those more responsible citizens, who are inclined to stay in a hotel a little longer than they intended because they have met someone they did not anticipate being there and as a consequence imbibe more than they should, that they should not drive their cars in such circumstances.

Such moves might help, or they might not. We should try everything possible to induce people to lower their blood alcohol content if they intend driving.

In Victoria where the permissible level of blood alcohol is lower than that of Western Australia, we find that this year that State is experiencing an increase in motor accidents and road fatalities. Road fatalities cannot be reduced, and the problem cannot be solved, merely by seizing on one method to overcome them.

I did take to task the numerous signatories—these were all medical men—for signing the well known letter which appeared in *The West Australian* some time ago relating to the level of blood alcohol in motor accident cases. I took them to task for their statistical approach to this matter, because they based their findings on the cases they saw being admitted into the hospitals. I pointed out that what they said would be quite in order, if they could guarantee that was not the percentage of the people who had indulged in liquor actually driving on the roads. If 80 per cent. of the accidents involved the consumption of alcohol, and if 80 per cent. of the drivers on the roads on a Saturday night were affected by alcohol, then we would expect 80 per cent. of the drivers involved in accidents to be reflected in that proportion. However, without complete statistics it is very difficult to judge the exact effect of alcohol on road accidents.

I should point out that road fatalities include pedestrians. Excepting those who are very old and very young, in the main people who are killed as they walk off the footpath are affected by alcohol. However, these deaths are regarded as road fatalities.

Even with the best of intentions I do not see how this situation can be improved, because a nondrinker—like the Leader of the Country Party—may be driving on the road, strike a pedestrian who has imbibed too much alcohol, and cause a fatality. This is regarded in the statistics of road fatalities as involving a person who has overindulged in alcohol at the time of the accident. In my view these statistics need greater refinement.

Mr. Nalder: Is that not the type of research that should be undertaken so as to isolate all these points?

Mr. JAMIESON: No doubt, everybody is desirous of isolating all these features so as to know where we are heading in respect of this problem. The various sections of the research set-up will grow. The set-up will include medical officers and people who are aiming at achieving a greater measure of road safety. Information will be available from such people, so that in due course we will know more about this problem.

We thought that when Western Australia established the road section of the National Safety Council we had the ultimate to bring about a reduction in the road toll. A great deal of money has been spent on driver training, and Western Australia has spent more per head of population in this field than any other State. Western Australia is still providing driving instruction to people from other States. Even members of the Police Force from other States attend the driving school at Mt. Lawley. Despite all that the road fatality record of the State is a bad one. I am not saying that the road section of the National Safety Council is not doing a mighty job, but it does not seem to be able to find a way to alleviate the problem.

I am sure the community wants something to be done about the carnage on the road. It is not fair to attack the Bill, as the member for Dale did, on the basis that all the "i"s have not been dotted and all the "t"s have not been crossed, or that it is somewhat different from the announcement in the Premier's policy speech. We have had abundant evidence to indicate that this feature should be separated. It is gross hypocrisy on the part of the member for Dale to criticise the Bill in that way, because I know that deep down he also wants the road toll problem to be solved.

At this juncture we are unable to introduce anything better than what appears in the Bill. The Bill looks to be a good idea, and our advisers have asked us to go along with it. Let us pass the Bill and see whether it works. If it does not then there is a remedy, because next year there will be a general election. Let us see what the various policy speeches will contain in respect of this problem. At that time there may be a prospect of this Government, or of the Opposition if it becomes the Government, improving the situation. Whatever be the outcome, at least after the Bill is passed there will be the nucleus of a co-ordinated research centre which is set up to ascertain the real causes of the road toll.

Question put and passed.

Bill read a third time and transmitted to the Council.

SALE OF LAND ACT AMENDMENT BILL

Second Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [11.37 a.m.]: I move—

That the Bill be now read a second time.

The provisions of section 17 of the parent Act were intended to safeguard the public from deceptive statements by unscrupulous land developers about projected amenities to be provided in residential areas. However, as a result of the requirements of the section being too stringent, enforcement is difficult.

This Bill proposes to repeal section 17 and to re-enact it in a more reasonable and a more practical form. Protection would still be given to prospective purchasers who would have to be informed whether approval had been granted for the siting of the proposed amenity or that the vendor did not know of such approval, as the case may be. The present wording of the section forbids the making of any statement regarding the amenity, unless it is known that all authorities or all approvals have been given for the siting, construction, and operation of the amenity.

The amenity would allow land developers more liberty to discuss their proposed developments with interested persons, while affording the public protection from deceptive representations. Accordingly I commend the Bill to members for their support.

Debate adjourned, on motion by Mr. R. L. Young.

LEGAL CONTRIBUTION TRUST ACT AMENDMENT BILL

Second Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [11.40 a.m.]: I move—

That the Bill be now read a second time.

The Bill proposes to make certain amendments to the parent Act to enable more effective use of the Legal Assistance Fund by increasing its resources and widening the availability of its benefits.

By the existing definition in section 4, legal advice which is reduced to writing ceases to come within the definition of "legal advice" although the same advice would qualify if given orally. This anomalous situation can be rectified by the proposed amendment which simply deletes the word "oral" so that both oral and written advice would come within the scope of the definition.

The second amendment is also to section 4, which defines "legal aid". The definition of "legal aid" does not provide the power to grant assistance in legal matters unless such matters could be the subject of court proceedings, thereby preventing assistance in, for example, probate matters generally. Assistance in such areas is often necessary and desirable. It is proposed by the addition of paragraph (c) to make assistance available in a wider number of deserving cases.

The next amendment deals with the investment of the proportion of solicitors' trust accounts invested pursuant to the Act. Presently it is obligatory to invest with the banks where the legal practtioners maintain their trust accounts at the short-term interest rate as from time to time approved by the Reserve Bank of Australia. Some difficulty has been experienced in ascertaining the rate and consequently interest is being credited by banks at the rate applicable to fixed deposits for periods of three months.

The experience since the trust commenced shows a constant increase in the total amounts deposited to the credit of the trust. It seems unreasonable that this money should be considered to be invested for periods of only three months.

An amendment to widen the class of investment will enable the trust to obtain a more realistic return from the investments and provide more funds for legal aid.

Similar legislation in other States contains the powers now sought for the Western Australian trust.

The final amendment to section 39 of the parent Act simply allows legal assistance on matters other than court proceedings to which I earlier referred. This follows automatically from the adoption of the amendment to the definition of "legal aid" in section 4.

This Bill which seeks to improve the functioning of a very worth-while public service, again is commended to members inviting their ready support.

Debate adjourned, on motion by Mr. Mensaros.

PROPERTY LAW ACT AMENDMENT BILL

Second Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [11.46 a.m.]: I move—

That the Bill be now read a second time.

The Bill proposes to rectify an undoubted harshness in the law whereby lessors can decline the purported exercise of an option by the lessee due to a minor breach of the terms of the lease.

The proposal is to add a new division to part VII of the principal Act. The new sections are contained in clause 3 of the Bill.

Proposed new section 83A defines the term "option" and in paragraph (b) provides that "breach" shall be given the same interpretation as it would take in a lease without an option.

Proposed new section 83B requires the new division to be read and construed subject to section 68 of the Transfer of Land Act.

Proposed new section 83C requires that the lessor serve notice on the lessee of the breach within 14 days before the option of renewal is forfeited. The lessee would still be given the opportunity to apply within one month to the court for relief against the impending forfeiture of the option and forfeiture then could be prevented at the discretion of the court, either absolutely or conditionally. Failure by the lessee to comply with any condition subject to which relief was granted by the court, would render his option liable to forfeiture.

The court is given the power in proposed new section 83D to take into account all relevant factors when deciding whether to grant relief, including the nature of the breach, its effect on the lessor and third parties, and the conduct of the parties involved. Other new sections included in the Bill deal with administrative details to give effect to these main changes to which I have referred.

It has long been recognised by the law that certain insignificant breaches of a lease agreement do not discharge parties from their obligations to carry out the agreement. It is an obvious extension of this policy to treat options to lease similarly.

The Bill is also commended to members inviting their support.

Debate adjourned, on motion by Mr. Mensaros.

METROPOLITAN MARKET ACT AMENDMENT BILL

Second Reading

MR. H. D. EVANS (Warren—Minister for Agriculture) [11.50 a.m.]: I move—

That the Bill be now read a second time.

The Metropolitan Market Trust is constituted a body corporate under the Metropolitan Market Act of 1926. The membership of the trust in accordance with the Act is composed of two Government representatives, one producer representative, one consumer representative, and one member nominated by the Council of the City of Perth.

The purpose of the Bill now before the House is to give effect to a change in the number of members of the trust so that the membership will rise from five to seven.

It proposes to include a member representative of the Chamber of Fruit and Vegetable Industries in Western Australia who would be nominated by the Minister on the recommendation of the chamber.

In effect, I expect that the chamber will submit a small panel of names from which the Minister will make his selection. This is the general practice with most other boards and authorities.

It is also proposed that a further additional member be the Commissioner for Consumer Protection or his representative.

To deal with the first additional proposed member—that is, the representative of the Chamber of Fruit and Vegetable Industries—the chamber has made representation on a number of occasions for the appointment of one of its executive council members to the trust.

It is maintained that the chamber is a properly constituted and recognized body within the industry to be represented and it draws its membership from all sections of the trade operating in the markets.

The council of the chamber conducts regular meetings at which the elected representatives from each section—that is, auctioneers, private treaty merchants, and packers—attend. Through the chamber, all matters pertaining to marketing are fully covered and from their ranks expert knowledge and service are readily available.

The Western Australian chamber is also a vital part of the Commonwealth chamber and this ensures that the local chamber is well informed at all times of matters affecting the trade Australia wide. The chamber has put before me its case for direct representations on the Metropolitan Market Trust and in my view its case is soundly based.

It is also considered most desirable that the Commissioner for Consumer Protection or his representative be appointed a member of the trust as in his role he is in touch with and is in a good position to understand the everyday problems of consumers. The commissioner will also be in a good position to provide the trust with feed-back information of consumer reaction relating to the fruit and vegetable industry.

The Bill, therefore, makes provision for the increased membership of the trust from five members to seven members, and I am firmly of the belief that the increased membership will give added strength and knowledge to the trust. I commend the Bill to the House.

Debate adjourned, on motion by Mr. Gayfer.

STANDING ORDERS COMMITTEE

Consideration of Report

MR. BATEMAN (Canning) [11.54 a.m.]: I move—

> That in accordance with the instruction of this House, agreed to on Tuesday, 10th April, the Standing Orders Committee report be now considered.

As most of the proposals in the report are self-explanatory, it is not my intention to speak at length.

In 1967, Standing Order 1 was amended to exclude any Standing Order of the House of Commons made after 1890 being rendered applicable to this House unless expressly adopted by this House. Additional words have now been added which will include any new rule or form practised by the House of Commons unless expressly adopted by this House. The explanation given for the change in 1967 reads—

> This Assembly should not be bound to subsequent alterations to the House of Commons rules.

The definition "Matters—*sub judice*" was placed in the Standing Orders in 1967 and was in accordance with the practice of this House and the Rules of the House of Commons—see page 454, May's *Parliamentary Practice*, 17th Edition.

Your committee, Mr. Speaker, agreed that the instruction at the end of the definition should more properly be placed in a separate Standing Order and I draw your attention to proposed new Standing Order 116A.

When dealing with the report under Committee procedure, the proposed deletion of Standing Order 137 should be postponed until after the consideration of new chapter 30B. Standing Order 137 with additional words is incorporated in the chapter as 407D.

The proposed amendments to Standing Order 164—Time Table—are fully covered by the explanation in the report. Your committee, Mr. Speaker, agreed that such amendments should continue to be treated as a motion of "want of confidence", but decided that the time for each speaker should be less than for the main subject.

The amendment to Standing Order 166 and the proposed new Standing Order 215A should be dealt with together. The practice of this House is that procedural motions, particularly those applying to Bills, are not required to be seconded. The proposed amendment to Standing Order 166 will allow all procedural motions to be moved and put to the House without requiring a seconder. For example, this would apply to the deletion of the word "now" from the motion "That the Bill be now read a second time" or "third time", a procedure provided in the Standing Orders for the delaying or defeating of a Bill.

The explanation for the proposed new Standing Order 215A covers the requirements of procedural motions and other motions.

The proposal in Standing Order 220A is the practice of this House and is in line with Standing Order 217 which refers to motions.

New Standing Order 255A is as a result of a suggestion made in the House and is self-explanatory.

Chapter 30B is an entirely new proposal and I do not propose to comment on it except to say that your committee, Mr. Speaker, was undecided whether to have the committee appointed at the beginning of each session or in the manner now proposed.

MR. MENSAROS (Floreat) [11.57 a.m.]: I would like to thank members for their co-operation in regard to my amendment in which I suggested the form of this debate. At the same time, of course, I am sorry that there seems to be so little interest shown in our Standing Orders and, in particular, I am sorry that the leaders of the parties are prevented from being present today. I am also sorry that the attention of the Attorney-General has been taken, and he cannot listen to the debate.

Apart from the individual amendments which can be discussed in isolation, and I think will not evoke any great contention —such as deleting Standing Orders dealing with members seated on petition, the seconding of motions, the withdrawal of an order of the day, and the joint discussion of complementary Bills during second reading debate—three main questions are involved. They deal with innovations which I think deserve some examination.

Firstly, there is the matter of *sub judice* and, secondly, the times allocated to speakers on certain occasions. Thirdly, and perhaps most importantly, there is the matter of privileges. I would first like to deal with the matter of *sub judice*. Somehow I have the feeling that the Standing Orders Committee, as such, intended something other than what is actually contained in the draft. Quite frankly I wonder whether the drafting—as it proposes to amend the Standing Orders—is fully and properly understood.

I have taken part in the meetings of the Standing Orders Committee and, as I understand it, the committee wished to cater for a specific position. This

arose from something we all remember; namely, an amendment to the Mining Act, and the writ and subsequent appeal by the Hanwright group. The committee wanted to find a way whereby an appeal in process—only in a matter of law—should not be considered as *sub judice*; in other words, the Parliament should be allowed to discuss the question. This is understandable, because it is hard to imagine that highly placed judges—and there would be more than one—who deal with these appeals in a matter of law would be prejudiced in their judgment by whatever is said in the Parliament. These men have had long experience and training which bring a sense of impartiality. As I have said, it was rightly thought that they would not be prejudiced under these circumstances.

However, the drafting of the way in which it is proposed to amend the Standing Order dealing with matters *sub judice* creates quite a different situation. To understand this properly, I point out that Standing Order 2, which deals with *sub judice* matters, is clearly divided into three sections. Firstly, it deals with criminal matters. Secondly, it deals with civil proceedings after the matter has been set down for trial. Thirdly, it deals with civil proceedings prior to the matter being set down for trial.

Only in respect of the last category—civil proceedings prior to the matter being set down for trial—does the Chair have a discretionary right to decide whether the matter can or cannot be discussed in the Parliament. The Chair must decide whether there is a substantial danger of prejudice to the trial. In the other two cases—that is, in all criminal proceedings and civil proceedings after the matter has been set down for trial—the Chair does not have this discretionary right. These are simply matters *sub judice* which are not to be discussed in the Parliament. This provision in the Standing Orders is quite understandable when we consider that many criminal cases are decided by a jury whereas very few civil cases are. The tendency, rightly or wrongly, is that fewer and fewer civil cases should be decided by a jury in the future.

It is also understandable in respect of civil proceedings that a distinction is made between preliminary cases and those which are under trial. Preliminary cases can be of lesser importance. They can even be terminated by the action of the litigants; they issue a writ, but they are reasonably confident that an out-of-court settlement will be reached before the trial is heard.

In many cases a writ is issued simply to stifle debate in the Parliament or to stop any opinion being expressed outside the Parliament. Of course, this is not in the interests of the public. I think you, Mr Speaker, will be the first to agree with me that, even in these limited instances, a fair burden is imposed on the Chair which must decide whether the matter should or should not be regarded as being *sub judice* according to the provisions in the Standing Orders.

If we adopt the present proposition, without amendment, the burden on the Chair will increase immensely because, in respect of all the three categories which are now lumped together, it will be up to the Chair to decide whether the matters can or cannot be discussed. I submit there would obviously be a reluctance on the part of the Chair to allow discussion. This is because the Chair would need to know very many complex circumstances in order not only to form an opinion but also to give a ruling. In all probability the Chair would prefer to refrain from this because of the great degree of responsibility.

Supposing a debate starts on a certain subject and the Chair is reminded—or knows itself—that a writ has been issued. It would need to know the nature of the proceedings; that is, whether they were civil or criminal. It would need to know whether the proceedings would be defended; when the proceedings commenced; and when the case was likely to be heard. The Chair would also have to decide whether the proceedings were genuine or whether they were perhaps taken to stifle debate. Another consideration, which has quite a bearing on the Chair's decision, is whether an out-of-court settlement would be reached in civil cases. The Chair would have to decide whether it was a matter of fact and law or only a matter of law. Further, the Chair would have to consider all these questions almost immediately and I submit that this is impossible.

If such a statement were made outside the House and challenged in a court, all these various circumstances—and many more which I could enumerate—would be presented to the court in the form of an affidavit. Legally trained men, with time at their disposal, would have the opportunity to give a considered opinion. The amendment before us asks the Chair to do this virtually within minutes, without having access to many factors.

As I have said before, I see a danger in the amendment because I think any occupant of the Chair would be extremely reluctant to exercise his discretionary right and to say that, in his opinion, the matter can be debated.

There is another side to the question. In many cases, members of the public have the right to have these matters aired. We must strike a fine balance between the interests of members of the public, who are entitled to hear matters of interest to them, and the interests of the individual whose trial should not be prejudiced.

Let me give a recent example. An article appeared in *The West Australian* on the 22nd March, this year, in which the

Queensland Minister for Justice attacked a pyramid selling organisation, which is also operating in this State. Police investigations could show that members of the public in Western Australia should be warned by the responsible Minister in the Government but this could not be done if a writ had been issued. Neither inside nor outside the Parliament could a warning be given.

Let me give another example which we all remember well although it happened years ago. Let us suppose that the convicted murderer Cooke—who was subsequently executed—escaped from custody before his trial. I am sure all members would agree it would have been in the public interest to publish his photograph and circulate his description. However, obviously this would have prejudiced his trial to a certain extent because it was a trial by jury.

We are confronted with two conflicting principles. Firstly, every person has the right to a fair trial. Secondly, members of the public have the right to be informed on matters of public interest. The solution is difficult indeed. I do not think the proper solution lies in what has been suggested. As I have said, I think the drafting goes further than the deliberations and decisions of the Standing Orders Committee. My suggestion—but I am not adamant about it—is twofold.

One solution is perhaps to amend the Standing Order as it stands at the present time to the effect that matters under appeal, on questions of law only, should be considered as *sub judice* matters which should therefore not be able to be debated. I will be agreeable to this if it is the wish of the majority.

The other solution would be to retain the proposed drafting but add a proviso in terms such as—

> Unless in the opinion of the Chair it is in the public interest that such matters be debated.

With these two possibilities we would decide either to leave the Standing Orders largely as they are, giving the Speaker discretion only in the matters now prescribed, without increasing his burden, or, in the second case, to increase the burden of the Speaker by giving him discretion to decide all matters but in some way giving him the alternative of considering not only the right of the individual to a fair trial but also the right of the public to be informed about public matters, which to my mind is equally important.

As I said, I am not adamant one way or the other. I would like the Chamber to consider my suggestions and perhaps offer opinions in debate. I will gladly go along with the majority or with any other suggestion which appears to be practicable.

The second group of innovations in the amendments concerns the time allocated to speakers on amendments in two cases —to the Address-in-Reply and the Appropriation Bills. I respectfully suggest we should consider this matter regardless of whether we are today in Government or in Opposition. As I often say, all of us who believe in parliamentary democracy should have the hope, even against ourselves, that there will be an alternative Government, because if there were not we would cease to have a parliamentary democracy. So my first suggestion is to ignore where we sit at the present moment.

My second suggestion is that in considering this matter we should disregard the possibility of a filibuster because if a filibuster occurs just for the sake of a filibuster it can easily be disposed of by applying the gag—as, indeed, the gag has been applied. Whether or not the opposite side agrees it is a filibuster, the fact remains we have the means for cutting off an attempted filibuster.

We must consider what the House would gain in time if we accepted the proposition that a speaker to an amendment to the Address-in-Reply or the Appropriation Bills should have only 30 minutes instead of 45 minutes.

We all know it is the common practice, and indeed the right, of the Leader of the Opposition to move at least one amendment to the Address-in-Reply. At the beginning of a session of Parliament, this is the way the Opposition expresses its view. Admittedly, the amendment will deal with a widely known topical question, and several members may speak to it; but we also know that such an amendment is almost invariably disposed of on the same night. Therefore, if we allow speakers to the amendment only 30 minutes instead of 45 minutes, in an extreme case what would we save? We would save perhaps half an hour or an hour because not all speakers would take up their full time.

In the case of the Appropriation Bills, an amendment is customarily, although not always, moved; but the situation is similar to that applying to the Address-in-Reply. The amendment is usually disposed of on the same sitting day, and again the time saving would not be great.

Additional amendments to the Address-in-Reply usually occur in connection with a subject which is in a special class. Therefore, there would not be a great number of speakers to it because possibly only two or three members would be interested in that particular subject. When we have speakers who are almost experts on particular subjects, it is a question whether we should gain time and do a disservice to the parliamentary proceedings by curtailing the time given to members to speak.

I am not adamant about voting for or against the proposals. I ask members to consider the points I have raised in this light and I indicate I am quite prepared to go along with the majority, although I say again I cannot see a tremendous necessity for the curtailment of the time allowed to speakers.

I come to the third group of proposed amendments, which to my mind are the most important and which, like the one dealing with *sub judice* matters, not only affect us—the Parliament—but also and, I suggest, more so affect the public. These amendments cover a very complex question which needs great deliberation and consideration. I submit that on this question hinges not only the dignity and the proper, uninhibited, and free functioning of Parliament and therefore democratic representation, but also our image in the public eye and the right of the public to exercise reasonable criticism.

I am the first to admit that our Statutes regarding the material law of the privileges, rights, and immunities of members and officers of Parliament are based on centuries-old customs which are in many cases undoubtedly outdated and we could well do with new rights and immunities which spring from the requirements of more modern times. If that can be said about the material law of what I will call, for the time being, privileges—I do not like that word—it applies more so to the proceedings in connection with breach of privilege, as we call it—I would prefer to call it contempt of Parliament or offences against those rights and immunities.

I will trace as briefly as I can the history of parliamentary privileges, in order to understand better the problem with which we are confronted at present. Our privileges, rights, and immunities are based on the Parliamentary Privileges Act, 1891. Section 1 of that Act does not codify those privileges but simply says this Parliament—

> . . . shall hold, enjoy, and exercise such and the like privileges, immunities, and powers as . . . at the time of the passing of this Act, or shall hereafter for the time being be, held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland. . .

So it does not only include all the privileges which existed until 1891, but it also includes all the privileges granted to the House of Commons—if there were any—since that time, at present, and in the future. So the situation here differs from our Standing Orders. Standing Order 1 says that we shall use the procedural rules of the House of Commons only up to the date of the approval of our own Standing Orders. The wording may be different, but it has the same effect.

Our Standing Order 1 does not talk about privileges, so we must still go back to the Parliamentary Privileges Act, which refers to the privileges applying in the House of Commons—those which existed in the past, and those which will exist in the future.

The remaining sections—2 to 15—of the Parliamentary Privileges Act, deal only with procedure and not with the material law of privilege. Sections 54, 61, and 361 of the Criminal Code describe certain offences against Parliament—breaches of privilege—but only in addition to those privileges which we enjoy under the Parliamentary Privileges Act, which I explained before are equivalent to those enjoyed by the House of Commons. We commonly refer to these offences as breaches of privileges. I would prefer to call these offences contempt of Parliament.

The United Kingdom, or England as it was at that time, operated under a unitary Parliament. This was the sole source of legislation; it was the highest court, and it had the sole right to interpret its own legislation and its own rules. That was the privilege of this unitary Parliament, and this is from where we derive the word "privilege".

When the bicameral system developed in England, the House of Commons did not immediately inherit all the rights which were bestowed on the unitary Parliament. Indeed, about the end of the 14th century, the House of Commons complained that its members were not sharers in the judgments, only petitioners.

At that time the most important office was that of the Royal Sergeant-at-Arms. The Sergeant-at-Arms played a tremendously important part in the society. His authority came directly from the King by virtue of the Royal Arms which were stamped on the mace. This was the symbol—sometimes even more than the symbol—of his authority. It was designed to protect any person or corporation against infringement by others. People were protected even by means of arrest of others without warrant and without recourse to a court, by the Sergeant-at-Arms.

Originally the House of Commons did not enjoy the services of a Sergeant-at-Arms. The House of Commons obtained this service in 1415. From then on—especially a century later under Henry VII who wanted to use the House of Commons to have his reforms passed against the obstruction of the British peerage—the "privileges" of the House of Commons developed. One of these privileges was, and is, the absolute privilege of the freedom of speech as later defined in the Bill of Rights of 1688. The operative words are that no member of Parliament shall be impeached at any place other than in Parliament.

One of the qualified privileges is the immunity from civil arrest. We see here the reference to 40 days before Parliament has assembled or after it has risen. This period was decided upon as the time necessary to ride from London to Edinburgh or further north. Other privileges were and are exemption from serving on a jury, to appear as witnesses in a court, or to take office as a sheriff. Another privilege is the general freedom from molestation, about which one could speak at some length.

Oddly enough, although some of these privileges have never been rescinded, they are not observed. Indeed, sometimes we endeavour to achieve the opposite effect. The House of Commons passed a famous resolution on the 3rd March, 1762. It said that the reporting of any of the proceedings of Parliament was a punishable offence. I would like to see members here endeavour to observe this privilege; indeed, we all try to be reported rather than obstruct the report.

This resolution of the House of Commons was never rescinded, and according to the Parliamentary Privileges Act it should be one of our privileges, if we wish to refer to them as privileges.

I am wearying the House with this history for two reasons. The first reason is that I wanted to show it is not quite correct nowadays for Parliament to refer to privileges. We do not claim to be a privileged class or even privileged people in this, our place of work. We work for the elector who has put us here. I believe the privileges should be properly called the rights and immunities of Parliament and its members.

The second and main reason for my historical discourse was to show how much of the material law of the privileges is outdated, if we agree that the overriding principle should be that the right of Parliament only extends to allow us properly to represent the electors and legislate for them. In regard to proceedings in case of contempt, as Erskine May says in *Parliamentary Practice*, Parliament should only use its powers to the extent which is absolutely necessary for the due execution of its duties. I would add to that, without curtailing the democratic right of the public to criticise, and a very important point, not only that justice should be done, but even more importantly, it should appear to be done.

I submit that as material and procedural laws stand, we do not enhance our image nor our dignity, and we do not invite respect. We could omit the ancient rights and immunities which have no meaning today, and we could acquire some new ones. One example of the House of Common's ruling in the privilege case referred to as the London Electricity Board case, a member was denied his privilege on statements he made in a letter to a Minister. It is only the proceedings in Parliament "which enjoy the privilege against impeachment".

In executing our duties today we have to write letters and make representations. Our duties would be much easier and would be carried out more effectively if we did not have to keep in mind the various laws which cause us to frame our letters in a way that we shall not be impeached outside Parliament. I submit that in the interests of the public and our proper representations, our privileges should be extended to include such matters.

So my contention is that we will not solve the problem merely by these amendments and by the provision of an optional alternative; because the proposals say that the member can choose that the House should deal with the matter or that it be referred to the proposed privilege committee. We will not solve the problem by optionally amending these procedural rules. In particular, I do not think this House is big enough nor is it bestowed all the time with enough lawyers to allow it to select a committee from amongst its members which would be competent and have the experience and knowledge to deal with these constitutional and, perhaps, criminal matters. I do not think our House is big enough for that.

At present we are lucky to have the services of three lawyers, but I think even those men would not claim they are authorities on constitutional matters. This subject is different from company law or common law. Of course, the position is different in the House of Commons, which has 625 members, and even in the Commonwealth House of Representatives, which has about 126 members.

Furthermore, this amendment does not solve the problem which we face; we would still be the prosecutors and the judges in the same persons. If I may, Sir, I would like to quote a sentence of one of your predecessors, The Hon. H. N. Guthrie. He was a legal practitioner, and in the course of a lengthy opinion he said that people who feel that they have been affronted might not and cannot be expected to display that fine sense of detachment which is so essential to administer the law impartially. I agree 100 per cent. with that.

I feel this would be justifiable only if we bring the material laws on privileges up to present-day standards; and then we could consider whether we should be the prosecutors and judges in the same body. Also, the committee does not allow for any person who might be accused to employ counsel; nor is it proposed that the committee itself should have a counsel. Even if we were able to agree to these amendments I think that is a serious shortcoming in modern times and would not lead the public to believe that justice appears to be done.

So I would ask members to consider whether it is not more in our interst and in the interest of the public to let the matter rest as it is until we appoint a Select Committee, perhaps at the beginning of a Parliament, so that it will have ample time to make very deep research into various other parliamentary institutions and to employ all the experts it can. The aim of such a Select Committee would be to bring up to date the material law as well as the procedural law concerning parliamentary rights and immunities, and the offences against those rights which are presently referred to as privileges on the one hand and breach of privileges on the other hand.

I think if that were done we would be placed in a better light—which we often need—in the eyes of the public, and we could execute our duties much more efficiently. For those reasons, as you know, Sir, I opposed the chapter in connection with privileges during the meetings of the Standing Orders Committee. The committee was kind enough to record my opposition; but I want the House to know my reasons for opposing it. I am not against modernisation, but I think it should be done in a different manner and after a greater in-depth investigation of the whole question. I hope very much my thoughts will be considered, even if it is necessary to adjourn the debate. I thank the House for its patience in listening to me.

MR. W. A. MANNING (Narrogin) [12.35 p.m.]: I would like briefly to point out to the House that the proposed amendments to the Standing Orders are presented for the benefit of members. I think many members have not shown a great deal of interest in what has been presented so far. I would remind them that the Standing Orders Committee prepared these amendments—and they are only recommendations—and it is up to the House to formulate its own Standing Orders.

The member for Floreat, who is a member of the Standing Orders Committee, raised the matter of the privilege committee. Although this is an attempt to establish a firm basis from which to work, I feel the suggestion could be rejected or deferred for the time being. I can see no point in spending time and a great deal of deliberation on this question because it arises very seldom. Although the question hardly ever arises in the House, it was thought desirable to present a plan so that we would have something to work on when it does arise. We could appoint a committee to investigate this matter at the beginning of a Parliament; but the general feeling is that if the occasion arose we could select a suitable committee to deal with the position. In my opinion that is a better way of doing it. However, I will not labour the point because I think it would be far better to defer this than for us to be in doubt about it. For the time being we might just as well keep our present Standing Orders in this regard, as they are so rarely used, and ensure that we obtain a suitable recommendation.

The matter of the *sub judice* rule will perhaps present a little difficulty, but I believe we have come up with the best possible suggestion. Members may present other opinions on this matter. However these items will all come up for discussion separately when we are in Committee, so I will say no more other than to remind members that they must realise they are amending their own Standing Orders. The proposed amendments are only the suggestions of the Standing Orders Committee and they will become Standing Orders only at the wish of members.

MR. HARTREY (Boulder-Dundas) [12.38 p.m.]: I understand certain comments have been made about the absence of legal luminaries on our side of the House.

Mr. Mensaros: I am sorry, I was referring to the inevitable absence of the leaders, not, lawyers.

Mr. HARTREY: Whether or not that is true, I will not say. In any event I feel the question of *sub judice* could cause a fair amount of debate. I think the present rules are much too complicated, and unnecessarily so. They appear to have been devised for the purpose of ensuring that the judges of the Supreme Court will not be influenced by remarks passed by members in a debate.

Mr. W. A. Manning: Are you referring to the present rules or the proposed amendments?

Mr. HARTREY: I am referring to both. I think both seem to be devised for the purpose of ensuring that the judiciary in this State will not be unduly influenced by the remarks made in debates in this House. I think that is a perfectly unnecessary precaution. I still believe—and I have no hesitation in saying so—that the just and fair trial of a case which is pending before a jury could be influenced by speeches made by members of this House and published in the daily newspaper the following morning.

Those persons who are already members of the jury, or those who are liable in the near future to be called for jury service and who are ultimately empanelled to sit as members of a jury to hear a particular issue, may well be prejudiced because a powerful advocate in the House, whose name is well regarded in this State, expresses a strong opinion on either the innocence or the guilt of the accused person who is on trial. On the other hand, a judge would not be influenced in the slightest should he read the report of such a speech in a newspaper of the following day.

A former member of this House who, not so long ago, held the seat of Perth, is a well known barrister in this city and was always well received in the courts of Western Australia, but if his submissions in any particular case did not appeal to the judge he took no more notice of them than he would of the submissions made by a barrister who had only recently been called to the bar. I can recall appearing against that particular gentleman in a certain case, but he was not in the race with his submissions because the judge did not think they were right. The judge considered that this gentleman was submitting a wrong proposition in regard to the law, and that was that.

It is ridiculous to think that, if a member of the House is able to make a great speech a few days before the hearing of a particular case, and the speech is published in *The West Australian* the following day, such a speech would influence any judge who was hearing the case, because it would have no influence on him whatsoever. I have been appearing in courts for the past 35 years, from the court in Laverton presided over by justices of the peace, to the High Court of Australia, and I have found myself up against highly reputable legal opponents. However I have never found that even legal eminence in the court has had the slightest effect on any judge on a question of law. What it came down to was: If he was right he was right, and if he was wrong he was wrong.

The fact is therefore that no member of this House or of the Commonwealth Parliament, in expressing an opinion on a matter which is *sub judice*, would have any influence on the mind of the judge hearing the case. To think along those lines would be quite stupid. The interpretation given on page 57 of our Standing Orders is that "Any matter awaiting or under adjudication in any Court exercising a criminal jurisidiction", should be regarded as being *sub judice*. I agree with that entirely. A great deal of criminal jurisdiction is exercised by juries, and that is the more serious criminal jurisdiction. A good deal of petty criminal jurisdiction is exercised by justices of the peace who are not legally qualified.

I have no desire to disparage these people, because I have the greatest respect both for the jury system and for those justices of the peace who carry out their duties in country areas, but as a justice of the peace or a member of a jury is not legally qualified it is much easier to appeal to his emotions than if he were legally trained. The facts are therefore that such people could easily be prejudiced by the publication of speeches made by members in this House. I therefore think that paragraph (a) of interpretation No. 2 appearing on page 57 of our Standing Orders should be retained, but I can see no value in paragraphs (b) and (c) which follow. For example, paragraph (b) reads—

> Any matter awaiting or under adjudication in a civil court from the time that the case has been set down for trial or otherwise brought before the Court;

Once the case is set down for hearing, no member can speak on any matter concerning that trial. That seems to be perfectly ridiculous.

If one looks at the definition of *sub judice*, it is no use discussing what rights we may have to deal with the subject. Even the amendments to the Standing Orders suggest that the *sub judice* rule shall apply also to an appeal before a court; that is, if the appeal is on a question of law. How ridiculous that proposition is! I hope members will realise this when they come to study what the amendment means. It means that if a judge of the Supreme Court has made a determination on a certain issue on fact and on law, there would be a grave danger of prejudice to the making of an appeal to the Full Court or to the High Court, because a member of this House had made a speech in which he had disagreed with the decision of the court in the first instance.

Sitting suspended from 12.45 to 2.15 p.m.

Mr. HARTREY: Before the luncheon suspension I remarked that the High Court of Australia would not take very much notice of, nor would any other tribunal of a serious nature be inclined to be awed by, the remarks which members of this House may express on any matter which is triable; but I repeat that I think it is desirable we should not debate any matter which is either to be tried by a justice of the peace or by a jury. Apart from that I do not think it matters what we say in this Chamber, and all the factors mentioned should be excluded from our definition of matters which are *sub judice*.

Before I resume my seat I want to point out that I am advised by the member for Mt. Hawthorn that he intends to propose certain amendments to the various recommendations. I can assure members that I approve the proposals he has in mind.

Just before the luncheon adjournment I was soaring in full flight of eloquence when I was suddenly shot down in flames. I do not wish to renew this unhappy experience, so I will now conclude my remarks.

MR. BATEMAN (Canning) [2.18 p.m.]: I want to thank the members of the Standing Orders Committee who have made a contribution to this debate. I also take this opportunity to thank the Clerk for the great amount of research and work he did in preparing the amendments which the Standing Orders Committee has put

forward. To other members who have made contributions to the debate I also extend my thanks.

Question put and passed.

Committee procedure in the House; the Speaker in the Chair.

Proposed amendment to Standing Order No. 1—

Standing Order No. 1.

Insert after the word "new" in line 3 of the proviso the words "rule, form or" .

The amendment provides that in addition to Standing Orders any new "rule or form" of the Commons House adopted after the 1st January, 1890 shall not apply to the proceedings of this House unless expressly adopted.

Question put and passed; Recommendation No. 1 agreed to.

Proposed amendment to Standing Order No. 2—

Standing Order No. 2—Matters sub judice.

Delete all the words after the word "Court" on page 57 of the Standing Orders Volume, line 6 of paragraph (c) down to and including the word "permissible" on page 58, lines 6 and 7.

Mr. BERTRAM: It is my desire to put forward sundry amendments to the schedule of amendments proposed by the Standing Orders Committee. I have had copies of my amendments circulated, and I hope members have the list before them. I move an amendment—

Delete all the words after the word "words" occurring in line 1 thereof with a view to substituting therefor the following:

"after para. (a) on page 57 of the Standing Orders Volume and substituting therefor the following: (b) Any matter awaiting or under adjudication in a civil court where the Speaker has reasonable grounds to believe that the trial thereof involves or will involve the verdict of a jury."

If members turn to page 57 of the Standing Orders they will be able to follow without very much difficulty what my amendment will do. The essence of it is to achieve clarity and simplicity, so that when any of the 51 members of this House who read the term *"sub judice"* in the interpretations as amended in the manner proposed will know precisely what it is all about.

From discussions I have had on this question it seems that some members do not understand the import of this term. By turning to page 57 of the Standing Orders it will be possible to see what is intended. The idea is that under—

Matters "sub judice" include—

paragraph (a) will remain, and paragraph (b) will read as follows—

Any matter awaiting or under adjudication in a civil court where the Speaker has reasonable grounds to believe that the trial thereof involves or will involve the verdict of a jury.

So, the position is that any matter in a criminal court case comes within the definition of *sub judice*; but in a civil court it only becomes *sub judice* if, as the proposed rule clearly provides, the Speaker has reasonable grounds to believe that the trial thereof involves or will involve the verdict of a jury. As the member for Floreat stated today, only very rarely these days are civil cases heard before a jury.

Mr. E. H. M. Lewis: Could this also apply to the Chairman of Committees as well as the Speaker?

Mr. BERTRAM: There may be something in that, too. That certainly is the intention; that is, that it apply whether the House is sitting as a House or whether it is in Committee. As the member for Boulder-Dundas has stated—and I support him completely—judges simply are not influenced by what is said in Parliament; and if they were then, with all due respect, they should not be judges. They are appointed to listen to the evidence before the court and not to take any notice of extraneous, unsworn statements which are made in other places. Judges must decide on the law.

I want to make it perfectly clear that I have regard for the rights of litigants and the absolute importance that they should not be in any way prejudiced in trials. I think that is an important rule; but transcending even that is the right of the public to have debated when it is necessary and appropriate that they be debated matters of public interest. I do not believe there should be an unnecessary limitation or restriction placed on members of Parliament or Parliament in discussing matters of public interest.

In times past we have gone beyond the need for protection in *sub judice* matters. We have been fully sensitive in that regard whereas in so many other aspects which affect litigants we have done absolutely nothing. We have been concerned that we do not prejudice a civil trial on the one hand, but on the other hand we have done nothing, until recent times, to ensure that a person is even able to have a trial. If he has no money he simply cannot go to law no matter how good the case might be. Other factors mean that litigants are not given a fair go, but we have done nothing about those; yet appear to have bent over backwards on the subject of *sub*

judice. I am attempting to bring back the balance while at the same time protecting litigants. I want to spell it out clearly for the world and for members and the Speaker so that they can read the definition of *sub judice* and understand precisely what it means.

I intend to move an amendment to proposed new Standing Order 116A to indicate how the new definition of *sub judice* will operate in the Standing Orders generally.

This is a worth-while amendment. The fact that the Standing Orders Committee has seen fit to go into the question of *sub judice* indicates a concern that the present situation is not good. In the short space of time I have been in Parliament, the *sub judice* rule has not been so much used as abused and that state of affairs must be stopped. It can be very easily overcome. Only a few days ago we had an example of this when a full-scale debate was held, the litigant involved holding back his proceedings until the debate was over, and, having obtained the mileage, he then issued the proceedings. That is an abuse. Other cases have been known—but I do not propose to go into them although they are far worse than the one I have quoted—in regard to which the *sub judice* rule has been exploited and abused on a grand scale.

As I have said, in my short experience here I have known the rule to be more often flagrantly abused than used, and that is very bad. I would say that largely because of that state of affairs the Standing Orders Committee has decided it must do something to improve the situation. It has made its attempt and I think it is excellent, but I believe that, consistent with present-day thinking, the amendment I have proposed is preferable; and I ask members to accept it.

There are few who do not favour the proposition that when a jury is involved, the *sub judice* rule should be enforced, but the proposition that the rule is necessary to protect litigants in proceedings which will be decided by a judge only seems to me to be completely wrong and is a reflection on the judge. I do not reflect upon the judge who I believe is perfectly capable of listening to cases and deciding on the evidence before him. He does not take heed of statements by people who are very often uninformed, not under oath, and not necessarily possessed of the facts. For the reasons I have outlined I trust members will accept my amendment.

Mr. MENSAROS: I do not necessarily disagree with the amendment now that it has been formulated in this way. If carried, it will bring into effect more or less what I mentioned during the general debate; namely, more heed will be given to the interests of the public to hear discussion on certain matters, which discussion would not necessarily ruin the chances of anyone before a court of law.

I do not want to better the member for Mt. Hawthorn, but I wish briefly to explain the position again. It means that all matters subject to a crimnial case would be *sub judice*. Only those civil proceedings cases which, in the opinion of the Speaker, will involve a jury would be *sub judice*. In other words, all cases where a jury is involved—and all criminal cases —would be *sub judice*. Those cases where a jury will not be involved will not be *sub judice* from the point of view of allowing a debate. This is the member for Mt. Hawthorn's contention.

I have two remarks to make to his amendment. I think it would be wiser to make the Speaker's position easier by using the word "could" instead of the word "will" in the last line of the amendment. The member for Mt. Hawthorn's amendment reads, in part—

> Any matter under adjudication in a civil court where the Speaker has reasonable grounds to believe that the trial thereof involves or will involve the verdict of a jury.

If we use the words "could involve" instead of "will involve" the assessment of the Chair would be made much easier. I do not think the Speaker—nor anyone else for that matter—would necessarily know whether the trial would be in front of a jury or not. If the Speaker has a doubt, he could have the benefit of the doubt if the word "could" is used. This is my first suggestion and, if necessary, I will move an amendment to the amendment.

Secondly, I wonder whether the member for Mt. Hawthorn used the word "Speaker" intentionally as the member for Moore remarked. If we use the word "Speaker" and a case arises in Committee, I imagine the Chairman of Committees will leave the Chair and report to the Speaker, as he does in some other instances. I assume that the Speaker will decide the matter.

Mr. Bertram: Yes.

Mr. MENSAROS: I think this is perfectly in order. It explains the question asked by the member for Moore, by way of interjection. The amendment does not contain the word "Chair" but "Speaker" because the Chairman will not decide the issue but will refer it to the Speaker for decision.

I wonder whether the member for Mt. Hawthorn opposes my suggestion of using the word "could" instead of the word "will". This would make the scope a little wider but, more importantly, there would be more security from the individual's point of view. It would certainly make

the Speaker's decision somewhat easier. I am referring to the last line of the amendment.

Mr. Bertram: Thus far I am not persuaded. I think I will stick with "will" for the time being.

Mr. MENSAROS: I am not pressing for it. I would not call a division on it. It is a matter for consideration and I would welcome expressions of opinion from other members.

If we use the word "will" the Speaker ought to know whether the case will come before a jury. In most cases he will not know, especially if the proceedings are not very advanced. If we use the word "could" the Speaker could obtain legal advice. If he feels that it could involve a jury he could be a little more cautious. The Speaker may know that under no circumstances will the case come before a jury and, consequently, he could easily rule that there is no substance in objecting to debate.

I seek the opinion of the member for Boulder-Dundas. We have three opportunities to speak to this matter.

Mr. W. A. MANNING: This is a fairly important definition. The amendments to the Standing Orders have been before Parliament since the 16th November last year. Despite this, we have been given notice of amendments this afternoon. We have not had time to look at them or to inquire into them. I do not think this is the right way to deal with important amendments to our Standing Orders. I move—

> That the proposed amendment by the Standing Orders Committee and the amendment proposed by the member for Mt. Hawthorn (Mr. Bertram) be referred back to the Standing Orders Committee for further consideration.

Mr. BERTRAM: I oppose that proposition. My mind goes back to the words used by the member for Narrogin a short time ago. He said, in effect, "What I want you to know is that these Standing Orders are for the benefit of members but they are recommendations only."

Mr. W. A. Manning: That is right.

Mr. BERTRAM: In other words, a little more than an hour ago the member for Narrogin reminded us that these are only recommendations. Surely the inference to be drawn is that we should not accept them as they are if we have different ideas which we want to bring before the Committee. I have brought my ideas forward.

Mr. Gayfer: Why did you not allow the Committee time to look at them earlier?

Mr. BERTRAM: Members have had many months to give consideration to this question. They are as well seized today with the definition of *sub judice*, on pages 57 and 58 of the Standing Orders, as they are ever likely to be.

My proposal is far simpler and more easily understood by laymen. In saying this, I do not intend to cast a reflection on any member of the Assembly. The amendment is simple and straightforward. I suggest that the amendment to Standing Order 2 proposed by the Standing Orders Committee is by no means simple. Also, proposed new Standing Order 116A is anything but straightforward.

I was happy and satisfied that I had produced, with the assistance of others, what appears an extraordinarily simple and straightforward proposition. It would not preclude the Standing Orders Committee, if it so wishes, from getting back into operation at some time if it is found that something is wrong with the amendment. The committee would not be prevented from doing this but the Legislative Assembly must get to work on this question sooner or later.

Members have had far more time to consider these few short amendments than they usually have to consider a Bill. The Standing Orders Committee has put forward its proposals, and it has even given its reasons for each proposal. The member for Floreat has spoken in a way which suggests—in fact, he makes it quite clear —that this is a good proposal.

Mr. Gayfer: You would not accept any alteration suggested by him at a moment's notice.

Mr. BERTRAM: No, I will not do that.

Mr. Gayfer: You would not accept that.

Mr. BERTRAM: The honourable member said that I would not accept any alteration.

Mr. Gayfer: *Hansard* will prove that you said in effect you would not go along with his suggestion.

Mr. BERTRAM: That is right; I said I was not persuaded. It does not follow I will not support any other amendments put forward by the member for Floreat. We have only discussed one aspect so far.

I appreciate the remarks of the member for Floreat that a Speaker has to rule on the question of *sub judice*. I gathered the impression that the member for Floreat is not really adamant that we should accept the substitution of the word "could" for the word "will".

Mr. Gayfer: I believe this was moved by the member for Narrogin so that the committee could investigate the implication of both words. That is his idea.

Mr. BERTRAM: The amendment is a little premature. Members should have an opportunity to discuss the matter before such action is taken. It may be that when other members have spoken we will be prepared to accept the substitution.

Under the proposed rule, I envisage that you, Mr. Speaker, or any other member, could go to the court where the litigation is to be heard and quickly ascertain

whether or not the trial is to be decided by jury. It may be that a jury is already empanelled or steps have been taken to conduct the hearing without a jury. I do not believe this would place an unacceptably heavy burden on the Speaker. Other members may wish to speak on the matter of the substitution, and we can then decide it here. To refer the matter back to the Standing Orders Committee is to surrender before we have begun.

Mr. HARTREY: I support the views expressed by the member for Mt. Hawthorn.

The SPEAKER: By the way, we are presently debating whether or not to refer the matter back to the Standing Orders Committee.

Mr. HARTREY: Yes, Sir. I would also state that I am grateful to the member for Floreat for his comments. However, in my opinion it is undesirable to substitute the word "could" for "will". I can think of only two types of cases which could not come before a jury in the civil courts. In practice, I do not remember a case going to a jury for many years. The provisions of the Motor Vehicle (Third Party Insurance) Act preclude a jury from trying any actions involving damages for traffic accidents.

When the State of Western Australia operated under State divorce laws, provision was made for assessment of damages by jury in matrimonial cases. In my 35 years' practice, I can recall personally only one case in which this course was taken. Of course, it is no longer possible under the Commonwealth matrimonial laws. I do not know of any other civil action which could not be decided by a jury. I therefore believe it is rather foolish to make our order so wide that this provision could refer to any type of litigation except the assessment of damages in divorce actions or in running down cases.

Mr. Hutchinson: Isn't that what we should try to do?

Mr. HARTREY: That is exactly what we want to avoid. We do not wish to lay it down that every civil action must be liable to the *sub judice* rule simply because all except two could be heard before a jury, when our knowledge and experience tells us that far more than these two will not involve a jury. It is quite foolish for this Chamber to legislate in the face of reality.

Mr. Bertram: You must have reasonable grounds.

Mr. HARTREY: Exactly. I like the wording as it stands at present—"reasonable grounds to believe that the trial thereof involves or will involve the verdict of a jury". Of course a Speaker would necessarily have in every case reasonable grounds for believing it could involve a jury, because in all types of cases except the two I have mentioned, this would be so. However, the reality is that only about 1 per cent. of the cases would be decided by jury.

I have a high regard for the legal astuteness of the member for Floreat. I feel he must now realise that the effect of his proposed amendment would make the provision so wide that it would practically destroy the value of the proposal. Because this issue is so easy to understand and is quite comprehensible now, I am sure, to people who may not have originally understood it, there is no point in adjourning the debate at the moment. We should be able to decide this matter ourselves. Members are all capable of listening, of reading, and of coming to a definite conclusion on the facts as they have unfolded in the course of debate.

Mr. Nalder: No-one is disputing that.

Mr. MENSAROS: I understand the arguments put forward by the member for Boulder-Dundas and the member for Mt. Hawthorn. According to the wording of the proposed Standing Order, when a question of this type arises, almost invariably a Speaker would have to postpone his ruling in order to ascertain from the court whether or not the case would be tried by jury. I believe the question is can he ascertain that? To take an example, a Speaker would ask the relevant court whether a particular case would be tried by a jury. Will he receive an answer? I do not know that he would.

Mr. Hartrey: He would certainly receive an answer that it could because that is so in all cases.

Mr. MENSAROS: Therefore, we would not proceed at all. A Speaker would have to be one-up on the court, because he would have to decide in advance whether or not an action would come before a jury. This decision would not be known in the court until perhaps a much later time.

From the remarks made by the member for Boulder-Dundas, we can see that a Speaker would not receive an answer that a particular case will be heard by a jury unless the case was so advanced that this decision had been made. Under these circumstances I realise that the use of the word "could" would perhaps not achieve the primary aim of the amendment because it would widen the number of civil cases which could be declared *sub judice*. However, this was not the intention of the member for Mt. Hawthorn, and it was not my intention either. Nevertheless if we accept the word "will" we will be more cautious.

For these reasons I submit that the issue should be referred back to the Standing Orders Committee to obtain one or two legal opinions as to whether or not the proposal is feasible. I would like to hear the Attorney-General on this.

Mr. T. D. Evans: He is not buying into this one.

Mr. MENSAROS: What do we gain or lose by accepting the amendment moved by the member for Mt. Hawthorn? If we accept his amendment we may lose three weeks' time in having the Standing Orders amended in this way, but perhaps we run less risk. If we reject his amendment, we might as well accept the proposal put forwarded by the committee as printed, because if the Speaker makes inquiries as to whether or not the case will be tried by jury, and not receiving a firm answer, this might bring him back to square one, and he is the authority who has to decide whether or not the case comes before a jury. It is a hard decision for him to make, and I would not like to be in his position.

Mr. W. A. MANNING: If ever a member had an argument on a motion brought home to him it was in the last few minutes. We have heard three members with great legal knowledge debating whether we should use one word, and I feel we will only waste time if we continue to debate the question we have before us.

Mr. Gayfer: There are three more lawyers outside who have not spoken.

Mr. W. A. MANNING: The question of what is *sub judice* has been a difficult one to determine over some years. It has taken up a great deal of debate on the Standing Orders on various occasions. If we are to accept the amendment moved by the member for Mt. Hawthorn and then debate some further amendments to his amendment I think we would be far better off if we agreed to my motion to refer this question back to the Standing Orders Committee.

Mr. BERTRAM: The member who has just resumed his seat seems to be working on the basis—contrary to what he said earlier—that we will refer this question as to whether we should use one word or another back to the Standing Orders Committee, the inescapable inference being that the committee will consider the question and return with a completely foolproof argument.

Mr. Hutchinson: Not necessarily; it can still be debated.

Mr. BERTRAM: Yes, nobody is arguing about that.

Mr. Gayfer: We could confer with the three lawyers outside.

Mr. BERTRAM: The member for Boulder-Dundas would like to get a word in edgeways on such a committee.

Mr. T. D. Evans: How many edges?

Mr. BERTRAM: All the Standing Orders Committee does is to bring down recommendations. Once the proposed definition that I have submitted becomes operable, some member of the committee, or anybody, in fact, can point out that it is not effective and we can then do something about it. This happens all the time. Bills have been introduced to this House which seek to achieve great things, but then, a few months later, it is found, because of the poor wording in the legislation, it is inoperative and the matters that we intended should be dealt with, cannot be dealt with. This is on all the time.

I will not say that the member for Narrogin is a conservative, but this is an extreme type of conservative move on his part. We reach our first hurdle, which is not even knee high, and we run for cover. If that is the best this Assembly can do we are holding ourselves up to ridicule.

Mr. Gayfer: We should do it your way?

Mr. BERTRAM: I am not unique in that. I very rarely get my own way. We have a small measure, by way of an amendment to the Standing Orders, before us. We can take a risk on a measure that comes to this place, but very often there is no risk. All I am asking is that we deal with this question in the same way as we deal with any other measure; that is, we should press on here and clean it up. If some other point emerges next year or the year after to prove we are wrong, we can then do something about it.

Mr. HUTCHINSON: On considering a matter such as this I am a layman, and the only reason I rise to my feet is to express in some small way the view of a layman. We have heard legal men speak on whether we should use "will" or "could" and there has been disagreement. By interjection I mentioned it is possible for each one of these luminaries to have his opinion changed by what is said during the debate. In my opinion as a layman there is a very fine distinction. There is no urgency whatsoever about this matter. It could be deliberated again. So why not return the report to the committee, so that it may have the benefit of the debate and the words spoken by the member for Boulder-Dundas, the member for Mt. Hawthorn, and the member for Floreat? These expressions of opinion could then be considered from a layman's point of view.

There is no reason why the member for Mt. Hawthorn cannot express his point of view again, but at this point of time it seems ludicrous, when the matter can be considered by the Standing Orders Committee, to agree to his proposition. As a layman, my opinion is that "could" would be a better word than "will", because this would conform to the intention behind the amendment moved by the member for Mt. Hawthorn—that is, in the sense of the structure of the wording, and in the sense of a layman's interpretation of this question.

What is wrong with delaying consideration of the question? How would Parliament lose, in trying to formulate Standing Orders, by delaying the debate for a time? Therefore I suggest we should agree to the motion moved by the member for Narrogin in the interests of simplicity and understanding and try to arrive at some decision with which we all agree.

Motion put and a division taken with the following result—

Ayes—19

Mr. Blaikie	Mr. Nalder
Dr. Dadour	Mr. O'Connor
Mr. Gayfer	Mr. Ridge
Mr. Grayden	Mr. Runciman
Mr. Hutchinson	Mr. Rushton
Mr. A. A. Lewis	Mr. Stephens
Mr. E. H. M. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. R. L. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Noes—20

Mr. Bateman	Mr. Graham
Mr. Bertram	Mr. Hartrey
Mr. Bickerton	Mr. Jamieson
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. Bryce	Mr. McIver
Mr. Burke	Mr. Moiler
Mr. Cook	Mr. Sewell
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. Harman
	(Teller)

Pairs

Ayes	Noes
Sir Charles Court	Mr. J. T. Tonkin
Mr. Coyne	Mr. Davies
Sir David Brand	Mr. Taylor
Mr. W. G. Young	Mr. Jones
Mr. O'Neil	Mr. H. D. Evans

Motion thus negatived.

Adjournment of Debate

Mr. HUTCHINSON: Mr. Speaker, I move—

That the debate be adjourned.

Motion put and a division taken with the following result—

Ayes—19

Mr. Blaikie	Mr. Nalder
Dr. Dadour	Mr. O'Connor
Mr. Gayfer	Mr. Ridge
Mr. Grayden	Mr. Runciman
Mr. Hutchinson	Mr. Rushton
Mr. A. A. Lewis	Mr. Stephens
Mr. E. H. M. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. R. L. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Noes—20

Mr. Bateman	Mr. Graham
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Mr. Burke	Mr. Moiler
Mr. Cook	Mr. Sewell
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. Harman
	(Teller)

Pairs

Ayes	Noes
Sir Charles Court	Mr. J. T. Tonkin
Mr. Coyne	Mr. Davies
Sir David Brand	Mr. Taylor
Mr. W. G. Young	Mr. Jones
Mr. O'Neil	Mr. H. D. Evans

Motion thus negatived.

Debate (on amendment) Resumed

Amendment put and passed.

Mr. BERTRAM: I move an amendment—

Substitute the following for the words deleted—

after paragraph (a) on page 57 of the Standing Orders Volume and substituting therefor the following:—

(b) Any matter awaiting or under adjudication in a civil court where the Speaker has reasonable grounds to believe that the trial thereof involves or will involve the verdict of a jury.

There is no need for me to take up more time. We have already debated this matter in full, and members are aware of the intention of inserting paragraph (b).

Mr. MENSAROS: Having discussed the merits and demerits of this one particular word I do not want to go back to it again. After having decided the matter in a somewhat frivolous manner—if I may use that term—I want to remind members that the amendment moved by the member for Mt. Hawthorn does not intend to delete the possibility of this Chamber being able to amend any laws even though the matters concerned are *sub judice*.

Mr. Bertram: Yes, that will be covered.

Mr. MENSAROS: Having had the very recent frivolous division—and with your indulgence, Mr. Speaker, I dare to refer to it in that manner—if for any frivolous reason members decide not to accept the amendment proposed by the member for Mt. Hawthorn we will be left with a Standing Order which will not take care of a situation such as we experienced in the first session of this Parliament. In other words, if the House now decides to accept this amendment to delete the last paragraph of the definition of *sub judice* in the present Standing Orders we will be left in the position where we will not be able to amend an Act of Parliament if, according to the then prevailing Standing Orders, the matter is *sub judice*. In other words, the Minister for Mines would not be able to introduce a Bill to amend the Mining Act under the circumstances as they prevailed at the time.

I want to make it perfectly clear that if this amendment is passed members will be virtually compelled to vote for the next amendment proposed by the member for Mt. Hawthorn, unless they want to do away with the vitally important privilege —which every Parliament has—of being able to amend the law at any time irrespective of whether or not the matter is *sub judice*.

Mr. BERTRAM: Just to clear up that point, I see no real problem. I think it was worthy of mention but it is important to note that in the new Standing Order 116A, suggested by the Standing Orders Committee, express provision is made to enable this Parliament to legislate at all times, even if a matter is before the court.

I do not think there is one member here who has a view contrary to that. We always believe that the ultimate power of legislation should be here where it can be used. It was used in 1971 and I think the previous occasion to that was in 1934.

The member for Floreat has indicated that we will be more or less forced to accept my next amendment. Well, that is not so at all. If the amendment to new Standing Order 116A put up by me were not accepted it would be a very simple matter for the Standing Orders Committee to write in a substitute for 116A, or introduce a new Standing Order 116B, and write in this very provision. So the aspect of coercion or duress is simply non-existent.

Mr. MENSAROS: I seek your advice, Mr. Speaker. Having ascertained what appears to be the wish of the House I would still like to test the feeling and move for the deletion of the word "will" with a view to substituting the word "could". At what stage should I move such an amendment?

The SPEAKER: The amendment before the Chair can be amended at this stage.

Mr. MENSAROS: In that case I move—

> That the amendment be amended by deleting the word "will" in the last line.

Mr. BERTRAM: I oppose the amendment to the amendment. I do not intend to say any more at this stage because the debate which has already occurred has really turned on this very question. There is no point, therefore, in going through it again because it would be a repetition, and I do not think that would be desirable, advantageous, or permitted.

I simply say that I repeat the arguments put forward previously when discussing the deletion of the portion of the *sub judice* rule, and the adjournment.

Mr. MENSAROS: I did not move the amendment to the amendment to spike anything. When I first proposed the amendment, without formally moving it, I was seeking advice and the member for Boulder-Dundas obliged. He said there are only two cases where the matter could go before a jury, but in all other cases it may. As a result of that I said it would be very difficult for the Chair to decide. I then supported the member for Narrogin, and said that this matter should be more thoroughly investigated by the committee, and a legal opinion obtained.

I was of two minds. Having had the explanation from the member for Boulder-Dundas I would rather play safe and press for the deletion of the word "will", with a view to substituting the word "could".

Mr. HUTCHINSON: I must say I am sad, indeed sad, that we should be dividing the House on matters such as this, when we are talking about amending Standing Orders of the House. Perhaps had our positions been reversed the same sort of situation may have arisen wherein we might have been the Government, with the Opposition requesting that there should be an adjournment in order that consideration could be given to the debate which had occurred so far.

It just does not make sense that there should be the sharp division of opinion which has arisen when all that has been asked for is an adjournment to consider what has been said. In many ways, the members of another place—and I refer to the Legislative Council—are much more sensible in their appreciation of requests for adjournments.

There is no urgency whatever in the determination of this particular point, and the legal interpretation is probably particularly fine. What is wrong with having a delay? Why does the member for Mt. Hawthorn insist that there shall be no adjournment of the debate? There is no real reason for it. He is not trying to make a political point, nor are we trying to make a political point.

Mr. Hartrey: It looks as though you are.

Mr. HUTCHINSON: What rot the member for Boulder-Dundas speaks! He probably has a great deal of knowledge of the law. I have no doubt he has won many cases and presumably he has failed in some; but on this particular issue I am speaking as a layman and I am trying to point out how silly it is that on an issue such as this an adjournment is not granted by a sensitive Leader of the House.

Mr. Hartrey: Is it not a bit late to say that now? It has been done twice this afternoon already.

Mr. HUTCHINSON: It seems to me the member for Boulder-Dundas wants to take legal points, but legal points are not taken in this Chamber. The points taken in this Chamber are, in the main, political points, and there is a fairly sharp division. We are speaking about an amendment to Standing Orders—something which affects us all. It affects you, Sir, as the Speaker; it affects the Chairman of Committees; it affects every member of this Chamber. It should not be necessary for us to get "uptight" about an amendment of this kind.

Mr. Hartrey: You seem to be the one who is "uptight". I am not.

Mr. HUTCHINSON: It seems someone should get "uptight" about an adjournment to consider this matter further.

Mr. Hartrey: You said the opposite a moment ago.

Mr. HUTCHINSON: Dry up! The member for Mt. Hawthorn, in response to the remarks of the member for Floreat, said he was not convinced, or words to that effect, of the merits of "could" or "will" at this stage of the debate. That is a paraphrase of his remarks.

Mr. Bertram: I was not persuaded.

Mr. HUTCHINSON: I said it was a paraphrase of his remarks.

Mr. Bertram: Correct. That still applies —only more so.

Mr. HUTCHINSON: This confirms my belief that there should be an adjournment. Why can we not have an adjournment of the debate, so that when it is resumed, in the light of what has been said, it will probably go through in five or 10 minutes without any fuss or bother and without the necessity for taking political sides on a nonpolitical issue. I think it is deplorable that this situation has arisen. The member for Mt. Hawthorn seems to be leading the debate. All that is needed is a demonstration of some sensitivity on his part.

Debate adjourned, on motion by Mr. O'Neil (Deputy Leader of the Opposition).

TAXI-CARS (CO-ORDINATION AND CONTROL) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd April.

MR. THOMPSON (Darling Range) [3.24 p.m.]: In April, 1972, the Minister for Transport appointed Magistrate Smith to investigate and make a report on the taxi industry in this State. That inquiry was precipitated by a fair amount of unrest in the taxi industry which was stirred up to quite an extent by the Transport Workers' Union. On the 3rd October, 1972, the Smith report was tabled in the House by the Minister for Fisheries and Fauna, and since that time members have had an opportunity to look at it.

One of the principal points to be drawn from the report and the recommendations appended to it is that there is not very much wrong with the taxi industry. Although about 21 recommendations were made, none of them is of any great consequence. There is still some agitation from some sections of the industry, I am told, but I believe the people who are still agitating are members of the Transport Workers' Union who were responsible for the inquiry being instituted in the first place. The Bill that is now before us comes as a result of the Smith report.

Most of the provisions in the Bill put into effect some of the recommendations contained in the report. Some of the provisions do not result from the report, but the department or the board has taken the opportunity to clear up a number of definitions and other matters in the Act which needed streamlining.

I emphasise that it appears the Taxi Control Board and the legislation which established it have been quite effective, and there was really no justification for the searching inquiry which was conducted. I believe the inquiry resulted from the Transport Workers' Union exercising its power over the State Executive of the Labor Party, and that body prevailed upon the Minister for Police to instigate the inquiry.

The Liberal Party supports the Bill but has reservations about one or two aspects of it. One of the principal provisions in the legislation is designed to change or streamline the financing of the board. At the present time the only moneys received by the board are the license fees for taxicars, which are in the order of $25 a car and net the Taxi Control Board approximately $24,000 a year. Other moneys are collected from premiums paid on taxi plates. At the present time 60 persons make payments in respect of premiums. The premiums are paid in equal monthly instalments over a period of five years, and they cut out at varying times. Amounts received in respect of premiums are as follows—

	$
1968-69	13,600
1969-70	36,684
1970-71	46,331
1971-72	59,385
1972-73 (Estimated)	67,000

The Bill proposes to make those amounts available to the Taxi Control Board. I can see good reason for the board having access to more money. It has been scratching in the last few years in an endeavour to run the taxi industry effectively.

The board has two full-time inspectors, one typist-clerk, and a secretary. That is not a large staff to look after the taxi industry, and obviously it will have to be increased if the board is to do its job effectively. Over and above that the board must provide vehicles for its inspectors and other staff. Also, office space and other necessities for the running of the affairs of the board must be provided.

So it is quite clear that the board does require more finance. In fact, I am told the board is at the mercy of the Transport Commission as far as finance is concerned. It must do a certain amount of juggling of its finances. I believe the premiums are juggled in order to keep the board solvent each year. However, I do not believe it is right in principle that money which has in the past been credited to the Consolidated Revenue Fund should be made available to the board.

I further suggest that to pass the Bill in its present form in respect of premium payments would not be in the long-term

interest of the taxi industry. Although there are now 60 premium plates which generate a certain amount of income for the State, that will not always be the case because the number of cars on the road is limited by Statute. If the board relies on the premium payments it would be relying on a growth in the requirements for taxi-cars. Until fairly recently it has been the practice in the taxi industry for one person to operate one car.

The SPEAKER: I must ask members to be more quiet. The *Hansard* reporter is having difficulty hearing the honourable member.

Mr. THOMPSON: Thank you, Mr. Speaker; so is the member for Darling Range. The proportion of cars to population is laid down in the Statute, and the experience of the industry over the last few years is that one man has operated one car. However, in an effort to contain rising costs some of those engaged in the industry have started to double-shift their cars. In other words, they employ two drivers so that the car hardly ever stops. One driver operates the car at night, and another operates it during the day.

Therefore, I think it is reasonable to assume that the proportion of premium plates could well reduce and the purport of the relevant provision in the Bill would be lost. The provision will not produce a continuity of revenue to enable the board to operate, even if we were to accept the principle that moneys which so far have been directed to Consolidated Revenue should be made available to the board. The only finance received by the board from Consolidated Revenue since 1968-69 was an amount of $28,000 which was provided for an off-street parking unit at Midland. That facility is a good one, and I think similar units should be made available throughout the metropolitan area. Certainly throughout the metropolitan region there is a need for taxi stands or principal taxi operating points to be provided with shelters, toilets, and other facilities for the convenience of the public. Obviously those facilities cannot be provided by the board as a result of its present financial position.

I would urge the Minister to reconsider the proposed system and to ask himself whether it will serve the taxi industry in the future. I believe it will not.

Another provision in the Bill is to limit the number of cars on the road. The proposed amendment provides for an upper limit of one car for every 800 head of population. I presume the reason for that is to ensure there is not an over-supply of taxis. The Bill also contains a provision to allow for the refund of a premium or such lesser amount as may be indicated by the amount of time left before the premium expires. We see nothing wrong with that. In fact, obviously it is desirable.

Another provision is included to clarify the position regarding substituted vehicles. I am sure many instances have occurred in which vehicles have been involved in accidents and have been replaced; and the Act is not quite clear regarding this. The Bill before us contains a provision to clear up that matter and is highly desirable in that respect.

The Bill contains a provision to define "taxi stands". This will allow Taxi Control Board inspectors to take action against drivers of private vehicles who park their vehicles on taxi stands. Once again, this is virtually an administrative move and is not of great consequence. A further provision is to allow for a person other than the commissioner or his deputy to be the chairman of the board. At present the Act states that the commissioner or his deputy shall be the chairman. Now it is proposed to allow some other person to be delegated to that position, and we see nothing wrong with that.

However, I question the provision in the Bill which gives the board the right, with the authority of the Minister, to delegate its powers and functions to the commissioner, the deputy commissioner, or some other person. I suppose there is good reason for the provision, and I would hope the Minister when he replies will cite some examples. It seems that if the board has been established to look after the whole of the industry and is representative of all those associated with the industry, then it should act as a board and not delegate its powers and authority to one man. I would ask the Minister to justify the inclusion of that provision.

A major provision of the Bill relates to the representation on the board. Until now the Commissioner or Deputy Commissioner of Transport has been the chairman of the board; and the police, the Metropolitan Transport Trust, local authorities, and the Taxi Operators' Association each have one representative. There are also two owners or operators on the board. The Bill sets out to change the representation of the owner-operators. It states that no one company may have more than one person representing it on the board. I can see the reason for this. In the past Swan Taxis Co-operative Ltd. has had the lion's share of the owner-operator representation on the board.

What could happen under this Bill is that Swan Taxis could have on the board only one person representing its organisation. It seems a little unjust to me that Swan Taxis, which operates 600 of the 800 cars on the road, will have only one person representing it, while there will be two people representing the balance of the industry.

However, this will be preferable to allowing the present situation to continue. Perhaps the Minister could give us his

thoughts on the question of representation on the board, because I am sure there will be agreement from both sides of the House on the point.

Clearly we do not want all the representation to be from one particular company, but on the other hand we do not want to preclude the larger company from having as great a voice in the industry, as it should have.

With those remarks I indicate that we on this side of the House support the Bill, but we will probably debate some of the points later in the Committee stage.

MR. O'CONNOR (Mt. Lawley) [3.42 p.m.]: Like the member for Darling Range I, too, indicate my general support of the Bill. The taxi-car industry has been one in which there has been continuous discontent for, I suppose, the last 20 years of its operation in this State.

I think the discontent that has been experienced has varied depending on the economic climate of the State. For some time a number of those in the industry have at times agreed to go along with the idea that the industry should be permitted to continue running as it is; while others have claimed that there are too many taxis on the road and they are unable to get sufficient funds to operate and provide a better service. At the same time, for several years, the board has recommended that part-time drivers be placed on the road.

I think this is one of the factors that has caused some of the trouble that exists today—the fact that many drivers have to work for long hours to earn good money. However, they have only themselves to blame for this position, because the members of the board, who were their representatives, pressed for this facility for a long time. Despite the opposition expressed by members of Parliament and other people the members of the board consistently submitted that they wanted several part-time drivers to enable them to increase the number of cabs.

We all want taxis available at all times. Part of the trouble has been due to the fact that a number of people who have worked in the industry for some time have obtained sufficient funds to set themselves up rather comfortably, and they only want to work during the good hours when they can pick up good money—hours involving Fridays, Saturdays, and peak periods.

We have always had great trouble in trying to get people in the industry to operate on Sundays or at other times when things may be a little difficult, but when people do require cabs.

Following the representations that were made, the Minister appointed a Royal Commission to inquire into the industry, and the commission came forward with 21 recommendations. I do not think an inquiry by a Royal Commission was necessary, because I believe that the difficulties and the issues it investigated have been present all the time.

I believe the Minister can tell us that he has always known of the trouble that has existed in the industry. I do not think the investigation carried out by the Royal Commission has done very much to help the industry in this regard.

However, as has been mentioned, there are not many matters in connection with this commission that we will not support. The Bill virtually seeks to put into effect the recommendations of the Royal Commission. I do not care whether 100 per cent. of the recommendations of the commission are put into effect, I still feel we will not get 100 per cent. support from the industry; we will still have a position in which there are some 800 men working in the industry who will complain that this, that, or something else is not suitable to them.

The member for Darling Range indicated clearly the main points we did not support. One of the points I find some difficulty in supporting is that of handing over funds from the industry to the Taxi Control Board. I think this would be bad, and I hope the Minister will reconsider this aspect, because I think the funds obtained from this concern should go to the Treasury, as do other funds, and then be returned to the board as and when they might be required.

Sitting suspended from 3.45 to 4.04 p.m.

Mr. O'CONNOR: Before the afternoon tea suspension I was speaking about the discontent which has existed in the taxi industry for a long time. I also stated that the Bill is designed to put into effect the recommendations submitted as a result of an investigation held into the industry. I believe that inquiry was a waste of time because the Minister should have been aware of the trouble in the industry and the board certainly should have known the industry's requirements, bearing in mind that the board has on it three representatives who are actually involved in the industry driving a cab or who are in some way connected with one of the taxi companies.

The Opposition accepts the amendments in the Bill generally with only two exceptions. One of these deals with the finance which is to be made available to the board. Quite frankly I believe this is wrong because the funds should be handled by the Treasury. I can recall that when I was in charge of the industry the board was in financial trouble. At that time the plates were available on application. I am not sure of the exact figure, but I recall that the board required approximately $25,000 to provide a taxi stand in the Midland area. The funds were made available by

the Treasury on the basis that the amount borrowed would be repaid out of the fees collected from the issuance of the licenses which at that time were $5,000 to $6,000 each. I would like the Minister to advise whether that money has been repaid or whether some is still owing by the board.

Irrespective of that situation, I believe the Treasury, and not the board, should handle the funds. The situation in most departments is that the Treasury handles all the money and allocates a certain amount each year to the various departments. This is as it should be in order that the Treasury might ensure the proper allocation of the funds with no waste.

To a certain degree some of the money should go back into the industry, but the Treasury should be in a position to ensure the money is properly allocated.

Another aspect which must be remembered is that although some 60 licenses have been issued, in future the number each year will dwindle because the legislation provides that one taxi shall operate for every 800 people in the metropolitan area. I believe that is a fair figure. It applies in New South Wales, and a similar figure is applicable in the other States. This provision will give individuals in the industry an opportunity to obtain a reasonable return for their outlay without the necessity to work long hours. I understand that at the moment an operator with a lease cab must work something like 70 hours a week to make a reasonable living. Nevertheless, the work suits many people because it is not strenuous and they can choose their own hours of work.

The only section of the industry in difficulty at the moment comprises the private taxi owners. Originally 11 private taxi plates were issued and the taxis operated in a similar way to those in the Hertz organisation in the Eastern States. Some three to five years ago many international and interstate visitors sought private taxis; that is, taxis a little above the average standard of taxi. However, because of the economic decline—I am not blaming anyone for this—the private taxis have not been required to the same extent in the last year or two and this has meant that their owners are running them at a loss. I am sure that no-one wants any operators in the industry to be in difficulties. The board has indicate that these people are in difficulties and it has deferred their repayments for three to six months. Recently I was told that the repayments have now been temporarily deferred completely.

Because of the difficulties in which these private taxi operators find themselves I believe they should be permitted to operate as an ordinary taxi provided they pay the additional amount required of an ordinary taxi operator. I trust the Minister will give an indication of whether he is prepared to consider such a suggestion.

On the board are a representative from the Police Department, the M.T.T., the transport industry, and three from the taxi industry. I forget who the other representative is, but there are seven in all. On occasions three of the representatives have been from the one company although the legislation states that not more than one representative should be from the one company. I do not think this provision should be adhered to but—and I am now expressing a personal point of view—each of the major companies should be represented. We have only two in Western Australia; that is, Swan Taxis and Yellow Cabs. The third representative from the industry could be elected by its members.

In conclusion, I would say that generally we support the Bill, but I do hope the Minister will give consideration to the comments I have made—firstly, in connection with the handling of the funds by the Treasury instead of the board, in order to ensure that the funds are used in a manner acceptable to the Treasury; and, secondly, in connection with the private taxis, so that they might have a better deal than they are enjoying at present. I am sure if the Minister accepts our suggestions, they will help to overcome some of the problems involved.

Debate adjourned until a later stage of the sitting, on motion by Mr. Harman.

(Continued on page 915)

QUESTIONS (43): ON NOTICE

1. HOUSING

Pinjarra and Mandurah: Tenders

Mr. RUNCIMAN, to the Minister for Housing:

(1) When tenders are called for the erection of State Housing Commission homes in Pinjarra and Mandurah, will he consider calling these tenders for the erection of brick as well as for timber and asbestos?

(2) If not, why not?

Mr. BICKERTON replied:

(1) Yes. In the acceptance of tenders the commission will continue to be mindful of its charter to provide housing within the financial capacity of low and moderate income families.

(2) Answered by (1).

2. HOUSING

Pinjarra and Mandurah: Costs

Mr. RUNCIMAN, to the Minister for Housing:

(1) Now that Pinjarra has a brickworks will he give consideration to future State Housing Commission homes in the town being built of brick?

(2) What is the estimated difference in costs in Pinjarra of a timber and asbestos home and a brick home?

(3) What is the difference in Mandurah of these types of homes?

Mr. BICKERTON replied:

(1) Yes, but the consideration will necessarily be influenced by the commission's obligations under the proposed new Commonwealth/State Housing Agreement which emphasises the provision of accommodation for low income needy families.

(2) $1,200 additional for full brick, and $780 extra for brick veneer.

(3) $1,120 extra for full brick, and $750 for brick veneer.

3. MANDURAH-PINJARRA ROAD

Bridge at Barraghup

Mr. RUNCIMAN, to the Minister for Works:

What is the planning of the Main Roads Department for a new bridge and safer approaches at Barraghup on the Mandurah-Pinjarra Road?

Mr. JAMIESON replied:

The possible replacement of the Barraghup bridge over the Serpentine River on an improved alignment is under investigation. This investigation will take some time to complete.

4. COMMUNITY WELFARE CAMP

Mandurah

Mr. RUNCIMAN, to the Minister representing the Minister for Community Welfare:

As the Minister recently announced that $70,000 was to be provided for a community welfare camp at Mandurah, can he give further details as to location and the type and nature of the camp?

Mr. T. D. EVANS replied:

The community welfare camp is a proposal to be established in two stages in the financial years 1974-1975 and 1975-76. The location, type and nature of the camp are yet to be determined.

5. WATER SUPPLIES

Falcon Bay and Madora

Mr. RUNCIMAN, to the Minister for Water Supplies:

(1) Is it intended to provide a reticulated scheme for Falcon Bay and Madora and the surrounding areas?

(2) If so, will this continue after the completion of Mandurah?

Mr. JAMIESON replied:

(1) Yes.

(2) This depends on the availability of funds.

6. HOUSEBOATS

Regulations

Mr. RUNCIMAN, to the Minister for Works:

(1) Have the regulations applying to the use of houseboats been formulated?

(2) If so, when will they be tabled?

Mr. JAMIESON replied:

(1) Yes.

(2) When they have been finally checked by the Crown Law Department.

7. MILK PRODUCERS

Number

Mr. RUNCIMAN, to the Minister for Agriculture:

What is the approximate number of dairy farmers involved solely in the production of milk for manufacture?

Mr. H. D. EVANS replied:

The number of dairy farmers supplying milk and cream for manufacture in Western Australia is approximately 750.

8. DAIRY PRODUCTS

Imports

Mr. RUNCIMAN, to the Minister for Agriculture:

(1) What was the total cost of dairy imports into Western Australia for the years 1970, 1971, 1972 and 1973 to date?

(2) What are the main items imported?

Mr. H. D. EVANS replied:

		$
(1)	1969-70	8,795,000
	1970-71	9,798,000
	1971-72	10,101,000

The cost to date for 1972-73 is not available from the Bureau of Census and Statistics.

(2) Butter,
Cheese,
Evaporated or condensed milk,
Dried milk.

9. WHOLE-MILK LICENSES

Number and Quotas

Mr. RUNCIMAN, to the Minister for Agriculture:

(1) What was the number of whole milk licenses granted for the years 1970, 1971, 1972 and 1973 to date?

(2) How many producers have quotas of—

(a) less than 100 gallons;

(b) more than 100 gallons but less than 150 gallons;

(c) more than 150 gallons but less than 200 gallons;

(d) more than 200 gallons?

Mr. H. D. EVANS replied:

(1) As at 30th June — Dairyman's licenses

1970	699
1971	719
1972	759
1973 (to 1st April)	755

(2) Dairyman's contract quantities as at 30/12/1972 (not including current 4% cut).

(a) Up to and including 100 gallons	283
(b) 101-150 gallons (inclusive)	126
(c) 151-200 gallons (inclusive)	82
(d) more than 200 gallons	69

10. STAMP DUTY ON RECEIPTS

Refunds to Charities

Mr. RUSHTON, to the Treasurer:

(1) What is the total of the receipt tax refund given by—

(a) firms;

(b) individuals,

as gifts to the charities trust fund?

(2) What portion of these gifts are now in the trust fund?

(3) Was it earlier understood and announced by the Government that the charities trust fund was to be available for recreational purposes?

(4) For what purpose did the donors understand their gifts were to be applied?

Mr. Graham (for Mr. J. T. TONKIN) replied:

(1) Requests for approved repayments of receipts duties to be paid into the trust fund total—

(a) $291,565 from firms;

and

(b) $200 from individuals.

(2) Nil. Subject to the passing of legislation to constitute the Distressed Persons Relief Trust before the 30th June, $29,000 will be paid to it from the Consolidated Revenue Fund this financial year.

(3) No, as far as I am aware.

(4) Charitable activities not normally assisted from other sources.

11. SEWERAGE

Mandurah

Mr. RUNCIMAN, to the Minister for Water Supplies:

(1) Is the Mandurah sewerage scheme which is being installed by the Public Works Department employing any men under the Commonwealth unemployment relief scheme?

(2) If so, how many?

Mr. JAMIESON replied:

(1) Yes.

(2) 17.

12. EDUCATION

Mandurah and Pinjarra: Facilities and Plans

Mr. RUNCIMAN, to the Minister for Education:

(1) What is the immediate planning for increased educational facilities for—

(a) Mandurah;

(b) Pinjarra?

(2) What plans are being made in the long term for—

(a) Mandurah;

(b) Pinjarra?

Mr. T. D. EVANS replied:

(1) (a) A resource centre is to be built in 1973-74.

(b) One classroom and staff toilets are scheduled to be built should sufficient funds be available at Pinjarra primary school.

One science laboratory, as an extension to the Commonwealth block, is scheduled for the senior high school in 1973-74.

(2) (a) Additional primary, high and technical school sites are being considered in relation to an overall town planning scheme which is in the course of preparation.

(b) An additional primary school site is to be considered when further developmental plans are put forward.

13. MANDURAH SCHOOL

Library

Mr. RUNCIMAN, to the Minister for Education:

(1) Is the Mandurah primary school one of the schools which will benefit under the Commonwealth scheme to assist the larger primary schools in country centres to have adequate library facilities?

(2) If so, what are the terms and conditions under which this assistance is provided?

(3) When can the Mandurah school expect this facility?

Mr. T. D. EVANS replied:

(1) Yes.

(2) The full details of the financial assistance are set out in the Commonwealth of Australia States Grants (Schools) Act of 1972. This provides certain capital expenditure for new buildings and the replacement of existing facilities.

(3) The work is to be undertaken during the 1973-74 financial year.

14. TRADES HALL BUILDING

Accommodation for Government Departments

Mr. HUTCHINSON, to the Minister for Health:

(1) Is it planned to accommodate the whole of the Health, Medical and Mental Health departments in the proposed new Trades Hall building?

(2) If not, will he advise what departments in whole or in part coming under his Health portfolio will be so accommodated?

(3) What will be the annual rental paid for the accommodation?

(4) Would it not be infinitely preferable and more economic for the Government to build a new multistorey "Health House" which would satisfy a long felt departmental desire to blend into one building as many of its activities as possible?

Mr. Bickerton (for Mr. DAVIES) replied:

(1) No.

(2) All of Medical Department and part of Public Health Department.

(3) $3.40 per square foot of rented space the total of which has not yet been determined.

(4) Yes.

15. YORK SCHOOL

Rebuilding

Mr. GAYFER, to the Minister for Education:

(1) Is it proposed to rebuild the York primary school (in Howick Street) on the same site as that occupied by the high school in Trew's Road?

(2) If so, when is this likely to take place, and what will be the purpose for which this historical old primary school will be used?

Mr. T. D. EVANS replied:

(1) Long term planning is for the buildings to be consolidated on the one site.

(2) No time schedule has been decided. If and when the consolidation occurs, the existing primary school will revert to the control of the Public Works Department.

16. ELECTRICITY SUPPLIES

Borrowing Powers for Farm Connections

Mr. STEPHENS, to the Minister for Electricity:

(1) As the Education Department has used local government borrowing power for the erection of school facilities will he allow the State Electricity Commission to use the same borrowing power for farm electrification?

(2) If not, would be outline the reasons?

Mr. MAY replied:

(1) and (2) Local government borrowing power has been used to assist farmers to pay for uneconomic farm electrification schemes. The loan is raised by the local authority on behalf of the farmers in the group who service the loan. This method has worked satisfactorily.

17. RECREATION CAMP AT QUARANUP

Financial Assistance

Mr. STEPHENS, to the Minister for Recreation:

(1) Does the Government give any financial assistance to the Albany Shire Council to assist in maintaining Camp Quaranup?

(2) If "No" does he realise that this facility is used by children and people throughout the State and will he give consideration to some form of financial assistance?

Mr. T. D. EVANS replied:

(1) No. When the land was returned from the Commonwealth it was vested in the shire with the intention of allowing a community

committee (the Albany District Youth Committee) to upgrade the buildings, establish a camp, maintain and run it on a lease basis.

The committee at present does this with the help of a youth education officer paid by the Education Department.

Within the last 18 months, State moneys totalling approximately $16,000 have been given to the committee for the purpose of assisting the camp and $15,000 of Commonwealth moneys, unemployment relief funds, have been spent on the project.

The shire itself has also helped the committee by providing road improvements, fire fighting equipment and some $1,800 for S.E.C. extensions.

(2) Yes. Figures provided by the Albany District Youth Committee show it was used by 26 organisations or groups last year—totalling over 1,000 persons. The first quarter of 1973 is totally booked out.

The new Council for Community Recreation has signified its intention of assisting wherever possible with the camp in the near future.

I might mention that His Excellency has also displayed a great interest in this camp.

18. SUPERANNUATION BUILDING

Renaming

Mr. O'NEIL, to the Premier:

(1) Has any consideration been given to naming more appropriately the building now designated as the "Superannuation Building" which houses among other departments the Premier's Department and the "Government Building" in Havelock Street?

(2) If not, would he give consideration to this matter with a view to using names commemorating such famous Western Australians as, for example, C. Y. O'Connor?

Mr. Graham (for Mr. J. T. TONKIN) replied:

(1) and (2) The Superannuation Building is the property of the Superannuation Board, and it is considered the name of the building is satisfactory.

The Government Building in Havelock Street has been known by this name since it was opened, and a change of name is not considered desirable at this stage.

19. TRANSPORT

Uniform, Minimal, or Free Fares Proposal

Mr. RUSHTON, to the Treasurer:

(1) Will he advise whether he supports or rejects the proposal of uniform, minimum, or free fares in the metropolitan region on public transport—

(a) to attract greater patronage for public transport;

(b) to reduce the number of private vehicles entering the city;

(c) to reduce pollution;

(d) to reduce highway redevelopment costs?

(2) Has he considered the introduction of a uniform minimal, or free public transport fares and rejected it?

(3) Is he at present considering these changes?

Mr. Graham (for Mr. J. T. TONKIN) replied:

(1) While I would support the objectives listed by the Member for Dale, the plain fact is that the Government would lose a very considerable amount of revenue from abolition of fares on public transport, and a lesser, but still considerable, sum, if a uniform fare were charged, regardless of distance travelled. The revenue lost would have to be raised from some other source.

(2) and (3) No.

20. SUBURBAN RAILWAY SERVICES

Uniform, Minimal, or Free Fares Proposal

Mr. RUSHTON, to the Minister representing the Minister for Transport:

(1) Now that the M.T.T. is to run the suburban railways, will he introduce either a uniform, minimal or free public transport fare for the metropolitan region?

(2) If he rejects the suggestions in (1), will he explain his reasons for rejecting them?

(3) Is he or his department at present considering one or all of the fare changes suggested in (1)?

Mr. JAMIESON replied:

(1) No. It is intended, however, that on co-ordinated bus and rail services, passengers will be able to buy a single ticket for the throughout journey.

The proposal is that the W.A.G.R. will continue to run the suburban railways but under contract to the M.T.T.

(2) Suggestions of this kind have been considered from time to time. There could be merit in some uniformity in fares but it is believed the region served by the M.T.T. is too large for the adoption of a single uniform fare.

During an overseas visit by the Chairman of the M.T.T., various undertakings visited were queried on free fares and invariably, the opinion was given that such a system would be a retrograde step.

Furthermore, the additional burden imposed upon State finances by free suburban travel would be substantial.

(3) Consideration is continually being given to ways and means of improving the fare structure.

21. *This question was postponed.*

22. ABORIGINAL AFFAIRS

Commonwealth Takeover

Mr. MENSAROS, to the Premier:

(1) Is the report on 10th April, 1973 in *The West Australian* that the Western Australian Government will hand over control of Aboriginal affairs to the Commonwealth Government correct?

(2) Is not such action an intrusion into the State's rights?

(3) Will he act according to his statement recorded in *Hansard* 20th March, 1973 page 68, viz: ". . . if there is any intrusion into State rights that intrusion will be resisted"?

Mr. Graham (for Mr. J. T. TONKIN) replied:

(1) Agreement has been reached with the Commonwealth Government to negotiate for the integration of the Aboriginal Affairs Planning Authority into the Commonwealth Department of Aboriginal Affairs.

It is not intended that lands reserved for Aborigines and the operation of the Aboriginal Lands Trust, as provided in the Aboriginal Affairs Planning Authority Act, 1972, shall pass from State control.

Similarly, services provided for Aborigines by State Government authorities in respect of health, education, welfare and housing, will remain under State control.

(2) No.

(3) See answer to (2).

23. TEACHER EDUCATION COUNCIL

Teachers' Training Colleges Representation

Mr. MENSAROS, to the Minister for Education:

(1) Is it a fact that some teachers' colleges are debarred from representation (based on section 10 (c) of the Act) on the Teacher Education Council because of the prolonged absence of their principals?

(2) If so, will he consider amending the Act so that delegates of principals nominated in accordance with section 10 (c) and section 84 of the Act can represent the principals as full members of the council?

Mr. T. D. EVANS replied:

(1) Section 10 of the Teacher Education Act 1972 does not guarantee in any way that each of the colleges will be represented on the Council of the Teacher Education Authority. However, 10 (c) of the Act does mean that if a principal is absent there is no provision for an acting principal to take his place. Under section 14 (1) the Minister may appoint an acting member who has the like prescribed qualifications.

I might mention that the situation complained of has been brought about by amendments to the Bill as it was introduced into the Legislative Assembly last year.

(2) No. There is no intention of altering the Act. The acting principal concerned has been invited to attend all meetings and has been placed on committees of the council.

It is understood that the absent member will be home sometime before the end of next month.

24. WESTERN MINING CORPORATION

Smelter at Kalgoorlie

Mr. MENSAROS, to the Minister for Development and Decentralisation:

When was the agreement between the State and Western Mining Corporation, under which the recently opened Kalgoorlie metal smelter was built—

(a) negotiated;

(b) signed?

Mr. GRAHAM replied:

The Nickel Refinery (Western Mining Corporation) Agreement No. 76 of 1970 makes provision for the smelter at Kalgoorlie.

25. ALLIED ENEABBA PTY. LTD.

Pilot Plant

Mr. MENSAROS, to the Minister for Development and Decentralisation:

When was the agreement—which led to the establishment and operation of the pilot plant recently opened by the Premier—between the State and Allied Eneabba Pty. Ltd. negotiated and signed?

Mr. GRAHAM replied:

Allied Eneabba Pty. Ltd. has proceeded with its mining and initial processing operations under the provisons of the Mining Act. There has been no agreement negotiated between the company and the State.

26. KELMSCOTT HIGH SCHOOL

Sports Ground: Reticulation

Mr. RUSHTON, to the Minister for Works:

(1) As assurances have been given to me that the Kelmscott high school oval would be grassed for the commencement of the school year, why are the reticulating mains only now being laid for the oval?

(2) Is he aware the school and students will be without playing fields for an extra year because of these apparent unwarranted delays?

Mr. JAMIESON replied:

(1) and (2) It was anticipated that grass planting would be completed prior to the commencement of the 1973 school year. However, unexpected delays occurred in letting the reticulation contract. It is expected that this work will be completed in two weeks. Grassing will be carried out in September, 1973.

27. WATER SUPPLIES

Conservation: Rebates

Mr. RUSHTON, to the Minister for Water Supplies:

(1) Is he aware of the considerable losses of conserved water from our storage reservoirs due to the entitlement system under annual value rating?

(2) Will he introduce a rebate system for rewarding consumer conservation of water?

Mr. JAMIESON replied:

(1) No. Such losses in total consumption would be negligible.

(2) No. It should be realised that the rating system is necessary to meet the cost of operating the system and debt charges on the board's capital.

28. EDUCATION

Survey of Needs: Commonwealth Financial Assistance

Mr. RUSHTON, to the Minister for Education:

(1) Have the applications now been abandoned for Commonwealth Government additional financial assistance for State education systems resulting from the all-State's survey showing the need at approximately $1,440 million over five years?

(2) If not, what are the details of the State's current application?

(3) What action have the States taken to ensure their own requirements and priorities are recognised?

(4) What flexibility and freedom of decision will remain with the State educational administration after the Australian School Commission is operative?

Mr. T. D. EVANS replied:

(1) and (2) The all-State survey was a statement of the States' needs in education but it was not an application for specific grants for specific purposes.

(3) The State has made submissions and held discussions with the interim schools' committee under Professor P. Karmel in which this State's requirements and priorities were emphasised.

(4) Until the Australian Schools' Commission is established, its powers and responsibilities will not be known but it is anticipated that State Education Departments will retain flexibility and freedom of decision.

29. FRUIT CONFISCATIONS

Eyre Highway Check Point

Mr. MOILER, to the Minister for Agriculture:

(1) How many confiscations of fruit have been made this year at the agricultural inspection point on the Eyre Highway?

(2) How many of the confiscations were found to be infected?

(3) How many of the confiscations were found to be containing codlin moth?

(4) What other confiscations were made?

Mr. H. D. EVANS replied:

(1) 400 during the period to 31st March, 1973.

(2) Six.

(3) Three.

(4) Three confiscations of fruit were infested with *selerotinia fructicola* (brown rot of stone fruit).

Other types of fruit confiscated were bananas, citrus (oranges, grapefruit, mandarins) and several types of stone fruit.

Further confiscations included potatoes, onions, plants in soil, plant cuttings, walnuts, birdseed, second-hand fruit containers and second-hand potato sacks.

30. ROADS

Causeway: Overpass

Mr. BURKE, to the Minister for Works:

(1) When is it anticipated that the overpass at the eastern end of the Causeway will be in use?

(2) What is the estimated cost of the work?

Mr. JAMIESON replied:

(1) February, 1974.

(2) The revised estimate is $1.3 million.

31. HOUSING

Eligibility Criteria

Mr. BURKE, to the Minister for Housing:

(1) Would he please advise details of the eligibility criteria for housing assistance at present applying to—

(a) pensioner couples;

(b) single female pensioners;

(c) single male pensioners?

(2) How many applications are outstanding in each category?

(3) Is there any possibility of the criteria being broadened in the near future?

Mr. BICKERTON replied:

(1) (a) Any couple in receipt of a social service pension, including part pension, may apply for pensioner accommodation.

(b) and (c) The following criteria exist in respect to single elderly persons:

Income—The income does not exceed the aged pension plus the supplementary allowance plus a margin of $3 or a total of $28.50 per week.

Cash—The cash savings and other liquid assets do not exceed $600.

Age—The age exceeds 60 years.

(2) (a) 461.

(b) 697 who qualify within the criteria.

(c) 70 who qualify within the criteria.

(3) This will depend on the outcome of negotiations to finalise the new Commonwealth-State Housing Agreement.

32. NOISE CONTROL

Prosecution under Legislation

Mr. BURKE, to the Minister for Health:

Would he please advise when it will be possible to secure a prosecution under the legislation to control community noise?

Mr. Bickerton (for Mr. DAVIES) replied:

It will be possible to consider prosecution if and when indicated after the Act is proclaimed.

Prosecution awaits the promulgation of regulations which are now being prepared.

33. PUBLIC RELATIONS FIRMS

Engagement by Previous Government

Mr. BURKE, to the Premier:

(1) What was the total sum spent by the previous Government on private public relations firms—

(a) during its 12 years in office; and

(b) during the last three years it was in Government?

(2) Would he provide full details of the organisations involved and the amount spent with each?

Mr. Graham (for Mr. J. T. TONKIN) replied:

This information will take some time to compile, and will be forwarded to the Member, when completed.

34. SCHOOL AT FORRESTDALE

Establishment

Mr. RUSHTON, to the Minister for Education:

(1) Will he please identify the land acquired for the primary school at Forrestdale?

(2) Is this school to be ready for the 1974 school year?

(3) What accommodation is planned?

(4) If this school is not to commence at the beginning of 1974, what is the reason for this decision?

Mr. T. D. EVANS replied:

(1) Negotiations have not yet been finalised for purchase of the land selected for the Forrestdale school.

(2) No.

(3) The children will continue to be accommodated in the existing schools.

(4) Build up of numbers has been insufficient to warrant the establishment of a separate school at the present time.

35. KELMSCOTT HIGH SCHOOL

Stage 2 Building Programme

Mr. RUSHTON, to the Minister for Education:

(1) Is stage 2 of Kelmscott high school to be ready for the beginning of the 1974 school year?

(2) If not, will he please explain why not?

(3) What additional facilities are to be provided in stage 2?

(4) When is the stage 2 building programme due to commence?

Mr. T. D. EVANS replied:

(1) Yes.

(2) Answered in (1).

(3) (a) Social studies and commerce block.

(b) Manual arts and home economics extension.

(c) Library.

(4) It is anticipated that construction will commence before the end of this financial year.

36. LEGISLATIVE ASSEMBLY ELECTORATES

Enrolments

Mr. BRYCE, to the Attorney-General:

What are the current enrolment figures for each of the Legislative Assembly districts under the new boundaries?

Mr. T. D. EVANS replied:

The undermentioned were the enrolment figures as at 9th April, 1973 for each of the Legislative Assembly districts under the new boundaries as published in the final report of the Electoral Commissioners in the *Government Gazette*, 14th June, 1972.

Legislative Assembly Districts	
Ascot	15,216
Balga	15,359
Canning	18,156
Clontarf	15,761
Cockburn	16,426
Cottesloe	15,923
East Melville	16,298
Floreat	15,798
Fremantle	16,341
Karrinyup	17,971
Maylands	16,628
Melville	15,683
Morley	17,106
Mount Hawthorn	15,628
Mount Lawley	16,059
Nedlands	15,293
Perth	15,832
Scarborough	15,935
South Perth	15,457
Subiaco	15,040
Swan	16,582
Victoria Park	16,420
Welshpool	16,507
Albany	7,658
Avon	7,615
Boulder-Dundas	7,456
Bunbury	7,815
Collie	7,750
Dale	9,079
Geraldton	7,862
Greenough	7,035
Kalamunda	8,426
Kalgoorlie	6,979
Katanning	7,578
Merredin-Yilgarn	7,357
Moore	7,201
Mount Marshall	6,974
Mundaring	7,752
Murray	7,802
Narrogin	7,700
Rockingham	7,928
Roe	7,845
Stirling	7,580
Toodyay	10,438
Vasse	8,177
Warren	7,430
Wellington	7,956
Gascoyne	3,617
Kimberley	3,354
Murchison-Eyre	1,832
Pilbara	7,910
Total:	575,525

37. BEECHBORO-GOSNELLS HIGHWAY

Alignment

Mr. BRYCE, to the Minister for Town Planning:

When is it anticipated that the final alignment of the Beechboro-Gosnells highway in the Whatley district will be agreed upon and gazetted?

Mr. Bickerton (for Mr. DAVIES) replied:

It is anticipated that a decision on the revised land requirements for the Beechboro-Gosnells highway will be made in late May. If an amendment under Clause 15 is necessary, this will be gazetted shortly after.

38. MARGARET RIVER POLICE STATION

Vehicle

Mr. BLAIKIE, to the Minister representing the Minister for Police:

When does he expect that a police vehicle will be stationed at Margaret River?

Mr. BICKERTON replied:

Within three weeks.

39. GRANDSTAND STREET-GREAT EASTERN HIGHWAY INTERSECTION

Redevelopment

Mr. BRYCE, to the Minister for Works:

When is it intended that work will be—

(a) commenced;

(b) completed,

on plans to remodel and develop the intersection of Grandstand Street and Great Eastern Highway, Belmont?

Mr. JAMIESON replied:

No major works are programmed. However, a minor adjustment to the Grandstand Street approach in the form of a directional island is being considered for the 1973-74 programme of works.

40. BRUCELLOSIS

Eradication Programme

Mr. E. H. M. LEWIS, to the Minister for Agriculture:

What amount has been set aside during the current year toward the eradication of brucellosis in sheep?

Mr. H. D. EVANS replied:

As there is no eradication campaign for brucellosis in sheep, which has a different cause to the disease of the same name in cattle, no amount has been set aside for this purpose.

41. WATER SUPPLIES

Agaton Area

Mr. McPHARLIN, to the Minister for Water Supplies:

(1) Has the development of the water supply which has been located in the Agaton area been abandoned?

(2) If not, what is the proposed action to be taken by the Public Works Department to further develop the supply?

(3) Will he give details as to the difficulties encountered?

(4) What is the estimated supply of water from these bores?

(5) Will further drilling increase the supply?

(6) How many bore holes were drilled?

Mr. JAMIESON replied:

(1) No.

(2) Temporarily deferred.

(3) No particular difficulties but the economics were less attractive for the approved northern comprehensive areas than for the Mundaring system of supply.

(4) It has been established that appreciable supplies (several million gallons per day) are available from this source but more complete investigations will be required to determine the full extent of the yield.

(5) Yes, at such time as decisions are made to develop the Agaton source of supply.

(6) 28.

42. ABORIGINAL AFFAIRS

Commonwealth Takeover

Mr. HUTCHINSON, to the Premier:

(1) Pursuant to question without notice asked on Wednesday, 11th April re the handing over of Aboriginal affairs to the Commonwealth Government, will he please detail what the agreements are which must be "reached in a number of areas" so that control can be passed over by 1st July?

(2) Will he have to bring the matter before Parliament?

(3) If not, why not?

Mr. Graham (for Mr. J. T. TONKIN) replied:

(1) There are two areas in which agreement must be reached. The State must be satisfied that—

(a) Aborigines in W.A. will benefit from the change.

(b) The staff of the Aboriginal Affairs Planning Authority must not suffer any disadvantage by the change.

(2) This will depend on the terms of the agreement reached with the Commonwealth.

(3) See answer to (2).

43. *This question was postponed.*

QUESTIONS (3): WITHOUT NOTICE

1. SUBURBAN RAILWAY SERVICE

M.T.T. Takeover

Mr. HARMAN, to the Minister representing the Minister for Transport:

(1) Will the Government clarify the position of railway workers who could be affected by the recently announced proposal for closer integration of the urban transport system?

(2) Will the Government release to the news media a statement outlining the situation of railway employees in the event of their work and functions being affected by the Metropolitan Transport Trust's taking over responsibility for integrating the public transport system in the metropolitan area?

Mr. JAMIESON replied:

(1) The position of the railway employees under those circumstances outlined in the question was made clear in a statement released to the media yesterday by the Premier. I have pleasure in tabling a copy of that statement for the information of the honourable member.

(2) So far as I am aware, the statement has not yet been published, and I take the opportunity to precis it in answer to the questions.

Central to the proposal is the use of W.A.G.R. facilities by the M.T.T., under contract and with the provision that the W.A.G.R. should be fully reimbursed for all costs incurred in running such facilities.

Any such facilities contracted for by the M.T.T. will be run and serviced by W.A.G.R. employees. W.A.G.R. employees will continue to operate trains, and to man all other railway facilities used in the proposed transport system.

The statement was tabled (see paper No. 111).

2. BUNBURY BY-ELECTION

Statement by Premier

Mr. RUSHTON, to the Deputy Premier:

(1) Is he aware his Premier made the statement in his political notes in *The West Australian* today that the Liberal Party won the Bunbury seat by a "drastically reduced majority" when compared with the result achieved in the 1971 election?

(2) Considering the Premier has seriously misled the people of Western Australia by misquoting the facts, as the variation was less than .5 of 1 per cent. of valid votes cast, will he request his Premier to put the record right through the same medium?

Mr. GRAHAM replied:

(1) Yes, I am aware that the Premier made the statement referred to in the course of his remarks in the weekly column.

(2) No. However, a check of the figures will show that the Opposition Liberal Party majority was reduced by approximately 16 per cent., which is remarkable having regard for the fact that Opposition figures usually improve at by-elections.

Mr. Hutchinson: It was virtually a win.

Mr. O'Neil: I think we just about won.

3. GARRATT-GUILDFORD ROADS INTERSECTION

Remodelling and Development

Mr. BRYCE, to the Minister for Works:

When is it intended that work will be—

(a) commenced;

(b) completed;

on plans to remodel and develop the intersection of Garratt Road and Guildford Road, Bayswater?

Mr. JAMIESON replied:

I thank the member for Ascot for ample notice of this question. Negotiations are in progress with landowners with a view to acquisition of the necessary land. No commencing time has yet been determined.

TAXI-CARS (CO-ORDINATION AND CONTROL) ACT AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

MR. JAMIESON (Belmont—Minister for Works) [4.41 p.m.]: I wish to make a few comments in regard to this small measure. As members of the Opposition have indicated, this Bill is the result of recommendations made by Mr. H. G. Smith, a stipendiary magistrate, retired, who acted as a commissioner to inquire into the industry. The remark was made that the inquiry was probably not necessary, but very often when agitation arises in an industry, the safest thing to do is to open a safety valve. The problems may then be aired in public so that everyone is sure that the correct thing is being done. This is what happened on this occasion. I agree that only a few recommendations came from the inquiry, but I believe it is desirable to implement these recommendations to put the industry on a sound basis. As a consequence the legislation is before us.

Comments were made by both Opposition speakers about the financing of the Taxi Control Board, and the fact that the income from the issuing of additional plates will not be sufficient for its operation. This may be so. On the other hand, the member for Mt. Lawley said that the additional plate money should go direct to the Treasury and the board should draw from the Treasury when necessary.

Mr. O'Connor: They get other funds apart from this.

Mr. JAMIESON: I know that. As I indicated when I moved the second reading, the moneys will be paid to the credit of the Taxi Control Fund. Referring to the principal Act, subject to section 15B, the moneys payable under the Act are to be placed to the credit of an account to be kept at the Treasury and called the Taxi

Control Fund. So the Treasury really has control of it already. No doubt it suits the Treasury to keep it in that fund. Like all Treasuries, I suppose if too much money accumulates, the Treasury will take a little of it.

The situation at present is that the board needs more money to run its activities. The member for Darling Range made this abundantly clear when he outlined the need of the industry to provide facilities such as special off-street parking for taxi ranks. We have already one or two such taxi ranks, but these are not enough. It is probably desirable that the special Treasury account is balanced against such items, and that the board is allocated a budgetary figure rather than its submitting requests to the Treasury to meet needs which may arise from time to time.

The member for Darling Range also asked why the authority should be delegated by the board. From my reading of the provisions in the clause, and so far as I am able to gather, the authority is in regard to specific matters requiring attention on behalf of the board. The safeguard is, of course, that before the board can second such power it must have the approval of the Minister for the day. I should imagine any request from the board within its terms of reference would be accepted by the Minister. The request may be for a particular type of inspection or for some action to be taken, and it would be awkward if the board had to approach the Minister *in toto* to make such a request. This provision will allow the board to function efficiently. I think it is a desirable provision, and no great problem will be associated with its implementation.

It is also desirable to clear up the position in regard to substitute vehicles.

Mr. O'Connor: I think this is a good point.

Mr. JAMIESON: A person who runs taxis as a business needs to use a substitute vehicle when his own is off the road because of an accident or mechanical failure. The procedure to substitute a vehicle at present is very cumbersome, and it is a good idea to facilitate substitutions. The proposed system should operate efficiently under the control of the board.

Mention was made of the cause of much discontent in the industry of recent times, and we all agree that the economic climate of the day has a big bearing on the well-being of the industry. It is noticeable that around Christmas many people spend money lavishly, and are much more inclined to use taxis for their transport than at other times of the year. This has a big bearing on the matter of private taxi plates. I understand that a number of these taxi owners have handed plates back because they are unable to earn a reasonable income from the industry. For this reason I believe it is a good move to include a provision to allow these plates to be transferred. Undoubtedly in a few years' time, when the economy picks up and our population grows, we will see a demand for the specially commissioned type of private taxi; in other words, a chauffeur-driven car.

A few of the taxi drivers who have been in the industry for a long while prefer to operate only in peak hours. I realise this creates a problem, but we must allow private enterprise to operate. It has been suggested that such drivers should be forced to work at other times, and we have heard the objections to the suggestion. If such people are making sufficient money working during peak periods, it would be difficult to make them work longer hours.

Mr. O'Connor: Some of them work only 20 or 30 hours a week.

Mr. JAMIESON: That is their own choice. These people are in the industry for what they can get out of it. We cannot force them to work longer hours and make more money. Taxi plates are issued on the basis of one set for every 800 people. However, I do not think this is a serious problem because most drivers use their taxis to their fullest capacity and run them in accordance with the requirements of the Taxi Control Board.

I do not intend to say much more, because the issues have been well canvassed by the Opposition members who spoke.

Mr. O'Connor: Before you sit down, I would like to ask a question when you are ready.

Mr. JAMIESON: Any question the honourable member wishes to ask may be asked right now. I have very little more to say.

Mr. O'Connor: In regard to private taxis, are you prepared to consider a proposition to include these with the normal taxis, and to increase the rate they have to pay for plates?

Mr. JAMIESON: I think an additional number will be let out. If these people want to become ordinary taxi operators I suggest that possibly—and I would have to check this with the Minister—they could be accorded some form of priority because they were previously in the industry. However, as I pointed out earlier, because the cars involved are fairly elaborate the owners could not afford to run them at the normal rate per mile, so some may not be viable propositions. I am quite prepared to refer to the Minister the suggestion that if any of those drivers are desirous of returning to the industry when additional plates are made available they should be given priority.

Mr. Thompson: Usually these cars are not equipped with meters and two-way radios.

Mr. JAMIESON: They would have to be under the provisions of the legislation.

Mr. O'Connor: The other point I mentioned was: How does the Government feel about having representation on the board from each of the two major companies—Swan Taxis and Yellow Cabs—rather than providing that there may not be more than one representative from any company?

Mr. JAMIESON: I think it is better to nominate that there may not be more than one member from any company, because although we have only two major companies at present it is possible another might emerge in the future, and we would be constantly enlarging the board.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committes (Mr. Bateman) in the Chair; Mr. Jamieson (Minister for Works) in charge of the Bill.

Clauses 1 to 6 put and passed.

Clause 7: Section 15B amended—

Mr. THOMPSON: What is the attitude of the Minister regarding the funding of the board? Are the premiums still to go to the Treasury, or will they be paid to the board? I would suggest that even the money presently collected by the board should go into Consolidated Revenue and the board should have a vote from that fund. This would provide direct control by the Treasury over the activities of the board. There is no denying the fact that the board is starved for funds at present and something positive must be done about finding money for it. I do not think this provision will provide relief in the long term. Whilst there are 60 premium plates at the moment, as a result of double shifting by some operators it may not be necessary to increase that number; so no extra revenue will be obtained from that source.

Mr. JAMIESON: I explained earlier there was some suggestion that Treasury should control this fund. In effect this already occurs under section 13 of the principal Act which states that the premiums payable shall be placed to the credit of an account to be kept at the Treasury. If the board is not able to issue further plates it will have to apply to the Treasury for further funds. I think the matter will be kept under review in that way. Excess funds may be directed to the public fund at the Treasury, but it is unlikely that there will be any excess funds. The matter is already under the control of the Treasury.

Clause put and passed.

Clauses 8 to 12 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

DAIRY INDUSTRY BILL

Second Reading

Debate resumed from the 5th October, 1972.

MR. I. W. MANNING (Wellington) [4.59 p.m.]: This Bill was initiated by the Farmers' Union and arose out of a desire to unify dairy farmers and to improve the income of those farmers in the butterfat section of the industry. As the Minister explained in his second reading speech, the dairy industry is now in two sections—the whole-milk section and the butterfat or dairy section—and is controlled by two different Acts. The Bill proposes to bring the whole industry under one Statute and will effectively restructure the industry. This should unify dairy farmers.

Contrary to what many people seem to think, the Bill will not place additional money into anyone's pocket; nor will it pull out of a sack a state of Utopia for the butterfat farmer.

One of the few favourable provisions in the Bill is that which provides for the acceptance of the Commonwealth's two-price quota scheme which is the solution to the main problem of butterfat in Western Australia. The great millstone around the neck of Western Australian dairy farmers whose returns are based on the price of butterfat is equalisation. For the past 10 years or more a great deal of thought has been given by many people as to what could be done either to shake off or ease the burden of Commonwealth equalisation.

In October, 1971, the Australian Dairy Industry Council submitted to the Commonwealth Minister for Primary Industry a proposal for a long-term plan for the Australian dairy industry, including a two-price quota scheme for the manufacturing section of the industry. To provide the Commonwealth Government with a basis acceptable to the industry for the continuation, during the period from 1972 to 1977, of the dairy stabilisation scheme which has been in operation since 1947, the scheme required acceptance by State Governments to license existing dairy farms, with the provision that no new license be issued except under a policy agreed to by the Australian Agricultural Council, taking into consideration the market requirements for dairy products.

The SPEAKER: I hope the honourable member will not read all his speech.

Mr. I. W. MANNING: I would just like to refer to my copious notes. The two-price quota scheme places no limit on the amount of milk any quota holder may produce in excess of his quota. As far as

the Commonwealth Government is concerned it is essential that there be some mechanism which is recognised by the State so that if there is to be any necessity for the adoption of production control the amount of Commonwealth assistance available can be directed and designed in such a manner as to maintain a sound industry in each State.

In its simplest form the scheme provides for the establishment of a national butterfat quota based on home and overseas market requirements, the allocation of that quota among the States being based on production in a recent base period. The State dairy authorities would be responsible for the allocation of quotas among farmers. A premium price would be payable on a quota production, whilst over-quota production would receive only the basic export price. Each farmer would thus be free to determine his optimum level of production in the light of the level of his quota, and the price he received for his quota and over-quota butterfat production.

The Australian Agricultural Council accepted in principle the necessity to plan for a flexible scheme of production control which could be applied where necessary.

The SPEAKER: I think the member's notes are very copious.

Mr. I. W. MANNING: I am speaking on a highly technical subject, Mr. Speaker. On the 10th April I asked the Minister for Agriculture a question as to what action was being taken to implement the dairy industry two-price quota scheme. I am very alarmed at the lack of progress that has been made towards the introduction of this scheme, and I certainly derive no comfort from the answer that was given by the Minister.

Mr. H. D. Evans: That makes two of us who are alarmed.

Mr. I. W. MANNING: In fact, it could well be that Western Australia, the State to gain most from the scheme, is the stumbling block to its introduction. At the conference of State and dairy officials held in March, 1972, Western Australia and Victoria submitted revolutionary alternative proposals, each based on very different principles. The conference was unable to reach agreement on the introduction of the scheme. The Western Australian proposal, which received no support from the other States, called for quotas in those States which had a deficit in dairy production to be based on consumption rather than output.

Mr. H. D. Evans: How would Western Australia be a stumbling block in this case?

Mr. I. W. MANNING: I will tell the Minister, Mr. Speaker; I have the answer in my notes. The Victorian proposal, more restrained, sought only to replace the Australian butterfat quota with production quotas—based on home consumption only—allotted to States, and hence the quotas would be allocated to factories but without further allocation in the form of farm quotas; with factories paying to their suppliers an average price derived from the higher price received by the factories for production within the quota, and generally a lower price for production in excess of the entitlement.

This surely is a case of having to give an inch to get a mile. Western Australian producers are unable to supply sufficient quantities of milk now to meet the demands of consumers in this State. In fact, the current annual shortfall is in excess of some 20,000,000 gallons. People are leaving the industry almost daily and production is dropping. Therefore, I am most disappointed at the lack of progress with the Commonwealth scheme.

Mr. H. D. Evans: How do you work out that Western Australia is the stumbling block?

Mr. I. W. MANNING: I am also alarmed that there has been no attempt to compromise. I believe it would be a great step forward, and certainly would encourage many farmers to remain in the industry if butterfat returns were based on a home consumption price, if only on present production. I agree with the Minister that if the Western Australian quota were based on home consumption this would bring about a very desirable state of affairs. However, let us face realities. We are not achieving our home consumption figure and if we are to insist on holding out to obtain a quota based on the Western Australian consumption figure, then this is where I believe the stumbling block exists; because to my mind it is far more important to pay to the Western Australian farmer today a home consumption price even if only based on present production, than it is to hold out for a home consumption price based on the additional 20,000,000 gallons.

Mr. H. D. Evans: What is holding up progress on the scheme now?

Mr. I. W. MANNING: This is the question I posed to the Minister for Agriculture.

Mr. H. D. Evans: And you were given a reply to that question.

Mr. I. W. MANNING: The reply I received was that the Australian Dairy Industry Council could not agree to the scheme presented to it.

Mr. H. D. Evans: Which State is causing the lack of progress? You are wrong in suggesting Western Australia.

Mr. I. W. MANNING: I do not think we should always point the bone at someone who does not agree with us. In such a

situation, with a shortfall of 20,000,000 gallons, this in itself should surely give us an area in which we can compromise.

Mr. H. D. Evans: We are prepared to compromise, but Western Australia is not the stumbling block. We are out to do the best for the Western Australian producers.

Mr. I. W. MANNING: The report by the Australian Dairy Industry Council contained two revolutionary alternative proposals. There was no support for the Western Australian proposal. I do not know what support there was for the Victorian proposal, but I would say it differed less from the Commonwealth proposal than did the Western Australian proposal.

Mr. H. D. Evans: Was the Western Australian proposal persevered with?

Mr. I. W. MANNING: I was hoping to glean this information from the Minister by way of questions.

Mr. H. D. Evans: I shall give you a reply to this.

Mr. I. W. MANNING: My purpose in raising this matter is to extract from the Minister some reasonable explanation as to what is going on. We are all aware that there is a continual drift from dairying in the State, and the dairy farmer has every reason to get out of butterfat production, because the price is not adequate and the alternative of producing beef is a much better prospect.

Mr. H. D. Evans: In relation to the dairy farmers' organisations, who is holding up progress? Is it the Western Australian organisation?

Mr. I. W. MANNING: The Minister has the answers. I am merely making an appeal for some compromise to be arrived at. As far as I can ascertain no move has been made to bring about a compromise between the two States which are not prepared to accept the Commonwealth Scheme *in toto*. I am referring to Victoria and Western Australia. All that Victoria is concerned about is the question of limitation of production; and limitation of production is written into this legislation.

From my research in the other States I find that the proposal in the Western Australian legislation is frightening to the Eastern States dairy producers, particularly those in Victoria. They have told me it is very strange that in Western Australia where there is a shortfall between production and consumption, we should be talking about the limitation of production and prosecution for oversupply.

Mr. H. D. Evans: Are you saying we should adopt the Victorian proposition?

Mr. I. W. MANNING: No, that is not my suggestion, because I have been stressing the need for compromise to get the scheme off the ground. The longer we delay in bringing about the introduction of the scheme the fewer will be the dairy farmers in this State.

Mr. H. D. Evans: The greater the delay the better it is for the Victorian industry. It takes two to compromise.

Mr. I. W. MANNING: I think the question of reaching a compromise should be researched.

Mr. H. D. Evans: What do you think is being done now?

Mr. I. W. MANNING: Approximately 50 per cent. of the State's manufacturing milk is produced by the whole-milk dairies. Butterfat production varies seasonally and the manufacturers are very dependent on surplus milk from the whole-milk producers to maintain throughput at the factories. By fixing a rigid quantity the amount of butterfat that can be produced presents severe limitations.

Limitations will be placed on whole-milk producers. Butterfat production can be expected to vary widely at different times of the year unless butterfat producers farm more intensely in the manner of the whole-milk producers.

The whole-milk producer today works under a two-price structure. In fact, it is a three-tier price arrangement, because he is paid a price for milk supplied to the liquid milk trade, a different price for milk supplied to the fresh cream trade, and a price for milk to be manufactured.

Basically it could be described as a two-price industry—a guaranteed home consumption price for the quota quantity, and a take-what-you-can-get price for the surplus—with complete freedom reserved to the farmer as to what quantity of the surplus he will produce. The decision is his, and it is based on his capacity to produce the surplus and on whether it is economical to do so.

The Commonwealth two-price scheme for butterfat producers is based upon exactly the same principle—a satisfactory home consumption price for a quota quantity, and a take-what-you-can-get price for the surplus which must be exported. I say without hesitation, and without fear of contradiction, that a great deal of the success enjoyed by farmers in the wholemilk section is the freedom that comes from being able to produce surplus milk without limitation even if it is a gamble as to what price they can get for it.

I now turn to the aspect of vesting. As far as I know, no other State has total vesting, and that is the proposition in this Bill. In my view the vesting provisions in emergency form, as they are in the present Western Australian Milk Act, are just as they should be. In my mind there is no cause for the vesting of milk in Western Australia.

The whole-milk producers of Western Australia have been brought up under the present Act which provides the greatest degree of freedom and encouragement to enterprise. They are geared to this system

and it has worked satisfactorily. Many people have a financial investment of considerable magnitude in the industry, and have too much to lose, if changes have to be made just for the sake of making changes.

The Minister's explanation for vesting is that this is necessary to overcome a receipts tax situation in respect of levies. There are many instances of levies being imposed by the States which have never been questioned, so why suddenly should this be the reason?

Without doubt this is one situation in which a provision is written into legislation which makes life easier for an administrator sitting in an air-conditioned office in the city, and more difficult for the person with his back bent in the sun, working in the field all day.

There is a very strong current of opinion against vesting, for it brings with it many disadvantages. Although there are only two milk companies which have a direct and personal contact with the producers—both butterfat and wholemilk producers—there is still a very desirable element of competition between them.

The companies have always been a source of finance for capital improvements; of bridging finance in the acquisition of additional land; and of finance for the purchase of stock, plant, and farm supplies.

By converting the milk companies to mere collection agents for the single authority, this important personal contact and incentive to assist is lost. At all times care should be taken not to destroy all the incentive and initiative of the companies. To the farmer, vesting could well be a classic example of killing the goose that lays the golden egg.

The present Milk Board which comprises three persons and a staff does not operate without considerable cost to the industry. The increase in membership on the authority, the need to meet more frequently, and the added committees and tribunals, plus payments to the Department of Agriculture, suggest that a vastly increased administration budget will be necessary.

I believe that some concrete estimate of one year's operating costs should be obtained before the Bill is approved in order that we might know the situation concerning costs to the industry. It is very difficult to doubt, too, that the price of milk will not be increased at a very early date.

The Bill proposes a price-fixing tribunal. It is my belief that it should be possible adequately to clothe the single authority with sufficient powers to enable it to fix a minimum price to producers and a maximum charge to the consumer, plus the margins in between. The three-man Milk Board has carried out this duty successfully for many years.

It is necessary we exercise a great deal of care when talking about price fixing because it is freely rumoured in commercial circles that the price fixing of dairy products as suggested in the Bill will immediately attract the attention of Eastern States producers whose operating costs and overheads, because of volume production, are less than the Western Australian equivalents; and we can expect to see dairy products from the east over here at prices below the Western Australian fixed prices. If this occurs the price fixing on all dairy products in this instance could well prove to be a nasty handicap to us. I believe the authority should fix the prices, and the provision to establish a price-fixing tribunal should be deleted from the Bill.

The negotiability or transfer of quotas is something which should be clearly spelt out in the legislation which at the moment contains no clear procedure. Clause 30 reads—

> 30. A person shall not, without the prior approval in writing of the Authority, transfer a quota or a supplementary quota from himself to another.

Then follows a penalty. Clause 59 (1) reads—

> 59. (1) A licence shall not be transferred from one person to another except with the prior consent in writing of the Authority.

I request the Minister to indicate the reason for the different wording in the two provisions. There is no certainty that, when all authority conditions have been complied with and the premises are in order, a transfer of a quota or a license would be the right of a producer. Surely it is a serious oversight not to stipulate clearly the guidelines for transfers. Since 1946 it has been the practice of the Milk Board of Western Australia to permit the transfer to a qualified dairyman automatically if certain conditions are met. If the Milk Board erred, it was probably in connection with the conditions to be met. Clarification of these points would expedite much of the work being assigned to the administrators of the legislation.

Another apparent anomaly in the Bill is found in clause 28 which provides that the authority shall not refuse to grant a quota for the first quota year for a lesser quantity of milk or butterfat than that referred to in the quota last held by that person. Clause 61 states that all licenses in force on the commencement date shall be deemed to be in force until the expiry date thereof. The holder of a license is not entitled as of right to the renewal of the license upon its expiry date. I am considerably concerned with these provisions, particularly when I reflect on the magnitude of the investment by some people in the industry. If the holder of a license is not entitled to

a renewal of it upon its expiry, how can he plan for the future? This aspect requires serious consideration.

Often quotas are held in relation to properties upon which there are no milking premises. Does the provision in the Bill—that the authority shall not issue any license unless it has received a written notification from the Department of Agriculture that the premises and facilities comply with the requirements—automatically cancel these licenses? I pose that question to the Minister.

If a situation such as that arises and a quota not attached to any premises has to be disposed of, the authority's refusal to approve a transfer of the quota would be a severe restriction and penalty on the dairyman concerned.

The penalty provisions in the Bill are far more severe than those in the Milk Act. Under present conditions if there is a conviction under the regulations a milk quota can be suspended. However, the producer concerned is still able to dispose of his milk as surplus milk. The new authority will have the power to suspend all production by a farmer which means he will not be able to produce any milk for sale to anyone. His premises, herd, equipment, and employees would immediately become redundant. His mortgages would be called up and if he were without a license or quota the resaleable value of his entire farming business would be nil. The Bill provides no protection in this area.

A hearing of an appeal against the cancellation of a license should bind the Court of Petty Sessions hearing the appeal to the rules of evidence. The power given to the court to inform itself on the matter of the appeal in any such manner it thinks fit does not protect the appellant, no matter how fair the court may be. Surely the opportunity to cross-examine should be given and justice and fair play at least seem to be done. The Minister must tell us what happens to the milk while the court is hearing the appeal. Can production continue until the appeal is decided? Anyone who knows anything about milking cows would readily know what a predicament the farmer would be in if he suddenly had nowhere to send the milk from a big herd. The industry will be in trouble if this problem is left up in the air.

Much has been made of the creation of the quota appeals committee. Clause 27 provides that before the authority considers applications for the granting of a quota, it shall submit to the Minister a written statement setting out *inter alia* the bases or principles upon which applications for a quota in respect of that quota year should be determined.

The ACTING SPEAKER (Mr. A. R. Tonkin): The honourable member has five more minutes.

Mr. I. W. MANNING: I am replying for the Opposition.

Mr. O'Connor: He has unlimited time.

The ACTING SPEAKER: Yes. The Speaker has made an error.

Mr. Graham: How much longer do you intend to speak?

Mr. I. W. MANNING: I hope to be finished by Tuesday.

Mr. Moiler: Why not just hand it in?

Mr. I. W. MANNING: I think I will probably be another 20 minutes.

Mr. O'Connor: Very reasonable, I would say.

Mr. Graham: Let us co-operate.

Mr. I. W. MANNING: I think I was telling you, Mr. Acting Speaker—

Mr. May: You certainly were!

Mr. I. W. MANNING: —about the quota appeals committee. The Bill provides that the Minister shall, after considering statements submitted to him, furnish the authority with directions in writing, not inconsistent with the Act, as to the bases or principles on which the authority is to determine applications for quotas made to it in respect of the quota year.

The ACTING SPEAKER: The honourable member should not be reading his speech.

Mr. I. W. MANNING: I am quoting from the Bill.

The ACTING SPEAKER: The honourable member has been quoting ever since I have been sitting here.

Mr. I. W. MANNING: You will disorganise me, Sir, if you insist that I cannot refer to my notes.

The ACTING SPEAKER: The honourable member is not referring to notes. He is reading.

Mr. H. D. Evans: It is a technical subject.

Mr. I. W. MANNING: The Minister would agree that this is a highly technical subject, and he referred to notes.

The ACTING SPEAKER: The Standing Orders are explicit.

Mr. H. D. Evans: I would agree it is technical.

The ACTING SPEAKER: The Standing Orders are quite explicit in the matter.

Mr. I. W. MANNING: When an applicant for a quota considers that the authority failed, in considering his application, to comply with or give effect to the directions given to the authority in that regard by the Minister, under clause 27 he can appeal to the quota appeals committee. Any successful appellant must show that the authority did not comply with or give effect to the directions given it by the Minister. Proving this could be almost impossible. Something must be done about this matter.

I ask the Minister: Why do appeals in respect of quotas differ from appeals in respect of licenses? Another good question

is: Does the license or quota holder have the right to transfer that license or quota under the terms of a will?

There are no provisions in the Bill as to the maximum whole-milk or butterfat quotas. Further, the legislation does not incorporate any principle adopted by the Milk Board after 28 years of operation.

Much has been made of the fact that the Farmers' Union will be able to nominate three representatives. If these three individuals are to be of any value to the authority and to dairy farmers in Western Australia, they should be selected from three different dairying areas: namely, the main whole-milk area, the main butterfat area, and the Albany-Denmark zone. A representation of three on the composition of the board, as set out in the Bill, does not give producers a controlling vote. If, as has been suggested, the authority is to be increased by the addition of a vendors' representative, the strength of the producers' vote will be diminished. Sectional interests within the industry can be expected to compete for representation on the authority.

Undoubtedly, there will be many issues on which the three producers' representatives could have conflicting interests. Any division of opinion on the part of the producers will enable decisions to be made by the votes of nonproducers. Of course, this immediately throws into question the wisdom of loading the authority with so many people who represent particular interests.

The selection of the producers' representatives to the authority is prescribed to be by the Farmers' Union. Many farmers are not members of that union.

Mr. Stephens: They can always join!

Mr. I. W. MANNING: Furthermore, many union members are not active farmers. Considerable care needs to be taken in the selection of producers' representatives or else the Farmers' Union could lose the confidence of those whom it at present holds as members. It could rapidly become nonrepresentative of all producers.

One farmer representative of all producers has, over the past 20 years, successfully represented producers; whereas the pre-1948 Milk Board, with two producers' representatives, made a hash of the job. Perhaps we should have learnt a lesson; the fewer the representatives the less disagreement there is.

When we look at division 2 of the legislation we see that two separate operations must be considered. The first is the State operation applying to the supply of liquid milk. The second is the Commonwealth-subsidised operation applying to manufactured products. These are two quite different fields of activity and two separate authorities control them—State and Commonwealth.

This division attempts to bring together these two separate operations, but I believe this can only lead to confusion, frustrate the companies, and weaken the functions and powers of the proposed authority.

The introduction, from time to time, of new types of dairy produce must surely be the prerogative of the manufacturing companies. Only they have the incentive, the expertise, the equipment, and the motivation to do anything about producing a new type of dairy product. If we take this away from the companies and give it to the authority, we will leave the industry completely without imagination. Surely we have had sufficient experience with the Potato Marketing Board, not to wish this type of activity onto the authority. We should leave it with the private enterprise section of the industry because there—and there alone—will it be adequately attended to and people will come up with new and bright ideas.

Mr. H. D. Evans: How would initiative be stifled?

Mr. I. W. MANNING: As far as the production of any new type of dairy product is concerned.

Mr. H. D. Evans: This is still possible. The situation is unchanged.

Mr. I. W. MANNING: This is the way I see it. I say it should be left unchanged. The duties and the functions of the Department of Agriculture, as set out in the Bill, are viewed with considerable hostility by many people involved in the industry. I believe we should strive for a single authority concept or else a highly sophisticated, Milk-Board type of administration. This readjustment of function reduces the power of the authority and largely nullifies the influence of the farmers' representatives on the authority in a field where their influence should be most effective.

The Department of Agriculture should remain in its specialised field—extension services. It should always be available to serve in any way seen necessary. The Department of Agriculture has a big job to do in the area in which it now specialises, without becoming involved in a commercial enterprise.

Mr. H. D. Evans: Is there any conflict or interreaction difficulty of this kind under the present administration of the supervisory services?

Mr. I. W. MANNING: There is not, as the Minister poses the question, but there has always been some indefinite distinction between the duties of the Department of Agriculture, the Milk Board, and the inspectors under the Health Act. The situation has always been very clouded as far as these three groups are concerned. Unfortunately, this has not been spelt out—or even touched on—in the

legislation. This is one area in which an attempt should be made to clarify the situation completely.

Mr. H. D. Evans: You would agree that there should be single control on the advisory and supervisory services?

Mr. I. W. MANNING: I am very partial to control by only one of those authorities.

Mr. H. D. Evans: Having regard for multi-purpose factories, and that sort of development?

Mr. I. W. MANNING: This legislation will amalgamate the Dairy Products Marketing Regulation Act and the Milk Act, so in that respect it amalgamates the inspections on the manufacturing side of the industry. It will leave only the field work, or farm-to-farm activities, for the inspectors which, I am saying, ought to be the prerogative of the dairy industry authority. It should appoint the inspectors and should be responsible for them. That is the proposition I am submitting in contradistinction to what is provided in the Bill.

The authority will not be able to issue a license without the seal of approval of the Department of Agriculture and this, in itself, is good reason to question the desirability of handing over this function to that department.

This Bill has proved to be highly contentious right throughout the industry, and many people have grave misgivings about a number of the provisions it contains. As I indicated earlier, I support the principle of a single authority and a more sophisticated administration of the industry.

I see no virtue in the appointment of an interim authority. We do not want a Whitlam-Barnard interim administration in dairying.

Mr. Jamieson: I think I noticed a short while ago that that comment was written in big letters in your notes so that it would be easy to see!

Mr. I. W. MANNING: When the dairy industry authority is ready to take over, the Milk Board of Western Australia and the Dairy Products Marketing Board—these two great tried and trusted friends of the dairy farmers—can close their doors and bow out of the industry.

I see no value in an advisory committee. The various interests within the industry have never had any difficulty in the past in having their cases heard either by the Milk Board of Western Australia or by the Minister for Agriculture. This will apply in the future. The appointment of such an advisory committee would only be an unnecessary additional cost, and the provision for it should be deleted from the Bill.

The dairy industry authority should fix the prices and margins required by the legislation, and the provision for setting up a prices tribunal should be deleted from the Bill. The Department of Agriculture should confine its activities to extension services, and the authority should appoint inspectors.

I am extremely hostile to the limitation of production, and to prosecution for oversupply. Those circumstances introduce an area of conflict between the producer and the authority which is quite unnecessary. It also conflicts with the Commonwealth two-price quota scheme.

"Vesting" is a dirty word to many farmers. It offers them nothing and destroys a valuable relationship between the companies and the farmers. There is no case in favour of vesting, and the provision for it should be withdrawn.

Mr. Rushton: Hear, hear!

Mr. I. W. MANNING: The power of the proposed authority to take and retain the books of accounts and other documents from farmers and others has the Murphy touch and this provision should be amended.

In conclusion, I would like to say I have had a lifetime association with the dairying industry. I have seen a steady progression to stability in the whole-milk section, and in recent years I have observed a steady decline in the butterfat section.

The industry is indebted to many great men who toiled hard to bring about stability. Some of those men had the satisfaction of seeing their efforts succeed, while others did not. However, we have learnt a lot from their experiences.

One thing which is clear is that the Australian dairy farmer, by world standards, is a highly efficient productivity-per-labour unit. The prices for dairy products in Australia are among the lowest in the world.

I repeat what I said earlier: This Bill will put no money into the pockets of the dairy farmers, but with sensible amendments it could improve the overall administration of the industry. I support the second reading.

MR. A. A. LEWIS (Blackwood) [5.45 p.m.]: This Bill, as is the case with many other rural measures, unfortunately does nothing for anybody. Those who drafted the Bill seem to have forgotten the whole concept of marketing incentive, and have not included anything which would be of use to agricultural industries. As a result, the provisions of the measure will not be used even if the legislation is passed.

Any industry needs encouragement to sell as much of its product as possible. I presume that the Department of Agriculture will advise the proposed authority, and the proposed authority will advise the Minister, just how much milk, or other dairy products, will be required in this State. There will have to be somebody to advise the dairy farmers to purchase

more cows and to produce more milk. The problem should be tackled from the other end, and the dairy farmers should be encouraged. We should provide conditions under which they can sell their products.

Mr. H. D. Evans: The sale of whole milk cannot be increased because there is not a market. If the sale of butterfat is increased the returns will be lowered.

Mr. A. A. LEWIS: That may be so. However, I am reliably informed that some new products will be coming onto the market which will take up the slack in the overproduction of milk. Quite frankly, not enough research has been carried out into new milk products, and there seems always to be talk about not being able to use our surplus milk. Approximately 12 months ago we heard people talking about our wheat and our wool not being used. For some unknown reason—I think it might be referred to as supply and demand—both wheat and wool seem to have a use at the moment.

There are six items to which I wish to refer this evening. Firstly, I doubt very much whether the creation of a single authority will help anybody in the industry. I would imagine that both the whole-milk section and the butterfat section will have less to gain from the setting up of the new authority.

The second point I wish to mention is the vesting of milk, and to me this is obnoxious. I will not go into detail because I think members have heard all the detail in regard to that aspect from the member for Wellington.

Some of our farmers' organisations—I think one was the whole-milk section of the Farmers' Union—in 1967 decided against vesting. Those people have now voted in favour of it, but what happens if, in 1978, they are against it? I think we will have some unnecessary problems to face up to if the vesting provisions are retained in the Bill.

Referring to the manufacturers, I think they will reach the situation where they will be collection agents only for the proposed authority. I cannot see any benefits accruing to them to encourage the production of milk. Therefore I think we should have another look at the vesting provision.

Incentives are to be offered by the treatment plants. Some people are against incentives, but I believe it would be good for the industry to be given incentives.

I now move to control by the Department of Agriculture. On reading through the Bill, it seems to me the Department of Agriculture has an open cheque to do exactly what it likes. I think it is clause 63 which provides that the authority shall pay for everything the Department of Agriculture does on behalf of the authority.

I do not believe in giving anybody open cheques. I am not decrying the Department of Agriculture but I believe if the authority is supposed to be running the industry it should run it without having the Department of Agriculture doing some of its work and an advisory committee teaching the authority how to suck its own eggs. It will be marvellous for the Minister. A question will be asked of him. He will say, "I will refer it to the authority." The authority will refer it to the Department of Agriculture, which will refer it to the advisory committee, which will refer it to the cows, who will probably be the only ones who will be contented, because the member concerned will not receive an answer.

Mr. H. D. Evans: Will you explain the organisation of advisory and supervisory functions within the dairying industry?

Mr. O'Connor: Do you not know it?

Mr. A. A. LEWIS: I was hoping the member for Stirling would deal with that aspect at a later date.

Mr. H. D. Evans: So long as you have it in hand.

Mr. A. A. LEWIS: With the establishment of the authority I cannot see that anybody will have more money in his pocket. I can only see the housewife paying more for milk because of the limitation of production and the harsh conditions the dairy farmer has to put up with. My heart goes out to most dairy farmers. Any member who has milked cows will know it is not easy work. I do not know about bending one's back under the sun; I always found the worst feature was the water running down one's back.

The next matter I refer to concerns penalties and appeals. The Bill contains much stronger penalty provisions than does the Milk Act. Under the Bill control of suspension and cancellation is placed in the hands of the Department of Agriculture, with inadequate provisions for the authority to make any concession in extenuating circumstances if the department gives an adverse report. In other words, under the Bill the department is running the whole show. Why are there differences in the appeal provisions relating to quotas and licenses? These matters should be sorted out.

The other point I wish to raise is the negotiability of both quotas and licenses. The way the Bill stands at the moment, things are so far up in the air that one wonders whether they will ever come down. As I said, for the next few days cows will be the only contented ones in this industry.

I think the Bill should be looked at again in the light of modern marketing methods. We have been using restrictive legislation and authorities for so long that it is time we got stuck into some research in the marketing sphere in an endeavour to come

up with something that will not hold back the rural areas. I commend my remarks to the Minister and hope he will act on them.

Debate adjourned, on motion by Mr. Moller.

TRAFFIC ACT AMENDMENT BILL

Second Reading

MR. JAMIESON (Belmont—Minister for Works) [5.55 p.m.] I move—

That the Bill be now read a second time.

This Bill, which seeks to remove a possible cause of injustice occurring as a consequence of provisions contained in section 29 of the Traffic Act, is sponsored by the Law Society of Western Australia, and I feel confident it will be acceptable to members generally.

Some little time ago, the President of the Law Society communicated with the Minister for Police to the effect that his council had been giving consideration to the provisions of subsection (1) of section 29 of the Traffic Act. That subsection deals with the duty of the driver to stop and do certain things following an accident.

The second sentence of the subsection states that any person convicted under this subsection of an offence, of which failng to stop immediately after the occurrence of any accident by reason of which any person is injured is an ingredient, shall be liable to imprisonment for a term of not less than three months or more than 12 months. This sentence is followed immediately by a proviso which states that if the court itself is satisfied that the person convicted was not aware of the accident, or if in the opinion of the court there are special reasons why a sentence of imprisonment should not be imposed, the court may in lieu of imprisonment impose a fine of not more than $200.

In the Council's view, with which I concur, it is manifestly unjust that a driver who is unaware of having been involved in an accident by reason of which a person is injured, and who fails to stop immediately after the occurrence of the accident, should be guilty of the offence of failing to stop and be liable to imprisonment for not less than three months or a fine of up to $200. There can be no justification whatever for imposing a penalty on a person for failing to stop after an accident of which he was totally unaware.

This Bill is accordingly brought to Parliament in order that we may delete the offending words from subsection (1) of the section and support this deletion by adding a new subsection (1) (a), to the effect that it shall be a defence for the person charged to prove that he was not aware of the occurrence of the accident to which the alleged offence relates. The effect of the initial amendment will be that an offence is created only if the court is satisfied that the driver concerned was aware that an accident had occurred when he failed to stop.

I would point out to members that the Law Society does not wish to place the onus on the prosecution to prove that an offender was aware of the accident and also aware that some person had been injured. However, it still feels strongly that ignorance of these matters should not merely constitute a mitigating circumstance, but rather a complete defence to the charge. In the society's view, with which I am fully in accord, it is both wrong and unjust that a person can be found guilty of an offence and have a penalty imposed for failing to take certain action in circumstances of which he was totally unaware. While in support of the existing provisions it could be advanced that no appeals concerning this section have so far been recorded, it is more to the point, I suggest, to state that an appeal against conviction under the provisions of the section as now worded would have virtually no chance of success.

With the provision of the means of defence now proposed, an accused person will be given the opportunity to satisfy the court that he was not in fact aware of the accident or aware that anyone had been injured.

On the other hand, it is conceivable that although the driver was unaware of the accident, he could be culpable in another way. In other words, his unawareness may have been due to another breach of the Act or regulations, such as excessive speed, driving under the influence of alcohol or driving without lights. It would seem fair that under those circumstances he should not be convicted of an offence under section 29 (1), but charged with the particular offence which caused him to be unaware of the accident.

As I mentioned earlier, the proposed amendment would not have the effect of shifting the onus of proof to the prosecution; it would simply give the defendant an opportunity to establish a defence. He would do this by producing appropriate evidence on his own behalf. However, in cases where the defendant is unable to establish unawareness, he could still show special reasons as mitigating factors.

In commending the Bill to members, I point out finally that as things stand at the moment, although the defendant is able to establish that he was unaware of the accident and was otherwise quite blameless, he may still be found guilty of an offence under this provision, and I consider this is wrong in principle. It is for these reasons that I support the proposals put forward by the Law Society. I commend the Bill to the House.

Debate adjourned, on motion by Mr. O'Connor.

House adjourned at 6.02 p.m.