Because it reduces taxation on those who borrow for the purpose of securing land on which to build a house, it benefits the home builder directly.

The provision to exempt these loans is to operate as from the 1st January, 1971, and is estimated not to exceed a cost of $40,000 in this financial year.

Members will recall that when the legislation to impose duty at 1½ per cent. on loans was introduced, strong representations were received from credit unions for exemption for loans made by them to their members on the grounds that the unions were non-profit in the sense that they were a co-operative movement and kept their rates of interest to the lowest practical level.

At that time the Premier pointed out that this exemption was not granted in other States imposing this duty, but if there were a change in the position elsewhere in Australia, he would be prepared to review the decision.

Recently Victoria, the State on which we based our legislation, agreed to exempt loans by credit unions and legislation has been introduced in that State for this purpose.

In conformity with the Premier's undertaking to representatives of credit unions, the position has now been reviewed and a provision to exempt loans made by these bodies is included in the Bill. It will operate from the 1st January next and is estimated to cost $47,000 in 1970-71.

The remaining proposal in the Bill will confirm an administrative decision put into operation some months ago.

It will be recalled that when stamp duty was imposed on various forms of loans and credit arrangements which had taken the place of hire-purchase agreements, duty was only payable where the rate of interest for the accommodation exceeded 9 per cent. per annum.

As a result of an increase in the general interest rate towards the end of last year, transactions to which the legislation was not intended to apply became subject to duty.

For this reason it was decided that as from the 1st July, 1970, the provisions be administered as though the rate of interest or discount specified in the Act was 10 per cent. per annum instead of 9 per cent. per annum.

No doubt general interest rates will vary in the future and, in order to prevent this situation arising again, the Bill contains a proposal to allow the Treasurer, from the 1st July, 1970, to declare and publish an appropriate rate of interest from time to time.

As I have indicated, the provisions in this Bill are designed to bring into operation undertakings already announced in respect of receipt duty and to provide concessions in the taxable credit field.

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

## ADJOURNMENT OF THE HOUSE: SPECIAL

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Mines) [10.13 p.m.]: I move—

That the House at its rising adjourn until 2.30 p.m. tomorrow (Wednesday).

Question put and passed.

*House adjourned at 10.14 p.m.*

# Legislative Assembly

Tuesday, the 17th November, 1970

The SPEAKER (Mr. Guthrie) took the Chair at 3.30 p.m., and read prayers.

## BILLS (11): ASSENT

Message from the Governor received and read notifying assent to the following Bills:—

1. Road and Air Transport Commission Act Amendment Bill.
2. Totalisator Agency Board Betting Act Amendment Bill.
3. Betting Control Act Amendment Bill.
4. Bush Fires Act Amendment Bill.
5. Tourist Act Amendment Bill.
6. Criminal Injuries (Compensation) Bill.
7. National Trust of Australia (W.A.) Act Amendment Bill.
8. Murdoch University Planning Board Bill.
9. Betting Investment Tax Act Repeal Bill.
10. City of Perth Parking Facilities Act Amendment Bill.
11. Betting Control Act Amendment Bill (No. 2).

## QUESTIONS (32): ON NOTICE

1. PUBLIC HEALTH DEPARTMENT

*Annual Reports*

Mr. DAVIES, to the Minister representing the Minister for Health:

When is it expected the annual reports of the Public Health Department for the years ended the 30th June, 1969 and 1970, will be tabled?

Mr. ROSS HUTCHINSON replied:

When the Commonwealth Bureau of Statistics provides the statistical data that is annually published in the report.

2. KING'S PARK

*Director: Applications*

Mr. RUSHTON, to the Minister for Lands:

(1) Have applications closed for appointment of a Director of King's Park and the Botanic Gardens?

(2) How many applications were received?

(3) When will an announcement be made of the new appointment?

Mr. BOVELL replied:

(1) Yes.

(2) 14.

(3) As applicants are from widespread areas, required processing will be completed as soon as possible.

3. HOSPITAL

*Bentley*

Mr. BATEMAN, to the Minister representing the Minister for Health:

(1) Has the Bentley hospital the capacity to provide meals and associated services for 500 patients?

(2) If not, for how many patients can the hospital cater in this regard?

(3) What is the anticipated number of beds available when the hospital complex is completed?

(4) How many beds are currently available?

(5) Is the hospital currently able to cater for all patients referred to it by local doctors?

(6) If not, when is it anticipated future additions will be commenced?

Mr. ROSS HUTCHINSON replied:

(1) No.

(2) 200.

(3) 200.

(4) 70.

(5) No.

(6) Not known. Priorities are constantly under review. At present funds expected to be available are required for projects now regarded as being of a higher priority.

4. HOSPITAL COMMISSION

*Establishment*

Mr. FLETCHER, to the Minister representing the Minister for Health:

(1) Has he any knowledge of the existence or otherwise of any Government hospital commission in any eastern Australian State?

(2) In any case, has a hospital commission ever been considered to assist the Public Health Department in this State?

(3) If not, will the Government give consideration to doing so with a view to—

(a) co-operating with various Government hospital boards in administration;

(b) co-ordinating medical training at all levels including the Medical School;

(c) ensuring that expensive equipment is not proliferated throughout the State with inadequate staff to operate same on a minimum number of patients;

(d) having conditions made sufficiently attractive to doctors and trained staff to serve a period in rural, northern, and goldfields areas; and

(e) co-ordinating all hospital treatment throughout the State?

Mr. ROSS HUTCHINSON replied:

(1) Yes.

(2) Yes.

(3) Not applicable.

5. SEWERAGE

*Clifton Hills Area, Kelmscott*

Mr. RUSHTON, to the Minister for Works:

(1) When will reticulation mains, pumping stations and rising mains be completed in connection with the provision of deep sewerage to the Clifton Hills area, Kelmscott?

(2) When is it contemplated this sewerage scheme will be completed enabling homes to be connected and owners to take up residence?

Mr. ROSS HUTCHINSON replied:

(1) The consulting engineers responsible for this work advise that reticulation mains will be completed about the end of next month. The pumping station and rising main are expected to be operating by mid-1971.

(2) When the reticulation sewers are completed, houses can be connected and the sewage can be tankered from a down stream manhole.

6. MAIN ROADS DEPARTMENT

*Available Finance*

Mr. JAMIESON, to the Minister for Works:

What is the approximate total finance available to the Main Roads Department for the current financial year?

Mr. ROSS HUTCHINSON replied:

$54,792,800 including statutory grants to local authorities.

7. MAIN ROADS DEPARTMENT

*Employment of Truck Owner-Drivers*

Mr. JAMIESON, to the Minister for Works:

(1) How many owner-driver truck drivers are employed with the Main Roads Department in the metropolitan area?

(2) Was a contract of 100,000 yards of sand fill given to Hinchcliffe Bros. without tenders being called?

(3) Is it a fact that Hinchcliffe Bros. are carting this sand a distance of 12 miles while the Main Roads Department has a sand pit only 8 miles from the site being filled?

(4) Is he aware that while this contract carting is in progress eight tandem vehicles—owner-driver—are being retained for virtually negligible work?

(5) Is it a fact that approximately two years ago when tenders were called from private firms for trucks to contract to the Main Roads Department the lowest tender received for tandem type trucks was $8.50 per hour?

(6) What are the current rates per hour being paid by the Main Roads Department for the various types of vehicles retained by the Main Roads Department under owner-driver basis?

(7) What is the hourly rate paid to the drivers of these vehicles?

(8) In view of the large discrepancy between the tender approximately two years ago and the rates being paid by the Main Roads Department, could he indicate if the tender was considered excessive and, if so, why?

(9) Why are the rates paid to owner-drivers so low by comparison with the tender price?

Mr. ROSS HUTCHINSON replied:

(1) 32.

(2) No, this is not a Main Roads Department contract. Hinchcliffe Bros. as subcontractors are carting sand on a contract basis for P.D.C. Constructions Pty. Ltd., contractors for the Hamilton Interchange.

(3) This is a matter which rests entirely with the contractor and the subcontractor.

(4) No. All vehicles on hire to the Main Roads Department are fully engaged on departmental works.

(5) No. Careful investigation has failed to reveal that a rate of $8.50 an hour has been paid for tandem axle trucks.

(6) and (7) I will arrange for the Main Roads Department to prepare necessary detail for tabling.

(8) and (9) Both these questions are related to a tender price of $8.50 an hour alleged to have been paid about two years ago. However, as I pointed out in the answer to question (5), the Main Roads Department has no knowledge of this. Therefore no comparison is possible with the present rates being paid to truck owner-drivers.

8. MAIN ROADS DEPARTMENT

*Closure of Gravel Pits*

Mr. JAMIESON, to the Minister for Works:

(1) Have all Main Roads Department gravel pits within reasonable access to the metropolitan area been closed because the Conservator of Forests considers that the use of these pits is causing the extension of dieback in the forest areas?

(2) If so, why are Bell Bros., Nuway, Coopers, Houlahans, and other companies permitted to develop new pits in these areas?

Mr. ROSS HUTCHINSON replied:

(1) No.

(2) Answered by (1).

9. MAIN ROADS DEPARTMENT

*Gangs, and Truck Owner-Drivers*

Mr. JAMIESON, to the Minister for Works:

(1) How many gangs are employed by the Main Roads Department in the metropolitan area?

(2) What type of work have these gangs been engaged in during the last three months?

(3) In view of the apparent lack of work for the owner-driver vehicles, why was the recommendation, approximately six weeks ago, to stand down approximately 13 vehicles, rejected by higher authority?

(4) What is the range of time over which these individual drivers have been employed by the Main Roads Department?

(5) How many are paying into the superannuation fund?

Mr. ROSS HUTCHINSON replied:

(1) Eleven.

(2) Major road construction, channelisation of intersections, and road drainage works.

(3) In future there may be a need to reduce the number of trucks employed, but no decisions have

been taken so far. These matters are under the control of the Divisional Engineer.

(4) The time varies considerably from many years to less than one year.

(5) One.

10. MAIN ROADS DEPARTMENT

*Sand Pit at Widgee Road, Beechboro*

Mr. JAMIESON, to the Minister for Works:

Is it a fact that the Main Roads Department sand pit at Widgee Road, Beechborough, was closed down for the reason that it was too deep, while the Steel Bros. pit next door was working at about 100 feet deeper?

Mr. ROSS HUTCHINSON replied:

No.

11. MAIN ROADS DEPARTMENT

*Uneconomic Activities*

Mr. JAMIESON, to the Minister for Works:

(1) During the last year, in how many instances have Main Roads Department gangs been called upon to repair or bring up to Main Roads Department specifications jobs done by private tender in the metropolitan area?

(2) In view of the apparent slack time being experienced by owner-drivers, why has the Main Roads Department refused leave without pay to long standing employees to the detriment of good public relations?

(3) What amount of hire plant has been retained by the Main Roads Department in the metropolitan area over the last three months and not used?

(4) Is such machinery as referred to in (3) hired on hourly rate basis?

(5) If so, why was it not returned while not in use?

(6) Can the apparent uneconomic activity of the Main Roads Department in the metropolitan area of recent times be attributed to planning falling behind the speed of construction?

Mr. ROSS HUTCHINSON replied:

(1) None.

(2) The Main Roads Department will always grant leave without pay where the need for such leave can be shown to be reasonable.

(3) One item of privately hired plant has for short periods been retained on a special stand-by rate in the metropolitan area. The stand-by rate is much lower than the normal working rate.

(4) Yes.

(5) The item of plant referred to was specialised equipment which was required for use at short notice. It was kept on stand-by for short periods to enable it to be immediately available when required.

(6) There is no uneconomic activity in the Main Roads Department and planning is not falling behind.

12. CANCER

*Deaths in Western Australia*

Mr. MENSAROS, to the Minister representing the Minister for Health:

(1) How many people in Western Australia are known to have died from lung cancer in the years 1967, 1968, and 1969?

(2) How many people in Western Australia are known to have died from other forms of cancer in the same years?

Mr. ROSS HUTCHINSON replied:

(1) Deaths from lung cancer were—

| | Male | Female |
|---|---|---|
| 1967 .... .... | 235 | 29 |
| 1968 .... .... | 217 | 40 |
| 1969 .... .... | 212 | 33 |

(2) Deaths from all other cancer* were—

| | Male | Female |
|---|---|---|
| 1967 .... .... | 501 | 466 |
| 1968 .... .... | 478 | 495 |
| 1969 .... .... | 552 | 484 |

* Excludes benign neoplasms.

13. RAILWAYS

*Electrified Underground Diversion*

Mr. TONKIN, to the Minister for Transport:

(1) Did he arrange for discussions between Dr. Neilsen and Mr. Edgar Booth on Mr. Booth's proposal for an electrified underground rail diversion to the south?

(2) If so, what was the outcome, if any, to those discussions?

Mr. O'CONNOR replied:

(1) Yes, though Dr. Neilsen and Mr. Booth have actually been in touch with each other since the 6th February, 1970.

(2) Dr. Neilsen is examining a number of alternative transport systems for the Perth region. Mr. Booth's proposals have been considered in this examination.

14. NATURE RESERVES

*Number Declared Annually*

Mr. COOK, to the Minister for Lands:

What is the number and area of nature reserves (including flora and fauna reserves of every type, and national parks) which have been declared each year respectively from 1962 to the present time?

Mr. BOVELL replied:

| Year Ended the 30th June | Nature Reserves Declared Number | Area (Acres) |
|---|---|---|
| 1962 .... .... | 24 | 24,904 |
| 1963 .... .... | 52 | 326,336 |
| 1964 .... .... | 38 | 1,958,926 |
| 1965 .... .... | 28 | 1,582,151 |
| 1966 .... .... | 59 | 85,675 |
| 1967 .... .... | 57 | 2,250,253 |
| 1968 .... .... | 41 | 59,232 |
| 1969 .... .... | 77 | 59,151 |
| 1970 .... .... | 62 | 2,707,551 |
| 1/7/1970 to 31/10/1970 .... | 36 | 6,927,732 |
| Totals .... | 474 | 15,981,911 |

Numerous reserves have also been dedicated for the purpose of "Recreation".

15. YUNDURUP CANALS SCHEME

*Dredging*

Mr. RUNCIMAN, to the Minister for Lands:

(1) Has a dredging lease been granted to Yundurup Canals?

(2) If "Yes" can he give details of the terms and conditions applying to the granting of the lease?

Mr. BOVELL replied:

(1) An offer of a Dredging License has been made and accepted in principle.

(2) The license document is being drawn and is designed to include a condition that no material shall be dredged except between the 1st May and the 31st October unless this date is extended by the Minister for Lands, but no later than the 30th November.

16. EDUCATION

*Students: Living-away-from-home Allowance*

Mr. MOIR, to the Minister for Education:

(1) Is he aware that many parents of school children who have to live away from home to be educated are dissatisfied with the living-away-from-home allowance paid by the Government?

(2) Will he give the figures of this allowance during the preceding ten years?

(3) Are any increases contemplated in the near future?

(4) If "Yes" will he give details?

Mr. LEWIS replied:

(1) Yes.

(2)—

| | 1960 | 1965 | February, 1970 |
|---|---|---|---|
| Zone A— | $ | $ | $ |
| Primary and years 1–3 .... | 160 | 160 | 180 |
| Years 4–5 .... .... .... | 160 | 200 | 230 |
| Zone B— | | | |
| Primary and years 1–3 .... | 100 | 120 | 140 |
| Years 4–5 .... .... .... | 100 | 160 | 180 |
| Zone C— | | | |
| Primary and years 1–3 .... | 100 | 100 | 120 |
| Years 4–5 .... .... .... | 100 | 140 | 160 |
| Zone D— | | | |
| Primary and years 1–3 .... | 60 | 80 | 100 |
| Years 4–5 .... .... .... | 100 | 120 | 140 |

(3) An increase in allowances will be introduced as from the 1st January, 1971.

(4) In Zone A, the February, 1970, allowances will be increased by $30 per annum. In Zones B, C, and D the increase will be $20 per annum.

17. INSPECTORS OF MINES

*Number Employed, Resignations, and Remuneration*

Mr. MOIR, to the Minister representing the Minister for Mines:

(1) How many—

(a) Government Inspectors of Mines;

(b) Workmen's Inspectors of Mines,

were employed by the Mines Department in 1963?

(2) How many of each category are employed at present?

(3) During the period since 1963 how many have left the department?

(4) What have been the reasons in each instance?

(5) What are the conditions and rates of salary paid to each category of inspector?

(6) What increases have they had during this period?

(7) How do the present rates of remuneration compare with that paid in the mining industry to people with similar qualifications and responsibilities?

Mr. BOVELL replied:

(1) and (2) The numbers employed by the Mines Department in the categories requested are as follows:—

| Category | Number Employed 1963 | Number Employed Nov. 1970 |
|---|---|---|
| Senior Inspector of Mines .... | 1 | 1 |
| District Inspector of Mines .... | 7 | 4 |
| Mechanical Engineer—Special Inspector of Mines | Nil | 1 |
| Workmen's Inspector of Mines | 5 | 4 |
| Total ... .... .... | 13 | 10 |

(3) Three Workmens' Inspectors and eight District Inspectors.

(4) Of the Workmens' Inspectors of Mines—

Two retired by reason of age.

One retired because of ill health.

Three District Inspectors left to accept positions in other States.

Four left to take positions in private industry.

One retired because of ill health.

(5) and (6) Salaries paid to each category of Inspector in 1963 and at present are as follows:—

| | Salary paid 1963 | Salary paid Nov. 1970 | Increase |
|---|---|---|---|
| Senior Inspector of Mines .... .... .... .... | $5,672 p.a. | $9,579 p.a. | $3,907 |
| District Inspector of Mines .... .... .... .... | $4,592 to $4,914 p.a. | $7,694 to $8,343 p.a. | $3,102 to $3,429 |
| Mechanical Engineer—Special Inspector of Mines .... | .... | $6,540 to $7,385 p.a. | N.A. |
| Workmen's Inspector of Mines .... .... .... | $62.05 p.w. $3,286 p.a. | $91.26 p.w. $4,763 p.a. | $28.31 p.w. $1,477 p.a. |

In addition to the salaries listed above district allowance under the Public Service Allowances Agreement is paid to all married Inspectors when applicable at the following rates—

| | $ p.a. |
|---|---|
| Port Hedland .... .... | 605 |
| Mount Magnet .... | 250 |
| Kalgoorlie .... .... | 50 |

Single men are paid half these rates.

Conditions of appointment of a District Inspector of Mines are that he must be an experienced Mining Engineer at least 28 years old and hold a First Class Mine Manager's Certificate of Competency.

The Senior and District Inspectors of Mines and the Mechanical Engineer-Special Inspector of Mines are subject to the provisions of the Public Service Act, 1904.

The Mechanical Engineer-Special Inspector of Mines must be a professional Mechanical Engineer.

A Workmens' Inspector of Mines must be the holder of an Underground Supervisor's Certificate of Competency and be elected by the workers of the mining district in which he stands. The conditions of work and salary are as determined by the Minister for Mines.

(7) The present rate of remuneration paid to a District Inspector of Mines is fixed under the Public Service Act and is less than that paid in the mining industry to a person with similar qualifications and responsibilities.

The present rate of remuneration paid to a Workmens' Inspector of Mines is $14.91 per week higher than that paid to an Underground Supervisor who has similar qualifications but who is not considered to have as great a responsibility as a Workmens' Inspector of Mines.

18. ILMENITE

*Pilot Plant*

Mr. WILLIAMS, to the Minister for Industrial Development:

(1) Would he outline the progress made on upgrading and beneficiation of ilmenite on a commercial basis, as an extension of the present pilot plant?

(2) What has been the acceptance of the product from the pilot plant abroad?

(3) Is Collie coal a successful fuel for the process, on an economic basis?

(4) What tonnages of coal are expected to be used in the future?

Mr. COURT replied:

(1) The company referred to is Western Titanium N.L. It has a pilot plant at Capel which has been successful in producing a product which current overseas reactions indicate is an acceptable replacement for naturally occurring rutile.

The company is engaged on the design of a full scale 100,000 tons per annum plant, arranging finance and sales contracts, and negotiating with the State Government on various aspects of the proposal.

A decision to proceed with the full scale plant estimated to cost about $14 million depends on the outcome of these various matters which are in an advanced stage of negotiation. The company is aiming at initial production by 1973.

(2) See (1) above.

(3) Yes, subject, of course, to price from time to time.

(4) 150,000 tons per annum for the plant at present envisaged which will have a capacity of 100,000 tons per annum of upgraded ilmenite.

19. GOVERNMENT DEPARTMENTS

*Accommodation at Bunbury*

Mr. WILLIAMS, to the Minister for Works:

(1) Is it intended, in the near future, to relocate the staff of irrigation, drainage, water and sewerage departments, Bunbury, in accommodation other than that now occupied?

(2) If so—

(a) what is the reason for this move;

(b) when will the move be made;

(c) to what building(s) will they be moved?

Mr. ROSS HUTCHINSON replied:

(1) and (2) The accommodation presently occupied by the Bunbury personnel of the Country Water Supply, Irrigation, Drainage and Sewerage Branches of the Public Works Department will be required by the owners, the State Housing Commission, and in consequence it is proposed that relocation will be effected within the next two years.

Although investigations regarding alternative accommodation are in course, no finality has yet been reached.

20. *This question was postponed.*

21. MEDICAL GRADUATES

*Numbers and Requirements*

Mr. FLETCHER, to the Minister representing the Minister for Health:

(1) What is the anticipated number of medical graduates qualifying this academic year and in each future year to 1980?

(2) What is the projected requirement of graduates from the years mentioned above?

(3) If requirements are inadequate, from what source will the difference be met?

Mr. ROSS HUTCHINSON replied:

(1) 1970—54.
1971—50.
1972—54.
1973—54.
1974—77.
1975—78.
1976-1980—75 to 80.

(2) It is estimated that the annual requirement will reach 120 by 1980.

(3) Graduates from other States and countries or by increased accommodation at the W.A. Medical School.

22. MEDICAL PRACTITIONERS

*New Registrations*

Mr. FLETCHER, to the Minister representing the Minister for Health:

(1) How many doctors were registered with the Western Australian Medical Board this year for the first time?

(2) How many were Western Australian graduates?

(3) If any were from sources other than Western Australia, from what source did they come?

Mr. ROSS HUTCHINSON replied:

(1) 126.

(2) 43.

(3)

| | |
|---|---|
| South Australia | 8 |
| Queensland | 6 |
| Victoria | 12 |
| New South Wales | 10 |
| United Kingdom | 32 |
| Eire | 6 |
| New Zealand | 6 |
| Hong Kong | 2 |
| United States of America | 1 |
| | 83 |

23. REFLECTIVE NUMBER PLATES

*Changeover*

Mr. CASH, to the Minister for Police:

(1) Has the changeover to reflectorised number plates been completed throughout the State?

(2) What number of reflective plates have been issued?

(3) Has there been any significant change in the number of rear-end collisions since the introduction of reflectorised plates?

Mr. CRAIG replied:

(1) No. Metropolitan area has generally been completed. Some country authorities have not completed the changeover.

(2) Approximately 320,000 in the metropolitan area, the number issued in country is not known.

(3) Information available from the Accident Enquiry Section reveals that there has been a lessening of this type of accident.

24. SALES BY AUCTION ACT

*Bidding Procedures*

Mr. GAYFER, to the Minister for Agriculture:

(1) Is it a fact that under the Sales by Auction Act, 1937, it is the practice for one person to bid at a sale on behalf of several persons and/or several individual buying orders?

(2) If so, is not this practice contrary to the original intention of the legislation?

(3) If it is contrary, why is the practice of buying orders held by one person openly practised at Midland and other stock markets through Western Australia?

Mr. NALDER replied:

(1) to (3) Under the Sales by Auction Act, 1937, it is an offence for a person to induce another person not to bid at an auction of cattle or farm produce.

It is not considered contrary to the Act for one person to represent another and offer his bid at auctions.

25. LOTTERIES COMMISSION

*Advertising Expenditure*

Mr. CASH, to the Chief Secretary:

What amount was spent by the Lotteries Commission on advertising in 1968, 1969, and so far in 1970—

(a) for promotional advertising?

(b) for advertising of the results of consultations?

Mr. CRAIG replied:

| | 1968 | 1969 | 1970 |
|---|---|---|---|
| | $ | $ | $ |
| (a) | 78,508.57 | 87,813.22 | 83,092.26 |
| (b) | 24,586.55 | 41,323.64 | 38,881.38 |

26. RAILWAYS

*Private Contracts*

Mr. BRADY, to the Minister for Railways:

(1) What work is now being performed by contract, for example, permanent way work, cleaning of points, etc., which was previously done on day-labour basis?

(2) What is the reason for the change?

Mr. O'CONNOR replied:

(1) (a) A civil engineering cyclic maintenance contract has been let for resleepering and resurfacing 682 miles of 3 ft. 6 in. gauge line in an area between Northam and Albany.

(b) Traffic contract work comprises—

(i) Cleaning of switch points at Forrestfield and Kewdale marshalling yards.

(ii) Loading of some brewery products.

(2) (a) Unavailability of suitable labour.

(b) (i) Unavailability of suitable labour and because derailments have occurred through lack of attention to points.

(ii) Insufficient capacity of present work force.

27. RAILWAYS

*Rolling Stock: Tenders*

Mr. BRADY, to the Minister for Railways:

(1) What tenders were let for railway rolling stock—

(a) in Western Australia; and

(b) outside Western Australia,

for the years ended the 30th June, 1965 to 1970?

(2) What tenders have been accepted or currently being called for work normally carried out in Government railway workshops at Midland from July, 1970, to November, 1970?

Mr. O'CONNOR replied:

(1) (a)

| Year ended | | Item | Supplier | |
|---|---|---|---|---|
| 30/6/1965 | Nil | | | |
| 30/6/1966 | 9 | S.G. "K" Locomotives .... | English Electric .... .... | Queensland |
| | 5 | S.G. "J" Locomotives .... | Clyde Engineering .... | New South Wales |
| | 140 | S.G. Hopper Wheat Wagons | A. E. Goodwin .... .... | Queensland |
| | 10 | S.G. Brakevans .... .... | S.A. Railways .... .... .... | South Australia |
| | 2 | S.G. Brakevans .... .... | Commonwealth Engineering per Commonwealth Railways | New South Wales |
| 30/6/1967 | 5 | N.G. "AA" Locomotives .... | Clyde Engineering .... .... | New South Wales |
| | 5 | N.G. "R" Locomotives .... | English Electric .... .... | Queensland |
| | 23 | S.G. "L" Locomotives .... | Clyde Engineering .... .... | New South Wales |
| | 5 | N.G. "T" Locomotives .... | Tulloch Ltd. .... .... .... | New South Wales |
| | 10 | N.G. "ADG" Railcars .... | Commonwealth Engineering .... | New South Wales |
| | 6 | S.G. Vans .... .... .... | Commonwealth Engineering .... | New South Wales |
| 30/6/1968 | 10 | S.G. Motor Car Carriers .... | Commonwealth Engineering per Commonwealth Railways | Victoria |

| Year ended | | Item | Supplier | |
|---|---|---|---|---|
| 30/6/1969 | 5 | S.G. Railcars and 3 Trailers | Commonwealth Engineering .... | New South Wales |
| | 10 | N.G. "TA" Locomotives .... | Tulloch Ltd. .... .... .... | New South Wales |
| | 5 | S.G. Tank Cars .... .... | A. E. Goodwin .... .... | New South Wales |
| | 135 | Covered Bogie Vans .... | Mechanical Handling Co. .... | South Australia |
| | 5 | N.G. "D" Locomotives .... | Clyde Engineering .... .... | New South Wales |
| | 5 | N.G. "RA" Locomotives .... | English Electric .... .... | Queensland |
| | 6 | N.G. "RA" Locomotives .... | English Electric .... .... | Queensland |
| | 6 | N.G. "AB" Locomotives .... | Clyde Engineering .... .... | New South Wales |
| | 6 | S.G. Flat Top Wagons .... | Commonwealth Engineering per Commonwealth Railways | New South Wales |
| 30/6/1970 | 10 | S.G. Motor Car Carriers .... | Superior Weld per Commonwealth Railways | New South Wales |
| | 2 | N.G. Shunting Locomotives | Walkers Ltd. .... .... .... | New South Wales |

In addition the following Petty Contracts have been let to private firms by the W.A.G.R. Mechanical Branch, during the period under review, all of which occurred during year ending 30/6/1970.

Convert 89 R class wagons to class QBB timber carrying wagons.

Convert 50 V class wagons to class QBB timber carrying wagons.

Convert 21 XA class coal hopper wagons to class XL bolster hopper wagons.

(b)

| Year ended | | Item | Supplier | |
|---|---|---|---|---|
| 30/6/1965<br>30/6/1966<br>30/6/1967<br>30/6/1968 | Nil | | | |
| 30/6/1969 | 161 | S.G. Flat Top Wagons .... | Tomlinson Steel | |
| | 58 | S.G. Open Wagons .... .... | Chief Mechanical Engineer .... | W.A.G.R. |
| | 17 | N.G. "XC" Bauxite Wagons | Chief Mechanical Engineer .... | W.A.G.R. |
| | 7 | S.G. Brakevans .... .... | Chief Mechanical Engineer .... | W.A.G.R. |
| 30/6/1970 | 14 | "XC" Bauxite Wagons .... | Chief Mechanical Engineer .... | W.A.G.R. |

(2) No tenders have been let for work normally done in the workshops.

However tenders called or under consideration at present include—

(i) 6 or 8 rail tank cars for conveyance of caustic soda.

(ii) 60, 80 or 100 narrow gauge "QUA" bogie flat top wagons.

Petty contracts let by the Chief Mechanical Engineer include—

(i) Minor modifications to 21 XL class bolster hopper wagons.

(ii) Repair 6 WMC iron ore wagons damaged in derailment.

(iii) Convert 84 class RB wagons to class QRC flat top wagons.

(iv) Convert 43 class CXA wagons to class HE container carrying wagons.

(v) Convert 74 class GH open goods wagons to NC flat top wagons.

All work placed on firms, covered by Petty Contract, was urgent and beyond the capacity of the Midland Workshops due to time factor.

## 28. WOODMAN POINT MAGAZINE

*Profit or Loss*

Mr. JAMIESON, to the Minister representing the Minister for Mines:

(1) What was the net profit or loss incurred by the magazine at Woodman Point in each of the last three financial years?

(2) What type of explosives in what quantities were handled during the last three financial years?

(3) Have any negotiations taken place in recent times to transfer the magazine from State control?

Mr. BOVELL replied:

(1) The magazines at the Woodman Point Explosives Reserve are not kept on a profit or loss basis and consequently the precise answer to this question is not available. The Woodman Point Explosive Reserve exists as a measure of public safety and performs an essential function in the safe storage of explosives, and a rental charge is made by the Explosives Branch, Mines Department, on a tonnage and weekly storage basis.

The total expenditure and revenue incurred by the Explosives Branch in each of the last three financial years are as follows:—

| Financial Year | Expenditure | Revenue |
|---|---|---|
| 1967-68 | $50,725 | $12,353 |
| 1968-69 | $47,284 | $17,598 |
| 1969-70 | $67,833 | $52,082 |

(2) Mines Department statistics are kept on a calendar year basis. The following table details the explosives stored during 1967, 1968 and 1969.

| | | 1967 | 1968 | 1969 |
|---|---|---|---|---|
| Explosives grade ammonium nitrate | (S/tons) | 4,636 | 1,423 | 2,570 |
| Nitro compounds | (S/tons) | 1,249 | 1,013 | 940 |
| Slurry blasting agents | (S/tons) | 333 | 80 | 27 |
| Marine blasting powder | (S/tons) | Nil | 150 | 369 |
| Primers and boosters | (S/tons) | 25 | 34 | 18 |
| Detonating fuse | (cases) | 2,457 | 3,285 | 510 |
| Plain detonators | (cases) | 228 | 166 | 200 |
| Electric detonators | (cases) | 1,177 | 1,199 | 1,678 |
| Blasting powder | (lbs.) | 2,000 | 1,550 | Nil |
| Rifle powder | (lbs.) | 1,450 | 1,025 | 10,146 |
| Whaling explosives | (cases) | 25 | 70 | Nil |

The average total storage at any one time at Woodman Point Explosive Reserve would be in the vicinity of 1,000 tons, stored in various magazines at safety distance spacings throughout the Reserve.

(3) No.

29. EDUCATION

*School Commencing Age*

Mr. WILLIAMS, to the Minister for Education:

(1) Is it likely, in the near future, that the age for commencing primary school will be reduced by one year or part of a year?

(2) In the event of the school commencing age being reduced by one year what would be the—

(a) estimated additional number of teachers required;

(b) estimated additional cost of teachers required;

(c) estimated additional number of classrooms required;

(d) estimated additional cost of classrooms required;

(e) estimated additional total cost involved,

for the first year of operation and the following three years?

Mr. LEWIS replied:

(1) No.

(2) See answer to (1).

30. EDUCATION

*School Leaving Age*

Mr. WILLIAMS, to the Minister for Education?

(1) Is the school leaving age likely to be increased in the near future?

(2) In the event of the above taking place and the extension being one year, what would be the—

(a) estimated number of additional teachers required;

(b) estimated cost of additional teachers required;

(c) estimated number of additional rooms required;

(d) estimated cost of additional rooms required;

(e) estimated total cost involved,

for the first year and the following three years?

Mr. LEWIS replied:

(1) No.

(2) See answer to (1).

31. ELECTRICITY SUPPLIES

*Coal: Cost and Tonnages*

Mr. JONES, to the Minister for Electricity:

(1) What was the State Electricity Commission's coal bill on an annual basis for the years 1954 to 1969 inclusive?

(2) What were the tonnages of coal used on an annual basis for the same periods?

(3) What was the average price of coal per ton on a yearly basis for the same periods?

Mr. NALDER replied:

The information supplied relates to Collie coal only purchased for the generation of electricity, raising of steam for sale and manufacture of gas—

| | | $ |
|---|---|---|
| (1) | 1954 | 2,598,000 |
| | 1955 | 3,014,000 |
| | 1956 | 2,781,000 |
| | 1957 | 2,818,000 |
| | 1958 | 2,876,000 |
| | 1959 | 2,771,000 |
| | 1960 | 2,894,000 |
| | 1961 | 2,203,000 |
| | 1962 | 2,453,000 |
| | 1963 | 2,715,000 |
| | 1964 | 3,077,000 |
| | 1965 | 3,407,000 |
| | 1966 | 3,774,000 |
| | 1967 | 3,938,000 |
| | 1968 | 4,049,000 |
| | 1969 | 4,554,000 |

| | | tons |
|---|---|---|
| (2) | 1954 | 401,153 |
| | 1955 | 420,252 |
| | 1956 | 446,700 |
| | 1957 | 444,000 |
| | 1958 | 480,312 |
| | 1959 | 507,213 |
| | 1960 | 529,194 |
| | 1961 | 415,309 |
| | 1962 | 542,601 |
| | 1963 | 605,789 |
| | 1964 | 640,118 |
| | 1965 | 711,193 |
| | 1966 | 820,133 |
| | 1967 | 852,120 |
| | 1968 | 898,769 |
| | 1969 | 913,815 |

| | | $ |
|---|---|---|
| (3) | 1954 | 6.90 |
| | 1955 | 6.99 |
| | 1956 | 6.59 |
| | 1957 | 6.49 |
| | 1958 | 5.78 |
| | 1959 | 5.43 |
| | 1960 | 5.43 |
| | 1961 | 5.22 |
| | 1962 | 4.44 |
| | 1963 | 4.56 |
| | 1964 | 4.68 |
| | 1965 | 4.74 |
| | 1966 | 4.58 |
| | 1967 | 4.55 |
| | 1968 | 4.67 |
| | 1969 | 4.85 |

32. ABATTOIR

*Katanning*

Mr. DAVIES, to the Minister for Agriculture:

(1) In regard to the announcement made regarding the building of a new abattoir at Katanning, can he advise if any firm plans are known to the Government?

(2) If so, can he advise—

(a) when the project will proceed;

(b) the capacity of the works and likely workforce;

(c) the names of the principals;

(d) the cost to the Government and details of any associated works?

Mr. NALDER replied:

(1) The Department of Primary Industry has approved the establishment of a new abattoir at Katanning.

(2) (a) Work has already commenced on the 1,200 acre site owned by the company.

A 20 million gallon dam has been constructed and ponds are established.

(b) Initially it is intended to slaughter in the vicinity of—

3,000 sheep per day,

150 cattle per day,

40 pigs per day.

Labour employed initially will be in the vicinity of 230-250 persons.

(c) Westos Freezing & Packing Pty. Ltd.

(d) No cost to the Government.

## QUESTIONS (2): WITHOUT NOTICE

1. SUPERANNUATION AND FAMILY BENEFITS ACT

*Amendments*

Mr. BURKE, to the Treasurer:

Could he give the House some indication as to whether the Government intends, before the end of this session, to introduce amendments to the Superannuation and Family Benefits Act for the purpose of updating payments to the contributors to the fund?

Sir DAVID BRAND replied:

Yes; provision was made in the Budget for this.

2. LEGAL PRACTITIONERS ACT AMENDMENT BILL

*Law Students*

Mr. LAPHAM, to the Minister representing the Minister for Justice:

Relative to the Bill to amend the Legal Practitioners Act, could he advise—

(1) How many law students have successfully completed their degrees during each of the last five years?

(2) What is the estimated total cost of textbooks and the like for a law student to complete the existing four-year course?

(3) What is the estimated cost of textbooks, fees, and the like, for a law student to complete the proposed five-year course?

(4) What amount of financial assistance and from what sources are the present four-year law course students entitled to receive?

(5) What amount of financial assistance and from what sources will law students doing the proposed five-year course, be entitled to receive?

(6) What is the length of the equivalent law courses in each of the other States?

(7) Which scholarships confer financial benefits on students pursuing the law course?

(8) Of the said scholarships which of them apply a financial means test and what are the particulars of the test in each case?

(9) What additional subjects and or other study will be undertaken by students doing the proposed five-year law course as compared with the existing four-year law course?

(10) Have law students been obliged to pass Barristers' Board examinations after passing their University law degrees? If so, what are these examinations, and when were they required to be taken, and will the same requirement be continued when the proposed five-year University law course commences?

Mr. COURT replied:

The information sought by the honourable member is not readily available.

The University of W.A. was responsible for the change in the structure of the course. However, before implementing the decision, the Barristers' Board was approached to reduce the period of articles from two years to one year. A person applying for admission as a practitioner of the Supreme Court of Western Australia will now be required to complete five years at the University in lieu of four years, and serve articles for one instead of two years. The period required before admission remains at six years.

## ROAD MAINTENANCE (CONTRIBUTION) ACT AMENDMENT BILL

*Introduction and First Reading*

Bill introduced, on motion by Mr O'Connor (Minister for Transport), and read a first time.

*Second Reading*

**MR. O'CONNOR** (Mt. Lawley—Minister for Transport) [4.01 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this short Bill is to exempt the transport of livestock from the payment of road maintenance charges and, in doing this, it is necessary to exempt also the empty running by a livestock carter when he is proceeding to load livestock or returning to his headquarters after making the delivery.

Claims have been put forward from time to time that the bulk of revenue from road maintenance charges is contributed directly and indirectly by the primary producer whose income from wheat, wool, and other produce is limited by world market conditions.

The proportion contributed directly by primary producers is very small—of the order of 1.68 per cent. of the total. An analysis of returns shows that an estimated 18.72 per cent. is contributed indirectly. Although the total is only 20.40 per cent. of the overall payments, the impact of road maintenance charges is accepted as being relatively heavier on livestock than on other loading; and this is the reason for the proposed exemption. I am sure members will agree that the particularly difficult season which the farming community has faced lends further support to the exemption.

The second part of the amendment refers to the payment of full license fees under the Traffic Act. When road maintenance legislation was originally introduced in Western Australia it was provided as a concession that only half the normal license fee would be payable under the Traffic Act for vehicles subject to payment of road maintenance charges. If exemption is claimed as regards the payment of charges the concession of a reduced traffic license fee should no longer be applicable.

This will mean that a carrier who engages in livestock transport on a part-time basis only will have the option of claiming either the exemption from road maintenance charges or the rebate in his traffic license fee. Obviously he will choose whichever is the most beneficial to him.

I feel sure that, in general, members will agree that this concession will be of benefit to the farming community, particularly those who have to transport livestock over long distances to the metropolitan area for slaughtering.

Debate adjourned, on motion by Mr. Bickerton.

## COMMONWEALTH PLACES (ADMINISTRATION OF LAWS) BILL

*Third Reading*

**MR. COURT** (Nedlands—Minister for Industrial Development) [4.04 p.m.]: I move—

That the Bill be now read a third time.

Members will recall that the third reading of the Bill was deferred so that I could allow the Crown Law officers to study the comments made by the member for Kalgoorlie and the member for Belmont. I have now obtained some information which I feel I should record, in fairness to the two members concerned, and for the sake of the record as well as for the information of the House.

I will deal, firstly, with the comments made by the member for Kalgoorlie. He sought clarification on two points as follows:—

(1) Will there continue to be an avenue of appeal through to the Privy Council in cases arising under applied laws?

The answer is "No." Such an appeal is expressly excluded by section 8 of the Commonwealth Act. The Commonwealth Attorney-General explained this provision in his second reading speech in the House of Representatives by saying simply that such a provision accords with Commonwealth policy as expressed in the Judiciary Act, 1903, and the Privy Council (Limitation of Appeals) Act, 1968.

(2) Will Section 39 (2) of the Judiciary Act of the Commonwealth apply so as to exclude justices in courts of petty sessions from hearing charges under the applied laws?

The answer is "No". Justices of the peace can continue to sit on such cases. Section 8 of the Commonwealth Act prevents the application of this section of the Judiciary Act, so as not to interfere with the existing practice.

That summarises fairly the two main questions raised by the member for Kalgoorlie. If he feels that they have been over-condensed he should let me know.

Mr. T. D. Evans: I am quite satisfied.

Mr. COURT: He did have good reason for wanting these points to be recorded.

Mr. T. D. Evans: We were not aware of the provisions of the Commonwealth Act.

Mr. COURT: In his comments, the member for Belmont appears to be saying that it is for the Commonwealth to make up its mind what laws it wants to operate in Commmonwealth places, and that it can then apply such laws by exercising the power conferred in section 51 (xxv) of the Constitution. He says there is no need for the States to do anything.

The answer supplied to me is as follows:—

The Commonwealth has made up its mind that it wants as far as possible to maintain the situation that was thought to exist prior to the Worthing decision, namely that general State laws applied within Commonwealth places unless there was some overriding Commonwealth law (such as the Airport Concessions Act).

The Commonwealth now implements this decision by legislation that (in general terms) applies State laws as they may exist from time to time to all Commonwealth places. Its power to do this stems from section 52 of the Constitution. Section 51 (xxv) merely empowers the Commonwealth Parliament to legislate with respect to the recognition of all State laws throughout the whole of the Commonwealth, and this is an entirely different matter to the application of State laws to a particular place.

The distinction there lies between recognition and application. To continue with the answer—

The principal reason why complementary State legislation has been thought to be desirable is to enable the applied laws to be administered as far as possible in the same way and by the same people as is done with the State laws. If the plan succeeds, then for all practical purposes the citizen and the police officer may go about their business without any distinction requiring to be drawn between a Commonwealth place and any other place within the State. It may also be important to have a legislative declaration such as there is in this Bill that whenever a place ceases to be a Commonwealth place then all existing State laws immediately and automatically extend to that place as State laws.

That summarises the position substantially, as we understood it. I promised the two members that I would have the legal people look into the points they raised.

Mr. Jamieson: It is a very good legal opinion. Those concerned are juggling it.

Mr. COURT: By normal legal standards I think it is a fairly precise document.

Question put and passed.

Bill read a third time and passed.

## STAMP ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 12th November.

**MR. TONKIN** (Melville—Leader of the Opposition) [4.10 p.m.]: The purpose of this amending Bill is to repeal significant provisions of the Stamp Act which impose a duty upon receipts; and the other part of the Bill is for the purpose of giving some concessions in the duty imposed on credit and rental business. The action being taken by the Government is consequent upon an undertaking—since fulfilled by the Commonwealth—that it would introduce legislation to validate the imposition of the receipts duty tax from the 18th November, 1969, to the 30th September, 1970.

I have never ceased to be amazed at the careless way in which the Commonwealth Government and the State Government introduce legislation without considering the legal implications and whether or not they have the right to do so. It is my firm opinion that this Commonwealth legislation which was passed recently and upon which the State Government was waiting will be challenged, and challenged successfully. Of course, that will not hurt the States, because the Prime Minister has undertaken to reimburse the States for the loss of revenue.

I do not propose to leave my statement without giving some supporting evidence. I think I will be able to get very close to proving that this Commonwealth legislation will just not stand up. First of all, the Prime Minister—before he took any action at all—expressed some doubt. I quote from the *Financial Review* of the 29th September, 1969. The Prime Minister was reported to have said—

> I don't know what the conference of premiers will decide to do tomorrow, but I do know, and want to make this perfectly clear, that we, as a Federal Government, realise that it is a problem extending beyond those for the States, that if possible, and if we are asked, we would be prepared to pass validating legislation to enable the States to continue to do what they have been doing in the way of taxation, if they wish to do it—

I ask you, Mr. Speaker, to mark this—

> —though we do not know whether that validating legislation itself would in fact be constitutional and would stand up to a challenge.

So at that early stage the Commonwealth expressed the view that it doubted whether it had the constitutional ability to validate this legislation.

Let us look at the Commonwealth Constitution. It states—

> Powers of the Parliament. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to taxation; but so as not to discriminate between States or parts of States.

So the Commonwealth can impose taxation on the States, providing it is equal as between the States and parts of States. This validating legislation imposes taxation on the States, but it is not equal. So that seems to establish that this part of the Constitution is breached.

For members who have not studied this situation I would point out that this is why the tax is unequal: in Queensland the tax is nothing like what it is in Western Australia or Victoria. In Queensland it is 2c in $200; but the tax in Western Australia is 1c in $10. So, the Commonwealth legislation has the effect of making taxation in Queensland compulsory at no amount of tax at all up to $20, and then 2c for every amount over $20 and up to $200.

Sir David Brand: As I explained, the Premier and the Treasurer—two individuals—agreed at that conference to institute legislation imposing taxation equal to that of all the other States for the purpose of resolving this difficulty and this doubt. They introduced the legislation into the Queensland Parliament. I cannot say whether or not that legislation was proclaimed, but that is the action which was taken and at the same time they were to drop the existing law which the Leader of the Opposition has just explained.

Mr. TONKIN: Is the Premier saying that the Government of Queensland has, itself, introduced retrospective legislation?

Sir David Brand: I do not know about retrospective legislation, but that State agreed to introduce legislation of the kind we have in order that the Commonwealth might impose a tax right across the board. I assume that whatever conditions applied would have been treated to ensure that the legislation was valid and in order.

Mr. TONKIN: I do not know where the Premier is obtaining his information, but he is all astray because the Commonwealth legislation provides that if the taxpayers in Queensland paid a tax as provided in the State legislation—which was declared invalid—then that is the rate which will apply. However, if the taxpayers have not paid at that rate, they will then be taxed at the rate which the Commonwealth is imposing. That means there will be taxpayers in Queensland who will pay one rate and other taxpayers who will pay a different rate as a result of the Commonwealth legislation.

The State of Queensland does not have the power to pass legislation which will validly impose a tax of 1c in $10 on the sale of goods produced or manufactured within Australia, because the High Court has already said that no State has the power to legislate for that. So how on earth can the Queensland Government legislate to place on the Statute book a law imposing the same rate of tax as that which exists in Western Australia when the High Court has said it has no power to do so?

Sir David Brand: I am only stating what has occurred up to the point I have been speaking of. I might be able to get some advice as to what has happened in the meantime. Certainly action was taken to resolve the problem referred to by the Leader of the Opposition, and to ensure

each State had a tax of 1c in $10 when the Commonwealth introduced its legislation.

Mr. TONKIN: From my reading of the legislation that is not the position at all. However, the fact remains that unless the Commonwealth legislation has the effect of imposing uniform taxation in each of the States, it will be declared invalid.

Sir David Brand: That is right; I think they have recognised this problem.

Mr. TONKIN: Right. There is another section of the Constitution on which people who will challenge this legislation will rely, and that is section 99, which reads as follows:—

> 99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

If the situation is, as I believe it to be, that the rate of taxation in respect of receipts duty in Queensland will differ from the rate in the other States, then I believe the legislation will, before very long, be subject to challenge and thrown out.

Now comes the question as to why the date of the 18th November was selected for the commencement of the Commonwealth validating legislation. What reason is there for the 18th November and the Commonwealth Government saying that it will start the validation from that date; not the 11th November, and not the 25th November, but the 18th November? What particular significance is there in that date? Only this: that was the date that the Prime Minister and the Treasurer told the State Premiers the validation would commence from. It has no relationship to any High Court decision, or any appeal; none whatever.

Sir David Brand: That was the date which was announced by the Prime Minister as the date on which the Commonwealth Government would endeavour to have its legislation apply. This was discussed at the conference, and also the fact that it would be made retrospective to that date. That is the reason a special announcement was made by the Prime Minister warning the taxpayers.

Mr. TONKIN: This was before the decision in the test case was given.

Sir David Brand: That is right.

Mr. TONKIN: So the date selected was an arbitrary one; it had no relationship at all to any judgment. It was simply a case of that being the date upon which the Prime Minister and the Commonwealth Treasurer agreed that if any part of the States' tax legislation was declared invalid then the Federal Government would bring in retrospective legislation. That particular date is important for the reason that the Premier has now indicated that he proposes to make a certain refund of receipt duties, but he will relate the period over which he will make those refunds to the 28th October, which is the date not of the original High Court decision—which declared this legislation invalid—but on which the reserved decision in connection with the test case was given. How does the Premier justify selecting that date as his commencing date for the period covered by the refund?

I submit that the tax was not legally exigible from its commencement right up to the 18th November, which is the first day upon which the validating legislation of the Commonwealth will operate. I propose to endeavour to show why that is the situation.

Despite the fact that this decision was given—that the legislation of the States was invalid—the Premier of this State felt constrained on the 8th November to say that the Government would prosecute people in Western Australia who evaded the tax. That occurred although a decision had already been given that the Act under which the tax was being collected was invalid because the duty was in the nature of excise.

I would remind the Premier that the Hamersley decision, ruling the Act invalid, was given on the 12th September, 1969. At that time there was no appeal lodged with the High Court, or anybody else, against the decision. So whatever way one might argue about the liability to pay the tax—whether paying it voluntarily or involuntarily—the fact remains that on the 12th September, 1969, the High Court declared this section of the Stamp Act invalid. Surely, as from that date the tax was being collected invalidly and there is an obligation on the Treasurer to refund the money obtained from that date; that is, the 12th September, not the 28th October. I think the Treasurer should have brought to the House any legal opinion he had to support the action he proposes to take.

Sir David Brand: All the State Treasurers—except in the case of Victoria, which does not intend to refund any money—decided upon the date from which they would refund.

Mr. TONKIN: The Treasurers cannot put their heads together, and ignore the law.

Sir David Brand: They are not ignoring the law.

Mr. TONKIN: Yes they are. They are deciding, arbitrarily, on a date from which they will make refunds; and I think they are in for a pretty rude awakening, because I have no doubt they will be seriously challenged before very long.

Following the decision on the 12th September, the Government of this State endeavoured to find a basis for lodging an

appeal, and it failed at its first attempt because it selected a firm which had already paid the tax. So obviously an arrangement was made with that firm not to pay the tax for one month. That firm was Chamberlain Industries.

Having provided the necessary basis, the case was taken before the court in order to determine the full scope of the original decision. The second decision followed the first decision and it is interesting to read the comments of the judges. The Chief Justice said the question was whether the duty imposed by the Act could be said, in such circumstances, to constitute a duty of excise. He went on to say that it was no more and no less than a sales tax and, as such, a duty of excise. This is so whether liability attaches under section 101A, or under other provisions of the Act.

Section 101A was specially inserted to enable the Government to collect tax on payments which were made outside Australia; namely, in connection with iron ore companies which were selling iron ore to Japan, and which sought to escape the duty by receiving payment in Japan. However, the Chief Justice, in giving judgment, said it did not matter whether the tax was paid under section 101A, or any other provision in the Act, the situation was the same: it was a duty of a nature of excise and, therefore, could not be imposed by the States.

That means that the Act, with regard to its provisions imposing a duty on the sale of goods produced or manufactured in Australia, was invalid from the inception. Whether or not refunds are to be made from the 12th September or the 28th October does not enter into it at all once the liability to refund is established. I think the cases which have already been decided will quite clearly show that to be the position.

It seems to me that the Minister for Industrial Development must have a different view on this subject from that of the Government's legal advisers because he made an interjection which implied that the Government was invalidly collecting this money from the outset and would be liable to repay it unless the Commonwealth passed validating legislation. I quote from page 1042 of *Hansard* No. 9 of 1970, where the following interchange took place between the Minister for Industrial Development and myself:—

> Mr. Court: I am just trying to follow the logic of your argument.
>
> Mr. TONKIN: If the Minister will listen a little longer, he will be able to follow it.
>
> Mr. Court: One point I cannot follow up to this stage is that you are assuming, I gather, that the Commonwealth Government would have no power to go back and make the receipts duty retrospective.
>
> Mr. TONKIN: I am not assuming that at all.
>
> Mr. Court: Your argument is based on that—
>
> Mr. TONKIN: No, it is not.
>
> Mr. Court: —because these people will get caught when the Commonwealth Government goes right back to the beginning of our tax.

The Commonwealth Government did not go right back to the beginning of our tax, so these people did not get caught, or should not get caught. But the Government will stick to its money, all the same, which is legally and morally wrong.

We have a situation where a wealthy company like Hamersley, which is probably the biggest taxpayer in the State, escapes the duty because it refuses to pay it; but all the little people, who did not have access to top legal advice—the small retailers and the little corner shops—have paid it in the belief that they were liable to pay it, when they were not. Their money is to be kept by the Government. How can any Government justify that situation? I would like to know which other large firms did not pay the tax and will not be out of pocket right from the commencement. There is no doubt that they are entitled to get their money.

I refer to the case of Bell Bros. *versus* The Shire of Serpentine-Jarrahdale. This case came up for decision after the High Court decision in the Hamersley case, although it had no reference to that matter at all; it was a different matter. This decision was given on the 12th December, 1969. Bell Bros. had claimed a refund of $1,686.02 for royalties paid between the years 1961 and 1966. It should be noted that it was not until 1969 that the decision was given. The claim for a refund was ahead of the period for which the refund was being claimed. Bell Bros. had paid the royalties between 1961 and 1966.

The case came about in this way: a person called Marsh finally took to the High Court a case against the Shire of Serpentine-Jarrahdale; the unanimous decision of the High Court was that by-law 7 of that shire was invalid and that the shire had no legal power to charge a license fee to anybody who wanted to quarry stone. In effect, Bell Bros. had paid $1,686.02 in license fees. When this by-law was declared invalid on the 4th November, 1966, Bell Bros. immediately lodged with the shire a claim for a refund of its license fees on the ground that the fees had been collected *colore officii*—or by virtue of the office or power of the shire.

Mr. Lewis: Are those cases parallel? Is there a parallel between the Marsh case and the Bell Bros. case?

Mr. TONKIN: They are absolutely parallel because both parties believed that the by-law was valid, and under the by-law a license fee had to be paid for the quarrying of stone. The license fee was paid without protest.

Mr. Lewis: You mentioned the little corner shop that would not receive a refund. Would not the little corner shop have collected the tax from its customers in the first instance?

Mr. TONKIN: How would we know?

Mr. Lewis: We would not know but we would presume it did.

Mr. TONKIN: We are not entitled to presume that it did or did not. The point I am making is that Hamersley had sufficient legal advice to cause it to decide that it would not pay the tax; so that company has kept some hundreds of thousands of dollars in its pockets. The Premier threatened to prosecute the other people. His threat to prosecute did not make Hamersley pay the tax—I suppose that company laughed at it—but it would make all the little people pay it.

Mr. Lewis: But Hamersley collected it from somebody else.

Mr. TONKIN: What has that got to do with it?

Mr. Lewis: In that case, Hamersley would get a refund and pass it on.

Mr. TONKIN: Hamersley has got its refund already. The company saw to that.

I wish to establish the parallel between the Bell Bros. case and the one I am now dealing with. After the by-law was declared invalid in the Marsh case on the 4th November, 1966, Bell Bros. asked for a refund, which the shire refused to make. The matter went before Mr. Justice Negus, who said the money had not been collected *colore officii* and that the applicant must fail; he could not get his money. The learned judge quoted another Western Australian Statute—the Law Reform (Property, Perpetuities, and Succession) Act, 1962—and he relied on section 23 of that Act, subsection (1) of which reads—

> Subject to the provisions of this section, where relief in respect of any payment that has been made under mistake is sought in any court, whether in an action or other proceeding or by way of defence, set off, counterclaim or otherwise, and that relief could be granted if the mistake were wholly one of fact, that relief shall not be denied by reason only that the mistake is one of law whether or not it is in any degree also one of fact.

Mr. Justice Negus quoted that in justification of his refusal to grant a refund. The case went to the Full Court, which gave a similar judgment to that of Mr. Justice Negus. The matter then went to the High Court, where five judges gave a unanimous decision that Bell Bros. was entitled to a refund of the whole of the license fees which had been paid, on the ground that the money had been obtained by the shire *colore officii*, and it did not make any difference that the company had not made a protest when it paid the fees, or that the judgment had been given at some time subsequent to the period for which the company was claiming a refund.

How on earth can the Premier rely upon the date of a judgment in order to determine the period when liability to refund begins and ends, when a decision of the High Court has already established that the date of the judgment has nothing to do with it? The only question to be determined is whether the parties were on an equal footing when the mistake in the law was made. If it can be shown that the money was collected *colore officii*, there is no doubt whatever that all the taxpayers who have paid the tax are entitled to a refund.

Mr. Rushton: Would you consider yourself to be a competent bush lawyer?

Mr. TONKIN: What is that interjection supposed to convey?

Mr. Rushton: As you are dealing with the legal aspect, it concerns me.

Mr. TONKIN: Does that mean that lawmakers are not entitled to place an interpretation on the laws they make? If that is the honourable member's viewpoint, the sooner we close this place up, the better. As it was the intention of the member for Dale to throw some doubt on my credibility, I will tell him a few things.

Mr. Rushton: That was not my intention.

Mr. TONKIN: Not much! For the honourable member's enlightenment I will tell him a few things. There was an occasion when we had to hold a by-election in Pilbara because the first election was declared invalid. The Electoral Department, on the advice of the Crown Law Department, removed 90 names from the roll for the second election. I raised the question in this House that the names had been invalidly removed from the roll, and the Attorney-General of the day said Crown Law advice was to the effect that the names could be removed. I then obtained an outside legal opinion, read it in the House, and the result was that the names were restored to the roll.

The next occasion was when I raised in this House the fact that it was not possible under the law to make temporary appointments to the Transport Board. The Attorney-General—Mr. Arthur Watts—obtained Crown Law advice and argued in this House that the Government could make temporary appointments to the Transport Board, and that was supposed to be the end of it. Again I obtained an outside legal opinion, read it in the House,

and the Attorney-General then introduced a Bill to validate what the Transport Board had done during the time it invalidly had temporary members.

The DEPUTY SPEAKER: I think the Leader of the Opposition should get back to the Bill.

Mr. TONKIN: Surely, Mr. Deputy Speaker, you would not allow an honourable member to throw doubt upon my credibility when I am dealing with legal questions, and refuse me the opportunity to produce evidence to show that I do know a little about the law. Furthermore, having qualified as an accountant, I had to study a considerable amount of law.

Mr. Bovell: I think the Leader of the Opposition would have made a very good lawyer.

Mr. TONKIN: It could be that on some subjects my knowledge and experience could qualify me, confidently, to put my own opinion up against the opinion of a lawyer; and, anyhow, lawyers do not always know.

Mr. Davies: You have to be a bank manager first, though.

Mr. Ross Hutchinson: You can say that again!

Mr. Bovell: Bank managers have to know the law, too.

Mr. TONKIN: Despite the fact that Justice Negus relied on section 23 of the State Act, the High Court would have none of it and it reversed the decision. It decided that Bell Bros. were entitled to all the license fees that had been collected.

The point I make is that in determining the period in which the refund was to be made, the court made no reference to the fact that it depended in any way upon the date of the judgment. But that is the line the Premiers are taking, because the final decision on the leave to appeal was given on the 28th October. That is the date from which the calculation is to be made with regard to refunds. That is absolutely unreasonable and cannot be substantiated in any way. I would like to see a competent legal opinion obtained on it, but I doubt very much whether one could be obtained.

I do not think there is any doubt that the Chambers of Commerce, in one State or another, will decide, firstly, to challenge this Commonwealth legislation, and, secondly, the date upon which the refunds are to be made. Further, I do not think the people in this State will accept the situation of some of the big concerns with access to the best legal advice not being out of pocket because they did not pay the tax, and of other people losing their money because the Government will not refund it. How on earth can that be justified on an arbitrary decision of the 28th October which has no relation whatsoever to any judgment?

I can understand some people arguing that the Government is entitled to keep the money collected up to the time the decision was made that the legislation was invalid, although I would not accept such an argument, because the cases are against it. I would seriously contest such an argument, but I can understand some people holding that argument. However, the 28th October is only the date when the reserved decision was given on the Government's case for leave to appeal against the decision which some weeks before was to the effect that the tax was invalid.

One might be inclined to give some credence to an argument that, as from the date the court determined that the Act was invalid, some calculations should be made, but that is not what the Premiers are doing. So I suggest that in connection with this there are troubles ahead for the Government. In fact, in some of the papers it has already been foreshadowed that a challenge will be made. The Chambers of Commerce in the Eastern States were talking about it, and we have read the case of Geoffrey Sawer, a very well placed lawyer, who expressed the opinion that millions of dollars were being paid under Acts which were invalid. Is it likely that those people who have a large stake in these millions will let them go because the Government has decided it will not repay? I think that is extremely unlikely. So I think we can expect, before very long, some very determined action on such matters.

I notice that the amount of stamp duty collected during 1969-70 was $25,864,211 of which $5,317,854 was receipts duty. That fell short of the estimate by about $1,800,000. The estimated amount of stamp collections for 1970-71 is $29,600,000. The Treasurer did not say whether, in making that estimate, he had already taken into consideration the concessions he proposed to make later, or whether that is the overall figure without taking such things into consideration; because it makes a very big difference. If, after these concessions are granted, he still expects to receive about $4,000,000 more than he received last year, the collections for stamp duty will be fairly well up.

Sir David Brand: Are you talking about refunds from the Commonwealth?

Mr. TONKIN: Yes.

Sir David Brand: We have regard to this possibility. This was not finalised because—

Mr. TONKIN: Yes, the Treasurer has undertaken, as from the end of this year, to drop the receipts duty on salaries and wages.

Sir David Brand: Yes.

Mr. TONKIN: That is not a very large sum. It is some hundreds of thousands of dollars, but it does not reach a million.

Sir David Brand: No; it is about $200,000 for half of the time.

Mr. TONKIN: In addition to that there is the removal of 1½ per cent. receipts duty which was imposed on credit unions and other credit business. That money has to be deducted, too; so there is more money there. If the Treasurer can tell me, I would like to know whether the figure of $29,600,000, which is $4,000,000 over the actual receipts last year, has been calculated after taking into consideration the loss of revenue as a result of lifting the receipts duty on salaries and wages, and also from lifting the tax on credit business and on the credit unions.

Sir David Brand: In view of the fact that the Budget was put up on this basis, I should say the Treasury officers would have regard to the fact that certain concessions amounting to so much would be made as from the 1st January, or from other dates which were mentioned in the Budget.

Mr. TONKIN: The Premier of Victoria, taking more heed of the request put forward by the Prime Minister, lifted the tax on salaries and wages as from the 30th June, 1970. The Treasurer in this State decided to retain it for a further six months and, in trying to justify this course, he uses a few illustrations to show that, with some wage earners, the amount of tax will not amount to more than $1, anyhow, and so those people should not expect to get $1 from the Government. I suppose the argument is that the Government is in greater need of the $1 than the workers.

Sir David Brand: No, that is wrong.

Mr. TONKIN: That is the effect of it.

Sir David Brand: No.

Mr. TONKIN: The Government has been prepared—and I agree with this—to remove the vermin tax and certain land taxes retrospectively, so how can it justify its action—once it had made up its mind to take this tax off—to refuse to take it off until the end of this year; or, in other words, to leave it on for another six months? That does not add up. The thinking must be very logical in connection with this matter.

As the Government has made a point of the fact it is following Victoria in taking 1½ per cent. receipts duty off the credit unions, it would have been expected that it might have followed Victoria in regard to stopping this tax on salaries and wages. The point is, of course, that the Government follows Victoria when it suits it.

With regard to the 1½ per cent. receipts duty imposed on credit unions, in my opinion it should never have been applied. This tax has been operating for less than 12 months, and when the Bill was before us we moved from this side of the House to delete from it the provision relating to credit unions, but the Government used its numbers to defeat our amendment. The Government argued that the tax was very necessary and it had to be imposed. Now, when the tax has been operating for less than 12 months, it is to be removed. We welcome its removal, but, as I have said, it should never have been imposed in the first place. Doubtless the approaching State election has influenced the Government's thinking in regard to this.

Sir David Brand: No; it conforms with what other States are doing.

Mr. TONKIN: The Government realises that credit unions have substantial membership and that it would be a good idea to sweeten them up a bit rather than leave them sour as they would be as a result of the Government's action last session.

Sir David Brand: We did not have regard to that then.

Mr. TONKIN: Another point is that although the Government apparently told the credit unions that if Victoria decided to remove the tax the Western Australian Government would give further consideration to the matter, Parliament was not told about that at any stage, and I believe the Government had to be prompted to take the action it is now taking.

Sir David Brand: I do not know that it was prompted, but if it were, what of it? What does it matter?

Mr. TONKIN: Did not a deputation wait upon the Premier in regard to this matter?

Sir David Brand: Last year I saw a deputation in my office here at the time of the proceedings.

Mr. TONKIN: Have any further deputations been made to the Treasurer since then?

Sir David Brand: I could not say. Maybe a deputation saw the Treasury officers, but I did not see it.

Mr. TONKIN: The fact remains that, if in the first place the tax was regarded as being so essential last session, it does not suggest any careful thinking when it can be withdrawn *in toto* before it has been operating for 12 months.

It is a good thing that the tax is being taken off, but what guarantee have we that it will not be reimposed in another 12 months with the same screwy thinking? The decision to lift the 1½ per cent. tax on borrowed money which costs 10 per cent. is, of course, the right decision; but here is another impost that should not have been levied. I could never understand the thinking behind the decision which placed an additional burden on people who are already experiencing difficulty in raising money.

The people who have cash in the bank, or those who have somebody of influence who can introduce them to a banker who will lend them money at less than 10 per cent., do not have to pay this 1½ per cent.; but the battlers—those without security—who are struggling to get money to buy a block of land on which to build a house are the people on whom the Government decided to load another 1½ per cent., because they have to pay 10 per cent. and more for their money.

It should have been the other way around. They should have been given a subsidy to reduce the amount of interest. The result is, of course, that a number of these people—many of them married couples setting out to establish themselves in a home—had to pay a lot more for their money, apart from which they also had to make a contribution to the Treasury for so doing.

The Government has realised the error of its ways in connection with this matter and the Bill proposes to rectify that situation. We say it is completely justified; this further imposition should never have been put on at all and, of course, it will be a welcome relief to those who in future will be borrowing money.

So far as I can see, however, there is no retrospectivity in the legislation. Those who have paid it have paid it, and it is just too bad for them; they will have to carry this extra burden. There is, in connection with this matter, one interesting point about which I think Parliament ought to be told. If I placed a question on the notice paper in relation to it, however, I would probably be ruled out of order, because I would be asking for a legal opinion. I refer to the fact that the legislation introduced by the Government fixed a figure of 9 per cent., the intention being that money borrowed, at 9 per cent. or more should be liable to the 1½ per cent. duty.

That is a decision of Parliament—that the duty be imposed at that rate. Subsequently the Government, by executive action, only imposed the duty when the rate of interest was 10 per cent. The point that is unanswered in my mind is: Can the Government do that?

When Parliament decides that a certain rate of interest shall be the point at which this extra tax is imposed, from where does the Government get the right to disregard the decision of Parliament and follow a different set of rules? If it can do that without any obligation on anybody to make good the difference, is it competent for the Government to move the other way? Can it say, "Although Parliament decided to put on 1½ per cent., we feel we should put on 3 per cent"? I cannot see the difference. If the Government has the right and the power to disregard the decision of Parliament which is in the legislation, and decides to operate on a different basis so far as imposing this extra duty is concerned, then surely it must have the power to double the rate of duty and charge 3 per cent. or even 5 per cent.?

Mr. Court: You know it has not; unless Parliament gives it this discretionary power.

Mr. TONKIN: Parliament did not give the Government the discretionary power in this Act.

Mr. Court: I do not know the exact section to which you are referring, but if the facts are as you state them you know that in practice this does happen from time to time. If the Government did not impose the tax on the people who paid 9 per cent. but contained it at those who paid 10 per cent., no-one would be affected except *"pro bono publico"* and he would not get very far. I am not suggesting this is technically and legally correct, but it seems good commonsense to me.

Mr. TONKIN: It is desirable to relieve the burden on the people, but I wonder whether it is in the Government's power to disregard the letter of the law. If it can do that with one thing, it can do it with a number of things.

Mr. Court: If it doubled the impost there would be thousands of people who would successfully contest it.

Mr. TONKIN: Surely the criterion should not be, "Are we likely to be challenged in the court if we do it? If we are not challenged we will do it, but if we are we will not." Surely the correct way to do this is to bring amending legislation to Parliament and say, "In the changed circumstances we feel it is not right to impose this 1½ per cent. on money which costs 9 per cent. to obtain. We think the changed circumstances would now justify us lifting this 1½ per cent. and we will not impose it unless 10 per cent. is being paid."

Mr. Court: Does not the Bill seek to create a situation where the Government of the day has a discretionary power? I am not disputing the point you make from the purist's point of view, but from the practical point of view the Government has taken action to introduce discretionary power, which is desirable.

Mr. TONKIN: I think the Government ought to act according to the law. If the law as it exists at the time does not meet the Government's requirements, it should amend the law; it should not bend the law. That is the argument I have submitted; and, unless we observe that, the situation could get completely out of hand.

Mr. Court: I would always like to feel there is room for humanity and good sense in the law.

Mr. TONKIN: How far would the Minister get by going to the court and telling the judge that he regarded the law from the point of view of humanity and good sense? He would not get a legal decision. He would probably get a kind smile and the judge would probably say, "That is all very well, but I am here to administer the law; and this is it."

Mr. Court: There is still a place for good sense in Government.

Mr. TONKIN: Good sense in Government would require that when existing legislation is not satisfactory, it should be brought to Parliament and amended.

Mr. Court: That is being done now.

Mr. TONKIN: But it was not done and, what is more, I doubt whether the changed circumstances were made known to the public, because the first I heard of the matter was when I asked a question here and the Minister for Industrial Development gave me an answer which indicated that the Government was operating differently from what the legislation provided. The people should not be left to find things out in that way; these things should be done in a proper and regular fashion.

I think it was back in 1968 that the Prime Minister told the Premier that if he did not get rid of this tax on salaries and wages by the time the next financial agreement was drawn up the State would suffer a penalty. This State was the only State which disregarded that request, and it is now very belatedly removing this tax; but it is still hanging onto it for a further six months after the Government of Victoria, feeling it was a fair and reasonable thing in the circumstances, decided to take it off.

It would have served the Premier right had the Prime Minister been as good as his word and imposed a penalty on the State for neglecting the warning he gave in 1968 in connection with the removal of the tax. Had the Premier of this State been a Labor Premier it is probable that the Prime Minister would not have been quite so generous in connection with the matter. In the circumstances I think that is a fair assumption.

Sir David Brand: You probably would have been so much along the way with him that he would not have had to give you a warning. He would have ripped it off after it had been in existence since 1890, or whatever the date.

Mr. TONKIN: It cannot be denied that the Prime Minister was on very solid ground, and the Government of this State knew it, because it made no attempt to impose this duty on any other service. That is where Victoria made the mistake and caused the bubble.

Sir David Brand: That is right. We had had this tax for so long that we felt it was in order. We did not impose the tax on Commonwealth wages and salaries because my advisers had some doubts about it.

Mr. TONKIN: In following the action he did, the Premier breached the basic principle of taxation by discriminating between persons in similar positions, inasmuch as there could have been a Commonwealth worker on precisely the same wage as another employee in this State.

Sir David Brand: In principle, of course, this had been breached by other Governments before mine from the year 1890, or whatever the date might be.

Mr. TONKIN: Not at the rate at which the Premier imposed the tax.

Sir David Brand: I am not talking about the rate, but about the principle.

Mr. TONKIN: In the argument I advanced on the return of receipts duty, I never argued that the Premier should go back to the year dot; I only suggested it should be done from the date at which the higher rate was imposed.

Sir David Brand: You talk about discrimination. We had discriminatory taxation during your time and during the time of other Governments, inasmuch as a tax existed on wages and salaries in Western Australia which applied to the State and not to the Commonwealth.

Mr. TONKIN: What was it?

Sir David Brand: It was a very mean sum.

Mr. TONKIN: So small as to be negligible.

Sir David Brand: Does that make it right?

Mr. TONKIN: That is the difference. When the impost is so small as to be negligible one does not argue the point about it.

Sir David Brand: You are putting forward the legal position and I do not have any opinion as to your argument, but you are spoiling it now.

Mr. TONKIN: I am dealing with the situation that existed from the time the Government raised the rate of tax very substantially. That, I take it, would be from January, 1967.

Sir David Brand: It does not make it any more legal.

Mr. TONKIN: Anyhow, let us go along with the Premier's argument. Suppose there is substance in it—

Sir David Brand: I think there is.

Mr. TONKIN: —how far does one get by arguing that we should never change a situation which is wrong because it has been wrong for so long? Is that the philosophy?

Sir David Brand: It is quite in order so far as our taxation is concerned and it was over all the years.

Mr. TONKIN: I do not accept that view at all; that is, whether or not we continue to do a certain thing depends on how long we have been doing it, and not whether it is right or wrong to continue.

Sir David Brand: As far as I know, the taxation on State salaries is still legal.

Mr. TONKIN: That is the argument; that is, that because Governments for many years showed this discrimination, then there is no case for altering it.

Sir David Brand: You are backing out now.

Mr. TONKIN: So we—

Sir David Brand: You are shaking your own argument. The fact is our law is still legal, applying to State salaries and wages.

Mr. TONKIN: It is legal enough, but the Prime Minister told the Premier in 1968 that if he did not take it off and stop doing it he would be penalised.

Mr. Court: That was not for a legal reason. That was purely financial policy on his part.

Mr. TONKIN: Is that so? What evidence has the Minister for Industrial Development for that statement? It is pure guess work.

Mr. Court: It is not. You consider his comments at that time in the light of his attitude towards State taxation powers.

Mr. TONKIN: And his attitude with regard to this particular tax was that the States were assuming the power which the Commonwealth had under uniform taxation.

Mr. Court: Broadly speaking—

Mr. TONKIN: It was a legal argument.

Mr. Court: No, it was not.

Mr. TONKIN: It definitely was.

Mr. Court: He was opposed to the principle, not on legalistic grounds; but he was opposed to the principle of the States having taxing powers and he was concerned about that. That was not the reason the court disallowed it.

Mr. TONKIN: The Prime Minister's argument was that under uniform tax legislation the right to impose income tax was taken away from the States, and that in imposing this particular tax they were doing something the right for which they lost under the uniform tax legislation. That was his argument.

So I conclude there. What the Government is now doing so far as the legislation is concerned is correct except where it is not taking the tax off salaries and wages until the end of the year; and, of course, we disagree entirely with the statement of the Premier as to the period for which he is going to make a refund. We will continue to fight this. We say it is an obligation of this Government to meet it. We do not accept the situation under which large companies have got their money, because they never paid it, but under which those people who were afraid of the law and paid are going to be deprived of their money when they have a legal and moral right to get it back. We will continue to strive for that so that justice will be done for those people.

**MR. T. D. EVANS** (Kalgoorlie) [5.19 p.m.]: I have listened with interest and attention to the observations of the Leader of the Opposition on this measure. I agree with his observations, and I do not intend to emulate his efforts or, indeed, to repeat his arguments. But I would like to make certain comments.

I agree with his analysis of the measure inasmuch as it purports to do two things; that is, to effect the abolition of receipts duty in Western Australia, and to bring about a remedy to certain wrongs which were effected some 12 months ago relating to credit and rental transactions.

The abolition of the stamp duty is to be effected in two stages and I agree with my leader with regard to the construction of this legislation and the existing background to it and to the legislation which will be passed or which has been passed in the other States and the Commonwealth to give effect to the undertaking of the Prime Minister. There is every indication that all the legislation concerned—but particularly the Commonwealth legislation —will have a stormy future because I am sure that as a result of it an appeal or a series of appeals will be made in the High Court of Australia.

At first glance this Bill provides a strange form of reading because in clause 2 it states that on the 1st January, 1971, certain sections will be repealed. For instance, under clause 2, section 96, as amended by this Bill, is to be repealed on the 1st January. However, clause 6 amends section 96, despite the fact that it is to be repealed. We also find that the same situation applies to section 99, which is to be amended and then repealed.

However, if one closely examines the Bill one finds there is some form of reason behind this. I emphasise the words "some form." This was perhaps not the best method to express the Government's intent which is that the abolition of receipt duty is to be effected in two stages. All duty, apart from duty which is at present and has been imposed, as the Premier indicated, since the early part of the century on wages and salaries, on the passage of this measure will be deemed to have ceased as from the 1st October of this year.

However, the receipts duty which is imposed on wages, salaries, and pensions, will remain lawful, even after the passing

of this measure, until the 1st January, next. This perplexing impression is also gained from a reading of clause 15, paragraph (b) of which reads—

> (b) by repealing the heading "RECEIPT." and the provisions under that heading, including those under the heading "Exemptions.", and substituting therefor the following heading and provisions—
>
> RECEIPT.
>
> Amounting to $10 or more, for every $10 and fractional part of $10 .... .... 0.01 .

In other words, we are to delete the heading "RECEIPT." and all the provisions under it, but then we re-insert the word "RECEIPT." and include another provision. This is very perplexing, but the reason is that the 1c in every $10 or part thereof is to remain in respect of wages, salaries, and pensions until the 1st January next year.

With all due respect to the draftsman, I would have thought it possible to adopt a better method to express the intention of the Government, because it seems so strange that certain sections to be repealed under this measure are, in the same measure, being amended. It seems to me a clumsy way of expressing the Government's intention. The trouble is, of course, that it is not Parliament's intention, but merely the Government's intention as expressed in this measure.

The other provisions relate to relief for those persons who became involved in certain aspects of credit and rental transactions under the Stamp Act. I do not wish to dwell upon these matters at all, as the Leader of the Opposition clearly and, I thought, competently, expressed the views of the Opposition relating thereto.

However, I would make one observation in regard to the Minister for Industrial Development's adjoinder with our leader concerning the duty of 1½ per cent. imposed on loans at 9 per cent. or in excess of 9 per cent. The Government in its wisdom determined that the legislation would read as if the 9 per cent. were 10 per cent. The Minister said the Government had a discretion. I cannot agree that there was a discretionary power. It was an illusory power.

Mr. Court: I did not say it had a statutory discretion.

Mr. T. D. EVANS: The Minister said it had the power to read it as if it were 10 per cent.

Mr. Court: No. The Government has now introduced legislation which gives it a discretionary power, but the action taken was a sensible administrative action.

Mr. T. D. EVANS: Why did the Government not make this part of the legislation retrospective? There has been no attempt to do this, but if it had been done there would be no quibble at all. I would possibly agree that one who dwelt on this point may be labelled a perfectionist, but nevertheless I feel Parliament should have been given the opportunity to ratify the action of the Government in making this decision in June. If this provision of the legislation had been made retrospective then the matter would have been not only ratified by Parliament, but also rectified. With those remarks, I support the Bill.

**MR. DAVIES** (Victoria Park) [5.29 p.m.]: I do not intend to dwell on the legal issues which have been discussed at length not only this afternoon, but at other times in this House. However, I feel that one or two side issues on this legislation warrant some comment.

I think this stamp duty Bill was a child born in hope or, rather, conceived in hope. It might have been more readily born in doubt. It certainly has had a troubled existence, and I think we could say—

Mr. Jamieson: Are you reflecting on its parents?

Mr. DAVIES: —it was eventually found to be illegitimate.

Mr. Jamieson: I said that about Mr. Townsing at the time.

Mr. DAVIES: It has now been aborted by the Commonwealth.

However, I think the Government can be thankful to the Commonwealth for the attitude it has adopted. Certainly a great deal of doubt as to what the future of the legislation would be has been expressed ever since the matter was taken to the courts. Although some within the Cabinet were vocal on the subject of Commonwealth interference and aid, doubtless they would go down on their knees and say a small thank you on this occasion, at least, for the assistance that has been given, because the measure proved to be an absolute bonanza for the Government. When it was introduced in 1966 the Premier estimated it would raise something like $2,000,000 a year at the most. It was looked upon as a growth tax and, consequently, desirable from the Government's point of view.

In the first year collections far exceeded the estimated $2,000,000 and to the 30th June, 1969, some $5,200,000 had been received. This type of money is handy to have floating around, particularly when the Government can see it coming in regularly and knows that it will grow each year.

The Commonwealth has now undertaken to make up the difference. Apparently the formula which has been provided for

the next five years at least does make some provision for an increase in taxation and the State is unlikely to lose anything by it. I do not know that this will lighten the burden on the community in any way because, after all, somebody has to pay the tax. All taxes have to be paid in some form and, doubtless, if we are not taxed in this manner we will be taxed in another; namely, by a Commonwealth tax which will provide the necessary money to reimburse the States over the next five years.

I think we should send a small thank-you note to the Commonwealth Government to say how pleased we are to have its support, sympathy, and understanding on what is a sad occasion in many respects. We should say that we hope we will receive continuing co-operation, particularly in connection with future grants.

At the time I remember there was some criticism from this side of the House that the tax would prove inflationary, but this suggestion was rather pooh-poohed by the Government. Speakers on behalf of the Government said that it would not be possible readily to pass the amount on to the public as it was such a small amount and that if the amount was paid on each transaction it might not be noticed. However, the tax was paid periodically, sometimes on a quarterly, six-monthly, or 12-monthly basis. In some cases quite a substantial sum was levied on small businesses which suddenly became aware that they had to meet this substantial sum and adjusted costs accordingly. There is not the slightest doubt that this impost on the public, which was not supposed to make any difference to the cost of living, had a substantial effect on the cost of living. Unfortunately, most trades people, being what they are and needing to maintain profits, are unable to bear any added costs of this nature, particularly when they must pay it in a lump sum.

Sir David Brand: Any taxation is inflationary, if you like, for the reasons you are pointing out.

Mr. DAVIES: This is so.

Sir David Brand: It has been done during your time, our time, and every other Government's time.

Mr. DAVIES: At the time the Government said that it doubted it would be inflationary.

Sir David Brand: Who said that?

Mr. DAVIES: I have extracts from various speakers on the Government side. I believe the Minister for Industrial Development pooh-poohed the arguments advanced. He was one who said there was no need to be too worried. I cannot pick up his comments just at the moment.

Sir David Brand: Take it as read.

Mr. DAVIES: Doubtless the Premier would like to read that speech some time. There are some interesting comments in the speech of the Minister for Industrial Development.

At the time the Bill was introduced we forecast that it would run into troubles for the very reasons it did run into troubles. Perhaps I might be permitted to quote an extract from the speech of the same gentleman, the Minister for Industrial Development. I refer to page 2377 of *Hansard* dated the 15th November, 1966. The Minister for Industrial Development emphasised that the tax was on all receipts and not on sales. He said, "It is not a sales tax by any stretch of the imagination." The member for Beeloo, as he was then, interjected and said, "You will have to prove that in the courts yet." The member for Victoria Park, as he still is, said, "Somebody might take you on." The Minister for Industrial Development, as he still is, said, "Does the honourable member think we are that dumb that we did not examine that aspect?"

The honourable member did think the Government was that dumb that it had not examined that aspect. Because we like to say it, we are now going to say, "We told you so." What we suggested at that time proved to be exactly the position when the matter was eventually taken to court. Perhaps we do not have as many opportunities as we would like, but certainly we want to take this opportunity to say that we forecast exactly the troubles that this type of taxation would run into. These were not troubles caused only in this State, because they were caused throughout Australia. I understand Western Australia was in the vanguard in introducing this type of legislation, but the other States were certainly quick to appreciate what a splendid tax it was and they soon followed our example.

Mr. Jamieson: The other States refer to it as the Townsing tax.

Mr. DAVIES: I was not aware of that.

Sir David Brand: Sir Henry Bolte often claims that he initiated it

Mr. Jamieson: Not in all its glory. It took a nightmare to do that.

Mr. DAVIES: Whilst it was a bonanza for the State, it certainly must have been a bonanza for some solicitors who handled matters before the court and threw the whole of Australia into such confusion. The extent of this confusion, which has been paramount since the court case, is evident if we examine questions put to the Government and the answers received. For example—

Question: Will the tax be refunded?

Answer: We do not know.

Question: What does the judgment mean?

Answer: We have not had time to interpret it.

Question: Does this mean that we will not have to pay the tax?

Answer: We will let you know later.

This type of thing was happening. It was possible to feel sorry for the Government because it was evident that the Government was in a spot in the same way as the rest of Australia.

Sir David Brand: It was clearly in a spot.

Mr. DAVIES: The Government did not know where it was going. When the Government framed the Budget this year it was evident that it did not know how the Budget would finish up because of the difficulties and uncertainty which surrounded this whole matter at that time.

This does not reduce the obligation on the Government to pay back to people the tax they have paid for the period in excess of that quoted by the Premier in this morning's paper. Indeed this is only a continuation of the attitude which has been adopted all along; namely, "We have our hands on the money. Now you fight us for it." On my interpretation of the conditions outlined by the Premier in this morning's paper, it will be almost impossible for any person to comply with the conditions laid down.

Sir David Brand: If there is a change of Government, would you, in all honesty, refund all this money as from that date?

Mr. DAVIES: I think the Government has a moral obligation to refund it.

Sir David Brand: I am asking a question. Whether one has a moral obligation or anything else, would you refund all this money?

Mr. DAVIES: Unfortunately I have never been in Government, but I would try to do the honest thing. In all honesty I believe there is a necessity to refund the money to people who have had that money taken from them illegally.

Sir David Brand: Would you refund all of it? That is what I am asking.

Mr. Jamieson: The Premier's action will cause court cases or will leave a legacy of court cases.

Sir David Brand: I was merely asking a question. The honourable member was chiding me for not making the refunds. I ask him: Would he?

Mr. Jamieson: The answer is "Yes."

Mr. Ross Hutchinson: Who will be Attorney-General?

Sir David Brand: I want the answer to that question. I find it extremely difficult and I am sure the honourable member does, too.

Mr. DAVIES: I shall answer the question. As a person, if I had the decision to make I would say, "Yes; pay back money which was taken illegally from the people." This must be done if the Government is to keep its standing in the eyes of the community. Of course, most of the community will not give a tuppeny dam, but small businesses which are finding finance increasingly difficult to come by in every way would be pleased, I am sure, to receive back something which they paid in the belief that it was necessary to pay but which they now find they need not have paid.

Can the Premier imagine the chagrin of some people who have paid the tax compared with those who have not? This will create confusion and bad feeling in the community. This is where the matter must be examined to see that everything is done to restore the position as it should be under, and in accordance with, the law.

We on this side of the House know we have had trouble on a number of occasions with this Government on legal issues. We even had to take it to court, on at least one occasion, to get it to obey the law. This is no excuse. Why should we have to do this? If it is clearly evident from legal evidence and judgments handed down that the Government has acted illegally, surely it must do the right thing to rectify the position.

The last matter on which I wish to make a few remarks is a favourite subject of mine; that is, empire building within the Civil Service. At the time this legislation was introduced I asked what was likely to be the cost of collection and administration generally. The Minister for Industrial Development said that this would be a relatively easy tax to impose and that it would cost something between $25,000 to $30,000 a year to collect. Those comments are contained in the same speech to which I have already made reference.

To outlay $25,000 to $30,000 a year to collect something like $5,000,000 was a very good investment. However, if we look at the position of the State Taxation Department since that time we will find that the costs have become much greater than was ever anticipated.

Since 1966 we have set up our own State Taxation Department. In the Estimates of receipts and expenditure for the year ending the 30th June, 1971, which have been handed to us, I find that under the new department, which was set up in the year 1969-70, the number of staff employed was 172. For the year 1970-71 the number of staff employed is estimated to be 349 which, in a period of 12 months, is just over double the previous figure.

We know that this department is not dealing only with the collection of receipts stamp duty: it is dealing with all manner of State taxation, such as land tax and stamp duty in all its forms, which we

have argued about and debated in this House. I venture to suggest that a considerable number of the staff of 349 persons would have been associated, directly and indirectly, with the collection of receipts stamp duty.

The estimated collection and administrative costs in 1966 were said to be something between $25,000 and $30,000, but I now find that the estimate for salaries alone for those employed in the State Taxation Department is $1,143,000 for the year 1970-71. That is against an expenditure of $296,515 last year. So that is something like four times the amount in salaries alone; an increase of 400 per cent. in 12 months.

Not all of that would be related to this stamp duty; but obviously the department was built up to double its number in a period of 12 months because it was estimated that the State would continue to need the staff to collect this receipts stamp duty. If that duty is no longer legal and is not to be collected in the form for which we have legislated, and if it is to be taken away from the States by the Commonwealth, what reduction in the staff of the State Taxation Department can we expect? Surely we must have a saving there. I will be watching the matter—whether in or out of Parliament—with a great deal of interest to see what happens in the next 12 months to this magnificent empire that has been built up in a relatively short period.

The total expenditure on the State Taxation Department last year was roughly $1,400,000 and it is estimated that the total expenditure this year will be just over $2,000,000 after taking everything into consideration. So I hope that now we are relieved of the receipts stamp duty we will also be relieved of some administrative costs in the State Taxation Department. I can only repeat: Firstly, the State should be thankful to the Commonwealth for the handout it has received. Some Ministers should be less critical of the Commonwealth and centralised control in view of the attitude which has been adopted over the past 12 months or so.

Secondly, if the tax has been collected illegally, then the only thing the Government can do is to refund that tax. Thirdly, I hope there will be a saving in administrative costs in the State Taxation Department now that we will not need so many people to collect the tax.

**SIR DAVID BRAND** (Greenough—Treasurer) [5.48 p.m.]: I would like, generally, to express thanks for the comments made by individual members on what is a most controversial matter. I have no need to traverse the history of it because it is all common knowledge. However, the net result is that when the High Court of Australia declared the tax as it applied in a number of States to be invalid, a great deal of confusion resulted owing to the impact of the decision on the Budgets of the various States. I believe it is fair to say that it had an impact on the general finances of the Commonwealth in that the national economy was affected.

Therefore, the Opposition has had a "heyday," and it is fair enough that it takes advantage of a situation in which the Government of the day finds itself faced with almost insoluble problems and some large shortfalls in the Budget which it prepared on the basis of having a certain income. I acknowledge what the Leader of the Opposition said. Without a doubt, he has a legal turn of mind, although I am not prepared to say whether or not he is always right. Even if he is right as often as the lawyers are it is not a bad average. However, the fact remains that as long as I have been in this House the Leader of the Opposition has been able to stand up and express on legal matters an opinion which sounds good indeed. In turn, I could not say whether many of his opinions, like many decisions we have made and many laws we have passed, would stand up to the final test of the law. After all is said and done, it is very often a matter of opinion amongst individuals as to whether or not something is right or wrong.

The majority decision of the High Court was not a unanimous decision. People such as myself and my advisers, and also other members in this House, can be forgiven for coming to conclusions which are not in accordance with the legal situation in the opinion of certain other people. However, the decision of the High Court left us with a law that was not valid. Therefore, as a result of the undertaking of the Prime Minister, the Commonwealth decided it would come to our aid. The logical conclusion was to take the money from the national Treasury and refund it to us.

An attempt was made to legalise the tax by Commonwealth legislation and a great deal of effort was put into this matter by the best legal brains in the Commonwealth—the best that each State could produce, and the best that the Commonwealth could produce. Yet, one doubts whether their decision was right. The Leader of the Opposition says the law can still be challenged. I can only ask—as very much a layman—whether we are to accept that the Solicitor-General in each State—and, I would imagine, private lawyers and the best legal advice available to the Commonwealth—would advise the Prime Minister to pursue a certain course in the knowledge that it would be declared invalid, or that it would be challengeable. I suppose everything is challengeable.

Mr. Tonkin: You know the Commonwealth included a severability clause in the legislation.

Sir DAVID BRAND: All right; if the Commonwealth did that it might have had in mind that it would be a safeguard, and that it has to face up to the position as decisions are made in the future. The Commonwealth has to face up to the position which will apply if the law is challenged, and it is aware of that. On the other hand, if it is challenged the challenge might not be successful and the law would remain as it has been laid down.

The law which finally passed through the Federal Parliament, as a result of the co-operation of the Senate, left the States with certain difficult decisions to make in respect of refunds. I must admit here again that is a most difficult decision for anyone to make. However, with the exception of Victoria, which has indicated that it will not make any refunds at all, the States have decided on a certain date; that is, the day on which the High Court confirmed its decision by rejecting our appeal to apply to—I think it was—the High Court.

Mr. Bertram: The Privy Council.

Sir DAVID BRAND: I think it was the High Court.

Mr. Tonkin: Yes.

Sir DAVID BRAND: In any case, we were denied the right of appeal. We were simply told, "This is the decision which confirms the decision of the High Court regarding validity of the tax." So it was decided that the States would undertake their refunds as from that date. The various Under-Treasurers and Commissioners of Taxation conferred together because they had a common problem with regard to refunds, and a common problem regarding the money they hoped to receive from the Commonwealth as a rebate.

Mr. Tonkin: There is a difference, of course, inasmuch as each State did not impose the tax at the same time. So the tax had not been operating for the same period in each State.

Sir DAVID BRAND: That is true. In fact, I think there might have been a difference of 12 months between some States. We were the first to impose the tax, quickly followed by Sir Henry Bolte, and then by New South Wales and, I think, by the Labor Premier of Tasmania. Then, of course, Queensland, which had this in the pipeline, followed. However, the tax rate was the same in each state.

Mr. Bertram: Was the date which has been fixed assessed on a political compromise basis?

Sir DAVID BRAND: I could not say. I believe that the States, because of the complicated situation they had to face, decided together to use that date as the datum peg; that is, the day on which we were convinced that there was no use in any further appeal.

Mr. Tonkin: What decided the States that they had a liability to refund at all?

Sir DAVID BRAND: I would imagine there was a certain moral obligation to make refunds.

Mr. Tonkin: Should they be satisfied by making three weeks' refund?

Sir DAVID BRAND: I want to say that if the Leader of the Opposition becomes the Treasurer of this State he will have an opportunity of making all the refunds he likes. Let me say that at least four States in Australia decided on this in fairness to everyone concerned, taking into consideration the difficulty, the inconvenience, the confusion, the cost, and the fact that many people who paid receipts duty would have no hope of getting it back simply because it was collected little by little under the heading of, say, a large store. How could that money be refunded?

Mr. Jamieson: Of course, a large store could claim it.

Sir DAVID BRAND: Yes, but the people would not get it back, even if it was claimed that the proprietors of the store had paid it out of their own pockets. As we all know, most taxation, if not all, is passed on in some form or other over a period of time. This is the conclusion the States came to, and this is the decision they made. Therefore, as I had to confirm the decision one way or the other, it seemed to me that we should decide on the dates from which to make the refunds.

As far as wages and salaries are concerned, it is true, as the Leader of the Opposition said, that we will continue to apply the tax up to and including the 31st December, 1970. The Prime Minister warned us about this, as he warned Sir Henry Bolte, the Premier of Victoria. Sir Henry Bolte knew very well that he was vulnerable.

As far as we were concerned, we felt—and I believe it can be proved—that the tax was quite legal. However, the matter was not raised at the last Premiers' Conference, nor did the Prime Minister say, "Now that we have made this decision on the formula and the amounts of money to be given under the formula, I want Western Australia to give an undertaking to repeal the receipts tax on wages and salaries." As a matter of fact, we referred to the matter in speeches that we made, and we had then undertaken to include the matter in the Budget, which we did.

Mr. Jamieson: Sir Henry Bolte made the classic mistake of successfully taxing the Prime Minister's salary.

Sir DAVID BRAND: I think that is a thing apart. However, perhaps it is an important point. Therefore, a difficult situation also arose in the matter of refunding the tax on wages and salaries. It would be difficult to refund the tax, so we felt it could be continued at least until the beginning of the next calendar year. However, there is a fear of a challenge.

The Leader of the Opposition seemed to be a little disappointed about the fact that we intend to repeal the provision imposing the 1½ per cent. duty on credit unions. When similar legislation to this was before the House on the last occasion a group of representatives from the credit unions met me and I would dearly have liked to say to them that I agreed to their representations and would repeal the duty. For obvious reasons I would have liked to accede to their request. However, my advice was—and I believed, generally speaking, this course should be followed—that the situation which applied all over Australia should apply in Western Australia in regard to the 1½ per cent. duty.

On a number of occasions Victoria has been referred to and the authorities in that State said they intended to continue to apply the duty. Therefore, I told the representatives from the credit unions that as soon as Victoria and the other States lifted the duty in those States we would do likewise. We have done so and the position is as simple as that. There was nothing smart aleck about our action. We decided to lift the duty, in accordance with our promise, as soon as we could introduce legislation to the House and include the proposals in the Budget.

As regards the other matter raised by the Leader of the Opposition, in relation to the 1½ per cent. duty on loans for housing, again no Government would want to continue with such a duty for any longer than it had to. The change which took place occurred between the two sessions of Parliament, and as soon as we were able to do so we gave the Treasury discretion in regard to the matter, and we hope this will ensure that the difficulties which have applied up to this time will not develop again in the future.

I thank members for what they have said. I do not know whether or not they will support the Bill but, in all the circumstances, we have been able to get by without many difficulties simply because the Commonwealth has been able to come to our aid. I am pleased to report that real progress was made at the meeting of State and Commonwealth Treasury officials, held in Sydney last Friday, as to the amount of money which will be granted by the Commonwealth in certain directions. I am sure this State, and others too, will not lose as a result of the rather chaotic conditions which developed in the economy of the States, generally, as a result of the High Court's decision—a majority decision, I might add.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by Sir David Brand (Treasurer), and transmitted to the Council.

## SALE OF LAND BILL

*Receipt and First Reading*

Bill received from the Council; and, on motion by Sir David Brand (Premier), read a first time.

## CITY OF PERTH ENDOWMENT LANDS ACT AMENDMENT BILL (No. 2)

*Second Reading*

Debate resumed from the 12th November.

**MR. GRAHAM** (Balcatta—Deputy Leader of the Opposition) [6.07 p.m.]: This Bill represents an extraordinary performance on the part of the Government and the Minister for Lands, who introduced it; and I do not think it reflects much credit on either. I shall give my reasons for that statement.

On the 23rd September last I introduced a Bill to amend the City of Perth Endowment Lands Act solely for the purpose of allowing surplus moneys to be spent in other than the restricted area set down in the principal Act. Admittedly my intention was on a broader scale than that encompassed by the Bill we are now considering. I repeat: I introduced that Bill on the 23rd September last and in speaking to the debate the Minister said, among other things—

> As this session is now virtually in its closing stages, I am of the opinion there is insufficient time for adequate consideration to be given to the proposals . . .

Mr. Bovell: Your proposals were totally different.

Mr. GRAHAM: Now, seven weeks later, in what could be the final week not only of this session but also of this Parliament, the Minister has introduced a piece of legislation the sole purpose of which is to allow the surplus moneys—the profits of land sales in the City Beach area—to be lawfully expended in an area greater than is permitted under the law at the present time.

You might recall, Sir, that a week or so ago I deplored the attitude of this Government in covering up; in making believe; in refusing to supply members with information which it is their right to have; and in putting them off with honeyed words and refusing to supply facts, which should be made available to them. Yet seven weeks ago the Minister decided that it was too late to give consideration to an extension of the area in which the net proceeds of the sale of land could be spent.

Mr. Bovell: You wanted to extend the area to the whole of the region of the Perth City Council.

Mr. GRAHAM: That is so.

Mr. Bovell: This Bill does not do that.

Mr. GRAHAM: Exactly the same principle is contained in this Bill.

Mr. Bovell: No.

Mr. GRAHAM: It is easy to say that, but that is the position precisely.

Mr. Bovell: This is totally different.

Mr. GRAHAM: The Minister introduced his Bill last Thursday and gave no reasons whatever for having introduced it. I was astounded, and I think it does the Minister less than credit to find that half of his address, which he submitted as his speech, was word for word with the minutes of a meeting of ratepayers over which the Lord Mayor of the City of Perth presided. There was nothing from the Minister himself—no reasons at all for the legislation. He gave no history as to the background for the Bill, what harm was being done by the present provisions, or what harm could be done.

I repeat: His speech was a reading from the minutes of a meeting of ratepayers from City Beach and Floreat Park held in Council House, Perth, on the 28th October, 1970. The Minister read all of the first page of the sheet I hold in my hand, and a portion of the second page. He read every single word, exactly as that meeting was reported, with the exception of three lines at the beginning of the statement. Significantly the Minister omitted to quote those words; however, for the record, and the edification of other members, I will read them. They are as follows:—

> In the strict legal sense moneys received from the sale of endowment lands have been spent contrary to the provisions of the Act.

That, of course, was something the Minister was anxious to avoid.

Mr. Bovell: I said the Perth City Council has not complied strictly with the provisions of the Act. You have not read my speech.

Mr. GRAHAM: I have. The Minister read the minutes of the meeting held on the 28th October, 1970.

Mr. Bovell: What more information could I give to the House than that supplied by the City Council?

Mr. GRAHAM: The Minister will not deter me in respect of this. From the point to which I have just referred, on page 1 of the minutes of the Perth City Council, the Minister read everything that was reported. However, as I said, he omitted the 2½ lines that preceded the statement.

Mr. Bovell: I never saw the minutes of the City Council. I made this up from submissions by the City Council.

Mr. GRAHAM: I repeat that these are the minutes of the meeting of the ratepayers of City Beach and Floreat Park held on the 28th October, 1970.

Mr. Bovell: If they are the minutes then I did not know. I do not want you to try to mislead the House to the degree that I did not inform the House that the council had not been complying with the provisions of the Act.

Mr. GRAHAM: There was no acknowledgment whatever of the fact that the Minister was reading the Lord Mayor's statement to the rate payers. Then he quoted from a circular that emanated from a body known as the City Beach Progress and Ratepayers' Association as though those words were Holy Writ and were a justification for the Bill. The circular was issued on the 21st October. Then, subsequently, he read to us extracts from a letter dated the 9th November, 1970—two days before the Bill was introduced into this Parliament—from this same association to the Perth City Council.

*Sitting suspended from 6.15 to 7.30 p.m.*

Mr. GRAHAM: We have the peculiar spectacle of an organisation, known as the City Beach Progress and Ratepayers' Association, virtually advising the Government as to the form its legislation should take. That association advised the Minister two days before he gave notice of this Bill in this Parliament that—in its own words—"we have no disagreement with amending section 39." To say "we have no disagreement" is a negative way of expressing the position. I would like the Minister to tell us something about it. Who are these people?

Dr. Henn: They represent Floreat Park.

Mr. GRAHAM: Do they? The honourable member can tell us all about that later on. How many persons are members of this association? How many of its members approved of this Bill now before Parliament? I might also ask: When, how, and even where?

Mr. Bovell: I will set your mind at rest. I am not concerned with the association or its viewpoint.

Mr. GRAHAM: What legal or other standing has this organisation? I wish the Minister would be a little fairer with Parliament. He said he was not concerned with the association or its viewpoint; yet one-half of his speech comprised remarks which indicated to this House what the association had inserted in a circular which was placed in letter boxes—as though this was something to convince us of a point—and the other half of his speech indicated to us that, according to its words, "We have no disagreement" with the Bill. Yet the Minister now pretends that he is not concerned with the association in the least. That is tommyrot, and this Parliament is entitled to something more than that from a Minister of the Crown. I venture to suggest, irrespective of the number of members, this association has, that it did not hold a meeting to consider the terms of this Bill, which the letter from it states it had.

Mr. Mensaros: Would you say that it disagreed with the Bill?

Mr. GRAHAM: I do not know. The Minister is entitled to tell us something about this. Approximately one-half of his speech was devoted to quoting what this association said, as though this was the word of authority, in a circular which it placed in letter boxes, and what appeared to be a letter to the Perth City Council which indicated that this body—which has no legal standing and about which certain information concerning its *bona fide* membership is open to question; and there is a doubt as to whether it speaks on behalf of the people concerned—was in favour of it. I think the Minister is obligated to enlighten us, but he has not done so.

What is the position in relation to this comparatively small and self-interested group? I do not blame those people in any way for the stand they take. If some ratepayers in the eastern portion of Victoria Park received special consideration, and they found that hundreds of thousands, and, indeed, millions, of dollars were likely to come their way, over and above the normal attention given to their district by the local authority, then somewhat naturally they would want to hang on to what they had. This is a natural and a selfish reaction. That is what the people in the organisation I have mentioned are doing, but the tragic fact is that a Minister of the Crown falls for this sort of thing, and quotes from its circular as though the circular is the voice of authority.

I wonder what the Perth City Council thinks of this proposition and, incidentally, of the attitude of the Minister in opposing the Bill which I introduced a few weeks ago! What does the Government think about this proposition? If it thinks at all, and one has doubts from time to time that it thinks, then the Minister has not revealed its thoughts, because he was silent in referring to the reasons for the amendment.

Surely the resources which belong to a local authority should be available to the people who live within the boundaries which it governs. There is no need for me to go over ancient history in respect of this matter. Several thousand acres of vacant land which in earlier days was comparatively far removed from the City of Perth were involved, and 50 years ago legislation was passed to enable certain things to be done in respect of that land.

If members have regard to the original Statute they will find that the greatest emphasis at that time was placed on the question of communications; that a tramway should be established between the City of Perth and what is now called City Beach. It was in order to get things moving that the Perth City Council was given the authority to sell the land, and to spend the money so obtained in that area. That was for the purpose of getting it moving.

Of course, since that time this area has progressed, and it has received those special considerations for half a century. It is time that those special considerations ceased to apply. There should be an equality of treatment of all the ratepayers or electors—whichever term one cares to use—who live within the boundaries of the City of Perth.

When the Minister spoke on the Bill which I introduced he said—I quote from page 1606 of the current *Hansard*—"I am informed that the Perth City Council is not in accord with the provisions of this Bill." I would like to inform the Minister for Lands that on the 6th October, 1970, there was a resolution before the Perth City Council to the effect that the net proceeds of the sale of land in the endowment lands area should be available to the Perth City Council to spend on capital works anywhere within its boundaries. There were only two speakers against that proposition, and the resolution was carried on the voices. Yet we find the Minister for Lands endeavouring to create the impression in the minds of members of Parliament that what I was introducing was contrary to the wishes of the Perth City Council. That is politically dishonest.

It is a sorry business that the attitude of this Minister and of this Government in respect of this affair should border on political dishonesty. Why does not the Minister come clean and provide us with the facts, instead of reading from a letter and a circular from an outside body, and expecting Parliament, without analysis, to accept them? The members of that organisation would not constitute 1 per cent. of the ratepayers of the Perth City

Council; yet the Minister listens to them and, apparently, does not listen to the Perth City Council.

Judging by the paucity of the material which he has submitted to us he does not even listen to his own department. He scraped together a speech from a circular and a letter from this minor organisation, and outside of that he read from the minutes of the Perth City Council. What sort of treatment is that to be accorded to this Parliament? Yet that was what we witnessed in probably what was one of the last Bills to be submitted to this Parliament by the Minister for Lands, who is quitting this Government—and I do not blame him for doing that—at the expiration of its present term.

I wonder whether the Minister was concerned when my Bill was before the House as to whether the Perth City Council was in support of it. He tried to create the impression that it was not in support of my Bill; but in fact it was. I wonder whether he would be good enough to tell us about the reaction of the Perth City Council to the Bill now before us.

Mr. Bovell: The Perth City Council has asked me in writing to introduce this Bill, and to this effect a resolution was passed by the full council.

Mr. GRAHAM: I have the answer I want. The Perth City Council with only two dissentients also agreed with the proposition contained in my Bill. Now all the Minister can trot out in support of this Bill is the fact that this progress association is in favour of certain things being done in its interests. That is a natural and an understandable state of affairs.

Mr. Jamieson: What is this association—a Liberal progress association?

Mr. GRAHAM: Of course it is.

Mr. Mensaros: The president of that association is a member of the Labor Party Executive.

Mr. GRAHAM: There is only a handful of people in the organisation, and I venture to suggest that the area is 95 per cent. Liberal dominated.

Mr. Bovell: It must be a very democratic organisation if a member of the Labor Party Executive is the chairman.

Mr. GRAHAM: Apparently that upsets the Minister, and apparently there is something peculiar about that fact. If the organisation comprised 100 per cent. Liberal membership then everything would be in order, but because in that community there happens to be a handful of active members of the Labor Party who occupy some responsible positions, it is a matter of merriment. The face of the member for the district is wreathed in smiles, because overwhelmingly the people there are supporters of his party. Somewhat naturally he would play up to them, irrespective of the justice of the situation.

Mr. Cash: That is not fair.

Mr. GRAHAM: So we now have the miniature from Mirrabooka talking. He makes 90 per cent. of his speeches sitting down.

Mr. Jamieson: And you cannot tell the other 10 per cent. anyway.

Mr. GRAHAM: When he does stand up he is generally preparing something for a brochure on behalf of the Liberal Party. Very rarely does he give attention to the matters before the House. All the time he indulges in politics and politics, and propaganda and propaganda. Apart from these incursions we mostly hear from him while he is sitting in his seat, propped up by a support so he can be seen. I suggest that he might give a little attention to the legislation before the House, and allow it to proceed.

Mr. Bovell: Admittedly the member for Mirrabooka is heard when he speaks.

Mr. Ross Hutchinson: And to good effect.

Mr. GRAHAM: He draws attention, because the noise comes from below the seat! That is why we take notice of it.

Mr. Court: Don't you ever grow up?

Mr. Bovell: Because you do that, don't think everybody else does it.

Mr. GRAHAM: Because this is a Liberal Party benefit Bill there is a somewhat unusual spate of interest taken in it by members on the other side of the House.

Mr. Ross Hutchinson: It is because of the way in which you are talking.

Mr. GRAHAM: I am protesting against the continuation of favouritism towards a certain section, and the not very fair or decent way in which the Minister dealt with my Bill when it was before the House in creating the feeling and making the suggestion that the Perth City Council was opposed to it when, in point of fact, it was not.

Regarding the Bill we have before us tonight, the Minister submitted no argument whatsoever; he just quoted an organisation and quoted a report of a public meeting. Because of this attitude of the Government we have reached the stage where the Perth City Council is making profits on the sales of land in the City Beach area, and some of that money should be made available to assist deserving people and deserving areas. To make sure that this situation continues to the exclusive benefit of certain fortunate people the Government races in with the present legislation.

The Perth City Council obviously thought there was a little more justice and fair dealing amongst those who comprise the Government at the present moment. So

it proceeded with its object, no doubt in anticipation of appropriate action being taken. That action is being taken to the point that the present legislation will be made retrospective for 40 or 50 years, but only in the matter of retaining the moneys to be spent on the existing narrow confines.

In order to make good its budget the Perth City Council will be required to do a number of things, and this is a shocking state of affairs. Several hundred thousand people will be compelled to suffer sacrifices in order that those folk around City Beach can enjoy their footpaths studded with diamonds, and all the other luxuries one can think of. This financial year approximately $1,000,000 will be the surplus: the profits on the sales of land.

Mr. Mensaros: The best footpaths and sewerage installations are in the Victoria Park area.

Mr. GRAHAM: If that be so, there is a proper course to be taken. Action should be taken through the Perth City Council to see that its loan moneys and revenue are not spent more in one area than in another.

Mr. Mensaros: Practically nothing is spent from loan moneys in the area concerned.

Mr. GRAHAM: Perhaps the member for Floreat should do something about changing the Perth City Council representation and putting in people who will do a job for the electors they represent. Apparently a member of Parliament is passing a vote of no confidence in those who represent his area in the third arm of Government. The member for Floreat is telling us that the Perth City Council is not playing the game fairly in respect of people in a certain area, and because of that it becomes an obligation on Parliament to pass special legislation to ensure that special moneys will go to that privileged group of people who live in the City Beach area. That is the inference to be drawn from his remarks.

Because of the refusal of the Government to agree with the wishes of the Perth City Council, in connection with which the Minister was strangely silent, the Perth City Council will have to do something. I will quote from the minutes of the meeting the words of the Lord Mayor of the City of Perth, as follows:—

> The budget, as framed, does provide for the disbursement of the proceeds of the Endowment Lands sales other than in accordance with the terms of the Act.

Here again we have the admission of a local authority that it has not been conforming to the law. Notwithstanding submissions and questions addressed to the Government, the Government just shrugs its shoulders; it could not care less that the law of the land is being broken. The report goes on—

> At the end of the current financial year the excess of receipts over development expenditure could be in the vicinity of $997,000. The council should now take action to have other lands available for sale, which are not subject to the Endowment Lands Act, to provide the necessary budget funds, and has already taken action.

Members will see that land belonging to the Perth City Council will be sold in many areas to supply funds which should be available from the source which I have been discussing for the last half hour or so. To continue—

> These lands are located in the Smith's Lake area—

That is a working class area, of course. To continue—

> —the Monger's Lake area—

About a middle-class residential area. To continue—

> —Underwood Avenue and Selby Street—

I do not express an opinion there. To continue—

> —Halesworth Road, Loftus Street, and Carlisle—

Another working class area. To continue—

> —and are expected to realise about $1,000,000. If, for any reason, there is a short-fall, then this will be taken up with overdraft facilities.

So it will be seen that land is to be sold in many parts of the Perth City Council area to make up the $1,000,000 to be put into the coffers to be expended as and where the Perth City Council shall decide, as is the case with every other local authority, and as is also the case with the Perth City Council itself in respect of moneys, except in this isolated case where there are some privileged people who, as a result of sales this year alone, will have a bonanza of $1,000,000. As time goes on and prices rise, an even greater figure will be available over and above what applies to the other ratepayers in the Perth City Council.

This is fantastic, and it is almost incredible. However, this state of affairs is backed and blessed by the Minister for Lands and the present Government.

Mr. Bovell: They could not have a better backing.

Mr. GRAHAM: There is egotism in the extreme! Members will perhaps notice that nowhere has the Government taken any action or indicated its interest in the fact that the Perth City Council has breached the law of the land.

On the 3rd November I asked some questions of the Minister representing the Minister for Local Government. I asked the Minister if he was aware that the Perth City Council had used proceeds of the sales of land in the City of Perth endowment lands area for purposes other than those set out in the City of Perth Endowment Lands Act. The Minister replied that he was aware of the fact that the Perth City Council was breaching the law. I asked, further, what action had been taken, or was proposed to be taken. The Minister's astonishing reply was that no action was contemplated. For that reason, several days later, I asked the Premier whether or not the oath of office applying to his Ministers meant anything, and whether or not there was a dispensation for them to ignore the law subject to legislation under their administration. I asked if there was some obligation on Ministers to comply with the law. The ministerial reply amounted to "No" and that was the end of that.

The Perth City Council has been spending money which it was not entitled to spend, and which was drawn from that area. The Perth City Council was wrong in breaching the law, but I say the law is wrong and should be set right to permit the Perth City Council—a responsible body surely—to decide that moneys raised, from whatever source, should be available to it. If this Government does not feel that the Perth City Council is a responsible body and capable of being entrusted with that duty—as is every other local authority in Western Australia—the Perth City Council should be summarily dismissed by the Government and a commissioner appointed to carry on the job.

With this back-handed compliment the Government is taking the spending of money out of the hands of the Perth City Council to the tune of $1,000,000 this financial year, and that amount will increase in the years to come. If the Perth City Council is to be permitted to spend money where it should not be spent, without any reprimand and without any action being taken, what guarantee is there that there will not be a continuation of that state of affairs after the passage of this Bill? There is no guarantee whatsoever.

So once again we have the Government just fiddling with a proposition with which it should be dealing in a business-like manner. To be perfectly frank I am sick to death of the Government going through a whole lot of exercises for no purpose at all. For instance, there has been legislation on monopolies and restrictive trade practices. The legislation is totally and entirely meaningless, and is a sop to the public.

There is a job to be done but the Government of the day refuses to shape up to the situation. The Perth City Council has been disregarding the law and the Government has done nothing except blatantly say that the Perth City Council has not complied strictly with the provisions of the Act. I suppose that if I drove at 90 miles an hour down St. George's Terrace it could truthfully be said that I had not complied strictly with the Traffic Act.

Mr. Mensaros: No-one has said that he objected to this. Has the Deputy Leader of the Opposition any record of anyone objecting during the past 50 years?

Mr. GRAHAM: If the answer is "No" what does that tell us? Perhaps we should bring the member for the district up to date if he is so ignorant of the facts of life. The honourable member should be aware of the facts because he probably attended a meeting and spoke to the people concerned. The reason is that for the first time the funds are in credit and it therefore becomes a workable proposition. Surplus moneys are available, and as I have already said the figures quoted by the Lord Mayor were approximately $1,000,000 for this year. What sense was there in taking any action or talking this way in 1940, 1950, or 1960?

In any case, what defence is it that because nothing was done in respect of certain action last year, it should not be done now? A Bill was before this Parliament several weeks ago and I would have liked the Bill to be dealt with on its merits, and not pushed aside on the subterfuge put forward by the Minister that the Perth City Council had acted faithfully and lawfully.

Mr. Jamieson: The member for Floreat was included.

Mr. GRAHAM: I must say that the member for Floreat, through no fault of his own, was away ill, and was denied the opportunity to speak or vote. However, I think I could have written his speech for him and I know on which side he would have voted. However, that is a natural reaction if one's constituents, albeit only a percentage, are receiving something over and above the rest of the community. Naturally, the member for Floreat would protest in harmony with them after any move was made to see there was justice all round. However, to give justice all round there must be some sacrifice on the part of some people, but not sacrifice in generally accepted terms, because those people would still be receiving their quota as would the people in other wards of the Perth City Council. However, they should be denied this special privilege, which is reaching astronomical figures.

Efforts are now being made to bring the law up to date, and I think this is an anachronism. Why should it be that there is a corner of the area under the jurisdiction of the Perth City Council that is so different from other areas in every respect? A part of the Perth City Council area is

completely separated when there is no necessity for that whatever, unless it could be said that the Perth City Council is so grossly biased and unfair that it would not give proper consideration to the wants and requirements of the area.

It is therefore necessary for Parliament to ensure that over and above what the Perth City Council might do in the ordinary course of events there should be some special allocation; some special consideration given to those special people who, in the main, vote so loyally for the Liberal Party.

Mr. Bovell: That shows their good judgment.

Mr. GRAHAM: The Minister for Lands appears to be so cheerful about this. I guarantee that if I were able to get for my electorate a Government grant of $1,000,000 a year, with the promise of more to come, over and above what the Perth Shire Council spends in the ordinary way, I would perhaps be given some sort of decoration to show appreciation for my action. That would be a natural reaction.

Mr. Rushton: You were the first to have a carpeted floor, while we were on vinyl tiles. Think of the privileges you have had.

Mr. GRAHAM: I do not know whether the honourable member who interjected is criticising the Country Party Minister for Education. That is my whole point. Whether it be in Government circles or local government circles, each in his own sphere is expected to give fair and equitable treatment to all sections of the people and to all parts of the district covered by that form of government.

I believe the Perth City Council generally discharges its obligations, but in this case the Minister is making sure that people in a certain area will have made available to them something additional to what is received by the people in North Perth, Victoria Park, Carlisle, and elsewhere.

Can that be justified? Why should a separate law of the land apply in that corner of the Perth City Council area and not anywhere else in Western Australia? Why should it be set down in legislation that there should be a basis of rating in that area which is different from that applying anywhere else in the Perth City Council or in other local authorities in the metropolitan area? Why should there be a different method of assessing the borrowing limits in respect of that specified area? Why should there be a different system of borrowing funds, and the issuing of debentures under a particular formula? Why should there be a system of trustees of representatives of the Perth City Council and of the Government in order to handle moneys derived by the Perth City Council from the sale of some of its land? Where else does this occur? What is the reason for this?

There is a different system and formula applying in respect of any defaults there might be. There is a different method of control of officers, and so on. One would suspect that it was a foreign country out there that is not subject to the laws of the land so far as local government is concerned. This something else has been superimposed upon that area, and it is one-way traffic. I do not know why some of the wealthiest people in the community, who live in one of the best suburbs, should have this something extra available to them which is denied to every other section of the people whose homes happen to be in the area of the Perth City Council.

Mr. Bovell: Because Parliament agreed to it; that is why.

Mr. GRAHAM: That is the old-fashioned outlook: because Parliament decreed something 50 years ago, that is good enough for the present Minister for Lands. Why does he not stir himself up a little, and bring himself up to date, instead of casting his mind ever backwards? This is 1970, in case he does not know, and we are almost into 1971. What was done at that time for the purpose of encouraging the Perth City Council to sell blocks of land and build a tramway to attract more people to live in that area is not appropriate—

Mr. Bovell: Why didn't the Collier, Willcock, and Hawke Governments do something?

Mr. GRAHAM: Mr. Speaker will check me in a moment for tedious repetition. It is only in recent days that there has been a surplus over and above the requirements set down in the Act.

Mr. Bovell: It was in 1929 that the first lands were sold in the area.

Mr. GRAHAM: So what? If I remember rightly, the Minister, himself, told us that this is the first year in which there has been a surplus, and I think $249,000 has already been spent.

Mr. Bovell: That is right.

Mr. GRAHAM: It will be possible, not by the juggling of accounts but by transferring amounts, to cover that up for the time being. The Perth City Council will nevertheless be obliged to dispose of its land in various parts of its area in order that the proceeds will all be funnelled to the select few who happen to live in the select suburb of the City of Perth.

Mr. Mensaros: It is not the select few. You go to City Beach, and use the stadium, and so on.

Mr. GRAHAM: It is obvious that the member for Floreat was reared in the Liberal Party kindergarten.

Mr. Dunn: He was good enough to hold the seat.

Mr. GRAHAM: Of course, at the price of a special dispensation of $1,000,000 a year, and an ever-growing figure. I could hold the Floreat seat if I were the person responsible for that.

Mr. Bovell: Who is displaying ego now?

Mr. Jamieson: With a Liberal Party endorsement, you could hold the Floreat seat, too.

Mr. GRAHAM: I doubt if the Minister for Lands could; anybody else, perchance. If there is any merit in what the member for Floreat said, he should be persuading this Government of his to introduce legislation to make tracts of land available to the Shire of Perth, the Wanneroo Shire Council, the Kwinana local authority, and the rest, to enable them to do the same sort of thing as this Government agrees should be permitted in respect of the City Beach area of the City of Perth, because countless thousands of people go to Rockingham, Mandurah, Scarborough Beach, and other places. The member for Floreat just threw that into the ring in the hope that he could take a trick here, but I would remind him that one or two people who have been in this Parliament for quite a number of years can usually anticipate these stock arguments that throw the whole world wide open.

There is no merit whatsoever in the honourable member's interjection. If there does happen to be any merit in it, there is an obligation on him and on the Government he supports to see that every local authority which has a natural asset which attracts countless thousands of people should be permitted to have an abundant life such as the people at City Beach are permitted to have. I say the Government merely continues the old order and makes it 50 years retrospective.

In summing up, I say that the Government, in its approach and attitude, has turned its blind eye to the breaches of the law that have taken place. This Government is apparently not concerned that a local authority goes beyond the terms of a Statute that is under its control or under the control of a colleague. I further state that the Minister has ignored the Perth City Council and has followed a pressure group. I say that because, with only two councillors speaking in opposition, the Perth City Council, on the 6th October, passed the resolution favouring, in substance, what was contained in my Bill.

Mr. Bovell: This Bill is here at the request of the Perth City Council, following a written application and an interview with the Deputy Lord Mayor and the Town Clerk. That is why this Bill is before this Parliament.

Mr. Jamieson: Something is better than nothing.

Mr. Bovell: And following a resolution of a special meeting of the full council, which resolution asked the Government to introduce this Bill.

Mr. GRAHAM: We have obtained, perchance, more information from that lengthy interjection than was contained in the second reading speech when the Minister introduced his Bill. I therefore trust I will be allowed a little latitude. I ask the Minister if he was aware of the fact that the Perth City Council had passed a resolution in favour of the proposition that the net proceeds of the sales of land in the City Beach area should be permitted to be spent anywhere in the area of the City of Perth? Was the Minister aware of that?

Mr. Jamieson: He is looking up what "endowment" means.

Mr. Bertram: He is hibernating.

Mr. GRAHAM: Is the Minister prepared to answer?

Mr. Bovell: Yes. The Town Clerk made submissions to the Under-Secretary for Lands, but no submissions were made to me in that regard.

Mr. GRAHAM: That is only playing with words.

Mr. Bovell: I am not playing with words. What have you been doing for the last hour?

Mr. GRAHAM: A letter to the department is a letter to the Minister. The Minister is the titular head of the department and he is vested with the authority to administer the Land Act and its accompanying Act—the City of Perth Endowment Lands Act.

Mr. Bovell: I am saying no more. I have told you that this Bill—

Mr. GRAHAM: The Minister was aware of the fact that the Perth City Council was in favour of the objectives of my Bill.

Mr. Bovell: Not of your Bill. The Perth City Council made certain representations regarding the differential in rating in the area, and other things. It was quite an involved exercise to which the Government could not give consideration during this session of Parliament.

Mr. GRAHAM: For the edification of the Minister, that was carried by the Perth City Council by 18 votes to five, and the Minister ignored the submissions of the Perth City Council, which of course he has the right to do. In respect of the meeting held on the 6th October, I am still not sure whether the Minister is aware of the resolution which was agreed to on the voices by the Perth City Council. It is obvious that he was, yet he—

Mr. Bovell: I have explained the position. I do not know what you are talking about.

Mr. Jamieson: You can say that again!

Mr. GRAHAM: I can only recite the facts. I cannot make the Minister understand. We therefore see the deplorable situation which has developed. The Minister is not being fair to this Parliament. He tells us part of a story and he infers things that are not correct. He then comes along with this Bill and says it has the blessing of the Perth City Council in the extreme situation it was in. Like a drowning man grasping at a straw, the Perth City Council had no alternative but to agree to this proposition, which does not meet the situation and which perpetuates this gross unfairness to the overwhelming majority of the people who have properties in the area of the City of Perth.

Why did the Minister not tell us that? Why did he not tell us the true position, instead of endeavouring to hoodwink us? It is a pity that votes are taken on party lines. The Minister knows that if he pours basins of tripe over this Chamber there is a majority who will vote for him whatever the proposition might be. I think he owes a little more respect to this Parliament, and when he brings a Bill here he should tell us the true facts of the situation so that we can make our decisions whether we agree or disagree. If he endeavours to mislead us—as he has obviously done on this occasion—even those on the other side of the House should express disapproval.

Mr. Jamieson: He will be saying you are taking his good name.

Mr. GRAHAM: That would not surprise me. Finally, I say that the Minister, having seven weeks ago rejected my Bill containing the same principle, on the ground that there was not time to give it proper consideration as we were approaching the end of the session, now has the temerity, with a few days left, to introduce this Bill and expect support for it. I can tell him that the support will be forthcoming, but it is a fiddling little Bill which is practically meaningless, and it certainly does not achieve what I sought to achieve on the basis of justice and fair play to all; and it certainly does not give effect to the overwhelming opinion of the Perth City Council.

After all, it is the Perth City Council's territory that is concerned, and if the council is to be recognised as a local government it should be permitted to operate in its territory without having restrictions placed on it by the Ministry of the day. I say that advisedly because, whatever is decided by this Ministry in the form of a Bill before the House, and irrespective of how insignificant it is or whether it has any relationship to party platform, those who sit behind the Government will loyally dot the i's and cross the t's as the Minister wants them to do.

This Bill is no credit to the Government or the Minister, and I hope and trust that in the new year there will be a change of Government so that there can be a move made to place all the people residing within the boundaries of the City of Perth on exactly the same footing, instead of having a special piece of legislation that bestows special benefits on a special section residing in a special area, whilst people in other localities which come within the confines of the area administered by the Perth City Council are without the barest of necessities. They are people whose incomes are small; people who are living in humble homes; people who cannot enjoy many of the benefits that are enjoyed by others in a normal civilised community; people, many of whom cannot provide these necessities and benefits for themselves, who are in contradistinction to those who live in the City Beach area.

I will vote for the second reading of the Bill, but with less enthusiasm than I have voted for any other Bill during the quarter of a century I have been a member of this Parliament.

**MR. MENSAROS** (Floreat) [8.16 p.m.]: The purpose of this Bill is to validate a practice adopted by the Perth City Council when administering and executing the provisions of secton 39 of the City of Perth Endowment Lands Act. This is a practice which was born and grew, perhaps, with a wrong interpretation—to the letter of the law—of paragraph (a) of subsection (2) of section 39 of the principal Act. Yet I believe that this practice was not contrary to the spirit of the law and to the intention of the legislators of 1920, because I think that when the original subclause (2) of clause 39 of the then Bill, as presented in 1920, was amended at the third sitting of the Committee stage of the Bill, the Minister in charge—the then Attorney-General—forgot to delete the provisions of paragraph (a) which, in view of his amendments to subclause (2), should have been deleted by him as a logical sequence.

This Bill validates a practice which—as I have said—may be contrary to the letter of the law, yet against which no objection has been raised during the past 50 years. As far as I can find there is no mention in history books or records; there is no knowledge of any ratepayer, any city councillor, any employee of local Government or Public Service—or indeed, any member of this Parliament—ever having objected to, or even disapprovingly commented on, this practice. This is remarkable, as only a few weeks ago—when, unfortunately, I had to be absent—there would have been an opportunity to object against this practice which, only last Thursday, the Deputy Leader of the Opposition suddenly called—by way of interjection—a defiance of law.

This practice, briefly speaking, is—as the Minister said when he used verbatim parts of the minutes of the ratepayers' meeting held in Council House on the 28th October, 1970—that the Perth City Council lumped together the proceeds of all three parts of the area which is commonly known—although, according to the Act, wrongly known—as endowment lands, and spent it for the development of the whole area of the "said lands"—as the Act refers to the three parts—instead of separating the proceeds of the endowment lands proper and appropriating developmental expenditure from the separated proceeds in the endowment lands proper only; that is, according to the provisions of paragraph (a) of subsection (2) of section 39 of the Act.

It is interesting to note that after half a century of dormant, or tacit, approval of this practice, the whole question in connection with section 39 of the Act came suddenly into the limelight again only a few months ago. There were numerous articles, TV interviews, private and published letters, discussions, meetings, and even an attempt in Parliament to deal with this section of the Act. However, the story told during this sudden upswing of interest, even in this Chamber, was to say the least, based on factually wrong premises; it distorted the whole picture and, consequently, prompted many people to come to the wrong conclusion.

This distorted story of section 39 goes roughly like this: The ratepayers of the old parts of the City of Perth acquired new land, and then all the benefits from their acquisitions went to only a few people who, in the future, became the owners or the occupiers of this new land. The story goes on further to conclude that this is a gross injustice that has to be rectified, or at least discontinued.

As the parliamentary member representing most of this area, I feel duty bound to correct this contention and show that these parts were not purchased by others and, as a result of section 39, the few locals do not enjoy themselves at the expense of others, but, in fact, the others enjoy themselves at the expense of these few. In order to prove this, let us go back to the history, the reasons, the purpose, and the up-to-date results and consequences of section 39.

The whole area to which section 39 relates and which the Act calls "the said lands"—and I shall use this expression when describing the area—is almost the whole of the suburb which we know today as City Beach, plus the northern parts of Mt. Claremont, and the greatest part of Floreat Park, comprising an aggregate of 3,740 acres. As to their origin in relation to the City of Perth, we should distinguish three separate parts.

There is the first part, almost two-thirds of the said lands, comprising 2,281 acres, which is City Beach and the few streets north of Fortview Road, including Wollaston College in Mt. Claremont. This was given to the City of Perth by the Crown as endowment land in fee simple on the 18th August, 1902.

The City of Perth became the registered proprietor of this part with certain conditions. This part, the proper endowment land, has therefore not been purchased by the City or anyone else.

The second part is a small part, comprising only 168 acres, and is the narrow strip of land on the ocean beach from North City Beach to South City Beach. It was created as Reserve No. 16921 under section 42 of the Land Act, 1898, and subsequently vested in the City of Perth for public recreation purposes. This part, therefore, has not been purchased either.

The third part, 1,290 acres, is what we know as almost the whole of Floreat Park. On its western end it adjoins the endowment lands proper and—as the map tabled by the Minister shows—is bound by Cromarty Road; Pearson, Selby, Newry, Grovedale, and Alderbury Street, and Underwood Avenue on the north-east and south respectively. This is the only part which was purchased in the name of the Perth City Council from Mr. J. Perry in 1917 in fee simple. It was then known as the Lime Kiln Estate or Perry's paddocks. The purchase price was—and I checked my sources but my figure still differs from that which the Minister quoted—£18,000—with a deposit of—believe it or not—£100, the balance repayable with an interest rate of £4.16s.3d. per £100 per annum.

Even this part has not been purchased by others but in point of fact has been purchased by the future residents of the area because the loan for the purchase, including interest, was refunded from the proceeds of subdivided land sales.

The next question to prove my contention that the practice we seek to validate is within the spirit of the law is: What did section 39 of the City of Perth Endowment Lands Act, when introduced as a Bill, aim to do? The purpose of the Bill and clause 39—reading the debates—was quite obvious and very simple; namely, to enable the Perth City Council to develop these said lands—which then were only useless bush sandhills and swamp—in the best way for the pride and benefit of the citizens of Perth and the State.

For this purpose the Bill firstly extended the city boundaries to include the small strip of beach reserve. The other two parts were already included in the city's jurisdiction in January, 1918. It is interesting to know that there has been previous connection between these parts and the city. The city—then town—was able to use moneys derived from these parts much

earlier in history. As far back as the 15th August, 1855, a proclamation in the *Government Gazette* gave notice that all parties desirous of obtaining licenses to cut timber or to quarry stone in this area—then called the Perth commonage—must apply to the Chairman of the Town Trust. The trust apparently exercised this power because such rights to farm out the dues arising from the cutting of timber and the quarrying of stone were let as early as 1863 to a Mr. George Curedale for the princely sum of £7 for the year.

For the same purpose of development the Bill allowed the city to sell the said lands, —except the reserve—gave the city an optional rating system to encourage sales, and regulated the city's borrowing power. It also provided at length for tramway construction, but this is outside our present subject, and it became obsolete in any case.

It should be noted that there was nothing in the Bill, as introduced in the House, like the present worded section 39 of the Act. For the use of proceeds arising from land sales, clause 39 provided that they should be applied by the city council and I quote—

> In such manner and for such purpose as the council may from time to time determine, and until otherwise determined shall be accumulated.

This does not mean though that the intention of the draftsman or the Attorney-General—who introduced the Bill and who was in charge of it—was to use the moneys elsewhere. They and the House took it for granted that these proceeds would be used for the development of the area through repayment of loans and other direct expenditure.

To me the most striking and interesting part of the history of this section in the Act is that it needed the correct interpretation and wise foresight of one of the predecessors of the Deputy Leader of the Opposition to include the present wording of section 39 in the Bill.

The then Deputy Leader of the Labor Opposition—as I understand he was—The Hon. William Charles Angwin, member for North-East Fremantle, argued that the purpose of developing this area would be lost if the council could sell the land and use the proceeds elsewhere. The debate was twice postponed in the Committee stage. by reporting progress. Finally the Minister in charge moved an amendment to strike out the words which I have already quoted, and to insert in lieu of those the words which we now read in the Act.

Only as a result of this amendment does section 39 read now that the proceeds arising from sales shall be applied by the council in the development of the said lands. In addition to this—and to satisfy the then Deputy Leader of the Opposition—the Minister further proposed to insert the words that: "The surplus (if any) shall be invested in such securities as trustees are by law authorised to invest trust funds in."

It was at this point of time when—as I think—the Minister and apparently the Committee lost sight of the fact that paragraph (a) had provisions contradictory to the spirit of the amendments.

It is also interesting to note that to further secure the development of the said lands the Committee decided to have compulsory rating of this area on the unimproved capital value, amending the original optional method of rating which was in the Bill.

Having seen the history and purpose of section 39—to further develop my argument—let us consider the consequences and results of this section based on the practice which we now seek to validate.

The first step by the council to open up the said lands was the construction of the old plank road in continuation of Cambridge Street. At the same time the council commissioned Hope and Klem, a licensed firm of surveyors, to prepare a plan for the layout of the area. The plan adopted in 1925 provided for two townsites—a seaside resort and a satellite residential town on the eastern part of the area. It also designed a boulevarde from Cambridge Street passing through the residential town and connecting with the seaside resort, returning southwards along the beach to connect with the old plank roadway.

Development started slowly; building blocks were sold, some—as the 1936 amendment indicates—were taken by the predecessors of the State Housing Commission —the Workers' Home Board. A humble kiosk was built and the reserve on the beaches became more and more a favourite recreation spot for the people of the metropolitan area. Gradually the residents—having repaid the loan for the Lime Kiln Estate—from the purchase price for the blocks, provided facilities which benefited not only all the ratepayers of the City of Perth but everyone in Western Australia; indeed, even those in the whole of Australia.

I submit that had section 39 not existed we would not have been able to have the Commonwealth Games in our capital city, because nobody would have had the funds to build a stadium. The games were the pride of everybody in Australia, not only of the local residents.

The Perry Lakes Stadium—which has since been greatly improved—the public golf course; the surf club buildings; the beach development; the scenic drives, like Reabold Hill; the City Beach Civic Centre; the Floreat Community Hall, and all the other facilities provided by the residents' purchase prices—irrespective from which parts of the said lands they came—are there to be used by everyone living in or visiting the metropolitan area.

So according to its original purpose, section 39 did create a prestige area; an area where we can take our visitors—our overseas tourists—with pride; as I did our recent visitors of the Commonwealth Parliamentary Association. I cannot see anything wrong with this.

Mr. Graham: Of course you cannot.

Mr. MENSAROS: I cannot see anything wrong with having a prestige area.

Mr. Jamieson: You are a conservative; of course you cannot.

Mr. MENSAROS: Indeed, I think it is infinitely better than having a uniform and dull metropolis. Even if I were not of this opinion I would have been converted to it the other night by the eloquence of the Deputy Leader of the Opposition. I enjoyed part of his speech on the Loan Estimates, because not only did he indulge in the luxury of openly contradicting one of his brothers, but he also provided us with the rare entertainment of watching the member for Victoria Park solemnly shake his head in disapproval of what he had to say. The Deputy Leader of the Opposition made a very convincing plea for providing more than the bare necessities of life in the city; and this is what section 39 resulted in and what this Bill aims to achieve.

Mr. Graham: I never suggested that.

Mr. MENSAROS: If we visit any other town we will find similar facilities in relation to architecture, scenic drives, and so on. The facilities in question are provided for the benefit of everybody and not for the locals only; sometimes they are a source of annoyance to the local residents, because parking during the summer does not benefit the local residents. The honourable member's only objection is that the facilities are in this particular area and not somewhere else. I liked part of the honourable member's speech very much.

Mr. Graham: You should listen to me more often.

Mr. MENSAROS: The Deputy Leader of the Opposition said—

> However important—and nobody denies this—a man does not live by bread alone. I am afraid that during the last two generations, for reasons which perhaps we can appreciate—World War I, a world depression in which we were involved, and World War II—we have neglected very many of the things that a civilised community has a right to expect. I think, therefore, that Government at all levels should, amongst the more mundane subjects, be giving attention to matters pertaining to sport, recreation, culture, aesthetic considerations, and the things that generally relate to civilised beings.

That is exactly what I am suggesting.

Mr. Graham: But you want to make an oasis at City Beach and a desert elsewhere.

Mr. MENSAROS: I am only saying that this is a prestige area, with which the Deputy Leader of the Opposition does not agree. I am also trying to show it is not a privileged area. This is what I am trying to rectify; this other distortion of the picture recently mentioned the consequences of section 39; that it created a privileged group of people in the said lands. Nothing could be further from the truth.

The residents of the said lands—besides paying for the facilities which benefited the whole metropolitan area—have also provided, in a greater proportion than those in other areas, the essential facilities which serve their own benefit. I say this advisedly, because no general loan moneys have been used in this area, except—as I am advised—on part loans Nos. 36, 46, 55, and 56; a paltry total of $193,000, against the many millions used in loans by the Perth City Council. This is contrasted by the fact that the ratepayers still pay the cost of all general loans, as about one quarter of all rates, including those from the said lands, are used for loan purposes such as flotation costs and interest.

Another significant example of disadvantage to these allegedly privileged people is that the roads in the area are paid for from the proceeds of land sales; yet the Commonwealth aid to roads goes to the general revenue of the council. Yet these so-called privileged residents have still less of the essential facilities than have the residents of any other area of the City of Perth. There are fewer footpaths; and there is no more kerbing there than elsewhere. There are very few street trees, but many sand dunes which encroach on the roads and need stabilising in an attractive way. There are infinitely fewer blocks serviced by sewerage than in any other wards of the city.

I hope and trust that this Bill when enacted, as amended section 39 of the Act, will alleviate this discrimination. Now that the funds show a considerable surplus I hope that this Bill will enable the residents of the said lands to see some benefit for themselves from their accrued investments.

For this reason I commend the Minister and the Government for not having proceeded further with the amendment and for not having incorporated in the Bill the words "and maintenance" after the word "development"—to which the Minister made reference in his speech—as the City Council first requested. Had the Government proceeded with this recommendation, the whole purpose of section 39 would have been lost and we would have seen the end of any development in the said area.

With such a provision—considering the retrospectivity of the Bill—the present surplus and practically all future proceeds from the said lands could have been booked against past maintenance expenses and used in fact as general revenue.

The Government's firm stand resulted in the curious but commendable fact that the council—as one councillor remarked—saw the wish of its ratepayers and within four days rescinded its previous recommendation.

So the Bill, as it stands, has the support the council, of the City Beach Progress and Ratepayers' Association, and, to my knowledge, the support of the vast majority of all residents in the area.

There is only one provision in the Bill —the validation clause 2(b)—which might cause some concern. I believe in principle that retrospective legislation as such should always be avoided if possible. In this case, however, when we deal with validating a 50-year old custom or practice, as I called it, which was never objected to, I would not call this measure retrospective in the general connotation of the word.

Most of the continental laws—which bear a greater and more direct influence on Roman law than the legal system of British countries does—acknowledge legal custom or usage as the highest in the hierarchy of all provisions of law. Custom or usage exercised unchallenged for a considerable time takes preference even to a previous Act of Parliament, and to any previous gazetted rules, regulations, by-laws, or judicial decisions, and can invalidate them. I do not think this is very strange if we take into consideration acquired rights like the law of real servitude.

Mr. Graham: It is not very sound if you end up in the High Court either.

Mr. MENSAROS: I am talking of a slightly different system and trying to point out why I cannot see anything wrong with the retrospectivity here, if we take into consideration the acquired rights. If A has a property and B uses part of it—a path, for instance—for a considerable time or a certain period of time continuously and without challenge, ultimately B will acquire the right to use the path.

The same principle, to my mind, applies to clause 2(b) of this Bill. The city council, as I said at the beginning of my remarks, adopted a usage, a practice which went unchallenged for 50 years, and therefore it could be considered something like an acquired right.

Finally I wish to place on record, if I may, my appreciation and thanks to the councillors of the coastal ward of the City of Perth—and especially Councillors Beecroft and Dallimore—who aided me considerably in my research and supplied me with valuable information in connection with the City of Perth Endowment Lands Act and this Bill.

Mr. Graham: Councillor Beecroft was a Liberal Party candidate at an earlier election. It is a nest of Liberals out there, and this Government is especially fostering it.

Mr. MENSAROS: I have great pleasure in supporting the second reading.

**DR. HENN** (Wembley) [8.48 p.m.]: I was not going to speak to this Bill.

Mr. Jamieson: Nor was I, so that is two of us who have been forced to our feet.

Dr. HENN: I will say only a few words, but the Deputy Leader of the Opposition did make a rather vicious attack on the Minister for Lands and—

Mr. Graham: Not vicious.

Dr. HENN: —this has got me to my feet.

Mr. Graham: He stated the facts; that is all.

Dr. HENN: The Deputy Leader of the Opposition made a very inflammatory and inflationary speech.

Mr. Jamieson: The Minister did not object. He is very capable of looking after himself.

Dr. HENN: I say it was an inflammatory speech because of the viciousness with which he attacked the Minister, and of all the Ministers to attack in this Government—and there should be none who should ever be accused of being politically dishonest—fancy picking on the Minister for Lands!

Mr. Graham: What did you think of his speech, anyhow?

Dr. HENN: I thought it was magnificent.

Mr. Graham: It was an absolute disgrace to this Parliament and an insult to us!

Dr. HENN: Not at all; and I will tell members why the Deputy Leader of the Opposition was at one of his old tricks. He did not have a case of any kind so he became very personal and—

Mr. Graham: I did so have a case! Where were you if you did not hear it?

Dr. HENN: —vicious; and the last time I attacked the Deputy Leader of the Opposition was on the occasion when he made an attack on my leader. That was some years ago and I think it was the best speech I ever made. This one will not be quite so good because I have not had time in which to prepare it.

Mr. Graham: You have not had time in which someone else could prepare it, you mean.

Dr. HENN: It was a very inflationary speech and I feel the Deputy Leader of the Opposition was merely just making play with words to the audience he had at the time.

Mr. Graham: What about discussing the Bill instead of the member?

Dr. HENN: I am sorry the audience has now gone.

Mr. Graham: They knew you were going to get on your feet.

Dr. HENN: However, I hope someone will read my remarks because I want to place on record the fact that in my opinion the Deputy Leader of the Opposition was purely at his old game of talking about the working class—

Mr. Graham: What do you think of the Bill?

Dr. HENN: —of which there is none, of course, in this State. He had no case at all. His speech was inflationary because after it I should think anyone with a few thousand dollars would immediately rush to buy a block of land at the next auction at City Beach which will take place very soon.

From the way the Deputy Leader of the Opposition spoke anyone would think the rest of the wards of the City of Perth received absolutely no attention and that only the City Beach ward was treated to any kind of advancement or provided with any of the necessary adornments desired by a ward. Indeed, my colleague, the member for Floreat, pointed out that we are very short of the necessities required, such as sewerage, and other—

Mr. Graham: You had better stir up the Government you support.

Dr. HENN: It is not a Government matter.

Mr. Graham: What; sewerage?

Dr. HENN: No. I am talking about other amenities which are required in all the wards. I think the Deputy Leader of the Opposition was taking the opportunity to get on his hobby horse again. However, I want to say that as far as I am concerned, as the member for Wembley—and I do not live in the endowment lands area myself, but I live quite close to it—there is nothing wrong at all in the City Beach Progress and Ratepayers' Association taking a great interest in this matter.

Mr. Graham: True.

Dr. HENN: The Deputy Leader of the Opposition knows quite well that if this organisation was operating in Balcatta he would be right behind it. In fact, he would be inflaming it, I think, if it was not inflammable enough at the time. So it is ridiculous of him to get up and throw mud at the City Beach progress and Ratepayers' Association. As a matter of fact, it has done a tremendous job, and as far as this matter is concerned—

Mr. Graham: The Minister has been led by the nose by the organisation; that is what I protested about.

Dr. HENN: I want to tell members this is not so at all—

Mr. Graham: Oh yes, it is.

Dr. HENN: —because I made representations to the Minister for Lands and to the Government, and, as usual, this Government has taken notice of some representations that have been made to it. As a matter of fact, the Government has been most democratic about this. Not only the City Beach Progress and Ratepayers' Association, but all the ward councillors for the City Beach area have been in consultation with the two members of Parliament for the area, and with various other bodies, and as far as we are concerned we are delighted with what the Government has done.

Mr. Graham: Naturally!

Dr. HENN: Quite so.

Mr. Graham: Because you are privileged people.

Dr. HENN: Not at all.

Mr. Graham: What about the rest of them—

Dr. HENN: Why does not the Deputy Leader of the Opposition sell one of his houses and buy a block in City Beach?

Mr. Graham: What has that got to do with it? That would resolve nothing.

Dr. HENN: I just wanted to prick the balloon or bubble that the Deputy Leader of the Opposition produced here this evening. I also want to say that what the Government has done has been extremely fair and democratic. All the councillors are delighted and so are the two members of Parliament concerned.

Mr. Graham: What about the majority of the city councillors?

Dr. HENN: My colleague, the member for Floreat—

Mr. Graham: You do not go by majorities, do you?

Dr. HENN: —gave a dissertion on the history of the Bill.

Mr. Jamieson: He did not go back far enough, though.

Dr. HENN: He did, so far as I was concerned. He has done a great deal of work on research. All I wanted to do was to bring to the attention of the House the fact that the Deputy Leader of the Opposition had no case to make out. He is upset because his own Bill was defeated. It was quite a different Bill from the one before us. This Bill is wanted by the Perth City Council, by the councillors, and by both the members of Parliament concerned; and I thoroughly support it.

Mr. Graham: What else do you think you would do?

**MR. JAMIESON** (Belmont) [8.55 p.m.]: I doubt very much whether the member for Wembley contributed very much to the debate or, for that matter, whether I will.

Mr. Bovell: At least you are honest.

Mr. JAMIESON: But at least I have some justification in rising to my feet to defend the overall situation concerning the equity on the spending of funds. Although the member for Floreat did some research with the aid of his two Liberal confreres in the city councillors he mentioned, he certainly did not go back far enough, or know enough about the history of the case.

He talks about amenities being provided for these people which are not for their own advantage, but for others to use. With the exception of a few car parks, there were far more amenities out there 20 years ago than there are now, and I will deal with the situation of 20 years ago when the old Federal Bus Service was providing a service out there at a very high cost to the Perth City Council. It was not the City Beach people who were paying for it then; all the wards of the city council were maintaining that regular bus service in summer and winter to try to lift the place and give a service to the Centennial Beach Estate, which would not move because no-one wanted to live out there. The people there were being blasted away by sand from the sand dunes at the time.

All in all it was a sorry situation. There were many other undertakings such as the extensive electricity project and money from the sale of this is still being spent in part of the development of this area. If he would care to research the city council accounts back far enough, the member for Floreat would find this to be a fact.

Mr. Graham: Whose money bought the Lime Kilns Estate? That was purchased by money provided by all the ratepayers of the City of Perth.

Mr. JAMIESON: That is the point. The situation is that in the build-up of all these various amenities the city council once had, the whole of the ratepayers benefited. This applied particularly to the electricity undertaking and it was made most profitable by the closely settled areas of Victoria Park and Carlisle.

Mr. Davies: Hear, hear!

Mr. JAMIESON: And now the member for Floreat wants contrast. He wants to have a Taj Mahal at City Beach and slums at Victoria Park and Carlisle to show people the difference.

Mr. Rushton: He did not say that.

Mr. JAMIESON: Yes, he did. Apparently the member for Dale did not listen.

Mr. Rushton: Be fair!

Mr. JAMIESON: Yes he did. He said he wanted the contrast. He said he did not want everything even.

Mr. Graham: He wanted a prestige area.

Mr. JAMIESON: There is no doubt about what he said and if the member for Dale cannot hear the member for Floreat from where he sits, I suggest he approach his own medico.

Mr. Rushton: You are unfair.

Mr. JAMIESON: I am not.

Mr. Rushton: Of course, you are.

Mr. JAMIESON: I heard it very loud and clear.

Mr. Rushton: You heard only what you wanted to hear.

Mr. JAMIESON: The honourable member can look at the *Hansard* record of this and he will find I am quite right. The member for Floreat said he wanted a prestige area established in comparison with some other area which he could show his luxury tourists. He is not interested in the well-being of the ratepayers of the City of Perth as a whole, but only those in the prestige area.

Mr. I. W. Manning: You are not being fair.

Mr. JAMIESON: The member for Wellington should get back to his potato digging. That is about all he knows and he should stick to it.

Mr. Mensaros: I said nothing of the kind.

Mr. JAMIESON: The original proposal of the Deputy Leader of the Opposition to allow the City of Perth to spend at will was a far better proposition. We heard the member for Wembley saying again that the city council agreed to this proposition. Of course, it did because it had Hobson's choice. The other proposition had been thrown out.

These people are in rather a precarious position, as I previously pointed out to the Minister. The Minister, who is entrusted with the administration of such lands, has been less than fair and open on this subject by repeatedly stating that he did not know what was going on or what the Perth City Council was doing. The Perth City Council kept telling him publicly and was not denying what it was doing. It said that it had to spend these funds outside the purview of the Act and, consequently, it was high time the Act was rectified now that money was available to redeem other suburbs. In some respects the suburb in question was a white elephant for a long time, but the Perth City Council took the view that it was now possible to obtain some redress.

The people in the area have always paid rates and taxes. It is all very well to say that primarily roads are put in and development is carried out from the sale of

land. Of course it is. Who does this in other areas? The subdivider is the person who does it, so there is nothing wonderful about that.

The Perth City Council, because of the prestige value of the area, is loading on an amount that will help to cover the cost of various amenities. I do not acknowledge that there are no footpaths and little kerbing on the roads. The roads are kerbed fairly well. On the question of footpaths, I should say that many people would resent it if the Perth City Council started to put in footpaths because the people living in the prestige dwellings have nice lawns which extend right to the roadway. This is to their credit. Indeed, they would not want these lawns chopped about. In addition, not many people use footpaths in such areas. Some do, of course, because they do not have vehicles in which to get about. Generally speaking, the trend is that most of the travelling is done in vehicles.

Generally, the land is undulating and it is not a pleasant prospect for a housewife or anyone else for that matter to walk a number of miles over that terrain.

I am urged to say that we should allow the Perth City Council to spend this money equally. There has been a demand for this, despite what the Government says. Various references have been made over the years in debates on the Address-in-Reply and the Budget, despite what the member for Floreat had to say.

It is unfair that certain amenities can be provided in some areas out of these funds but cannot be provided in others because the funds cannot be allocated generally. The member for Floreat referred to a particular provision and expressed the view that it should not be as it is; that is, a different course should have been taken when the Bill was first before the Parliament. That may be and it may not be. It is hard to project oneself into the minds of people who are no longer with us and to know why they took certain action. It is possible they might have missed a point as we often find we do after legislation has been passed through this House. Sometimes something comes out of legislation which was not intended. However, this is only a guess and I would say it was never intended originally that the area would become exclusively prestige. After all, it was once notoriously poor. There was nothing much there at all.

Mr. Mensaros: The person who spoke said that he hoped it would be the Brighton of Western Australia visited by thousands and thousands of people. You read the debates.

Mr. JAMIESON: No doubt he said that he wished it would be visited by thousands and thousands of people. People have been visiting the area since the days when the old plank road existed over the switchback which followed the contours of the land. Thousands used to go to the area in those days.

Mr. Brady: It ruined many river beaches.

Mr. JAMIESON: It might have ruined them to some extent. However, there is nothing wrong with having a well developed waterfront. At this stage of development, however, the estate has reached such proportions that the amount of money available is more than is needed for development. In the final analysis, this money should come back into the general funds of the Perth City Council so that it can appropriate the money to develop amenities where they are most needed by ratepayers of the City of Perth. We should not allow one section of the City of Perth to laugh at others because of the great contrast.

There is not a great contrast, after all, among the people who live there. If one drives in the area the only impression one gains is that it is a prestige area and that the mortgages must be high in comparison with those which can be raised on similar areas of land in Victoria Park and Carlisle. For this reason some of the money should be spent on poorer suburbs to bring them into line and to give them more amenities.

The member for Floreat claimed that there are not many amenities in the area, but I point out that Victoria Park and Carlisle, for instance, went for years and years without any sort of recreation reserve. It is only over the last few years that a few have been developed at the extremities of the suburbs. The member for Floreat should not think that the area is going without because some majestic playing grounds are being developed in the area and will be used by people living there.

Mr. Rushton: City Beach is making a contribution.

Mr. JAMIESON: Really, it is not.

Mr. Rushton: Why not?

Mr. JAMIESON: If any contribution is being made, it is only because of the general rates which now apply.

Mr. Rushton: It is contributing to other areas by way of loans from funds which are not being used in its own area.

Mr. JAMIESON: The member for Dale should not be carried away with that idea, because it is necessary to deduct the complete development of services required under arrangements of subdivision.

Mr. Rushton: Where? At City Beach?

Mr. JAMIESON: I would not know exactly how much comes out. Not such a great amount is received from the sale

of land, as it would at first seem. There is an allowance for profit, however, and it should not be ploughed into amenities for one section of the community. I believe it should be allowed to be spent uniformly and not in accordance with the wishes of the Dallimores and the Beecrofts, and other people who would want the area to be exclusively a prestige one.

Mr. Rushton: On your theory this should apply to Cannington and everywhere else.

The SPEAKER: Order!

**MR. DAVIES** (Victoria Park) [9.08 p.m.]: I am not rising to defend the amount of money spent or not spent in Victoria Park. I do not want to enter into that aspect of the debate. Probably any suburb, including North Perth and other areas, could all claim that they need more money spent on them. This is why I believe we should give the council the right to do this.

I have risen to put on record certain happenings earlier in the session as they relate to an earlier Bill introduced by the Deputy Leader of the Opposition which has been referred to on a number of occasions this evening, particularly in regard to the Government's attitude at that time and its attitude to the Bill now before us. There is no doubt that the difference between the two measures is slight. It would appear that the Government was put into a position where it had to take some action; it could not condone the law being broken; and it needed to put into effect the wishes of the Perth City Council.

On the first day of sitting I gave notice of my intention to seek leave to introduce a Bill to amend the very Act which we are now discussing. This was done on behalf of the Deputy Leader of the Opposition who was away at the time and not expected to be back for several weeks. He wanted the matter to be placed on the notice paper at an early stage and I did this to make certain that he would have the opportunity to discuss the Bill when he returned, by which time we hoped that the Address-in-Reply would be over.

I had only a broad outline of the contents of the Bill. We had discussed it together when the Deputy Leader of the Opposition asked me to introduce the measure. When the Bill was before Parliament and the title became public knowledge, I was inundated by phone calls from all sections of the Perth City Council seeking to find out what was in the Bill; what the purport of it was; and what the outcome was likely to be. I wondered why this great interest was taken in the Bill, but I soon became aware, particularly from representations made from some well placed officers in the Perth City Council, that the outcome of the measure could make some difference to the rate which was to be struck.

I was told, in effect, that the Perth City Council was then considering the rate. Certain matters had been referred from the full council to the finance committee which, in turn, had been instructed to take certain action. Some of the action it was instructed to take related to what could be contained in the Bill of which I had given notice. I thought it was only reasonable to explain the contents of the Bill as they were known to me. They asked me what chance there was of the Bill going through Parliament. I replied that if the general attitude of the Government made itself manifest, the Bill did not have a butterfly's chance in hell of getting through, because the Government would instruct its members and supporters to vote against it as a whole. This, of course, is precisely what they did.

Some people took the trouble to ring me even at home on the weekend because they were so interested in the Bill. I advised them if they felt the measure was worth while they should make representations to the Government, because the Government would be able to say whether the Bill would live or die. We all know what happened to the Bill. We all know which way it went.

I do not know whether any representations were made to the Government from the Perth City Council but it seemed strange to me that the Bill should have been rejected on flimsy grounds at that time and yet a measure should come before us in this form which is almost the same as the previous measure, although the provisions are not as good as those in the Bill introduced by the Deputy Leader of the Opposition.

It is this pettiness on the part of the Government which has been displayed on so many occasions that fills me, at times, with a sense of disgust over the time wasted in Parliament in discussing measures which are not dealt with on their merits but which are dealt with on party lines for political advantage. There is not the slightest doubt that this does occur.

Because of the representations made to me, my personal opinion was that the Bill would go through Parliament, but I repeat that I do not know what representations were made, officially or unofficially, by the Perth City Council to the Government.

We all know the fate of the measure introduced by the Deputy Leader of the Opposition and it is a matter of concern to me that we are wasting time discussing another measure when we could have dealt with the subject in another form at another time and possibly have saved ourselves a few hours.

**MR. RUSHTON** (Dale) [9.13 p.m.]: I wish only to make two points on the matter before us. We have heard members opposite write off the question of principle in connection with this subject. The Deputy Leader of the Opposition said that it was not important that nothing had been done in the past but that now, because money was in surplus, it could be taken from one area to another, and we should do something.

This hardly rings true when we look at the Bill under discussion. Surely if the principle of the underprivileged and the privileged is the vital one, as we have been told by speakers from the other side of the House, this principle would have been the dominant factor way back in the days when those on the other side of the House were in power.

This fact is highlighted when we look at local government in many areas and consider the parallels which are brought up by this legislation. People involved in local government would recognise and acknowledge that where special funds are provided in an area by a developer or from some other source, there is a requirement to spend that money in that area.

This is a recognition of the rights of those who put up the money. One might like to argue, rightly or wrongly, about the City Beach area having special privileges. However, in this case the people in that area have provided the extra money. I certainly have no objection to Victoria Park or other areas obtaining every dollar they can for their services.

Mr. Graham: This year $1,000,000 profit will come in from people all over the State who, next month or the month after, will buy blocks in that area.

Mr. RUSHTON: The people in City Beach are, in fact, paying for the blocks. They purchase them because they believe they have certain attractions and they are willing to pay for what will eventually take place.

Mr. Graham: They know all about this Act of Parliament, do they? Only a few months ago 90 per cent. of them would not have known there was such an Act of Parliament.

Mr. RUSHTON: The honourable member must acknowledge that those people have spent their money in the area. They bought a block because they knew it was in an area which had certain facilities, certain attractions, and a certain future.

Mr. Graham: That should apply everywhere.

Mr. RUSHTON: I am trying to draw a parallel.

Mr. Graham: Not only this special concession.

Mr. RUSHTON: The Deputy Leader of the Opposition talks about a special concession. If he were just and fair—which I hope he would be—he would say that the land should be sold and the proceeds apportioned all over the State and not just in the City of Perth. That is where his argument falls down.

Mr. Graham: No it doesn't.

Mr. Jamieson: No it doesn't. It was granted to the City of Perth.

Mr. RUSHTON: The honourable member argues that there is an artificial barrier and because people are prepared to spend their money in City Beach, the proceeds should be distributed right throughout the metropolitan corridor.

Mr. Graham: When other Perth City Council land is sold the money does not remain in the particular area.

Mr. RUSHTON: The same principle applies in other local authorities. At the present time where developers raise funds and charge certain amounts for development and for putting in certain amenities, the people have to pay for those things. It is the same in this case. The Deputy Leader of the Opposition claims that because somebody bought a block in Victoria Park, knowing the situation, he is underprivileged. He is using emotionalism and trying to introduce the concept of the privileged and the underprivileged purely for political expediency. It is most degrading for him to use that argument when the same thing is happening in every local authority area.

Mr. Graham: Not through the local authority.

Mr. RUSHTON: The same thing applies to some degree in most local authorities.

Mr. Graham: Nowhere else in the State.

Mr. RUSHTON: It is a requirement of every local authority that I know so well that where money is provided in a localised area by the people of that area, the money must be spent in the area.

Mr. Jamieson: That refers to town planning schemes. That is altogether different, and you know it.

Mr. RUSHTON: It is only a matter of degree.

Mr. Graham: Rubbish.

Mr. RUSHTON: It is patently obvious that this is a gimmick of a political nature.

Mr. Jamieson: You just do not understand the situation.

**MR. BOVELL** (Vasse—Minister for Lands) [9.19 p.m.]: In all my parliamentary experience I have never known anyone to use such phrases as the Deputy Leader of the Opposition used tonight; yet he finally ended by saying he intended to support the Bill.

Mr. Graham: I was in the same desperate position as the Perth City Council. It is a case of a crumb or nothing.

Mr. BOVELL: His utterances, his rantings, his ravings—which are still going on—and his abusive language are typical of the honourable member when he has no case to present. I give the Deputy Leader of the Opposition credit for being an experienced debater; but when he has no case to present he adopts the attitude he adopted tonight. He became abusive towards me, personally; and towards the Government; and he also abused anybody who said anything that might have been contrary to his opinion.

The Deputy Leader of the Opposition introduced a Bill earlier this year to amend the same section of the parent Act as this Bill proposes to amend. However, it was totally different in principle.

Mr. Graham: No. It had the same principle.

Mr. BOVELL: The principle was that the rates were to be taken from this area and distributed as the council saw fit over the whole of the Perth City Council area. The parent Act found its way onto the Statute book in 1920. Since that time it has been amended on only one occasion, and the amendment was introduced in 1936 by the Minister for Lands of the day, the late Michael Francis Troy. If my memory serves me correctly, I think that amendment related to eight acres, or thereabouts, which were required for, or had some association with, the provision of workers' homes, war service homes, or similar types of homes.

Mr. Jamieson: The land was for workers' homes. That was the first workers' homes project.

Mr. BOVELL: Yes. The amendment was introduced by the then Minister for Lands in 1936 and there has been no other amendment. The member for Victoria Park gave notice of the Bill because the Deputy Leader of the Opposition was away at the time. It was not until he returned from overseas that the motion for the second reading of the Bill was moved. Owing to the wide nature of the implications of his Bill, the Government felt that the people who lived in the area and who had been protected by an Act of Parliament for 50 years should be given time to consider the position. This was done in fairness to the people concerned—not necessarily because it was in the interests of the Government, but because it was in the interests of democracy.

Mr. Graham: You have given it to them.

Mr. BOVELL: The Government felt that the people should have sufficient time to consider the proposals; and in my opinion there was insufficient time, in fairness to all concerned, for the Bill introduced by the Deputy Leader of the Opposition to be considered during the current session.

Mr. Graham: Don't you think the Perth City Council had considered it?

Mr. BOVELL: By introducing his Bill, the Deputy Leader of the Opposition prompted the Perth City Council to consider the matter. The finance committee had a meeting, and as a result the Town Clerk sent a communication to the Under-Secretary for Lands. It was later confirmed that the proposals in that submission had far-reaching effects. The councillors proposed an amendment of the rating system which included a percentage—and I will not quote it because I cannot remember the exact figure—which was to be expended in the area concerned and there was also a percentage to be expended over the whole of the Perth City Council area. This proposal altered the system of rating, and that prompted the City Beach Progress and Ratepayers' Association to take a deputation to the Lord Mayor.

From what I read in the Press the Lord Mayor said he would give consideration to the submissions of the ratepayers' association, and the deputation was reasonably satisfied. However, during the process of the negotiations commenced as a result of the introduction of the Deputy Leader of the Opposition's Bill, the notice of the Government was drawn to the fact that, as I said in my speech at the time, the provision of the Act had not been strictly complied with. The Deputy Lord Mayor (Councillor Frame) and the town clerk (Mr. Edwards) called on me in my office and said that the council could not proceed with work for which tenders had already been accepted and buildings for public use that had been commenced. They said that unless something was done about the matter the council could not proceed with developments that had already been commenced on the foreshore reserve area.

Any responsible Government would bring that matter to Parliament. That was done within a few days and the proposal is limited to the extent that it refers only to the land mentioned in the principal Act. As the member for Floreat indicated, I think the intention of the Act in the first place was to allow the proceeds of the sale of endowment lands to be spent over the total area of the three sections; that is, the reserve area on the foreshore, the endowment lands area, and the Lime Kilns Estate. However, because of some misunderstanding that intention was not incorporated in the Act.

I referred to that fact in my second reading speech when I said that, although it was not stated specifically, if one read the Act carefully one would find that intention was indicated. The Government was faced with this problem: projects had been started in the City Beach reserve area and the council could not proceed with them because of the legal doubts

that had been expressed. So the Government decided that it would introduce this Bill to enable the money to be expended in the area covered within the Act and with a retrospective provision ratifying the council's actions during the period specified in the Bill.

Mr. Graham: The city council was faced with the problem because you defeated my Bill.

Mr. BOVELL: No; the honourable member's Bill did not mention retrospectivity.

Mr. Graham: If you had wanted to you could have attended to that in Committee.

Mr. BOVELL: It was the honourable member's Bill.

Mr. Graham: You have amended my Bills before.

Mr. BOVELL: The principle in the Deputy Leader of the Opposition's Bill and that contained in the Government's Bill are as far apart as the poles, and there is no gainsaying that fact.

Mr. Graham: It was the same principle of spending outside the area.

Mr. BOVELL: In the interview, the Deputy Lord Mayor and the town clerk said that in view of the limited time—Parliament was drawing to a close—something should be done about the matter quickly. I could give no undertaking because the Premier had already stated that there was a certain number of Bills to come forward. As the Deputy Leader of the Opposition knows, it takes a considerable amount of time to initiate a Bill, get it through Cabinet, and take it through the various procedures of drafting and printing. It cannot be done overnight, because certain procedures must take place. However, because of the urgency of the matter, Cabinet agreed and the Bill is now before the House.

Mr. Graham: The progress association has tremendous influence on the Minister.

Mr. BOVELL: The written request came from the Town Clerk of the City of Perth, asking that a Bill be introduced into Parliament.

Mr. Graham: There was no alternative.

Mr. BOVELL: As the member for Floreat has said, there was also a request to include maintenance. However, that was not agreed to by the Government because, here again, such an amendment would have a far-reaching effect and in the mind of the Government there was not adequate time for the people concerned to consider the proposal.

All in all, I believe the introduction of this Bill was absolutely necessary in the interests of the administration of the Perth City Council, in the interests of the residents of the district, and, in fact, in the interests of the people of Western Australia, because the amenities being provided in the foreshore reserve are there for the benefit of all the people, and not just the people of City Beach, Floreat Park, or anywhere else in the immediate vicinity.

Therefore the Bill is necessary, and I commend it to the House. I express my appreciation of the contribution to the debate made by the member for Wembley—

Mr. Graham: There is loyalty for you!

Mr. BOVELL: —and for his kind remarks. The Deputy Leader of the Opposition and I have had many verbal battles over the past quarter of a century, but there is one redeeming aspect about this; namely, although we have had such battles, our personal relationships outside the Chamber have not been upset. The member for Belmont was at least honest, because he said he had little to contribute to the debate.

Mr. Jamieson: Of course that makes you dishonest, because you will not admit that.

Mr. BOVELL: I have given the honourable member the benefit of being honest, so let us leave it at that. The member for Floreat contributed to the debate by giving a detailed review of all the circumstances leading to the introduction of this Bill, and I am grateful to him. Finally, the member for Dale, who has had considerable experience of local government, made a worth-while contribution to the debate.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by Mr. Bovell (Minister for Lands), and transmitted to the Council.

## MARKETING OF EGGS ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 11th November.

**MR. JAMIESON** (Belmont) [9.34 p.m.]: In the legislative Chambers, this indicates once again—if any indication is needed—the ultimate inevitability of socialism. A number of these legislative programmes have been brought forward by the Government over the years, but always it has disclaimed with horror the matter of socialism in any shape or form. However, in this Bill we see a slight difference in the steps taken to reach the ultimate of socialism in production, distribution, and exchange. Whilst, admittedly, this

Bill has nothing to do with exchange, because the exchange of eggs is very doubtful at the best of times, particularly if one is on the receiving end of them, it does, I suggest, have something to do with distribution and production. In fact, I think distribution and production is being fully covered by this proposed amendment to the Act.

These are sound features and, strangely enough, they are generally always associated with rural production, although this Bill does not constitute a detailed socialistic move. Nevertheless, if I had time to conduct a little research into what has happened over the years, I think it would be found that, on the average, the present Government has been introducing socialistic reforms at the rate of at least five a year.

Mr. Nalder: I have been curious as to why you took the adjournment of the debate, but now I know. I know that every year you make a statement such as this.

Mr. JAMIESON: Now the Minister knows. I always endeavour to obtain the adjournment on a measure such as this.

Mr. Nalder: You would like to be on record, during every session of Parliament, as having said that.

Mr. JAMIESON: It is easy to check back to see when somebody is handling these socialistic measures. Not only that, in order to somewhat enlighten the Minister, some of the largest poultry concerns are in my district. This may come as a surprise to the Minister, but we always live and learn.

Mr. Nalder: I have heard some cackling in that area.

Mr. JAMIESON: Of course, we hear some cackling in Katanning, too, and it is not always, as on this occasion, in the one political strain. Although this has been so for many years, it does not apear that it will be so in the immediate future.

For a change in the provisions of the Bill, it would appear, quite democratically, that the Poultry Farmers' Association made the approach to the Minister and held the necessary referendum, which resulted in an 83 per cent. "Yes" vote in favour of this Bill being introduced. I feel that, in the first instance, the action that has been taken by the Government—

Mr. Nalder: The prompt action.

Mr. JAMIESON: Yes, in view of the prompt action taken by the Minister to implement its request all that we should check along the line—I do not wish to comment on anything raised in the Minister's introductory speech, because he covered, generally, the various aspects of the measure—is whether any desirable amendments or proposals can be effected to those we now have before us because, in principle, we agree that the provisions in the Bill should become law.

Among others, one of the proposals is for the Minister to be constituted a court of appeal. I think we have been getting away from this tendency, and probably some form of tribunal to which appeals could be made would be preferable, because if my judgment of poultry farmers is any good—and I have had a fairly long experience with them, although most of them have left my district now—they are liable to make more appeals than a test wicket keeper, and the Minister of the day, in my opinion, will be flat out considering appeals.

Mr. Nalder: I do not think so. Perhaps in the early stages, but not once the proposals have been put in train.

Mr. JAMIESON: Maybe, but in my opinion the poultry growers will want to change things; they will make appeals, and submit their grounds of appeal, and then there will be others who will desire to enter the industry, following which other appeals will be made to the Minister, and so there will be constant tribulation in the Minister's office. I do not think this is desirable, because the hearing of such appeals will take up too much of the Minister's time and the Minister will be unable to do justice to so many appeals if he is to give justice to other requirements of his portfolio. So to that end I think it would be preferable to make a canvass to come up with some other idea in regard to appeals.

There is provision in the Bill for penalties to be provided against those growers who breach the Act. The maximum penalty is something like $200 for a first offence and $400 for a second or subsequent offence. I believe the members of the Poultry Growers' Association fear that there is a possibility of big firms that have entered the field—as they have in the Eastern States—not being very concerned about being fined the first maximum penalty, and it has been suggested to me—and I think with some justification, and I consider it might have been suggested to the Minister—that an additional penalty should be prescribed to be imposed on any person who breaches section 32K; that is, a penalty of so much per bird. This would be similar to the penal provisions in the Fisheries Act, which are imposed on a fisherman who catches small fish. Under that Act a mandatory penalty of so much a fish is imposed.

The penalty already prescribed in the Bill would be a statutory one, and regardless of whether a magistrate imposed a fine of $5 or $100 a penalty of so much per bird would be mandatory and would certainly discourage people from transgressing against this provision. It would also discourage those who may feel inclined to take the risk of having a number of birds in excess of the maximum. A person may be inclined to think that it is fairly difficult to count the number of birds when

they are moving around in a confined space, and they may try to sneak in a couple of hundred more.

If, in addition to having, say, a fine of up to $200 for a first offence, we provided a fine of $1 per bird for each bird in excess of the maximum number permitted, and then, for a subsequent offence, in addition to the fine imposed by the magistrate, we provided that a mandatory fine of $2 per bird for every bird in excess of the maximum number would be imposed—

Mr. Nalder: The inspector would still have to count the birds, would he not?

Mr. JAMIESON: Yes—a person might be less inclined to commit a breach of the Act than he would if he knew he was subject to a fixed fine of so much per bird in excess of his quota, because if he had an excess of 200 or 300 birds the mandatory fine would be fairly large. In citing the Fisheries Act as an example of imposing such a fine, members will recall the instance of a fisherman who caught some mullet at Mandurah. It was not the statutory fine that was imposed on him for the offence, but the mandatory fine of so much per fish for having these fish in his possession, that sent him broke. His fine amounted to some hundreds of dollars.

Therefore, I think if a similar mandatory fine were inserted in this legislation it would discourage any would-be offenders, and I think the industry is entitled to take such action against those who may try to transgress.

There was some argument as to whether it was desirable that the powers provided in the Bill should be granted to the existing Egg Marketing Board, as its principal task to date has been to find a market for the eggs produced. With the powers the board will have under the proposal in the Bill, one may wonder as to whether the board will have difficulty in marketing eggs—I understand that eggs are a commodity that can easily be produced to excess—and whether the board will find that the more expeditious way of achieving its objective will be to make a recommendation to the Minister so that excess egg production will not occur to require any promotion by the board.

To my knowledge the promotion of the sale of eggs has been undertaken in Pakistan, India, and other Middle East countries. Will this policy of promotion be maintained when egg production is restricted to a certain quantity under the measure before us? I do not know that we will have the same enthusiasm to promote the sale of our eggs overseas. If the Minister can show us that active promotion of the sale of eggs will be continued, then any opposition to that aspect will be overcome.

We might find that in future the industry has to be split into two sections—the egg producers, and the hatcheries—although the Minister might argue that the Wheat Board is charged with the functions of finding markets for the wheat and of allocating wheat quotas. Probably some of those who are connected with the Wheat Board wish that they did not have the responsibility of allocating quotas.

The marketing of primary commodities on this basis is in its infancy. We will wait to see whether the poultry industry develops in two sections instead of one. Some of the people connected with the egg industry who are not at present represented on the board have some grievance, now that the production of eggs—and as a consequence the size of the flocks in the State—is to be limited. They claim that the people who are responsible for the breeding of the poultry—I am referring to the hatcheries—should have some representation on the board.

To refresh the minds of members the Act provides that the board shall consist of six members to be appointed by the Governor. One member is to be a person nominated by the Minister, who is a commercial egg producer and whose main source of income is derived from poultry farming; two shall be persons nominated by the Minister to represent the consumers, one of whom at least shall be a person of mercantile and commercial experience in the marketing of eggs; two shall be persons who are commercial producers and are elected by the commercial producers for appointment by the Governor as members of the board; and one shall be a person nominated by the Minister who is not engaged or financially interested in the business of producing or selling eggs, and who shall be the chairman of the board.

This is a back-to-front method of showing the composition of the board, because usually we see the provision for the appointment of the chairman stated first. In this case it is the other way around.

The hatchery owners and those who breed the pullets up to the stage of egg production have no representation on the board. It would appear that they need some representation, because I am informed they have to make an assessment two or three years ahead in estimating the number of hens to be retained for breeding purposes, and the number of chicks that will be required by their customers. If they are not put in the picture as to what will take place in future they will be left in the dark, and the industry will be placed in an unbalanced position. More consideration should be given to this aspect.

Once the provisions of the Bill are off the ground it may be found necessary to appoint a representative of the hatcheries

to the board, so that the problems associated with the hatching of chicks will be taken into account by the board.

Suggestions have been put forward that hatcheries should be required to supply on a quarterly basis details of the chicks that are sold to customers, so that more effective policing of the Act can be undertaken. While the poultry growers might favour such a provision, I feel it will be strongly opposed by the hatcheries; because already they are obliged to submit returns to the Commonwealth Egg Marketing Authority, the Commonwealth Statistician, and the Egg Board. If they are required to supply other statistical information to the board then their overheads will be increased with the need to keep more books. The hatcheries will find it hard to pass on this added cost, because they are operating in a highly competitive field. If they increased the price of day-old chicks they might find the Eastern States hatcheries entering the local market and competing with the local hatcheries which the Act sets out to protect.

It is noted that hatcheries are not required to obtain licenses for their breeding fowls, although they must keep the birds under the conditions stipulated, and they are not obliged to supply information to the board in respect of their existing flocks and future flocks of birds. However under clause 16 of the Bill they are required to furnish to the board such information relevant to, or concerning, their business of the production of hatching eggs for sale as the board requires. Under that provision it will be the task of the inspectors to examine the books of the hatcheries, and in doing this they will be able to find out the people who have been supplied with large consignments of day-old chicks, but who are not licensed to produce eggs.

I understand that some thought has been given to the people who are a little beyond the scope of this legislation, although in reality they are not because the Minister has a discretion to license producers other than those who took part in the referendum on the 31st March. I understand that a number of people were building up their poultry flocks at or about that time. The poultry growers feel that in all justice to these people, if genuine attempts have been made by them to establish poultry flocks then consideration should be given to their inclusion in the scheme.

I understand further that other people have raced into the industry since the 31st March in an attempt to obtain quotas of hens in what is to be a protected industry. Whether these people should be given any consideration is open to question; at this juncture I would say that they should not be given consideration. In my view only those people who had made genuine efforts before the 31st March to establish poultry flocks should be entitled to consideration from the Minister.

Those are my main comments in speaking to the Bill. The two divisions of the industry are fairly clear-cut. At one time many of the poultry farmers hatched their own chicks, but in these days of specialising, in this field as in other fields, the hatching of day-old chicks is carried out by the hatcheries. We find that the hatcheries are far more efficient in producing the day-old chicks that are required by the industry. Most poultry growers look to the hatcheries to supply their day-old chicks; they do that rather than look after their own hatching problems.

With the concentration of the breeding fowls of hatcheries, the flocks can be checked more effectively by the Agricultural Department because the birds are congregated in a restricted area. Under these circumstances it is easier to make inspections and to prevent the inroads of disease. When any outbreak of disease occurs in the breeding flocks, the department will be able to take steps very quickly to prevent the spread of the disease throughout the industry.

I commend this amendment to the Act. I feel this is a piece of socialistic legislation, and we will have more of it in the future. We do not seem to mind passing socialistic legislation for the safeguarding of rural production. In many instances we have adopted this type of legislation, despite the fact that at the hustings we seem to take two sides—one indicating its support of these socialistic ventures, and the other indicating its opposition to them. This brings to mind the comment of one prominent person in the mining industry who said, "One party preaches socialism, while the other party practises it." I am afraid whether or not we like it this will be the theme of this type of legislation over the years as the means of developing a basis of orderly marketing, not only in respect of rural production but of all other forms of production.

**MR. BATEMAN** (Canning) [9.58 p.m.]: With respect to this Bill, which seeks to amend the Marketing of Eggs Act, I support the remarks made by the member for Belmont. In so doing it is not my intention to traverse the ground that he has already covered. Far too often members on both sides of the House get up to repeat over and over again remarks which have already been made in a debate. It is certainly not my intention to waste the time of the House to cover what the member for Belmont has already said.

I would like to make a couple of brief comments on the Bill. The Minister referred to the prompt action which the Government has taken in respect of this measure. I would refer to a question which I

asked of the Minister for Agriculture on the 8th October, 1969, in connection with a referendum which was requested by the Poultry Farmers' Association of Western Australia. Part (2) of my question was as follows:—

> If so, is it his intention to grant this request; if not, why not?

To this the Minister replied—

> No. The request was considered by the Government, but as no conclusive evidence had been furnished to indicate that a scheme for licensing growers would provide monetary benefits to those growers, it was felt no further action towards formulating a licensing scheme for introduction into this State was warranted.

However, the Bill is before us at last. I only hope that it will in some way not only afford protection to the egg producers, but give them some stability.

The member for Belmont mentioned that the larger poultry producers, who are the more efficient and the better established in the industry, are the ones who are succeeding.

The farmers have followed the advice of the Department of Agriculture, over the years, and they have been able to build up their properties and their flocks. The farmers have culled out diseased birds, those affected by coccidiosis and other parasitic diseases. The smaller poultry growers, with 300 or 400 birds, who have been scratching along with a second job, seem to strike all sorts of pests and troubles, and usually lose their flocks overnight because of disease. I have known many small poultry farmers who have had to walk off their properties because of disease in their flocks.

I hope that in some way this Bill—which is a large measure—will afford some protection to poultry growers and I hope that somewhere along the line we can do something to reduce the high cost involved in the production of eggs.

I only wish the member for Avon was here tonight because he told me, not many years ago, that we had so much wheat in silos it could not be moved within five years.

Mr. Young: Did the honourable member say it could not be moved in five years?

Mr. BATEMAN: I am sure that is what the member for Avon said, but I do not know whether it is right or wrong. The poultry growers should get the benefit of that large storage of wheat, and, by virtue of the fact that they receive a benefit, it will be passed on to the consumers.

When speaking to a very good friend of mine on this side of the House, who does not agree with the Bill, I equated the measure with the crayfishing restrictions. The present Bill will protect the egg industry. As an amateur fisherman I am allowed to have a couple of craypots, and the Bill before us will allow an old pensioner to have a couple of fowls.

Mr. Bickerton: Only two?

Mr. BATEMAN: No, they are allowed 20 birds. However, as I said, the provisions of this Bill will protect the industry. When the time arrives I hope the Minister will be able to work out the licensing system, because it could be a bone of contention.

Mr. Nalder: No, everything is under control.

Mr. Bickerton: The Minister must have a license.

Mr. BATEMAN: With those few words, I support the measure.

**MR. H. D. EVANS** (Warren) [10.03 p.m.]: This is not a "foul" measure, as a member opposite mentioned. As a matter of fact, orderly marketing has always been a cardinal concept of the rural policy on this side of the House, so I am happy to register my support along with the member for Belmont, and the member for Canning.

It is not surprising that 83 per cent. of the producers voted in favour of this measure as interest has been developing in the egg producing industry. At the present time the retail price of eggs varies between 55c and 68c per dozen, depending on the weight of the egg. The producer receives an advance price of 46c per dozen, and a bonus of 4c for yolk colour, and a further bonus of 4c for export quality. An incentive is applied in that manner.

There is an equalisation scheme by which eggs sold on the local market are considered with eggs exported at a lower price, somewhere in the vicinity of 20c to 25c a dozen. The price to the producer is considerably reduced. At this stage only about 8 per cent. of production goes for export, and that is a manageable proportion at this juncture. However, if the export figure is allowed to go higher, an undesirable situation could develop, as has developed in the Eastern States. Of course, there is the danger of dumping from the Eastern States onto the more stabilised market in this State.

A submission put forward by the Federal Council of Poultry Farmers' Associations of Australia indicates that between 1953 and 1968 the cost of eggs to the consumer has been fairly static. In 1953 the price was 2.5c per ounce, and in 1957 the price was 2.68c per ounce. In 1962 the price was 2.76c per ounce, and in 1968 the price was 2.62c per ounce. The return to the producer has been very stable over those years. We are now in a position to provide further stability to the industry, and we are going further and giving the industry a sheltered position. In return for that sheltered position and, perhaps we could say privilege, there is a responsibility on

the industry and an obligation to ensure that the requirements of the industry are fulfilled.

Firstly, the industry should supply a sufficient quantity of eggs of good quality. Secondly, the quality of the eggs is of great importance. I think this quality can be achieved, and it has been achieved in other protected industries. For example, the potato industry has shown that it can maintain its level of quality even though it is protected. That industry has a level of efficiency which is altogether desirable. In the past 10 years the price of potatoes has been reduced, and this has been largely attributable to improved techniques and better methods which have been introduced. As a matter of fact, the law of comparability now operates and the growing centres have moved further south where the yields are greater. Yields have doubled in the last 10 years. This is the type of advancement that can be achieved in the egg industry if the producers are prepared to co-operate.

The matter of price-fixing is always ticklish. I understand the price of eggs has largely been determined by the experience of the board, and the professional skills of the members of the board. The board, of course, also bases its authoritative assertions on the advice of the officers of the Department of Agriculture, and other advisory organisations.

I would like to refer to the situation which exists in New Zealand where the production of eggs has become highly specialised. Cool storage is a feature right from the poultry farm to the market. The eggs are transported in bulk, and under refrigeration, to the distribution centre of the egg marketing authority. The consumer receives the special benefit of being able to purchase a first-grade egg at a minimum possible price. This must be achieved in this State, and a determined effort is being made by the board.

I understand that new machinery is on order for grading, and new premises will be built. It is expected that the delivery of eggs will be undertaken in trolleys holding 15 to 30 dozen. That will not be for the convenience of the producer, but for the convenience of the board which will ensure that deliveries will be made at specified times. The board is certainly going about its job in the right way, and we are pleased to learn this.

On the production side there is only an incentive of 4c on two counts. I refer to the colour bonus and the export quality bonus, and whether that is sufficient encentive to ensure that development will continue within the industry, only time will tell. I hope the board will have power to encourage industry efficiency at a level which will be fair to the consumer, as well as being lucrative to the producer. That is a full requirement of the protected industry as we see it from this side of the House.

Dealing with the Bill itself, the member for Belmont touched on the initial entitlement at the 31st March, 1970, as being rather arbitrary in many respects. The Minister said this was the date fixed and, as a consequence, that would be the date from which operations in regard to initial entitlements would commence.

This matter does raise the question as to whether certain people will or will not be penalised. There are those who are carrying out long-term development and who could have even short-circuited their planning. There have been rumours in the industry of an authority coming into being, so it is understandable that some producers would not take notice on this occasion because of the previous false alarms. I know the Minister referred to the dangers occasioned by opportunists when something of this nature is proposed. That is quite proper and it is a logical observation.

A premium will probably be created when a producer receives his license. This is certainly the case in the whole milk industry where something in the order of $200 per gallon is quoted. So in the issue of a license for 62 gallons a day a producer is virtually receiving $12,000. Of course, that figure could only be realised on the sale of the property.

The same probably will not apply in regard to egg production because although the Bill contains a clause which enables the sale of a license, a producer cannot sell within two years of coming into possession of the license. This will probably mean that the premium on an egg license will not be as great as is the case of a milk license, to which I have referred.

To return to the matter of initial entitlements, I will again refer to New Zealand where initial entitlements were issued earlier this year. The authorities took into account non-laying birds, and also included chicks on order. There was a greater measure of consideration and some flexibility to this approach of initial entitlements and I think that where a *bona fide* producer can show that he had every intention of developing his farm he should be given consideration in this regard. It will be very difficult to distinguish the legitimate developer from the opportunist, but the problem is not beyond resolving.

I suggest that the Minister will give this matter some consideration before the regulations are eventually laid down in regard to this particular aspect. The member for Belmont also referred to the facilities required for policing the Act. I noted he referred particularly to the increase in penalties for offences, where

there will be not only a fine, but also a mandatory amount per bird for which the producer becomes involved.

That is one approach to the situation, but I think a maximum could be considered. In New Zealand a maximum of 20,000 birds has been set. The fixing of a maximum has the effect of keeping the over-large producer out of industry. Although a minimum of 20 birds has been set, I think there could possibly also be a maximum. The figure of 20,000 is mentioned purely because it applies in another country and is indicative of a principle that has been put into effect in that country.

The member for Belmont suggested that it would possibly be disastrous to inflict on producers the amount of paper work and recording that would be necessary in making a note of all sales. A simple solution might be that on receipt of an order the license number of the producer taking delivery could be recorded. This would then be available to any inspector who, in the normal course of his duties, would be perusing the books of that particular hatchery.

That is a practical approach to the problem, although I am not prepared to move an amendment on either of those issues; that is, the setting of a maximum number and the recording of license numbers in hatcheries. Perhaps the Minister could consider these suggestions before the third reading, and possibly include amendments of his own, if those who drafted the Bill and did the initial planning of it thought they were desirable.

The next point I raise is perhaps a sin of omission. There does not appear to be any penalty for the producer who does not maintain his entitlement as shown on the flock number for which he is licensed. There is a penalty for keeping more than the entitlement, which is a safeguard against over-production. However, there is no obligation or compulsion on the producer to retain the licensed number of birds, which is a method of ensuring an adequate egg supply for the community in the State of Western Australia.

I realise that provision has been made in the Bill for supplementary licenses to be granted in times of scarcity. However, I would prefer that steps were taken to ensure greater stability by requiring a producer to maintain a certain level of production, more or less as a compensatory gesture for the security which his license gives him. Every holder of a whole-milk license is compelled to produce a minimum each day, and if he does not fulfil that requirement he is penalised accordingly. I think a similar requirement to fulfil his obligations should apply to the egg producer, in the interests of the consumers and of the State.

In conclusion, I draw attention, once again, to the fact that while we are comparatively fortunate in Western Australia, inasmuch as the surplus exported is still at a low level, the danger of dumping is always in the background, and general agreement with the other States is vitally necessary. I appreciate that it is a far larger question for other States. The matter of an arbitrary border, across which eggs can be driven without a great deal of difficulty, makes the operation of any such agreement a far more difficult proposition in other States than in Western Australia. However, it is something towards which we should work, because it will safeguard the interests of the industry in Western Australia.

Having made those points, I lend my support to the measure, and I would like the Minister to give consideration to the matters of entitlement and penalties.

**MR. JONES** (Collie) [10.21 p.m.]: I wish to raise two points, without referring to matters already covered by members on this side of the House. There is general support for this Bill, but a number of poultry growers in the south-west, after considering the Bill, have asked me to raise two matters with the Minister, because they consider that some of the provisions contained in the Bill do not meet the wishes of all the poultry growers. I am aware of what took place before the drafting was completed. However, these growers have asked me to make their views known to Parliament, which I intend briefly to do.

As regards clause 12—that is, the appeal provision—the poultry growers to whom I have referred consider that the Minister may be given too much power. They would prefer that a tribunal be appointed to hear appeals of this nature. It is felt that there could be an excessive number of appeals in the initial stages, and that it would be preferable for a tribunal to hear appeals under this Act.

I have also been asked to say that the growers oppose the proposal that appeals should be made in writing and not personally. I think it is generally regarded as being customary for appeals to be made in person. I am not suggesting that the appellants should be represented by counsel, but in our arbitration system and in our court system most appeals are made personally and not in writing. It is believed that much more benefit would flow to the industry if that system were adopted under this Act, rather than a system of written appeals to the Minister or to the tribunal, if one is appointed. I make these views known to the Minister at the request of the poultry growers.

**MR. GRAHAM** (Balcatta—Deputy Leader of the Opposition) [10.22 p.m.]: I rise to make only one point, and I do so now instead of during the Committee stage in the hope that the Minister will have a little more time to ponder upon it. If members give attention to clause 13 of the Bill they will find something which I feel has not been before this Parliament before; at least, speaking for myself, I have been unaware of it. The proposed new section 32I reads as follows:—

> 32I. No action, claim or demand whatsoever shall lie or be made or allowed by or in favour of any person against—
>
> (a) Her Majesty;
>
> (b) the State;
>
> (c) the Minister;
>
> (d) the Board; or
>
> (e) any member, officer or employee of the Board,
>
> with respect to anything done for the purpose of carrying out or giving effect to the provisions or objects of this Part of this Act.

We are accustomed in other legislation to provide some protection for those who are called upon to do certain things in whatever capacity within the confines of a Statute. The Statute I have here is, I think, commonly known to members. Without referring to the title, the provision contained in it reads as follows:—

> A person who is or has been a member, deputy for a member, delegate or employee of the Board, is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any power conferred or the carrying out of any duty imposed, on the Board by this Act . . .

That is fair, reasonable, and understandable; but in the terms of the Bill before us there is complete immunity for anybody at all for doing anything at all. To me the legislation seems far too sweeping and unreasonable and it means in effect that any poultry grower, egg producer, or any person doing business with the board would be unable to take any action whatsoever regardless of how wrong the board may be.

I think the provision goes too far. That is my interpretation of it, and I would be obliged if the Minister would give us an explanation or, perhaps, have the provision checked to see whether in fact it has not been left too wide open; in other words, it goes to excess. I say no more than that.

**MR. NALDER** (Katanning—Minister for Agriculture) [10.25 p.m.]: I appreciate the interest that has been shown in this legislation. As I indicated in my second reading speech the Bill covers new ground in Western Australia and in Australia. I thank members, generally, for accepting the proposal. As I outlined previously, there is a certain amount of experimentation in this exercise. Members must appreciate that we had no guide for this legislation, although the board itself has accepted a great deal of responsibility to the industry and has carried out its duties in a commendable manner.

As a result, the Government felt—and I mention this in reply to comments made by some members who have spoken—that it would give this responsibility to the board because of its experience; and, if it was found that the board was involved in too much work which detracted from the responsibility it has had over the past years in the marketing of eggs, then every consideration could be given to setting up an independent board.

I explained in my second reading speech that the board will have available to it all the vital information necessary for it to carry out its duties, such as the number of eggs and the number of fowls. I might mention that, as far as the hatcheries are concerned, the information is available, so it is not necessary to include them in the legislation. The Department of Agriculture and the Egg Board have had available to them the number of chickens hatched at various times of the year. I believe the whole pattern will flow on as a result of the information that is available to the board and the Department of Agriculture if it is necessary to call upon the officers of the department at any time.

I want to make it quite clear that as it is now all that is needed is for the board to invite the department or any of its officers to give information to it or to discuss any matters with it. That will be the pattern in the future so far as the board is concerned. If we find after 12 months it is necessary to amend the Act, then I believe it should be done because, as I said in the first place, we are exploring new ground. I feel that sufficient power is available to the board under the present Act to enable it to satisfactorily carry out its functons.

The member for Belmont mentioned the aspect of the board possibly becoming involved in two completely different exercises. As it is now, its responsibility is to receive the eggs and market them. On the other hand, the board will be involved in another responsibility when this Bill is passed. Whilst I accept that, I have already indicated that information is available to the board. The board simply has to ask the secretary to obtain the information, and it will be available within a matter of seconds.

Mr. Jamieson: You do not think the board is likely to take the easy way out? This is the only thing that is worrying the industry.

Mr. NALDER: No, I would not think so, because three active poultry producers will be on the board. As I said earlier when introducing the Bill, they will be responsible to ensure that at least the consumer has a supply of eggs. It will be their job to anticipate all the problems associated with the industry; and, as the member for Canning stated, problems such as disease and the like arise in the industry.

It will be the responsibility of the board to collate all the details: the climates and conditions that occur from year to year; and, these details, together with the information relating to past seasons which is already available to it, will be recorded. As I have said, it will be necessary for the board to anticipate and assume, with the help of the integral information it has on hand, the quantity of eggs that will be consumed.

I have mentioned hatcheries. Information in regard to hatcheries is on hand and it is unnecessary to have it included in the legislation. This information will be available to the board and, therefore, I do not think it is necessary to make any provision in regard to it in this legislation.

In regard to new growers, it will be the responsibility of the board to decide whether it will increase the number of laying hens any licensee is allowed to have. If, as the member for Warren said, it is necessary to increase the maximum number of birds on any property held by a grower, the board will make its decision according to the circumstances of the situation. If a poultry grower has only 500 or 1,000 birds and the board considers that this number should be increased, it will be its responsibility to make the decision.

As I have already explained, the board will draw up its programme and outline what it intends to do in carrying out its licensing responsibilities. Before the programme is put into effect it will have to be referred to the Minister so that he will be acquainted with all the details. I take it that should the Minister find that the programme of licensing is deficient in any way he will advise the board accordingly. In my opinion it will be a question of give and take in order to promote the efficient operation of the industry.

I think from the debate that has ensued and the remarks that have been made by various members there is an indication that in the first instance problems could be met. However, we will allow the situation to continue and next year, if necessary, a Bill will be brought to Parliament to amend the legislation for the purpose of solving any problems that may arise. In the first 12 months we will have to allow the board to exercise some flexibility so that the marketing scheme will operate effectively.

Mr. Cash: What will be the minimum number of birds that can be grown by any poultry farmer?

Mr. NALDER: As I mentioned, some poultry growers are not wholly dependent on poultry growing. Some have other interests. Some poultry growers have only a few hundred head of poultry. It will be for the board to review all the requests that are made to it by poultry growers for the granting of a license. The conditions will be outlined on the application form and the board will have to make the decision in regard to who shall be eligible for a license. Its decision will no doubt be based on the number of eggs that are produced by a poultry grower and the number supplied to the Egg Marketing Board. It will not be a question of the board making a guess or tossing a coin. Its decision will be based on the evidence the producers will be able to produce and this will be supported by the statistics already held by the existing Egg Marketing Board.

The member for Collie referred to a matter that has been concerning some of the growers; that is, that the Minister may be inundated with appeals. In the first instance the object of the exercise—I assume that this would be the position—will be that those already in the industry will be granted a license on the number of eggs they have been supplying to the board. As I see it, the only problem that will arise will be in regard to those who wish to enter the industry or who have made an effort to increase the number of birds they already have, or who have started to build a poultry run. It will be up to them to prove that they had given consideration to making such a move before the 31st March, or that they were not informed of or had no knowledge of this legislation at the time the announcement was made.

I feel we have to accept that this will be the position in the initial stages, and if there are too many applications that will have to be considered by the board, further provision will have to be made later. We have to give this legislation a trial. We have been faced with the same position in regard to other legislation. I am not enthusiastic about being called upon to make a decision on any decision that is made by the board. We have to give the legislation a trial and everyone will have to co-operate to ensure that it operates fairly for the benefit of those who hold a license.

In regard to appeals, here again, if the legislation does not operate as we think it should we can amend it in the future if considered necessary. Once again I appeal to members to accept the situation as it is and let us give the legislation a trial.

As to the point made by the Deputy Leader of the Opposition, I take it that the advice given by the Crown Law officer, in submitting this legislation, was to cover those people in authority against any action that may be taken by some aggrieved party. This situation is acknowledged by the comment he made in regard to other legislation.

Mr. Graham: The other legislation does not go as far as this does.

Mr. NALDER: The honourable member knows that similar situations are covered in other legislation. This is the same, except that it is outlined in detail in this Bill.

Mr. Tonkin: It is not exactly the same.

Mr. NALDER: It means the same.

Mr. Tonkin: No, it does not.

Mr. NALDER: The Leader of the Opposition knows that in this type of legislation the Minister and the Crown are absolved from any action that may be taken by individuals.

Mr. Tonkin: Surely you have to act in good faith.

Mr. NALDER: That is right.

Mr. Tonkin: You forgot to say that.

Mr. Graham: This means everybody—the board and all the employees.

Mr. NALDER: Those officers who are carrying out their duties and responsibilities are covered by Acts such as this. We all know that is generally the case.

Mr. Graham: Not like this. It is possible for people to take action against any board; but this will give complete protection to these people no matter how wrongly they act.

Mr. NALDER: I will have the matter examined by an officer of the Crown Law Department tomorrow and I will explain the position further during the third reading stage if members are agreeable.

Mr. Graham: That is fair enough.

Mr. NALDER: I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Nalder (Minister for Agriculture) in charge of the Bill.

Clauses 1 to 14 put and passed.

Clause 15: Section 32K added—

Mr. JAMIESON: I would like to comment further on the possibility of strengthening the penalty on a per bird basis. I think some representation has been made to the Minister or his department on this matter. I feel the punishment should fit the crime, and if there is to be a financial deterrent it should be proportionate with the enormity of the offence committed. It should be greater for a person who has 400 birds more than he should have, than for a person who has 40 birds more.

If the Minister does not wish to delay the Bill here perhaps it could be amended in another place.

Mr. NALDER: I did receive a letter from the Poultry Growers' Association after the legislation had been introduced last week, and a considerable amount of discussion took place in my office this morning as a result of this matter. The problem was analysed by an officer of my department and from the Crown Law Department and, as a result, I think we should accept the position as it stands.

Like the member for Belmont I agree that there should be perhaps an extra penalty for a farmer who is not prepared to accept the responsibility as outlined in the legislation. But we are dealing with responsible people who know the industry and its problems and who, I feel sure, would be prepared to co-operate.

Mr. Jamieson: You do not think you would have a problem with the big operator?

Mr. NALDER: No, because the board would have all the power it needs, so far as licensing is concerned, to deal with anybody who tries to play ducks and drakes with the scheme. I would, however, like to think that we have the backing of the majority of the growers, 83 per cent. of whom are in favour of the proposition.

If in 12 months' time we find that we have evidence of the type of transgression referred to by the member for Belmont, it would be possible for us to make the penalties more drastic during the next session of Parliament. Let us give it a try and, if any weaknesses arise, we can deal with them later.

Clause put and passed.

Clause 16: Section 32L added—

Mr. JAMIESON: The breeders seem to be in an invidious position, because they are not represented on the board even though they are the crux of the industry; without them it would fail.

I imagine there is an association of poultry breeders, and although we cannot alter the composition of the board at this stage I ask the Minister to ensure that there will be close co-operation between the board and the breeders association, so that the latter might know far enough ahead what plans the board has. This would enable the breeders to provide breeding fowls for the poultry growers of the State.

I would like the Minister to give a clear undertaking that it is his intention to act along these lines.

Mr. NALDER: I do not think that will be necessary. There being on the board adequate representation of those who are engaged in the industry, we should not overload the board by appointing additional representatives.

Mr. Jamieson: There are only six members on the board.

Mr. NALDER: It is a fair sized board. The situation is well covered, and both the board and the hatcheries are well clued up as to the number of chicks that are required to be bred to enable producers to replace their hens. I am certain that the board will make available to the hatcheries on request any information it has, especially information relating to the increase in the numbers of flocks.

I understand that the annual increase is in the vicinity of 6 per cent.; and that being the pattern the hatcheries make arrangements accordingly. If producers increase the size of their flocks for other reasons, it will be up to the board to inform the hatcheries. There has not been any request by the hatcheries to be represented on the board.

Mr. Jamieson: They have expressed their worries to me.

Mr. NALDER: If necessary, consideration can be given to this matter.

Clause put and passed.

Clauses 17 and 18 put and passed.

Title put and passed.

*Report*

Bill reported, without amendment, and the report adopted.

**BILLS (3): RETURNED**

1. Nickel Refinery (Western Mining Corporation Limited) Agreement Act Amendment Bill.
2. Appropriation Bill (General Loan Fund).
3. Loan Bill.

Bills returned from the Council without amendment.

**ADJOURNMENT OF THE HOUSE: SPECIAL**

**MR. NALDER** (Katanning—Deputy Premier) [10.54 p.m.]: I move—

That the House at its rising adjourn until 2.15 p.m. tomorrow (Wednesday).

Question put and passed.

*House adjourned at 10.55 p.m.*

# Legislative Council

Wednesday, the 18th November, 1970

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

**QUESTIONS (8): ON NOTICE**

1. HEALTH

*Transport of Meat*

The Hon. R. THOMPSON, to the Minister for Health:

(1) Is the Minister aware of the unhygienic conditions in which meat is being delivered to the meat auction room in O'Connor, Fremantle?

(2) If so, does he agree that this mode of delivery is so bad it can be assumed that the slaughtering of the animals is also unhygienic?

(3) Would the Minister have brought to the notice of the Public Health Inspectors these unsatisfactory conditions with a view of rejecting any meat into the market that is not transported under conditions satisfactory to the Department, and trace the source of supply to determine if the slaughtering meets the approval of the Public Health Department regulations?

The Hon. G. C. MacKINNON replied:

(1) Yes.

(2) Not necessarily.

(3) This is a matter which receives constant attention.

2. MEAT INDUSTRY

*Appointment of Authority*

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

In view of the ever increasing industrial strife in the Meat Industry, and its ruinous effects on the ability of the farming community in Western Australia to survive the effects of drought and low prices for agricultural products generally—

(a) will the Minister request the Minister for Agriculture to reexamine his opposition to implementing that section of the Towns and Austen Report which strongly recommends the appointment of a fully representative Meat Industry Authority in Western Australia;

(b) if the recommendation to appoint a Meat Industry Authority is not to be implemented, will the Minister