ADJOURNMENT OF THE HOUSE: SPECIAL

SIR DAVID BRAND (Greenough—Premier) [5.30 p.m.]: I move—

That the House at its rising adjourn until 2.15 p.m. on Tuesday, the 11th November.

I do hope that we will finish on Tuesday. However, knowing the procedure of Parliament, members should not book themselves for anything exciting on Wednesday.

Question put and passed.

House adjourned at 5.31 p.m.

Legislative Council

Tuesday, the 11th November, 1969

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

BILLS (10): ASSENT

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

1. Metropolitan Market Act Amendment Bill.
2. Prisons Act Amendment Bill.
3. Alumina Refinery (Pinjarra) Agreement Bill.
4. Architects Act Amendment Bill.
5. Associations Incorporation Act Amendment Bill.
6. Iron Ore (Dampier Mining Company Limited) Agreement Bill.
7. Iron Ore (Cleveland-Cliffs) Agreement Act Amendment Bill.
8. Fremantle Port Authority Act Amendment Bill.
9. Firearms and Guns Act Amendment Bill.
10. City of Perth Parking Facilities Act Amendment Bill.

QUESTIONS (4): ON NOTICE

1. SHIPPING

Port of Albany

The Hon. J. M. THOMSON asked the Minister for Mines:

In view of a recent statement indicating that food prices would soar with the termination of the regular shipping service between the Port of Albany and the Eastern States—

(a) what are the reasons for the termination of this regular shipping service;

(b) for each of the years 1964-65; 1965-66; 1966-67; 1967-68 and 1968-69—

(i) what tonnages of cargo were discharged at the Port of Albany on each of the regular services;

(ii) what were the cost charges to the shipping service for the discharge of each of these cargoes; and

(iii) of the total tonnages discharged, what was the tonnage of grocers' goods discharged at Albany on each of the regular services?

The Hon. A. F. GRIFFITH replied:

(a) Due to the impact of ever-increasing expenditure, beyond the capacity of the commission to control, a review of operating policy was undertaken to endeavour to curb the rising annual deficit of the Service.

The around-Australia operation of *Koolama* was not of itself a profitable venture, results depending, and varying, according to whether capacity cargoes were obtained both west to east and east to west.

The future of east to west cargo was also becoming uncertain with the introduction of the new container services, resulting in a weekly service from Brisbane, Sydney and Melbourne to Fremantle (as against a two-monthly service by *Koolama*.)

s.s *Dorrigo* was becoming due for a major survey which would involve the service in heavy expenditure and it was calculated that by returning m.v. *Koolama* to the Fremantle-Darwin trade and by accelerating the schedules of this vessel and the other three "K" class vessels, sufficient additional voyages could be gained in a twelve month period to offset the need to trade s.s. *Dorrigo* enabling the latter vessel to be sold.

(b) As statistical records are kept in the service's trading years figures have been given for each calendar year.

(i) 1965—3097 tons (8 voyages) average 387 tons per call.

1966—2633 tons (7 voyages) average 376 tons per call.

1967—2490 tons (8 voyages) average 311 tons per call.

1968—1955 tons (6 voyages) average 326 tons per call.

1969—1852 tons (5 voyages) average 370 tons per call.

(ii)

	1965	1966	1967	1968	1969
Costs—					
Albany—	$	$	$	$	$
Discharge of Cargo, including Lay Time	33,293	29,801	29,334	40,189	27,625
Port Costs	6,788	5,777	6,105	4,868	4,149
	40,081	35,578	35,439	45,057	31,774
Eastern States Ports—					
Cost of Loading Cargo, excluding Lay Time	24,791	21,873	19,431	15,794	17,399
Total	64,872	57,451	54,870	60,851	49,173
Average Cost per Ton—					
Discharge	12·94	13·51	14·23	23·05	17·16
Load	8·00	8·31	7·81	8·08	9·39
Total	20·94	21·82	22·04	31·13	26·55

(iii) Figures of tonnages of grocers' goods discharged at Albany were not readily available. However the tonnages for the past three years have been taken out and are as follows:—

1967—595 tons (8 voyages) average 74 tons per call.

1968—724 tons (6 voyages) average 121 tons per call.

1969—670 tons (5 voyages) average 134 tons per call.

2. ABATTOIRS

Additional Facilities

The Hon. I. G. MEDCALF asked the Minister for Mines:

(1) Is the Minister aware that South Australia has weekly killing capacity of approximately 108,000 sheep and lambs based on a sheep population of approximately 18,400,000, whereas the capacity of all Western Australian abattoirs is not more than approximately 90,000 sheep and lambs per week based on a sheep population of approximately 33,000,000?

(2) In view of the steady increase in the W.A. sheep population, what plans does the Government have for increasing the facilities in W.A. to cope with such increase?

(3) Is the Government prepared to encourage private enterprise to build additional facilities?

(4) Does the Government have plans to encourage competition for sheep at abattoir markets in order to stimulate returns to farmers?

The Hon. A. F. GRIFFITH replied:

(1) Accurate estimates of slaughtering capacity which depends both on physical facilities and available labour are difficult to obtain. I am advised that the total sheep and lambs slaughtered in September this year in Western Australia for all purposes was slightly more than 500,000. I have not been able to obtain comparable figures from South Australia.

(2) Effective utilisation of the existing works capacity in Western Australia would cope with demand. Works capacity is not being fully utilised due to labour shortages. For instance, on Thursday at Robbs Jetty 33 slaughtermen were working on No. 1 chain and 22 on No. 2 compared with the full complement of 50 and 30 respectively.

At Midland Junction between August 1st and October 22nd there was a total requirement of 113 slaughtermen per day. The average number on the books was 107 and the average number working was 80.

Future requirements are under continued examination.

(3) Private enterprise is not restricted outside the metropolitan abattoir district. Within this area private firms can construct abattoirs for export.

(4) Proposals for change in present market arrangements for mutton and lamb are under consideration. The Commonwealth Government through the Australian Meat Board has instituted the market diversification scheme to extend the total market for beef and sheep meats and this should ultimately have an effect in local markets. Considerable market research is also maintained at the Commonwealth level to stimulate exports.

3. WHEAT

Quotas

The Hon. R. H. C. STUBBS asked the Minister for Mines:

With reference to part (b) of my question on Thursday, the 6th November, 1969, relating to wheat quotas, will the Minister advise how many farmers received quotas in each quota category to the nearest hundred bushels?

The Hon. A. F. GRIFFITH replied:

The answer to this question is contained in the return tabled herewith—See Paper No. 198.

The return was tabled.

4. NATIVE WELFARE

Laverton Reserve

The Hon. R. F. HUTCHISON asked the Minister for Mines:

(1) Will the Minister for Native Welfare examine the contents of a letter under the name of M. Dawkins, entitled "A Reason for Aboriginal Unrest", published in *The West Australian* on Friday, the 7th November, 1969, and relating to the Laverton reserve, and advise if the allegations stated therein are factual?

(2) If the reply to (1) indicates that the contents of the letter are factual, what action is to be taken to remedy this very inhuman situation?

The Hon. A. F. GRIFFITH replied:

(1) It is a fact that a demountable classroom which was being used temporarily for the preparation of midday meals for Aboriginal children was moved at short notice by the Education Department because it was urgently required elsewhere as a classroom, its real purpose.

(2) The Department of Native Welfare is arranging the construction of a pre-school centre in Laverton. This building will be near the school and will be available also for the preparation of the mid-day meals.

Prices for erection submitted recently to the State Housing Commission were excessive and it is proposed to recall tenders.

CLAREMONT HOSPITAL

Allegations: Ministerial Statement

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [2.38 p.m.]: I request your permission, Mr. President, to make a statement to the House.

The PRESIDENT: Very well; permission granted.

The Hon. G. C. MacKINNON: Thank you, Mr. President. Following newspaper publicity dealing with allegations about Claremont Hospital, it will be recalled that The Hon. H. E. Graham, M.L.A., handed to me last week certain signed statements by Messrs. Campbell and Bell alleging ill-treatment of patients and other unsavoury and unsatisfactory incidents at the Claremont Hospital.

I indicated then that because of the nature of these allegations, I would investigate what form of inquiry might be held.

To assist in what conclusions might be reached, all papers have been referred to our Director of Mental Health Services (Dr. Ellis), and by him to the psychiatrist superintendent of the hospital (Dr. Blackmore) asking for comment and report.

I have had discussions with Mr. Gillett, the Chairman of the Board of Visitors to the hospital, an independent authority from that of the administration, whose duty it is, among other things, to report upon any untoward events at the hospital.

Discussions have also been held with the President of the Psychiatric Nurses' Association, and matters have been discussed with the Crown Law Department.

The report from Dr. Ellis and Dr. Blackmore has now been received and I have discussed it with them. Both these people are confident that the general well-being of the patients is being attended to in a satisfactory manner.

There is no evidence of brutality or ill-treatment and, apart from incidents of a minor nature that are bound to occur in a hospital like Claremont, there is no justification whatever for the statements by Messrs. Campbell and Bell.

As already mentioned, I have had discussions with Mr. Gillett, the Chairman of the Board of Visitors. The powers and duties of this board are as follows:—

(a) They shall visit the hospital at least once in every month and at such other times as the Minister may direct.

(b) They shall be present at the hospital at least once in every month for the purpose of interviewing such of the patients there as may wish to see the board and of receiving complaints or recommendations affecting the welfare of patients.

(c) They may, from time to time, interview any patient.

(d) They may make such inquiries, examinations and inspections as the board may from time to time think necessary in the interests of patients and, in particular, in order to ascertain whether any patient ought to continue to be a patient.

(e) They shall at least once in every three months, inspect every part of the hospital where patients are accommodated or that appertains to the welfare of patients.

The board may, with or without previous notice and at such hours of the day or night and for such length of time as it thinks fit, but so as not unduly to interfere with the administration thereof, enter and examine the hospital.

The board shall enter in its minutes a record of the proceedings and transactions of every meeting of, and inspection by, the board and may, whenever it thinks fit, and shall, whenever required so to do by the Minister, transmit a copy of its minutes, and may make any recommendations insofar as the welfare—other than the medical treatment—of patients or the management of the hospital is concerned, to the Minister.

The board may order a patient to be examined by a psychiatrist selected by it and that psychiatrist is thereupon authorised to carry out the examination and shall submit a report of the result thereof to the board, which shall furnish a copy of the report to the Minister and the director. These are very wide powers, indeed, and it will be quite obvious that the board has some onerous responsibilities.

Mr. Gillett assures me that his board has no evidence of ill-treatment or brutality at the hospital. This is borne out on reference to the board's reports submitted to me over a lengthy period of time.

In dealing with this matter there is another consideration; i.e., the credibility of the people making the allegations sponsored by a body known as the Association for the Prevention of Psychiatric Atrocities, which in turn appears to have some connection with the scientology movement. It is now clear, by the admissions of this movement, that Messrs. Campbell and Bell literally were "planted" there at that movement's instigation.

I have caused inquiries to be made by a senior officer of my department with regard to similar activity in other States, and my advice is that in New South Wales and in South Australia there is also an organisation known as the Association for the Prevention of Psychiatric Brutalities. The body here used the word "atrocities" in lieu of "brutalities," and in the past few days I notice that the organisation has changed its name to the Association for Psychiatric Reform.

There is no doubt that the South Australian body is sponsored by the scientologists, and there is suspicion that the same applies to that in New South Wales, where, in recent weeks, protest groups have demonstrated outside psychiatric hospitals claiming ill-treatment and brutality by doctors and nursing staffs.

I have with me a paper of eight pages, with pictures and cartoons, so disparaging in relation to psychiatry generally as would beggar description. This has been printed and circulated by the scientology movement, and I ask leave to table the papers. This is the sort of propaganda circulated throughout the Commonwealth. Taken from the sixth page, the following appears:—

> Psychiatry denies God.
>
> Psychiatry ridicules the Bible and its teachings.
>
> Psychiatry advocates promiscuous sexual behaviour and perversion.
>
> Psychiatry attacks national sovereignty and personal loyalties.
>
> Psychiatry attempts to commit 'patients' to institutions, homes and death camps without any fair trial or hearing procedure, completely negating the human rights of the individual.

Thus, I say, that from this type of propaganda the impartiality of these people is in question. Indeed, that must be an understatement. They do not disguise their fanatical opposition to psychiatrists and nursing staffs. Their philosophy is to destroy the image of psychiatry and its practice at every opportunity.

This, in effect, was quite openly admitted last evening on a local TV station by Mr. Graham, the accepted leader of the movement here. Anyone viewing that session, when Messrs. Campbell and Bell, together with Mr. Graham, were submitted to questioning on this issue, could form but one opinion—the weakness of their case and the impertinence of their actions.

In the face of all this and the reports and advice I have received, is it desirable that the Government should submit to what appears to be a calculated, planned campaign discrediting mental hospital administration by adherents of this philosophy? I prefer to express my confidence in the administration of our psychiatric hospitals and in the dedicated service of doctors and nursing staffs who, despite unavoidable staff shortages, are doing everything they can for the welfare of the patients in their care, and not to submit them to an inquisition based on allegations by people whose attitudes are not normal in a society like ours.

Various moves for further inquiry have been considered, but in the light of assurances I have received and of events of the past few days which clearly demonstrate the motives behind the allegations, there is, in my opinion, no justification for the disruption of loyal staffs and the patients in their care. I move in and around these institutions and know what I am talking about.

Accordingly, it has been decided that no public inquiry will be held. As already stated, I have called for a report from Dr. Ellis and Dr. Blackmore. I have asked Dr. Ellis to proceed with a routine departmental investigation and this is now under way. I am loath even to do this, but in fairness to the staff named, to the patients, and to their relatives, this needs to be undertaken.

Claremont Hospital, as with other hospitals, is an open institution for anyone to visit. Indeed, this is encouraged by the administration. There is an open invitation for anyone interested to go down to the hospital and see things for himself or herself. Great progress and development has taken place over the past few years or so not only in treatment and facilities, but in attitudes, and this, I am pleased to say, applies to the community as well.

The administration is justifiably proud of what it has achieved. It welcomes constructive criticism and seeks the co-operation of the public. It encourages voluntary organisations, which have been active in the hospital's interests over the years.

It therefore ill becomes any organisation at this, or any other, time to seek to destroy what is being done. I would much prefer to see them converted to the acceptance of enlightened policies in the treatment of the mentally ill rather than that they should follow their present course.

Accusations such as those which have been made, and inquiries into such accusations, always tend to denigrate confidence in the hospital. In the case of a hospital dealing with mental problems this is disastrous. Persons who should encourage loved ones to seek the proper care given by such hospitals tend to be reluctant to do so.

It is hoped that this storm in a teacup will in no way inhibit the confidence which has grown up about Claremont Hospital and the Mental Health Services in general.

The papers were tabled.

MARKETING OF EGGS ACT AMENDMENT BILL

Recommittal

Bill recommitted, on motion by The Hon. G. C. MacKinnon (Minister for Health), for the further consideration of clause 2.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. G. C. MacKinnon (Minister for Health) in charge of the Bill.

Clause 2: Section 5 amended—

The Hon. G. C. MacKINNON: The amendment to clause 2 deals with a matter raised by Mr. Dolan. At the time, we thought the provision contained in the Bill was satisfactory but on further consideration it has been decided that the Bill should be amended.

It will be recalled that Mr. Dolan raised the matter of eggs sold at a stall, with the permission of the Egg Marketing Board, and the fact that those eggs by-passed the board. The proposed amendment changes the definition of a professional grower. I move an amendment—

Page 2, line 1—Insert after the word "amended" the passage "—(a)".

Amendment put and passed.

The Hon. G. C. MacKINNON: I move an amendment—

Page 2, line 10—Delete the passage "months; ." and substitute the following passage:—

"months; and

(b) by adding after subsection (2) the following subsection—

(3) For the purposes of the interpretation "commercial producer" contained in subsection (1) of this section, any eggs sold by a producer pursuant to a permit granted by the Board under section twenty-three of this Act to him or to the purchaser of the eggs shall be deemed to have been delivered by that producer to the Board. ."

Amendment put and passed.

Clause, as amended, put and passed.

Further Report

Bill again reported, with further amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Health), and returned to the Assembly with amendments.

WHEAT DELIVERY QUOTAS BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. A. F. Griffith (Minister for Mines), read a first time.

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [2.55 p.m.]: I move—

That the Bill be now read a second time.

The main purpose of this Bill, as the long title indicates, is to provide legislative authority for a quota scheme dealing with the delivery and marketing of wheat. The basic factors giving rise to the introduction of this Bill and similar Bills throughout the Commonwealth are to be found in the increasing size of the Australian wheat crop and the increasing difficulties being

experienced by the Australian Wheat Board in selling on the overseas market the part of the Australian wheat crop that is not absorbed by the home market.

The Commonwealth Government arranges with the Reserve Bank for the making of a loan to the Australian Wheat Board in each season in order that a cash advance, currently at the rate of $1.10 per bushel, may be made to farmers for all wheat delivered to the board by Australian wheatgrowers.

The loan is made on condition that the moneys advanced be repaid by the Australian Wheat Board before receivals of the following season's wheat. In view of the substantial unsold stocks, it became obvious that repayment of the loan was not possible and that, at the end of this year, some $200,000,000 of this money would still be owing to the Reserve Bank.

In view of this circumstance, the Commonwealth Government decided that it could only approve of the Reserve Bank making an advance of a limited sum of money; namely, a maximum of $440,000,000, as a loan for the payment of advances against wheat received for the 1969-1970 season. This sum is sufficient to pay an advance of $1.10 plus servicing charges on only 357,000,000 bushels of wheat received by the Australian Wheat Board. This decision meant that if an advance at the rate of $1.10 was to be maintained, the Wheat Board could receive officially only 357,000,000 bushels.

This situation was considered thoroughly by the Australian Wheat Farmers' Federation, when it was agreed that the advance should be maintained at the level of $1.10 per bushel and that receivals for the purpose of the advance should be limited to 357,000,000 bushels. Any wheat produced in excess of this quantity would not be eligible for a monetary advance and payment for such additional wheat could only be made after that wheat had been sold.

The Wheat Farmers' Federation also decided that from the 357,000,000 bushels, an allocation should be made to each State for a quantity of wheat which would be eligible for the $1.10 per bushel advance and that such allocation should be on the basis of wheat deliveries to the Wheat Board in past years. Each State should then be responsible for allocations to farmers, also on a basis of deliveries in past years.

The allocation to Western Australia was fixed at 86,000,000 bushels and this proposal was subsequently approved by the Australian Agricultural Council and by the State Governments.

It should, perhaps, be made clear that the Commonwealth Government is solely involved in the provision of the loan of $440,000,000 for the purpose of advances of wheat receivals. Decisions as to how these funds are to be distributed have been left with the Australian wheat industry as represented by the Australian Wheat Growers' Federation and within the States to the organisations representing wheat farmers. In Western Australia, the organisation is the Farmers' Union of W.A. (Inc.).

The Commonwealth Government is willing to provide legislation required by the wheat industry as a whole for the implementation of its requirements and expects that State Governments will act accordingly within their own spheres. While this is so, it must be remembered that the Commonwealth, through the Reserve Bank, is prepared to maintain the first advance on wheat at the present rate of $1.10 per bushel only if the payment of that advance is limited to no more than 357,000,000 bushels in the 1969-70 season.

One can only hazard a guess at what would be the final consequences if this State were to withdraw from the present Commonwealth-State Stabilisation Scheme and the quota arrangements inherent in it, as proposed by yesterday's leader writer in *The West Australian*. Obviously, the State would first be required to find the moneys necessary to pay growers' advances equivalent, or roughly equivalent, to the advances made under the present scheme.

Next, the growers in this State would automatically lose the benefit of the guarantee presently provided by the Commonwealth Government of 145c per bushel f.o.b. for their share of 200,000,000 bushels of wheat exported; and, of course, there would be no guarantee that the home consumption price for wheat used in Australia and wheat grown by Western Australian wheatgrowers could be sustained at its present level.

Thirdly, the State or some body or board within the State would have to enter the international grain market in its own right to dispose of the Western Australian crop in competition with the Australian Wheat Board, representing the other States, as well as all overseas wheat exporting countries.

It is difficult to see how the withdrawal of Western Australia from the Australian Wheat Stabilisation Scheme could be said, at this stage, to constitute a realistic, let alone advantageous, alternative to the adoption of quotas within the ambit of the existing stabilisation scheme as proposed by the Bill now before the House. I mention those few facts because on reading the leading article in *The West Australian* yesterday morning, it struck me that the person who wrote the article had lost sight of them.

In Western Australia, the Government has held a number of conferences with the representatives of the Farmers' Union, who comprise the wheat section executive of that organisation. In addition, a number of conferences, including conferences of Commonwealth and State Government

legal officers, were held to ensure uniformity of legislation in all States in so far as uniformity is necessary.

The Bill provides for the establishment of the Wheat Quotas Committee to allocate wheat delivery quotas to growers in this State, and establishes the conditions under which it shall operate. It sets out the requirements of the owners of land for eligibility for a quota, but the principles on which the quotas are determined are finally decided by the Minister responsible for the administration of the Act after consultation with the Farmers' Union in accordance with the provisions of clause 6 of the Bill.

In practice, delivery quotas issued by the Wheat Quotas Committee were based on the number of bushels of wheat delivered to the Wheat Board in previous seasons. Applications, made by farmers for quotas, which contained details of past deliveries were analysed and it was agreed that the fairest method would be to use the average delivery figures for the highest level deliveries of five of the last seven years as the basis for calculation. These averages were reduced by 17½ per cent. to keep the total within the quantity of the 86,000,000-bushel Western Australian quota for 1969-70.

It was realised the farmers who were developing properties could not have a seven-year history of wheat deliveries. Perhaps I should say "some farmers." In such circumstances, quotas were allotted at levels considered necessary for the continued development of the property.

The Bill also takes into account the probability that, due to adverse climatic conditions, some farmers may not produce sufficient wheat to fill their delivery quotas. It was anticipated that in a normal season such shortfalls would be limited and that the shortfalls could be added to those farmers' quotas for the following season. However, under severely adverse conditions such as prevail this year, it would mean that many farmers would have the right to grow wheat to twice the level of their quotas the following season and this might not be possible, or even reasonable, under circumstances when overall production is restricted. This problem must be considered by the Minister for Agriculture in consultation with the Farmers' Union after the end of this season when deliveries and shortfalls are known.

The Bill also makes provision for conditions which result in the quantity of wheat delivered in accordance with delivery quotas being below the total wheat quota allocated to the State—in this season, 86,000,000 bushels. In such cases, the Minister may agree to the issue to growers of supplementary quotas. These would be additional to the original wheat delivery quotas and could well be a calculated percentage of the growers' original quotas. Supplementary quotas would qualify for the advance payment of $1.10 per bushel.

It will be realised that, had such circumstances not eventuated, supplementary quota wheat would have been over-quota wheat; that is, wheat grown in excess of the quotas. It is therefore intended that the number of bushels of supplementary quota wheat delivered in 1969-70 shall be deducted from the quota to which the farmer is entitled, mathematically, in the following season. At this stage, I might mention that if sales of wheat continue at a low level the wheat delivery quota for Western Australia next season may well be less than 86,000,000 bushels; and perhaps substantially less.

I hope I have made it clear that the quota allotted to a grower is ascertained principally by reference to deliveries over past years. For this reason, it has not been considered necessary or desirable to make provision for appeals against the decisions of the Wheat Quotas Committee. Nevertheless, it is realised that special circumstances could have arisen and seriously affected the deliveries of some growers in the period of review; that is, in the best five years of the past seven years.

Provision has therefore been made for a grower to forward to the Wheat Quotas Committee a submission in writing explaining all such circumstances in detail and requesting reconsideration of the quota allotted to him. The subsequent decision of the committee would be final.

It will have been noted that delivery quotas are based on the past deliveries from farms and are irrespective of whether the wheat was produced by the owner or by a sharefarmer. The quota is therefore to be allotted to the farm and any sharefarmer must make his own arrangements with the owner for a share of the wheat delivery quota.

The Bill also provides for consequential amendment of the Wheat Stabilization Act to reconstitute the pooling provisions of that Act in the manner described by part III of this Bill.

Furthermore, it has been necessary to modify the operation of the Bulk Handling Act so that Co-operative Bulk Handling Ltd. is not legally obliged to accept into storage any wheat which is not quota wheat. It is necessary to ensure that storage can be provided for all quota wheat of 1969-1970 and quota wheat of 1970-1971. In actual fact, due to the effect of drought conditions this season, Co-operative Bulk Handling Ltd. will almost certainly be able to accept all wheat for storage from the coming harvest.

Under the provisions of the Bill, all expenses incurred in the administration and organisation of the wheat delivery quota scheme are to be met by Co-operative Bulk Handling Ltd., but such expenses will be recouped by the Australian Wheat

Board. The authority for this will be written into the complementary amending legislation to be introduced by the Commonwealth Government.

Finally, it should be mentioned that it is the hope of the Commonwealth Government—which provides the loan funds of the Australian Wheat Board which has the difficult and unenviable task of selling wheat on a shrinking market—and of wheat industry leaders, that the introduction of wheat delivery quotas will not only help ease a difficult financial situation, but will also have the effect of reducing substantially the quantity of wheat produced in Australia to levels more in line with the quantities grown in past years and more related to quantities which can be sold.

In this connection, it is important to note that in August last, the carryover stocks of wheat held by the five exporting countries amounted to 2,300,000,000 bushels—some 600,000,000 bushels more than at the same time the previous year. The United States, Canada, and Australia held in the aggregate 650,000,000 bushels more than the previous year.

I should like to make some comment as to the reception which this legislation has been given at this point. With the exception of two of its 31 clauses, all the provisions in the legislation were passed on the voices in another place, and without debate. I believe this makes it clear that so far as the other place is concerned members agreed it is absolutely essential that this legislation be passed because its provisions are necessary and its operation is urgently required. I feel that would also be the attitude of members in this Chamber.

Clause 21 will provide statutory authority for reconsideration of applications for quotas and the revision of quotas which it might be found have been based on incorrect calculations.

The practical application of the provisions in this clause were doubted by some members in another place. It was thought that the quotas as first allocated represented the end of the road. This view was entertained, I believe, through a misunderstanding that the committee had no more wheat to allocate and would not be prepared to take wheat from or reduce quotas already allocated to farmers, even though arithmetical mistakes or miscalculations had been made in their allocation.

It was thought also that there would be no scope for dealing with hardship, and if arithmetical errors had been made, and there would be no means of rectifying their impact.

It is a fact, of course, that the committee in its original allocations was acting on the understanding that some growers, who quite justifiably received substantial quotas, would be unable to deliver them to the full because of poor seasonal conditions.

It must be apparent to all members that circumstances such as those will help to enable the review of quotas which the Minister for Agriculture has unequivocally undertaken to have carried out to provide some practical relief for others who have had a good season.

In view of the assurances already given, it is hoped that the several provisions contained in this clause will now be more readily acceptable to members.

Members in this Chamber are entitled to receive some assurances as to the actual allocation of quotas and the efforts being made to ensure that, in the final analysis, they will be as equitable as it is possible to make them. Therefore, I reiterate the assurance given by the Minister for Agriculture that, in view of the many complaints already received, all quotas are to be reviewed and a commencement has already been made with this review.

The Hon. J. Dolan: That is fair enough.

The Hon. A. F. GRIFFITH: I am glad to hear that comment. I would add that when a minor amendment to the Bill was proposed in another place, the Minister raised no objection to it because he thought the amendment would, in fact, allay some of the fears and allow additional information to be considered by the committee when reconsidering applications for quotas and reviews of quotas based on incorrect calculations under the powers provided by clause 21 of the Bill.

I do not wish to say anything more. I do note, however, that some arithmetical errors have occurred and my colleague (the Minister for Agriculture) is anxious that these be sorted out.

I feel sure that you, Sir, will appreciate the importance of this Bill. Today is Tuesday and there is no doubt that we will be here tomorrow. It is possible the session might end tomorrow. I place the question of the adjournment of this Bill in the hands of the Leader of the Opposition, and if he wishes to go on with it I will be quite agreeable to do so—that is, if it complies with the wishes of the other members of the House. If, on the other hand, Mr. Willesee wishes to adjourn the debate, that would also be acceptable to me. I have no desire to hurry the legislation through because it is the Government's desire that it be fully considered. I will, therefore, leave it with Mr. Willesee whether he wishes to proceed with the debate today, or adjourn it till tomorrow.

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

STAMP ACT AMENDMENT BILL

Second Reading

Debate resumed from the 6th November.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [3.17 p.m.]: I daresay one would be safe in saying that one does not like a Bill of this nature or, in particular, that one does not like this Bill, because it is a taxing measure.

I do not think any member of Parliament likes a taxing Bill unless it be one that gives some remission of tax—I do not think we would like one which imposes a tax. The Minister outlined his reasons for the introduction of this legislation and indicated that the basic fact was that revenue was being lost from a particular source and it was necessary to pursue that level of revenue in other fields.

I intend to deal with the aspect of how this legislation can affect certain organisations in particular which previously enjoyed the privilege of exemption from the now very embracing provisions of this legislation.

My attention was drawn to this matter under a heading which appeared in *The West Australian* of Thursday, the 6th November, which said, "Loans Tax Bill Worries Unions." Part of the article states—

> W.A. Credit Union officials are worried about a State Government Bill, under which a 1.5 per cent. tax would have to be paid on credit union and other loans. One said yesterday that it would increase the present tax twelve times. Another said it would put credit unions in the same class as a hire purchase company.

I understand that 70 per cent. of the credit unions are associated with the industrial unions in this State, and last year they advanced a sum of $1,500,000 to applicants. The 24 unions involved in this form of lending made advances to some 25,000 people. In the main, the additional work that they undertake is a co-operative effort, so that most of the profits made under these circumstances are available for lending.

The Hon. A. F. Griffith: Where the rate of interest is over 9 per cent.

The Hon. W. F. WILLESEE: Yes, where the rate is over 9 per cent.

I had better deal with this point immediately. It can be said that if the unions reduce their lending rate they will not be caught up by the principles outlined in this legislation; but apparently they do not choose to reduce their rates, because they feel that would limit their lending capacity to a marked degree.

The Hon. L. A. Logan: It is a pretty high rate of interest.

The Hon. W. F. WILLESEE: Yes. I think we should get back to the basic situation. If people lend money to the building societies they receive the current rate of 6 per cent. simple interest. It seems to be the trend, no matter how light the overheads are, for the societies to lend out the money at a fairly high rate of interest; in other words, if they can only borrow at a high rate of interest they charge a high rate of interest, and if they can borrow at a low rate of interest they charge a low rate of interest.

The Hon. A. F. Griffith: I do not think we can borrow much mortgage money at 6 per cent. interest today.

The Hon. W. F. WILLESEE: I do not think people can borrow at that rate; if there is money available at that rate I would like to know where it is. I admit it is a matter of choice for the credit unions, and that if they wish to avoid the stamp duty applicable to credit unions' lending finance they must lower the rate of interest. Whether by lowering the rate of interest they would be able to attract sufficient money to carry on as competently as they are now carrying on, I do not know. Therefore this is a choice for them to make.

A danger exists, because if the credit unions exercise their right to contract out of the stamp duty by lowering their rate of interest, the Government's anticipated collection of duty from this source will fall short of its requirements. In effect, by spreading the net too tightly some of the people may decide to go outside the ambit of the legislation, and thus leave this source of revenue shorter than the Government expects. So in this respect the Bill might defeat its own aims.

If possible, I would like to see this field of taxation lifted to apply to the higher income groups, rather than to apply to the lower income groups, because the people I am speaking about are those in the lower income groups—the groups which find it difficult to acquire homes.

In considering this legislation and the reasons for its introduction, one immediately thinks of the evasion of stamp duty by Hamersley Iron Pty. Ltd., which in one move evaded $125,000. This is a field from which I would like to see raised the revenue proposed to be collected under the provisions of the Bill; that is preferable to raising it from the ordinary person in the street.

I realise the Government has a responsibility to raise finance; therefore if the Government loses money in one direction it is competent for it to take steps to make up the loss in some other way. However, my reaction to the Bill is that it is hitting at the smaller man, rather than at the bigger man, and for that reason I do not like it. I appreciate that the Government must have finance, and therefore there is

no point in my endeavouring to oppose the Bill, except to say that I do not like it. I certainly will not vote for it, but there is very little I can do to defeat it.

Rather than raise one matter which I have in mind during the Committee stage, I am wondering whether the Minister can give me this information in respect of the exemption provisions. He said that certain local authorities, junior sporting bodies, and youth organisations will be exempt. I am wondering whether the parents and citizens' associations are included in the bodies which are to be exempted.

The Hon. A. F. Griffith: This was a matter which Mr. Clive Griffiths raised last session when he was speaking about the junior sporting bodies and youth organisations.

The Hon. W. F. WILLESEE: Will the parents and citizens' associations be included in the bodies to be exempted? I would point out that essentially they are youth organisations, and the people associated with them are definitely working for youth.

THE HON. I. G. MEDCALF (Metropolitan) [3.23 p.m.]: The Minister gave a very fair and reasonable comment on the points of the Bill in his second reading speech. Having read the Bill in detail I think he highlighted most of the main features of it. I was, however, intrigued with one comment which he made, and which I beg leave to quote. The Minister said—

> The extension of stamp duty to all forms of commercial credit will protect State revenues in that they will not be so likely to suffer reduction as new forms of legal credit are developed. Correspondingly, the amendments now proposed provide a cheap and simple form of administration for the lending industry in that it may adopt the best form of credit suited to particular cases, without needing to have regard to tax considerations.

Of course, this is strictly correct. By adopting the general code which is contained in the Bill, and which relates to all types of lending transactions on personal property, the lending industry has a code before it—which code will cover every conceivable case that might be involved.

I refer to the use by the Minister of the words "a cheap and simple form of administration." Whilst I appreciate that the word "cheap" qualifies the word "administration," in terms of the actual revenue to the Treasury it amounts to $640,000; and this is not cheap in any language. But it would be cheap of me, if I were to suggest that there is no cause for the Treasury to receive this sum of money.

I think we are all very conscious of the problems which face the Treasurer, and these problems have been accentuated by the recent constitutional case which upset the Treasurer's anticipated collections of receipt duty. The difficulties of the Treasurer are manifold. Whilst we are all urging continually that the Government should spend more money on this, that, and every worthy cause that comes before us—and there are many worthy causes—we must appreciate the fact that the Treasurer has to find the money from somewhere. It is just a question of who pays, and I suppose that is what the argument boils down to in these cases. The Government has to make up its deficits, and in this financial year some unusual calls have been made on its resources, as we have become aware. If we make a call on the Government then somewhere along the line we have to pay.

If we do not accept this method we have to suggest an alternative way of raising the money. Therefore, it would be idle for me to comment adversely on the principle contained in this Bill for the raising of money from this particular quarter unless I was prepared to put forward an alternative suggestion as to where the Government could obtain the money. I am afraid, at this stage, I am unable to put forward any alternative suggestion.

I propose to confine my remarks to certain significant features in the Bill and, perhaps, to a few of the changes which the measure will bring about. The first point to which I would like to draw attention is contained in clause 4. This clause has been referred to by the Minister as the money for money provision. The clause contains an amendment to section 4 of the Stamp Act and indirectly to section 96, and it is a corollary to amending Act No. 54 of 1968, which was passed by this House. As a result of that amendment the inference has been drawn that a bill of exchange is not regarded as money. I think, just as an inference has been drawn that a bill of exchange is not regarded as money, one is equally able to draw the inference that a bill of exchange may be regarded as money.

When the Minister introduced the amending Bill, last year, at page 2294 of *Hansard* he had the following to say:—

> As we are aware, there are provisions in the Stamp Act requiring banks to pay receipt duty on money received from customers in exchange for travellers' cheques, bank cheques, foreign currency, and cash exchanges. It was not intended that these receipts should be liable to duty as these transactions only change the form in which the customer holds his funds.
>
> This measure accordingly contains a provision that a mere exchange of money will not be dutiable.

The Minister then went on to distinguish other forms of bills of exchange which bear stamp duty. I think it was clearly intended by the Minister that a bill of exchange, which was received in exchange

for the payment of money, was not to bear receipt duty. However, doubts have arisen and, quite rightly, because of the conflicting opinions the Treasurer has decided to play safe. That is the reason we now have a definition of "money" in the present Bill. That definition quite clearly includes a bill of exchange.

This situation arises in the following way, if I might give an example: Where a person wishes to purchase from a bank a certificate of deposit, which is a bill of exchange, he may pay, say, $10,000 and receive in exchange the certificate of deposit. That certificate of deposit constitutes the bill of exchange and there is no additional receipt stamp duty on that transaction. Likewise, when that bill of exchange is repaid, provided it otherwise comes within the provisions of the Act, no receipt duty is charged. Other examples are available, as illustrated by the reference to the Minister's second reading speech made last year. So much for that.

I would now like to refer to clause 5 which introduces a completely new subject. As was stated by the Minister, the re-enactment of section 9 of the Act will provide for an exchange of information, and an obligation for secrecy on the part of the staff of the department who are entrusted with information which comes to them in the course of their duties.

I would like to refer to clause 5 in detail. It states that the commissioner, or any person authorised in writing by him, may communicate to various other commissioners—and the equivalent heads of departments, and other authorised persons within the Commonwealth are detailed—any information respecting the affairs of any person disclosed or obtained under the provisions of the Act.

I think perhaps we might have gone a little wider of the mark than intended, and I refer to the phrase "any information respecting the affairs of any person." I think that should have been qualified, or limited, to refer to the affairs of any person in relation to revenue matters.

A great deal of information of a private or domestic nature, concerning people's affairs, does come into the possession of officers of the Stamp Office. We have some particularly good officers in the Stamp Office and I have never known of any breach of secrecy. I am quite sure those officers take their duties seriously, and that they would not divulge private and confidential matters. It is a fact that those officers are entitled to call for the production of any number of documents or balance sheets, or other information which is referred to in the documents which they are assessing for duty. In the course of the assessment the officers obviously become aware of all manner of confidential matters, just as Taxation Department officers become aware of such matters when income tax assessments are being worked out.

Regarding the Taxation Department, there is a well-known obligation of secrecy which has applied for many years. I believe that obligation is observed strictly. I do not know that the Act under which the Commonwealth Taxation Department works has an exactly similar provision to the one contained in this Bill. If it has, I would be glad if the Minister would inform us at a later stage. It may well be that Taxation Department officers can also disclose any information concerning the affairs of any person whose documents are before them for assessment.

I fully appreciate that the phrase I used is qualified by the words, "disclosed or obtained under the provisions of this Act." As I have said, many matters which are not necessarily of a purely revenue nature are disclosed or obtained under the provisions of the Act. At any rate, the Minister—perhaps at a later stage— might be good enough to tell the House how the situation compares with the Income Tax and Social Services Contribution Act, or perhaps, how it compares with other similar Acts.

I think that proposed new subsection (2), included in clause 5 of the Bill, has a slight error in drafting. I merely point this out. Paragraph (a) of the proposed new subsection lays down that the commissioner, or any other person authorised, shall not, while he is employed or after he ceases to be employed directly or indirectly, except in the performance of his duty, make a record of or divulge or communicate to any person any information acquired by him in the course of his being so employed, respecting the affairs of any other person. At the end of the proposed new subsection there is a penalty of $200. However, that penalty also applies to proposed new subsection (2) (b), which reads as follows:—

> (2) The Commissioner or any other person who is or has been employed in the administration of this Act, shall not while he is, or after he ceases to be, so employed—

I now go to paragraph (b)—

> (b) be required to produce in a court a document that is, in the course of his being so employed, in his custody . . .

Finally, there is a penalty of $200. It seems to me that, perhaps, the proposed new subsection has not been worded as was intended. The penalty refers to paragraph (a), and not to paragraph (b). I am quite sure it would not be the intention that the commissioner should commit

an offence if he were required to produce a document in court. The objectionable words are "be required."

The Hon. A. F. Griffith: I think you can be absolutely sure of that.

The Hon. I. G. MEDCALF: Hence I would think that some minor modification might be made to that provision at some stage, whether in the Committee stage of this debate or at some future time I leave to the Minister's discretion. I do not think it is terribly important, but I do think it would be better if the proposed subsection (2b) was not qualified with any penalty.

Clause 6 contains a new and interesting method of lodging objections and making appeals and, as the Minister has explained, this is most necessary and it has been done for the convenience of the public and for the convenience of taxpayers generally. The old provision for appeals was very abbreviated and not at all satisfactory. However, officers of the Stamp Office were extremely helpful and co-operated as much as possible in an endeavour to assist people who had lodged an objection by giving them time. I am sure the officers of the Stamp Office were often afflicted with thoughts that they were doing things that they really should not do when they allowed time. It is not provided for in the Act, but the provision in the Bill provides for 21 days in which to lodge an objection to the commissioner and then a further 21 days in which to appeal to the court. This puts the position beyond any doubt and I commend the Government for including this provision in the legislation.

The proposal does contain one further interesting change in that in the first part of this clause it provides that a person must first make payment of duty before he lodges any objection. This procedure is in line with other taxation Acts and is quite normal procedure. If a person wishes to lodge an objection he must first pay the duty. After that is done he can lodge an objection and I think that is quite reasonable. It has often puzzled me why such a provision was not in the Act and I think it is a perfectly reasonable one because the revenue must be protected. We must take that view as responsible legislators.

The new subsection (4) of section 32 puzzles me a little. This subsection refers to the commissioner's opinion being required. I am not aware that in regard to the previous subsections the commissioner's opinion is necessary.

The Hon. A. F. Griffith: You are now speaking of subsection (4) of new section 32 on page 4?

The Hon. I. G. MEDCALF: Yes. It reads as follows:—

> (4) For the purpose of an appeal to the Supreme Court under this section the appellant may, by notice in writing served on the Commissioner, require him to state and sign a case setting forth the question upon which his opinion was required and the assessment of duty made by him.

I do not know that his opinion is necessarily required in any matter. The previous portion of the clause refers to asking the commissioner to confirm or modify his assessment, not to give an opinion. It may be that on some future occasion that provision, too, can be tidied up.

I also commend clause 8, because I think it is particularly worth while. This is the clause to which the Minister referred in his second reading speech as the one which dealt with the North Kalgurli case. In effect it means that where in any *bona fide* case the commissioner is satisfied as to certain requirements—and, of course, he must be satisfied—he can allow what really amounts to a conveyance from the shareholders in one company to the shareholders in another company without penalty in respect of duty. He can allow this conveyance to enable a company to effect a reconstruction and become incorporated in Western Australia, as will happen in this particular case.

I support encouraging companies to become incorporated in Western Australia. Long before the Hamersley case became famous I wished the Government had made one of its terms with the Hamersley company that it should be incorporated in Western Australia and that it should have its headquarters here. However, I do not blame the Government because it had to make the best deal possible with the Hamersley company. It is a pity that the company was not incorporated in Western Australia and this becomes all the more evident when one sees the fine headquarters of the company at 95 Collins Street, Melbourne, and one realises that that setup is not in Western Australia from which State the wealth of the company is drawn.

Sitting suspended from 3.45 to 4.6 p.m.

The Hon. I. G. MEDCALF: I would now like to refer to clause 10 of the Bill which deals with credit and rental business. This will come under a new part of the Act—part IVB. I would draw the attention of members to the definition of "credit arrangement" which says in effect that it means an arrangement for the provision of credit in relation to the sale of goods or services where any amount in excess of the cash price is or may be charged pursuant to the arrangement; but does not include arrangements where the interest is less than 9 per cent. This means that credit arrangements include arrangements where credit is provided but the interest rate is grater than 9 per cent. That is the position covered by this definition, which means that we immediately cut out the various credit arrangements where the interest rate is less than 9 per cent. This would include a great number of regular accounts.

It would, for instance, include stock company accounts and regular arrangements where finance or credit is made available to farmers, to business people, or to the public, and where either there is no interest rate or the interest rate is less than 9 per cent.

For example, in the case of stock company accounts the interest rate is less than 9 per cent. and, in some cases, there is no interest rate at all. These accounts are all excluded from the provisions of the Bill and no-one should think that they come in any way under this part of the measure.

"Credit business" is defined as the business of making loans or entering into credit arrangements or discount transactions, and this has certain exclusions, to which the Minister referred, which include pawn brokers and some other cases. It is interesting to see the definition of "interest" which appears on pages 8 and 9 of the Bill. Interest includes practically everything other than the principal amount of the loan. In other words, interest includes all the charges and all the costs apart from principal, excluding only costs paid to a legal practitioner and to a valuator and stamp duties and fees. All other charges are included in the term "interest."

This is quite reasonable because it has been the case that people try to avoid a high rate of interest by adding other charges which are called by various names but which, in effect, are really only interest.

The Hon. W. F. Willesee: Such as service fees by banks.

The Hon. I. G. MEDCALF: There are a hundred and one things which are called by other names but which in effect are really only interest. They will be treated now as interest for the purpose of this Bill and this is quite proper. "Loan" includes an advance of money or a forbearance to require payment of money or any transaction which in substance is loan of money but does not include any case where the rate of interest is less than 9 per cent.

I would like to draw attention to the rather verbose definition of "loan" which appears in this Bill. This could, perhaps, have been far more simply expressed. A loan includes various things, but does not include a loan at an annual rate not exceeding 9 per cent. There are various other phrases in which the whole of the definition is repeated. I would have thought this could be overcome by saying a loan includes such transaction where the interest rate exceeds 9 per cent. per annum. That is all it amounts to.

The Hon. A. F. Griffith: It is just the method of drafting used.

The Hon. I. G. MEDCALF: That is so. I am not attacking the principle of it. On page 10 in subsection (2) of proposed new section 112I there is reference to the calculation of interest in accordance with the schedule to the Moneylenders' Act, 1912. This is a fairly well-known method of calculating interest based on a formula set out in the schedule to the Moneylenders' Act, and textbooks have been written on how his calculation should be made.

There is a divergence of opinion as to the method of making this calculation and I only hope the Commissioner of Stamps will not have trouble when he comes to make the calculation. I again draw attention to subsection (4) of proposed new section 112I, but this is probably a minor point. It is again a matter of drafting but I see in this proposed new subsection the use of the triple negative. It states in effect this part does not apply—the first negative—to certain transactions on overdraft accounts other than—and that is the second negative—through a loan that is not—the third negative—an overdraft on current account.

We all know the effect of a single negative and we know a double negative is like two minus signs in mathematics, but I do not know how a triple negative would end up—it would probably be a minus, I should think.

The Hon. L. A. Logan: It would be three minuses.

The Hon. I. G. MEDCALF: I feel it would be better to simplify these things. We should try to make our laws more intelligible for the people. In my view all that provision means is that for the purpose of this part it applies to loans which are not on current account and/or discounts which are in excess of 9 per cent. This simplification is something at which we should aim.

I am not satisfied that we should merely copy legislation from other States and feel we are doing the right thing. We should try to improve on such legislation. I do not say that we have not tried to do so in this case, but I do feel we should improve on what appears to be bad drafting from some other quarter; however I may be corrected if I have overlooked something.

Rental business is defined on page 10 as the business of granting to any person rights to use any goods whether pursuant to a lease, bailment, or license or otherwise. This includes a great number of transactions which previously were not brought within the purview of the Stamp Act and the realm of rental business now comes within it. The business of granting any person the right to use any goods whether pursuant to a lease, bailment, or license or otherwise.

Clause 11 states that a person shall not carry on any credit business or any rental business unless he is a registered person. It is, I think, very similar to the provision which applies in the Moneylenders' Act concerning a person becoming registered as a moneylender.

Clause 12 prescribes the statements which are to be lodged by a registered person. He has to lodge periodically some statements under this Act setting out the various accounts of transactions in which he engages, and which I have already described. I must confess I am not quite clear concerning exactly how this will work out in practice. I am not quite certain how frequently these statements must be supplied and whether they do, in fact, include all the transactions which take place, or only a certain number of them at periodical times. So I will say nothing more on that because I am unable to throw any further light on it myself; and no doubt in practice it will work out.

The Hon. W. F. Willesee: In paragraph (i) it clarifies other than short-term loans.

The Hon. I. G. MEDCALF: In the same clause, at the bottom of page 14 and the top of page 15, one of the items which is to be included in the statements is the total amount paid as duty pursuant to section 16, under the heading "Mortgage (legal or equitable), Bond, Debenture, Covenant" and so on. I was a little intrigued by this because if these transactions come under the new provisions of the Act why is anyone paying duty on them under another section of the Act?

Whether this is intended simply to cover the cases in which duty has already been paid before the new Act comes into force, or whether it is a continuing state of affairs which will carry on, I do not know; but it intrigues me to think that someone might be paying mortgage duty on documents and then subsequently he must include it in his statements under these other provisions under credit or rental business, or some other section.

The Hon. A. F. Griffith: I am not sure myself, but if it was a mortgage duty, then surely it would not be assessable under this Act unless the amount was over 9 per cent.

The Hon. I. G. MEDCALF: Apparently it is assessable under this Act because clause 12 requires a person to state the total amount paid as mortgage duty and presumably he gets a reduction for that amount in his assessment. However, as I have said, I am not sure whether that refers purely to the situation where a person has already paid mortgage on documents and then they come in again under this section, or whether it is a continual state of affairs and a person may be paying (a) on mortgages, and (b) under credit arrangements. Perhaps it is simply to cover the transitional stage.

The Hon. W. F. Willesee: You would not pay twice.

The Hon. I. G. MEDCALF: One of the problems about that is that mortgage duty is paid by the borrower or mortgagor, whereas under this Bill the duty is payable by the other party so that there are difficulties there from a practical point of view.

I am pleased to see that housing loans have been exempted; and this was referred to by the Minister in his second reading speech. I will not deal with short-term loans because I do not think I can really effectively describe exactly what they are; but I hope the Minister will give some further clarification of the meaning of the definition of "short term loan," with particular reference to the difference between a loan which is on an account current and one which is on a special account current. I must confess I have not struck these particular items before in the Stamp Act and I cannot quite follow at the moment how they work. If he has time, perhaps the Minister might be good enough to give some clarification.

I would like now to refer to clause 18, on page 27, which is in part IVC which is the next big section, and covers instalment-purchase agreements. This is another type of "animal," we might say, different altogether from the last type with which we were dealing. This is quite different from rental agreements and credit arrangements.

We are now dealing with three new kinds of things which all come under the definition of "instalment purchase agreement." The first one is a credit purchase agreement which is an agreement for the purchase of goods under which the purchase price is paid or is payable by not less than six instalments over a period of not less than six months.

I note the use of the phrase "is paid" as well as "is payable," and I wonder why the former phrase has been used. We have a credit-purchase agreement under which we agree to buy some goods and under the agreement the goods may be paid for over a period of not less than six months. I would have thought it sufficient to say "where the purchase price is payable over a period of six months"; but in addition to that we have "is paid" over a period of not less than six months.

What will happen if a person has an agreement for the purchase of goods for cash, and he in fact pays over six months? In fact the vendor may allow him six months to pay although there is nothing specific in the agreement. Does this mean that if in fact a person is allowed terms of six months or more to pay, this becomes a credit-purchase agreement? Usually the purchaser is grateful if he is allowed time to pay, and the vendor is being considerate if he gives the purchaser time to pay, particularly if no interest need be paid.

I wonder whether that phrase "is paid" has been put in for good reason or whether it would not be sufficient to leave it as "is payable."

Another requirement of this proposed new subsection is that the goods are delivered to the purchaser.

As I read this, no interest need be payable under this part. It is not necessary to have an agreement for the payment of interest. We are not dealing with the 9 per cent. cases, unless I have misread these provisions.

A definition of "hire-purchase agreement" appears on page 28, and it reads—

> "hire-purchase agreement" means an agreement for the bailment of goods under which—
>
> (a) the bailee . . .

The bailee is the person who is in possession of the goods. To continue—

> . . . may buy the goods;
>
> (b) the property in the goods may pass to the bailee; or
>
> (c) any provision for credit of payments is to be made in the event of a subsequent purchase of the goods,
>
> and where, by virtue of two or more agreements (none of which itself constitutes a hire-purchase agreement) there is such a bailment of goods, the agreements shall be deemed to be and treated as a single agreement;

In other words, if there is a series of letters or papers, or a memorandum and a letter, these are now to be treated as being one agreement for the purposes of a hire-purchase agreement; and that, of course, follows the legal position in which any number of documents may constitute a contract. It is quite a reasonable provision so far as the protection of the revenue is concerned.

I draw attention to the definition of "purchaser" which appears on page 29, and reads as follows:—

> "purchaser" means the person to whom goods are bailed or sold or agreed to be bailed or sold under an instalment purchase agreement;

In other words, there need not be an actual agreement to sell. A "purchaser" means a person to whom the goods are in fact handed over or delivered under an agreement for his having possession of the goods or, we might say, who is renting the goods. It does not necessarily mean that there has to be an option of purchase, and a rental agreement, which is defined on page 29, brings in some of the agreements which have been adopted over the last two or three years, to overcome the strict requirements which relate to hire-purchase agreements.

By virtue of the Hire-Purchase Act, hire-purchase agreements have some very strict requirements, and to overcome this, and perhaps to overcome the stamp duty requirements on hire-purchase agreements, various other agreements have been entered into—rental agreements, chiefly—and this definition brings in all those other agreements, so now they are all brought within the Act and treated on exactly the same basis as hire-purchase agreements.

"Instalment purchase agreement" means, therefore, firstly, credit purchase agreements; secondly, hire-purchase agreements; and, thirdly, rental agreements. So all those are now carrying duty at the rate of 1½ per cent.

There are some exclusions, and they are referred to in the second schedule at the end of the Bill. The exclusions are when the purchase price does not exceed $20, when land is included, and when there is a sale of a business—to summarise them briefly.

Clause 19 is one which I think needs a little careful consideration. It is on page 30 and states that stamp duty shall be levied on the instalment purchase agreements which I have mentioned, consisting of three different kinds of transactions. Under proposed new subsection (2), the stamp duty shall be denoted by impressed stamps or adhesive stamps, and shall be paid by the vendor. It is payable by the purchaser under proposed new subsection (3), if the vendor, for some reason or other, is not available to pay the duty; but the clause says that the duty shall be paid by the vendor. He is bound to pay it.

Under clause 21 the vendor, under a hire-purchase agreement, is not permitted to add stamp duty to the amount payable by the purchaser. This is the same as the old provision. The vendor must pay the stamp duty and cannot add it on. The purchaser cannot be forced to pay it. Under this clause there is no departure from the former law, but by implication, in the case of rental agreements, or credit purchase agreements, the vendor can presumably allow the stamp duty to be paid by the purchaser because nothing to the contrary is specified.

To go back to clause 19, I said that the stamp duty shall be charged on instalment-purchase agreements and shall be denoted by an impressed stamp or adhesive stamps. This implies quite clearly that stamp duty is to be impressed or denoted on the document itself.

However, clause 22 introduces a new departure altogether. This says that an original instrument shall be prepared which shall be the agreement as in writing. If there is no writing the clause says a memorandum shall be prepared under this section. As I see it, the memorandum does not have to be signed. If there is an agreement in writing, then

there will be a memorandum which will be the agreement. If there is no agreement in writing, then a memorandum must be produced. In other words, this makes it necessary to prepare a memorandum, which will be stamped, in relation to a verbal agreement. A memorandum, in relation to a verbal agreement, is a complete departure from previous practice. Previously, verbal agreements have not been stampable. There has always had to be an instrument in writing. The passage of this measure will mean that stamp duty will now be payable on verbal agreements as distinct from written agreements.

To try to interpret this in a practical way, one may make a verbal agreement with a member of one's own family for the sale of a motorcar, tractor, or item of plant. Perhaps the verbal agreement may be to the effect that monthly instalments will be paid over a period of six months or more. However, if this is done it will now be necessary to prepare a memorandum which will be stampable. This is what the amendment means. Even though no interest may be charged, it becomes a credit-purchase agreement and a memorandum which is stampable is required. If the memorandum is not prepared in accordance with clause 22, the person concerned is liable for a penalty of $500. As I understand the position, this would include domestic sales, but the Minister may be able to correct me on this point. As I read the legislation at the moment, domestic sales would be included under the requirement to prepare a memorandum.

Perhaps the result of this may be that no terms will be given beyond five months in the case of arrangements of this sort where no interest is charged. As I say, perhaps the position might be that no terms will be given beyond five months, nor will people be allowed more than five months in practice in which to pay an account by instalments; because, otherwise, the account might come within the provisions of a credit-purchase agreement under clause 18.

Those are my observations on the Bill. I do not say that they are terribly significant, because I really have not had the opportunity to give the measure the amount of study it requires. I consider it is a most important Bill and it will do a great deal for revenue. The passing of the legislation will bring in many transactions which previously have escaped duty. To take a responsible view, I think it is a sensible measure. I regret that it is necessary to bring in more areas for taxation, but as I indicated—and as the Minister indicated—it is unfortunately necessary. I do not criticise the legislation in principle, because I can suggest no alternative. I therefore put my observations forward for what they are worth and I hope the Minister will give me an answer on some of the points I have raised.

THE HON. CLIVE GRIFFITHS (South-East Metropolitan) [4.35 p.m.]: I will take only one or two minutes to speak to this Bill. I simply wish to say that I am pleased to see the inclusion of clause 7 in a Bill which, as previous speakers have said, is another taxing measure. Clause 7 provides for a concession to be given rather than for an additional tax to be imposed.

I simply wish to place on record my pleasure at seeing this provision included in the Bill. It has been included as a result of a motion which I moved during the last session of Parliament. The Minister gave an undertaking, on behalf of the Premier, that at an appropriate time the necessary step would be taken to exempt certain organisations, which were previously not exempted, from paying stamp duty on cheques.

I can assure the Minister that the organisations to which I have referred sincerely appreciate the move. As I have stated previously in this Chamber, individually it does not amount to a great deal of money. However, it is an imposition from which certain organisations had previously enjoyed exemption. It was felt, too, that people who were working in a voluntary capacity for the benefit of young people in the community were being taxed for their efforts. This provision will, of course, relieve certain organisations of this burden.

When Mr. Willesee was speaking he mentioned parents and citizens' associations. I certainly hope that clause 7 does include these associations, but I was under the impression from talks I have had with people in the Stamp Office that parents and citizens' associations were already exempt under existing provisions in the legislation which cover charitable and welfare organisations, or something of that nature. My impression was, as I have said, that these associations were already exempt and that sporting bodies were the organisations which had lost the exemption at the beginning of this year.

The Hon. A. F. Griffith: The honourable member is basically correct.

The Hon. CLIVE GRIFFITHS: I said at the time that a great number of youth organisations qualified under existing provisions but, because of some difficulty associated with the interpretation of a community welfare association, some had missed out. I believe the amendment in clause 7 of the Bill adequately covers the sorts of organisations which I had in mind when I was moving the motion. I content myself with thanking the Minister for

the fact that the Premier has seen fit to insert this provision to grant exemption to these people.

THE HON. F. J. S. WISE (North) [4.39 p.m.]: It is almost with some reluctance that one enters into a debate on a stamp Bill. In the past, we have had acrimonious debates on Bills of this kind which, indeed, were not necessarily imposing duty on the subject matter which is covered by this Bill.

I think members in this House are indebted to Mr. Medcalf for his analysis of the measure. By his analysis he gave us details, not only of subjects which perhaps one might regard as not improper subjects for the imposition of stamp duty, but also of the fields which will be entered by the passage of this Bill and which have been overlooked in the past. I think the word "overlooked" is the correct one.

From year to year—since the advent of this Government, in fact—more often than not Bills dealing with stamp duty have been introduced with a plea that, because of certain insistences on the part of the Grants Commission, it has been found necessary to impose a tax of this kind. Because of certain happenings in this State, fortunately we are now not responsible to the Grants Commission nor does the commission guide us as a State or guide the Government as a Government as to what it may do even in respect of intimate matters which should have remained wholly and solely the responsibility of the State to determine.

The Hon. A. F. Griffith: There are some strings tied to it.

The Hon. F. J. S. WISE: I propose to deal with some of those strings but not on this Bill because the Deputy President would not permit me under this measure to discuss, in a broad sense, Commonwealth-State financial relationships. However, there is an affinity.

The Hon. A. F. Griffith: There is indeed.

The Hon. F. J. S. WISE: I recall very clearly—as other members in the Chamber will also recall—words which will become famous one day; they were said by our Premier, The Hon. Sir David Brand. Just prior to taking office in 1959, he said—

> Taxes and charges have been pressed to breaking point. The prospect of reducing the impact of taxes and charges through economy and efficiency seems foreign to the whole Government's thinking.

What has happened since that time is, of course, that year after year the Government has introduced different sorts of taxes which have been collected in every possible way. I once said that even the child's ice cream and his Christmas stocking would not be exempt under the stamp duty legislation. I think I said that when the Act was amended in 1966.

The Hon. A. F. Griffith: The honourable member even told me I felt gleeful at introducing it.

The Hon. F. J. S. WISE: I think up to that stage I had described the Minister's demeanour, when introducing Bills of this kind, as sadistic and that he delighted in introducing measures which affect so many people. However I do not think this is right.

The Hon. A. F. Griffith: The honourable member was patently incorrect.

The Hon. F. J. S. WISE: As I say, I do not think this is right.

The Hon. A. F. Griffith: I am sure it is not.

The Hon. F. J. S. WISE: I was not present in the Chamber the other evening, but just before the Minister introduced the Bill I noticed that he looked more worried than usual and doubtless this was because he had to introduce yet another Bill dealing with stamp duty.

It is only beating the air to bring forward new points of criticism on an amending Bill of this kind. The Chamber cannot amend the Bill and it will not defeat it. Indeed, the Government, through the Minister, gave very little reason for the introduction of the measure. The need for the legislation is mentioned only in the second-last paragraph of the Minister's speech.

One is given to understand, however, that the Government is in need of further revenue. There cannot be very many more spheres or fields to conquer so far as the invasion of stamp duty in Western Australia is concerned. Certainly there are none where the humbler person is concerned.

It is interesting to note the importance of stamp duty to the State. It is probably the biggest money spinner of all the taxes under which revenue is collected by the Treasurer.

Indeed it now exceeds the remarkable revenue which, fortuitously is coming to the State through the department which the Minister in charge of this House administers—the Mines Department. But let us look at these figures. Stamp duty has grown from $8,368,000 in 1964-65 to an anticipated $20,000,000 this year. Land tax has increased from $2,891,000 to $4,275,000. No matter which avenue of taxation one analyses in the figures presented in this year's Budget, stamp duty in its progressive increase exceeds them all. We are to receive from mining this year a sum of $12,160,000; but from stamp duty alone $20,000,000 is anticipated. This, of course, will bring us into the realm of perhaps the second highest, but maybe the highest, of all the States in regard to stamp duty paid *per capita*.

For the last complete tax year the amount paid *per capita* in Western Australia—and my source is the State Public

Accounts from the Commonwealth Statistician—was $13.56. The average for Australia is $10.84. I repeat: When this Bill is passed there will not be many more fields to conquer; we are exhausting the opportunities which, perhaps, the Grants Commission and the Federal Treasurer initially inspired the States to explore. When the Commonwealth deprived the States of the opportunity to obtain sufficient revenue year after year and decade after decade—particularly since the war years—the Grants Commission recommended that the States impose taxation on every possible domestic avenue within the States.

I once said in this Chamber that I would have preferred the States, with the inquisitorial demands of the Grants Commission being so severe, to object and face the consequences. I remember the present Minister for Mines saying that no State could afford to buck the Grants Commission, but fortunately—providentially, or fortuitously—this State has emerged from the clutches—and I use that word deliberately—of the Grants Commission. By its own intention, advice, and assistance, the Grants Commission reached the stage where it seriously dictated State Government policy and ability within its own domestic spheres.

I propose to have much more to say on Commonwealth-State relations when one of the Appropriation Bills reaches us; so I will not run the risk, Mr. President, of your ruling me out of order in such a discussion on this Bill. However, I stress the importance of Commonwealth-State relations because of the manner in which the Commonwealth has, not merely inclined but, forced the States into certain channels. My main objection to this legislation is not in the principle of exerting every possible exactness into where stamp duty may be levied, but that it is perhaps missing fields from which taxation could be more readily obtained; that is, from the people who can afford to pay it.

Perhaps I will be criticised for suggesting more fields of taxation, but I think further avenues are still available. One has only to look at a comparison between the States of certain avenues—some of which are complained of in this State—to find that we are not leading the States in all cases in the taxation field. Unfortunately, in some fields which are easy to get at, such as the motorists—the people who are slugged by the Commonwealth to an almost impossible extent—the State has also been forced to enter the field and, in some instances, almost double the collections which are made. Perhaps this harks back to what the Commonwealth refused to do—and still refuses to do—that is, to give to the States a greater recognition of their needs, particularly on a proportionate basis dating from what happened when the States imposed their own taxation.

Since the advent of uniform taxation, I think the States have been deliberately pushed into the position of going into a decline to enable the Commonwealth to exert a greater influence through its Treasury. I will have much more to say on that tomorrow.

I do not wish to record a silent vote; voting against this Bill will be of no avail. We cannot amend it and it must be passed; but I regret that other avenues have been discovered to tax the humbler people out of proportion to those who are better able to pay taxes.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.53 p.m.]: I feel sure that all Premiers and Treasurers of State Governments from time to time will join in protest in relation to the sort of treatment which the Commonwealth Government hands out to the States. There is no doubt about it; every time the Loan Council meets the newspapers throughout the Commonwealth of Australia bear comments—some stronger than others—relating to the proceedings of the council.

It is true, as Mr. Wise has said, that I have been accused of having a sadistic and almost gleeful approach to introducing taxation measures. Of course, that is just as untrue now as it was when it was said. Nobody likes to increase taxation on the people, but the cold hard fact is that this State, the same as every other State, needs to get income for the purposes of keeping its house in order. Mr. Wise mentioned figures in relation to stamp duty revenue, and he spoke of the $12,000,000 which the Mines Department will collect this year in royalties. My colleague (the Minister for Health) murmured to me at the time that he could spend it all, and no doubt he could spend it all in providing hospitals for the people of Western Australia. I am sure that the Minister for Education could spend all that money to provide schools, and I am equally sure that the Minister for Housing could spend it to provide houses; it could be spent in many ways to supply services for the people.

On this point, I would like to say that the Government is not in the slightest bit happy—as a matter of fact it is most unhappy—with the decision of the High Court in relation to the Hamersley Iron Pty. Ltd. tax case. The Government is equally unhappy at the refusal of the High Court to allow an appeal, but what can one do about a situation like that? We are pursuing the possibilities of what can be done about the matter. It was a keen disappointment to the State to find that Hamersley Iron was not obliged to pay

the tax. It is true, of course, that certain people can find ways and means to get out of paying taxation.

I have forgotten the correct legal expression; however I have said before that one is allowed to avoid taxation but one is not allowed to evade it, which is a totally different approach. Part of this Bill deals with people who have been evading or avoiding tax—whichever way one likes to put it—

The Hon. I. G. Medcalf: Avoiding.

The Hon. A. F. GRIFFITH: —by changing from one form of agreement to another, with stamp duty not being paid under the new agreement. Portion of this Bill tidies up that state of affairs, and we find that more and more people are turning from using what is termed "hire-purchase agreement" and are using other forms of credit agreements which previously have not attracted stamp duty.

I would like to cover, to the best of my ability at least, some of the points raised. The main point raised by Mr. Willesee was the question of credit unions being obliged to pay stamp duty under this Bill. In the course of his remarks he admitted that if the duty was not over 9 per cent. they would not have to pay. However the simple fact remains that credit unions charge—I do not know whether all of them do, but certainly some of them—1 per cent. per month on loans. I do not criticise those credit unions; they serve a useful purpose in the community. However, if one borrows $100 for one purpose or another one is likely to be charged 1 per cent. per month in interest. Plenty of organisations charge this rate on credit transactions, and the Government does not see why they should not participate in this tax.

It is indeed a very easy matter to say, "Well, for one purpose or another, one section of the community should be exempted from this tax or that tax or some other tax"; but you will realise, Mr. President, if that happens, then the tax which has to be gathered falls more heavily upon the remainder of the community. So it is quite equitable to say that this tax should be paid by those people who participate in this field of earning money. However, I repeat: The credit unions serve an excellent purpose in the community, but the Government cannot see why they should not pay this tax.

Mr. Willesee suggested that the Bill might defeat itself if credit unions reduced their rate of interest to 9 per cent. If they did that then of course no duty would be payable. Mr. Willesee also asked whether parents and citizens' associations are exempt from the tax. I understand the situation is that they are not actually exempted. They are already exempted from stamp duty on receipts, and they obtain from the Treasurer exemptions on mortgages and conveyances under section 75 of the Stamp Act. So, as Mr. Clive Griffiths said, the parents and citizens' associations are exempted in many respects and in those circumstances no further exemptions are necessary, because they do not pay interest at the present time.

Mr. Medcalf raised a number of questions. I cannot attempt to deal with the drafting questions to which he referred, because with all due respect to the honourable member, as he himself says, this is purely a matter of drafting, and so far as I am concerned, if the objective is reached, the drafting is clear, and it gives effect to the intention of the Bill, I think we can leave it at that. I merely wish to add that if two people were asked to write a letter on the same subject each would express himself in a different way.

The first point raised by Mr. Medcalf was with reference to the expression I used during my speech on the second reading. I used the words "cheaper means of effecting lodgment." The words "cheaper means" were used in the sense that it was a cheap means of submitting returns instead of affixing the stamps and making arrangements to attend the Stamp Office for calculations, and this sort of thing. It is an easier, and thereby a cheaper, means to arrange payment by returns, instead of purchasing, affixing, and arranging to attend the Stamp Office for cancellation, etc. Payment by returns means the completion of the return, forwarding it on to the Stamp Office, and receiving back a receipt. This is surely an easier way of doing business than the other way I mentioned of obtaining the stamps and affixing them.

Another point raised by Mr. Medcalf was in connection with disclosure referred to in clause 5 which appears on page 2 of the Bill. The Commonwealth Taxation Department may disclose information to State authorities, and of course this has the same obligation in regard to secrecy in that it can be used only for official purposes. This is also the case in the stamp duties legislation in New South Wales and Victoria. This applies to the production in court of a document required for any purpose other than that required by the Act. This provision is set out in paragraph (b) of proposed new section 9(2), where it refers to exemptions.

Mr. Medcalf also referred to clause 6 which seeks to repeal section 32 and to re-enact it. He specifically referred to proposed new subsection (4). When Mr. Medcalf raised this question I think I interjected to ask whether the commissioner could be fined if he failed to produce a document or something of that nature. It has always been the right of the taxpayer to require the commissioner to state a case for appeal before the Supreme

Court, and it is merely repeated in this clause. This particular statement does not really have reference to the production of the document, but I think it goes like this: An assessment is made. The taxpayer appeals to the commissioner for a reassessment and, having studied it, the commissioner says, "No, Mr. So-and-so, I do not intend to change my assessment," and after this decision is given, the taxpayer is given 21 days in which to appeal to the Supreme Court.

It is within that period of time that the commissioner can be called upon to state a case to the court and then the parties go before a judge who deliberates upon the appeal before the court. So the commissioner can be called up to state a case.

In connection with mortgages, approved loans on credit arrangements will be secured mortgages on chattels, bonds, etc. which are already subject to duty under the Act, and this duty is to be deducted from the 1½ per cent. rate imposed under the Act.

The other point that was questioned was explained when I was making my second reading speech, I think. This related to short-term loans. There are loans which are of less than 12 months' duration. These are taxed at the rate of ½th per cent. per month. Accounts current are treated as short-term loans and special accounts current are treated as other than short-term loans.

The Hon. I. G. Medcalf: What is a special account current?

The Hon. A. F. GRIFFITH: Accounts current and special accounts current are fluctuating accounts of advances and repayments on short-term or long-term loans. Mr. Medcalf mentioned a number of matters which I cannot recall. However, he proclaimed many of the clauses as being very good ones and those he would pass without comment. I repeat, that many of his comments related to the drafting of the Bill. Perhaps when the Bill goes into Committee, with the assistance of the State Commissioner of Taxation who is present in the Chamber, I might be able to give further information on the points members may raise.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. F. R. H. Lavery) in the Chair; The Hon. A. F. Griffith (Minister for Mines) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 9 repealed and re-enacted—

The Hon. I. G. MEDCALF: I refer to paragraph (b) of proposed new section 9(2) in this clause. I accept the Minister's explanation on the disclosure of information regarding the affairs of any person. In paragraph (b) it states that the commissioner shall not be required to produce any document, and it then provides that the penalty shall be $200. Paragraph (b) commences at line 15 on page 3. The point I raise is that that paragraph means that if the commissioner is required to produce a document, he pays a penalty of $200.

The Hon. A. F. GRIFFITH: This is the point I endeavoured to make before, but apparently I was not very successful. The relevant words in this paragraph are contained in the last three lines, which read—

> except where it is necessary to do so for the purpose of carrying into effect the provisions of this Act.

Clause put and passed.

Clauses 6 to 11 put and passed.

Clause 12: Section 112K added—

The Hon. I. G. MEDCALF: Would the Minister clarify whether subparagraph (xii), at the bottom of page 14, refers to the total amount paid as duty pursuant to section 16? Will the mortgage duty referred to still have to be paid on agreements which will otherwise have to be stamped under the new provisions included in the Bill? I will amplify that by asking another question: Does it simply refer to documents which have already been stamped as a mortgage before the Bill comes into force on the 1st January?

The Hon. A. F. GRIFFITH: I am informed that this will apply only where it is a separate security, and that amount of duty, if a mortgage is also involved, is deducted from the duty payable on a mortgage.

The Hon. I. G. MEDCALF: What about the position where one person pays a duty on the mortgage, and another pays it on the loan? Is it not a fact that the duty is paid by two different persons? In other words, the mortgagor or the operator would be paying the duty on the mortgage. Why should the document be stamped twice? Is it not liable only to one payment of duty; that is, the higher rate? It is only one transaction, surely.

The Hon. A. F. GRIFFITH: I am told, in the first place, it does not matter. The point raised by Mr. Medcalf is whether the mortgagor or the mortgagee pays. If there is one document there is no question about it, but if there is more than one document the second mortgage is taxable, and then it is deductible from the rate payable on the mortgage.

The Hon. I. G. MEDCALF: Do I understand, then, if there is only one document only one is liable for duty?

The Hon. A. F. Griffith: Yes.

Clause put and passed.

Clauses 13 to 17 put and passed.

Clause 18: Part IVC and section 112Q added—

The Hon. N. E. BAXTER: I refer to the wording of the clause which states—

> "credit purchase agreement" means an agreement for the purchase of goods under which . . .

Some womenfolk arrange for accounts with retail companies under which they are able to make purchases from time to time. These accounts are not settled within any definite period. In this legislation such accounts which are under $200 will be exempt, but accounts of over $200 will be subject to duty.

These are mostly verbal agreements, and the procedure is for the retailer to issue the client with a card, on presentation of which the client is able to make purchases. These accounts are not finalised at any stage, and the clients in making purchases from time to time continue the accounts. A certain rate is charged for the amount outstanding in those accounts. Can the Minister tell us whether these accounts will be subject to duty?

The Hon. A. F. GRIFFITH: They are not dutiable under the provision in this clause. The honourable member is referring to what is commonly known as a budget account. Legally this is regarded as a consumer credit arrangement, which is covered by clause 10. An account of this type, which is under $200, is not dutiable, but an account of over $200 is dutiable if interest is charged at a rate in excess of 9 per cent.

The Hon. I. G. MEDCALF: I refer to the words "is paid" in line 31 on page 27. I would ask the Minister why they are included.

The Hon. A. F. GRIFFITH: I cannot say, except that this is the wording which has been used by the Parliamentary Draftsman. I understand that this provision is taken from other Acts, and is similar in expression. If the words "is paid" are deleted and the reference is only to the purchase price that is payable, there could be a plea that because the money is not paid the duty cannot be imposed. It strikes me that where money is paid or where money is to be paid, the transactions should be covered by the provision.

The Hon. F. J. S. Wise: Can duty be levied before the purchase price is paid?

The Hon. A. F. GRIFFITH: That depends on the sense in which the word "levied" is used. I do not think it will mean a great deal whether or not the words "is paid" are retained.

The Hon. I. G. MEDCALF: I do not think those two words mean a great deal, and they do not add anything to the provision. This clause defines a credit purchase agreement. If the words "is paid" are included then how can there be an agreement whereby the purchase price is paid by instalments which are to be paid over a period of not less than six months? The wording of this provision appears to be clumsy, and I do not think the inclusion of the words "is paid" will add anything to it.

The Hon. A. F. GRIFFITH: We can ask the Parliamentary Draftsman to look into this matter. I do not think the inclusion of the two words will affect the intention of the provision.

Clause put and passed.

Clauses 19 and 20 put and passed.

Clause 21: Section 112T added—

The Hon. N. E. BAXTER: Although the wording is very clear, I do not understand the meaning of the provision. It states—

> (1) A vendor or other person shall not add the amount of any stamp duty or any part thereof payable under this Part by the vendor on or with respect to an instalment purchase agreement that is a hire-purchase agreement to any amount payable by the purchaser, whether under the hire-purchase agreement or otherwise, or otherwise demand or recover or seek to recover any such amount from the purchaser.

Even though a vendor might not add the stamp duty to the amount payable by the purchaser, he might by devious means include the duty in the price of the goods before they are placed on the market. This provision states that the vendor may not charge the duty against the purchaser, but it does not say the vendor shall not include the duty in the price of the goods. I would like the Minister to comment on this provision.

The Hon. A. F. GRIFFITH: When section 112 was inserted in the Act the point which Mr. Baxter has raised was brought up on that occasion. It was said that the vendor of the goods would pass on the extra cost to the purchaser. I am afraid that no law can be devised to prevent people from employing the devious means mentioned by Mr. Baxter by including the duty in the price of the goods; but if a vendor did that he would be breaking the law.

The provision in this clause is intended to prevent a vendor from passing on the amount of the stamp duty to the purchaser. As a similar provision has been included in the hire-purchase legislation we thought it should be included here.

Clause put and passed.

Clause 22: Section 112U added—

The Hon. I. G. MEDCALF: Proposed section 112U states—

> (1) The vendor of any goods under an instalment purchase agreement, whether he is an approved vendor or

not, shall, where the purchase price of the goods exceeds twenty dollars, at or before the time of the making of the agreement, prepare an original instrument in relation to the agreement in accordance with this section.

(2) The original instrument—

(a) if the instalment purchase agreement is in writing, shall be the agreement as in writing; and

(b) in any other case shall be a memorandum in writing of the agreement prepared for the purposes of this section.

I would ask the Minister to tell us whether it is intended that the original instrument or signed agreement will, in fact, be the document which is stamped, and that if there is no signed agreement then a memorandum will be prepared in accordance with the verbal arrangements.

The Hon. A. F. GRIFFITH: The answer to both queries is in the affirmative. In relation to the second query the answer is "yes" provided the person is not an approved vendor.

Clause put and passed.

Clauses 23 to 26 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Mines), and passed.

WILLS BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. A. F. Griffith (Minister for Justice), and read a first time.

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.33 p.m.]: I move—

That the Bill be now read a second time.

This is one of three Bills which, subject to the approval of the House, I propose to introduce. The introduction of the Bills has been influenced, slightly, by a request from Mr. Willesee. Mr. Willesee questioned me and wanted to know whether I had any Bills which could be introduced now and left until March, 1970, when we meet again.

As far as the present Bill is concerned, I am indebted to Mr. P. R. Adams, Q.C., who has supplied a draft Bill which brings together and codifies much of the existing law relating to wills. This is not the first time that Mr. Adams, in his generosity, has assisted in the provision of new law. It will be remembered he was responsible for the Property Law Bill which was similarly introduced last year and left to lie until a later period of the session.

The Bill now before us has an explanatory memorandum attached to it some of which I propose to read. Before doing so I would like to say that the Bill has been examined, and amended where necessary, by the Chief Parliamentary Draftsman following its delivery to me by Mr. Adams. The provisions of the Bill, which contain laws mainly for lawyers, have been considered by the Law Society, the Law Reform Committee, and the Public Trustee. Suggestions made by those three bodies have been incorporated in the Bill.

The object of the measure is twofold. In the first place, it is thought that the Wills Act of 1837, is long overdue for revision and should be put in modern and more comprehensive language. It will be remembered that two or three years ago I introduced a Bill dealing with the law relating to wills. On that occasion it was Sir Keith Watson, who was sitting in the seat now occupied by Mr. Wise, who said he thought it was about time the law relating to wills was codified and made more modern.

At that time, without altering the law in any way, a Bill was actually prepared and introduced. However, we did not proceed with it because of certain objections raised by the Law Society. The Law Society did not think the approach was modern enough. At the time it was not intended to do anything but simply bring all the laws relating to wills under one heading. The laws were not altered in any form but the Bill was not proceeded with.

I am very pleased to be able to present this Bill for consideration. The Wills Act was passed in England in 1837 and adopted in Western Australia shortly afterwards. Owing to the passage of time many references and provisions in it now relate to obsolete laws and customs, some of which never applied in this State at all. There is therefore much "dead wood" in it which requires removal—as to which see generally *Halsbury's* Statutes 2nd Ed. Vol. 26 p. 1326 *et seq.*

Secondly, the intention is to draw together and codify in one Bill much of the existing law relating to wills, now to be found in various Acts and, to some degree, in the common law. The Acts referred to here are those set out in the schedule to the Bill, and which will now be repealed. The reference to the common law relates to the making of what are known as privileged wills; that is, wills of servicemen and seamen. The Bill proposes to clarify the circumstances in which such a will may be made and so put an end, not only

to the uncertainty surrounding the subject, some of which appears to have resulted in the passing of the Wills (Soldiers, Sailors and Airmen) Act, 1941, but also to the confused state of judicial authority as related in Re Wingham deceased (1948) 2 All. E.R. 908.

The rest of the explanatory memorandum goes on to give a detailed analysis of the Bill itself. I do not propose to read that portion because it is available for study. I think members will agree that it is quite a useful exercise to have a memorandum attached to a Bill. I have often wished we could have it with every Bill. Whether or not that is practicable I am not too sure.

I repeat: I do not propose to proceed with the Bill. It can lie and ample opportunity will be given to lawyers, and anybody else who is interested in this legislation, to examine it thoroughly during the next four or five months. Parliament will resume on the 17th March, 1970.

The Hon. F. R. H. Lavery: That is St. Patrick's Day.

The Hon. A. F. GRIFFITH: I would invite Mr. Willesee to move that the debate be adjourned until March, 1970.

Debate adjourned until the 17th March, 1970, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

SALES BY AUCTION ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. A. F. Griffith (Minister for Justice), and read a first time.

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.43 p.m.]: I move—

That the Bill be now read a second time.

This Bill proposes to strengthen the provisions of the Act to make more difficult any recurrence of the serious misconduct disclosed by recent convictions of employees of stock firms. Evidence disclosed that after stock had been sold by auction documents were altered or new ones prepared by which the ultimate buyer was charged a higher price for stock.

It does not follow that the practices followed in those cases are widespread. Nevertheless, any loss of confidence in the auction system could seriously affect primary producers who rely on the system to provide them with a maximum return for their produce.

The Sales by Auction Act was introduced in 1937 as a private member's Bill by The Hon. A. F. Watts. I was interested to find that The Hon. F. J. S. Wise, now a member of this House, was the Minister for Agriculture at that time.

The Hon. F. J. S. Wise: Its passage was not too easy.

The Hon. A. F. GRIFFITH: Well, the Bill did not find an easy passage.

The Hon. F. J. S. Wise: I know it did not.

The Hon. A. F. GRIFFITH: I did not intend to say this, but I am prompted to do so: the Bill did not find an easy passage. As a matter of fact, I think one of the particular questions debated was the right of a private member to introduce such a Bill.

The Hon. F. J. S. Wise: I was the Minister then.

The Hon. A. F. GRIFFITH: Yes, the honourable member was the Minister for Agriculture. However, the Bill was introduced and passed. The provisions of the measure were mainly concerned with the prevention of "lot splitting" or "tossing." The arguments advanced at that time to support the measure still apply. Any practice which has the stamp of illegality has less chance of being a source of concern to the community and it is, therefore, reasonable that approval should be given to the present Bill in an endeavour to eliminate, or at least minimise undesirable practices.

There have been no amendments to the penalties provided since the legislation became law. The opportunity is being taken to amend the penalties so that they will be more closely related to present day conditions.

The penalties imposed for first offences of splitting of lots are to be increased from $20 to $250, and for second and subsequent offences from $50 to $500. The terms of imprisonment are to be increased from one month to one year.

A new section 3A is to provide that every auctioneer shall keep a register setting out details of any stock or farm produce sold by him at auction. The police are to be given power to inspect the register.

The Bill also places a restriction on an auctioneer, either directly or indirectly, from making a purchase without having previously obtained the consent in writing of the principal to the purchase. Employees of auctioneers are similarly required to obtain the consent of the owner before being in any way concerned with the purchase of any stock or farm produce. In addition to monetary penalties, offenders shall be ordered to account for and pay over to principals all profits or commission, as the case may be. I recommend the Bill for the consideration of members.

Debate adjourned until the 17th March, 1970, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

STATUTE LAW REVISION BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. A. F. Griffith (Minister for Justice), and read a first time.

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.49 p.m.]: I move—

That the Bill be now read a second time.

Prior to the preparation of this Bill, my officers in the Statute Law Revision section of the Crown Law Department, embarked on a prolonged programme of research into our Statutes in an endeavour to establish, finally, a complete list of those that are still in force. This was done by making an index comprising every repeal effected since the establishment of the colony and applying it in an examination of every Act and Ordinance since enacted. As a result, we now have an index which is capable of being reproduced and which will be more authentic than any of its predecessors—an index that will show every Statute of any kind that is still law.

During the course of this work, a number of enactments were found that few would have imagined existed, and others of dubious existence. Many of these are now dealt with in this Bill. Members will see, on perusing the memorandum which accompanies this measure, that this is the ninth Bill in a programme of bringing the Statutes of Western Australia into form for their inclusion in the minimum number of volumes that will make them readily available for reference and use. The memorandum accompanying the Bill sets out, with some particularity, the intentions as to Statute law revision and the presentation of our Statutes in workable form.

This Bill disposes of many Supply, Appropriation, and Loan Acts, the provisions of which are of no further consequence. These are contained in parts I and II of the first schedule. Part III lists five Railways Acts which now serve no useful purpose. Part IV contains many Acts, some of which have previously been partially repealed and all of which are now found to be spent. Part V contains several enactments which are superseded and are no longer within the legislative competence of the State.

Part VI contains many enactments, eight of which apparently never received Royal Assent, and strictly speaking, never operated as Acts. The purpose of including these measures in the Bill is to render their ineffectiveness certain.

Part VII comprises the general part, containing a group of enactments which are no longer effective and which accordingly should be repealed.

The second schedule confers short titles on enactments that do not at present have short titles, and this action is being taken even though some or other of these Acts may later be repealed; this is in order to put them into the index form.

The third schedule amends eight Acts, of which the short title begins with the word "The"; the removal of which is being done to facilitate their reprinting and indexing.

Before concluding my remarks, I would state that the Bill does not have the effect of making any alteration to the substance of existing law. I commend to members an examination of the memorandum, which explains in full the reasons for the many deletions from our Statute book proposed to be effected by the passing of this Bill.

I do not intend to proceed further with this measure during this sitting but to let it lie for examination by members and any other interested parties.

As with the other two Bills that I have just introduced, I suggest that this one be adjourned until the 17th March, 1970. I would like to add further that the work of the Statute Law Revision Committee is proceeding very well. It is a difficult and arduous task being undertaken by a number of people. However, I am pleased with the progress being made and I think we are getting closer to the point of reproducing our Statutes in better form.

Debate adjourned until the 17th March, 1970, on motion by The Hon. J. Dolan.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.54 p.m.]: I move—

That the House at its rising adjourn until 11 a.m. tomorrow (Wednesday).

Question put and passed.

House adjourned at 5.55 p.m.

Legislative Assembly

Tuesday, the 11th November, 1969

The SPEAKER (Mr. Guthrie) took the Chair at 2.15 p.m., and read prayers.

BILLS (10): ASSENT

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

1. Metropolitan Market Act Amendment Bill.
2. Prisons Act Amendment Bill.