Mr. H. D. EVANS: What about the land board? Once the tribunal makes a decision, that is it.

Mr. Lewis: Yes, I know.

Mr. H. D. EVANS: Here again the situation is the subject of far greater consideration than a straightout hearing of that kind. Days of research come into this and in the ultimate we have the opinion of an expert body which may be reviewed. Where does one go?

Mr. Lewis: Appeal boards are provided in respect of other experienced bodies.

Mr. H. D. EVANS: I make the point that it is hard to justify the additional provision foreshadowed by the Leader of the Country Party. However, I am quite prepared to meet this situation a little further in the course of the debate at the appropriate time. I do not think I have omitted to answer any points raised.

Mr. Nalder: You didn't make any reference to the idea of allowing members of Parliament to be informed of exactly how the authority works. You have covered this situation in the schedule, but we would like to know the detail of how the authority works. You have completely ignored this aspect.

The SPEAKER: The Minister has one minute in which to answer.

Mr. H. D. EVANS: That is not so. If the honourable member takes the trouble to read the schedule he will see that guidelines are laid down very clearly and they are the principles which must be applied to each individual situation. The application form provides the personal circumstances.

Mr. Nalder: That is an easy way of sidestepping the real issue, and you know it is.

Mr. H. D. EVANS: Rubbish. The information contained in this analysis provides the factual detail.

Mr. Nalder: Tell us the basis on which the authority is to assess the income of any property. Is it sheep, wool, meat, or something else? That is the important factor we want to know.

Mr. H. D. EVANS: It is the capacity to generate income by whatever means.

Mr. Nalder: Well, give us the detail of it so that we know.

Mr. H. D. EVANS: Every single situation will be met. The member for Blackwood was concerned about horticulture. That may be involved and so might pure sheep propositions in the pastoral areas. It is the capacity of the individual situation to generate income to service debts and permit operation which is the broad principle. If the honourable member has a further look at the schedule it will probably serve to enrich his background a little. Mr. Speaker, with the expiration of my time, I commend the Bill to the House.

Question put and passed.

Bill read a second time.

House adjourned at 10.32 p.m.

Legislative Council

Wednesday, the 25th August, 1971

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

QUESTIONS (9): ON NOTICE

1. LOCAL GOVERNMENT

Plant Used For Private Works

The Hon. S. J. DELLAR, to the Minister for Local Government:

What is the Government's policy regarding the use of Government plant by Local Authorities to carry out private works in competition with private contractors?

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

Without knowing the situation which gave rise to this question a precise answer is not possible. Individual circumstances would determine policy. Municipal councils generally do not enter into competition with private contractors.

2. STATUTORY BODIES

Investment Powers

The Hon. R. J. L. WILLIAMS, to the Leader of the House:

What Statutory bodies are able to invest funds in trustee-guaranteed companies and societies?

The Hon. W. F. WILLESEE replied:

This information is not readily available. The Honourable Member can obtain this information by examination of the relevant statutes.

3. CORRIDOR PLAN FOR PERTH

Statement By Premier

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

As the Hon. the Premier stated on television on Monday, the 23rd August, 1971, that he had been approached with regard to allega-

tions about the Hon. H. E. Graham in relation to the corridor plan for Perth, would he advise the House—

(a) who made the allegations; and

(b) what were the allegations?

The Hon. W. F. WILLESEE replied:

(a) and (b) The Hon. Premier has advised that there were no direct allegations made. He was appraised by a number of persons of rumours which were current and which were of the nature of those which have recently received publicity and which have been completely refuted by the Hon. Minister for Town Planning.

4. HOUSING

Tenant/Landlord Relations

The Hon. L. A. LOGAN, to the Leader of the House:

(1) Has the Government considered the report of the committee on Tenant/Landlord relations of the Council of Social Service of W.A. (Inc.)?

(2) If the answer to (1) is "Yes", has any consideration been given to implementing any of the recommendations?

The Hon. W. F. WILLESEE replied:

(1) A draft copy of the report was submitted to the State Housing Commission by the Council of Social Service of Western Australia Inc. for comment. The Commission advised in reply as regard to its own practice and experience.

(2) Answered by (1) above.

5. CARAVAN PARK

Karratha

The Hon. W. R. WITHERS, to the Minister for Local Government:

(1) Further to my question on Tuesday, the 24th August, 1971, concerning caravan park facilities at Karratha, would the Minister advise urgently if parking facilities have been found for those families parked on industrial sites, who have received notices to quit from the Shire effective from the 25th August?

(2) If not, would the Minister grant an extension of time until alternative facilities have been arranged?

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

(1) No, parking facilities have not been provided elsewhere.

(2) No, there is no authority for such action.

6. WHEAT

Quotas

The Hon. J. HEITMAN, to the Leader of the House:

(1) On what basis is the Australian wheat quota determined?

(2) What method is used to calculate the Western Australian State quota as defined in the Act?

The Hon. W. F. WILLESEE replied:

(1) The wheat quotas (F.A.Q. and Prime Hard) for 1969-70 and subsequent years were ratified by the Australian Agricultural Council following discussion and agreement by the Australian Wheat Growers' Federation and the Commonwealth Government. These decisions were based on estimates of sales by the Australian Wheat Board and stocks of wheat on hand.

(2) The method for calculation of the W.A. quota is not stipulated in a Commonwealth or State Act. In 1969-70 the W.A. quota was calculated as 95% of the average production in the five years 1964-65 to 1968-69. Since 1969-70 F.A.Q. State quotas have been *pro rata* to that year and prime hard quotas have been determined on an *ad hoc* basis depending on overseas sales. The policy on State shortfalls has been to allow half of the shortfall incurred in the previous year.

7. CARAVAN PARK

Exmouth

The Hon. S. J. DELLAR, to the Leader of the House:

(1) Have applications for a private caravan park at Exmouth been considered by the Lands Department?

(2) If the answer to (1) is "Yes", were they considered by a Land Board?

(3) If the answer to (2) is "Yes", who were the members of the Land Board?

The Hon. W. F. WILLESEE replied:

(1) Yes.

(2) Yes.

(3) S. J. Stokes, J. A. Taylor, J. P Murdoch.

8. EDUCATION

Financial Assistance for Amenities

The Hon. L. A. LOGAN, to the Leader of the House:

(1) What finance is being made available to the smaller country schools to enable Arts and Sciences to be taught in a practical manner?

(2) To what extent are library services and television facilities being made available?

The Hon. W. F. WILLESEE replied:

(1) Materials for the teaching of Arts and Crafts are supplied to small country schools on the same basis as for schools generally but special issues of science materials are made in accordance with curriculum requirements.

No separate accounting is kept of the cost of these materials for the various grades of schools.

(2) Library Services:

(i) Annual issues—

50 or less students—books to value of $100.

51 to 120 students—books to value of $120.

(ii) Foundation issues—

30 or less students—books to value of $200.

31 to 120 students—books to value of $400.

(iii) Library shelving supplied on a sliding scale.

(iv) Repairs to library books done by Library Services Branch.

(v) Hadley Library—at least two boxes per term circulated to small schools.

Television:

By the end of the 1971-72 financial year it is anticipated that all schools within the range of a television transmitter will have been issued with a television set.

9. WHEAT

Quotas

The Hon. J. HEITMAN, to the Leader of the House:

(1) Is the Minister aware of a submission by the Pastoralists and Graziers' Association on the subject of national wheat quota allocations, directed to the Federal Minister for Primary Industries, on the 28th June, 1971?

(2) If so—

(a) has he satisfied himself that the figures contained therein are correct; and

(b) does the Minister agree that Western Australia is being disadvantaged by the present allocations?

(3) If the figures in the submission are correct, what steps does the Minister propose taking in order to return to Western Australia its rightful share of the national wheat harvest?

The Hon. W. F. WILLESEE replied:

(1) Yes.

(2) (a) and (b) The figures quoted are basically correct. While some of the conclusions drawn from them are debatable I am satisfied anomalies have developed in the allocation of State quotas.

(3) This matter was raised at the meeting of Agricultural Council held in Canberra last July and further representations will be made until the basis of State allocations is considered equitable. It was agreed at Council that an opportunity should be given to the Australian Wheat Growers' Federation to sort out the problem at their meeting in September.

CLEAN AIR ACT AMENDMENT BILL

Third Reading

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [4.45 p.m.]: I move—

That the Bill be now read a third time.

Firstly, I would like to assure Mr. MacKinnon that I took up with the Minister for Health the matter concerning the regulations to which he referred. The Minister assured me that everything will be done to satisfy the honourable member. Secondly, I would mention that I checked on the question asked by The Hon. J. M. Thomson in the Committee stage. The honourable member's question concerned fees, and the Minister responsible confirmed what I said last night.

Question put and passed.

Bill read a third time and passed.

BILLS (2): THIRD READING

1. Bulk Handling Act Amendment Bill.
2. Stamp Act Amendment Bill.

Bills read a third time, on motions by The Hon. W. F. Willesee (Leader of the House), and passed.

TOWN PLANNING: CORRIDOR PLAN

Appointment of Consultant: Motion

Debate resumed, from the 19th August, on the following motion by The Hon. G. C. MacKinnon:—

That this House is of the opinion that—whilst prepared to accept the principle of an appropriate examination of the so-called "Corridor Plan for Perth", if the Government has reservations about it—the Government should be condemned for its action in appointing a Consultant whose hostile views towards the Plan were already known to the Government.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [4.48 p.m.]: I feel it is incumbent upon me to reply to the mover of this motion. I will confine my remarks principally to the final section of the motion which states—

> —the Government should be condemned for its action in appointing a Consultant whose hostile views towards the Plan were already known to the Government.

I feel that any Government, before it acts on any matter, should be well armed with information from both sides—

The Hon. G. C. MacKinnon: I said that.

The Hon. J. DOLAN: —so that it knows exactly on what it is basing the opinion it forms. In connection with this particular subject it is vital that the right decision be made. I wish to state at the outset that I have no definite opinion about the corridor plan or the points for and against it. I wish to refer in general terms to the fact that if ever I wish to make up my mind on any question I try to study it from both sides; that is, the for side and the against side. Having done so, I feel I am in a better position to make up my mind. When the occasion demands that my voice should be heard, my remarks would certainly be based on a good knowledge of the subject at issue.

In the latter part of the motion—that the Government should be condemned for its action in appointing a consultant whose hostile views towards the plan were already known to the Government—I do not like the use of the word "hostile." I think a more suitable word could have been used, because nowhere can I find in the references the word "hostile."

The Hon. G. C. MacKinnon: I used it.

The Hon. J. DOLAN: Of course, it appeared in the motion. I have examined the references mentioned by the honourable member, such as newspaper reports and other documents, which constituted the basis of most of his speech, but I could not find the word "hostile" appearing; nor could I find it in leading articles or other reports dealing with this matter. I do not want to quibble about the matter.

The Hon. G. C. MacKinnon: But you are quibbling about it.

The Hon. J. DOLAN: No, I am not. I think more suitable words, such as "opposing view" or "opposite view" could have been used.

The Hon. G. C. MacKinnon: Is this not a quibble?

The Hon. J. DOLAN: When we want to obtain an opposing view the first thing we should do is to get some worthy person to offer an opinion on the opposing view. I will try to deal with this aspect firstly by referring to the *Votes and Proceedings* of another place of the 10th August. There the Minister who has been mainly concerned with the appointment of this consultant answered some questions in certain terms. I think close consideration should be given to the qualifications that were enumerated.

In reply to this question asked in another place—

> What are the terms of reference in regard to the appointment of Mr. Ritter to report on the corridor plan?

the Minister said—

> To undertake an analytical study of the proposed corridor plan for Perth and possible alternative approaches to a regional plan for the metropolitan area.

Speaking personally, I feel that when this consultant comes up with a report on what has been undertaken in his analytical study he might submit certain proposals which would improve the corridor plan and make it acceptable to the Government, with some variations.

There seems to be some misapprehension about the study he is to undertake, and it is thought that the analytical study will be the basis on which future Government action will be planned. I say that is not so. When the report of his study is presented to the Government I am sure that every member will have placed before him a copy of the report so that he will be able to view the recommendations of the consultant very carefully; he will be able to weigh them against the plan as envisaged and as presented last March by the Metropolitan Region Planning Authority. In the light of the two documents which the authorities concerned will have an opportunity to study, they will be able to make a determination.

However, as yet no determination has been made, and I can assure members of this. If a determination has been reached then it has been done without my knowledge. I would point out that I have not missed a meeting of those who are responsible for making these decisions. The second question asked in another place was—

> What are the real qualifications which have led to the appointment of Mr. Ritter?

The Hon. G. C. MacKinnon: Who asked those questions to which you are referring? I did not.

The Hon. J. DOLAN: I said they were asked in another place, and obviously the honourable member is not a member of another place and has not the authority to ask questions there. I do not think I am in order in disclosing the name.

The PRESIDENT: The Minister cannot refer to the name.

The Hon. J. DOLAN: That is why I did not mention it.

The Hon. G. C. MacKinnon: I got the mistaken idea that you were answering the speech I had made.

The Hon. J. DOLAN: No. There is nothing personal in what I am saying. I like to see both sides of every case. I concede Mr. MacKinnon exactly the same privilege that I claim; and whenever I say anything he may hold an entirely opposite viewpoint. That is his right. Of course, I have a complete right to do likewise.

The Hon. A. F. Griffith: Your remarks are imaginative. Mr. MacKinnon did not say anything about that.

The Hon. J. DOLAN: I did not say he did. It is strange that the honourable member likes buying into these things.

The Hon. A. F. Griffith: So do you. For a member who does not like to interject you do very well.

The Hon. J. DOLAN: At this stage I am certainly not interjecting; I am presenting my case. The Minister in another place set out in his answer to the question the qualifications of the person who we thought was a worth-while consultant. I will deal with the debatable matters later on. The Minister's reply was—

> Master of Civic Design.
>
> Bachelor of Architecture.
>
> Fellow of the Royal Institute of British Architects.
>
> Former member of the Council of the Royal Institute of British Architects (also a member of its Town Planning Committee).
>
> Member of the Town Planning Institute of Great Britain.
>
> Member of the Royal Australian Planning Institute.
>
> Fellow of the Royal Australian Institute of Architects.
>
> Author of "Planning for Man and Motor" an internationally recognised text book.
>
> 1962 President's Prize of the Town Planning Institute of Great Britain.
>
> 1963 National Book Prize of the Royal Institute of British Architecture.

The Hon. G. C. MacKinnon: He is also a member of the Perth City Council.

The Hon. J. DOLAN: Some doubt appears to have been cast on the qualifications of this consultant to act as an adviser on the corridor plan. The third question asked in another place was—

> What practical experience has he had in examining corridor plans which are being put into effect in other countries?

The answer given by the Minister was—

> While Director of the International Traffic Separation Planning Research Office in Great Britain the standard and authoritative work *"Planning for Man and Motor"* was produced.
>
> In Denmark, on request, he lectured on the application of the "finger plan" for Copenhagen.
>
> Mr. Ritter was consultant to the City Planner of Leicester, England (population 300,000) for its traffic plan, which included corridor planning.
>
> Mr. Ritter was invited to Sweden to discuss matters of corridor planning for the outline design of a new city of Goteborg of 250,000 people.
>
> He was invited to Washington to observe and discuss aspects of planning.
>
> He has for some 2½ years studied all aspects of planning in Australia and has contacts with those who have planned corridors and those who have planned otherwise; this being part of an extensive research programme which will result in the publishing next year of a comprehensive book *"Planning in Australia"*. The work has been financially supported by many private and Government agencies throughout Australia.
>
> His experience was used by the City of Sydney Strategic Plan just published where he is listed as one of that City's specialist advisers.

I suggest to members that the man who has been selected to carry out this investigation into the efficacy or otherwise of the corridor plan is certainly well qualified for this task.

The Hon. G. C. MacKinnon: Can you tell me where in my speech I said he was not qualified?

The Hon. J. DOLAN: I am not talking about the speech made by the honourable member. I am showing how qualified is the man who has been selected to undertake the investigation.

The Hon. G. C. MacKinnon: I thought you were answering the speech I made in moving the motion in this House. I was not aware you were discussing the motion moved in the other House.

The PRESIDENT: Order!

The Hon. J. DOLAN: I would like to refer to one part of the speech of the mover of this motion, and this is to be found on page 864 of this year's *Hansard* where he is recorded as having said—

> That article brings to a conclusion what I wish to say about this motion. I deny that Mr. Ritter has capacity.

Now there is a definite statement and I feel, in the light of the information I have given the House, that members can

judge whether or not Mr. Ritter has the capacity to undertake this analytical investigation and report to the Government on his findings. To continue with Mr. MacKinnon's remarks:—

> I do not care whether the corridor plan is good or bad; that is beside the point.

I do not think it is beside the point. I would like to give full marks and full credit to the members of the original planning authority. They were all excellent men, and they have a lot of common sense. They had good advisers, and came up with a plan for the development of Perth in the future. I have no quarrel, whatever, with the plan. What I do say is: No matter who the planners are, or what sort of plan they produce for the city of Perth for the next 50 or 100 years, we have every justification for seeking an examination of that plan, by a man of international repute, before making a decision.

The Minister for Town Planning was reported in *The West Australian* of the 5th August, as follows:—

> . . . Mr Ritter would make an analytical study of the scheme.
>
> The purpose of the study was to provide another authoritative viewpoint.
>
> Mr. Ritter, who was known to have reservations about the corridor proposals . . .

Those might be very mild words, but that does not in any way detract from the fact that he has firm views, and he is the man to approach for an opinion to the contrary. To continue with the newspaper article—

> . . . would have no limitations on his inquiries or findings.

Mr. Ritter was asked to conduct a study. The Government will follow up, and carry on from there. To continue—

> He would be free to suggest acceptance, modification, or rejection of the plan and possible alternative approaches to a regional plan for the metropolitan area.

He is quite entitled to do all those things. A man of his professional experience has his reputation at stake and he will, no doubt, take care when preparing his report to the Government for its future consideration of the plan.

I was impressed with the comment of Mr. Hamer, who was the chairman of the M.R.P.A. His views are completely in accord with the sentiments expressed by Mr. MacKinnon. He said it was the Government's prerogative to obtain further advice about the corridor concept. I think that is the correct approach to make.

I do not want to make a short story long. We had every justification for seeking an investigation into the other side of the question, and to request that the best man possible should be made available for the job. I have not heard any suggestion as to who might be better qualified than Mr. Ritter. Knowing his opposition, of course, he would be the man to produce an opposing viewpoint.

As I have said, I do not want to prolong discussion. However, the Government had a complete right—as the mover of the motion agreed—to make this move. It is a point of difference, and a point of opposition or censure of the Government, to say that the Government picked the wrong man. I repeat: I do not know of anybody who would have been a better choice for presenting what the Government requires; that is, an opposing viewpoint on the corridor plan. I oppose the motion.

THE HON. F. R. WHITE (West) [5.05 p.m.]: I rise to support the motion which has been put forward by Mr. MacKinnon. The motion is a culmination of quite a number of events which have occurred since the change of Government. Unfortunately, the events have concerned two individuals—Mr. Graham, the Minister for Town Planning, and Mr. Ritter.

I do not intend to refer to Mr. Ritter as a person other than to mention that he has been appointed as a consultant, and that he has hostile views to the plan. Unfortunately, I must make a great deal of reference to Mr. Graham, who is the Minister for Town Planning. I consider that any Minister of the Crown should portray the opinion of the Government, no matter what his private views might be. A Minister of the Crown is charged with presenting an image to the public, and his personal opinions must take second place to his opinions as a Minister, and as a representative of the Government. As I have said, I feel this motion is a culmination of a number of events. The matter has been discussed in the Press, and I will quote from an article written by Don Smith which appeared in *The West Australian* on Friday, the 13th August, 1971. Mr. Smith states:—

> Mr. Graham, too, recognises that his own actions might have given some impetus to the rumours—such as the fact that he specifically asked to be given the town planning portfolio; his subsequent criticism of the existing corridor proposals; and, finally, his choice of Mr. Paul Ritter, who has publicly blasted the corridor plan to prepare an "anti" report on it.

A little later in the newspaper report the question is asked: "Why did he ask to be given the reins to town planning?" The reply, quoted as having been given by Mr. Graham, was as follows:—

> "Because town planning generally was in a bureaucratic mess", is his reply. "Development projects which

could inject millions of dollars into the economy have been denied at the stroke of a pen."

On the appointment of Mr. Ritter, the Minister has been frank. He makes it no secret that he expects Mr. Ritter to weigh in with an analytical condemnation of the corridor scheme.

"We have heard professional opinion in favour of corridors," he says.

Those were Mr. Graham's words. To continue—

"Now let us hear professional opinion against them so that we can make a balanced judgment."

If the report is true—and I have no reason to believe otherwise—Mr. Graham has appointed Mr. Ritter because his attitude towards the corridor plan is hostile.

The report stated that Mr. Graham requested the town planning portfolio, and it sets out the reasons for his requesting it. Mr. Graham was appointed to—or sworn into—his office early in March. Soon after, on the 27th March, an article appeared in *The West Australian* headed, "Graham to inspect rural-zoned land." The article is worded in the following manner:—

The Minister for Town Planning, Mr. Graham, said yesterday that on April 4 he would make an inspection of rural-zoned land west of the Swan Valley vineyards area, south of the Gnangara pine plantation and east of Wanneroo Road.

He would invite the M.R.P.A., town planning officers, land owners, local authority representatives and anyone else interested.

He wanted to satisfy himself whether there should be some urban development in the area.

Mr. Graham publicly announced that he would visit the area on the 4th April. However, he did not extend to me, as the representative of the area, the courtesy of an invitation. Apparently he did extend the courtesy to many other people. I would have had to travel only two miles from my home, and being a resident of the area—besides being its representative—I had a vital interest, apart from my general interest in town planning.

The Hon. W. F. Willesee: I think the honourable member could have attended.

The Hon. F. R. WHITE: I go only where I am invited. Mr. Graham did not extend an invitation to me, just as many other Ministers have not extended invitations to me since the change of Government. Ministers were running all over my electorate like rabbits; visiting Parkerville, the Swan Valley, and many other places. I see the Minister for Local Government looking at me; he was one of the Ministers involved.

The Hon. R. Thompson: We put up with that for 12 years.

The Hon. A. F. Griffith: That is not true.

The Hon. F. R. WHITE: A report appeared in *The West Australian* on the 5th April under the heading, "Graham looks at land near city." Under the subheading, "Unrealistic" the following appeared:—

He said that many people, with considerable justification, believed that it was unrealistic to keep it as farmland when some of it was within six miles of the heart of the city.

He was referring to the area which was inspected. To continue—

"Nobody has decided yet if we are to have corridors," he said. "The M.R.P.A. has submitted a plan, but there are quite a few steps to be taken before that becomes operative. There appears to be some omission in that direction."

The recommended corridors were not necessarily the only possibilities, he said.

Mr. Graham said that he would try to inspect land in other areas.

As a result of that visit—which was for the purpose of inspecting land near the Gnangara pine plantation, which is owned by nine property owners, and part of which is the very contentious Santa Maria land —Mr. Graham displayed a very great interest very early in his appointment.

As a result of that interest the Swan Shire Council was encouraged to look into the development of the area, and on the 15th April, 1971, *The West Australian* published an article under the heading, "Council relies on refinery project." The article read as follows:—

The Swan Shire Council is relying on the Hanwright-C.S.R. alumina refinery project to strengthen its claims for a fifth urban corridor in the metropolitan region.

The council wants the corridor to start six miles from Perth and extend north-east to Gnangara Road. It would provide housing for 150,000 in the next 20 years.

The article goes on—

The council has given the Minister for Town Planning, Mr. Graham, a plan for a north-east corridor similar to other corridors in the Metropolitan Regional Planning Authority's plan.

Initially the council wants to have 12,000 acres of rural land rezoned as urban. This area is at the southern base of the proposed north-east corridor.

The area is at the southern base of the proposed north-east corridor. Because of the interest displayed by interested parties, and by the Minister for Town Planning,

the Swan Shire Council very hurriedly prepared a case for a fifth corridor. The plan which was attached to that case shows not the small area of land mentioned in the newspaper report, but the total corridor. That area would be in excess of 100,000 acres, and would be a corridor over five miles wide extending beyond the Pearce aerodrome.

I am sure the council felt that because of the Minister's statement, and because of the encouragement it received from his visit to the area, there was a fair possibility of getting another corridor.

I was horrified—as many people whom I know were horrified—when on the 5th August there suddenly appeared in *The West Australian* the heading "Government gets Ritter to study corridor plan." This was the first knowledge I had that a consultant was to be appointed.

As a result of my concern after having read this article which noted the fact that Mr. Ritter was appointed as consultant, and which also made reference to a booklet which had been published and released to the public on the same day—the 5th August—I immediately gave notice of a question in this House. This was answered on the following Tuesday. The first part of my question asked—

> (a) is the appointment of Mr. Ritter to report on the Corridor Plan a vote of "no confidence" by the Government in the Town Planning Commissioner, his departmental officers and the Metropolitan Regional Planning Authority;

To this question I received the reply—

> (a) No. It is considered desirable to have alternative professional advice to assist in arriving at a final decision.

In the second part of my question I asked—

> (b) in view of Mr. Ritter's already published eight page booklet titled "Breakthrough or Breakdown a Crisis in Regional Planning" that criticises the Corridor Plan; how can the Government expect an impartial report?

The reply I received was—

> (b) The integrity of a professional man of international standing is expected to be such that he would not do other than present an analysis and conclusion based on fully authenticated and documented evidence.

I am afraid I cannot accept the reply given to the second part of my question. A professional man who has already committed himself to a point of view—as Mr. Ritter has in his 30c booklet—would have only presented a booklet of that point of view after very close study. A professional man's name would depend upon his published word, and his published word would only be available after a thorough investigation.

A man who had published a booklet such as this would, in my opinion, have committed himself irrevocably for the future; he would be definitely a biased and even a hostile consultant.

I did make reference that in my opinion —and I am sure in the opinion of the public—a Minister of the Crown represents the Government at all times. Accordingly I was horrified to see on the front of this booklet published by Mr. Ritter a caricature of what is obviously the head of the Minister for Town Planning, while coming out of the mouth appear the words, "Santa Maria."

The Minister's left hand is pointing in the direction of the eastern corridor; it seems to be beckoning, for what purpose I do not know—perhaps it is for the purpose of attracting possible development from that area; asking people to "come hither into Santa Maria."

Whatever the purpose might have been I am appalled that a representative of the Government—the Government of the people—should allow a caricature such as this to be printed for publication; it offends my own standads of what I feel a Minister should stand for and the image I expect him to project.

I am quite sure that this 30c booklet has sold many more copies than it would otherwise have sold as a result of the publicity it has received. To say the least I think the actions of the Government have been most unbecoming. I think it is beneath the dignity of the position that a Government should uphold when it permits caricatures such as this and when it endorses the appointment of a biased consultant.

The appointment of Mr. Ritter as consultant in conjunction with the publication of his booklet is to my mind a culmination of many events which indicate to me that the Minister has had a favourable inclination towards land being rezoned in the proposed fifth corridor. Apart from this it indicates that he has not had faith in his departmental officers. I feel the appointment of Mr. Ritter was an incredible mistake; it was an incredible mistake because he is a biased, committed consultant, who has published a booklet for 30c; a booklet which can be purchased by any member of the public. In spite of this I feel the Government has committed itself to receiving virtually the same assessment as contained in the booklet for a sum of money which will cost the taxpayers of Western Australia an amount up to but not exceeding $5,000.

The mistake has been compounded and added to by an offence—though possibly an unintended offence—directed at the

Commissioner of the M.R.P.A., at his officers, and at the Town Planning Department. Had I been employed in any of these departments I am sure I would have been offended as a number of the employees in those departments must have been offended.

This sort of thing must lead to a lack of confidence by members of that Government department in their Minister and this will not auger well for the future of town planning in this State.

The Hon. G. C. MacKinnon: It is a shame.

The Hon. F. R. WHITE: I feel very strongly that we have not had good Government representation in this matter and, without wishing to repeat myself, there seems little doubt that the Government has portrayed an undesirable image. Accordingly I have no hesitation in supporting the motion moved by Mr. MacKinnon.

THE HON. R. F. CLAUGHTON (North Metropolitan) [5.23 p.m.]: A good deal has been said by members in this Chamber about this House being a House of review. If we are to achieve this role to which members claim they adhere it would necessitate our having to deal with all subjects objectively.

I am afraid, however, that I have not gained this impression after having listened to the manner in which those same members have dealt with the motion before the House, because had they subscribed to the sentiments they have expressed they would have looked much more objectively at what Mr. Ritter stands for.

I would suggest that a glance at the book entitled *Planning for Man and Motor,* which is referred to on the back of this booklet, would have led members to an opinion different from that which they have expressed so far. They would have discovered a good number of points made by Mr. Ritter in this book which is extremely comprehensive and which could only have been compiled after a great deal of study. What he says in relation to corridor planning indicates that his views are the result of considerable study over a fairly long period.

Mr. Ritter is no novice to town planning and, as Mr. Dolan pointed out earlier, nor is he a novice to corridor planning. I would point out to Mr. White that the corridor plan itself does not exclude the possibility of corridors other than those shown within the publication connected with the corridor plan for Perth.

It is not unreal or unnatural for the Swan Shire Council to have made a case for a corridor to run through its boundaries. The shire, no doubt, would feel concern that it might be left in a backwater, particularly if the corridors as illustrated within the publication were the only ones that were permitted.

Accordingly I believe it is only natural for the Swan Shire Council to put forward a view that would include a corridor to run through its own district. It is not an unreal suggestion either, particularly if we consider the existing situation and the tendency towards development along the Great Northern Highway. I feel that Mr. White was a little unfair to the Swan Shire Council in his criticism of what it did.

The Hon. F. R. White: I was not unfair, I merely drew attention to the fact that they had been incorrect.

The Hon. R. F. CLAUGHTON: I feel the honourable member was a little unfair in criticising the shire, because if the council had the interests of the shire at heart and wanted to see it develop it would be bound to promote the interests of that shire.

The Hon. F. R. White: I did not criticise the council.

The Hon. R. F. CLAUGHTON: Again, Mr. White was very critical of the present Minister for Town Planning. It would seem that Mr. Graham is expected to follow whatever the policy might have been of the preceding holder of the office of town planning. If we accept that the previous administrator was efficient and made his views known to that department, we would also expect the corridor plan to bear his stamp upon it. When there is a change of government we do not expect the incoming government to necessarily continue the policy adopted previously.

Mr. Graham is a capable man; he has his own point of view, and it is only natural that he should make his mark on that department and it is reasonable to expect that the policy he follows might be different from that of the previous holder of the office. Here again I feel Mr. White's criticism is unjust.

The motion actually reads, in part, "the Government should be condemned for its actions in appointing a consultant whose hostile views towards the Plan were already known to the Government." In other words we are not being asked to condemn Mr. Graham for his views, and great stress has been laid on this fact.

If we were asked to condemn the appointment of the consultant we would not also condemn the Minister for holding views of his own. The motion relates to the appointment of a consultant.

I will now revert to the booklet itself. It is entirely a matter of opinion whether the booklet is hostile or not; and whether it criticises the corridor plan. Can we condemn Mr. Ritter for this? He is a competent town planner and his views, as always, are well set out in this booklet.

There are very few other town planners who have set out their views in this manner and perhaps that is where Mr. Ritter is at fault; because he has set down his findings and has permitted people to view and study them. Should the Government be condemned for appointing him because of this? Because he is critical of the plan, does it necessarily follow that he is hostile to it? If we examine some of the points he has made this should become plain.

The first passage on the front page of the booklet was read out by Mr. MacKinnon. It reads "The new Minister for planning and industrial development is right to question the logic of zoning and the 'Corridor Plan.'" By saying, "It is right to question the logic of it" Mr. Ritter is not condemning the whole scheme and it cannot be said that this shows a hostile attitude to the corridor plan. Of course it is right to question the logic of the zoning and the corridor plan.

In my view Mr. Ritter is much more aware of the real needs of people in relation to planning than is the majority of the citizens of this State. So often the view is held that as long as an application to develop conforms with the zoning plan it is all right. There is very little consideration given to the effect a particular plan may have on the people. Many of the houses are built with a view to their resale value at some future time rather than the convenience and the utility of the people who will live in them. This always appears to me to be the wrong approach.

I encountered this attitude when I first applied for a loan to build a house. A young architect drew up a plan to suit my family's needs. However the financial institution was more interested in the resale value of the house than the needs of the people who were going to live in it. Mr. Ritter's approach is to assess the real needs of the people. He does not plan simply for administrative convenience.

The Hon. G. C. MacKinnon: If you look at my speech you will see this is exactly the analogy I used.

The Hon. R. F. CLAUGHTON: The real consideration is the need of the people. Mr. Ritter has set up a body called the Planned Environment and Educreation Institute. Behind his criticism of the scheme is his concept of the needs of the people.

We do not necessarily need to be conveniently located to an expensive freeway or to large open spaces. The effect of a plan on the day-to-day life of the people is of paramount importance. Of course a freeway can be used to travel rapidly from one point to another but past experience has shown when a road is widened more cars travel on it until it eventually becomes choked. The bigger and better road creates its own decay. The solution is not simply to put in a freeway scheme or to provide large open spaces. The open spaces must be where people can use them. People will only travel at weekends to large open spaces which are a fair distance away. If the basic unit to consider is a family, it is their day-to-day life which is important. A park across the road is no good to a family if the children have to cross a busy highway to get to it. This is foolish planning yet it is the sort of thing which is perpetuated throughout the corridor scheme. This is what Mr. Ritter is justifiably criticising.

Mr. MacKinnon referred to the Radburn plan and the fact that there has been some bungling in this regard. I do not know everything about that situation but I would be prepared to bet that the scheme was introduced in a halfhearted way. It is not sufficient to provide space if it is not related to the houses built around it. Even where the Radburn scheme has been used, the houses front the roads and the backyards are fenced off so that the open space behind is not being used efficiently by the people for whom it was designed.

We need to have a different concept in mind when we build our homes. More is involved than just preparing a plan. Again, I think this is the point on which Mr. Ritter has been most criticised because he did not just prepare a plan and hope it would be accepted. He took his plan to the people and tried to explain it.

In 1964 Mr. Ritter published a book entitled *Planning for Man and Motor*. On page 55 he states as follows:—

> Public relations need to be highly developed and applied in many effective ways when new ideas on planning are implemented. It is absurd to expect the public to "buy" new architectural or planning products, without something to inform them of the virtues and values of the new as compared with the old. This is taken for granted with all other products. The success of the new depends upon its proper use.
>
> The need for good public relations is therefore axiomatic. Information on a local basis, personally, with each specific occupation of a new scheme, dwelling, shop or office, must be supplemented by education on a broad level. Planners and architects have a very great deal to learn in this field which is hardly ever touched upon.

He says more, but this is sufficient for my purpose. The same sort of comment is made by the Fremantle Town Clerk, Mr. Edmonds, in a report he prepared after an overseas study tour. This booklet does

not have a title but it contains many interesting suggestions and if members have not read it I recommend it to them. On page 50, under a heading of, "Public Relations", he says this—

> The job is to look for, and create, channels of communication between Council and public.
>
> The true function of Councillors is too big, their time too valuable, their opportunities too limited, to expect elected members to serve this purpose.
>
> Council must develop more modern and more effective methods to assess the public's needs, to keep its finger on the public pulse.

The PRESIDENT: Order! Would the honourable member please identify the paper from which he is reading?

The Hon. R. F. CLAUGHTON: This is a report prepared by Mr. Edmonds, the Town Clerk of the Fremantle City Council. As I stated earlier, the title is not on this copy from which I am reading. I simply quote this to support what I was saying about Mr. Ritter because town planning proposals are at present implemented by the local authority. The planner needs to get his story across, but also he must have the support of the council.

In his booklet Mr. Ritter proposes there should be greater co-ordination between the authorities concerned with planning; the Metropolitan Region Planning Authority, the Town Planning Department, the Minister, and the local authorities. Mr. Ritter does not stop at criticism of the corridor scheme, he puts forward constructive proposals, admittedly in a bare form. This is only a small publication and one would not expect a full statement of what he has in mind. This booklet was prepared after a short concentrated study of the corridor scheme and the Perth Regional Transport Study. If members have looked at this they know it is a fairly comprehensive volume which could not be absorbed in a short time. On the front page of this booklet, after referring to the Minister, it says—

> The present system of planning has become crude and outdated. Better, workable methods are available. Safeguard, strategy, structure and performance planning have proved effective.

Mr. Ritter is not conveying anything which is hostile to the scheme here; he is saying that it needs something more. Not one word can be interpreted as being hostile to the corridor scheme. He criticises the system of planning and says it has become crude and outdated, but he was referring to the system of planning and not the corridor scheme. However, if crude and outdated methods are being used, the plans will not be worth-while. The next thing he says is—

> "Corridor Plan" is a vague cliche. The corridor plan does not say much about the type of development which will take place within the corridors.

The Hon. G. C. MacKinnon: You could say the same thing about the cluster idea; it is a vague cliche.

The Hon. R. F. CLAUGHTON: The honourable member would agree there is no virtue in the term "corridor" itself?

The Hon. G. C. MacKinnon: Of course not, any more than there is in the term "cluster." That is what I object to in his booklet; it is full of that sort of nonsense.

The Hon. R. F. CLAUGHTON: I think it must be realised that Mr. Ritter holds the view that the story must be made plain to the public. The public must be made to stop and think and this is why Mr. Ritter uses these emotive terms. Goodness me, the Australian public is far too apathetic. The public will not sit down and listen to difficult arguments unless it is made to stop and listen.

Can we say the view Mr. Ritter expresses is hostile to the plan? I think that term is much too strong when the whole of this document is read.

Mr. Ritter's next point is as follows:—

> The aim to limit the city workforce is a threat to the growth of the city, untenable and unnecessary.

We know Mr. Ritter has a fairly broad experience of city planning.

We will find a number of his views referred to in this book titled *Planning for Man and Motor*, and he has written many more since then, so we must take some notice of what he says. He states that the corridor plan tends to limit the work force to 90,000.

The Hon. G. C. MacKinnon: Are you not getting a little mixed with P.R.T.S.?

The Hon. R. Thompson: No, he is talking of the work force.

The Hon. G. C. MacKinnon: Yes, the central area work force.

The PRESIDENT: Order! Mr. Claughton has the floor.

The Hon. R. F. CLAUGHTON: Thank you, Mr. President. That information will be found in the report on the corridor plan. I will not waste time by looking it up now because I do not know the exact page on which it appears. On the front page of the booklet titled *Perth Break Through or Break Down* point 5 reads—

> The M.R.P.A. led Australia with its Region Planning in the sixties. With initiative that lead can continue in the seventies.

One could not accept that statement as being hostile criticism of the corridor plan. He merely says it is time to look to the future to ensure that the lead we have is maintained; to ensure Perth has a plan that is not only applauded overseas, but also is one of benefit to the people who live here.

There is much more I could say about the plan, but I will not say anything further. The amount of $5,000 it will cost the taxpayers to have this study made is only a small amount compared to what the ultimate cost will be to the taxpayer if the corridor plan proves to be ill-based. It makes good sense—

The Hon. V. J. Ferry: More than 30c.

The Hon. R. F. CLAUGHTON: —to obtain information from a person who has shown a constructive approach toward a plan which may be improved to an extent that will be of greater value than the $5,000 the Government has set as the limit for the cost of this study.

If a motion is to be passed, I would prefer to see this one placed on the notice paper in an amended form so that it would then read—

> That this House is prepared to accept the principle of an appropriate examination of the so-called "Corridor Plan for Perth".

If this were done it would have unanimous support.

THE HON. N. E. BAXTER (Central) [5.48 p.m.]: My remarks in support of the motion will be brief. Mr. Claughton raised the question of whether the mover of it had been objective. I would say it would be very objective to state the matter in this form: that we could liken the situation in which we are placed in this House today to that of a courtroom where the accused is the M.R.P.A. with its corridor plan; the Crown Prosecutor is the Government; the defence counsel is the Opposition, and the one man jury to be appointed to deliberate on the case is the person who is in doubt because of the opposition he has shown to the accused.

The Hon. G. C. MacKinnon: A very good analogy.

The Hon. N. E. BAXTER: In any court of law the defence counsel has the right to challenge the jury in so far as any direct opposition has been voiced against the accused before the case commences, and I think this is the position that exists in relation to these circumstances today. Yet Government members are trying to establish that it is quite in order to have a biased jury—in the form of a one-man jury—that will voice judgment upon the accused. This is how the situation appears to me.

I will not enter into the pros and cons of the argument except to say that I do not think there is any doubt that the one-man jury in this case is opposed to the corridor plan. In his booklet which costs 30c Mr. Ritter refers to the break down of this plan by using these words—

> To accept contradictory PERTS and M.R.P.A. plans based on unwarranted assumptions; to use "corridor" jargon whether it's for four, five or six; to agree to a plan, when one and all know it's unreal; that's breakdown.

If that is not condemnation, I do not know what is. My view is that if the Government wants to appoint someone to inquire into this plan—and I am not saying it is unwarranted or warranted—surely the Government can appoint a person who has not already expressed complete opposition to the plan and who is in a position to submit an unbiased report on it. I support the motion.

THE HON. G. C. MacKINNON (Lower West) [5.51 p.m.]: I thank Mr. White and Mr. Baxter for their support of the motion. As far as an answer to the motion is concerned, I must admit I am greatly disappointed. It seems to have been confined to a plethora of circumlocution and that is about all. Both speakers from the Government side seemed to concentrate on what is a quibble to the nth degree as to whether we should use the word "hostile" or the words "opposed to".

I do not know whether there is any idea that we on this side of the House may believe that the Government would agree to the motion if we altered it by replacing the word "hostile" with some other word. I do not know what "hostile" means if it does not mean "opposed to". Yet the main part of the Government's speeches were directed towards this end.

I notice that the Leader of the House took the adjournment of the debate on the motion, and I wish to add that he is perfectly entitled to take the adjournment for any member he likes. Apparently it was taken for Mr. Dolan—

The Hon. J. Dolan: I have a perfect right to speak to the motion.

The Hon. G. C. MacKINNON: That is quite right, but I do not know what the reason is. I would suggest that in dealing with a subject such as this the Leader of the House would do better, because he is in a position to deal with it straight down the line without getting side-tracked. I say this because all we got was a lecture on a series of questions that had been asked in another place, and a misleading lecture at that.

The only qualification that is held by Mr. Ritter is the "M.C.D."—I have not been able to check what those letters represent—and a Bachelor of Architecture. The other letters that appear after his name do not represent qualifications but

signify that he is a member of a certain institute or other body, and the Minister for Police would be fully aware of this.

The Minister for Police read these letters out and suggested that they were Mr. Ritter's qualifications, but they are not qualifications. He may as well have said that he is a member of the Rotary Club or a member of the Perth City Council. Just as an aside, I would like to recount that I knew a fellow once who ran a business in Perth, and he added a great collection of letters after his name. He did this simply by joining various institutions and so was able to call himself a member of those institutions. For example, I think he was a member of the Royal Institute of Photographers. Therefore one could go on adding letters after one's name *ad infinitum* but they would not signify qualifications, but only that the person who has them after his name is a member of a certain organisation.

The Hon. R. F. Claughton: One does not get those memberships lightly.

The Hon. G. C. MacKINNON: No, if a person is a member of an institute, for example, he could be eligible because he is a Bachelor of Architecture, or something of that nature. Mr. Ritter's basic degree is Bachelor of Architecture, but this was not the question that I raised. In the motion I was very careful about the question I did raise, and I will mention what it is.

Last week on page 2 of Friday's country edition of the *Daily News* the headline, "I am puzzled, says MacKinnon" appeared. However, the headline would be more correct if it were published tomorrow and read. "I am angry, says MacKinnon". Any member would be entitled to be angry at the series of answers that are given here and in another place to his questions. I would like to comment on a speech made by a member in another place in which reference was made to Lord Macaulay and the ability of a lawyer to represent someone he dislikes, but as you will not permit me to do this—

The PRESIDENT: You cannot refer to a debate in another place.

The Hon. G. C. MacKINNON: — I will keep to the debate in this House, because that was bad enough, without making any comment on the debate that occurred in another place.

What I want to point out is that there is no doubt that any Government has the right to inquire into a certain situation to obtain an impartial judgment, but this Government appointed a man who had already committed himself and asked him to make an inquiry. As Mr. Baxter has said—and which was very well put—he was a hostile juror from the start.

The Hon. R. F. Claughton: He has since said that he has only expressed an opinion.

The Hon. G. C. MacKINNON: Of course, it would be difficult to obtain a man who did not hold opinions, but a person who is legitimately engaged to conduct inquiries and to make judgments should be extremely careful not to commit himself beforehand.

I think there is a firm called W. D. Scott which carries out investigations into business management. When I was Minister, I think I engaged this firm for a particular assignment, but the firm had not committed itself beforehand. Not only should such a firm be fair in its outlook, but also it should appear to be fair.

Tied to this question is the matter of the allegations which I mentioned. I did not bring them up: Mr. Graham brought up the allegations himself. There is a real cogent question. I asked a question today and the answer I received was that the Premier has advised that no direct allegations were made. He was approached by another person who said that rumours were circulating that were of the nature of those which have recently received publicity and which have been completely refuted by the Minister for Town Planning. That is about as definite as anything else we have had in answer to a question.

The Hon. R. F. Claughton: You do not seem to be able to make up your mind about it.

The Hon. G. C. MacKINNON: I think the question is reasonable in the circumstances when it appears that ratepayers' money is being used to refute completely the allegations that have been made, and we are entitled to ask such a question.

Let me quote one of the allegations which I personally have heard, to which Mr. Baxter and Mr. White have referred, and to which I went close to referring today in the first place. First I will mention the particular matter referred to today by the Premier. I am told that it was a Federal member of Parliament who had made the allegation. That was the information that I heard. The allegations were of the nature as hinted by the motion. The allegations are that Mr. Ritter had been appointed because it is known he would condemn the plan and that Mr. Graham wanted it condemned because of some association he has with Bond and Santa Maria.

I do not believe Mr. Graham owns one grain of sand in the corridor, and I said this when I first spoke to the motion. There is no need for a member of Parliament to own anything in order to obtain benefits for his own political party. All members know this. These are the allegations that should be refuted. Has Mr. Ritter been appointed to make it easier

for the Government to condemn the corridor plan and so put in another corridor? There is nothing against asking that question. Is he being paid money for this? I repeat that I did not raise this allegation; my party did not raise any allegation, and neither of the two parties in opposition raised any allegations, because they were first publicised on television by Mr. Graham, the Minister for Town Planning, and republicised next day in the *Daily News* when the information was obtained off the tape recording.

The Hon. R. F. Claughton: You referred to him when speaking.

The Hon. G. C. MacKINNON: I read that from the newspaper article.

The Hon. R. F. Claughton: You said of these rumours, on page 863 of *Hansard*, "that they are being retailed strongly in his own political party; and that they led a Federal politician to question the Premier, Mr. Tonkin."

The Hon. G. C. MacKINNON: I just said that.

The Hon. R. F. Claughton: When you spoke before.

The Hon. G. C. MacKINNON: All I said then about allegations I read from the newspaper. I started off by saying that on the next day came an even greater surprise, and then I gave the headlines and continued to speak about the allegations. I repeat that my party did not make them and neither did the Country Party. They were market-place allegations and the comments made in the speeches in this House and in another place on this motion have not been answered. All members here know these things are being said, although I do not expect them to say so here. However, if members went up and down the streets now they would hear the very things Mr. White, Mr. Baxter, and I have just said. These are the things people are asking and this is the place in which the questions should have been answered.

The Hon. R. F. Claughton: You said you had not heard any such rumours.

The PRESIDENT: Order!

The Hon. G. C. MacKINNON: On what page?

The Hon. R. F. Claughton: Page 862.

The PRESIDENT: Order! The honourable member must not invite interjections.

The Hon. G. C. MacKINNON: I said I had not heard any such rumours because at that time I had not, but I have made it my business since then to make inquiries and it was only yesterday and today that I heard these things. At the time I made my speech I had not heard any such rumours. I was acting purely and simply on what Mr. Graham had said.

The Hon. R. Thompson: When you are in public life you are a sitting duck all the time.

The Hon. G. C. MacKINNON: Do not I know it! I was there for six years and I am fully aware of it. That is why I believe that Mr. Ritter, even if he had been the number one qualified man in the world, should not have been appointed because he had committed himself on a basis of opposition or hostility—call it what we like—to the corridor plan. Mr. Graham was fairly definite in his views; he is a definite man. I have been told I suffer from the same disability.

The Hon. R. Thompson: I think you do.

The Hon. G. C. MacKINNON: I know. Under these circumstances I think Mr. Ritter was a very unwise choice, to say the least, and I think the position ought to be explained a little better when we are spending $5,000 of the taxpayers' money on something we could get for 30c, and condemning a plan which probably cost thousands of dollars. It seems to me a little unfair.

When a person is appointed to investigate something he must be fair and he must be seen to be fair; apart from this he must not have committed himself prior to his appointment. This was the crunch —the kernel or nitty-gritty—in this motion, and nothing whatever was said about it. There has been talk of the qualifications of Mr. Ritter. He is supposed to have gone to several places, and for the information of members, I have been told authoritatively that all of those places have adopted corridor plans. I would not care whether he was the most qualified man in the world. For the very reasons I have just given I still believe the Government stands condemned for appointing a man who has committed himself in this way. I am not saying that the allegations are factual, but everyone knows that there were allegations. Everyone knows that these were the rumours which were in fact being circulated.

The Hon. R. F. Claughton: If they are rumours, they are not facts.

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

Ayes—16

Hon. N. E. Baxter	Hon. T. O. Perry
Hon. G. W. Berry	Hon. J. M. Thomson
Hon. V. J. Ferry	Hon. F. R. White
Hon. A. F. Griffith	Hon. R. J. L. Williams
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. C. MacKinnon	Hon. W. R. Withers
Hon. N. McNeill	Hon. D. J. Wordsworth
Hon. I. G. Medcalf	Hon. J. Heitman *(Teller)*

Noes—10

Hon. R. F. Claughton	Hon. J. L. Hunt
Hon. D. K. Dans	Hon. R. T. Leeson
Hon. S. J. Dellar	Hon. R. H. C. Stubbs
Hon. J. Dolan	Hon. W. F. Willesee
Hon. L. D. Elliott	Hon. R. Thompson *(Teller)*

Question thus passed.

Sitting suspended from 6.08 to 7.30 p.m.

LAND TAX ASSESSMENT ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. W. F. Willesee (Leader of the House), read a first time.

ADMINISTRATION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 24th August.

THE HON. I. G. MEDCALF (Metropolitan) [7.31 p.m.]: In giving support in principle to this measure I shall draw attention to certain matters which, I believe, require attention and should be included if the legislation is to be reasonably satisfactory, if and when the Bill is passed.

The present law in Western Australia in relation to intestate estates—that is, where people die without a will or where they leave a will which does not provide for part of their estate—is that, so far as next of kin are concerned, they can only be considered as being entitled to share in the distribution of that intestate estate provided they are legitimate. In turn, this means provided they are children, or relatives of children, who have been conceived in holy wedlock or legitimated as a result of the subsequent marriage of their parents. It is only these classes of people, together with adopted children in a limited number of cases, who can claim to be the legitimate heirs of any person who dies without leaving a will.

This has exposed the law to criticism from various quarters from time to time, because it is possible to produce cases in which inequity occurs as a result of illegitimate heirs being debarred from receiving any part of an intestate estate. The law in our State derives from English law which has been constant for many centuries and illegitimates have not received any recognition under the law in respect of inheritance of intestate estates.

Further, illegitimates have not received any help under the law so far as the Testators Family Maintenance Act is concerned which enables a will to be upset. I understand it is the Government's intention to bring in legislation which will give illegitimates some relief in that connection.

Although this has been the law for a long time, there have been ways in which the position of an illegitimate has been alleviated. There are procedures open when there are no other claims to an estate whereby persons with a moral claim can acquire the estate. However, it is a rather long and devious process and the object of the legislation at present before the House is to provide an immediate relief to people who are illegitimate and who would otherwise be debarred from sharing in an estate.

As I have said, it is the law—and has been the law for a long time—that illegitimates cannot share in an intestate estate. On grounds of fair play, if on no other grounds, it is quite apparent to the average man and woman that illegitimates should be allowed to share in estates. After all, they are not responsible for the state of illegitimacy in which they find themselves. It is not their fault that their parents were unmarried. It does not appeal to the sense of fair play of the average Australian that these people should be indefinitely debarred from sharing in estates. A child does not have any say in who its parents are and, if its parents happen to be unmarried, the child suffers as a result of this. This is unfair and it does not appeal to any of us.

Therefore, it seems desirable that we should remove the legal disabilities from which illegitimates suffer. We should elevate their status in the community and if it is not the intention to recognise that they have equal status, we should at least allow them, for the purposes of the distribution of estates, to share with other lawful heirs.

All these reasons are good and valid; they are the reasons for supporting this legislation in principle. I believe these are the reasons that support has been forthcoming for this legislation from the Statutory Law Reform Committee and why we have seen support for it from various other organisations from time to time.

It should be noted that there is a difference in the relationship between a mother and her illegitimate child and a father and his illegitimate child for the purposes of the law. Traditionally speaking, it is much easier to associate a mother as being the mother of an illegitimate child than it is to associate the father. In most cases it is quite apparent who the mother of the illegitimate child is, because that mother usually looks after her child. Frequently the mother retains the child in her personal custody. This usually happens, in fact, unless she has the child adopted or fostered out.

However, the father is often very difficult to find. Sometimes there are cases to determine who the father is. If the father will not admit or acknowledge he is the father, he may be brought to book by a maintenance case and what is called an affiliation order is made against him. If this happens, he has to pay maintenance to the mother to maintain the child.

It is open to anyone acting on behalf of the child—be it a mother, a guardian, or a foster parent—to bring proceedings against the putative, or alleged, father of the child in order to bring him to book and make him pay for the upkeep of the child. Frequently this occurs.

Sometimes there is genuine doubt as to who the father of the child is. One of the most frequent defences one hears in affiliation cases is that other persons have had access to the mother and the person accused of being the father is not necessarily the father. If this is established to the satisfaction of the court, frequently the court will not make an order against the particular person who is alleged to be the father. This, of course, is up to the court in any particular case.

It may be thought that this is irrelevant to the Bill, but it is not at all irrelevant. I believe it is very important that the identity of the father—if identity is denied—should be properly established. When a father admits he is the father there is no difficulty. He is morally and legally bound to support the child. If, however, he does not admit that he is the father—and if it cannot be established against him that he is—he is not legally bound and, depending upon his own conscience, he may not be morally bound to support the child. When I say, "depending upon his own conscience" it becomes a matter for him to decide whether or not he is, or may be, the father of the child.

In any legislation on this subject, if we decide that an illegitimate child is to have the same rights as a legitimate child, we must be quite sure that we are dealing with the illegitimate child of a particular person. It would be too bad if we gave to a person who was not the illegitimate child of a particular person, the right to claim against a deceased estate in respect of which there was no relationship whatever. In other words, it would be allowing an illegitimate, who claimed to be but was not really the illegitimate child of a particular deceased, to claim against the deceased's estate and thereby displace some of the share of the property which would go to the legitimate offspring.

It is important it should be established in any legislation of this kind that the father either admits or acknowledges his paternity. Alternatively, paternity should be established against him in some way. I do not necessarily mean in a court of law. In due course when my amendment is before the Chamber, it will be seen I have used the word "established" whereas I could have used the phrase, "ordered by a court." If it is clearly established against a man that he is the father I believe the proposals in this legislation should apply. However, if it is not established against a person during his lifetime while he has the opportunity to refute the charge that he is the father, then I do not believe that after his death his estate should be held liable for something for which he may not be morally or legally liable.

For these reasons, I believe safeguards are required in this legislation which, as I have indicated, I support in principle. If we bring in this legislation without safeguards, it is my firm belief we will create just as many evils as we are proposing to cure by this measure.

It has been stated by the Minister that the Public Trustee, and other trustees, are in an unenviable position in having to inform illegitimates that they have no claim to an estate because they are illegitimates. Undoubtedly this is true. Any trustee in the position of having to tell somebody who genuinely believes he is the legitimate offspring, that he is, in fact, illegitimate and cannot acquire a share in the estate, has an unenviable task to perform. What about the reverse case? What about the unenviable position of a trustee who has to inform a legitimate offspring that an illegitimate person, of whom the legitimate had no knowledge, is entitled to share in the father's estate? Not only do they have no knowledge of it, but nothing was done in the father's lifetime to establish that such a person was his illegitimate offspring. What about the position of a child who is adopted by another family but who still has a claim back against his natural father although he now has adopting parents who are his legitimate parents for the purposes of the law? Nevertheless, in spite of having legitimate parents he can go right back to his natural father's estate, as he will be able to do upon the passage of this measure.

That would also place the trustee in the unenviable position of having to explain to the legitimate offspring that their father had committed an indiscretion when he was a young man and had done the right thing—being unable to support the child himself, he had the child adopted out to someone else—but after the passage of many years and after his death, this adopted child who had had nothing to do with him or his family could come back and claim with his own legitimate children.

I believe that will also be the case if we pass this Bill as it stands. The amendment I propose will not in fact cure that situation. I therefore suggest to the Minister that in order to cure that situation—which I believe the Crown Law Department will support, if given the opportunity to investigate it—it will be necessary to amend the Adoption of Children Act, which is outside the scope of this Bill. The amendment of that Act would, nevertheless, put adopted children on the proper basis; namely, that they have been adopted into other families and are legitimate in those families. The law already says that, but we should take away any right they now have under section 8 of the Adoption of Children Act to claim on the estates of their natural fathers with whom they have had nothing to do and whose identities they possibly do not even know, unless a search is made of the Supreme Court files.

I submit that will be one of the effects of this legislation if we pass it as it stands. Although I am not opposing the passage

of the Bill as it now stands—subject to my amendment—I suggest the Minister should look at that aspect to consider whether it is advisable to avoid that situation by amending the Adoption of Children Act. It would be a minor amendment to that Act, taking away a dozen or so words at the end of section 8. That is not irrelevant to this Bill because, in my opinion, it will be a direct consequence of the passage of this legislation.

Quite apart from the unenviable position of the trustee who has to report this situation, what if there were in existence, as a result of the youthful indiscretion of the deceased, an illegitimate child, who has not been adopted out but has been quite happily looked after by its mother or her family? The mother's family might not have wanted any publicity and might have decided to look after the child rather than make a great fuss about it and perhaps darken their daughter's name, because in some quarters that is how people would look upon it; they might have hushed the matter up. That does not alter the fact that in those circumstances the child is illegitimate, not even having been adopted out. If he were ever to discover the identity of his true father he could come along and claim with the father's lawful children who might have grown up in a happy family without any knowledge of this indiscretion which, one might say, has been put right by the passage of time.

The Hon. R. F. Claughton: He would have to establish it under this legislation.

The Hon. I. G. MEDCALF: He would have to establish it to the satisfaction of the Court, according to subsection (2) of proposed section 12A.

The Hon. R. F. Claughton: That would have to be done within a certain time.

The Hon. I. G. MEDCALF: There is no time limit. That is the point of my amendment—that the time limit should be the lifetime of the father. It would not be so bad if the illegitimacy had been recognised by the father.

Let us for a moment put ourselves in the position of the trustee who has to explain to the legitimate children that an illegitimate child has turned up and will share in the estate. If he were able to say to the children, "Your father admitted this and paid maintenance for a reasonable time until the child was able to earn his own living," or, "There was an order against your father for this," that should convince the average lawful issue that the illegitimate child had a legal and moral claim. I think the members of the average family must recognise that situation because they must accept the fact that their father might have fathered an illegitimate child, if he has admitted it or it has been established against him.

I do not think it is a matter that would cause a great deal of indefinite heartburning amongst the family. I think they would accustom themselves to the situation. But if the claim were made for the first time after the death of the alleged father and the family heard about it for the first time when the father was not there to refute it, what a situation for the family to be in! That is exactly the situation we would invite if we did not amend this Bill.

As it stands, the Bill also provides a means for the making of fraudulent claims. I do not think I would be accused of drawing a long bow if I said that frequently writs are issued and claims made in order to provoke settlements without any intention whatever of proceeding to litigation. This occurs frequently in cases which involve people's personal reputations. We often hear of somebody being threatened with exposure in the Press through the issuing of a writ. There may be no truth in the allegation but where there is perhaps just a possibility of truth, where there is some doubt, or even where there is no truth at all in the allegation, some people are prepared to settle and pay rather than have the publicity. They might be people in public life who are suddenly faced with what might be called a blackmailing claim. I am not saying it would actually amount to blackmail in law but it is very close to blackmail when people threaten publicity and proceedings in the hope of getting something out of somebody who is a public figure or somebody who cannot afford publicity because of his job.

The Bill opens the way for fraudulent claims and for claims to be made long after a person is dead, thus causing embarrassment to members of the family because they cannot prove the matter one way or the other. While the illegitimate child would certainly be battling to prove his case, so would the family be battling to know anything about it.

The matter would be left to the court to decide, and according to proposed subsection (2) it has to be established to the reasonable satisfaction of the court. That is quite a good phrase to use in the circumstances but it certainly does not imply that the absolute strict standards of criminal law will be applied. "The reasonable satisfaction of the court" rather implies that the court will try to weigh up the evidence, the probabilities, and the doubts, and come to a conclusion.

Quite apart from fraudulent claims, there are legitimate claims which, for good reason, should never be made; that is, the legitimate claims of persons who have become established in other families and should not be harking back to their natural parents for any assistance whatsoever because they have had nothing to do with their natural parents, having left them at birth.

It has been said that the Bill is an extension of the Commonwealth Marriage Act, but I do not believe that is really so. I do not intend to labour this point because it represents a slight diversion from what I am saying, but the Commonwealth Marriage Act was really an extension of the Legitimation Act of this State. What it says basically is that a child born out of wedlock may be legitimated by the subsequent marriage of its parents. That does not seem to me to be an extension of the Commonwealth Marriage Act; it seems to be quite the opposite. This Bill has nothing to do with marriage, whereas that Act extends marriage. It says the subsequent marriage of the parents legitimates the birth of the child. I do not regard this Bill as being an extension of that principle.

It has also been said that the Bill does not break new ground. I believe the Bill does break new ground. I do not object to the new ground but I think we should realise that it does break new ground to a certain extent, and I quote from the Minister's speech. He said—

> In a sense, the Bill does not break new ground, in that our laws already acknowledge and provide relief for illegitimates. I refer to the provisions in section 117 of the Property Law Act, section 6(3) of the Fatal Accidents Act, and section 5 of the Workers' Compensation Act, each of which made or makes specific reference to this class of person.

It is true that all those Acts refer to illegitimates but they are all particular Acts relating to particular matters. For example, the Workers' Compensation Act allows illegitimates to claim when they are dependants of workers. The Fatal Accidents Act is much the same. Section 117 of the Property Law Act—which, incidentally, was repealed last year by the Wills Act, 1970—provides that illegitimates can be treated in the same light as legitimates for the purpose of substitution in their fathers' wills.

The Hon. W. F. Willesee: Did you say the Property Law Act had been repealed?

The Hon. I. G. MEDCALF: No. Section 117 of that Act was repealed—I invite the attention of the Leader of the House to section 27 of the Wills Act. That section said that illegitimates could be treated as issue for purposes of substitution in their fathers' wills. That is the general effect of it. The Wills Act does not say anything about illegitimates. When section 117 was repealed and a new section inserted into the Act, we omitted all reference to illegitimates.

Section 117 of the Property Law Act provides an illustration of the way the law has been bringing in illegitimates. That section contained a qualification that paternity must be acknowledged or established during the lifetime of the father. That is therefore exactly in line with the amendment I am proposing, which states that paternity must be established or admitted during the father's lifetime. That provision was based on the New Zealand Wills Act Amendment Act, 1958.

I believe the Fatal Accidents Act and the Workers' Compensation Act, which admit illegitimates, are in a special category because under those Acts there must be an element of dependency, and in those circumstances illegitimates are clearly people who are in some way recognised or recognisable as being dependent upon the deceased. So far as Australia is concerned, I believe the proposals contained in this Bill break new ground. It is also stated in the Minister's speech that—

> . . . this Bill is not a pioneering one so far as Australian legislation is concerned.

I believe that statement requires some qualification. It is not a pioneering Bill in one sense because this general subject has been embarked upon by other State legislatures and the Commonwealth legislature; but it is pioneering in the sense that it takes away all qualifications on legitimacy. Those are the qualifications I will seek to have restored to the Bill.

I think we should briefly examine other legislation. In the United Kingdom the position is governed by the Legitimacy Act, 1926, which says that illegitimates are recognised in succession only to the extent that there is no legitimate issue. That is also the position in New South Wales under legislation passed in 1954, and in Victoria under an Act passed in 1958.

South Australia has an Act which applies only to the illegitimate offspring of the woman, and the father is not included. New Zealand has similar legislation. Hence we are breaking new ground, and to a certain extent we are pioneering legislation, when we leave out these qualifications in respect of the father. We are now bringing in the father's relationship to the child without any qualification and I believe we are breaking new ground in that respect.

The Minister said that the working paper of the Law Reform Committee was circulated amongst the judges, the Law School, trustee companies, and others, but no indication was given of the comments made by those bodies apart from a reference to the Law Society. It may be asked whether they all accepted these recommendations as contained in the Bill, or whether they made any qualifications. Certainly the Law Reform Committee of the Law Society made certain qualifications. It accepted the principle of the Bill but it qualified its acceptance. I would like to quote a comment of that committee, and I will quote the minutes of the Law Reform Committee meeting of the 17th

June, 1969. The committee had before it the Statutory Law Reform Committee's working paper on illegitimate succession and it resolved as follows:—

> To recommend to the Council of the Law Society that it adopts the Statutory Law Reform Committee's recommendations contained in paragraph 31 of the working paper with the qualification that in regard to subparagraph (1) of paragraph 31, it thought that an illegitimate child should only be treated in the same way as a legitimate child where he or she has been recognised by the father during the father's lifetime or where an Order has been made against the father for the child's maintenance.

Those are broadly the qualifications I have included in the amendments on the notice paper. The Public Trustee raised this matter initially, and I believe it was he who started off the whole subject. Indeed, in the Minister's speech there is an indication that this is where the matter emanated. The cases quoted in the Minister's speech emanated from the Public Trust Office and would have been cured by the adoption of the English Legitimacy Act.

I believe that in those particular cases probably there were no legitimate issue. The cases referred to appeared to be cases in which the children had been living with their parents in their parental home and, because the parents were unmarried, after the death of one or other of the parents the children were dispossessed and the home went to other relatives because the children were illegitimate. That was indeed a sorry result. However, I believe that the Public Trustee, in putting up this case, would have been satisfied simply to have adopted the English Act which provided that the illegitimates may share if there are no legitimate issue. In that particular case I believe probably there was no legitimate issue.

However, I am quite prepared to go along with the Bill in the further direction in which it goes. I would like to quote from the United Kingdom *Law Society Gazette* of March, 1965, which refers to evidence given by the United Kingdom Law Society to the Russell Committee to which the Minister has referred, and which considered this matter. I quote as follows:—

> The Council have recently submitted a memorandum to the Committee on the Succession Rights of Illegitimate Persons under the chairmanship of Lord Justice Russell. The Council note that the succession rights of illegitimate children are well established under a will in which they are expressly mentioned or where, even in the absence of express reference, the testator's intentions in relation to them are clear. Where, however, reference is made in a will merely to the "children" of the testator, this may exclude illegitimate children.
>
> For a variety of reasons (including the danger of unmeritorious or fraudulent claims and the extreme difficulty of providing proof of parentage in many such cases) the Council consider that it would be undesirable to equate illegitimate children with legitimate children for all succession purposes, but that in certain limited cases there should be means of relieving hardship.

Now, Sir, the Council of that Law Society went on to recommend that this hardship should be relieved by extending the range of persons, or the category of persons, who could apply under their equivalent of the Testator's Family Maintenance Act.

I believe it is anticipated that a Bill will come before the House which will in fact give to illegitimate children the rights to apply on intestacy in an equivalent situation to the Testator's Family Maintenance Act; that is, to apply to a court to have a share given to them because they depend in some way upon a deceased who did not make a will. I believe that measure should be before the House now and it is indeed unfortunate that it is not before the House as in my view that measure certainly should be considered together with this one as one seems to be complementary to the other.

It is suggested in the Minister's speech that the argument that the institution of marriage should be held absolutely sacred is the main argument against recognising the rights of illegitimate children. I do not believe that is the main argument. Undoubtedly it is one argument which is put forward, but I believe a greater argument is that when we change one part of the law which has been the law for many centuries, we create anomalies which, if we are not careful, may be worse than the evil we are seeking to cure. Therefore, I believe we should look very carefully at this and at one or two other Acts as well.

If I were to briefly summarise the various State laws on this subject, I would say that there are four stages in the approaches of the different Legislatures to this subject. The first stage is the one in which Western Australia and Queensland are at the moment. In Western Australia we do not recognise the rights of illegitimates in intestate succession. We simply do not recognise their rights and I understand neither does Queensland. It is true that Queensland gives them rights to apply under its equivalent of the Testator's Family Maintenance Act which, I believe, will also be coming here. But nevertheless there is no definite right in Queensland—as there is none here—to claim on the grounds of being illegitimate.

The second stage is that in which the United Kingdom, New South Wales, and Victoria find themselves; where an illegitimate may share in the estate if there are no legitimate issue. The third stage is that of South Australia, the Australian Capital Territory, and New Zealand, where an illegitimate may share with the legitimate issue, with certain provisos. In the case of South Australia and New Zealand, this applies only to the illegitimate issue of a woman, and in the case of the Australian Capital Territory, the father must acknowledge the illegitimacy and must acknowledge paternity, or there must be a court order for maintenance established against him.

The Law Reform Committee of Ontario recently prepared a report on this topic and from my understanding of the report that country also seems to recognise that paternity should be established during the lifetime of the father, and not afterwards. I have not seen the final report of that committee, but that seems to be the position according to the report I read.

The fourth stage is that we are proposing by this Bill—that we recognise illegitimates as being equivalent to legitimates in all respects without the safeguards for the purposes of intestate succession; in other words, we are in fact making a considerable step in advance of the legislation in other States of Australia and in New Zealand, including the Commonwealth.

I believe that the third stage—that is, similar legislation to the Commonwealth legislation—would cover the situation in Western Australia and that is what I seek to do with my amendments. I believe that if we enter the fourth stage we will introduce a host of other difficulties and I would not be able to foresee them any more than any other member in this House. But I can see that there will be difficulties and problems. I am never one to shirk a matter just because there may be difficulties, but I can see at least one or two real difficulties in this matter and I can well believe there will be others which have not yet been thoroughly thought out.

There is, of course, the oustanding difficulty of how one can ever get a court to make an order in these circumstances. At the present if one wishes one can apply for a declaration of legitimacy under the Commonwealth Marriage Act. Anyone who wishes to establish that he is legitimate can take out a suit for a declaration by the court that he is, in fact, legitimate and bring evidence to say that he is legitimate, that his parents were lawfully married, or that his parents were living together in a *de facto* marriage. One can, in fact, take out a suit to be declared legitimate. But can one apply for a declaration that one is illegitimate? I have never heard of it; but it may be possible. Possibly no-one has ever bothered to do this in the past because there was no advantage, but in certain circumstances there may be an advantage in the future.

This introduces all sorts of frightening prospects after the death of the father who, perhaps, is the person most responsible for the state of affairs. After the death of somebody who may perhaps leave a reasonable estate to his family, this matter can come up and the family could be faced with some sort of a claim of a legal nature in which the family hear that their legitimate father was also the father of illegitimate offspring of whom they have no knowledge. How can this be proved after a man is dead, and is it fair to try to prove it after he is dead? For those reasons I propose to proceed with my amendments in due course. But, as I indicated at the outset, I am prepared to support this Bill. I believe the principle is a good one and a fair one and, subject to those qualifications, I support it.

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

ANATOMY ACT AMENDMENT BILL

Second Reading

Debate resumed from the 18th August.

THE HON. G. C. MacKINNON (Lower West) [8.14 p.m.]: This is a simple Bill, the purpose of which is to repeal and reenact section 20 of the parent Act. That section states—

> Nothing in this Act contained shall be construed to extend to or to prohibit any post mortem examination of any human body required or directed to be made by any competent legal authority.

As the Minister mentioned in his second reading speech, a few years ago there was occasion for some little confusion which was brought about by an order of a coroner; and in order to clarify the situation it is necessary to write into the legislation more extensive conditions, as are laid down in clause 2 of the Bill. This states—

> 20. Nothing in this Act shall be construed to extend to or prohibit—
>
> (a) any post mortem examination of any human body required or directed to be made by any competent legal authority;
>
> (b) any post mortem examination of any human body made by a medical practitioner for the purpose of ascertaining by actual inspection the cause or extent of disease; or
>
> (c) the removal of any tissue from a human body for grafting within the meaning of the Tissue Grafting and Processing Act, 1956-1966 as amended from time to time.

So it is perfectly evident that this provision has been included in the Bill to make it absolutely clear that the parent Act was designed for the teaching of anatomy, or for the control of the teaching of anatomy. These other and similar matters are dealt with under other Acts, such as the Criminal Code and the Tissue Grafting and Processing Act. From time to time confusion arises, and it is necessary for the matter to be clarified abundantly. I think it is desirable that the Act should continue to operate, and I support the measure.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

VERMIN ACT AMENDMENT BILL

Second Reading

Debate resumed from the 18th August.

THE HON. I. G. MEDCALF (Metropolitan) [8.19 p.m.]: As we know, vermin rates have now been abolished. The vermin tax was abolished last year, and the purpose of this Bill is not to restore the rates, as has been made clear, but to provide that difficulties which have arisen in connection with the collection of some of the rates shall be overcome by the means prescribed in the Bill.

My only information derives from the Minister's second reading speech, so that if what I am about to say is not correct then I must plead that this is the result of reading the Minister's speech; but it appears that there has been a single objection raised to the assessment of vermin rates by one taxpayer, I assume, a farmer, and that this objection does have some substance, or at any rate it has sufficient substance to cause the Bill to be introduced in Parliament.

In his second reading speech the Minister said—

> Arising from the single objection which was made, a close examination of the Act revealed that the claim by the ratepayer had some substance—and indeed there had been some deficiency in the Act since as far back as 1943.

The ratepayer claimed that he did not have to pay the rate, or that it had been levied improperly against him, therefore he was not liable.

Whether or not he paid I cannot say, but I assume he has not paid the rate. If he has paid I assume he is endeavouring to get the money refunded. In any event, it appears the ratepayer objected to the assessment and has not paid the rate. He apparently has claimed that the Act is defective.

Out of all the people who have paid vermin rates, this single ratepayer has lodged an objection; and it appears there is some substance in his objection from what the Minister has said. This is where I find myself in a difficult situation. We have before us an admission by the Minister—if one can use the word "admission" fairly, because after all it is a statement in his speech and perhaps it is not fair to use that word—that a close examination of the Act revealed that the claim had some substance.

Yet the effect of the provision in the Bill is that it will wipe out this claim which, as the Minister has told us, has some substance. This is where I find myself in some difficulty in agreeing to legislation which will have the effect of wiping out a claim which has some substance. The only way I can justify the wiping out of a claim which has some substance is where there is some ground of public policy which makes it an overriding necessity for such a claim to be wiped out. Frankly, I believe that where a person finds he has the law on his side, he is entitled to ventilate his legal rights.

I think it is necessary to recapitulate some of the events which have occurred in the history of vermin rates or vermin tax. In 1943 the principle of aggregation of vermin rates was removed from the legislation, and all parcels of land up to 160 acres were exempted from liability to pay vermin rates.

The principle of aggregation is a simple one, under which adjoining parcels of land are lumped together in order to calculate the total area. This principle was removed from the Act in 1943, and there is a rather curious history attached to the events which occurred then. It appears that the then member for Pingelly (Mr. Seward) had successfully pleaded in another place that a person should not have to pay vermin rates if he had fenced his property, because by so doing he kept the vermin out and it was not fair for him to have to pay the cost of fencing as well as the rates to benefit people who had not fenced their properties. I suggest that was a pretty good reason.

An argument arose between another place and this House, as a result of which some six months later the matter was settled, more or less, out of court by the suggestion of the Solicitor-General who proposed that the definition of "holding" in the Act should be amended. As a result of that change of definition the principle of aggregation went by the board and disappeared from the Act.

In 1946 all land, irrespective of the area, was made subject to vermin tax, so the principle of aggregation did not matter

then. In 1951 an exemption was granted in respect of holdings of an area of 10 acres or less; and in 1964 this exemption was amended and applied to holdings not exceeding five acres.

So in 1951 the principle of aggregation became important once again when the department proceeded to make its assessment on the basis of adding together all the holdings of a person, and if the aggregate was more than 10 acres then the holdings were not exempt.

The Bill before us seeks to restore the principle of aggregation, which was in fact abolished in 1943, back to the year 1951 when it became relevant because at that time the 10-acre exemption came into force.

I think one of the questions to be decided is whether it was intended to remove the principle of aggregation in 1943. In his second reading speech the Minister said—

> In either event, it is clear enough—by virtue of subsequent amendments and the continuation of the practice of aggregation—that it was not intended to remove this principle in 1943.

In my view it is not proper to say it was not intended to do something in 1943 as a result of subsequent amendments which were made in 1951 and 1964, because all subsequent amendments have no bearing on what was intended by Parliament in 1943. So it does not appear to me to be proper to say it was not intended by Parliament to remove the principle in 1943. In fact, the principle was abolished in 1943, and the Minister in his speech indicated it was removed. If it was removed in 1943 how can we say Parliament did not intend to remove it?

In this instance I think that with hindsight we are reading something into the debates of that time which does not appear in *Hansard*. We cannot say that Parliament intended something, merely because of the continuation by the department of the practice of aggregation. It cannot be said that Parliament intended to take a certain course of action, because it did the opposite; therefore I cannot subscribe to the view that it was not intended to remove the principle in 1943. I cannot see any evidence to justify that statement. How was it that the principle was abolished, if Parliament did not intend it to be abolished?

The principle of aggregation has been applied by the department since 1951 when it again became relevant. There is no argument about that. Evidently the department made a mistake; not only that, but the people who received assessments also made a mistake, because they paid the assessments in the mistaken belief that they were liable to pay. This is the curious situation in which the people found themselves: they were law-abiding and were anxious to pay their rates and taxes, and they accepted that Parliament intended the rates to be paid, so they did nothing about the matter.

I venture to suggest that most people do not think a great deal about the assessments they receive. They accept the fact that these assessments are worked out by people who know the law; and so long as the assessments do not appear to be outrageous or very much greater than they were the year before, 99 per cent. of the people pay the assessments, and there the matter ends.

Most of those people paid their assessments until 1969, or until very recently. From what I have gathered I am led to believe that apparently one person decided he would not pay his assessment any more, because he did not believe it was legitimate. For that reason he ceased payment. Because of that it is now sought to legitimise what was otherwise illegitimate right back to 1951.

That does not seem to me to be proper or fair. If the commissioner ignored the Statute in 1951 then it does not seem to me to be proper to penalise somebody who, in fact, discovered his legal rights and who did not ignore the Statute; and this person did not pay what he was not legally bound to pay.

The Commissioner of Taxation, and the people who paid the assessments, all made the mistake. They made a mistake of law. They assumed that the law was one thing, when, in fact, it was not. It is very much the same as the situation which arose in respect of the payment of receipt duties. I believe this situation is analagous, but I will not digress for very long. In the case of the receipt duties, payments were made in the mistaken belief that they had to be paid. It was subsequently found that the State Government was not in order in levying receipt duty. Nevertheless, people had obeyed the law.

The Hon. J. Heitman: A lot were probably threatened if they did not pay it.

The Hon. I. G. MEDCALF: If the money was paid under threat that is in a different category. That is different from the case of people who paid without protest. I do not know about the vermin tax, but I gather a lot of people paid that tax without protest.

The Hon. N. E. Baxter: If they had not paid they would be under threat.

The Hon. I. G. MEDCALF: However, if they did pay it they did not raise the point. If, on the other hand, they were taken to court it might be a different story. They would have had to pay under compulsion. If people simply wrote out their cheques and paid the taxes in the belief that they were liable to pay then that is different. I do not believe such moneys are recoverable, and I do not believe the receipt duty is recoverable. Also, I do not believe that the payments of vermin tax are recoverable.

This situation is already covered in our law. Subsection (2) of section 124 of the Property Law Act is, perhaps, relevant. It reads as follows:—

> Nothing in this section enables relief to be given in respect of any payment made at a time when the law requires or allows, or is commonly understood to require or allow, the payment to be made or enforced, by reason only that the law is subsequently changed or shown not to have been as it was commonly understood to be at the time of payment.

If it is said that it does not apply in the case of an assessment—that it does not apply to the Crown—then there are several precedents which lay down clearly that payments made to the Crown under a mistake of law, where there is no threat or compulsion, are not recoverable. Therefore I do not believe there is a crisis as far as the Crown is concerned. If this legislation is not introduced it will not be possible for everybody to claim their money back. They cannot claim back what they have already paid.

If wiser heads than mine do not agree, and it is considered that people can claim back what has been paid, or if the Crown is not prepared to accept my reasoning and does not want to run the risk, I would suggest the right course is to legalise the payments made, but not to penalise the man who acted in a *bona fide* fashion to all outward intents and purposes in accordance with the law as it was, and still is. He did not pay because he was not liable to pay.

If, in fact, he was not liable to pay is it right that we should make him liable to pay just because other people have paid? The answer is, "No". It would be wrong to penalise the single case which has been quoted. I believe the amount owing is $1,000.

The Hon. R. H. C. Stubbs: I think that is the amount.

The Hon. I. G. MEDCALF: I ask: Would it be right to penalise that man and claim $1,000 from him—pass a law to get that $1,000—when, in fact, he was doing what the law allowed. I think the Minister would agree it was not right and I therefore feel that, perhaps, he should have another look at this and review the situation before we deal further with the legislation. I ask the Minister to bear in mind these words which I am sure have not been pointed out to him in this manner.

The Minister should bear in mind that it is hardly fair to penalise one person who was, in fact, complying with the law merely because other people paid the assessments issued as a result of a mistake. It would not be right to pass this legislation in the form in which we have it, and the man who saw no necessity to pay the money should not be forced to pay it now.

If we desire to legalise the payments which have been made, that is a horse of a different colour. If it is felt by the Crown that it cannot rely on the Property Law Act, nor on the other precedents which are available—and there are quite a number—and it wants to legalise the payments which have been made, I believe a simple amendment to this Bill would enable those payments to be legalised. The Government would then not have to worry any further, and it would not have to go through the impossible task of trying to pay back money, or trying to do what has never been done by any Government—pay back money which has already been spent. I am not suggesting that that should be done.

If the Government wants to legalise this situation a simple amendment would cover it and exonerate the person—only one person—who has been doing the right thing in accordance with the law as it stands at the present time.

I do not believe the person concerned should be penalised so the Bill should be amended to legalise the payments which have already been made. The law should not be changed to penalise the innocent party. Hence, I do not believe there is any justification in this case for retrospective legislation, which is what this is. There should be no discrimination against a single person who has been observing the law. It is not fair to discriminate against one citizen who knows his legal rights, and it is not proper to pass retrospective legislation unless it is in the overriding interest of the public. That situation does not exist in this case.

THE HON. N. McNEILL (Lower West) [8.38 p.m.]: I rise to give support to the intentions outlined by Mr. Medcalf in relation to this Bill. In fact, I am of exactly the same opinion. Firstly, I oppose the measure on the grounds of my objection to the use of retrospectivity in a case such as the one now before us. Secondly, as has already been mentioned by Mr. Medcalf, I oppose the implication to assume intentions of Parliament in 1964, 1951, and as far back as 1943.

I will also refer to the activities and discussions which took place in the respective Houses of Parliament previously, and more particularly to what took place in 1943. I have found the argument very difficult and most complicated to follow, particularly when endeavouring to justify or substantiate the contentions the Minister mentioned in his second reading speech.

As has already been indicated by Mr. Medcalf, the amendment which was introduced in 1943 was a private member's Bill for the purpose of providing exemption

from vermin rates of a portion of a property which had been fenced with rabbit netting. In the present circumstances we are not, in fact, discussing the question of whether there shall be exemption because of the construction of a rabbit proof fence, but we are discussing whether there shall be an exemption from rates and whether the exemption which was applied and became valid, continues to be valid to this day.

When the matter was discussed, firstly, in 1942 and subsequently when the session was continued in 1943, the Bill was introduced in the Legislative Assembly and subsequently passed to the Legislative Council. The measure was opposed by the Minister for Agriculture, at the time, and he was successful in moving certain amendments to the Bill.

The Bill passed to the Legislative Council and the amendments which had been moved originally in the Legislative Assembly were, in fact, deleted by the Legislative Council. The Bill was returned to its original form. There followed a situation which has been referred to by Mr. Medcalf as, "settlement out of court."

The intention of the private member who introduced the Bill was to provide for certain exemptions. However, it was felt on the best advice available that the purpose would not be achieved by the amendments which were proposed. It was felt that the only way this matter could be handled was for the member who introduced the private Bill to move that the amendments be not agreed to. In other words, he completely reversed his original contention with the intention of bringing about a conference of managers so that the matter could be clarified, and, perhaps, in anticipation that a report would be brought down by the conference of managers in keeping with the advice which had been received from the Solicitor-General. That advice was to include other amendments.

I can imagine the situation becoming difficult for the people concerned at the time. However, one thing is very clear; that is, the suggestion which was adopted and agreed to by the conference of managers. The suggestion was that the interpretation—section 4 of the principal Act—should be amended to provide for a new interpretation of the word "holding". I will refer to the Minister's second reading speech, which appears on page 774 of *Hansard*. The Minister stated the following:—

> In the process of providing this concession the definition of "holding" was changed and the principle of aggregation removed.

It might well be argued that it was an oversight; that perhaps the draftsmen saw no significance in the changed wording of the interpretation of "holding", and having not considered it did not think it important, and considering that the situation they were endeavouring to deal with at the time was adequately dealt with, proceeded accordingly. However, I very much doubt if that was the situation. I will now refer to the *Hansard* report of the debates which took place in 1942 and 1943. On page 1716 the Minister for Agriculture, in his second reading speech when replying to the private member who introduced the Bill, referred to a decision by the Full Court in regard to vermin rates, and said—

> The recent decision by the Full Court in regard to vermin rates had the effect of disallowing exemption where several parcels of land under separate titles were enclosed by a ring fence when other land constituted and worked as one property was at some distance from the netted blocks. In essence the Full Court decided that the word "holding" meant, as it is usually intended to mean in connection with shares or anything of that kind, that the total area held would be the holding.

There having been at that time a Full Court decision given of the interpretation of "holding" in relation to the Vermin Act one would assume that the Solicitor-General and the draftsman in providing for the appropriate interpretation under section 4 of the Act at the time would, without doubt, have taken very great notice indeed of any Full Court ruling on that subject.

Therefore, one would be quite justified in believing that, whatever interpretation might in fact have been inserted in 1943, it was clearly the intention to insert the provision that was made. In view of the fact that the debates and discussions on this subject providing for exemption of rates occupied such a tremendous amount of the time of Parliament in 1942-43, together with the time that was taken by the conference of managers in considering the question—added to which would be the time occupied in discussions which took place outside the House in relation to the matter and also the references which would have been available and of which full use would have been made—the decision by the Full Court made it abundantly clear that there was no doubt at the time of the provisions they were endeavouring to write into the legislation in order to provide for exemptions of parcels of land which constituted a holding.

In those circumstances I do not feel we are completely justified—unless there is further information with which I am not acquainted at this time which would substantiate the view put forward by the Minister—in accepting the position as outlined.

I can appreciate the difficulty that might arise in connection with a case having been substantiated of one person, we will

say, having found this loophole and for the matter to be raised by other people with areas of five acres of land in the aggregate, who could possibly make claims against the department for all the rates they had paid over the years. I do not think, however, it is reasonable to expect them to do this but of course, it is a chance the Treasury or the Government cannot take.

I do feel, however, that there is the possibility of providing an additional amendment which would limit the opportunity available to persons who in fact could subsequently claim against the Government because of rates they have previously paid. I think we must all agree that the one person in question is, after all, only exercising his rights when determining that he was in fact not liable to pay the rate. Having done so, he has been completely within the law. It is a most unfortunate circumstance that we should now—nearly 30 years after those amendments were in fact made in the law—turn around and say, "Barlies; let us start again. That was a mistake."

In all the circumstances of the Full Court's deliberation on the subject I do not believe necessarily that it was a mistake. But if it was a mistake there has been ample opportunity for amendments to be included when the legislation was brought forward for consideration and amendment.

I cannot adequately describe the number of times the law has been brought forward for amendment. I have found that even attempting to read the Statute and place the Bill before us in its appropriate place in the legislation is in itself a fairly considerable exercise, because there have been so many amendments made to the legislation over such a lengthy period. Even if the Bill does make reference to holdings and to the aggregation of holdings I would point out that this has been the subject of amendment throughout the history of this law. It may have been an oversight, but once again we cannot assume that in the successive amendments, an oversight having been made that we should now excuse those who should have allowed for those oversights by merely saying, "the whole thing was a mistake." I do not think we are justified in doing that.

Because it may be necessary to amend the law and perhaps limit possible claims against the Government, I, too, would not necessarily wish to oppose the Bill, but I would also ask the Minister if he would again have a look at the measure to see if some opportunity cannot be provided to find a better way around this rather peculiar difficulty in which the Government finds itself.

THE HON. F. R. WHITE (West) [8.52 p.m.]: I feel that this piece of legislation discriminates against an individual, and the Minister's second reading speech was misleading in its context. I would like to quote from the Minister's speech which appears on page 774 of *Hansard*. The Minister said—

> The purpose of this Bill is to restore, retrospectively to the 1st July, 1951, the principle of the aggregation of contiguous parcels of land in the assessment of the vermin rate. This amendment, together with that amending the Noxious Weeds Act, will correct a deficiency which has existed in this legislation for many years past.

The Minister goes on to say that the disability was the result of an oversight caused by successive amendments to the principal Act over a period of time. Previous speakers have dealt with this aspect quite adequately and I agree with their point of view.

The Minister also said that this possibility came to light when a ratepayer—I presume a single ratepayer—objected to receiving an assessment on the aggregation to more than one parcel of land in which each parcel was less than five acres in area. Arising from this single objection the Minister indicates that a close examination of the Act revealed that the claim by the ratepayer had some substance and that indeed there had been some deficiency in the Act since as far back as 1943. A little later he goes on to say—

> Here I emphasise that the basis has been accepted over that entire period by all ratepayers, excepting the one who recently objected.

I feel that statement is most misleading. As members know, I spoke at length in this Chamber some 12 months ago on the effect of revaluations in the area of the Shire of Kalamunda. I also dealt at length with land tax and vermin and noxious weeds tax. In my speech on that occasion I referred to a ratepayer, and I would like to quote from page 98 of the 1970 *Hansard* where on the 13th August I made the following comment:—

> I have one instance where a rural property is situated right in the centre of a developed urban area. The property is encircled by a fence five feet high, constructed of timber posts, horizontal wires, and wire-netting, which is very much like a rabbit-proof fence as defined under the Vermin Act. However, the property owner, even though the fence would keep out any vermin—even the two-legged variety—is not eligible even for the 50 per cent. rebate in vermin tax which is allowed when a proper vermin-proof fence, which must be at least 78 inches high is constructed. Yet that particular gentleman, as I will show members later, has to pay an enormous amount for vermin and noxious weeds tax.

How has this unjust set of circumstances developed whereby people have to pay more in land tax than in shire rates?

And so I went on. A little later I made reference to the same property when I said on page 103—

Last, but not least, is the case of a *bona fide* primary producer who has an 8½-acre property. Last year his vermin and noxious weeds tax was $20.50 and this year it was $134.40, an average of $15.80 per acre.

Subsequent to this I asked questions in this Chamber concerning the aggregation of properties. The reason for my asking the questions was based on the property to which I referred in that speech. On the 19th August, 1970, I asked the following question:—

(1) If a parcel of land, having an area of less than five acres, is used for primary production, is the owner liable for vermin and noxious weeds rates?

The reply I received was, "No." The second part of my question reads—

(2) If one owner has two adjoining properties, each less than five acres in area, but which together total more than five acres in area, and he uses these properties for primary production, does he have to pay vermin and noxious weeds rates?

The answer I received was, "Yes." Following this question I asked another on the 8th September which reads—

(1) Would the Minister advise whether the following statement is true or untrue?

"Although the Land Tax Assessment Act 1907-1969 provides for the aggregation of parcels of land for the purpose of assessing Land Tax payable by the owner, the Vermin and Noxious Weeds Acts have no provision for the aggregation of holdings for the assessment of Vermin and Noxious Weeds rates."

This again emphasises the fact that there is provision for aggregation in the Land Tax Assessment Act, but there is no such provision in either the Vermin or the Noxious Weeds Act. The second part of my question was as follows:—

(2) If the answer to (1) is "true" would the Minister explain in detail how the answer to the second part of question (7) asked by me on the 19th August, 1970 can be justified as being correct?

The third part reads—

(3) If the answer to (1) is "untrue" would the Minister explain which sections of the Vermin and Noxious Weeds Acts provide for the aggregation of holdings?

The answer to these three parts was as follows:—

(1) to (3) Although there is no specific provision in the Vermin and Noxious Weeds Acts for the aggregation of holdings it has always been the practice to do so for the assessment of rates.

This referred to a particular property in the Shire of Kalamunda. It was brought to my notice because there had been a revalution in the 1969-1970 financial year in the Shire of Gosnells, the Shire of Kalamunda, and in portion of the City Beach and South Perth area in the Perth municipality. This information was contained in the reply to a question I asked on Thursday, the 15th September.

At this particular time those areas—Gosnells, Kalamunda, part of Perth and South Perth—were revalued. These people as usual received land tax assessments which included not only land tax but also vermin rates, noxious weeds rates, and metropolitan region improvement rates. For the first time these assessments were so high that people took particular notice of them. Prior to this the assessments of individual ratepayers had been reasonable; they could afford to pay and did so. Due to speculation and the increase in the valuation of the land, the people concerned suddenly received a very rude shock and they could no longer afford their taxes. People objected to the rates.

The owner of the property I referred to contacted me and I advised him of my opinion of the legality of section 103 of the Vermin Act. To my mind this section clearly states that a holding of less than five acres would not be subject to vermin and noxious weeds rates even though the Taxation Department was aggregating parcels of land. This particular gentleman owns an eight-and-a-half-acre property, which consists of two lots each less than five acres. The description of the property is, "Two portions of Lot 26, Swan Location 2309, having a total area of 8 acres, 2 roods, 21 perches; one lot consisting of 4 acres, 1 rood, 11 perches and one lot of 4 acres, 1 rood, 10 perches." The Taxation Department combined these properties for the purpose of charging vermin and noxious weeds tax even though the entire eight-and-a-half-acres was covered by a fully-producing orchard. I have this gentleman's permission to divulge his name. He is Peter Annus, his wife's name is Gizella, and they live at 26 Swan Road, Maida Vale. This gentleman and his wife are Hungarian, and during the 20 years they have been in Australia they have turned virgin country into a beautiful orchard. They do not speak English particularly well, but they knew how much they were expected to pay by way of rates and they objected to the assessment through a lawyer.

From the inquiries I have made I have reason to believe that these are not the people referred to in the Minister's second reading speech. However, out of the hundreds of people who contacted me in 1970 concerning very high land tax assessments, this is the only case which involves an aggregation of primary producing properties and I would hazard a guess there are very few instances of this kind. Mr. Annus had paid his taxes happily year after year. He has even paid this last assessment because he was advised to pay it to avoid being taken to court.

The Hon. J. M. Thomson: That was the lawyer's advice, was it?

The Hon. F. R. WHITE: I would say this would be the case with many people, even though they have paid their tax they still have an opportunity to obtain some sort of refund. In the Land Tax Assessment Act, volume 17, section 61 on page 29, the Commissioner of Taxation, now the Commissioner of State Taxation, is able to give a refund to people who have paid more than they should have. The particular section reads as follows:—

> If the amount paid by any taxpayer is in excess of the amount properly chargeable under this Act, the Commissioner shall give a certificate to that effect, and shall refund the proper amount in each case to the taxpayer or person entitled to receive the same: Provided that the Commissioner shall not certify for any refund under this section unless the claim is made within three years of the date when the tax was due.

I also quote from the Noxious Weeds Act which is similar to the Vermin Act. Under section 48A and 48B there is provision for the Commissioner of State Taxation to make one assessment. This section reads as follows:—

> (3) The Commissioner of State Taxation may, by one assessment, assess both the weed rate and the rate payable under the provisions of section one hundred and three of the Vermin Act, 1919, and the sum of the two rates as so assessed is payable on demand and is recoverable as if it were land tax of which payment is in default.

So to all intents and purposes vermin tax, noxious weeds and land tax all fall into the same category as stated under the Land Tax Assessment Act. The commissioner may only refund money for the three years prior to the receipt of his last assessment. I feel there is an implication in the Minister's speech that if somebody objects and takes the matter to a court of law the Taxation Department may have to refund the taxpayer for the past 20 years. It appears to me there would only be a handful of people who would object, and they can only claim for three years and not 20 years, so there would not be a very great impact upon the Treasury if every one of these people applied for a refund.

People have great difficulty in understanding the law and it is only the exceptional case in which the appropriate action is taken. So if the inference is drawn from the Minister's second reading speech that refunds have to be made for 20 years, I would question that inference. There is also the implication that if one person objects successfully and is refunded money paid over three years, then the Taxation Department would have to make refunds to everyone and the enormous task of searching through all past assessments would be impossible. I maintain the initiative must be taken by the particular ratepayer and not by the Taxation Department. I know of many instances where the ratepayer has to take the initiative in order to apply for a refund or an amendment of his assessment. I personally do not know of any instance where the Taxation Department has taken the initiative. Even though there are probably only a few people concerned, I feel that the Taxation Department need not, and possibly should not take the initiative and try to refund money to those others who have not objected.

The legislation before us is primarily for the purpose of legalising an illegal act by the officers of the Taxation Department. When I speak of the officers of the Taxation Department, let me make it clear that we have only had a State Taxation Department since the 1st July, 1970, and since then nobody has had to pay any vermin or noxious weeds tax. Prior to the 1st July, 1970, when this tax was levied upon particular ratepayers, the Federal Taxation Department operated as an agent for the State. They did this under the Deputy Commissioner of Taxation. I have the greatest respect for the present State Commissioner of Taxation. On every occasion that I or any of my constituents have approached him with a problem he has been very helpful. He is not responsible for the action of the previous federal Taxation Department but unfortunately for him he has been left with the result of some of the department's actions. Some members on his staff were with the previous organisation. I do not have very much respect for some of these gentlemen and in my view they are not carrying out the functions of their office as they should.

I wish to give the example of a gentleman in Gosnells. This is in Mr. Dolan's area. About ten years ago this particular gentleman purchased a small property of six acres four of which carried fruit trees. Later on he bought another property of 10 acres nearby. On this property there was a house in which he is now living. Subsequently he bought other adjoining properties which he has developed for grazing. This gentleman, like most other

ratepayers, had happily paid his land tax assessments year after year until the 1969-70 assessment arrived after a revaluation of properties in the Shire of Gosnells. A photostat of his 1968 assessment shows that a combined vermin, noxious weeds, land and metropolitan improvement tax was levied on his property. This tax added up to the grand total of $190.45.

The Hon. A. F. Griffith: How many acres of land did he have?

The Hon. F. R. WHITE: From memory, it was a little over 40 acres. However, the following year the assessment of the taxes on the same properties came to a grand total of $4,880.99. For the first time this gentleman objected. Upon making his objection to me I gave him some information and then wrote to the Commissioner of State Taxation pointing out the area of land involved was approximately 45 acres. I also gave a description of the land, quoting the location numbers and so on. Approximately 30 acres had been improved and were used for the grazing of sheep and cattle. There were four acres of land under orchard, and the improvements included a three-bedroomed brick veneer tiled roof home.

The 1968 assessment received by this gentleman, although showing his land to be unimproved, was not queried, as the assessment amounted to only $190.45, but the amount shown in the 1969 assessment was the staggering sum of $4,880.99. I also pointed out to the Commissioner that since Mr. and Mrs. So-and-so had been using the Gosnells land for several years for primary production, I was of the opinion that they should be exempt from most, if not all, of the assessed land tax and the metropolitan region improvement tax.

I also pointed out that it appeared that both Mr. So-and-so and his accountant had, over the years, neglected to advise the Taxation Department of the use to which the land was being put. I then said that I would appreciate the assessment being investigated and rectified for the 1969 year and for the previous three years.

Upon receipt of my letter the Commissioner for State Taxation referred this gentleman and myself to his departmental officers with the result that his tax bill was reduced considerably. However, subsequently, I had another look at his assessment and discovered that although his properties are used for primary production the Taxation Department did not grant him the benefit of the concessions that are granted to a primary producer. He was not even granted the benefit of this concession on the four acres of orchard which is confined to a single holding of six acres of land. The officers of the Taxation Department would not recognise that he should be granted the primary producer's concession that is made in respect of such land.

This substantiates the fact that we still have some officers in the Taxation Department who have been carried over from the old Commonwealth Taxation Department and who are not keeping up with the present day procedures relating to the imposition of this tax.

The Hon. A. F. Griffith: There are two points that strike me: firstly, if his bill was reduced from $4,000 odd to some other figure, it would be interesting to know what the other figure is; and, secondly, on what grounds the reduction was made.

The Hon. F. R. WHITE: The grounds for the reduction were that due to his own ignorance and to the apparent ignorance of his accountant—as I pointed out in my letter—the Taxation Department had not been advised that the properties had been improved and so the unimproved rate had been charged. The assessment was therefore amended to a charge in accordance with the improved rate.

The Hon. A. F. Griffith: So what he got was an approved urban assessment instead of what he said he got.

The Hon. F. R. WHITE: That is right, but it was not an approved primary producer's assessment. I can cite another case of a lady who contacted me in regard to payment of tax. This lady's assessment for 1969 was rather small when compared with the previous assessment I have just instanced to the House. The amount in question was only $33.96. Nevertheless she found it was particularly difficult for her to pay compared with the previous assessments she had received, and decided to object against the assessment. I am advised that she wrote to the Taxation Department expressing her objections in the following terms:—

> Dear Sir,
>
> With reference to the attached Land Tax notice would you please clarify the situation for me.
>
> I understand that in his Budget Speech the Premier made certain promises regarding land tax concessions including lifting the limit below which tax is exempted.
>
> Would you please recheck my assessment in light of the Premier's promises—and advise me if it is correct. Note: I did not receive any enclosure with my assessment.

Under the signature of the State Commissioner of Taxation the following reply was received by this lady:—

> Dear Sir and Madam,
>
> I acknowledge receipt of your letter dated 7 October, 1970 and advise that the proposals in the Hon. Premier's

Budget Speech will, if passed by Parliament, become effective as from 1 July, 1970.

As the Notice of Assessment issued to you is based on land owned on 30 June, 1969 and the tax is for the year to 30 June, 1970 the amount of $33.96 as assessed is correctly payable by you.

Your remittance to clear this outstanding amount would be appreciated.

Enclosed, please find Notice of Assessment.

Subsequent to this I checked this lady's land as I had checked the land belonging to many other people who had contacted me, because I knew that this land, at the time of assessment, had been zoned rural, but subsequently had been rezoned urban and in my opinion the lady in question should not have been charged the amount shown in her assessment. So I wrote a further letter to the Commissioner of State Taxation as follows:—

I wish to advise that Mrs.—of—Road has written to me requesting clarification of her 1969 assessment for Land Tax and Metropolitan Regional Improvement Tax.

On the 7th October, 1970, she wrote to you asking that her assessment be rechecked and subsequently received a reply dated 20th October, 1970. This reply stated that the assessment was correctly assessed.

My investigations have shown that the land in question was zoned Rural until the 26th February, 1971; at which date it was rezoned to Residential; and that it is used for Primary Production.

A little further on I stated—

In his budget speech on 24th September, 1970, the Premier stated that land zoned Rural would have a ceiling value of $1,500 per acre and that this value would apply retrospectively to the 1969-1970 assessments.

Mrs. —'s land value would therefore be less than $3,000 for assessment purposes—the area of land being lq. 3r 14p.—and as a result a refund of $33.96 should be made to her.

I then went on to describe to the Commissioner that, irrespective of this retrospectivity, the lady had used the land and was still using it for primary production. I subsequently received a reply from the Commissioner stating that he had agreed with my contention and that a cheque for the amount in question would be returned to the lady concerned.

Here is an instance where departmental officers are not keeping themselves up to date with changes in town planning. They are not keeping their files correctly noted and they are mistakenly—whether inadvertently or otherwise—charging rates and taxes against people who should not be charged with them.

The Bill before us appears to admit that in just one small area rates may have been charged where in fact they should not have been charged. We are confronted with a measure that seeks to make an illegal act legal. In the past mistakes have been made in many areas, but the present Commissioner of State Taxation, when the matter is brought to his notice, gives it favourable consideration but not for a period greater than three years.

If this Bill is passed it is possible that next week another Bill will be placed before us to take care of some widow who, in the past, has had her property falsely assessed, or to deal with the case of another gentleman who has had his property incorrectly assessed despite the fact that he has lawfully paid his taxes in the past. Are we to be presented with more and more Bills of the nature of the one that is now before us? I hope not. I consider this Bill to be an attempt to legalise an illegal act committed by the previous Commonwealth Taxation Department.

The Hon. A. F. Griffith: The Ministers are resolutely silent.

The Hon. J. Dolan: I am always silent; I am never any different, am I?

The Hon. F. R. WHITE: I am convinced that this Bill is an endeavour to circumvent all the principles of democratic justice for which this Parliament stands. It is a Bill which endeavours to discriminate against one individual, as was stated in the Minister's speech. I oppose the Bill.

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

NOXIOUS WEEDS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 18th August.

THE HON. I. G. MEDCALF (Metropolitan) [9.29 p.m.]: What I have said about the Vermin Act Amendment Bill applies with equal force to this Bill and I commend those comments to the Minister in the hope that he will give some attention to them.

THE HON. F. R. WHITE (West) [9.30 p.m.]: This Bill is very similar in nature to the previous one, and for exactly the same reasons I oppose it.

Debate adjourned, on motion by The Hon. D. K. Dans.

SNOWY MOUNTAINS ENGINEERING CORPORATION ENABLING BILL

Second Reading

Debate resumed from the 18th August.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [9.31 p.m.]: When introducing this Bill the Minister for Police told us that it was being submitted at the request of the Prime Minister, and he very kindly supplied me with a copy of the letter which the Prime Minister had written to the then Premier of the State on the 28th September, 1970. In his letter the Prime Minister said that the Commonwealth Parliament had passed an Act establishing the Snowy Mountains Engineering Corporation and that the Act defined the functions and powers of the new corporation. The Prime Minister said that it was to be noted that the Act recognises that the exercise of these functions is limited to matters in regard to which the Commonwealth Parliament has the power to make laws. He went on to say—

> However, subsection (6) of section 17 of the Act expressly contemplates that the Corporation may perform any of its specified functions in pursuance of an authority conferred by State law.

In a nut-shell, the real purpose of this Bill is to enable the corporation to carry out any work in Western Australia when the Commonwealth law might not be applicable in the State. I really think that the notes given to the Minister for Police to explain to the House are not sufficient and we are entitled to a little more information than we received on this occasion.

I had to ask the Minister—and, of course, he readily acceded to my request—to let me have a look at the communication sent by the Prime Minister. I also had to ask him to give me some information—and again he readily did so—concerning what other States had done in connection with the request of the Prime Minister. Mr. Dolan was able to tell me that Queensland and Victoria had enacted a Bill, that a Bill had been introduced in Tasmania, but that no information was available about New South Wales or South Australia.

I think that in future when the Commonwealth Government asks the States to introduce complementary legislation—and really that is what this Bill is—it would be a good idea if the House could be told whether or not the legislation has been introduced in other State Parliaments of the Commonwealth because this gives us a better lead as to the attitude of the other States in a matter of this nature.

I am not terribly enamoured of this particular piece of legislation because I cannot really see anything it will achieve beyond filling a gap in the event of the corporation wanting to undertake a function not covered by the Commonwealth law. Only in that isolated case will the Bill be really necessary.

The Prime Minister of the day talks about the Bill enabling the corporation to carry out work in our State for other than Commonwealth purposes; for example, work for State departments, including the Ord project, and for private organisations. I understand that the corporation has carried out work for the Ord project.

The Hon. J. Dolan: That was the Snowy River authority.

The Hon. A. F. GRIFFITH: Work was carried out by that Commonwealth organisation in Western Australia, and apparently no-one objected very violently and that particular body was not prevented from carrying out the work.

I fail to see the basis of the argument concerning the corporation carrying out work for private organisations. If, for instance, a big company operating in Western Australia or Australia decided to call tenders for advice along the lines permitted by the Commonwealth Act in relation to works which can be carried out in Western Australia, does the Minister mean to tell me that the Snowy Mountains Engineering Corporation would not be able to accept that contract even though it was the best tenderer if this Bill were not passed through the Western Australian Parliament? It just seems to me that would not be the case.

The Commonwealth Act sets out the functions and powers of the corporation and refers to the corporation being empowered to carry out works in Australia and elsewhere. Of course, "elsewhere" would be, no doubt, any other part of the world. The words "in Australia" would include all the States. In section 17 (1) (f) one of the powers and functions of the corporation is said to be the construction or performance of any work in relation to the construction of engineering works outside Australia. All the other sections in relation to its powers or functions deal with advice and carrying out investigations. But when it is a matter of going outside Australia the corporation is able to physically employ itself in work.

The puzzling feature of the Bill in front of us is that if the corporation wants to carry out any work in Western Australia it can do so only if the Minister of the State agrees that it should in fact do it. What would be the position if the corporation applied to the State Minister in charge of this Act to carry out a function and the Minister said, "No?" Would that exclude the corporation from performing a job for which it might successfully tender whether that be for an enterprise in respect of which the Commonwealth has power to make laws or whether it be an enterprise in respect of which the State law would apply? Would any embargo if I could use that word be placed on it in relation to a private contract?

The Hon. J. Dolan: It would be limited to what could be done under the Commonwealth Act.

The Hon. A. F. GRIFFITH: It would not be limited to what could be done under the Commonwealth Act at all.

The Hon. J. Dolan: Without permission, of course; that is what I mean.

The Hon. A. F. GRIFFITH: If the Minister reads the section he will find it states that in relation to the exercise of a function by the corporation in accordance with the section, the corporation has all the powers expressly conferred upon it by the Commonwealth Act, which means that it does not have to worry about the State. The Act further states that each such exercise shall be subject to the approval of the Minister and to any conditions to which the approval is subjected. If the State Minister refuses, what is the position then?

The other point which concerns me is one the Minister mentioned in his speech because, apparently, the matter was raised in another place. My fear is that the legislation would have an effect on local people by taking business away from them. We have the assurance in the Minister's notes that this was not the intention. I could accept the statement that it was not the intention, but I point out that Western Australia, and Australia for that matter, have come a long way in the last decade and because of the developments which have taken place here and in other parts of Australia, we now have many large consultant firms with the capacity and expertise to undertake the type of work the corporation might well undertake. I want to be assured that these people with their technical ability, knowledge, and expertise will not suffer in any way, shape, or form by what appears to me to be an intrusion by the corporation into this field.

I do not want my remarks construed in any derogatory way as far as the Snowy hydro scheme is concerned. We know what a magnificent job of work the organisation did for Australia in that case and probably it is desirable that the people who originally constituted this body remain in the service of the Government and that the knowledge and expertise they have, be available for use in certain circumstances. However, this will not necessarily be the case. Those people who constituted that body in the first place will not be here for the rest of time and we will find that the corporation will have to keep its strength up and keep going as an organisation.

However, I want to be sure that as far as Western Australia is concerned the local people will not be adversely affected by the willingness of some Government to perhaps side-step the local organisation and engage the Snowy Mountains Engineering Corporation to do the work which I am sure people in Western Australia are capable of undertaking.

I conclude my remarks by saying that I am not terribly enamoured of this Bill. I cannot really see any great necessity for its introduction. I do not know what has transpired in the intervening time in South Australia or New South Wales. Even with the good offices of the Minister I have not been able to ascertain whether those two States in fact have legislated. Since the original letter was written nearly a year has elapsed and if those two States have not legislated some good reason must exist for this state of affairs.

I leave the matter on that note hoping for an explanation, but I am not satisfied about the necessity for the Bill.

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [9.44 p.m.]: I feel that the honourable member has a great deal of justification in referring to the fact that no copy of the letter from the Prime Minister to the then Premier (Sir David Brand) was available. I am merely handling the Bill in this House, but in future I will certainly have a very close look at the Bills coming here and if I see anything of this nature again I will ask the Minister submitting the Bill to me to supply the details so that we have all the information available.

Probably one of the reasons for the differentiation between States in the implementation of the Prime Minister's request would be the fact that the different State Parliaments sit at different times. Possibly the request came at a time when it was not possible for the States to introduce the legislation. In Queensland the Act was assented to on the 14th April and in Victoria on the 27th April. The sittings in those States are different from ours. In Tasmania the Bill was listed as No. 1 for 1971.

Although the Leader of the Opposition has probably seen it all himself, I can tell him that the Snowy Mountains Authority did work for all parts of the world when it was operating. One of the most recent jobs—which, in fact, is not yet complete—is the building of a big dam in South-East Asia on the Mekong River. Many countries and people have availed themselves of the expertise of the authority over the years.

Some members who went on a tour of the Snowy would probably remember the models of dams in various parts of the world on display in the scientific and research laboratory. The authority has been able to give under-developed countries—and other countries—much-needed expertise and the benefit of its work over the years.

At the time I was in the laboratory the geology section was engaged in testing various types of rock which had been encountered on operations in the Snowy.

The authority was able to give expert information on the types of rock formations being encountered and was able to give the results of the surveys.

The Hon. J. Heitman: The authority has been testing rock from many countries.

The Hon. J. DOLAN: From almost all countries of the world, in fact. The authority has been able to give those countries the benefit of its knowledge. It was a wonderful institution and it seemed a shame when the work in the Snowy was finished that the valuable group of men gathered from all parts of the world would be broken up when the authority's expertise could be used not only in the interests of Australia but also in the interests of countries near to us, such as South-East Asia. In every respect the authority would certainly enhance our reputation with South-East Asian countries.

A recent job which the authority undertook, apart from the Ord, was in connection with the Harvey Dam. Probably Mr. McNeill remembers there was some trouble at the dam, in connection with a possible leakage and collapse. Representatives of the authority came over and examined this project with the result that, for a moderate charge, it was possible to repair the dam and prevent damage which may have eventuated.

What I said in moving the second reading will apply; there will be no intention whatever of using the authority if local firms have the necessary expert knowledge. I refer particularly to the new firms mentioned by the Leader of the Opposition which have established and built themselves up in Western Australia. I can give an absolute guarantee that there is no intention of using the authority's services if the work can be done by local firms.

The Hon. A. F. Griffith: The Snowy Mountains Hydro Authority did the work on the Ord and on the Harvey Weir without any enabling legislation.

The Hon. J. DOLAN: That is right. I understand there was nothing in the Commonwealth Act to prevent the authority from doing this as long as it obtained the sanction of the State. In each case I think the approach has had to be made by the State and the authority carries on from there.

I am sure the same state of affairs will apply. The authority will not intrude in any way whatever but, if a request is made for it to come in, it wants to be able to come into Western Australia or into any other State to be able to undertake work and give the State the benefit of the knowledge it has acquired.

I appreciate what the Leader of the Opposition said on certain matters. We are not being given as much information as we desire. I assure members that every Bill which I receive from now on will be examined very carefully by me. I shall ask myself whether anything has been mentioned in another place which we, in this House, should know. I shall see that all relevant information comes forward. I think the complaint made by the Leader of the Opposition is legitimate and I shall certainly see about remedying this type of thing in the future.

In the meantime, we have already had the example of a few of the other States not foreseeing any difficulties in connection with the legislation. These States have introduced very similar legislation. Of course, draftsmen in the various States seem to work a little differently from each other in the way they present Bills. I commend the measure.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. R. F. Claughton) in the Chair; The Hon. J. Dolan (Minister for Police) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Functions and power of the Corporation—

The Hon. A. F. GRIFFITH: The Committee should bear in mind that this is an enabling Bill and that subsection (6) of section 17 of the Commonwealth Act expressly contemplates that the corporation may perform any of its specified functions in pursuance of an authority conferred by a State Law. The real purpose of the Bill, as I see it, is to cover the Commonwealth. If it does not have the express authority in the State this Bill, when passed, will confer that authority by State law. How will clause 3(2) operate in relation to the State Minister's permission?

The Hon. J. DOLAN: I have some notes on this point. Firstly, all works must be approved by contract and there must be a consulting engineer. Members will appreciate that in all these fields considerable expertise has been built up. One of the functions is to measure the flow of water. We do this, of course, before embarking on building new dams in southern areas. If we run into difficulties these are the people whom we approach. The second point relates to the storage of water. The third relates to generation of electricity which is quite a possibility, I think, in parts of the north in the future. We could perhaps make particular use of the authority in this connection. The fourth concerns underground work. In the case of the Ord, I think it was necessary for tunnelling to be undertaken so that explosives could be laid to blow up sufficient rock fill for the dam. It also concerns any works incidental to the four

I have mentioned; namely, the flow of water, the storage of water, the generation of electricity, and any underground work.

All these works will be subject to contract in the first instance and it will then be necessary to engage a consulting engineer before the authority will even move into the field. Every exercise of this nature must have the Minister's approval. Consequently we are safeguarded in that respect. The corporation could not come in and override our authority.

The Hon. A. F. GRIFFITH: I knew all that, but the point I raised has not been covered. In the operation of clause 3(2) what will happen if the Minister refuses to give his consent? If a private organisation decides to call tenders and the corporation makes the best offer but the Minister withholds his consent, what will be the position? As I read it, it means that every such exercise shall be the subject of the approval of the Minister.

The Hon. J. DOLAN: I feel it means exactly what it says.

The Hon. A. F. Griffith: Don't tell me!

The Hon. J. DOLAN: I am sure the Minister would need to have grave reasons for doing something of that nature. I am not referring to this Parliament or to any previous Parliament when I say that over the years Ministers have done things which probably would not have been approved of by the general public or by the Parliament. In these circumstances when it says that approval is necessary, it means just that.

The Hon. A. F. Griffith: Approval has to be obtained in every exercise?

The Hon. J. DOLAN: There are numerous matters on which the Minister must give his approval, but many of them we take for granted. In this case I am sure we could take for granted that the Minister would give his permission except in unusual circumstances.

The Hon. A. F. GRIFFITH: I believe the passage of this Bill is nothing more or less than a public relations exercise between the Commonwealth and the State.

The Hon. J. Dolan: It started with the former Prime Minister and the former Premier.

The Hon. A. F. GRIFFITH: That makes no difference to me.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 9.59 p.m.

Legislative Assembly

Wednesday, the 25th August, 1971

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

QUESTIONS (29): ON NOTICE

1. TIMBER

Royalties

Mr. BLAIKIE, to the Minister for Forests:

(1) Is he aware that the recently announced increase of timber royalties will cause some hardship within the timber industry?

(2) Did the industry receive any prior advice of this matter?

(3) Has the industry made any submission to him regarding the royalty increase; and, if so, of what nature and on what matters?

Mr. T. D. EVANS replied:

(1) Yes, however, the need of the Forests Department to continue its essential work on maintenance, re-establishment and protection of forests justifies this increase. The last royalty increase was 1st January, 1970, and since that date, wages have increased by 24%.

(2) Yes.

(3) Yes. The submission was of a general nature, and listed the many factors that the industry considered should be taken into account in the deliberations of Cabinet.

2. GOVERNMENT REPRESENTATIVE IN JAPAN

Return to Western Australia

Mr. REID, to the Premier:

(1) When will the official representative of the Government of Western Australia at present stationed in Tokyo, Japan, return to Western Australia?

(2) What will be the duration of this visit?

Mr. J. T. TONKIN replied:

(1) The term of office of the present occupant of the position in Tokyo will expire in May, 1972.

(2) This will depend upon the time then required for business consultations and the officer's own wishes in respect to recreation leave.