

Hon. D. Brand: You have the book upside down!

Mr. Lawrence: I would like your ruling Mr. Speaker. As regards Standing Order No. 144, does the Speaker consider this to be tedious repetition?

The Speaker: I rule that the member for Nedlands is in order. If I ruled otherwise, I would of necessity have had to rule out of order half the members who have spoken this evening.

### Debate Resumed.

Mr. COURT: I had nearly completed what I wanted to say. But I want to make this point. Of necessity, in view of the wording of the motion we will not be able to call applications from abroad for people with specialised knowledge. Also, I do not consider that the Government is entitled to have a motion recorded in the form in which it has now been amended for the reason that the Department of Health knew full well—it must have done so because it has two men on the board and if they were doing their duty at least one of them must have been present when the applications were being discussed—what was going on. The conditions of the advertisement are clearly set out on the file and they provide for the calling of applications outside Australia and for people who live outside Australia. The Minister cannot deny that his Government knew, through the department, if not at least through him personally, that the applications were being advertised abroad.

Motion, as amended, put and a division taken with the following result:—

Ayes	24
Noes	17
Majority for	7

#### Ayes.

Mr. Andrew	Mr. Marshall
Mr. Evans	Mr. Moir
Mr. Gaffy	Mr. Norton
Mr. Graham	Mr. Nulsen
Mr. Hawke	Mr. O'Brien
Mr. Heal	Mr. Potter
Mr. W. Hegney	Mr. Rhatigan
Mr. Hoar	Mr. Rodoreda
Mr. Jamieson	Mr. Sewell
Mr. Johnson	Mr. Toms
Mr. Lapham	Mr. Tonkin
Mr. Lawrence	Mr. May

(Teller.)

#### Noes.

Mr. Ackland	Sir Ross McLarty
Mr. Bovell	Mr. Nalder
Mr. Brand	Mr. Oldfield
Mr. Cornell	Mr. Owen
Mr. Court	Mr. Perkins
Mr. Crommelin	Mr. Roberts
Mr. Grayden	Mr. Watts
Mr. I. Manning	Mr. Hutchinson
Mr. W. Manning	

(Teller.)

Motion, as amended, thus passed.

House adjourned at 11.30 p.m.

## Legislative Council

Thursday, 1st November, 1956.

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The PRESIDENT took the Chair at 3.30 p.m., and read prayers.

### QUESTIONS.

#### VETERINARY SURGEONS.

##### Shortage in Country Districts.

Hon. A. R. JONES asked the Minister for Railways:

(1) How many veterinary surgeons were practising privately in country districts at the 30th June, 1954?

(2) Have any veterinary surgeons ceased practising in country districts since the 30th June, 1954?

(3) If any have ceased practising—

(a) how many have ceased;

(b) in what districts were they practising?

(4) Does the Minister for Agriculture disapprove of veterinary surgeons, practising privately, carrying out t.b. testing and Strain 19 vaccination for contagious abortion?

(5) If the answer to No. (4) is "yes," what are his reasons?

(6) Is the Minister for Agriculture aware of the shortage of veterinary surgeons in country districts?

(7) What is being done to attract more veterinary men to this State?

The MINISTER replied:

(1) Five.

(2) Yes.

(3) (a) One.

(b) Albany.

(4) No.

(5) Answered by No. (4).

(6) There is a shortage of veterinary surgeons, both Government and private, in country districts; but, in the majority of districts without a veterinary service, it is considered that there would not be a sufficiently large animal practice available to enable a private practitioner to make a living.

(7) Under the cadetship scheme, which has operated since 1949, the department has appointed two trainees annually. The veterinary course requires five years to complete, four of which must be taken at an Eastern States university. One cadet graduate has already joined the veterinary staff and three more will become available in January, 1957. These officers, as will others who subsequently graduate, will be stationed in country districts.

### RAILWAYS.

*Commissioners, New Departments, Personnel, etc.*

Hon. G. BENNETTS asked the Minister for Railways:

Will he inform the House—

- (1) The year in which three railway commissioners were appointed?
- (2) The number of new departments which have been created since such appointment?
- (3) The number of persons employed in these departments?
- (4) The additional sum required to carry on these departments?

The MINISTER replied:

(1) 1949.

(2) No new departments have been created but certain staff previously under the control of the Chief Mechanical Engineer have been transferred to the motive power section under the Chief Traffic Manager.

(3) and (4) Answered by No. (2).

### MOTION—PERTH ROAD BOARD.

*To Disallow Building Line By-laws.*

HON. A. F. GRIFFITH (Suburban)  
[3.36]: I move—

That by-laws Nos. 1, 2 and 3 being by-laws establishing building lines made by the Perth Road Board under the Road Districts Act, 1919-1954, Town Planning and Development Act, 1928-1955, as published in the "Government Gazette" on the 12th September, 1956, and laid on the Table of the House on the 19th September, 1956, be and are hereby disallowed.

I move this motion with some reservation. It concerns what one could probably refer to as something parochial inasmuch as it has to do with land in the name of A. D. James who lives at the corner of Flinders-st. and Milner-st., Mt. Yokine. I do not think I would be committing any breach if I were to say at this juncture that I have discussed the matter with the Chief Secretary, and he understands the difficulties in which Mr. James finds himself. The reason I am submitting the motion at this time is simply that the last day for being able to move to set aside the by-laws occurred yesterday; and, as

a result, I was obliged to give notice on that day in order that the matter could be considered.

The Perth Road Board has actually struck a new building line in this area at the request of the Town Planning Board, which made the request under the interim town planning scheme prepared by Professor Stephenson. I think it can be said quite justifiably that the setting aside of these by-laws may not do Mr. James much good because it seems that nobody is anxious to accept any responsibility for the state of affairs which is brought about by the introduction of these by-laws and the striking of a new building line.

But Mr. James, the owner of the property, finds himself in the position that the Town Planning Board under the regional plan, desires the building line to be struck. It asks the Perth Road Board, in conformity with the regional plan, to strike the building line; and the Perth Road Board, in turn, asks the Minister for Local Government to lay the regulation on the Table of the House.

When it comes to the question of Mr. James being offered some form of compensation for his property by anybody, the situation reaches a complete stalemate. Although the Town Planning Board asks for the building line to be struck, that board does not accept any responsibility. It may be said that the Perth Road Board, which has the responsibility for the administration of the section, is responsible, because it asks for the building line; and that if Mr. James is to get any compensation, the Perth Road Board should be the body that should pay him that compensation. But the Perth Road Board, in turn, says this is done at the request of the Town Planning Board, so that the responsibility does not rest with the Perth Road Board.

The only person who is not satisfied with the situation is the poor individual who lives in the house that is to be divided by the new building line to be struck. This man also had the misfortune to be put out of other premises in Belmont in circumstances such as these. This is the second time he finds himself living in premises and owning land which is to be subject to the set of circumstances I have just related. It can also be said that the setting aside of the by-laws is not going to benefit Mr. James.

If the by-laws are left as they are, and the building line is left where it is, it could conceivably be many years before the Stephenson plan is brought into operation by Act of Parliament, and in the meantime this man James would have to stay in possession of his premises while not having much will to improve them, because he knows that one of these days he must go on the chopping block, and that he must be dispossessed of his land in order that the road which it is proposed to build can be constructed.

It strikes me that in matters of this nature, which come under the Stephenson Plan, we are getting the actual operation of the plan taking effect long before we get the legislation before Parliament. This might appear to members in this particular instance to be a very simple matter; they might feel it involves a niggardly capital sum of £4,000 or £5,000. But to Mr. James that capital sum means a great deal.

I want to know where this situation is going to stop. The Regional Plan, as envisaged by Professor Stephenson, does not cover only a small section of Mt. Yokine; it covers a very large portion throughout the metropolitan area. It would be impossible for me to assess the amount of money that would be required by way of resumption.

There is reason to believe that when the Regional Plan becomes operative, power will be given to raise money to pay compensation. In the meantime, people are being placed in the position of having their properties taken away from them—not literally—by the delineation of a line in respect to a particular area. They no longer hold their property; there is a cover over it and they can do very little about it. Mr. James finds himself in that position; and I move this motion because, as I said earlier, yesterday was the last day on which I could give notice.

In the event of the Chief Secretary being able to help this man—and I know he has been trying to do something for him—I will be pleased to withdraw my motion. The fact remains that Mr. James finds himself in the position that his property is excised by this building line; but, at the same time, nobody is apparently anxious to pay him compensation. I feel that if he were paid reasonable compensation for his property to enable him to buy a property somewhere else where he would be free—this time, anyway, I hope—from any further action along these lines, he would be quite satisfied. I sincerely trust that something can be done to help this particular person.

On motion by the Chief Secretary, debate adjourned.

#### **BILL—CITY OF PERTH SCHEME FOR SUPERANNUATION (AMENDMENTS AUTHORISATION).**

Received from the Assembly and, on motion by Hon. G. E. Jeffery, read a first time.

#### **MOTION—RAILWAYS.**

##### *Discontinuance of Certain Lines.*

**THE MINISTER FOR RAILWAYS (Hon. H. C. Strickland—North [3.50]:** I move—

That in the opinion of this House, having regard particularly to the considerations referred to in Appendix

"A" to this motion, the services provided by the railways listed in Appendix "B" to this motion should, notwithstanding certain other considerations, be discontinued and that such railways should cease to be operated.

#### **Appendix "A."**

(1) The annual cash deficits of the State railways.

(2) The condition of State railways generally and particularly of the railways listed in Appendix "B."

(3) The need for improvements in the economical operation of the State railways, and for the concentration of railway resources to permit of all-round improvements in the cost of operating the railways.

(4) The facts that the railways listed in Appendix "B" are unprofitable and that their rehabilitation and operation would involve heavy expenditure when compared with existing and anticipated future traffic on those railways.

(5) The rising costs of operating railways.

(6) The need to avoid, to every possible extent, any necessity to increase rail freights on the remaining railways, and to provide for the adequate rehabilitation and operation of the remaining railways.

(7) The recovery of materials for use on other railways.

(8) The availability and use of other means of transport.

(9) The most satisfactory and economical employment of staff.

#### **Appendix "B."**

Railways.	Length of Railway. Miles.
Meekatharra to Wiluna .....	111
Cue to Big Bell .....	19
Malcolm to Laverton .....	64
Geraldton to Ajana .....	67
Wokarina to Yuna .....	38
Burakin to Bonnie Rock .....	76
Mukinbudin to Lake Brown .....	8
Lake Brown to Bullfinch .....	50
Bullfinch to Southern Cross .....	22
Boddington to Narrogin .....	51
Busseton to Margaret River .....	38
Margaret River to Flinders Bay .....	29
Elleker to Nornalup .....	61
Brookton to Corrigin .....	56
Lake Grace to Hyden .....	58
Katanning to Pingrup .....	59
Gnowangerup to Ongerup .....	35

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This motion is the result of an inquiry of the most comprehensive nature which was undertaken by an inter-departmental committee, established in August, 1954, to investigate the problems of road and rail transport. The reason for the appointment of the committee was the very serious financial condition of the railways, as well as their physical condition.

Extensive demands for road transport were made on the Transport Board by various people to be allowed to cart by road, and the railways were falling—and still are—into a state of disrepair. Therefore the Government thought that the wisest step to take was to have a comprehensive investigation by experts in their particular departments, and for them to report to the Government. That report was completed at the end of last year and came before the Government again early this year.

The report came to the Minister for Transport and myself as the sub-committee of Cabinet responsible for the investigation. It was then decided that a sub-committee from the inter-departmental committee be established to elaborate and inform the Ministers of their proposal, in the inter-departmental report, to close 1,500 miles of railways. The committee met in July, made further recommendations, and submitted an interim report.

The reports—three of them—have been tabled, including the two I have mentioned and another with which I will deal for the information of members. That was followed by an official report which set out a strong recommendation for the closure of something like 2,000 miles of line.

Hon. L. A. Logan: Why not close the lot?

The MINISTER FOR RAILWAYS: The recommendations were set out in stages. Cabinet dealt with the recommendations and decided to adopt that part of the report concerning the closure of lines as stated in the motion. Actually the discontinuance of the lines mentioned in the motion was proposed to be undertaken in two stages: firstly, 630-odd miles of line, to be followed as quickly as possible by another 360-odd miles. The Government did not agree with all the recommendations, and deleted some to bring down the length to the 842 miles mentioned in the motion.

The committee's object in staggering the closures was to watch the results. The Government has decided on discontinuance rather than closure. Closure of a line ends services on the line and requires parliamentary approval, but legislation is not necessary for discontinuance. However, as there is such a large mileage involved, the Government thought it most desirable to place the proposition before Parliament rather than simply to discontinue the services piecemeal.

Hon. N. E. Baxter: To close some lines.

The MINISTER FOR RAILWAYS: There are none in the motion.

Hon. N. E. Baxter: There is in Appendix 7, "Recovery of materials for use on other railways."

The MINISTER FOR RAILWAYS: I will explain that when I come to it. Discontinuance was thought to be the most practical way of dealing with this matter. As I mentioned before, the committee recommended closure in stages, so that it would be possible to observe results. If a mistake were made, the service could then be reintroduced; and, in addition, the procedure would be spread over quite a long period and not effected overnight. We would not discontinue 842 miles of railways just like that.

That would not happen because the committee in its recommendations wisely stated that where lines or services were to be discontinued it was necessary to provide road transport to replace the discontinued services. It is also necessary that we should confer with Co-operative Bulk Handling Ltd.; that before any service in the wheatbelt is discontinued, that organisation be taken into conference, and the service maintained until alternative arrangements are organised.

The committee also recommended that where a service was discontinued, road transport should be subsidised to the extent of the difference between the new rate and that applying to the through freight rate on miscellaneous goods only. It also recommended that the existing subsidies should be reduced, proportionately, over a period of seven years until they were ultimately eliminated; the same procedure to apply to the subsidy to be paid where services are discontinued.

But the committee included the proviso that where—in the national interest, or in the interests of an industry—subsidies should be extended or continued, that should apply. This means that subsidies are not to be clamped down on; that the position must be watched with the object of reducing subsidies over a period of seven years until they are eliminated.

Hon. N. E. Baxter: Do you mean primary industry, or what?

The MINISTER FOR RAILWAYS: I mean industry. Mostly the mining and the wheat and wool industries would be concerned. Apart from the pastoral and agricultural industries, mining is the principal one.

Hon. N. E. Baxter: That does not really define what you mean by industry.

The MINISTER FOR RAILWAYS: It covers everything. What is an industry? Everything can be classed as an industry. Wheat growing is an industry, and so are sheep breeding, wool growing and timber.

Hon. N. E. Baxter: They could all claim a retention of the subsidy.

The MINISTER FOR RAILWAYS: As I explained, where services are to be discontinued the subsidy will apply to miscellaneous goods only. They are low-rated goods such as bulk wheat, other grains, fertilisers, ores and so on. They constitute, of course, the major portion of the freight carried on the railways, or anywhere for that matter. Cabinet agreed with these recommendations, and it has brought the proposition to Parliament. It agreed that 824 route miles of the railways shall cease to operate; that subsidies shall be paid on miscellaneous-class goods for seven years from the date of closure; that all alternative arrangements for transport be made through the Transport Board; and that existing subsidies be similarly reduced with the provisions that, where necessary, an industry or a district may be subsidised.

Dealing with the finances of the railways, it is interesting to note that up to the end of June, 1955, the capital invested was £40,000,000. A sum of £12,000,000 has been written off, and that can be added to the amount. Last year the loan funds slightly exceeded £4,000,000. So, since the commencement of the operations of the railways, to the end of last June, the capital investment would be in the vicinity of £56,000,000, which is a substantial sum.

The drain on the Consolidated Revenue Fund—the total deficits of the railways until 1956—would be in the vicinity of £34,000,000, which is a tremendous drain on the community because the revenue has to be found elsewhere in the community. I shall show that since 1938, with the exception of some years, this drain on the Consolidated Revenue Fund has been mounting.

The deficits have been: for the year ended the 30th June, 1938, £19,951; 1939, £313,226; and 1944, £452,234. In the next five years it jumped to £2,550,443, in 1949. The following year, 1950, showed a slight reduction to £2,122,493. In 1951, it again jumped to £2,684,824; in 1952, to £2,843,683; and in 1953, to £5,882,756.

Hon. A. R. Jones: That is where you came in.

The MINISTER FOR RAILWAYS: No. That was an excessive year; and the steep rise was due to the metal trades strike, which lasted for a few months that year. In 1954, the deficit was £4,514,604; in 1955, it had improved to £3,809,522; and in 1956 it was £4,615,844. Members have read in the Press, no doubt, that the projected deficit for this financial year is between £5,000,000 and £6,000,000 which is a tremendous amount of money. The Government is now faced with two alternatives—(1) to reduce the cost of operating the railways; or (2) to increase the charges.

Hon. L. C. Diver: There are two ways of doing that.

The MINISTER FOR RAILWAYS: There can be several. At present the community is finding the amounts I have just read

out. Most members of the community use the railways, I expect; but that is the problem facing this Government, or any Government. While the State continues or attempts to continue to operate 4,110 route miles, plus 500 miles of sidings, double lines, etc., there is no possible chance of reducing the expenditure because the lines, the closure of which has been recommended by the committee, are a terrific drain on the financial resources of the State.

Hon. F. D. Willmott: Have you made any estimate of what the saving would be?

The MINISTER FOR RAILWAYS: Yes. As I have said, there are two courses of action to take. I said alternatives previously, but they are courses of action. One is to contract the railway system to a mileage which has possibilities of being economically operated and so concentrate the expenditure on the manpower and materials that are being used to patch up these unpayable lines, in the main on the principal lines and thus achieve a future prospect of carrying a quantity of goods. By doing this there is every possibility that, not immediately, but over a period of two to three years, a substantial improvement in railway finances will be possible.

The department is now patching up lines such as the Meekatharra-Wiluna line, a distance of 111 miles, where there is one train a week carrying less than 4,000 tons of goods per year. We have the Malcolm-Laverton line—64 miles—over which an even smaller tonnage is carried. In fact, we can say that over the Malcolm-Kalgoorlie line—somewhere near 180 miles—a quantity of goods less than 400 tons a year, is carried.

Hon. N. E. Baxter: What does the Burakin-Bonnie Rock line carry?

The MINISTER FOR RAILWAYS: I have it here, and I shall tell the hon. member later. These lines are a drain on the resources of the railways and of the State because they are absolutely uneconomical. With the exception of the Malcolm-Laverton-Leonora line—I have only quoted two, anyway—I would say they have no future at all; no possibility of ever carrying a higher tonnage although there may be a prospect of gold being found in the Malcolm-Leonora-Laverton district, or of its being worked. Low-grade gold deposits exist in that area, and there is always the possibility of an increase in the price of gold which could attract mining companies there, and then the fields would be worked again. That would justify a continuation of the services.

However, in regard to the line which runs between Meekatharra and Wiluna and which is 111 miles long, there is no justification for keeping that railway in operation. Further, in regard to the lines in the wheat-belt areas, although they carry higher tonnages and have good roads

capable of carrying such tonnages, they do not cover very great distances before joining up with another line.

The real question is: Is the system going to be pruned to cut out all the dead wood and the railways given a chance to operate economically? Or are existing conditions to prevail, which must ultimately bring a great number of our lines to a standstill? It will be impossible to find the money to keep them in the condition they are in now, let alone to put them in a sound operating condition. That is the present financial position of the railway system. The Government, therefore, decided to investigate the position thoroughly and to ask Parliament to give its consideration to the proposals which had been endorsed by the Government.

Hon. A. R. Jones: If Cabinet made that decision, why should Parliament make this one?

The MINISTER FOR RAILWAYS: I referred to that earlier. It is because there are so many miles of railway concerned, and it is considered that Parliament is the correct authority to decide this question. Railway closure Bills could be prepared and brought forward, but they would take months to debate; and it is certainly too late to bring down a closure Bill at this stage of the session. It was thought that the most sensible course to follow was to introduce this motion proposing the discontinuance of these lines and to ask for Parliament's approval on the matter.

Hon. A. R. Jones: You did not seek our advice when you raised the freights on the last occasion. You did that by regulation.

The MINISTER FOR RAILWAYS: To my knowledge no Government has ever brought that question to Parliament for decision. Freights were increased in 1953, and they would have had to be raised no matter what Government was in office. The Government has been considering freight rises for months, but it is not prepared to raise freights until it knows what is to happen in regard to the financial position of the railways.

For example, let me cite the Great Southern line and the position of a farmer who has his farm a reasonable distance from that railway. Why should he be asked to pay more than is justified to keep these uneconomic lines in existence? If we can reduce our railway costs generally, I think we can get down to some sound basis.

Hon. L. C. Diver: You are starting in the wrong place.

The MINISTER FOR RAILWAYS: Well, where should we start?

Hon. L. C. Diver: You did better under one commissioner.

The MINISTER FOR RAILWAYS: If the three commissioners were sacked, we would save only £12,000 a year; and I do

not think that would help very much. Any man with sound commonsense will give this proposal earnest consideration. If it is not given such consideration, the whole system will collapse. That is a definite fact. Out of the 4,110 miles of railway, there are only three lines that are free of any speed or weight restrictions and they are main lines. Those three lines are as follows:—

	Miles.
East Perth-Bunbury .....	115
Fremantle-Bellevue .....	24
Mount Helena-Kalgoorlie ..	350

The total mileage of those three lines is 489, out of a total of 4,110; and the cost of putting the tracks into condition to carry normal traffic, such as goods trains travelling at 35 miles an hour and pulling 500 or 600 tons, would be at least £12,000 a mile.

Hon. A. R. Jones: Have you tried to obtain tenders from outside contractors?

The MINISTER FOR RAILWAYS: The cost is £12,000 a mile to re-lay, re-sleeper and re-ballast a line, and many of these lines have been laid down for 50 years or more and have never been ballasted. They were light lines in the first place. The Meekatharra-Wiluna line was laid with second-hand rails.

Hon. Sir Charles Latham: They were 60 lb. rails and the others were 45 lb. rails.

The MINISTER FOR RAILWAYS: They were 45 lb. second-hand rails. The railways were taken up from somewhere else, and they are over 40 years old.

Hon. Sir Charles Latham: I thought they might have come from Peak Hill.

The MINISTER FOR RAILWAYS: They could have come from the line which was laid to the manganese mining project. To put that line into order would cost £1,269,850.

Hon. Sir Charles Latham: Did you get a contract price for that work?

The MINISTER FOR RAILWAYS: These are estimates. We know that the work can be done more economically by contract than by day labour, especially re-ballasting and re-sleepering. There have been and there still may be contractors doing that kind of work. For the information of members who have been asking for some particulars in regard to the various lines I will have to quote a number of figures. The figures relating to the closure of the Meekatharra-Wiluna line are as follows:—

	£
Operating expenditure (excluding interest and depreciation charges) .....	41,794
Operating expenditure saved by closure .....	28,918
Net saving on operating .....	22,320
Sinking fund saving on recoveries .....	584
Annual per-way work .....	16,590

They are not estimated figures but the actual cost of running one train a week over a distance of 111 miles.

Hon. N. E. Baxter: How much of that would be wages?

The MINISTER FOR RAILWAYS: A big proportion of it. Wages and salaries amount to 70 or 80 per cent. of the total cost of running a railway system.

Hon. N. E. Baxter: How would you effect any saving if you are not putting any employees off?

The MINISTER FOR RAILWAYS: The labour and the money spent on that line would be transferred—if it were closed down—to the main lines; and instead of their continuing to deteriorate, the transference of this labour and money would assist in putting them into a serviceable condition.

Hon. L. A. Logan: Do you think that with £16,000 you would be able to put some of the main lines into a serviceable condition?

The PRESIDENT: Order, please! The hon. member can make his speech later.

The MINISTER FOR RAILWAYS: The figures for the Geraldton-Ajana line are as follows:—

	£
Operating expenditure (excluding interest and depreciation charges) .....	79,883
Operating expenditure saved by closure .....	55,230
Revenue lost by closure .....	33,123
Net saving on operating .....	22,107
Sinking fund saving on recoveries .....	353
Annual per-way work .....	9,804

On the other line in Mr. Logan's district, running from Wokarina to Yuna, the annual permanent way cost is £5,658. I do not know whether the hon. member is contending that all the permanent-way men should be sacked and that no maintenance work should be carried out, but I would point out to him that the permanent-way work is most necessary on the tracks and is a vital part of railway operations. These men are merely engaged on patching up work. They are putting in a few sleepers here, altering a curve there, and replacing a rail here and there. However, that work must go on.

As I mentioned before, unless this expenditure can be transferred to other lines which are more economical to operate, there is not sufficient money available, either from loan funds or from Consolidated Revenue—nor will there ever be—to arrest the deterioration which is taking place in the railway system. Like every other business undertaking—particularly transport services—the railways are a victim of inflation. There is not the slightest doubt that, had money values remained

stable from 1949, when the Railways Commission was appointed, and continued to remain stable in subsequent years, the railways would have been in fairly good shape by now.

The cost of steel, sleepers, coal and labour has almost trebled since 1949. Where £6,000,000 of loan money was available in one of those years, today an amount of £18,000,000 would be required to do the same work. Because of the depreciation of money values it is impossible for this State to do everything to put the railways into good economic working order. Is it fair that the railways should soak up loan and Consolidated Revenue funds and thereby starve other industries and prevent them from getting financial assistance?

Hon. N. E. Baxter: Like the building of the Narrows bridge.

The MINISTER FOR RAILWAYS: Like Kwinana. We know that the comprehensive water scheme has been starved for finance. The railways, if unchecked, will have £10,000,000 sunk into them annually. There is £4,000,000 from loan funds and a possible £6,000,000 deficit in this financial year. Can anyone tell me that the position will improve next year?

Hon. L. C. Diver: Can you tell us if the railway result will be any better next year?

The MINISTER FOR RAILWAYS: I am suggesting there are two courses open; one is to concentrate on the extension of lines that have a chance of showing a profit and justifying the expenditure on them, and the other is to increase freights. Not only will freights have to be increased, but other measures will also have to be introduced to increase revenue.

Hon. H. L. Roche: You are confident that if this motion is agreed to, and if the lines are closed, freight will not have to be increased?

The MINISTER FOR RAILWAYS: I am not confident that if the lines were closed we would not have to increase rates; but I am confident that when the responsibilities of the railways are known, it will be possible to budget for them. Under the existing conditions it is impossible to carry on the railways.

Hon. L. C. Diver: If your calculations are wrong, will you take another slice of railway lines off to reduce the deficit?

The MINISTER FOR RAILWAYS: That question will be left to Parliament to decide, just as Parliament is now dealing with this motion. The use of "ifs" and "buts" will not get us anywhere. We need to take some positive action.

Hon. N. E. Baxter: Parliament has no say now on the closure of these lines.

**The MINISTER FOR RAILWAYS:** I hope the hon. member will make a study of the railway finances and the three reports that have been submitted, and then outline to Parliament some way to arrest or alleviate the terrific drain on the finances of the State by the railways. That is a matter for Parliament to consider, too. Parliament has to decide whether the railways should be maintained as they are today; or whether an attempt should be made to restrict the mileage of lines so that the railways can be worked more economically; or whether they should be permitted to deteriorate progressively until they collapse.

**Hon. N. E. Baxter:** If we do not agree to your motion, what will you do?

**The MINISTER FOR RAILWAYS:** I would have to take some action. It is not what I would do, but what the Government would do. Parliament now has the opportunity of doing what it wants in regard to this matter.

**Hon. A. F. Griffith:** Is this motion being discussed in another place?

**The MINISTER FOR RAILWAYS:** I do not know whether I should answer questions without notice. If I understand the hon. member, he wanted to know whether the motion was to be discussed in another place. If the motion passes through this House, I shall move that it be sent to another place for concurrence. It will be considered in both places; but the Government decided to bring it before this House for a start. That might save a lot of time. I would now like to give the annual losses for the last four years on the lines affected—

Meekatharra to Wiluna—111 miles.

	Ton- nage.	Earn- ings. £	Operating Expenses. £	Loss. £
1951-52	4,639	6,498	65,374	50,876

So it goes on for the next four years. In the last financial year the loss was £56,865. The total loss for the four years was £224,818. In regard to the Cue-Big Bell line of 19 miles, no service has been operated over that line from the beginning of the year.

**Hon. H. K. Watson:** Why are the sleepers between Cue and Meekatharra being burnt instead of being left as firewood for the residents in the district?

**The MINISTER FOR RAILWAYS:** If the hon. member will give notice of that question, I shall find out the answer. The loss on that line in the last financial year was £8,576, and the total loss for the last four years was £41,726. On the Malcolm to Laverton line of 64 miles, the loss last financial year was £21,430, and the total loss for the last four years was £84,837. On the Wokarina to Ajana line of 58 miles, the loss was £50,002 in the last financial year, and the total loss for the last four

years was £178,893. On the Wokarina to Yuna line of 38 miles the loss in 1954-55 was £33,393, and the total loss for the last four years was £86,771. On the Bura-kin-Bonnie Rock line of 76 miles the loss in the last year was £41,767 and the total loss of the last four years was £157,929. There is a speed limit of 15 miles per hour for that line, and under those conditions the running of the line becomes very expensive. To rehabilitate the line with 60 lb. rails, sleepers, ballast, bridge and culvert repairs etc., the expenditure would be £310,000.

**Hon. L. C. Diver:** The renewal of one in every three sleepers has just been completed.

**The MINISTER FOR RAILWAYS:** That is the trouble, replacing sleepers one in every three. It means a continuous process every year. Because of the 45 lb. rails and their age, the speed limit is 15 miles per hour and the maximum load is in the vicinity of 400 tons.

**Hon. L. C. Diver:** Isn't the department sidetracking us? It is not the age that counts, but the use of the line.

**The MINISTER FOR RAILWAYS:** Following a deputation to the previous Minister, when he considered discontinuing that line, he was persuaded to keep it open; and it has cost a lot of money since. The loss on that line for the last four years was £157,929.

**Hon. L. C. Diver:** That is under their system of accountancy.

**The MINISTER FOR RAILWAYS:** That was where some of the railway finances went. That is the difficulty.

**Hon. L. C. Diver:** What were the total earnings last year?

**The MINISTER FOR RAILWAYS:** It was £11,604 last year as against £12,496 the previous year. That is money going down the drain despite the fact that one in three sleepers was being relaid.

**Hon. L. C. Diver:** How was the loss made up?

**The MINISTER FOR RAILWAYS:** I could obtain the details for the hon. member. On the Mukinbudin to Lake Brown line, of eight miles, the losses for the last four years were: £3,592, £3,962, £3,341, £3,091, a total of £13,896. On the Lake Brown to Bullfinch line of 50 miles, the loss last year was £17,568, and the total loss for the last four years was £86,227. On the Bullfinch to Southern Cross line of 22 miles, the loss last year was £21,337, and the total loss for the last four years was £68,472. Regarding the line from Dwarda to Narrogin, that has been extended in the motion to Boddington to Narrogin. In other words, it is proposed to extend it further. Consequently the losses shown in these figures would be higher if they applied to the Boddington-Narrogin line.



The loss in the last year for the Dwarda-Narrogin line was £14,917, and the total loss for the last four years was £54,242. On the Busselton to Margaret River line of 38 miles the tonnage carried last year was 25,558, and the loss was £33,042. The total loss for the last four years was £124,572. On the Margaret River to Flinders Bay line of 29 miles, the loss last year was £16,546, and the total loss for the last four years was £77,471. On the Elleker to Nornalup line of 61 miles the loss was £224,962.

Hon. C. H. Simpson: That was for four years.

The MINISTER FOR RAILWAYS: Yes.

The detailed figures are:—

	Tonnage	Earnings £	Operating Expenses £	Loss £
1951-52	13,418	7,995	58,661	50,666
1952-53	13,155	8,515	64,387	55,872
1953-54	18,134	13,687	70,036	56,349
1954-55	14,083	13,936	76,011	62,075
				<u>£224,962</u>

They are extremely heavy losses.

There is a line with a railway road service running alongside, and a rumour was spread that the road service was to be closed. I received letters on the matter from road boards and organisations, and from the member for the district. But nothing will be done with regard to road services until we know what is happening to the railway services. Here are some more figures—

Line	Mileage miles	Loss £
Brookton to Corrigin	56	120,329
Lake Grace to Hyden	58	119,135
Katanning to Pingrup	59	124,786
Tambellup to Ongerup	58	178,357

The goods carried over the line certainly did not increase. Here are some figures—

Katanning to Pingrup—

Year.	Tonnage.
1951-52	28,040
1952-53	23,723
1953-54	23,246
1954-55	21,850

Tambellup to Ongerup—

1951-52	46,162
1952-53	42,275
1953-54	44,816
1954-55	43,206

In the last instance we find that there has been a reduction of almost 3,000 tons between 1952 and 1955.

There is a wealth of detail that members will probably desire, and I will be glad to make any files available to them that they may wish to see. We have nothing to cover up, and we want to make available any information that members require. It is suggested that instead of asking volumes of questions, they should ask for the files. I do not want those files to be laid on the Table, because they are in use. Again, if a file is tabled in one House, it has to remain there and is not available

for another place. However, any information that members desire will be given to them freely, and they can investigate any angle they wish. I suggest that they do that in the next few days.

If the motion, or part of it, is agreed to by this House, it still has to go to another place. It is therefore desirable that we proceed as quickly as possible, and that time be not wasted in asking questions the answers to which I would have to go to the file to obtain. If members will let me know which files they require, I will make them available. I will see that they are brought along and placed in the Clerk's room where they can be readily seen.

I have not dealt with the motion in correct order, because interjections distracted me. However, there are some points which I wish to place before members. I have some comments in regard to rising costs as set out in Appendix A, No. (5). An indication of the rising costs which railways have had to face since the commission came into being can be obtained from the following comparisons:—

	1949.	1956.	Increase %
Coal (Collier), per ton	1 6 0	3 4 6	148
Fuel oil, per ton	12 15 0	20 9 0	60
Rails, per ton	16 9 0	45 0 0	166
Timber (100 super ft.)	1 8 0	3 6 0	136
Steel (per ton)	16 5 0	44 0 0	171
Sleepers (each)	7 10	16 6	111
Four-room house (each)	850 0 0	2,000 0 0	135
Five-room house (each)	1,100 0 0	2,500 0 0	127

Members may wonder what housing has to do with the railways. Immediately following the war, the department was short of men, material and money. When it did get money, it could not induce men to leave the towns and the cities on account of lack of housing. So the department had to embark upon a fairly extensive housing programme of its own in order to obtain labour. The housing programme has now been completed except for an odd one here and there. There should be houses for removal if Parliament agrees to this motion.

Over the same period to which I have been referring, operating costs have increased 102 per cent., ton mileage by 55 per cent. and wages and salaries by 145 per cent., and the number of staff employed has risen by 27 per cent.

Hon. Sir Charles Latham: Why has the number of staff increased by 27 per cent. on those unused railways?

The MINISTER FOR RAILWAYS: The increase is on the overall railway system and not on the unpayable lines.

Hon. Sir Charles Latham: Why? The mileage has not been increased.

The MINISTER FOR RAILWAYS: Traffic has increased.

Hon. Sir Charles Latham: They are doing less work.

The MINISTER FOR RAILWAYS: They are doing more work. In the reports which have been tabled, the hon. member will find in Appendix A of the interim

report a very detailed description of the costs. The labour position is explained fairly thoroughly in that report. I have given some indication of the rising costs of railway operations. The number of men employed on the 842 miles which it is proposed to discontinue is 362.

Hon. A. R. Jones: Is that maintenance staff only?

The MINISTER FOR RAILWAYS: No, the whole staff, even including the part-time pumper. There are six station masters involved, and one assistant station master. There are goods porters, though not many. Of the 362, there are 262 permanent way workers. Roughly 73 per cent of those affected are permanent way workers, and I consider it is a waste of public funds keeping these men patching up these lines when they should be concentrated back on lines that are sorely in need of repair.

Hon. Sir Charles Latham: They will be wanted on the roads if you are going to put all the traffic there.

The MINISTER FOR RAILWAYS: No.

Hon. Sir Charles Latham: Won't they!

The MINISTER FOR RAILWAYS: No.

Hon. Sir Charles Latham: You will have to reconstruct the roads completely if they are going to carry heavy traffic.

The MINISTER FOR RAILWAYS: That aspect was referred to the Commissioner of Main Roads. The sectional committee which was formed to make recommendations, arising out of the inter-departmental committee, consisted of the Commissioner of Main Roads, the Commissioner of Railways, and the Chairman of the Transport Board. In this report it will be noted that a specific question was asked as to whether the roads could carry the traffic, and the report says very clearly that without doubt they can. The Commissioner of Main Roads is quite satisfied that his roads are capable of handling the traffic. In the North of this State, which I may remind members is half of the State—

Hon. Sir Charles Latham: What is the population?

The MINISTER FOR RAILWAYS: —men are being prosecuted for overloading. There are 32 cases pending in the Geraldton Police Court.

Hon. Sir Charles Latham: On the Carnarvon road.

The MINISTER FOR RAILWAYS: Yes.

Hon. Sir Charles Latham: What will it cost to keep to what the road will carry?

The MINISTER FOR RAILWAYS: Never mind what it costs; the motorist pays for it. Every penny that is spent on the roads comes from the traffic that goes over them. If the reports are studied, members may get some notions on that aspect. Without doubt, when one sees 160 bales of wool being carried, not only

on the Carnarvon road but from the station where it was shorn on to the Carnarvon-Geraldton road—

Hon. C. H. Simpson: What sort of vehicle is used?

The MINISTER FOR RAILWAYS: Truck and trailer.

Hon. Sir Charles Latham: Two loads a year!

The MINISTER FOR RAILWAYS: They are prosecuted. Wapet are carting 40 to 50 tons on overwidth vehicles.

Hon. L. A. Logan: And not being prosecuted.

The MINISTER FOR RAILWAYS: That is so.

Hon. Sir Charles Latham: That is over their own roads.

The MINISTER FOR RAILWAYS: Of course. They cannot prosecute anybody on their own roads.

Hon. Sir Charles Latham: I should not think they would.

The MINISTER FOR RAILWAYS: I am not saying that they should not allow them—

Hon. Sir Charles Latham: You said they were being prosecuted.

The MINISTER FOR RAILWAYS: No; they are not. The carriers are. The hon. member asked whether the roads could carry the traffic, and I point out that there are 32 prosecutions pending, and all of the people are Carnarvon carriers. They overloaded on these roads after three inches of rain had fallen. The roads were quite trafficable after a fall of three inches in 24 or 36 hours. Some eight to 10 years ago nothing could move over those roads in such conditions, but the roads have been improved; and the greatest improvement to roads in the North has been due, in my opinion, to the heavy transport, which has acted like a roller, placing a surface on them which will hold them up.

No doubt I will be required to provide members with a lot of further information when replying to this motion, but I would like to stress what the committee has also stressed. It says it cannot stress too strongly the vital importance of taking action to discontinue railway service on a substantial mileage; and that, if it is not done, no matter what happens in regard to freights, the railway system as a whole will continue to deteriorate until a major portion of it will become unfit for traffic.

In those circumstances, it is most unwise and uneconomic to continue spending money on repairing and patching the lines referred to while major lines are deteriorating. It would be much better to take action as soon as possible to cut out the dead wood and concentrate the expenditure on the principal system in

order to arrest the deterioration which will inevitably continue unless something of that sort is done.

On motion by Hon. C. H. Simpson, debate adjourned.

## **BILL—PROFITEERING AND UNFAIR TRADING PREVENTION.**

*In Committee.*

Resumed from the previous day. Hon. W. R. Hall in the Chair: the Chief Secretary in charge of the Bill.

Clause 20—Power to obtain information:

The CHAIRMAN: Progress was reported on the clause after Mr. Simpson had moved the following amendment:—

That the words "and at the place specified in the notice" in line 26, page 11, be struck out.

Hon. C. H. SIMPSON: As I said, when moving the amendment, the information required could in almost all cases be sent to the commissioner by letter; and if the amendment is agreed to, it will not be necessary for the person concerned to attend at the place specified, which might be a considerable distance from his place of business.

The CHIEF SECRETARY: I hope the Committee will not agree to the amendment, as it would mean that all communications from the commissioner would have to be in writing. Members can rest assured that the commissioner will be a sensible man and that no one will be put to avoidable inconvenience.

Hon. A. F. GRIFFITH: We have as yet no indication of the type of person the commissioner is to be. After all, why should not the information be sought or supplied in writing?

Hon. C. H. SIMPSON: The amendment simply asks that the person written to need not attend at the place specified in the notice. Why should it be necessary for him to do so?

The Chief Secretary: There is nothing in the Bill to say that he must attend.

Hon. L. A. LOGAN: Surely if the commissioner writes to a businessman asking for information it will be sent back to the commissioner, and not somewhere else! The wording is not necessary.

Hon. E. M. HEENAN: I agree that the words concerned are unnecessary, because the information is to be in writing and no one has to attend.

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

Ayes	.....	12
Noes	.....	12
A tie	.....	0

Ayes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. A. F. Griffith	Hon. J. Murray
Hon. J. G. Hislop	Hon. C. H. Simpson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. MacKinnon	Hon. A. R. Jones

(Teller.)

Noes.

Hon. E. M. Davies	Hon. H. L. Roche
Hon. L. C. Diver	Hon. H. G. Strickland
Hon. G. Fraser	Hon. J. D. Teahan
Hon. J. J. Garrigan	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. F. R. H. Lavery

(Teller.)

Pairs.

Ayes.	Noes.
Hon. J. M. Thomson	Hon. G. Bennetts
Hon. J. Cunningham	Hon. R. F. Hutchison

The CHAIRMAN: The voting being equal, the question is resolved in the negative.

Hon. C. H. SIMPSON: I move an amendment—

That after the word "section" in line 38, page 11, the following words be added:—

"nor shall a person be obliged to furnish any information nor answer any question until he has been given sufficient notice to enable him to obtain the information or ascertain the answer as the case may be."

Some of the questions asked could easily refer to past transactions and the person concerned may require a fair amount of time to get the answers required by the commissioner. So it is only reasonable to specify that the person be given reasonable time to enable him to secure the information.

The CHIEF SECRETARY: I hope the Committee will not agree to this amendment. It is too Kathleen Mavourneen for my liking. Who is to be the judge of "sufficient notice?"

Hon. H. K. Watson: The same gentleman who is to be the judge of "unfair trading."

The CHIEF SECRETARY: The hon. member used the word "reasonable." Nobody has been able to define it, and it is quite likely that the commissioner could be fooled and strung along by this sort of thing. A person could say that he had not had sufficient time or notice to get his information and could keep stringing it along. I cannot agree to it.

Hon. N. E. BAXTER: Unless the amendment were agreed to, this clause could have the same effect as the price-fixing legislation and we would get down to methods of third degree. I can remember that, when price fixing was in force, one of the officers of the department came to a certain business house after five o'clock and proceeded to subject the persons concerned to the third degree. The same thing could happen here unless there was a safeguard.

Hon. G. C. MacKINNON: I support the amendment. We have heard that the commissioner will have commonsense and will be reasonable; but members know just how difficult it is to assess commonsense.

The Chief Secretary: I would say you had commonsense.

Hon. G. C. MacKINNON: We consider that the Chief Secretary has not adopted a commonsense attitude.

Hon. A. F. Griffith: Nor a reasonable one.

Hon. G. C. MacKINNON: That is so. It is all very well for the Chief Secretary to use such catch-phrases as "Kathleen Mavourneen" and "reasonable" and "logical." There are many firms in this State which have to send their accounts to the Eastern States.

Hon. Sir Charles Latham: For accountancy purposes.

Hon. G. C. MacKINNON: That is so. If these people are not to be allowed time, how can they get the information required? We consider that there is little enough protection as it is. I would ask the Chief Secretary not to condemn it out of hand by saying that this amendment is a Kathleen Mavourneen one. He should give us some reason why he opposes it.

Hon. A. F. GRIFFITH: At what stage would Subclause (5) operate?

The Chief Secretary: I do not know.

Hon. A. F. GRIFFITH: In that case there is every reason to give people who may be concerned with it the benefit of the doubt. I suggest that the commissioner would have one of two alternatives in connection with this subclause: He could walk into a business premises and say that he required the owner to answer some questions orally in three days' time. That would be reasonable. Or he could say that he wanted the answers to the questions immediately, if not sooner. That would be unreasonable. So we ought to agree to the amendment, because it will ensure that people are given sufficient notice.

Hon. H. K. WATSON: I have had some experience of the operation of a provision like this. I have seen a case where the Commissioner of Taxation has asked a man for information on his assets and liabilities, and so on, for up to 10 years back. That information had to be furnished within 14 days. Of course, that was a physical impossibility; and the same thing could happen under an Act like this, unless a person were given a reasonable time to produce the information required.

The CHIEF SECRETARY: I have known the Commissioner of Taxation to ask a person to furnish, within 14 days, information dating back as far as 15 years. But because of the impossibility of providing it, the person concerned asked for and was granted an extension of time.

That is exactly what will happen in these cases. In reply to Mr. MacKinnon I would say that my attitude has shown just as much commonsense and reasonableness as his attitude.

Hon. G. C. MacKINNON: That illustrates the difficulty of defining "commonsense" and "reasonableness." We are assured by those supporting the Bill that the commissioner will show commonsense and reasonableness; that might be so from Mrs. Jones's point of view, but not from anybody else's. Don't let anybody run away with the idea that education automatically gives a person commonsense!

Hon. R. C. MATTISKE: I think it is imperative that this amendment be agreed to. In the normal manner of conducting businesses, the majority of shopkeepers who are likely to be penalised under this legislation do not keep their own records. They may keep primary records; but the main ones are kept by firms of accountants, and the individual concerned would not know the first thing about his own records. It is imperative that an individual be given sufficient time to get the information required by the commissioner.

Hon. L. C. DIVER: I would like to support Mr. Simpson's amendment, but I do not care for the words "sufficient notice." If a person were given sufficient notice, who would define it? A person could go on indefinitely claiming that he had not been given sufficient notice. As the Bill stands, it would be possible for an individual, on being asked for certain information, to say that he could not supply it unless he were given time.

Hon. F. D. Willmott: The commissioner will judge what is sufficient time.

Hon. L. C. DIVER: That is what I am asking for.

Hon. A. F. Griffith: If he can judge what an unfair profit is, he can judge what is sufficient time.

Hon. C. H. SIMPSON: As it stands, the clause says that the commissioner should inform the man first, who will then give him the information he requires. If the commissioner were unreasonable, the man would have no recourse at law. The commissioner would surely be able to determine what was sufficient time, particularly when one considers the powers he has already. It will not interfere with the powers of the commissioner, and it will relieve the minds of those who unwittingly may come under the notice of the commissioner because of the powers he possesses.

Hon. R. C. MATTISKE: I would like to point out to Mr. Diver that under the Income Tax Act the Commissioner of Taxation decides what is a reasonable time if

he is approached by a person who is unable to furnish his returns earlier. The amendment would create no difficulty.

Hon. Sir CHARLES LATHAM: The commissioner may require to know the cost of the goods, and it is possible that they will have been imported from some other country and the accounts may not be to hand. If the commissioner were a reasonable man he would consider that aspect. People do not take kindly to being investigated. We have not to worry about the majority of cases, but about the isolated case. For the Government to have provided such penalties, it must have anticipated some very dreadful things.

The CHIEF SECRETARY: It would not be wise to provide a time limit on this because in certain cases the commissioner might feel that the time limit was not sufficient. It should be left to the commissioner to decide.

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

Ayes	....	....	....	13
Noes	....	....	....	11
Majority for				2

#### Ayes.

Hon. N. E. Baxter	Hon. G. MacKinnon
Hon. L. C. Diver	Hon. R. C. Mattlake
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. F. D. Willmott
Hon. Sir Chas. Latham	Hon. J. Murray
Hon. L. A. Logan	(Teller.)

#### Noes.

Hon. E. M. Davies	Hon. H. L. Roche
Hon. G. Fraser	Hon. H. C. Strickland
Hon. J. J. Garrigan	Hon. J. D. Teahan
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. W. F. Willsee
Hon. F. R. H. Lavery	(Teller.)

#### Pairs.

Ayes.	Noes.
Hon. J. M. Thomson	Hon. G. Bennetts
Hon. J. Cunningham	Hon. R. F. Hutchison

Amendment thus passed; the clause, as amended, agreed to.

Clause 21—Power to enter premises and inspect documents:

The CHIEF SECRETARY: I move an amendment—

That after the word "obtaining" in line 22, page 12, the words "from a Justice of the Peace" be inserted.

This amendment was promised in another place.

Hon. Sir Charles Latham: So you are going to toady to them!

The CHIEF SECRETARY: It merely sets out where the warrant should be obtained.

Amendment put and passed.

The CHIEF SECRETARY: I move an amendment—

That after the word "warrant" in line 22, page 12, the following words be inserted—

"in the manner, and in, or substantially in, the form, prescribed by the regulations".

This also is fulfilling a promise that was made by the Minister in another place.

Hon. Sir CHARLES LATHAM: I do not feel that we should agree to this merely because somebody in another place has whispered in the Minister's ear that he wants this amendment. It refers to "a form prescribed by the regulations." What does that mean? If we had the regulations before us we would have some idea.

The Chief Secretary: You cannot have regulations before you have an Act.

Hon. Sir CHARLES LATHAM: The regulations should comply with the main principles of the Bill after it becomes an Act. I hope the regulations will be laid on the Table of the House before the House goes into recess. They can then be disallowed if necessary.

Hon. A. F. Griffith: The Chief Secretary didn't answer that one.

The Chief Secretary: I didn't hear it.

Hon. Sir CHARLES LATHAM: I do not think we need these words in the clause and we should wait until we know what is in the regulations.

The CHIEF SECRETARY: A glance at the proposed amendment will show that it is tying the clause up so that the warrant will be in accordance with the regulations. I do not care whether the words are added or not, but a promise was made in another place. That is all there is to it so far as I am concerned.

Amendment put and negatived.

Hon. A. F. GRIFFITH: I move an amendment—

That after the word "premises" in line 24, page 12, the words "upon which any trade or business is conducted by a person suspected of unfair trading." be inserted.

The proviso was obviously accepted in another place by the Government to provide that the commissioner would not go carte blanche into premises any time of the day or night. However, I consider he should be restricted to normal office hours. While the intention in another place was very good, the way it is now does not limit the activities of the commissioner to the place of business. It gives the commissioner the right to go anywhere he likes with this all-powerful warrant. He could even go into the house of a person carrying on the business. I

am sure the intention was to provide that he should enter during business office hours.

**THE CHIEF SECRETARY:** The hon. member would only allow the commissioner to enter premises where the person is suspected of unfair trading. We are dealing with wily customers who would remove books and documents from the premises if this amendment went through. They could be two doors away.

**Hon. A. F. Griffith:** If he lived in the Palace Hotel the books could be in the cellar.

**THE CHIEF SECRETARY:** It would only open the door for the smart fellow to defeat the commissioner.

**Hon. F. D. Willmott:** What an extraordinary statement!

**THE CHIEF SECRETARY:** If the commissioner is not hampered, he can catch up with an offender; but he could not with this amendment.

**Hon. A. F. GRIFFITH:** I am simply astounded at the argument put forward by the Chief Secretary. A few minutes ago, when dealing with Clause 20, we found the Chief Secretary opposing a man being given time to produce something. He said he did not want to give him any time.

**The Chief Secretary:** No, I didn't.

**Hon. A. F. GRIFFITH:** The Chief Secretary said the commissioner would give him time. I would ask him to look at Clause 20, which means there is no end to it. No man's freedom will be safe if the Committee refuses to pass this amendment. A businessman could have the commissioner knocking on the door of his home in the early hours of the morning and that man would have to answer questions. If he lived at the Palace Hotel, the search warrant would permit him to go to the cellar to look for the books. I think it is a most unreasonable attitude on the part of the Chief Secretary. I expect the commissioner will have the power to go anywhere he likes to peruse the things he wants to peruse. The normal place of business is the registered office. The commissioner has all the power he requires in regard to documents under Clause 20. If this amendment is not accepted people will have very little freedom.

**Hon. J. G. HISLOP:** I am rather astounded, too; and I am now forming a different picture of this Bill altogether. The attitude of the Chief Secretary makes me doubt the bona fides of the Government on this measure. It is attempting to produce in this State a measure which will be repugnant to the community. The community will be loud in its protests, and we are registering a protest here. I warn the Chief Secretary that the reasonableness is not all on his side. Maybe the people of the State will register their ideas in time.

**Hon. R. C. MATTISKE:** I think the Chief Secretary is being carried away by his own enthusiasm, and should look at the last three lines of Clause 21 which implies that the intention of the clause is that only business premises will be searched for these papers. Therefore, is it not implied that the premises to be searched are those upon which trade or business is conducted by a person suspected of unfair trading? We all appreciate that the Commissioner of Taxation has extremely wide powers, but he has not powers to enter an accountant's office at any time at all—with force, if necessary—to search the premises and take away books and documents. I think, therefore, we would be getting beyond ourselves by not permitting the addition of these words, which will only make the clause a reasonable one.

**Hon. L. C. DIVER:** The last three lines of the clause do not envisage that it will be anywhere else but where he carries on the business.

**Hon. A. F. Griffith:** The Chief Secretary thinks it will.

**Hon. L. C. DIVER:** I cannot agree with the Chief Secretary on this occasion. I shall help the hon. member to have this amendment carried.

**THE CHIEF SECRETARY:** I am sorry the hon. member has been misled. If the books are on the premises of anyone other than the suspected person, they cannot be inspected. If the suspected person wants to get rid of anything he has only to put it next door and, by this amendment, it cannot be touched.

**Hon. F. D. Willmott:** Have a look at Clause 22.

**THE CHAIRMAN:** Order! We are dealing with an amendment to Clause 21.

**THE CHIEF SECRETARY:** We are only after the foxy, shrewd ones. Anything a person wants to hide he can put somewhere other than on his own premises. We have known of two sets of books being kept by those who want to be crooked. Many people have been caught in buying businesses, through inspecting the books. It is a common occurrence. The wrong set of books could be produced.

**Hon. R. C. MATTISKE:** The Chief Secretary is grossly underestimating the ability of the accountants who will be investigators under the legislation. These trained men will know what information to ask for, and they have the power under Clause 20 to get all the information they require.

**The Chief Secretary:** You are going to tie their hands.

**Hon. A. F. GRIFFITH:** When the proviso was inserted in another place I am quite sure it was for the purpose of dealing with business premises. Does the Chief

Secretary want us to imagine that the commissioner can go into the normal business premises during office hours, and, if he wants to, go into 40 or 50 private homes during the same office hours?

The Chief Secretary: I did not say anything about private houses.

Hon. A. F. GRIFFITH: That is the implication. If the commissioner went to the normal business place of the person concerned and failed to find what he wanted, he would then go to the person's home. If he found no one home, where would he go? The Bill says that he may use such force as he wishes to break into the place. In other words, the man has no freedom from then on. Then we hear this extraordinary and extravagant statement about people keeping two sets of books.

The Chief Secretary: Is it something new?

Hon. A. F. GRIFFITH: And two sets of banking accounts, I suppose.

The Chief Secretary: Yes. Many of them do that too.

Hon. A. F. GRIFFITH: Right through the debate the Chief Secretary has been endeavouring to placate us by saying that the commissioner is going to be reasonable. I would not trust in the reasonableness of anyone so far as this is concerned. I hope the Committee will agree to the amendment so that the individual will have a little bit of freedom.

Amendment put and passed.

Hon. L. C. DIVER: I move an amendment—

That Subclause (2), in lines 30 to 40, page 12, be struck out and the following inserted in lieu:—

(2) The Commissioner, or an authorised officer, may make copies or abstracts of, but shall not remove from the premises wherein the same are kept, any documents, books and papers produced to, or inspected by, him in pursuance of this section, or of any entries therein, and in the absence of proof to the contrary any copy certified as correct by the Commissioner shall be received in all Courts as evidence of and as of equal validity as, the original.

As the subclause stands, the business affairs of a firm or individual could be disrupted because of documents being taken away. If the Committee agrees to the amendment, the documents will remain at the place of business while the inspection is being made.

The CHIEF SECRETARY: I hope Mr. Griffith will not get suspicious and vote against this, because I am going to accept it.

Amendment put and passed; the clause, as amended, agreed to.

Clause 22—agreed to.

Clause 23—Obstruction:

Hon. A. F. GRIFFITH: I move an amendment—

That before the word "entering" in line 36, page 13, the word "lawfully" be inserted.

There is no need for me to comment on this.

The CHIEF SECRETARY: I have no violent opposition to the amendment, but I cannot see that it is necessary. What is the meaning of "lawfully"?

Hon. Sir Charles Latham: He will have a warrant.

The CHIEF SECRETARY: He cannot go in without a warrant.

Hon. H. K. Watson: He may try to.

The CHIEF SECRETARY: It is only putting in words that are not required.

Amendment put and passed.

On motions by Hon. A. F. Griffith, clause further amended by inserting the word "lawfully" before the word "inspecting" in line 1, page 14, and before the word "making" in line 2, page 14.

Clause, as amended, agreed to.

Clauses 24 to 27—agreed to.

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

Clause 28—Commissioner's power to require returns:

Hon. A. F. GRIFFITH: I move an amendment—

That after the word "notice" in line 17, page 15, the words "in writing" be inserted.

The reason for this amendment is obvious. If the words "in writing" are not inserted, conceivably the commissioner could ring a man on the telephone or advise him in any way other than in writing.

The CHIEF SECRETARY: To show how co-operative I am, I raise no objection to the amendment.

Amendment put and passed.

Hon. A. F. GRIFFITH: I move an amendment—

That after the word "date" in line 24, page 15, the words "and held for sale" be added.

If those words are not added I suggest that the safe custody of any man's business would be in jeopardy.

Amendment put and passed.

Hon. N. E. BAXTER: I have an amendment on the notice paper; but in view of the amendment to insert the words "in writing," which has been passed by the committee, I think we will have to strike out Subclause (3), because the first subclause, as it now stands, will provide that the

notice must be in writing and will not allow any notice to be inserted in a newspaper.

Hon. A. F. GRIFFITH: The only option I have is to move for the deletion of this subclause if the explanation put forward by Mr. Baxter is accepted.

Hon. Sir Charles Latham: Your amendment will not interfere with this subclause. I would not worry about it.

Hon. N. E. BAXTER: I move an amendment—

That Subclause (3), in lines 8 to 13, page 16, be struck out.

The CHIEF SECRETARY: I am a little dubious about the subclause being struck out. Contained in it there is some reference to the "Government Gazette" and to a notice being published in a newspaper. It might be dangerous to strike out the subclause.

Hon. C. H. Simpson: What is wrong with inserting the words "in writing" in the subclause?

The CHIEF SECRETARY: It would not fit in very well, because Subclause (3) deals with newspapers. As we have inserted the words "in writing" in Subclause (1), the wording of this subclause would be stultified if those words were inserted.

Hon. Sir CHARLES LATHAM: I think it is quite safe to insert those words in this subclause. One notice deals with the individual and the other deals with all members in a particular trade.

Hon. L. A. LOGAN: Can members of the Committee tell me what is to be published in the "Government Gazette" or in any newspaper?

Hon. H. K. Watson: If you have a look at Subclause (1) it will raise your eyebrows.

Hon. L. A. LOGAN: If these words are inserted it will mean that the commissioner will publish in the "Government Gazette" or in a newspaper the letter that he has sent to an individual. It seems ridiculous to me.

Hon. H. K. WATSON: One has only to look at the extent of the requisition the commissioner could make under Subclause (1) to realise the magnitude and the nature of the inquiries that could be made. They are certainly of a nature which could hardly be called for by an advertisement in the "Government Gazette" or in any newspaper. Subclauses (1) and (2) suggest that the notice shall be sent to the individual concerned.

Hon. A. F. GRIFFITH: If members will look at Subclause (1) I think it will be realised that that envisages the personal application of a class of person in connection with the commissioner's powers to require returns. However, Subclause (3) refers to a particular notice, but it also

refers to a notice "to such persons or a class of such persons generally." That notice could be sent to all bakers, all grocers, or all members of any particular trade or calling. What is the implication behind a notice such as that? Are we to appoint an army of civil servants to examine all these returns? I think the amendment should be agreed to.

Amendment put and passed; the clause, as amended, agreed to.

Clause 29—Exercise of powers of investigation:

Hon. Sir CHARLES LATHAM: I move an amendment—

That after the word "trading" in line 30, page 16, the words "then subject to Subsection (2) of this section" be inserted.

Amendment put and passed.

Hon. Sir CHARLES LATHAM: I move an amendment—

That after the word "Act" in line 33, page 16, the following be added to stand as Subclause (2):—

Before exercising or causing to be exercised all or any of the powers of investigation conferred on him by Part II of this Act, the Commissioner shall give to the Advisory Council seven days' notice of his intention in that behalf, and in exercising or causing to be exercised all or any such powers the Commissioner shall have regard to the advice of the Advisory Council with respect thereto.

The CHIEF SECRETARY: I move—

That the amendment be amended by striking out the words "have regard to" in line 9 and inserting the word "consider" in lieu.

The appointment of an advisory council has been agreed to and it is now necessary to give an indication of its powers. I am not entirely in agreement with the wording in Subclause (2) and I believe that the word "consider" is more suitable. How would it be possible to dovetail the duties of an advisory council into its power to dictate?

Hon. A. F. Griffith: What are the voting powers of the advisory council?

The CHIEF SECRETARY: There is no voting power.

Hon. A. F. Griffith: There appeared to be in the amendment which was agreed to yesterday.

The CHIEF SECRETARY: There is not, and I made that point clear. The advisory council cannot be given overriding powers.

Hon. C. H. Simpson: The wording of the amendment is a more positive way of indicating the function of the advisory council.



The CHIEF SECRETARY: It is not more positive. If it is desired to make it a mandatory power then the wording of the amendment would be more suitable; but if it is not mandatory, then the word "consider" would be more suitable.

Hon. J. MURRAY: I oppose the amendment on the amendment. I have viewed the introduction of this measure with some degree of uncertainty. The Chief Secretary intimated that he was prepared to agree to certain amendments, but he was just as adamant that he would not agree to others, and in that attitude he had a degree of support in this Chamber. The clause providing for the appointment of an advisory council was agreed to, but he successfully moved to amend the numbers in that Council and the debate was adjourned at that point.

The CHAIRMAN: I hope that the hon. member will connect his remarks to the amendment on the amendment.

Hon. J. MURRAY: Yes. In the amendment which was passed, no power was given to any of the members of the advisory council. In the subclause we are now dealing with the intention is that the commissioner should be made aware that he has to take some statutory notice of the decisions of the advisory council. The Chief Secretary seems to be digging his toes in on this amendment, yet when the legislation was introduced he said it should be considered by us as a House of review. He said he would not force any amendment on us.

The CHIEF SECRETARY: I do not force anything on members. I always put my case forward and, if the majority agrees, what I submit is passed. There is no force used by me in putting forward this amendment on the amendment.

Hon. Sir CHARLES LATHAM: In the dictionary the word "regard" is stated to mean "a steady or significant look," so the commissioner is compelled to look at the advice of the advisory council. The language is quite plain. It says that he shall look at that advice. The powers of investigation are set out from page 11 onwards in the Bill; here it says that when the advisory council has made an investigation the commissioner shall take notice of it. There is nothing to compel him to adopt any recommendation.

The CHIEF SECRETARY: My intention in moving the amendment on the amendment is to make the wording of this clause quite clear, so that no doubt will arise as to the powers of the advisory council. I have discussed this point with legal advisers and I have been informed that my view was correct. The term "shall have regard" means that the commissioner shall do what the council suggests.

Hon. H. L. Roche: Is that a Crown Law opinion?

The CHIEF SECRETARY: No. I discussed this matter with someone in the Crown Law Department because I had my doubts as to the meaning of that phrase. While I did not specifically ask for a ruling, I did in the course of the discussion put forward my doubt. It was suggested that a better word to use was "consider" in lieu of the term "have regard to."

Amendment on amendment put and a division taken with the following result:—

Ayes	10
Noes	12

Majority against 2

#### Ayes.

Hon. E. M. Davies	Hon. H. C. Strickland
Hon. G. Fraser	Hon. J. D. Teahan
Hon. G. E. Jeffery	Hon. W. F. Willesee
Hon. F. R. H. Lavery	Hon. F. J. S. Wise
Hon. H. L. Roche	Hon. J. J. Garrigan

(Teller.)

#### Noes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. L. C. Diver	Hon. J. Murray
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. A. R. Jones	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. G. MacKinnon

(Teller.)

#### Pairs.

Hon. G. Bennetts	Hon. J. Cunningham
Hon. R. F. Hutchison	Hon. J. McI. Thomson

Amendment on amendment thus negatived.

Hon. A. R. JONES: I move—

That the amendment be amended by inserting after the word "to" in line 9 of proposed new Subclause (2) the words "and act upon."

The CHIEF SECRETARY: I compliment the hon. member on being so forthright and leaving no doubt in the Committee's mind of what he intends to do—that is, to wreck the whole Bill. The Committee agreed to the appointment of a commissioner and gave him all these powers, and then I accepted the inclusion of a provision for the appointment of an advisory council. But now the hon. member has become blood-drunk; and, because I accepted the provision for an advisory council, he wants to give that council power to override the commissioner, so that its decision will be final. We might as well not have a commissioner. If this amendment is accepted, then the title of the council will have to be altered, because it would not be an advisory council but one that would definitely carry the Act.

Hon. A. R. JONES: The Chief Secretary says there would be no need for the commissioner. But there would certainly be such a need. The commissioner would have to do all the work prior to calling the council together and having a discussion with it as to what he proposed to do. Then the council would advise him and he would act upon its advice. This sets out very clearly and—again I use the word—reasonably what has to be done.

Hon. Sir CHARLES LATHAM: If this is agreed to, we will have to remove the word "advisory" from the previous amendment. I support the hon. member. We can recommit the Bill and delete the word to which I have referred.

The Chief Secretary: You will have to take out more than that!

Amendment on amendment put and a division called for.

The CHAIRMAN: Before tellers are appointed, I give my vote with the noes.

Division taken with the following result:—

Ayes	....	....	....	....	11
Noes	....	....	....	....	12
Majority against					1

#### Ayes.

Hon. N. E. Baxter	Hon. J. Murray
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. MacKinnon	Hon. A. R. Jones
Hon. R. C. Mattiske	(Teller.)

#### Noes.

Hon. E. M. Davies	Hon. H. L. Roche
Hon. L. C. Diver	Hon. H. C. Strickland
Hon. G. Fraser	Hon. J. D. Teahan
Hon. J. J. Garrigan	Hon. W. F. Willesee
Hon. W. R. Hall	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. F. R. H. Lavery
	(Teller.)

#### Pairs.

Ayes.	Noes.
Hon. J. Cunningham	Hon. G. Bennetts
Hon. J. McL. Thomson	Hon. R. F. Hutchison

Amendment on amendment thus negatived.

Amendment put and passed; the clause, as amended, agreed to.

Clause 30—Exercise of powers of inquiry:

Hon. H. K. WATSON: I move an amendment—

That the words "hold or" in line 6, page 17, be struck out.

This is what I might call a preliminary consequential to the amendments which are listed further on with respect to Sub-clause (3). In discussing this amendment, Mr. Chairman, have I your permission to discuss the others?

The CHAIRMAN: Yes; I have allowed that to be done in other cases.

Hon. H. K. WATSON: The whole basis of our system of Government in democratic British-speaking communities is that Parliament makes the laws, the executive administers them and the judiciary interprets and enforces them; but under this measure the commissioner administers the law, interprets and enforces it. The Commissioner of Police can charge one with a parking offence but cannot try the case, which must go to court to be tried.

The Chief Secretary: Yes, he can.

Hon. H. K. WATSON: One has the right to be tried by a court. That is the whole basis of our law. The commissioner should have power to investigate and prepare his case but should take the person charged before a court to have the charge tried. That is the right any citizen has under our law. In regard to the court, I think it should consist of a judge and two expert assessors having knowledge of the trade of the person charged. Under the Restrictive Practices Act in England the registrar makes the charge and the person is tried before a tribunal consisting of a judge and two experts.

To deal with the complicated questions which could arise here I think the court should consist of a president, who would be a Supreme Court judge, and two assessors, with the qualification that where the amount was under £500 the president could be a magistrate. I have the suggested constitution of the court on the notice paper, copied from the set-up under the Public Works Act to deal with claims of persons against the Government in connection with resumed land. There a separate court is constituted to deal with each claim and it consists of a judge of the Supreme Court and two assessors, one nominated by the State Housing Commission and one by the person whose land has been resumed, thus ensuring a fair trial. I have acted as an assessor in such a court.

The CHIEF SECRETARY: Throughout, the hon. member has placed on the notice paper amendments designed to defeat the objects of the Bill. His colleagues in another place said the Bill was so terrible that they would not attempt to amend it, yet here he has a spate of amendments on the notice paper.

Hon. H. K. Watson: At no time while the Bill has been before us have I said I would refuse to amend it.

The CHIEF SECRETARY: I did not say the hon. member said that. I am tracing what has happened, and I said his colleagues or his party had done that. They said it was such a terrible Bill that they would not amend it.

Hon. H. K. Watson: Where was that said?

The CHIEF SECRETARY: I read it in the Press. The Bill apparently appeals to the public and now the hon. member's party is putting forward about 50 amendments with the idea of wrecking the Bill. They are telling only half-truths about its provisions. The hon. member mentioned parking offences.

Hon. H. K. Watson: I said one had the right to be tried by a court.

The CHIEF SECRETARY: He said one is charged before a court, but that is not so.

Hon. N. E. Baxter: You can be if you so wish.

The CHIEF SECRETARY: One does not have to be tried before a court, but the hon. member tells untruths—

Hon. H. K. Watson: I object to having my words twisted. I did not tell untruths, but the Chief Secretary is telling a miserable untruth.

The CHAIRMAN: Order! I must ask the Chief Secretary to confine his remarks to the subject matter of the Bill.

The CHIEF SECRETARY: I thought I was doing that. Mr. Watson was allowed to speak of what was done, and I think I have the right to reply to what he said.

The CHAIRMAN: We are dealing with an amendment.

The CHIEF SECRETARY: I think I can refer to the things referred to by Mr. Watson, and I repeat that people do not have to be taken before a court, as he said.

Hon. H. K. Watson: I said they have the right to go before a court.

The CHIEF SECRETARY: In a number of cases under British law people are charged and their livelihood taken away without going before a court.

Hon. F. D. Willmott: Legally?

The CHIEF SECRETARY: Yes; they have the right of appeal but do not appeal to a court.

Hon. G. C. MacKinnon: Illustrate it.

The CHIEF SECRETARY: What about the racing game, which operates under an Act of Parliament? A jockey's, trainer's, or owner's livelihood can be taken away without the matter going before a court.

Hon. N. E. Baxter: They have an appeal court.

The CHIEF SECRETARY: We are setting up our own appeal court too.

Hon. N. E. Baxter: Of one man.

The CHIEF SECRETARY: In this instance, if the person is not satisfied with the decision made he can appeal to the Arbitration Court; and what better court is there to deal with charges of this description? It is a court which will give stability and consistency. If members do not want this Bill, let them not use underhand methods to defeat it. Let them come out in the open and defeat it properly if necessary. Amendments like this will only ruin the Bill.

Hon. G. C. MacKinnon: Members of our party believe this to be a House of review and we endeavour to act in that way.

The Chief Secretary: Don't make me laugh!

Hon. G. C. MacKinnon: What is said in another place does not bind members in this House. The Chief Secretary, when

asked to illustrate a similar instance, mentioned jockeys on the racecourse. People who start in business in this State, or in this country, believe that they are operating under rules of law—laws which are made by Parliament and interpreted by the courts. The jockey races at the racing club on the distinct understanding that he is subject to the stewards and the committee of that club. There is no comparison. I hope members will support the amendment.

Hon. N. E. Baxter: This clause, without the amendment, will make the commissioner a prosecutor, judge and jury. But if we agree to the amendment it will make him merely the prosecutor, which is the position he should have. He should be the prosecutor who causes an inquiry to be held before a properly constituted court. This evening the Chief Secretary accused Mr. Griffith of somersaulting, but in this instance the Chief Secretary is somersaulting. I recently introduced a Bill in which there was a similar provision, but the Chief Secretary screamed to high heaven and talked about British justice. The Chief Secretary should not be so two-faced. In cases such as this there should be a right of appeal.

The MINISTER FOR RAILWAYS: There is no comparison in the two questions. Mr. Baxter's legislation meant that a person would merely have to act on a suspicion.

Hon. N. E. Baxter: That will be the position with this measure.

The MINISTER FOR RAILWAYS: No. In this instance all the books will have to be examined and a case prepared. The commissioner will have to be able to substantiate his evidence.

Hon. N. E. Baxter: When he goes to the court of appeal?

The MINISTER FOR RAILWAYS: Yes. What is the difference between the commissioner under this legislation and the Commissioner of Taxation? The Commissioner of Taxation does not take a person to court for not filling in a return unless the person appeals.

Hon. N. E. Baxter: If a person does not pay he is taken to court.

The MINISTER FOR RAILWAYS: A person gets a bill from the Taxation Department to say that he owes the department so much money and it is then up to the person to prove that he does not owe it.

Hon. N. E. Baxter: That has nothing to do with this.

The MINISTER FOR RAILWAYS: The powers of the commissioner under this legislation are not as great as the powers of the Commissioner of Taxation.

Hon. N. E. Baxter: But in that instance there is a properly constituted appeal court.

The MINISTER FOR RAILWAYS: The hon. member accuses the Chief Secretary of turning a somersault. The two questions are entirely different. In Mr. Baxter's Bill a man needed only to suspect.

Hon. L. A. Logan: In this case all the commissioner need have is a reason to believe. Is not that the same thing?

The MINISTER FOR RAILWAYS: No. All the books have to be examined and a case properly made out. I am opposed to the amendment.

Hon. L. C. DIVER: This is an important part of the Bill and a good deal of excitement seems to have been caused by some of the speeches made. I take it that the commissioner will have to make out a *prime facie* case before he gets in touch with the advisory panel. This commissioner will have to be a level-headed man with extraordinary qualifications. If the panel is of the opinion that the case is not a good one, no action will be taken. I cannot see why some members should have such an irrational approach to this matter. If Mr. Watson's amendment is agreed to, cases could extend over a very long period without anything being settled. There are other aspects of appeal that will adequately cover the position and ensure that no injustice is inflicted on anyone. Consequently I intend to oppose the amendments that Mr. Watson has on the notice paper in this regard.

Hon. A. F. GRIFFITH: Mr. Baxter said that the commissioner would be the prosecutor, the judge and the jury if this amendment were not agreed to. But he is also something else—he is the investigator. I ask Mr. Diver this question: Can he tell me of any proceedings in this country where any individual investigates, prosecutes and judges?

The Minister for Railways: The Taxation Commissioner.

Hon. L. C. Diver: I think the Minister for Railways gave a very good explanation.

Hon. A. F. GRIFFITH: The Minister for Railways made out a weak case.

The Minister for Railways: You mean about the Commissioner of Taxation.

Hon. A. F. GRIFFITH: He has those wide powers.

Hon. C. H. Simpson: But he can be proceeded against.

Hon. A. F. GRIFFITH: In that case the public know the charge the commissioner will bring against them. But under this Bill we do not know how the commissioner will act: we are only told that he would be reasonable. Somebody said jocularly that reasonable should mean

reasonable. Let us assume a police officer investigates a crime. He proceeds and builds up a case. He would then go to his superior officer and say, "These are the facts of this case. What is the next step?" The man, of course, is charged. But does he appear before the person who investigated his case? Of course not! He appears before the court.

But the Chief Secretary and Mr. Diver want to give the commissioner *carte blanche* power. He can investigate business "A" and ask the owner the necessary questions. He can take copies of his record; build up a case against him; satisfy himself that he has built up a case, and then proceed to try the man. What chance would the man have? I am astounded that we should even consider placing such legislation on the statute book.

The Minister for Railways: You voted for one a fortnight ago, on suspicion.

Hon. A. F. GRIFFITH: I brought the question forward on a protest made by certain people. There was an outcry about the encroachment of British justice. But what is this?

The Minister for Railways: Examination first.

Hon. A. F. GRIFFITH: By the man who is going to try the case. If we look at the constitution of the advisory committee, we will find it is loaded in favour of the commissioner.

Hon. H. K. WATSON: The Minister for Railways said the Commissioner of Taxation had wider powers than the commissioner under this Bill, and that the taxpayer was in a more vulnerable position under the taxation powers than people will be under this Bill. I am speaking from 35 years of practical experience with the Commissioner of Taxation and his administration of the income-tax laws. The Taxation Commissioner does not have the power which is conferred on the commissioner under this Bill. If the former were to extract a penalty he would have to take the person to court; and there is an appeal from any finding he might make. The appeal is to the board of review or the Supreme Court. The Taxation Commissioner is not prosecutor and judge as this commissioner will be.

I appeal to Mr. Diver to give my amendment more serious consideration. He said, with some merit, that there was an advisory council. If that council were effective, the position would not be quite so dangerous. A man charged under this legislation should have the right of appeal to a court. The advisory council will not have a vote, and I cannot imagine what it is going to do.

Hon. A. R. Jones: They will not even get a guernsey.

Hon. H. K. WATSON: The commissioner need not follow the advice of the advisory council. It reminds me of a case I knew 20 years ago, when a friend of mine had reason to believe that things were not as they should be at the Tender Board. He attended one of the Tender Board meetings and saw the tenders opened; he saw five envelopes split. He inquired of the chairman which was the highest tender, and asked if he could see the tender, and the chairman said that he had seen them opened. The same thing could happen here. The advisory council will not serve any useful purpose. All we ask is that a man charged with an offence should be tried before a court.

Hon. R. C. MATTISKE: If the commissioner, on the advice of somebody, suspects that an individual is guilty of profiteering, he proceeds to investigate the position. Under similar legislation that existed in the immediate postwar period, we had the same thing happening that has been instanced here, of a person whose services had been dispensed with because they were unsatisfactory coming along to investigate his previous employer's affairs. Having completed his investigation he submits a report to the commissioner; and no matter how able or highly qualified he may be, the commissioner cannot hope to go into the full details and must accept the investigator's report.

The Government would like the individual charged to have the right of appeal to the President of the Arbitration Court; but with all due respect to the learned judge, he cannot hope to have a complete knowledge of all types of business that could be involved under this legislation. It would be placing him in an invidious position.

The amendment enables the person charged to appear before a properly constituted court and give his evidence. It also provides that the commissioner may have expert advice. In this way justice would be meted out. I cannot see how the advisory council will be of any help at all. It will consist of four persons, none of whom is a qualified accountant, investigator or solicitor. How are they going to advise the commissioner? They could make a concerted drive on grocers or some other section of the community. That is the only manner in which the advisory council could assist the commissioner.

In the postwar period, under prices legislation, there were committees which assisted the prices commissioner. But those advisory committees were made up of men from different sections of trade or commerce, and they advised the commissioner in connection with their particular section. If a person were guilty of overcharging on grocery lines, there would be people there fully conversant with the grocery business who could advise as to

whether or not the individual was profiteering or acting within the normal and accepted conditions of the trade. I therefore urge the Committee to give this particular amendment most careful consideration to make sure that we do uphold British justice.

Hon. G. C. MacKINNON: Reference has been made to the right of appeal to the Arbitration Court. I would remind the Committee of the words of Mr. Watson when he said that unfair profit is such "in the opinion of the commissioner." If the commissioner, having made the inquiry, conducted the case and decided against the trader, giving a ruling that "in his opinion" an unfair profit had been made, and the trader then took his appeal to the Arbitration Court, I do not see how any judge of that court could find that the case had been proved, because he would only have to ask the commissioner, "What do you think?" and if he should say, "In my opinion an unfair profit has been taken," that would be the end of the appeal.

Another aspect is that the commissioner's selection rests on fallible men, and in spite of the best intentions of the commissioner, they may not measure up. We have had examples before today, and we can see the consequence on a large scale in the Press where power has run away with a man. Why place this burden of responsibility on one man when it is against our historical background and there is no need for so doing? Merely to say this has been done in the past is no justification for doing it in the future. Therefore I request the Committee to accept the amendment.

Hon. J. MURRAY: I expressed earlier this evening some concern about the manner in which this Committee was functioning and I still feel very concerned about that aspect. I strongly appeal to the Committee to give consideration and some support to the amendments moved by Mr. Watson. I would not feel so concerned in this matter had Mr. Diver agreed to the inclusion of those words which Mr. Jones attempted to have included. I would have felt there was probably some intention on the part of this Committee to review this legislation without any particular bias one way or another. Having got a certain section of the people excluded from this legislation—and deliberately excluded—there is an unholy alliance which is endeavouring to deny proper British justice to all other sections of the community. I trust that at this late stage the Committee will give some support to the amendments moved by Mr. Watson.

Hon. F. D. WILLMOTT: I think this Committee is getting confused with the functions of the advisory council and the amendment proposing a constituted court, as moved by Mr. Watson. Sir Charles

Latham moved an amendment to Clause 29, and I ask members of the Committee to read that amendment again. This advisory council is to help the commissioner in his investigations into a case, not at the trial after the investigations.

Mr. Diver was of the opinion that the council was going to constitute a court, but that is absolutely wrong. Its purpose is to help the commissioner in his investigations and deliberations and the preparing of a case. That having been done, an offender would be tried in accordance with British justice. This Committee should give Mr. Watson's amendment due consideration. When the Bill was introduced, the Chief Secretary asked members to consider the legislation as a House of review. I suggest that, from the way we are looking on this amendment, we are not doing that.

Hon. H. K. WATSON: Replying to Mr. Diver's contribution to the debate, I omitted to make reference to his remark that the setting up of a court and the trying of a charged person by a court was likely to entail a delay. It is admitted that a trial before a court would take a little longer than a sudden-death decision by the commissioner, just the same as a trial by ordeal is quicker than a trial by jury. The idea of British justice is that a man shall be given a fair trial. We are not so much concerned with the length of the trial as we are with its being a fair trial. We should not give the power of trial to the commissioner rather than the court because there might be delay.

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

Ayes	.....	12
Noes	.....	12
A tie	.....	0

## Ayes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. G. Hislop	Hon. J. Murray
Hon. A. R. Jones	Hon. C. H. Simpson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. MacKinnon	Hon. A. F. Griffith

(Teller.)

## Noes.

Hon. E. M. Davies	Hon. H. L. Roche
Hon. L. C. Diver	Hon. H. C. Strickland
Hon. G. Fraser	Hon. J. D. Teahan
Hon. J. J. Garrigan	Hon. W. F. Willesee
Hon. G. E. Jeffery	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. E. M. Heenan

(Teller.)

## Pairs.

Ayes.	Noes.
Hon. J. Cunningham	Hon. G. Bennetts
Hon. J. McI. Thomson	Hon. R. F. Hutchison

Amendment thus negatived.

Clause put and passed.

Clause 31—Power to declare a person to be a declared trader:

Hon. C. H. SIMPSON: I move an amendment—

That in line 29, page 18, after the word "commissioner"; the word "or" be added.

This was an inadvertent omission when an amendment was moved in another place.

Amendment put and passed.

Hon. A. F. GRIFFITH: I take this opportunity of making a last protest. Under this clause, the commissioner having done all the things he wants to do—having tried the case himself—then sets about sentencing the man. If I can lodge any protest about this type of thing I do so now.

Hon. H. K. WATSON: The position with regard to Subclause (3) is somewhat obscure and complicated. The Chief Secretary, Mr. Diver, and I have some proposed amendments. If I move my preliminary consequential amendment, Mr. Diver and the Chief Secretary might say whether they agree with me. The substance of my proposal is that the right of appeal from the decision of the commissioner for unfair trading should be the same as the right of appeal from the Commissioner of Taxation. The amendments, which are set out in my name on the notice paper, are copied from the Income Tax Act. I move an amendment—

That before the word "A" in line 39, page 18, the letter "a" in brackets thus "(a)" be inserted.

The CHIEF SECRETARY: I favour the proposal in the Bill that the appeal should go to the president of the Arbitration Court. I cannot see any better court for that purpose.

Hon. N. E. Baxter: Would you like to be tried by the president of the Arbitration Court?

The CHIEF SECRETARY: On this sort of business, yes.

Hon. N. E. Baxter: You are easily pleased.

The CHIEF SECRETARY: The president of the Arbitration Court deals with this type of business all the time. In the Supreme Court there are different judges.

Hon. C. H. Simpson: We do not even know what the Bill is directed at.

The CHIEF SECRETARY: If the hon. member does not know after it has been discussed for two or three days, I cannot tell him. This deals with charges for unfair trading and other things. The costs and so on envisaged here are already dealt with by the Arbitration Court, and there will be some consistency about its decisions. In the other court there could be a different judge on each case with resultant different decisions. We find that occurs in the ordinary courts. A person might be charged in Fremantle and a decision given; and in, say, Midland Junction, a similar case might be decided and a different decision arrived at. Here we should aim at consistency so that the people involved will know where they stand.

Hon. Sir Charles Latham: Do not the courts decide on the evidence they hear?

The CHIEF SECRETARY: Yes. In addition, if the judge has an intimate knowledge of the case before him he will give a much better decision than if he has been considering other types of cases. Mr. Mattiske was entirely wrong when he spoke about the Arbitration Court. The president of the Arbitration Court is a judge of the Supreme Court and he sits on the Supreme Court bench when required. There is the difference that he would be one man dealing with the same type of offence which would be coming before him all the time. I ask the Committee to leave the Bill as it is.

Hon. L. C. DIVER: I find myself in a curious position. I do not wish to vote for the amendment; nor do I agree with the Chief Secretary's contention that the Bill should remain as it is. Mr. Watson's amendment is not greatly different from that which I have on page 4 of the notice paper. The amendment moved by Mr. Watson goes a little further than mine, because in paragraph (d) of his amendment there is provision for the appeal to go to the Full Court.

In another clause there is a certain time limit provided, which I will insist on. So should any of these things appear, I will be willing, when the next amending Bill comes before this Chamber, to agree with the hon. member's submission. Unless something happens in the next 12 months, it is reasonable to assume that we will not be allowed to amend this legislation, and possibly it could meet with a worse fate. As to the wish of the Chief Secretary that the Bill should remain as it is and that it should be left to the president of the Arbitration Court to hear any appeals, I think—

The CHAIRMAN: Order! I think the the hon. member should connect his remarks to the amendment.

Hon. L. C. DIVER: I thought I was connecting them to the amendment. The Chief Secretary has mentioned that the Bill should be left as it is.

The CHAIRMAN: We are not discussing the Bill, but the amendment.

Hon. L. C. DIVER: I have to make up my mind where I stand on this point. Therefore, it is rather difficult to discuss the amendment—

The CHAIRMAN: The hon. member may proceed.

Hon. L. C. DIVER: Thank you, Mr. Chairman. The Chief Secretary has admitted that the president of the Arbitration Court, on occasions, sits as a judge of the Supreme Court.

The Chief Secretary: You have nothing to fear. He has full status.

Hon. L. C. DIVER: I do not want a charge to be held over a man's head and an appeal to go on for months and months. If a man is innocent of the charges, I want them lifted as soon as possible.

The Chief Secretary: That is why we inserted this provision, because it will prove to be more rapid than the amendment suggested.

Hon. L. C. DIVER: On this occasion I do not agree with the Chief Secretary. It should be left to the decision of a judge of the Supreme Court. Anyone appearing before that court will have the assistance of counsel.

Hon. A. F. Griffith: Do you think the commissioner will lay a charge if he is not sure that the case will be proved?

Hon. L. C. DIVER: As I understand Mr. Griffith's interjection, that is another safeguard; because if the commissioner had any doubt as to that, he would not lay the charge. I want to allay any fears that may be in the minds of members of this Committee or the members of the public.

The Chief Secretary: Do you think I would stand for any injustice?

Hon. A. F. Griffith: You will not be in it after this Bill is passed.

Hon. L. C. DIVER: I am surprised that the Chief Secretary has laid himself wide open, but I will not take advantage of him. For the reasons I have given I will have to vote against the amendment, following which I will move my own amendments.

Hon. R. C. MATTISKE: The Chief Secretary drew my attention to the fact that the President of the Arbitration Court is also a judge of the Supreme Court. He further implied that the right of appeal was more or less equivalent to that contained in the amendment which has been lost. I draw the Chief Secretary's attention to one difference, namely, that under the Bill the appeal is to only one judge; whereas the amendment provided for the appointment of an assessor to assist him, and for a majority decision.

The Chief Secretary: I did not refer to the previous amendment.

Hon. R. C. MATTISKE: You implied that the right of appeal, about which I was speaking, was the same as that now provided in the Bill. I was going to ask the Chief Secretary whether it was his intention further to amend the Bill to provide that, in addition to the president of the Arbitration Court, an assessor should be appointed to assist him.

The Chief Secretary: I stand for what is in the Bill.

Hon. J. G. HISLOP: I appeal to Mr. Diver to support Mr. Watson's amendment on a number of grounds, particularly on his own reasoning. He said that he does not want injustice done to anyone by an

appeal being held over a man's head for an extremely long period. To date, the only difference I can see is that Mr. Diver wants to allow the appeal to go no further than a judge of the Supreme Court. There are people on this side of the Chamber who think that such a man would have no appeal because the appeal would not rest on a question of fact but on the decision of the commissioner. If the appeal lay on the fact that the commissioner said, "In my opinion this is unfair trading," a judge of the Supreme Court would have no alternative but to agree with such a decision. The hands of the Supreme Court judge would be tied.

In view of the extreme fear that exists in our minds—namely, that injustice could be served—why not allow the appeal to take its full course as constituted in the British courts? I can visualise that if a trader were declared in a big way, the case might have to go to the Privy Council to ascertain whether this is sound legislation. If it went beyond the Supreme Court we might hear some salutary words from the judge on that bench about the legislation we are passing here and about the taking away from individuals the right of appeal. An accused person would be deprived of all rights of appeal at that point. He should be allowed to take his appeal to the highest court in the land.

Hon. A. F. GRIFFITH: It was said by Mr. Diver that an accused person could engage counsel to represent him. Does he consider that the commissioner would take a case against himself, if there is any doubt? That would be a ridiculous assumption. Before an appeal can be made there must be a conviction. The investigator would get a set of circumstances and say, "Under this legislation I have reached the position as far as paragraph (b). I have carried out my investigations and am satisfied that I shall try this case before myself and my charge will be proved."

Hon. L. C. DIVER: He must have regard to the facts.

Hon. A. F. GRIFFITH: Under the suggestion of the Chief Secretary the accused person could appeal to the Arbitration Court against a decision of the commissioner. Would it then be said, "What was in the mind of the legislators? Did the legislators intend the appeal should be against the finding of the commissioner or was that not intended? Did the legislators know that within the confines of this Bill all that the commissioner has to prove to get a conviction was that in the opinion of the commissioner the accused was guilty?"

Hon. L. C. DIVER: The word "just" is used.

Hon. A. F. GRIFFITH: Is there any justice at all in this Bill? I have seen clause after clause being agreed to, and we

knew all the time what would happen. The hon. member knows that the commissioner will not proceed with a case unless he is sure that the case he tries himself will be proved. I think that the amendment moved by Mr. Watson is an excellent suggestion to enable an accused person to have the opportunity to make the highest appeal possible.

Hon. J. G. HISLOP: The point to consider is whether an accused person will have the full right of appeal if this clause is agreed to. Many of us genuinely believe that the Bill is so framed that an accused person is deprived of that right. If that is so, I suggest that we should allow the Bill to become law in the ordinary course and permit the accused to appeal to the highest court of justice.

Hon. H. K. WATSON: It has been said by the Master of the Rolls, touching upon the point raised by St. Paul's famous cry—

"I appeal unto Caesar" expresses I believe a fundamental instinct of humanity.

Four years ago, when I visited the House of Lords, I heard an appeal being made by a policeman to the Privy Council. He was charged with having stolen £4. He had been convicted at the Old Bailey. He appealed to a higher court and, finally, to the Privy Council, where his appeal was upheld. That is the essence of British justice. All accused persons should have the right of appeal because we know that judges are not infallible in their verdicts. A person who feels aggrieved should have a right of appeal.

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

Ayes	.....	12
Noes	.....	12
A tie		0

#### Ayes.

Hon. A. F. Griffith	Hon. R. C. Mattiske
Hon. J. G. Hislop	Hon. J. Murray
Hon. A. R. Jones	Hon. C. H. Simpson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. MacKinnon	Hon. N. E. Baxter

(Teller.)

#### Noes.

Hon. E. M. Davies	Hon. H. L. Roche
Hon. L. C. Diver	Hon. H. C. Strickland
Hon. G. Fraser	Hon. J. D. Teahan
Hon. E. M. Heenan	Hon. W. F. Willesee
Hon. G. E. Jeffery	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. J. J. Garrigan

(Teller.)

Amendment thus negatived.

Hon. H. K. WATSON: I move an amendment—

That the word "ten" in line 40, page 18, be struck out and the word "thirty" inserted in lieu.

I do that to enable an accused person to have 30 days in which to make an appeal.



The CHIEF SECRETARY: I hope the Committee will not agree to this amendment. Ten days is sufficient to enable a person to lodge an appeal.

Hon. Sir Charles Latham: The accused may be away at the time and 10 days may not be enough.

The CHIEF SECRETARY: We have been accused of stringing out the time in which appeals can be lodged. We want appeals to be dealt with as quickly as possible without interfering with the justice to be meted out.

Hon. J. G. Hislop: We cannot get an ounce of justice out of the Bill.

The CHIEF SECRETARY: We differ in that regard as we do on most things. It was said by Mr. Griffith that we have not altered our votes on this measure; yet for the 29 years I have been here, I have known some members not to alter their votes in particular matters.

Hon. Sir Charles Latham: You were one of those persons.

The CHIEF SECRETARY: When the hon. member was on this side of the House, very often I supported legislation introduced by him. If an accused person is aggrieved by the commissioner's decision, he will not require more than 10 days to grieve over it. Thirty days would be too long a period to grieve over the decision.

Hon. H. K. WATSON: I would point out that under the Income Tax Act a period of 60 days is allowed for an appeal to be lodged. In this case, if a decision is given on a Wednesday and 10 days is allowed, the appeal must be lodged on the Friday of the following week. In effect, the accused will have an effective week within which to consult his solicitor, instruct him, allow the solicitor to familiarise himself with the facts, to instruct counsel and to prepare the appeal. That is ridiculous.

Amendment put and passed.

The CHIEF SECRETARY: I move an amendment—

That after the word "prescribed" in line 1, page 19, the words ", and on payment of the fees prescribed," be inserted.

Amendment put and passed.

*Sitting suspended from 10.3 to 10.30 p.m.*

Hon. L. C. DIVER: I move an amendment—

That the words "president of the Court of Arbitration" in line 2, page 19, be struck out and the words "judge of the Supreme Court" inserted in lieu.

The CHIEF SECRETARY: I do not intend to hold up the Committee in regard to this. I have given the reasons why I want the words to remain in the Bill; but other than to say I oppose the amendment, I will leave it at that.

Amendment put and passed.

Hon. L. C. DIVER: I move an amendment—

That the word "president's" in line 4, page 19, be struck out and the word "judge's" inserted in lieu.

Amendment put and passed.

The CHIEF SECRETARY: I move an amendment—

That after the word "thereto" in line 5, page 19, the following passage be added—

"and may confirm, reverse, or alter the decision appealed against and may include such order as to the costs of, and incidental to, the appeal as the judge thinks just."

Hon. H. K. WATSON: I move—

That the amendment be amended by inserting after the word "against" the following words "and notwithstanding any rule of law to the contrary the Court may, on any question, substitute its own opinion for the opinion of the commissioner."

My object is much the same as the Chief Secretary's. As the clause stands it is incomplete, because a person may appeal to a judge of the Supreme Court but the clause does not state what the judge may do. My amendment will cover that aspect and my object is to give the appeal some semblance of an appeal. Without these words the appeal will be valueless for the reasons I indicated last night.

I think I can best illustrate the importance of the amendment by saying that in most appeals—under income tax law for example—an aggrieved person has the right of having his case heard by a judge and the judge reviews the whole case. But there is one exception and it is this: In 99 cases out of 100 an appellant, no matter how good his case may be, has lost his appeal before he starts when his appeal relates to a question which depends upon the opinion of the commissioner. I should like to read some authoritative views on this question and I wish to quote from Gunn's "Commonwealth Income Tax Law and Practice", Fourth Edition, at page 1017, paragraph 2797, concerning a review of the commissioner's discretion by the court. It states—

Normally, liability to tax is imposed in absolute terms; the imposition of tax and the facts on which an obligation to pay arises are not in terms made dependent on the existence of any opinion of or the making of any determination by the commissioner. Even though, as a matter of administration in the making of the assessments the commissioner must form opinions and come to conclusions of fact, the liability to tax does not normally depend on those opinions or decisions, but solely on the existence of the facts which bring the taxpayer

within the terms of the Act. There are, however, a number of instances where the obligations of the taxpayer are made depend expressly upon the existence of a state of mind of the commissioner. The most common phrase used for this purpose is "in the opinion of the commissioner," and variants thereof such as "proved to the satisfaction of the commissioner." In these cases the existence of the necessary state of mind of the commissioner is an essential fact in ascertaining the taxpayer's liability.

It is now established by a long line of decisions beginning apparently with that of Isaac J. in *Moreau v. F. C. of T.* (1926), 39 C.L.R. 65, that no tribunal, unless specifically empowered by the Act to review the commissioner's opinions, etc. (2798), will substitute its opinion or belief for that of the commissioner.

In the case of *MacCormick v. Federal Commissioner of Taxation*, 8 A.T.D. at page 18, Chief Justice Latham had this to say—

This court has, in a series of cases involving the interpretation of taxation statutes, held that certain matters are to be determined by the exercise of a discretion by the Commissioner of Taxation, or in accordance with an opinion formed by him, and that upon an appeal the court cannot substitute the discretion or opinion of the court for that of the commissioner. But in those cases the court has also held that, if it be shown that the discretion was exercised or the opinion formed upon a wrong construction of the relevant statute, or that the discretion exercised or the opinion formed was so irrational as to be not a discretion or an opinion of the character contemplated by the statute, an assessment should be set aside and remitted to the commissioner for reconsideration in accordance with law: see *Moreau v. Federal Commissioner of Taxation*; *Australasian Scale Co. Ltd. v. Commissioner of Taxes (Q)*; *Commissioner of Taxes (Q) v. Ford Motor Co. of Australia Pty Ltd.* It has uniformly been held that upon an appeal under Acts the provisions of which are indistinguishable in relevant particulars from the present Act it is not for the court to substitute its opinion for that of the commissioner.

Similar views have been expressed by the House of Lords in the case of *Inland Revenue Commissioners v. Ross & Coulter*, 1948, (1) All E.R. 616 at page 629 and by the Privy Council in *Minister of National Revenue v. Wrights Canadian Ropes Ltd.*, 1947, A.C. 109.

In the Income Tax Act, there are few provisions that depend upon the opinion of the commissioner; but in this Act, the

whole central fact depends on the opinion of the commissioner under this Bill. Unfair profit is fixed in the opinion of the commissioner. That is in the definition. So, in the absence of some special provision, the right of appeal is not worth anything, because the court can say "so long as the commissioner has charged you with unfair trading, has described the unfair trading and has observed the provisions of the Act, we are sorry there is nothing we can do about it." This appeal clause is useless, and it is for that reason that I move my amendment.

The CHIEF SECRETARY: I hope the Committee will not accept the amendment. The provision in the Bill is plain English. Notwithstanding all the information Mr. Watson put before the Committee, he cannot get away from the words "may confirm, reverse or alter the decision appealed against". There are no two meanings about that.

Hon. H. K. Watson: Oh yes there are!

Amendment on amendment put and a division taken with the following result:—

Ayes	.....	12
Noes	.....	12
A tie	.....	0

#### Ayes.

Hon. N. E. Baxter	Hon. G. MacKinnon
Hon. A. F. Griffith	Hon. R. C. Mattiske
Hon. J. G. Hislop	Hon. J. Murray
Hon. A. R. Jones	Hon. O. H. Simpson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott

(Teller.)

#### Noes.

Hon. E. M. Davies	Hon. H. L. Roche
Hon. L. C. Diver	Hon. H. C. Strickland
Hon. G. Fraser	Hon. J. D. Teahan
Hon. J. J. Garrigan	Hon. W. F. Willessee
Hon. G. E. Jeffery	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. E. M. Heenan

(Teller.)

#### Pairs.

Aye.	Noes.
Hon. J. McI. Thomson	Hon. G. Bennetts
Hon. J. Cunningham	Hon. R. F. Hutchison

Amendment on amendment thus negatived.

Amendment put and passed.

The CHIEF SECRETARY: I move an amendment—

That after the figure (2), in line 10, page 19, the words "or on appeal under Subsection (3)," be inserted.

Amendment put and passed.

Hon. Sir CHARLES LATHAM: I move an amendment—

That after the word "code" in line 29, page 19, the following be inserted to stand as Subclause (6):—

The Commissioner shall not declare a person to be a declared trader under this Act unless and until the Advisory Council has

first determined the circumstances and conditions in and under which it appears right and proper in the cause of justice to so declare a person and the Commissioner shall have due regard to such determination.

Amendment put and passed.

Hon. H. K. WATSON: I must make one last attack on this clause. Under it the commissioner is to be judge and jury. It is a clause which contains a right of appeal that is useless; it is a clause which enables a man's business to be declared; it is one that places him under the control of the commissioner without a fair trial and without a fair right of appeal. There is a section under the Federal Constitution which has come down in history and is known as Braddon's Blot. After Mr. Diver's voting on this clause I think it could well be known as Diver's Blot.

Hon. F. R. H. Lavery: That is an unfair remark.

Hon. H. K. WATSON: I do not think so.

Clause, as amended, put and a division called for.

The CHAIRMAN: Before tellers tell, I give my vote with the ayes.

Division taken with the following result:—

Ayes	....	....	....	....	13
Noes	....	....	....	....	12
Majority for	....	....	....	....	1

Ayes.

Hon. E. M. Davies	Hon. F. R. H. Lavery
Hon. L. C. Diver	Hon. H. L. Roche
Hon. G. Fraser	Hon. H. C. Strickland
Hon. J. J. Garrigan	Hon. W. F. Willesee
Hon. W. R. Hall	Hon. F. J. S. Wise
Hon. E. M. Heenan	Hon. J. D. Teahan
Hon. G. E. Jeffery	(Teller.)

Noes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. G. Hislop	Hon. J. Murray
Hon. A. R. Jones	Hon. C. H. Simpson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. MacKinnon	Hon. A. F. Griffith
	(Teller.)

Pairs.

Ayes.	Noes.
Hon. G. Bennetts	Hon. J. McI. Thomson
Hon. R. F. Hutchison	Hon. J. Cunningham

Clause, as amended, thus agreed to.

Clause 32—agreed to.

Clause 33—Directions:

Hon. Sir CHARLES LATHAM: I move an amendment—

That paragraph (d), lines 39 to 42, page 20, be struck out.

It seems to me to be unnecessary for a person to get the written approval of the commissioner if he does not want to dispose of his goods. The commonsense practice should be allowed to remain.

Hon. L. A. LOGAN: If the Committee passes this clause, it will be telling every businessman in Western Australia how to run his business. That is what this clause amounts to.

The CHIEF SECRETARY: This clause is vital, because if it is taken out it will permit goods to be withheld from sale.

Hon. A. F. Griffith: Why not? Does a man have to sell his goods?

The CHIEF SECRETARY: If a man were guilty of an offence he could be made to sell.

Hon. A. F. Griffith: Would you like to be made to sell your house?

The CHIEF SECRETARY: I have not committed an offence, but this person would have. If a man is declared, he may withhold goods from sale and create a shortage.

Hon. G. C. MacKINNON: I must protest against this habit of predeciding just what the commissioner is going to consider is unfair trading. The Chief Secretary informed us that a man will not be charged for selling at a loss. There is nothing to say he will not be indulging in unfair trading if he sells very close to a loss. That could be considered as unfair trading. To say that every person charged is going to be charged because he is profiteering is sheer guess work. If it is the Chief Secretary's intention that only people who charge too great a profit should be tackled in this Bill, he should withdraw the parts relating to unfair trading. A person can indulge in unfair trading by charging a price below what a small businessman might be able, perhaps, to buy at.

Hon. L. C. DIVER: I agree with Sir Charles Latham that the subclause should be deleted. It is extremely harsh.

Hon. A. F. GRIFFITH: When I spoke on the second reading, I pointed out that the commissioner had control of a man's affairs, and that was contradicted. Under this subsection and the next one we can see the control he has. That a man can be ordered to offer his goods for sale, whether he wants to or not, is absolute tyranny. I shall vote against this power as strongly as I can.

The Chief Secretary: You've only got one vote anyway!

Amendment put and passed; the clause, as amended, agreed to.

Clause 34—Books of account and records to be kept and preserved:

Hon. H. K. WATSON: I move an amendment—

That the words "who, whether" in line 3, page 21, be struck out.

The clause makes it obligatory on all traders, whether they have been declared or not, to keep their books virtually until

the end of time. This is an impossible burden upon industry. The clause should be confined to declared traders.

Hon. L. A. LOGAN: The remarks I made a little while ago when I said we would be telling business people how to run their businesses, should pertain to this clause, not Clause 33. The amendment improves the clause somewhat. It is wrong to pass a law making it mandatory on a businessman to keep proper records of account, etc., until their destruction is authorised by the commissioner. The whole thing is fantastic. We should vote against the clause and not worry about the alteration.

Hon. A. R. JONES: I thoroughly endorse those sentiments. This covers practically everyone. This must have slipped in, inadvertently, from some other Act.

Hon. A. F. GRIFFITH: I ask the Chief Secretary, Mr. Diver and Mr. Roche: Do they think this clause could apply to a farmer?

Hon. G. C. MacKINNON: The idea of the legislation is to keep costs down. Apparently no study has been made of the keeping of records. The tendency in America is not to keep for all time records such as are envisaged here, but to keep for a few years the ordinary business records; and the question of space for that purpose has become so difficult that huge buildings in the suburbs are used for the purpose. A complete new system of miniature photographing of all vouchers, records and so on is adopted. Communication systems are established between the warehouse and the head office so that information can be obtained at a moment's notice.

These records are kept for only a short period—a year or two. Members can imagine the cost imposed on industry there. To keep records until such time as the commissioner authorises their destruction—virtually all time—will be costly. Miniature records are not allowed to be kept. Bulk space costs money.

The CHIEF SECRETARY: I am not 100 per cent. enthusiastic about this. I am not happy about the words "until their destruction is authorised by the Commissioner." Records have to be kept even today. Under the taxation laws, books have to be kept for a certain period.

Hon. A. R. Jones: But not until the commissioner decides.

The CHIEF SECRETARY: I admit there should be some alteration there. I agree that the provision is not a good one.

Hon. N. E. BAXTER: One has to keep books under the taxation legislation, and so there is no need for this provision.

Amendment put and a division called for.

The CHAIRMAN: Before tellers tell, I give my vote with the noes.

Division taken with the following result:—

Ayes	....	....	....	12
Noes	....	....	....	12
				—
A tie	....			0
				—

Ayes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. A. F. Griffith	Hon. J. Murray
Hon. J. G. Hislop	Hon. C. H. Simpson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. MacKinnon	Hon. A. R. Jones

(Teller.)

Noes.

Hon. E. M. Davies	Hon. H. L. Roche
Hon. G. Fraser	Hon. H. C. Strickland
Hon. J. J. Garrigan	Hon. J. D. Teahan
Hon. W. R. Hall	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. F. R. H. Lavery

(Teller.)

Pairs.

Ayes.	Noes.
Hon. J. McI. Thomson	Hon. G. Bennetts
Hon. J. Cunningham	Hon. R. F. Hutchison

Amendment thus negatived.

The CHIEF SECRETARY: I move—  
That progress be reported.

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

Ayes	....	....	....	12
Noes	....	....	....	11
				—
Majority for	....			1
				—

Ayes.

Hon. E. M. Davies	Hon. H. L. Roche
Hon. G. Fraser	Hon. H. C. Strickland
Hon. J. J. Garrigan	Hon. J. D. Teahan
Hon. E. M. Heenan	Hon. W. F. Willesee
Hon. G. E. Jeffery	Hon. F. J. S. Wise
Hon. L. A. Logan	Hon. F. R. H. Lavery

(Teller.)

Noes.

Hon. N. E. Baxter	Hon. J. Murray
Hon. J. G. Hislop	Hon. C. H. Simpson
Hon. A. R. Jones	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. F. D. Willmott
Hon. G. MacKinnon	Hon. A. F. Griffith
Hon. R. C. Mattiske	

(Teller.)

Pairs.

Ayes.	Noes.
Hon. G. Bennetts	Hon. J. McI. Thomson
Hon. R. F. Hutchison	Hon. J. Cunningham

Motion thus passed.

Progress reported.

BILL—SUPPLY (No. 2), £18,500,000.

Received from the Assembly and read a first time.

House adjourned at 11.32 p.m.