Legislative Council

Tuesday, the 10th October, 1961

CONTENTS

MEETING OF THE COUNCIL

Absence of President

The Council met at 4.30 p.m., and the Clerk (Mr. J. B. Roberts) announced that the President being unavoidably absent, it would be necessary, under Standing Order No. 29, for the Chairman of Committees to take the Chair and exercise the authority of the President.

The DEPUTY PRESIDENT (The Hon. W. R. Hall) took the Chair, and read prayers.

BILLS (3): RECEIPT AND FIRST READING

1. Building Societies Act Amendment Bill.

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

2. Bank Holidays Act Amendment Bill.

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

3. Housing Loan Guarantee Act Amendment Bill.

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

CIVIL AVIATION (CARRIERS' LIABILITY) BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [4.39 p.m.]: I move—

That the Bill be now read a second time.

I desire to say that this piece of legislation comes before members as a result of an agreement emanating from a meeting of the Australian Transport Advisory Council held at Hobart last February. The agreement proposed legislative effect being given by the States to decisions concerning aircraft operators' liability to passengers. This is one of the matters the subject of international agreement made at Warsaw in the Convention of 1929, and at the Hague Protocol in 1955, to which Australia is a party. The Commonwealth Parliament brought down appropriate legislation in 1959 under the title of Civil Aviation (Carriers' Liability) Act. This covered passengers travelling interstate.

The States become concerned in the matter only as regards their internal air services, i.e., locally-operated air services flying intrastate. This Bill provides in respect of these services similar coverage to that provided by the Commonwealth legislation in respect of interstate services. The Bill places liability on an airline operator for damages for death or personal injury, irrespective of negligence being established, and for damage to baggage.

A most unsatisfactory position exists at the moment in that the operator of an air service over Western Australia becomes liable only in respect of damage through his or his company's negligence. Furthermore, the onus of proof of such negligence rests with the passenger or his personal representatives. In the event of the means of proving negligence being obliterated in an air accident, the passenger or his representative would have no redress.

We have an excellent record of civil aviation in Western Australia; and it is pertinent to state, at this juncture, that one of our companies offers some alleviation of the passenger's disability in these regards by the provision of free insurance. Free coverage given is to the extent of £2,000 in respect of an adult life, and £1,000 for a child's. This assurance is payable whether there be negligence or not.

The amount of free life assurance provided by that company may not necessarily be regarded as adequate life assurance coverage, and is mentioned only as an indication that the present disadvantage of passengers has been recognised in a practical way by one of the companies operating here. As I implied in my opening remarks, the passing of this measure is an integral part of a move to obtain national uniformity in these matters.

I shall now give a brief review of the more important parts of the Commonwealth Act which are to apply to intrastate air flight. Reference is made in subclause (2) of clause 3 to sections 5 and 26 of the Commonwealth Act. Both of these are definition sections. Section 5 defines Australia as including the territories of the Commonwealth and also defines the Hague Protocol and the Warsaw Convention.

Section 26 is the definition section of part IV of the Act, and it is this part, as referred to in clause 6 of the Bill, which provides the main body of law which, with the passing of this measure, will apply in this State. Clause 5 of the Bill simply applies this main body of law to the carriage of a passenger between a place in the State and another place in the State as distinct from such carriage covered by the Commonwealth Act. As mentioned previously, clause 6 of the Bill procures the main body of the law from the Commonwealth Act.

Particular points in which members generally will be interested are in respect of the liability of the carrier. Section 28 of the Commonwealth Act states that the carrier is liable for damage sustained by reason of the death of the passenger or any personal injury suffered by the passenger resulting from an accident which takes place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Section 29 of the Act refers to liability in respect of baggage and states, *inter alia*, that where the part applies to the carriage of a passenger, the carrier is liable, under the part—and not otherwise—for damage sustained in the event of the destruction or loss of, or injury to, baggage of the passenger, unless the carrier proves that he and his servants and agents took all necessary measures to avoid the destruction, loss or injury, or that it was impossible for him or them to take such measures.

From the foregoing, members will note that the carrier is deemed wholly liable in respect of a passenger, but with baggage is not wholly liable if he can prove he took all necessary measures to avoid destruction of baggage. That is the general tenor of those provisions; and those subsections are followed by several others relating to registered baggage and other aspects of liability of both parties concerning baggage.

Section 31 of the Act limits the liability of the carrier in respect of each passenger, by reason of his injury or death, to the sum of £7,500, or such higher sum as is specified in the contract of carriage. A contract of carriage is defined in subsection 2 of section 26 of the Act.

Subsection 2 of section 31 limits the liability of the carrier to the sum of £100 in respect of baggage, or to such higher sum as may be specified in the contract of carriage.

Section 34 limits liability to action in respect of a claim for damage which is taken within two years after the date of the event. After that time, the right is extinguished. Further sections relevant to liability for damages to passengers set out clearly all aspects to be taken into account in the assessment of damages.

The provisions of the Act are not intended to indemnify the employer of a passenger in respect of workers' compensation; nor does the payment of such damages affect, in any way, life assurance, superannuation, social service benefit, repatriation benefit, or such like to which a passenger is otherwise entitled. Section 39 deals with contributory negligence, the onus of proof being on the carrier.

Clause 7 of the Bill deals with stowaways and sets out clearly the liability of the carrier in respect of such people travelling without his consent. That, I think, covers the main points of interest to members when giving consideration to this Bill.

Debate adjourned, on motion by The Hon. F. J. S. Wise.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES BILL

Second Reading

Debate adjourned from the 3rd October.

THE HON. R. F. HUTCHISON (Suburban) [4.47 p.m.]: I would like to say a few words in support of this Bill. Its purpose is to amend a very old Act, and I am very happy to know that this legislation has been looked into and will be brought more up to date. I agree wholeheartedly with Dr. Hislop in the statement he made that there should be no mention of illegitimate children.

Any law which allows a burden to be placed on a child, through no fault of its own, is surely not good. Although at the moment I have no idea how this problem can be overcome, I hope that at a later time it will be studied again and we will arrive at a solution which will be more in keeping with our social attitude and habits of today.

It is a great penalty for an innocent being to grow up and then find out, or of necessity be told, that he is what we now term an illegitimate child. This is one of the age-old mishaps of humanity and is one of those cases where the mother, in most instances, bears the whole of the burden. I do not know why we cannot eliminate the word "illegitimate" from the legislation. We surely could find a softer way of expressing it—something that would suit the present approach to social questions. Surely we could do that, just as we are learning in our attitude to mentally-afflicted people. We are changing our ideas in regard to people in those categories.

The Act which this Bill seeks to amend was first dealt with in 1894, which just about covers my lifetime; and that is too long a period to elapse before bringing the law up to date. I am hoping that the legislation will be overhauled again, perhaps in the next session of Parliament. In the meantime we should try to think of something to put before Parliament in order to remove the stigma with which some children have to go through life. The stigma is something that they cannot help; that they have had nothing to do with; that is causing hardship, yet it is big enough to wreck a person's whole life. I know of lives that have been very much shattered by this legislation.

I was impressed with Dr. Hislop's speech on this subject and the way he said that there were no illegitimate children. I am not even prepared to say that there should be illegitimate parents, either; but I do not know how to work out the answer to that problem at the moment.

A great stigma attaches to this word; but now we are altering laws to fit in with the advanced age in which we live, and I think we could think of something better than what applies today. I, for one, will be looking into this matter, and I hope that I will get some help, and that others will attempt to do something, too. Short as the Bill falls of some of the things I would like, I support it.

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [4.53 p.m.]: In taking cognisance of the remarks of Dr. Hislop and Mrs. Hutchison, and trying to find an answer to them, I think we have to go into the social world to find it, and not into legislation, because this is purely a social problem. The Act deals with registration, and if we have a look at the registration form we will not find any condition on it stipulating that the child is legitimate or otherwise.

The Hon. R. F. Hutchison: It is in the Act.

The Hon. L. A. LOGAN: We have to deal with something or other. What else are we going to call these children? They are not born in wedlock; and it is the institution of marriage that we are dealing with, so if they are born out of wedlock, we have to find some name for them. If the honourable member can find a better term than "illegitimate", that will be accepted by society, she may accomplish her purpose. The legislation deals mainly with registration; and surely the only thing that can be put on a registration form is what is known about the child itself.

The Hon. H. K. Watson: The facts.

The Hon. L. A. LOGAN: Yes; the facts are all that we can put on the form. We can include the name of the mother and the name of the father. If the parents do eventually get married, then the illegitimacy is removed from the child; but if we cannot find the father and cannot name him, we just cannot include his name on the registration form. How are we going to overcome that problem?

If members look at clause 21 of the Bill they will see that we have gone as far as possible towards giving the child a father in order to take away any stigma that may possibly apply. But naturally if someone looks up the records later and cannot find the whole of the circumstances surrounding the child's birth—the name of the father and the name of the mother—it is obvious that the person looking up the records must draw one conclusion: that the child was born out of wedlock. I do not know how we are going to avoid that; because this legislation simply provides for the registration of a child so that it always has the registration to come back to.

The other point raised dealt with the death certificate. I have to admit that I have never seen a certificate of death, but I have been informed that the following questions are on the certificate:—

1. Direct cause—

   Disease or condition directly leading to death.

   Antecedent causes—

   Morbid conditions, if any, giving rise to the above cause (stating the underlying condition last).

2. Other significant conditions contributing to death but not related to the disease or condition causing it.

A further paragraph on the certificate reads—

> If you are likely to be in a position later to give, on application to the Registrar General, additional information as to the cause of death for the purposes of more precise statistical classification, enter "Yes" here.

I do not know just what further information Dr. Hislop requires to be on the certificate. He may be able to tell us that when the Bill is in Committee. The information already required leaves it pretty open for any certifying doctor to say not only what was the actual cause of death, but the causes leading up to it; and I would have thought that was sufficient.

I am pleased that the Bill has been received in such a favourable light. It is really a reprint in order to bring up to date a very old Act.

Question put and passed.

Bill read a second time.

In Committee, etc.

The Deputy Chairman of Committees (The Hon. G. C. MacKinnon) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation—

The Hon. J. G. HISLOP: The Minister discussed this clause with me, and it is his desire to have certain words inserted into the measure, with the consent of members. I move an amendment—

> Page 2, line 30—Insert after the word "conception" the words "born alive or".

The reason for the amendment is that there have been instances of live births with a gestation of less than 28 weeks. In order to cover all contingencies, it has been suggested that the above words be inserted.

The Hon. L. A. LOGAN: There is no opposition to the amendment; it is quite acceptable.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 4 to 11 put and passed.

Clause 12: Copies of lost, mislaid, mutilated or illegible duplicates to be sent by district registrar to Registrar General—

The Hon. L. A. LOGAN: In the second line of this clause the word "mislead" should read "mislaid." I would ask through you, Sir, that leave be granted to the Clerk to make this correction.

Leave (for correction of typographical error) granted.

Clause (as corrected) put and passed.

Clauses 13 to 17 put and passed.

Clause 18: Searches of register and certified copies of searches—

The Hon. J. G. HISLOP: Originally, when the Bill was introduced, I did not expect that any major amendments to it would be made, because I knew that what I said during the second reading debate was completely revolutionary to existing ideas. If we are going to alter this legislation at all, the amendments will have to be revolutionary; but there is no doubt that such alteration will not receive support at the present time. The birth of any illegitimate child will still continue to be registered as such.

I do not know what method will be adopted to give the child a normal certificate, but if we start thinking along those lines we will eventually arrive at a solution; perhaps not today, but certainly tomorrow. This is a matter which the registrar could look at from that point of view, and he might eventually realise that there is a great deal of public support for such an alteration to the law. No matter where I have been I have always met with the answer that there are no illegitimate children; and if we come to realise that, we can expect a change to take place. At the moment I cannot expect any revolutionary changes because the idea for a change must be in the minds of those who will change the social set up of the registration of births. However, I am certain that time will come and that what I have said will eventually happen.

Clause put and passed.

Clauses 19 to 74 put and passed.

Schedules 1 to 6 put and passed.

Title put and passed.

Bill reported with an amendment.

BETTING CONTROL ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd October.

THE HON. N. E. BAXTER (Central) [5.14 p.m.]: I believe this is a necessary amendment to the Betting Control Act, because if we are to suppress illegal betting in this State, stringent measures must be taken to achieve that end. However, there is one provision in the Bill about which I am not very happy. It is contained in paragraph (d) of subsection (2) of proposed new section 28A. This paragraph commences at line 25 of page 2 of the Bill and reads as follows:—

> (2) A warrant so given authorises the member of the police force therein named, with such assistance as may be necessary,—
>
> (d) to arrest and bring before a stipendiary magistrate or two justices all persons found therein or thereupon.

Under that provision a member of the Police Force could arrest a person and bring him before a stipendiary magistate without any actual evidence being submitted. If evidence is found that illegal betting has taken place or is taking place in a public place or in any premises, I do not mind if those present are brought before a stipendiary magistrate or two justices. But imagine the situation if a report or complaint were laid that betting was being carried on in premises where no betting was being carried on at all and the police obtained a warrant, searched the premises, and found nothing. I believe that this provision of the Bill would still give a police constable the power to arrest all persons on those premises and bring them before a stipendiary magistrate or two justices.

The Hon. A. F. Griffith: Do you think the police are so irresponsible?

The Hon. N. E. BAXTER: That is a fair enough question. I would say that some of the offences I have seen people charged with under the Traffic Act have been the result of entirely irresponsible action by the police; and the same position could

apply here. How does the Minister know that a particular police officer would not take it out on some person he disliked? Because the power is in the Act? Is that impossible? Is that not human nature? That could happen. If the position is as stated by the Minister, I have a lot to learn about human nature.

The Hon. A. F. Griffith: That is an unfair charge to make.

The Hon. R. Thompson: What about the Squires's case on the Upper Swan?

The Hon. A. F. Griffith: What happened there?

The Hon. N. E. BAXTER: The man was absolutely wrongfully arrested.

The Hon. A. F. Griffith: Tell us the rest.

The Hon. N. E. BAXTER: It was a case of mistaken identity.

The Hon. A. F. Griffith: Tell us what happened.

The Hon. N. E. BAXTER: Squires had to take action against the police for unlawful arrest. Where did he finish up?

The Hon. A. F. Griffith: You tell us.

The Hon. N. E. BAXTER: I do not think he got anywhere in the finish. Unfortunately that was a case where the man's legal wife was there at the time; yet this man was arrested. That is only one case in point. Why should we give a police officer the right to arrest a person on premises where there is no evidence of any betting taking place? That is the point I wish to make about this particular portion of the measure.

As I said before, I do not mind if there is evidence of betting taking place, whether that evidence is in paper form or whether it is verbal evidence, so long as the police officer has a witness to show that a verbal bet was made. However, I do not like this power to be applied when there is not the slightest evidence that betting is or has been taking place. This is something that could happen in anybody's home. If the police were given this power they would be able to obtain a search warrant and arrest all the members of a family and bring them before a stipendiary magistrate or two justices. It would be a wonderful thing if a prominent businessman, one of ourselves, or any other person were placed in that position!

Unless the Minister can give me a satisfactory explanation, it is my intention during the Committee stage to move an amendment in order to make sure that no arrest can be carried out and no person can be brought before a stipendiary magistrate or a justice unless there is evidence of some type of betting having taken place.

The Hon. A. F. Griffith: What sort of amendment would you make?

The Hon. N. E. BAXTER: It is very simple to frame a suitable amendment. After the word "thereupon" in line 27 it is only necessary to insert the following words:—

> where betting material is found upon such public place, premises, or persons, or betting is being carried on verbally.

I think that would simplify the whole matter and make it clear that no arrest could be made unless betting material was found or verbal betting was being carried on.

The Hon. A. F. Griffith: Repeat it again.

The Hon. N. E. BAXTER: Where betting material is found upon such public place, premises, or persons, or betting is being carried on verbally. I think that is clear enough; and it will protect anybody from any injustice that could occur. I do not say that an injustice would occur, but the possibility is there; and while the possibility is there I do not feel it is British justice to leave the position open so that people can be arrested where there is no evidence at all. I will move my amendment in the Committee stage unless I obtain a very satisfactory explanation from the Minister.

[*The President (The Hon. L. C. Diver) took the Chair.*]

THE HON. H. C. STRICKLAND (North —Leader of the Opposition) [5.20 p.m.]: I was very interested in Mr. Baxter's remarks in connection with clause 2 of the Bill. When Mr. Willesee was speaking he pointed out that the Bill contains some very harsh provisions; and when one studies the provisions, there is not the slightest doubt that they are harsh. I think it is rather unfortunate for the people of Western Australia that this Government, which when in Opposition complained persistently and continuously about restrictions, including restrictions of the liberty of the individual, and so on, should bring in a measure of this kind to arrest the position which the Minister claims exists. It does the Government no credit.

My recollections of the days when we had licensed off-course bookmakers is that there was no outcry about illegal betting; and there was no need to arm the Police Force with powers under which its members could knock down an individual's door, whether that person was present or not, and search the premises so long as the member of the Police Force had a warrant from a justice. Now, we find that the result of the Government's action in converting the previous type of off-course betting into a totalisator type of betting is that restrictions such as this are required. I do not think it shows the Government up in a very bright light when it asks Parliament to approve of restrictive measures in order to arrest certain shortcomings, if I may put it that way, which are of its own making.

This provision is far too harsh; and the Government should produce more substantial evidence that off-course betting is as rife as members of the Government would have us believe. Surely it is possible to charge people with some breach of the gaming laws. We know that the Police Act has a terrifically wide ambit in relation to gaming, betting, and so on. It is a wonder to me that there have not been quite a lot of charges brought before the law courts in respect of mystical off-course bettors.

The Minister told us it is necessary to tighten the Act. Yet I have never read of a case where it has not been possible to proceed effectively with a charge. Surely we are entitled to be given evidence of that nature before we arm the Police Force with powers of the kind proposed. The Minister interjected when Mr. Baxter was speaking and asked whether it were thought that the police would not use some common-sense. The police may not be able to use their common-sense as they have to carry out instructions. If the police are sent with a warrant to search certain premises, they are sent under instructions from their superiors; and we know there have been cases of wrongful arrest. People have been arrested on the spur of the moment, so to speak, and they have been done an injustice.

Subsection 2 (d) of proposed new section 28A will give the police authority, after breaking into some premises where they suspect betting is being carried on and after searching all the persons found thereupon, to arrest those people and bring them before a stipendiary magistrate or two justices. I do not see the need to arrest people on the spot. Even if they are loaded with betting tickets, surely their names could be taken, after which they could be summoned in the normal way. Surely they are not going to fly by night to some other continent or something like that! An employee not connected at all with betting could be on the premises—if such places exist. That person could be a cleaner or someone like that. Should that person be arrested too?

The Minister says that common-sense will be used. I can remember the early thirties—1930 to 1933—during the worst of the depression years when off-course betting was not legalised and was rife. Shops were open in pretty well every street one cared to walk along in the city and in the suburbs; and the unsavoury business of the bookmaker being tipped off before the police were going to visit his premises was practiced for years. Mr. Murray told us quite a lot about it when he was on this side of the Chamber a few years ago. The police used to tip off a bookmaker that his premises were going to be visited.

However, the bookmaker was never prosecuted, because he got some poor devil who was unemployed and who wanted to earn, say, £5 or £10 to say he ran the premises. That sort of thing used to happen to several shops each week. It was a dreadful state of affairs. I can also remember that everybody in the shop was taken along—the punters included.

I remember reading of a case in the Press where a chap went into a barber's shop, the hairdressing portion of which was a betting shop, for the purpose of buying some cigarettes. The hairdressing portion of the shop was fitted up with blackboards and the rest of it, but cigarettes were sold at the entrance. When the police raided in those days, they took the punters as well, just as is intended under this measure. The old chap who entered the shop to buy cigarettes was arrested, but somebody bailed him out. When his case was heard he pleaded that he was only on the premises to buy cigarettes, but he lost his case and was fined for being on betting premises. This Government is going to introduce that same type of law again.

This is what this Government proposes to do—the same as the Mitchell-Latham Government did in 1930 to 1933. It was a scandalous state of affairs which carried right on, except for the arresting of the punter. But the other unsavoury business of the stooge going along to pay the fine instead of the actual bookmaker, carried right on until Parliament licensed bookmakers in 1955 or 1956, or whenever it was. Since then there has been none of those practices reported. I have never seen any, or read of any, up until now; and this Government says it has not the power to interfere with those people. The Government says it knows there is betting going on, but it has not the power to prosecute successfully.

Surely, the least the Government could do is to prosecute, and then see whether or not it has the required power under the Gaming Act, if not under this Betting Control Act. Surely, we should have had some evidence. But to write into the law the power to arrest any individuals—to summarily arrest them on the spot and say, "Come along; you have all to get into this van and off we go to the police station. You will all be charged with betting, because you have been found on premises where betting material has been found," is surely going a bit too far!

If it is necessary to have laws to prohibit this kind of thing—if it really exists—I say again it is due to the fact that the bettor, the punter, or whatever one likes to term him, must prefer betting with a bookmaker to betting legally in the totalisator shops.

These totalisator shops are well provided. They are all around the city and the suburbs. Surely, the bettor is like everyone else: he wants the most value he can get for his money; and, therefore, he will patronise the person who offers him the greatest return for his money.

The Hon. A. F. Griffith: What does he do then?

The Hon. H. C. STRICKLAND: The Minister tells us that the bettor is betting illegally somewhere.

The Hon. A. F. Griffith: That is right.

The Hon. H. C. STRICKLAND: Who caused him to bet illegally somewhere?

The Hon. A. F. Griffith: Parliament?

The Hon. H. C. STRICKLAND: This Government caused him to bet illegally somewhere.

The Hon. L. A. Logan: He doesn't have to.

The Hon. H. C. STRICKLAND: The Government is running a betting concern in the totalisator. Why does not the Government make the conditions more attractive so that a punter will not desire to bet illegally? Why is that not the case?

The Hon. A. F. Griffith: You admit, then, that he is betting illegally?

The Hon. H. C. STRICKLAND: Perhaps the Minister can explain to us why. I do not know whether there is any illegal betting, because since legal bookmaker-betting has been abolished I have not invested on any of the big cups. However, I have read where the return to the bettor from the totalisator organisation is not satisfactory from the point of view of the public. It does not worry me that much that I have to patronise either or any of them.

But I think Mr. Baxter has a point. We have had no evidence except the speech of the Minister who said that while betting was rife all these very stringent restrictions were necessary. While I support the principle in the Bill that the law is the law—and the law must be obeyed; I have no objection to that, and I do not intend to oppose the Bill—I do think there are certain aspects of the measure that might somehow be eased.

THE HON. G. BENNETTS (South-East) [5.34 p.m.]: I propose to support Mr. Baxter who, during his remarks, said that not all policemen may be fair. I recall something that happened only a few weeks ago where, I consider, the police were not correct. This matter concerned the arrest of a taxi driver.

The taxi driver was driving a lady passenger, when a policeman rode up and asked the driver for his name and address. The driver had a peculiar name, and he gave his full Christian name to the policeman. The policeman said, "That is not your full name; I want your full Christian names." The driver said, "I have given you my full name." The policemen then swore in front of the lady passenger, and he was going to arrest the taxi driver for not supplying his name and address.

The lady passenger happened to be a writer for an organisation, and she said, "All right; I am a witness to this, and I am prepared to put in a report." A police sergeant was later sent to interview the people concerned in order to obtain a full report. As a result of the information obtained, the police department telephoned the taxi driver and apologised to him for the constable's action.

Members can therefore see that some representatives of the Police Department are unscrupulous. I do not refer to all of them; but some members of the Police Department are young fellows, and when they are given authority they like to use it; and they try to make big fellows of themselves. An incident occurred many years ago when premises were broken into and searched. During that incident the Police Department lost a couple of its men. That incident involved unscrupulous action on the part of representatives of the Police Department; and people's homes were broken into and upset for the purpose of obtaining evidence.

This Bill gives a good deal of authority to these young police officers. I feel that some of them would be unable to control themselves when in possession of too much authority. I support Mr. Baxter.

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [5.38 p.m.]: It would be expected, of course, that any loophole given to certain people who have an objection to this Bill, as put forward, would be supported. Naturally enough, Mr. Strickland would support the intended move by Mr. Baxter. I do not really know what his amendment is in essence. I did not have a chance to take it down, although I tried to. Later on, when the Bill is in Committee, we will no doubt obtain his proposed amendment.

There are many laws on the statute book which provide for the production of certain material as being *prima facie* evidence of an offence—many of them. It must not be forgotten for one solitary second that this Parliament made this a law. Mr. Strickland says that the Government created a set of circumstances. Parliament did that. He says the Government is trying to escape from a set of circumstances of its own doing. That is far from the position.

This Bill was presented to Parliament in exactly the same way as thousands of Bills have been presented to Parliament by Governments over the years; and reference has been made to "brutal majorities" passing them. Brutal majorities have existed on both sides. The fact remains that Parliament passed this Bill. It said that certain practices would be legal, and certain practices would not be legal; it said it would be legal to bet under the Totalisator Agency Board; and it said that to bet otherwise in certain circumstances would be an illegal action.

Neither the Government nor Parliament asked certain people to break the law. The Government tried, at the time, to legislate so that people would not break the law, as it does with every piece of legislation we put on the statute book which provides for penalties in the event of the law being broken.

When Mr. Strickland says—as I understand him to say—that a policeman can bring about the summary conviction of a person, he is, of course, wrong.

The Hon. H. C. Strickland: I did not say that; I said "arrest."

The Hon. A. F. GRIFFITH: I beg the honourable member's pardon—the summary arrest. To say that a policeman can bring about the summary arrest of a person is wrong—completely and entirely wrong and misleading; because this is a warrant—

The Hon. H. C. Strickland: That's what I said.

The Hon. A. F. GRIFFITH: —that, as I understand it, has to be issued by two justices, upon oath being made by a complainant; and, if the justices are not satisfied with the basis upon which the complaint is made, then the justices can refuse to issue the warrant—the same as they can under many other statutes that we have where warrants to search are permitted.

Much has been said about the irresponsibility of certain police officers. I do not share that view. I do not share the view that the Police Force is irresponsible. I think it is one of the most responsible bodies we have. It makes mistakes; and it will continue to do so. To err is to be human. But various courses to be followed to ensure that the minimum of mistakes will be made are laid down in this Bill. First of all, the complaint has to be made before a justice. The justice may consider there is not sufficient evidence, and therefore say, "I will not issue the search warrant"; or he may consider there is sufficient evidence and say, "I will issue the search warrant."

What do those members who object to this aspect of the Bill imagine will happen concerning a particular member of the Police Force who is responsible for the execution of the warrant? Is the policeman simply going to go to the premises in question and break open the door—take a battering ram, or something like that? That is not the case. The usual approach—

The Hon. N. E. Baxter: He still has the power, though.

The Hon. A. F. GRIFFITH: The usual approach when a search warrant is being executed is for the policeman to knock on the door and say, "I have a warrant to search these premises."

The Hon. R. F. Hutchison: He can break in.

The Hon. A. F. GRIFFITH: If a person objects to the policeman's entry, after the warrant has been produced, then the policeman can make forcible entry. That applies under many statutes at present.

The Hon. N. E. Baxter: What would he do if nobody answered the door when he knocked?

The Hon. A. F. GRIFFITH: If nobody answered the door, and the policeman had given satisfactory evidence to the justices who had issued him with the warrant, he could then force an entry. If we look at the matter from an exaggerated point of view, forcing an entry would be to knock the house down. The policeman is not going to do that. He is going to exercise the discretion that the Police Force, accustomed to handling matters of this nature, always exercise.

The Hon. A. R. Jones: If it were built on stilts, the police would have to have it bulldozed down.

The Hon. A. F. GRIFFITH: I am not going to enter into that controversy; I am not going to be involved in that. All I am attempting to do is to explain to the House the way this Bill is intended to operate.

I have tried to have a quick look at the suggestion put forward by Mr. Baxter in his second reading speech, and I would say to him that all phases of his suggestion are covered. If he looks at clause 2 he will see the procedure that takes place. He should start at the beginning of the clause and gradually work down, and he will see that a policeman will have the power to break open only if necessary; and it becomes necessary when he is obstructed.

He may be obstructed by the persons who are present, or he may be obstructed by the fact that the people leave. He is not going to charge anybody against whom he has no evidence. So it is stretching the long bow to say that a policeman will move indiscriminately and arrest anybody and everybody and take them before the court.

The Hon. N. E. Baxter: But you cannot say that this does not give him the power to do that.

The Hon. A. F. GRIFFITH: When we have stretched the bow a bit further, but it has still not broken—I am speaking metaphorically—and the man appears before the court, we find that the charge that is laid—the charge the subject of the search warrant—has to be sustained before the court; and if the charge is not sustained it will not stick; and if it does not stick it will be dismissed. Therefore I think there is a lot of supposition about this particular part of the measure.

During his speech Mr. Strickland said that he did not know any of these people who were breaking the law. Frankly I do not know any of them either; but I do not think the honourable member or I would be expected to know. However, the

Police Department has reliably informed its Minister that its members know of the circumstances; and the Minister for Police has been told—and it has been confirmed by the Crown Law Department—that there is no power to deal with the breaking of the law which is going on. This Bill seeks to give the police the power that they consider is necessary to prevent people from breaking the law; and we have to bear in mind that people break the law when they bet unlawfully or illegally. Nobody asks them to bet. The Totalisator Agency Board gives people the facilities to bet, if they want to bet within the law as it stands; but if they bet outside the law then they are breaking the law. In an attempt to stop people from breaking the law in this way the Bill has been introduced.

The Hon. G. Bennetts: Was there any illegal betting on the football ground the other day?

The Hon. A. F. GRIFFITH: Of course I do not know anything about illegal betting on the football ground. This does not deal with illegal betting on the football field, and I could not tell the honourable member whether it takes place there or not. I cannot say any more to Mr. Baxter except to repeat this: The police must have evidence before they can lay a charge.

The Hon. N. E. Baxter: It does not say so.

The Hon. A. F. GRIFFITH: When they have laid their charge they must be able to sustain it before the court so that the person charged has the right to defend himself. I think the situation would be as it has been related to me: that the power to search persons found at a place entered with a warrant is necessary as evidence is often secreted by such people on the alarm being given. If there were no power to search, a very innocent-looking man could, as members can imagine, stand up and have all the betting materials secreted upon his body, and nothing could be done to stop him from taking them away and disposing of them. Since the activities being carried out would be illegal the evidence which could fall into the hands of the police would be kept to a minimum and would possibly amount to only a small notebook or a piece of paper; although a piece of paper could be quickly secreted so that it could not be found.

The Hon. F. J. S. Wise: He could even swallow it.

The Hon. A. F. GRIFFITH: Yes. I do not know how the police would get on with a search warrant in that case. The power to arrest persons found in premises and bring them before a stipendiary magistrate or two justices would in practice apply only in respect of persons against whom a charge could be laid.

The Hon. R. Thompson: It does not say that.

The Hon. A. F. GRIFFITH: It does not say so specifically, or not as specifically as the honourable member would like to have it stated; but with how many of our other statutes does the same sort of thing apply? These statutes have operated on this principle for years; I refer to the Criminal Code, the Justices Act, and the Police Act. Do those Acts state the position specifically in each instance? Of course they do not.

The Hon. N. E. Baxter: Can the Minister quote a parallel to this in the Police Act?

The Hon. A. F. GRIFFITH: No. Had there been a parallel in the Police Act there would have been no need to introduce the Bill. When I introduced the Bill I explained that there was no section under which the police could deal with the type of illegal action that will be dealt with by the provisions of this measure.

The Hon. G. C. MacKinnon: The potato inspectors have wider powers than the police under this legislation.

The Hon. A. F. GRIFFITH: Yes. I believe they have the power to search and they do not require a warrant. They can stop a vehicle and search it.

In conclusion let me say that I appreciate the point of view that members have taken; and I appreciate the speech made by Mr. Willesee. His approach to the problem was a sincere one—and the speeches made by other members, too, were sincere. However, the Police Department has found itself in the postion that it cannot apprehend the people who are breaking the law, and Parliament is being asked to give the police the power necessary to prevent people breaking the law by betting illegally.

Question put and passed.

Bill read a second time.

In Committee

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

Clause 1 put and passed.

Clause 2: Sections 28A and 28B added—

The Hon. N. E. BAXTER: I am afraid that the Minister in his reply to my query beat about the bush and in my opinion gave no reason why the clause should not be amended to protect innocent persons. I cannot see anything wrong with the amendment I have suggested in order to protect the public from an injustice. Surely there is no harm in adding the words—

> where betting material is found upon such public place, premises, or persons, or betting is being carried on verbally.

If the amendment is agreed to it will make doubly sure that before a person is arrested there is some evidence, *prima*

facie or otherwise, that betting is being carried on. I would be afraid to pass the Bill as it stands; although the majority of police officers—

The Hon. G. Bennetts: It would only need one now and then.

The Hon. N. E. BAXTER: —would not act improperly. However, there is always the odd person who would do something, under the powers provided in this clause, which would be entirely unfair. I do not think we should give anybody the right to do that, and I move an amendment—

> Page 2, line 27—Insert after the word "thereupon" the words "where betting material is found upon such public place, premises or persons, or betting is being carried on verbally."

The Hon. A. F. GRIFFITH: In the first place I am obliged to say that the honourable member got the adjournment of this debate a week ago. We did not sit on Wednesday or Thursday of last week and, therefore, surely he could have given me notice of his intention to move this amendment, or at least have put it on the notice paper so that I would have had an opportunity to deal with it. I know everyone is at liberty to do this, but if the Minister is given notice of an amendment he has more opportunity than I have had to examine the proposition. The honourable member could have placed the amendment on the notice paper or sent a copy of it to me.

If the amendment is agreed to the situation could become quite ridiculous. We have to bear in mind that the whole subclause deals with the issue of warrants; and a warrant to search is not given until a complaint on oath has been lodged and the police have reason to believe that their search might be successful. The honourable member wants to add the following words:—

> such public place.

What public place?

The Hon. N. E. Baxter: Any public place.

The Hon. A. F. GRIFFITH: Then it is getting worse. Any public place could mean the public gallery of Parliament House.

The Hon. G. C. MacKinnon: No. The amendment is "upon such public place."

The Hon. A. F. GRIFFITH: But now the honourable member says "any public place."

The Hon. G. C. MacKinnon: No.

The Hon. A. F. GRIFFITH: But the honourable member said "any public place" when I asked the question a moment ago.

The Hon. N. E. Baxter: The words are "upon such public place."

The Hon. A. F. GRIFFITH: What does "such public place" mean? Perhaps the honourable member will tell us. It says, "premises or persons." This means if a person is found on the premises and he has no betting material on him, then he cannot be arrested. That is how I see it. The amendment would merely add confusion to a straightforward set of circumstances where a warrant is granted on oath to a policeman who must execute it. He goes to the premises and presents his warrant. If he is refused admission he can forcibly enter. If there is nobody at home it means that he is refused admission; but upon evidence he can make his arrest. He will not arrest innocent people who are not involved.

The Hon. N. E. Baxter: He does not need evidence.

The Hon. A. F. GRIFFITH: He obtains the evidence. If he does not obtain the evidence he has nothing to sustain his claim, which, of course, would be dismissed.

The Hon. R. THOMPSON: I would like to give a personal experience relative to the issuing of warrants. This relates to an action carried out in an organisation to which I belong. Several days after the action was carried out the person involved went to the police and informed them that I was in possession of stolen goods. The police came to my house at 6.30 a.m. with a warrant signed by a justice of the peace; they entered and searched my house. They did this even though it contained no stolen goods. The same thing could happen in the event of any person bearing a grudge against another.

The Hon. A. F. Griffith: What happened when the police came to your house?

The Hon. R. THOMPSON: There were five of them. They were searching the back of the house before I opened the front door. Later I said to the sergeant in charge that I thought there had been a misunderstanding. They found none of the articles for which they were looking and they apologised before leaving. I asked the sergeant who his informant was and he said he could not divulge his name. But when I mentioned the name of the person concerned he said I was correct. From all the circumstances leading up to this case the person concerned was apparently trying to get even with me for some reason or another. The same could happen under this legislation. An innocent person could be the subject of search.

The Hon. A. F. Griffith: That sustains my argument that it is written into a number of the statutes now operating.

The Hon. R. THOMPSON: But it does not remedy the position of an innocent person being kicked out of bed at 6.30 in the morning in order to have his house searched.

The Hon. J. MURRAY: I oppose the amendment, mainly because it is unnecessary. If this Bill were designed to affect a public place, it would not have been brought down, because a public place is

already covered by the Betting Control Act. The Bill with which we are dealing is designed to control people who use non-public places to carry on their illegal telephone betting.

The Hon. N. E. Baxter: It says, "any place or public place."

The CHAIRMAN (The Hon. W. R. Hall): Order!

The Hon. J. MURRAY: The words have been used to cover that aspect but that is not the purpose of the Bill. The police can walk into a public place without a warrant. The amendment would cause confusion. When a warrant is issued it is issued for the search of the premises of a principal who might be involved. If the policeman cannot obtain evidence against the principal who is the occupier of the premises for the time being, then he has no charge to lay against any person there. The charge he must lay is: being upon premises for illegal betting. The legislation is not designed for the prosecution of people, but to prevent the illegal betting that is going on, it is suggested, mainly by telephone. So no great number of people will ever be apprehended on premises, unless they have something to do with the administration of the premises.

This legislation is purely for prevention, not for prosecution purposes. If a man knows he is liable to be charged in the same way as the operator, he will make sure that he is not found on the premises concerned. Mr. Strickland mentioned that an innocent person might be on the premises; and he referred to the cleaner. I suggest that if a cleaner were on the premises while illegal operations were going on, he would be the obvious person on whom betting material would be secreted. I oppose the amendment.

The Hon. G. C. MacKINNON: The anxiety seems to be that innocent people will become embroiled by this legislation; but the very example quoted by Mr. Ron Thompson shows how impossible that is. The police must have sufficient evidence to make their case stand up in court.

The Hon. N. E. Baxter: You ought to go to the traffic court some time.

The Hon. G. C. MacKINNON: The example given by Mr. Ron Thompson had nothing to do with this Bill; it merely referred to a search that was made. Somebody gives evidence to the police and a search warrant is issued. In other words he has convinced the police there are reasonable grounds for suspicion. We have had the same position in regard to murder cases, not only as it applies to false accusations, but also to people falsely confessing to the crime; and all these angles must be investigated by the police. That cannot be prevented by legislation. I think we should recall Judge Ligertwood's comments on the growth of the Chicago-type gangster, of organised control, and of things done under cover and just outside the law. I remember that this was dealt with in a section of a very good address by Mr. Murray.

I agree that in much of our legislation today we find that fundamental principles are transgressed. I think I referred to that aspect in connection with the potato inspector who could walk on to a person's property and search. This is abhorrent to all of us, but it has been found essential for purposes of control; and that is the purpose of this Bill. Some thought could be given to the words "being carried on verbally." Perhaps we could say "where reasonably suspected of being carried on verbally." I do not know how this could be proved, unless a tape recorder were used.

The Hon. H. K. Watson: As was done at Cadoux.

The Hon. G. C. MacKINNON: The question of trying to prevent an innocent person being involved is the purpose of all legislation; because it only needs somebody to speak with a certain degree of authority and force in order to convince the police that they should act.

Sitting suspended from 6.15 to 7.30 p.m.

The Hon. N. E. BAXTER: Those who have opposed my amendment have not advanced any substantial reasons in support of their opposition. If a police officer is anxious to arrest a person and he is obstructed, under this amendment it would be possible for him to charge such person with obstructing a police officer in the execution of his duty. The word of the officer would be just as good, if not better, than the word of the arrested person in a court of law. Proposed section 28B sets out the conditions under which evidence may be regarded as *prima facie* evidence, but there is no reason why the words in my amendment should not be included in order to protect the public.

The Hon. H. C. STRICKLAND: I was interested in Mr. Murray's interpretation of the objectives of the Bill. Although there is no reference in the Bill to telephone betting, he told us that it was designed to prevent betting by telephone. I do know of instances where people bet with bookmakers in the Eastern States by telephone. I ask the Minister whether this Bill is designed to enable the police to break into the premises of such people.

About three years ago when I was in Tasmania investigating betting on and off the course, I found that the bookmakers there operate off course until a certain time, and then on course, and in the evening they also operate on the dog races. One of the biggest bookmakers was a Western Australian, and he told me that almost every Saturday he received some business from Western Australia by telephone. I do not know whether such betting was money being laid off by other bookmakers in this State.

The amendment before us will not improve the position, because it simply reiterates what is contained in proposed section 28A which states—

> If it appears to a justice on complaint made on oath before him that there are reasonable grounds for suspecting that unlawful betting is or is about to be carried on in or upon any place or public place he may give to any member of the police force a warrant in the form of the Second Schedule to this Act.

The second schedule embraces the same provisions, and merely sets out paragraphs (a) to (f) in precis form. To safeguard the money of people who are arrested, and to prevent them from being arrested unjustifiably, paragraphs (d) and (e) will have to be deleted. Paragraph (e) authorises the police on warrant—

> to seize all betting material and money found therein or thereupon or upon the persons referred to in paragraph (c);

and they include people who are being searched. Under the Bill the authorities can authorise the police to search a person on warrant and to seize his money, because in the definitions the term "betting material" includes money.

The authorities can presumably use a bulldozer to break into the home of any person, because proposed subsection (2) states that a warrant so given authorises the member of the Police Force therein named, with such assistance as may be necessary, to break into these places. In the case of the structures referred to by the member for South Perth in another place, the police would have to use an armoured vehicle or a bulldozer to successfully raid them.

To achieve what is desired in the amendment before us—that is to make sure there is no unjustified arrest and there is no unjustified confiscation of the money of the arrested person—paragraphs (d) and (e) should be deleted.

The Hon. A. F. GRIFFITH: I agree that the amendment does not serve any purpose, because what it sets out is already covered by the provisions in the clause. At times the seizure of money and betting material is necessary, in order to establish a *prima facie* case. Mr. Ron Thompson referred to an instance when in the early hours of the morning he was awakened by the police, because somebody had given incorrect information; but when the honourable member proved there was no truth in the charge, no further action was taken. If evidence had been available the honourable member would have been charged; and if the court hearing the case had accepted the evidence as *prima facie* evidence of guilt, the case would have been proceeded with. In this case there was no evidence, and there was no possibility of a case being taken by the police.

The police have to investigate all cases, even though they may suspect that some of the information is only a hoax. I ask the Committee to oppose the amendment and to pass the Bill in the form in which it is presented.

The Hon. N. E. BAXTER: Would the Minister say that a police officer who obtained a warrant under this amendment could not arrest a person without evidence?

The Hon. A. F. GRIFFITH: The police do not arrest people maliciously and wantonly. This Bill is directed against certain people who are breaking the law, and my advice is that if we interfere with the provisions in it we will alter its effect and render the legislation useless.

Amendment put and negatived.

Clause put and passed.

Clause 3 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

TOTALISATOR AGENCY BOARD BETTING ACT AMENDMENT BILL

Second Reading

Order of the Day read for the resumption of the debate from the 3rd October.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

JUDGES' SALARIES AND PENSIONS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd October.

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [7.48 p.m.]: This Bill has generally received the support of those members who have spoken to it, and therefore it is not necessary for me to say much in reply except to endeavour to answer one query raised by Mr. Watson. This was in connection with what would happen to the pension rights of a judge of the Supreme Court of Western Australia if he were appointed to the High Court of Australia. Under the State law such a judge would be entitled only to such pension as is prescribed, dependent upon length of service and age. The mere fact of holding an appointment as a justice of the High Court of Australia would not affect the right to pension.

Under the Commonwealth law, section 12 of the Judges' Pensions Act, 1948, the period of service as a State judge, up to

10 years, is added to, and deemed to be part of, his service as a justice of the High Court of Australia. It appears to be immaterial that the judge may be receiving a State pension in respect of such service.

I am advised that as far as is known, no Western Australian judge of the Supreme Court has ever been appointed to the High Court; and at the moment there does not seem any likely prospect of such an appointment being made. Therefore I suppose one could say that at present the question posed is purely academic. Nevertheless, that is the explanation given to me and I hope it satisfies the honourable member.

Question put and passed.

Bill read a second time.

In Committee

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

Clause 1 put and passed.

Clause 2: Section 6 repealed and re-enacted with amendments—

The Hon. H. K. WATSON: I listened with interest to the explanation just given by the Minister, but I do not think it answers the point I made. It is true that up to date no judge of the Supreme Court of Western Australia has been appointed to the High Court, but I am not without hope that, although it is a fact that during the past 60 years men have been appointed judges of the High Court either because they have served or assisted on a Petrov Commission or have won a big taxation case for the Commissioner of Taxation, one of these days we will see a justice of our Supreme Court honoured by elevation to the High Court of Australia.

The Hon. J. G. Hislop: That does not apply to the Arbitration Court.

The Hon. H. K. WATSON: We have had a president of our Arbitration Court appointed to the Federal Arbitration Court. As I say, I think the time is long overdue when a West Australian should be appointed to the High Court of Australia.

As I mentioned the other night, within the past month a judge of the Supreme Court of New South Wales has been appointed to the position of a High Court judge. That particular justice is 62 years old and has served many more years than 10 as a member of the New South Wales Supreme Court. Therefore, had he been a West Australian, he would have been entitled to the full pension provided under this Act.

It is quite clear that it is unjust and unexpected that a person who retires from the position of a Supreme Court judge simply to take a higher salaried position as a High Court judge should receive the pension from Western Australia while he is in receipt of a much higher salary as a High Court judge. Yet there is nothing in this Bill which deals with that position.

The Minister cited the illustration of what happens when a High Court judge retires. His years of State service are taken into consideration; but that does not answer the point. As I have said, if the justice who was appointed to the High Court within the past month had been a member of the Western Australian Supreme Court, the anomalous situation would have been created in which he would be entitled to his £8,000 a year, or whatever it is he would receive as a judge of the High Court, plus a pension equal to half the salary he was drawing at the time of his appointment to the High Court.

A member of Parliament is entitled to a pension on his retirement, but that pension is reduced if he takes an office of profit under the Crown or becomes a member of Parliament in another State; and I feel this Bill should contain a similar provision.

The principal Act does contain a provision something along those lines; but in my opinion it is inadequate. In section 15 of that Act provision is made that the pension to which a retiring judge or a retired judge may be entitled under the Act shall be forfeited if he practises as a barrister or solicitor in Western Australia. In that case it is forfeited completely. I do not suggest that the pension which it is proposed to grant under this legislation should be forfeited. I simply say that if a judge takes an office of profit under the Crown or even becomes a member of Parliament—and that has happened, although not in Western Australia—it is unfair that he should receive his full salary, plus half his State salary as a pension. We should make provisions, similar to those in the Parliamentary Pensions Act, to deal with this situation, and this should be done while the matter is only abstract. It is very embarrassing to have to deal with a question when it applies to a particular man.

I would be obliged if the Minister would report progress and enable me to place an amendment on the notice paper.

The Hon. J. G. HISLOP: While Mr. Watson is drafting his amendment I suggest he give consideration to the fact that it would be quite wrong for an individual to lose his pension on acceptance of a post on the High Court of Australia, because I understand that there is in the High Court the same graduating scale of pensions in regard to years of service as applies in this State. I suggest that the pension granted should be held over while the individual concerned is in office, and that on the termination of office the percentage of pension which might be paid by the State should be reduced by his years of office as a High Court judge, so that eventually this individual would

receive a pension paid in two parts by those to whom he had given service: firstly, the State; and, secondly, the Commonwealth. But to expect that one who had given long service to us should renounce his pension—

The Hon. H. K. Watson: That was not my suggestion; but that it should be suspended.

The Hon. J. G. HISLOP: But there would be a graduation afterwards, surely, because if he were only five years with the Commonwealth his pension might be less than if he continued in the State service. I ask Mr. Watson to watch the position carefully to see that we do not do an injustice by attempting to do justice.

The Hon. A. F. GRIFFITH: I personally share to the fullest extent with Mr. Watson, the hope that one day one of our judges will be appointed to the High Court. I make this suggestion to the honourable member: that he allow the second reading to progress and then put his amendment on the notice paper.

The Hon. G. C. MacKinnon: We are in the Committee stage.

The Hon. A. F. GRIFFITH: I know where we are. If he does that, he can then move it on the third reading. In the meantime I will have an opportunity to look at his speech and Dr. Hislop's speech, and I can confer with the Attorney-General and can then either agree with the honourable member or tell him, when the Bill comes up for the third reading, the reason for not agreeing.

The Hon. H. K. WATSON: I am afraid I am not clear on the Minister's suggestion. Does he suggest that the Bill should proceed to pass through Committee and that I should then move for recommittal?

The Hon. A. F. Griffith: On the third reading.

The CHAIRMAN (The Hon. W. R. Hall): Notice would have to be given on the third reading.

The Hon. A. F. Griffith: I do not mind what we do, but we could make progress by getting the Bill through the second reading.

The Hon. H. K. WATSON: I think that if we reported progress it would be quicker.

Progress

Progress reported and leave given to sit again, on motion by The Hon. A. F. Griffith (Minister for Mines).

METROPOLITAN REGION IMPROVEMENT TAX ACT AMENDMENT BILL

Second Reading

Debate resumed from the 28th September.

THE HON. R. C. MATTISKE (Metropolitan) [8.3 p.m.]: I support the Bill, and in doing so would like to trace a little of the history surrounding the metropolitan region town planning legislation. Members will recall that in 1957 the late Mr. Fraser introduced into this House legislation very similar to that which was approved by Parliament in 1959. At that time, however, there was considerable criticism, not of the legislation but of the Minister for bringing in such an important measure on the second last day of the session.

It will be recalled that those members who spoke to the first measure that Mr. Fraser introduced—I think from memory it was the only one he introduced—were very pleased that he had brought it forward, even at such a late stage—for which they criticised him—because they realised full well that something was urgently necessary to counter a lot of the mess that people found themselves in over their properties.

The second reading of the first measure was carried on the voices, but subsequently, during the Committee stage, members showed regret that they had not had sufficient time to study the measure as thoroughly as they would have liked; and they expressed themselves by opposing certain clauses of the Bill. Ultimately progress was reported and the measure was allowed to lapse for that session.

In 1958, for reasons best known only to the late Mr. Fraser, nothing at all was presented to this Parliament. In 1959, with the change of Government, Mr. Logan brought to the House and had passed the measure which created the Metropolitan Region Planning Authority, and he also had passed the other piece of legislation which provided the necessary finance to enable the authority to act. The first Bill was lauded by members and the second reading was carried on the voices. The second Bill, however, received a considerable amount of adverse comment when it was first submitted here, and I myself spoke against it. The words that I actually used at that time as my reasons for voting against the Bill were—

> It is quite unfair to burden the taxpayers in the metropolitan area in the manner proposed.

Members will recall that when that taxing measure was first presented to this Chamber it was unlimited in two ways: firstly, as to the amount of tax; and, secondly, as to the period during which the tax would be levied on the taxpayers. Unfortunately, we had no right to vary the taxing measure here; our only opportunity of bringing the matter to the Legislative Assembly again was, therefore, by taking some steps to amend the first measure which created the Metropolitan Region Planning Authority.

I myself tried to amend clause 41, but my amendment was ruled out of order. Mr. Wise then successfully moved an

amendment to clause 38, and his amendment had the effect of referring the whole matter back to the Legislative Assembly. I supported him in that move for the simple reason that it was the only means by which we could have the whole subject reviewed, and possibly amended, by the Legislative Assembly.

I understood that at that time Cabinet gave further consideration to the whole taxing system; and, as a result of action taken in the Legislative Assembly, the amount of tax was limited to ½d. in the pound, whereas previously there was no limit whatsoever.

The Hon. H. K. Watson: What do you mean, there was no limit?

The Hon. R. C. MATTISKE: Simply that there was no limit to the ½d. in the pound. The tax could have been increased to anything at all, but after it came back from the Legislative Assembly it was altered so the tax would be ½d. and no more.

The Hon. H. K. Watson: A tax is always fixed; it is not a discretionary matter.

The Hon. R. C. MATTISKE: If the honourable member will refer to *Hansard* for that year, I think he will find there was a loophole by which the tax could have been increased without further reference to Parliament. Also, when the measure was again before us Mr. Watson submitted an amendment which limited the operation of the tax to three years.

That amendment was accepted by the Government and by the Legislative Assembly, indicating that they were quite happy to accede to our wishes that the taxing system should be allowed to run for three years in order that we might see what the effect of the tax was on the taxpayers and on the financial requirements of the Metropolitan Region Planning Authority; and, generally, whether the tax was adequate or inadequate for future needs.

When that tax measure, with the amendments, came back to us I supported it because I realised that it was imperative that the Metropolitan Region Planning Authority should be created without delay, and that it should have the necessary finance to enable it to act.

At that time the Minister told us that he would have the whole matter reviewed in two years' time so that we could then have the opportunity of seeing how it was operating in order that we might make any necessary variation prior to the tax becoming more permanent. Unfortunately —and I say unfortunately advisedly—the Minister introduced the measure after the passage of only one year. I say, unfortunately, because I feel sure that neither he nor the Metropolitan Region Planning Authority had sufficient information then to convince this Chamber that it was imperative that the tax should be made permanent, as he then proposed.

At this juncture I would like to take the opportunity of clearing up an important point: that the Minister, when he introduced the present measure, said—

> When a suggestion was made last year that the tax be reduced from ½d. to ⅜d., the proposition was still turned down.

I would like to remind the Minister that after certain members had spoken last year to the measure which proposed that the tax be made permanent—and only the Minister spoke in favour of the Bill—the Minister put an amendment on the notice paper to give effect to a reduction in the tax from ½d. to ⅜d.

The Hon. L. A. Logan: No, you are not correct. The original Bill was ⅜d.

The Hon. R. C. MATTISKE: I think I am not incorrect in that.

The Hon. L. A. Logan: You have a look.

The Hon. R. C. MATTISKE: When the Minister replies to the debate I would be pleased if he would give me the detailed information, because from memory I am quite sure that that was an amendment on the notice paper, and one which was never debated in this Chamber.

My reason for drawing attention to it is that at that time a misleading Press statement was issued concerning the matter, and Mr. Watson and I were wrongly accused of having failed to support a measure which would have had the effect of reducing the tax from ½d. to ⅜d.

Subsequent to the debate in this House last year, I raised the question of the metropolitan region tax in many places: with different trade associations; with different other bodies; and with individuals, and on each occasion I stressed the need for support in approaches to the Minister to try to convince him, if it were felt that the tax was wrong in any respect at all.

I asked those persons with whom I discussed the subject to try to arrange deputations to the Minister, or to write to him expressing their views, and also to advise me what they were doing; but not one person or organisation, subsequently contacted me. Therefore I can only draw the conclusion that they must now be happy with the tax and the manner in which the authority is operating.

After two years' operation we now have more concrete information to enable us to consider whether the tax should be permanent. The Minister has supplied me with a schedule showing the current estimates of costs to which he referred in his speech the other night. This schedule, which totals £7,800,000, includes two large items for the acquisition of land for the

provision of regional open spaces and regional roads; the expenditure on both of which totals £4,750,000. In addition, there is another item amounting to just over £2,000,000 for the acquisition of land for the second stage of the western switch road, including the northern section of the city inner-ring highway. There is practically £1,000,000 allocated for the acquisition of the first stage of the western switch road, and a couple of other small items.

All of those items are obviously necessary for the future planning of this city and they are items that we cannot quibble at. However, last year when the Minister was endeavouring to have the tax made permanent, he provided us with a schedule of costs totalling £6,600,000, in which there was included 500,000 for the acquisition of land within the proposed cultural centre; £650,000 for the acquisition of land for the redevelopment of East Perth; £250,000 for the acquisition of land in the vicinity of the Welshpool marshalling yards area, and £500,000 for the acquisition of land as consequence of refusal of development consent under Interim Development Order.

Several of those items were strongly criticised in this Chamber. The opinion was expressed that some should be financed from governmental loan funds; that they were not items of expenditure which should, strictly, be the liability of the Metropolitan Region Planning Authority. I am pleased now to see that they have not been brought forward in this year's schedule.

Therefore, from a comparison of those two schedules of costs, and from a study of the Metropolitan Region Planning Authority's Annual Report for 1960-61, it is evident that the authority is now settling down, as it were, and is grasping the whole of the plan in the manner that was originally intended. Because of the complexity and size of the task, it was not one which could be grasped within twelve months. For that reason, I feel that we now have no alternative but to permit the Metropolitan Region Planning Authority to continue with its operations.

This city has made tremendous strides in the last two years. I say that advisedly, because £130,000,000 of new capital which is being introduced into this State must have a terrific impact upon the metropolitan area even though certain of the industries which are to come to this State are intended to be sited outside the boundaries of the metropolitan area. If we are to make the expected development during the next decade or two, surely we must develop along sound lines. It is no good permitting a certain amount of haphazard planning to be carried out in the next few years and subsequently trying to rectify mistakes at great cost to the State.

Therefore, I feel it is imperative that the Metropolitan Region Planning Authority should be given every assistance to get on with its task as quickly as possible so that it may develop the metropolitan area as it should be developed, and that there be as little waste as possible of public money. In order to perform that task it is necessary to have fairly considerable sums of money available to the authority.

The Hon. F. R. H. Lavery: Do you consider that that money should all be obtained from the people living in the metropolitan area?

The Hon. R. C. MATTISKE: That is another aspect of the matter upon which I will touch in a few moments. It was with great satisfaction that I read in its current report that the Metropolitan Region Planning Authority shares our view that the only method by which it can finance the huge undertakings that are in front of it is by borrowing and by repaying the money so borrowed out of the tax which will be levied now and in the future. If the authority is going to borrow, it must be on a long-term basis. It is of no use our thinking that we can shorten the life of this tax to 10 or 20 years, because that would mean that the authority would be limited in its borrowing, and to raising loans of only 10 or 20 years' duration.

The authority must be permitted to borrow money on a much longer term. If it is going to borrow on a long-term basis it must have the money to meet the sinking fund charges and the interest instalments as they fall due in the future. From the information we now have before us, the amount of tax it is proposed to levy should easily cover the considerable sums of money which, at the present time, the Minister has indicated will be necessary to meet the authority's commitments for the next decade or so.

Finally, I would like to express my appreciation of the Minister's sincerity in reducing the tax from ½d. to ⅜d., and in stating that, if it is at all possible, he will further reduce it to ¼d. or even less if the authority can finance its borrowing on a lesser rate of tax in the future: and I sincerely hope that it will not be long before the Minister does come to this Chamber with a further measure seeking to reduce the amount of the tax.

In answer to the interjection by Mr. Lavery a few moments ago, as to whether I think the tax should be levied over the whole of the State, or purely on people living within the metropolitan area, I have very definite views that it should be levied over the whole of the State. Unfortunately, however, that point does not come within the scope of the Bill and we are powerless to discuss it. I support the measure.

THE HON. F. R. H. LAVERY (West) [8.24 p.m.]: I view the Bill with mixed feelings because the proposition that is put before us at present is, as Mr. Watson said when speaking to the Bill a fortnight ago, that it is not a reducible tax because the present rate of tax of ½d. in the pound expires on the 30th June, 1962. This Bill, however, proposes to place upon the statute book an Act to impose a completely new rate of tax. It may be said by some that this is only a technicality, but in our present way of life, technicalities cost a lot of money. However, because of its implications, there are many people who are concerned about this regional tax.

Their concern is based on the manner in which the tax is to be raised; the reason why it needs to be raised; whether it will be of benefit to individuals in the areas affected; and whether it will be of benefit to the State as a whole.

In my view the Metropolitan Region Planning Authority should have been constituted many years ago. In criticising one or two aspects of its administration, therefore, I do not want members to get the idea that I am opposing the authority itself, because, as I have said, its appointment was long overdue. The one or two matters which are causing some concern to the people I have been conversing with since this legislation was introduced in all sincerity by the Minister, include the proposal to raise £140,000 per annum for three years from this tax.

At that time Mr. Watson, together with other members of this Chamber, opposed the imposition of the tax provided for in that measure. The Minister told us that the £140,000 which was expected to be raised by this tax, was conservative; and, in fact, in the first year £220,000 was raised. Therefore, by the time this tax disappears from the statute book in 1962, a sum of £660,000 will have been raised, which is quite a different proposition from a sum of £140,000 per annum over three years.

As a result, the people who are paying this tax are asking what they can expect from it. As far as my knowledge will allow me, I have been pointing out to them, as the Minister has pointed out to us in the past, that the money so raised will be spent mainly on the resumption of properties and the provision of various amenities in the town planning system, such as the construction of switch roads and other undertakings. I now put to the Minister the question which these people are asking: Is it not possible for the large sum of money that is required for the planning and construction of the switch roads to be obtained from the moneys allocated to the Main Roads Department?

The Hon. L. A. Logan: The greatest amount of the money will come from the Main Roads Department.

The Hon. F. R. H. LAVERY: Or, are we to believe that the money proposed to be raised by this tax is to be expended only for the resumption of properties and not for the construction of roads, etc.? If that is so, no-one would cavil at that. However, if the money to be raised by this tax is to be spent on the construction of roads, the taxpayers encompassed within this small area will be the only people who will pay this tax; but the switch roads to be constructed will be vital to industry and the overall development of Western Australia.

I know that if, under the Bill before us at the moment, the tax is to be imposed for this purpose, it is not possible for it to be imposed on all people throughout Western Australia; but why is it not possible? We know that King's Park does not belong to the people of Subiaco or of Perth. It belongs to the people of Western Australia.

This is not a tax reduction; it is a completely new tax. It is to be brought in in 1962 and will be of a permanent nature. That is the point that I and the people whom I represent are concerned about, because we know that once a tax of this type is permanently placed upon our statute book it is rarely, if ever, removed. Perth is still one of the gems of the Commonwealth, inasmuch as it has not been completely spoiled. However, it must be remembered that some of the acts of the town planning authority bear a little investigation. Two that come to my mind concern an area in Beaufort Street and another in Claremont. The Claremont City Council has committed itself to a great amount of expenditure for beautifying an area; and the taxing authorities will probably be brought into this because there are 60 acres of lake and 80 acres of open country. The council wants to sell six acres and the Metropolitan Region Planning Authority says it cannot. Then we have a business house in Beaufort Street.

My opposition to the measure is based on the fact that the people who have property in the areas likely to be resumed and people who have property outside the areas to be resumed have to pay for the resumptions. People in Applecross, in Fremantle, in Riverton, in Midland Junction, and so forth around the perimeter of the city have to pay for these major resumptions in the centre of the city. When Mr. Mattiske was speaking he mentioned an amount of £7,800,000 which has to be raised by way of tax from a very small proportion of people in the State to cover the vast works proposed.

I want to make it clear that I am in no way endeavouring to retard these works; but I am concerned, as are a number of my electors, whether the Main Roads Department will be responsible for the building of the roads after the land has been purchased; and also whether at a

later stage the authority, through the Minister during the next session of Parliament, will attempt to place the burden of this tax on the whole of the people of the State and therefore reduce it to ¼d. as against ⅜d. which is now being paid by people in the metropolitan area.

I do not think it is right for Mr. Mattiske to say that people are happy to pay this tax, because I do not think any person is happy about paying taxes. We all grizzle about them. What Mr. Mattiske should have said was that people would be much happier if this tax were State-wide in its application. At the moment it is my intention to vote against the Bill.

THE HON. J. G. HISLOP (Metropolitan) [8.34 p.m.]: For many years I have listened with interest to the debates when this subject has been under discussion. In the past, I have probably expressed *contra* views to those I intend to express this evening. I think we must take a very rational view of what this tax means and what it is going to achieve. There are certain fundamental points which must become apparent to members—as stated by Mr. Mattiske—after having watched the progress of this authority over a period of time.

The first thing we must realise is that we are an extremely fortunate people. If town planning had commenced in 1972, the people then living would be paying about 10 times the tax we are called upon to pay now, because, year by year, the cost of properties and therefore the cost of resumptions is rising. It would probably be a very formidable procedure to town plan our city in 10 years' time if we forgot to do it now.

When one looks at some of the American cities that have grown without town planning; and when one looks at some of the English cities that have grown without town planning, one realises how much better it would have been if they had had the benefit of a scheme such as the one we are devising. Today the public is looking for ways to escape from the traffic in the city. People are finding their own way to the switch road—as I said earlier in the year—by coming from the north along King's Park Road, down Mount Street, out through Spring Street, and on to the Narrows Bridge. It is interesting to go down Mount Street—at the top of which I live—each morning and see the increase in the number of cars. After coming from the Narrows Bridge they cross to Spring Street and then diverge and go into the city. Many of them go across to the north; so this traffic is already passing over what will be the switch road. However, the rule that traffic on the right has preference makes it difficult some mornings to turn from Mount Street into Spring Street because there is a continual flow of cars coming up the hill and carrying on into the city.

I wonder what will happen if the switch road is left for five years. I wonder whether the authority was correct in its judgment to give a four years' lease—I think that is the time—to the lessee of the Federal Hotel on the corner of Wellington Street and George Street; because I have a feeling that the switch road might become an urgency long before five years have passed.

The Hon. L. A. Logan: It is an urgent matter now.

The Hon. F. R. H. Lavery: I am sure of that.

The Hon. J. G. HISLOP: I feel it would have been in the interests of the authority if it had demolished the Federal Hotel and turned the area into a parking ground, which could have been resumed at a moment of necessity. As it is now, further compensation may have to be paid to the person who holds the lease of the Federal Hotel if the property is required beforehand. These are the sorts of things that make what happens in the city so urgent; especially when one realises that this tax will only produce an estimated £165,000 at the moment. Is that figure correct?

The Hon. L. A. Logan: It could be more.

The Hon. J. G. HISLOP: It is about a quarter of the cost of the swimming pool! That is fantastic!

The Hon. F. R. H. Lavery: We did raise £220,000 per annum when it was estimated to be £140,000.

The Hon. J. G. HISLOP: It represents one-quarter of the cost of a swimming pool! What is this tax going to do? It will partially provide the sums that are necessary for resumptions on the spot; and the rest of the money will be spent on raising loans for long periods. Why is all this necessary? I come back to this factor: Who will pay the tax? It is better for the people in central Hay Street, Murray Street, William Street, and Barrack Street to pay a considerable proportion of it, because if they do not their businesses might die.

The Hon. L. A. Logan: Quite easily.

The Hon. J. G. HISLOP: These streets might die as shopping centres and as business centres. In order to preserve them, something of this sort has to be done. I suggested five years ago—and the newspapers are now discussing it—that Hay Street should be turned into a shopping mall. It might be still necessary to do so, but it will take a lot of planning to provide for the entry of goods into the shops during hours in which the public is not trading in those shops; and our industrial laws would have to be altered; and in order to preserve that shopping area we would have to provide for reasonable entry into the city.

I have driven around the city for nearly half an hour and still have not found a parking place.

The Hon. F. R. H. Lavery: Three times sometimes.

The Hon. J. G. HISLOP: I would do more than that in half an hour; but I have not found a parking space. Therefore, there is a tremendous amount of work to be done if we are to save our city. I was extremely interested when in Boston in trying to travel down Washington Street, which is the greatest shopping centre out of New York and Chicago. It was almost impossible for two cars to pass at once; but even so the people congregated. If we leave this matter too long, we will find that any future expansion will be such that the people will not use it as they will not be accustomed to using it.

Speaking of Boston again, the authorities made a wide avenue running out from the city hoping that shops and business centres would follow, in order that people could be taken away from the congested centre of the city. But that did not happen. There are only insurance buildings and the like, with a few odd shops in the wide avenue. That was because the people had become used to the narrow streets. That is the sort of thing we have to avoid.

The amount we are asking people to pay at the moment is very small; but I agree with the Minister that it is quite possible he may be able to lessen the tax as time goes by as there will come a stationary stage in planning. It is estimated that the proposed capital expenditure which we can look forward to in Western Australia in the next 40 years will be the colossal sum of £150,000,000 to £200,000,000. Therefore, we are going to see the metropolitan area expand and expand. It will not stay at its present 30-mile limit; but if it does it will mean that the 30 miles will be completely built up and that the value of properties within the city, near the city, and in what today are the outer suburbs, will increase handsomely. So the amount paid by the people will be relatively bigger on this same charge. Therefore, the possibility will be that the tax can be reduced.

I can well remember in 1942 when I bought my property in order to live in Mount Street. I think my total bill for water rates and taxes amounted to no more than £40. However, when I left the property in 1959 I was paying somewhere around £200 for water rates and land tax. That is going to happen all through the metropolitan area. This is a small amount for the services that the Metropolitan Region Planning Authority will provide; and it is imaginary guesswork as to what its influence will be on the income or the ability of individuals to pay, either now or in the future.

There is hardly a business community in this city which is not increasing its turnover. Looking at the financial reports of the general emporiums of this city, we find they are all reporting record sales. And this will go on and on indefinitely as the population increases.

One of the most interesting things I saw in the United States was two men standing on the footpath using a counter similar to one I had seen used on the Onslow jetty when sheep were being loaded for Singapore. I wondered what the two men were doing. They were checking the number of people who walked by a particular property, because the capital value of the property was based on the number of people who passed the property per hour. That is how property is bought there.

Recently a sale took place in Tokyo. A sum of £100,000 per square foot of the property—not frontage—was paid. It is regarded as the most expensive piece of land in the whole world. That is the sort of thing that is going to happen to an expanding city. Therefore, when it comes to the question of saying that we are paying for what we are getting, we are getting a lot more than we are paying for. I do not anticipate for one moment that I would vote for this measure as a widespread State tax. It will cost the people of Bunbury considerably more, relatively, to expand Bunbury than it will cost the people of Perth to expand Perth. Therefore we have no justification in asking the people in the outback cities to help us.

There are many people who come to Perth as tourists, and they will use the privileges that will be gained from this tax. However, those people will be relatively few; but we will be using those privileges day by day, and we are therefore justified in paying for them.

It is interesting to study the expansion of cities. If there are some members who have not seen the expansion of the Myer centre at Chadstone, just outside Melbourne, I suggest they go and see it, and see what is going to happen with these growing cities; especially cities like Melbourne—cities which have been stabilised over the years, but which are now spreading outward. Here in Perth we have Boans spreading out to Morley Park; and I am sure it will not be long before there is another branch at Fremantle, outside the shopping area altogether. This expansion from the city will cost large sums of money.

Because of the services the Metropolitan Region Planning Authority is going to render to this State, I do not think we can begrudge it the money it is asking for. I trust its work will be carried out with wisdom and justice, and with a certain amount of sense of reality.

I propose to give the House an example of an aspect to which the authority should pay attention. I will not name the individual case. There is a case in which I recently expressed some interest, where some individuals have a property on a street which is close to the city. That street is now almost filled with retail shop sites of various qualities and character. The persons to whom I am referring own a property on the corner. They are now prevented from selling this property for shop sites; it can only be used for flat sites. This is quite unthinkable, because in my opinion there is room to allow for the expansion of shops to this corner site. If the expansion is stopped, there will be flats on one corner and the rest of the street will be shop sites. The shop sites might just as well extend to the corner, and have done with it.

The Hon. F. R. H. Lavery: That is my complaint.

The Hon. J. G. HISLOP: These are the things which call for a sense of balance. In general the authority does a mighty job of work. I wish the authority success. I am certain it will succeed because we have a wonderful city developing at a time when money is pouring in in a manner never known before. This city is going to grow under planning; and if that planning is sound and clear, and concise judgment is shown, this will be a marvellous place in which our future generations will live.

THE HON. H. C. STRICKLAND (North) [8.52 p.m.]: I do not begrudge the authority the money it requires to carry out the Stephenson-Hepburn town planning scheme or the "Master Plan" as it is known. My complaint and objection is against the incidence of this tax.

The Hon. L. A. Logan: Did you think that in 1957?

The Hon. H. C. STRICKLAND: Yes.

The Hon. L. A. Logan: No, you didn't; you supported it.

The Hon. H. C. STRICKLAND: The Minister is getting a little bit excited. He does not know what I thought in 1957, any more than I know what he thought in 1927. He is getting excited without any cause. If he looks up *Hansard*, he will find that I did not speak on the debate.

The Hon. L. A. Logan: You supported it, though, in the way of a vote.

The PRESIDENT (The Hon. L. C. Diver): Order!

The Hon. H. C. STRICKLAND: The Minister says that I supported it in the way of a vote. I was a member of the Government and I supported many things with which I did not personally agree. So will the Minister—so will both Ministers. We have seen them turn somersaults in this House within the last three years. They did not like it, but because they were members of the Government, they were bound to do so. I therefore do not see the Minister's point.

Getting back to the question before us, I have no complaint at all about the authority being provided with all the money necessary to carry out this most important work. But I do object to the method and the incidence of the tax. The region extends roughly from Mundijong to Gingin. I cannot, for the life of me, see why a person living in a cottage at Byford should be taxed, while a dairy-farmer, a wholemilk producer, or a poultry-farmer living right alongside him should be exempt from the tax. If the area within the region is going to improve in value by the town planning scheme, surely everybody within the region—wherever the region be prescribed or zoned—will benefit to the same extent by the values! And surely to goodness they should all contribute to the unearned increment which they will be getting!

That is one of my objections. There are others. I refer to people whose properties are going to be resumed for the purposes of the plan; in order that the plan can be carried out and implemented. They will be taxed until the Government resumes their properties. Those people will be paying to improve the City of Perth, and yet they are going to be driven out of it. I cannot, in those circumstances, see the equity of some people being called upon to pay a tax when vignerons, orchardists, bee-keepers, and others named in the Act, who are operating their industries within the region, are exempt. Their properties are going to increase in value just as much as the properties of people who live in cottages at Bullsbrook, Gingin, Mundijong, or other little sidings. That is one of my principal objections.

I asked the Minister whether he could give the House the number of properties that are being resumed. The authority does not know how many properties will have to be resumed. It estimates it is going to cost something like £7,000,000 for resumptions. I do not think that figure included the resumption at Welshpool for the marshalling yards. A lot of that land was bought prior to the setting up of the authority.

The Hon. L. A. Logan: The land was bought for the Railways Department.

The Hon. H. C. STRICKLAND: It was bought with loan funds. The master plan —the Stephenson-Hepburn Plan—says that the railway marshalling yards should be established at Welshpool, where they are going to be established.

The Hon. L. A. Logan: And very shortly, too.

The Hon. H. C. STRICKLAND: That is part and parcel of the plan. It would not matter two hoots to the people living within the region, who are paying the tax for this.

plan, if there were no marshalling yards at all within the region. They get no service from goods trains—none whatever. The establishment of the yards is purely and simply for people in the country; and the cost is for something to serve people in country areas; yet they are not expected to contribute one penny.

I recall the Minister telling us last year —I do not think he used these exact words, but he meant to convey that it would be rather stupid to expect people at Wyndham to contribute to the improvements of the city. I suppose we could look the other way on this. It follows, from the Minister's logic, that we should expect the residents of Wyndham to pay for the Ord River Dam and irrigation scheme; because they are certainly getting the benefit; and values of properties in Wyndham will be increased as a result of the Ord River scheme.

No matter how we look at it, in my opinion it is a State-wide responsibility to improve this capital city. The Minister told us last year that people living within the prescribed region have all the amenities: picture shows, TV, racecourses, golf, swimming, and goodness knows what.

The Hon. L. A. Logan: And a university.

The Hon. H. C. STRICKLAND: And a university—which country people do not have. Of course they have the use of all those things. Let us not forget that their children come to Perth; and all the taxpayers of the State contribute to the cost of bringing them down here, paying living-away-from-home allowances, and so on. Everybody contributes. The community contributes. I cannot agree with the Minister; and I cannot draw a line where we say that certain people should pay and certain people should not pay.

The zone is now from the Wanneroo Shire Council down to the Serpentine-Jarrahdale Shire Council; and, for the life of me, I cannot see the equity of the present boundary. If the tax were made general, it would have my blessing; but, on the other hand, as the authority itself has pointed out, the ultimate way for it to finance schemes is by the raising of loans.

The Hon. F. R. H. Lavery: I agree with that.

The Hon. H. C. STRICKLAND: The authority told us that in its report which was tabled here a couple of weeks ago. But why should it not do that? That is the normal procedure in financing public works. The shifting of the markets, for intance, is part of the scheme. Ultimately they are to be shifted to Kewdale, or the Welshpool area. We know that the metropolitan folk get the benefit of the markets; but so do the producers. The markets are there for their service; and yet the producer is not asked to contribute one penny.

The Hon. G. C. MacKinnon: The producer doesn't care where they are.

The Hon. H. C. STRICKLAND: Because a man has a stud farm within the region, and is breeding thoroughbred trotters or gallopers, I do not think he should be exempt from paying the tax when the person living alongside him, who might be navvying along the line, is required to pay it. A man does not have to be a property-owner to have to pay the tax; because as everybody knows any tax on rented property is passed on to the tenant. The occupier pays, whether he is the owner or the tenant.

The Hon. A. R. Jones: Are you for or against the Bill?

The Hon. H. C. STRICKLAND: I have had a good look at the Bill and its intentions, and it appears to me that the measure is out of order. I should like to explain my reasons for thinking it is out of order. The Bill proposes to introduce a new tax as from June of next year, and it has as its purpose the levying of a tax to finance the authority. The authority is to finance its activities by creating a fund called the metropolitan region improvement fund; and that is to be established at the Treasury. The moneys raised by this tax are to be paid into that fund; and subsection (2) of section 38 of the Metropolitan Region Town Planning Scheme Act provides—

> The Authority shall pay or cause to be paid to the Fund—
>
> (a) the proceeds of the Metropolitan Region Improvement Tax referred to in section 41 of this Act;
>
> (b) money borrowed by the Authority from time to time under authority conferred by this Act; and
>
> (c) any other payments made to the Authority.

Paragraph (a) is the important paragraph. When we look at the Constitution Act we find that section 64 of that Act has this to say—

> All taxes, imposts, rates, and duties, and all territorial, casual, and other revenues of the Crown (including royalties) from whatever source arising within the Colony over which the Legislature has power of appropriation, shall form one Consolidated Revenue Fund to be appropriated to the Public Service of the Colony in the manner and subject to the charges hereinafter mentioned.

The charges hereinafter mentioned, of course, are such charges as permanent expenses, compensation, the cost of raising, and so on. There are also several other aspects of the matter; but all taxes must be paid into the Consolidated Revenue Fund. That is very clearly stated. Then section 72 of the Constitution Act states

that Consolidated Revenue must be appropriated by Acts of the Legislature. This Bill, like its predecessor, which is apparently invalid, proposes to tax the people—raise a tax and pay it into a fund apart from the Consolidated Revenue Fund. Therefore this tax conflicts with section 64 of the Constitution Act.

If one reads section 64 of the Constitution Act, and the section applying to finances for the metropolitan region planning scheme, one finds that it is not proper. It appears to me that while we have both these measures they are out of order. They both require to be rewritten and brought back in a proper form.

The Hon. A. F. Griffith: Was the 1957 Bill out of order too?

Amendment to Motion

The Hon. H. C. STRICKLAND: Apparently they are all out of order. For that reason I propose to move an amendment to the motion before the Chair; and the motion before the Chair is: That the Bill be now read a second time. I move an amendment—

> Delete all words after the word "That" and substitute the words "as it is provided that the proposed tax will not be paid into the Consolidated Revenue Fund and thereafter appropriated as required by section 64 and other relevant provisions of the Constitution Act, 1889, in the opinion of this House this Bill is not proper to be given a second reading.

The Hon. A. F. Griffith: And so kill the Bill.

The Hon. H. C. STRICKLAND: I have explained to the Minister that the Government requires to have a good look at both measures, and it should rewrite them. If the Bill is invalid that is the proper thing to do with it. We cannot depart from the Constitution Act; and the town planning scheme legislation and the original taxing Act should both be amended and brought back in proper form.

The Hon. A. F. Griffith: Don't you think it would be better for us to have a look at it and get the benefit of your advice rather than to try to kill the Bill?

The Hon. H. C. STRICKLAND: I am not trying to kill the Minister's intentions.

The Hon. A. F. Griffith: What effect will your amendment have?

The Hon. H. C. STRICKLAND: This House claims to be constituted as a House of Review.

The Hon. A. F. Griffith: That is right.

The Hon. H. C. STRICKLAND: It is supposed to be the House to keep things in proper order. Because of the circumstances which I have outlined, and which are quite plain, I think it is one's duty to do what I am doing.

The Hon. A. F. Griffith: By chopping its head off.

The Hon. H. C. STRICKLAND: The Minister need not get excited.

The Hon. A. F. Griffith: I am not getting excited.

The Hon. H. C. STRICKLAND: The Minister and his co-Minister are responsible for these measures.

The Hon. L. A. Logan: We are prepared to take that responsibility.

The Hon. H. C. STRICKLAND: It is their duty to have a good look at the whole question and put the legislation in proper order if it is invalid. Of course the Government will refer the matter to the Crown Law Department and that department, which prepared the legislation in the first place, will probably say it is in order.

The Hon. A. F. Griffith: It will be too late if you get away with this.

The Hon. H. C. STRICKLAND: We found in the not too distant past that the Crown Law Department was not always correct, either. Its advice can be wrong and very costly for some of Her Majesty's subjects. My advice to the Minister is to keep calm and not to get excited. He should keep things in their correct perspective.

The Hon. A. F. Griffith: I do not want to see the turkey walking around with its head chopped off.

The Hon. H. C. STRICKLAND: If members look at the matter in its true perspective I am sure they will agree that what I have said is correct; and they will vote for my amendment.

Point of Order

The Hon. L. A. LOGAN: Mr. President, I ask for your ruling as to whether the amendment is in order according to Standing Orders Nos. 182, 183, and 184?

The PRESIDENT (The Hon. L. C. Diver): I shall leave the Chair until the ringing of the bells.

Sitting suspended from 9.15 until 9.35 p.m.

President's Ruling

The PRESIDENT (The Hon. L. C. Diver): The Minister for Local Government has asked for a ruling as to whether the amendment moved by The Hon. H. C. Strickland is in order in view of the provisions of Standing Orders Nos. 182, 183, and 184.

Standing Order No. 184 can be interpreted to cover a reasoned amendment such as that moved by the honourable member provided that the amendment is strictly relevant to the Bill. I have given careful consideration to the terms of the amendment as moved and I consider that it conforms to these conditions, and I therefore rule it to be in order.

Debate Resumed on Amendment to Motion

Debate (on amendment to motion) adjourned, on motion by The Hon. L. A. Logan (Minister for Local Government).

EDUCATION ACT: AMENDMENT TO REGULATIONS AND SCHEDULE

Motion

Debate resumed from the 27th September on the following motion moved by The Hon. R. F. Hutchison:—

That the regulations made pursuant to section 28 of the Education Act, 1928-1957, as published in the *Government Gazette* on the 26th July, 1960, and laid on the Table of the House on the 4th August, 1960, be amended as follows:—

(1) Regulation 85—

(a) by inserting after the paragraph designation (b) of subregulation (1) the following:—

Subject to the provisions of paragraph (c) of this subregulation.

(b) by inserting after paragraph (b) of subregulation (1) a new paragraph to stand as paragraph (c) as follows:—

(c) A female teacher who has not completed the full period of service mentioned in regulation 200 (1) and who intends to marry, or shall marry during such period, shall not be obliged to resign from the permanent staff until after the completion of such period.

(2) Regulation 200—

By deleting the word "appropriate" in line 3 of subregulation (2).

(3) Schedule 1—

(a) by deleting from Form 1 the subheading "Male Student."

(b) by deleting Form 2.

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [9.37 p.m.]: When Mrs. Hutchison was speaking on the Address-in-Reply she brought up in considerable detail a matter in respect of amendments to regulations made under the Education Act. In my reply to the contributions made by members in the Address-in-Reply debate, I went to some trouble to consult my colleague, the Minister for Education. Following that I advised Mrs. Hutchison of the situation and not only answered the questions she put to me but also told her that that particular matter was under consideration, and that the Minister for Education hoped to bring down, in due course, some variations to the regulations.

I told the honourable member that in both New South Wales and Victoria women teachers who marry may continue to act as teachers on the permanent staff. I told her this step had been introduced in recent years; and apparently this was done because of the shortage of teachers in those States. I also informed her that in Western Australia the shortage of teachers had never been so acute as to warrant the step that was taken in New South Wales and Victoria.

I pointed out that if the idea she had put forward to the House at that time was accepted, it might very seriously impair the chances of employment opportunities for students leaving the training school. I interjected during her speech on the motion to amend these regulations, and asked if she was in favour of married women working. I understood her to say she was.

The Hon. R. F. Hutchison: I said if it suited them.

The Hon. A. F. GRIFFITH: I am going on what I understood her to say at the time. The honourable member apparently was not satisfied with the explanation I gave her. She would not accept the explanation that the Minister for Education was pursuing this question. Now she seeks to amend the regulations which were laid on the Table of the House on the 4th August, 1960.

I am obliged to say that it strikes me that many ills have gone on for a very long period about which we heard nothing, but about which it is now convenient to complain. This regulation which requires a bond to be entered into by students in the Education Department exists in every State of Australia in some form or other, and it has existed in Western Australia for many years.

The Hon. F. R. H. Lavery: Did anybody object to the bond?

The Hon. A. F. GRIFFITH: During the term of office of the previous Government, no attempt was made to do anything about this matter. To the best of my knowledge in the six years of the previous Government the honourable member certainly did not move to amend the regulations. However, a month ago, when speaking to the Address-in-Reply, I told her that the matter was under consideration. Perhaps I can go further and tell her that the Minister for Education expects within the next few weeks, to announce some changes in the regulations which will have a beneficial effect on the cases in question.

I repeat what I said in the Address-in-Reply debate, that that is to take place. When the amendments to the regulations are brought down there will be ample opportunity for the honourable member to

ascertain whether or no they are satisfactory. If they are not, it will be quite competent for her to move for their disallowance. She should have enough faith in the Minister for Education, when he says he is pursuing a particular line, to give him the opportunity to do so.

The Hon. R. F. Hutchison: That was put over me last year.

The Hon. A. F. GRIFFITH: I assure the honourable member that it is not my practice to put anything over anybody, leastwise the honourable member. Quite apart from the fact that the move suggested by her could seriously impair the employment opportunities of our young people, let me say that every female teacher who enters the Education Department does so with her eyes wide open.

The Hon. R. F. Hutchison: What you are saying is nonsense.

The Hon. A. F. GRIFFITH: I repeat that every female teacher who enters the Education Department and enters into a bond does so with her eyes wide open. Surely the meaning of that is perfectly clear! In every State of Australia there is some bond system applying to trainee teachers.

The Hon. R. F. Hutchison: It is the discriminatory clause to which I am objecting, not the bond.

The Hon. A. F. GRIFFITH: I am endeavouring to give the honourable member an explanation. If she does not want to listen to me I shall sit down, and that would be the simplest way out. I am endeavouring to explain the points she raised. If she wants to listen I shall continue; if not, I shall sit down.

It costs in the vicinity of £1,200 to train a teacher, and during the period of training there is some £400 or £500 paid to the student for the privilege of being taught. Therefore it is considered desirable, not only in Western Australia but in other States of the Commonwealth, that some sort of bond should be retained, otherwise the percentage from whom we would gain no return or reimbursement would undoubtedly increase.

The Hon. R. F. Hutchison: I have not voiced any objection to that.

The Hon. A. F. GRIFFITH: The increase would not only be in regard to people getting married but also in regard to those who would rush off on working holidays in other States and in England, where, of course, teachers are in considerable demand.

I do not propose to prolong this debate, because I do not think it is necessary. As I have told the honourable member in the course of my Address-in-Reply speech—and I now repeat it—the Minister for Education hopes in a few weeks to introduce amended regulations which will be of a more generous nature, enabling the employment of married women, and permitting a greater reduction in the payment of claims in certain circumstances. Mainly the idea is to aim at greater uniformity with the conditions in the other States which are, I think, more generous than ours.

With all due respect, I would suggest that it would be far better for the honourable member to await the outcome of those amendments, because they will be placed upon the Table of the House as is necessary with all regulations; and then if Mrs. Hutchison is not satisfied, opportunity will be given her to move to disallow or amend them. But at least she should wait to see what they are.

One final word: If the honourable member thinks that this is taking her on or putting one over her, as she suggested, I assure her I do not do that sort of thing; and I would like to give her the opportunity of seeking permission to withdraw her motion in order that she might study the new regulations and deal with the matter later.

THE HON. F. R. H. LAVERY (West) [9.47 p.m.]: I did not speak on this question before but having listened to the speech just made by the Minister I would like to tell him of a case with which I am familiar. I do not believe that the Minister, in all sincerity, has understood the situation.

I know of a teacher who broke her bond by getting married before her three-year period was completed. However, after a short time of married life her baby was born, and when the baby had grown old enough for her mother to look after it, she applied and was accepted by the department as a teacher on supply, her idea being that she would teach for the three years and thereby not have to pay the bond. The department requires that a teacher shall teach for three years after acquiring the teacher's qualifications. I think the Minister agrees with that point.

The Hon. A. F. Griffith: That is right.

The Hon. F. R. H. LAVERY: If a teacher does not complete the three years—as happened in this particular case—the bond must be forfeited. However, as I have said, when the baby was of sufficient age to be left, this lady applied to the department as a teacher on supply, and was employed as such. Therefore she believed that as she gave the three years of service to the department she would not have to forfeit the bond. However, although she did work the three years subsequently, she was still required to pay that bond. As I understand the amendments proposed by Mrs. Hutchison, they are designed to overcome that situation.

I would now like to say a few words in regard to the position as it applies to the male students. I know of a high school

student who was accepted for a university course while at the training college. As the Minister has just told us, he was paid a sum of money to learn. At the end of his first year at the university he failed in his examinations and was told by the department that as a result he would not then be able to continue as a trainee teacher at the cost of the department. However, the concession was made to him that he could remain in the college for the next year at his own cost. At great cost to his family he did this although the department suggested to him that it would be a waste of time because he would not pass the examinations.

However, not only did he take the bit in his teeth and pass the examinations, but he topped the training college that year and is now one of the very competent high school teachers in the Geraldton High School.

That is another point which should be considered when studying these bonds, as a teacher who has the capabilities should not be penalised because of some mishap which occurs in his period of training. This situation does not only affect the females but the males as well.

Question put and negatived.

House adjourned at 9.51 p.m.

Legislative Assembly

Tuesday, the 10th October, 1961

CONTENTS

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