Hon. A. R. G. Hawke: The Attorney General told us that the Act might not be proclaimed.

Hon. F. J. S. WISE: How ridiculous it is to suggest that this directorate is to improve the situation! We are told this is to overcome all the difficulties now apparent and now developing. We are to have two full-time members, obviously two of the existing administration. I would not cavil at that provided the Government insisted upon retaining the fullest possible authority over this undertaking. I cannot stress too strongly the importance of the link between the Treasury and the department. I hope the Premier will consider the clause seriously and get his Treasury officials to advise him and his Minister upon it. If he can show that he has the fullest concurrence of the Treasury, I shall be satisfied.

The Minister for Railways: That does not come under this amendment.

Hon. F. J. S. WISE: It is vital to the amendment.

The Minister for Railways: A subsequent amendment.

Hon. F. J. S. WISE: The proposal is to have three commissioners, one to be a representative of the Treasury. The Premier ought to rush that amendment with open arms.

Hon. J. B. SLEEMAN: The proposal to have two full-time members and three part-time members is foolish.

The Chief Secretary: Have you not heard of a board of directors?

Hon. J. B. SLEEMAN: The representative of the workers is to be a sort of hanger-on. I suppose he will be called off his train and be told that he is wanted to confer with the two commissioners. I would not agree to the worker's representative being attached to the board in that manner. He should be a full-time representative, one of the commissioners, and not merely a hanger-on. The trade unions will not agree to their representative being a hanger-on; they will insist upon his being a full time commissioner.

Amendment put and negatived.

Progress reported.

House adjourned at 11.15 p.m.

Legislative Assembly.

Thursday, 13th November, 1947.

The SPEAKER took the Chair at 4.30 p.m., and read prayers.

BILL—REDISTRIBUTION OF LEGISLATIVE ASSEMBLY SEATS.

Leave to Introduce.

THE ATTORNEY GENERAL (Hon. R. R. McDonald—West Perth) [4.33]: I move—

That leave be given to introduce a Bill for "An Act to make provision for the better representation of the people of the State in the Legislative Assembly of the Parliament of Western Australia."

HON. F. J. S. WISE (Gascoyne) [4.34]: This Order of Leave makes it obvious that the Act, which is commonly known as the Electoral Districts Act, is to be repealed and a Bill introduced to become an Act in substitution therefor. The Electoral Districts Act will be found at page 222 of the Standing Orders. Its long Title is similar to, but not the same as, the Title of the Bill for which the Order of Leave is sought, the difference being that the Title to the Electoral Districts Act, which provides the formula for the quotas of seats is, "An Act to make provision for the Better Representation of the People of Western Australia in Parliament." The Order of Leave for this Bill states that it is a Bill to make provision for the better representation of the people of the State in the Legislative Assembly of the Parliament of Western Australia. That is vastly different from the Act now in existence, as it circumscribes anything that may be done under the Bill, the contents of which we do not know.

The contents of the Bill are circumscribed to the provisions of the electoral law applying to the Legislative Assembly. It will be

found, too, that under the Standing Orders it would not be possible for this House, if the Bill is introduced with this long Title, to make an amendment which would include the Parliament of Western Australia comprised of two Houses, because no clause may be inserted in a Bill which is foreign to its Title. There is this restrictive provision in the Order of Leave confining the Bill to the Legislative Assembly, and my purpose in rising is to ask whether it is the Government's intention to apply the Electoral Districts Act to both Houses of the Parliament of Western Australia or to confine it to the Legislative Assembly. There is sufficient authority in past expressions of members on the opposite side of the House on many occasions to show that their desires and intentions in the past were that the electoral laws, so far as they apply to electoral districts, boundaries, should be the subject of attention at the same time as any reform of the Legislative Council was discussed. I can quote from several speeches on this subject, some of them very much to the point, as showing what were the desires of the present Government in this connection. At page 1234 of "Hansard", 1945, Vol. 1, there will be found the following comments by the member for Nedlands:—

> The position taken up by us and the view we hold—

That is, the Liberal Party—

> is this: Whilst reform of the Upper House—to use a phrase that is very common—is both desirable and necessary, that reform should be part and parcel of a general reform of Parliament which should be intended to produce a more equitable distribution of seats; in other words, a more equitable representation for the people of this State.

Later, at the same page, the member for Nedlands went on to say—

> I have already said that we favour a reform of the Legislative Council as part of a policy of general democratisation of Parliament.

Hon. N. Keenan: Was that on the Address-in-reply?

Hon. F. J. S. WISE: No; the hon. member was speaking to the Constitution Acts Amendment Bill. The member for Nedlands probably expressed his views more explicitly than did other members. It was clearly stated from time to time that the reform of the Legislative Council should await the redistribution of seats or any such move applying to the Legislative Assembly. Therefore, to achieve what was in the minds of the Parties on the Government side of the House in the past, it will be necessary to alter the long Title of the Bill for which leave is sought so that it will include both Houses of the Legislature. It is quite proper, to enable that to be done, for the Order of Leave to be amended so that the Bill will apply as well to the Legislative Council as to the Legislative Assembly. To do that, it would be necessary to insert before the words "Legislative Assembly" the words "Legislative Council and." Since the reform has been so strongly advocated by the members of the Government and those sitting with them, I hope that now we have the intention of the Government clearly before us, provision will be made at this stage to include the possibility of a better representation of the people in both Houses of Parliament. To enable the Attorney General or the Premier to express clearly whether it is the intention to ignore the aspects which apply to the Legislative Council, I move an amendment —

That before the word "Legislative" the words "Legislative Council and" be inserted.

HON. J. B. SLEEMAN (Fremantle—on amendment) [4.41]: The suggestion of the Leader of the Opposition is a good one. I cannot for the life of me see why the Government is asking for leave to introduce a Bill with a Title of this kind. It has strayed directly away from the Electoral Districts Act which is designed, "to make provision for the better representation of the people of Western Australia in Parliament." If the Government had introduced a Bill with a Title like that, it would not have been so bad. In the past, when an effort has been made to reform the Legislative Council members opposite have said they were not prepared to agree to that until something was done to improve the position with regard to the Legislative Assembly. But now, in this Bill, they are deliberately eliminating a portion of Parliament and providing for a reform of the Legislative Assembly only. I would like to know what their idea is in wanting to get away from the Electoral Districts Act. They have a chance of sending the matter on to commissioners to provide for a redistribution of seats. Why not do that and let the Commissioners fix the boundaries as they are appointed to do? Why interfere with the

ordinary practice? Why not do the whole thing at once and not have two bites at it? It looks as though the Government is not satisfied with doing that but wants to have one bite and that bite is to be here.

HON. A. R. G. HAWKE (Northam—on amendment) [4.43]: I support the amendment and hope that the Attorney General and other members of the Government will vote for it. The Electoral Districts Act, as already mentioned by two previous speakers, was designed to deal with both Houses of Parliament. In Section 9, Subsection (1) of that Act, on page 225, specific provision is made for the automatic readjustment of the Legislative Council province boundaries once the necessary Bill is introduced following an inquiry into the Legislative Assembly districts, and that should certainly be the principle to be included in the Bill now before the House. It can be argued with some strength that the population of Western Australia today is so different compared with what it was 15 to 20 years ago that Legislative Assembly boundaries should in some places be altered. The same argument could as logically be applied to some of the Legislative Council provinces.

As a matter of fact it would be quite an easy matter to compare the population of the Metropolitan-Suburban Province today with the much smaller population in the Metropolitan Province or in some of the near metropolitan-suburban provinces, and a very serious anomaly would be disclosed if that were done. Just as Government members might make out a case for the adjustment of Legislative Assembly boundaries by comparing the population of one district with that of another, so the same procedure could as easily and with as much logic be followed in regard to Legislative Council province populations in different parts of Western Australia. Therefore it seems to me that if the Government is inspired by high motives in regard to this Bill and what it contains, it should immediately embrace the opportunity provided by the amendment to apply that motive to a consideration of the populations now existing in the different Legislative Council provinces. If the Government is not prepared to do that, I think it has no claim to receive favourable consideration of the Bill from members of this House.

THE ATTORNEY GENERAL (Hon. R. R. McDonald—West Perth—on amendment) [4.46]: I can give the Leader of the Opposition and other members of the House the assurance that the Government desires to deal with the matter of redistribution of seats on the broad basis as applying to the whole Parliament.

Hon. F. J. S. Wise: Then why the restricted Title?

The ATTORNEY GENERAL: I am coming to that. What was suggested before, and with some force, was that the franchise of the Legislative Council ought not to be reformed, if reform were needed as has been suggested, until the Legislative Assembly was prepared to deal with a redistribution of its own seats. The Government had in view a reform—and a measure has already been brought down—of the Legislative Council franchise and measures dealing with the distribution of seats for the Legislative Assembly and the Legislative Council.

Hon. F. J. S. Wise: Still, that cannot affect Legislative Council boundaries.

The ATTORNEY GENERAL: In other words we desired that the Parliamentary reform should be on a full scale and not piecemeal and wished to bring it all in together. The first intention of the Government was a measure which would deal with both Houses in the way of a redistribution of seats; but, when that was proposed, I was advised that there were difficulties in the way of incorporating the two measures in one Bill. It is appreciated, as the member for Northam said with some justification, that the boundaries of the Legislative Council provinces also need some revision. There are provinces which contain a very large number of electors, even in the metropolitan area. One province, I think, contains less than one-quarter of the electors who are comprised in an adjoining province.

The Government feels there should be some nearer approach to equality of strength in provinces at least as regards those in the metropolitan area and had in view a measure that would bring this about. But I

have been advised, although we would have preferred to deal with the matter in one measure at one time, that the distribution Bill for the Legislative Assembly would need to be proceeded with first so that the second measure could conform to the determination of Parliament in relation to the distribution of seats in the Legislative Assembly. That is the sole and only reason why the Bill is brought forward under the present Title, and will be introduced in the present form. I ask the Leader of the Opposition to accept my assurance that there is no reason for the present Title of the Bill beyond that which I have explained.

If there had been a way to incorporate the two matters in the one measure, it would have suited me and the Government much better. But when the machinery for the redistribution as to the two Houses came to be examined, my advice was that the Bill relating to the Legislative Council would need to await the decision of Parliament as to the Legislative Assembly. The provinces are formed in relation to the Assembly districts, and, as I understand the position, if we are to arrive at a basis for the Legislative Council provinces which will represent, at all events in the metropolitan area, a nearer approach to equality of electors, we will need to make certain new provisions, and those provisions must follow on the determination of Parliament relating to the Legislative Assembly, because any new boundaries of Council provinces will be conditional or dependent on the boundaries determined for Legislative Assembly electorates.

Mr. Graham: Why cannot they be arranged simultaneously?

The ATTORNEY GENERAL: There is a difficulty if we want to reconstitute the Assembly boundaries on a basis of equality and equity, and the province boundaries on a similar basis. It is that reason, which is bound up with administrative difficulties, that has led to the introduction of this Bill first.

Hon. F. J. S. Wise: I could follow that if the boundaries were consistent, but they are not.

The ATTORNEY GENERAL: When Parliament has decided on the distribution of seats for the Assembly, it will be possible to deal with the position of the Legislative Council.

Mr. Rodoreda: What are the difficulties? You have told us there are some but you have not told us what they are.

The ATTORNEY GENERAL: If we attempted to reconstitute the districts comprised in the provinces we would have to work on a different alignment of those districts compared with what exists under the present legislation. In these circumstances, we have taken the only possible course, so I am advised, to achieve our object. The present Bill is intended to be followed by suitable legislation to deal with the situation of the Legislative Council. I hope members will agree that the amendment is not required.

Hon. F. J. S. Wise: Given certain assurances, I would withdraw it.

The ATTORNEY GENERAL: I can give the assurance that it is the intention of the Government to bring down a Bill to deal with the Legislative Council provinces. But I cannot say that that can be done this session. If it could, I could deal with the whole matter at once. I am advised that the Legislative Council province boundaries will depend on Parliament's decision as to the distribution in the Assembly.

HON. J. T. TONKIN (North-East Fremantle—on amendment) [4.55]: I appreciate the way the Attorney General has dealt with the amendment, but I am not at all impressed with the arguments he advanced in support of his statement that he cannot bring down a Bill to deal with the Legislative Council before the Bill for the Assembly has been dealt with. I can imagine that the Legislative Council would pass a Bill dealing with the Assembly with alacrity, but what guarantee have we, if this Bill is passed, that members of the Council will even look at one to make any change so far as they are concerned? They are on the box seat. They will give no assurance that once a Bill for the redistribution of the Assembly is passed, they will do the right thing in connection with the redistribution of seats for the Legislative Council. They can simply snap their fingers at the Government and Parliament and say, "We will stay as we are," and what can we do about it? Are we going to place ourselves in that position? The only way in which to deal with the matter is to ensure that the Bill for the Legisla-

tive Council redistribution is passed first. Let us give an assurance, if that is passed first, that there will be a Bill for the Legislative Assembly as well.

Mr. Graham: It is in the order of seniority, too.

Hon. J. T. TONKIN: We would be foolish to give them a bigger stick to wield than they already have. Legislative Councils indulge in queer antics at times, and do things with little rhyme or reason. I would not like to depend on their doing the right thing in these circumstances. The Government ought to get busy and prepare a Bill for the redistribution of the Council seats. That is something which has been said by members of all Parties in this House to be both desirable and necessary. The reform of or redistribution for the Legislative Council is no less desirable and necessary than is the redistribution for the Legislative Assembly. That being so, steps should be taken to provide for a redistribution for the Legislative Council, and we should see that the Council agrees to such a Bill before we give it any opportunity to decide what shall happen to this Chamber, seeing that it has the last say on each occasion.

The Government would not be acting fairly by the Assembly in bringing this Bill forward and taking the risk of the Council doing what it liked in connection with a redistribution for that House. The only way we can be certain there will be a redistribution for the whole Parliament—and I defy anyone to prove otherwise in view of the stand taken by the Legislative Council on different occasions—is to have a Bill dealing with the Legislative Council passed by the Council first. We could then pass the other. I would be prepared to say that so long as members of the Legislative Council did the right thing by their House, we would do the right thing so far as this House is concerned. I could not follow the Attorney General when he endeavoured to give reasons why he could not deal with the Legislative Council before the Assembly.

Hon. F. J. S. Wise: I do not think he gave reasons.

Hon. J. T. TONKIN: He endeavoured to say something about the boundaries being co-terminus. They are not. The boundary for the West province cuts right through the middle of North-East Fremantle.

The Chief Secretary: Do you think that is a good idea?

Hon. J. T. TONKIN: No. I think it would be better if the West province boundary went further north.

The Chief Secretary: I think so, too.

Hon. J. T. TONKIN: But that has nothing to do with the boundaries of the Legislative Assembly. There happens to be a part of four Legislative Assembly electorates in the West province, namely, South Fremantle, Fremantle, North-East Fremantle and Canning. No matter how we change the boundaries of these electorates, the vote for the Legislative Council would not be affected. The boundaries for the West province should be fixed just as are those of the North-East Fremantle and Fremantle electorates. It is idle to say that we must have a redistribution measure for the Assembly before having one for the Legislative Council. On past experience I would conclude that, if we had such a measure for this House, there would not be one for the Legislative Council for many years, as that House would not agree to it. In that place they do not like a change if it affects themselves. It is all right if it affects only other people. If their own rights and privileges are involved they are not too anxious to do the right thing. If I were permitted to do so I could give an illustration of what happened on another Bill.

Mr. SPEAKER: Order!

Hon. J. T. TONKIN: That was an occasion when this House expressed an opinion in no uncertain manner as to what ought to be done, and the Legislative Council thought otherwise, because some of its members earned a few pence in their boyhood. I am not prepared to take the risk of the Legislative Council not agreeing to a redistribution of seats for that House, if such a measure is first passed with reference to the Legislative Assembly. In all fairness to members of this House and in justice to the claim that a redistribution is necessary for the whole of Parliament, the Government ought to introduce a Bill for the redistribution of Legislative Council seats and hold up this measure until that one is passed.

Point of Order.

Mr. Rodoreda: I would like your ruling, Mr. Speaker, as to whether the introduction of this Bill is in order. While the Electoral Districts Act is in force I think this Parliament must comply with its provisions. Before introducing this measure the Government should introduce a Bill in accordance with the provisions of that Act, and that has not been done. In that Act it is provided that a report from the Commissioners shall be laid on the Table of the House, and various other formalities complied with. Then a Bill shall be introduced in accordance with the report of those Commissioners. It may be that the Bill now under discussion contains a repeal clause, but I submit that that does not carry out the provisions of the Act. I maintain that this Bill will not be properly before the House until a Bill to repeal the Electoral Districts Act has been introduced and has been passed by Parliament. While the Electoral Districts Act is in force its provisions must be complied with before a Bill is introduced into this House for a redistribution of seats.

Mr. Speaker: I have given some slight consideration—on short notice—to the hon. member's point of order and, as I look at the matter now, I can see no objection to the House moving of its own volition in this regard. The House is not yet aware of the contents of the Bill and the actual wording of the Title is not necessarily objectionable in view of the fact that the contents of the measure are not known. I must therefore rule that the Bill is in order.

Mr. Rodoreda: I am reluctantly compelled, Sir, to disagree with your ruling. In my view the contents of the Bill have nothing whatever to do with the point of order that I have raised. The procedure that is laid down in an Act of Parliament must be observed before a redistribution of seats Bill can be properly before this House. That is the point that I have raised.

Dissent from Speaker's Ruling.

Mr. Rodoreda: I move—

That the House dissent from the Speaker's ruling.

Subsection (3) of Section 10 of the Electoral Districts Act states—

A Bill for the redistribution of seats in accordance with the report of the Commissioners shall forthwith after the making of such report be introduced, and if duly passed and assented to shall come into effect as an Act on a date to be fixed by proclamation, and the proviso to subsection one and subsection two of section nine of this Act shall apply.

Section 9 states—

The report shall be laid before both Houses of Parliament forthwith after the making thereof, if Parliament is then in session, and, if not, forthwith after the next meeting of Parliament, and a Bill shall be introduced for the redistribution of seats at Parliamentary elections in accordance therewith, and for the readjustment of the boundaries of the Electoral Provinces, and such Bill, if duly passed and assented to, shall come into operation as an Act on a day to be fixed by proclamation.

We have had no report of the Commissioners laid on the Table of this House, or on the Table of the Legislative Council, nor is provision made in this Bill for a redistribution of Legislative Council seats. For those reasons I claim that, until the Electoral Districts Act is repealed, the Bill which the Government is seeking for leave to introduce cannot be properly before the House.

Hon. A. H. Panton: With much regret I must second the motion, Mr. Speaker. I appreciate that you have been caught "on the hop," and this is an occasion upon which I think you might suspend the debate while looking into this matter. I do not think there is any doubt that the proposal in the Bill is to repeal this particular measure, and for a Government to bring down a Bill containing a clause to repeal a most important Act such as this would indeed be extraordinary. If it is the intention of the Government to bring down a Bill for the purpose of altering the boundaries of the Electoral Districts, and at the same time to repeal this section of the Electoral Districts Act, I do not think that is a decent way of going about it. In all sincerity I suggest, if that is the intention of the Government, that it should first bring down a Bill to repeal this part of the Electoral Districts Act and, having done that successfully, it should bring down the Bill proposed by the Attorney General. In the meantime, Mr. Speaker, I believe your ruling to be wrong, much as I regret having to say so, and I suggest that the debate might be suspended until you have had more time to look into the matter.

Hon. J. B. Sleeman: I think it would be wise of you, Mr. Speaker, to take more time to consider this matter. I cannot see how a Bill for a certain purpose can be brought down when there is already on the statute book an Act dealing with that matter. Instead of bringing down a Bill to amend the Electoral Districts Act the Government wishes to bring down a Bill for another Act practically the same as that which is already in existence. If the Government attempted to bring down a Bill for a new Interpretaton Act I am sure you would have no hesitation in throwing it out, as there is already a law dealing with that matter. I have no desire to vote against your ruling, Sir, and in fact I will not vote against it, as I know the difficulty of the matter with which you have to deal. I would like the matter delayed even if it be only for an hour so that you, Mr. Speaker, may go thoroughly into the question. Postponement of the matter for an hour will not mean any great delay.

Mr. Speaker: If there are no other speakers, I shall put the question.

Hon. J. T. Tonkin: Are we not to hear from anyone on the other side?

Hon. A. A. M. Coverley: They have nothing to say.

Hon. A. R. G. Hawke: Where is the Minister round the corner?

Hon. A. H. Panton: Is this what we must expect?

Hon. F. J. S. Wise: We are approaching this matter decently, and we should at least receive decent treatment.

The Attorney General: So is the Government, and I hope members opposite will assist us to do what is proper in this instance. This is an important Bill.

Hon. F. J. S. Wise: A very important one.

The Attorney General: I appreciate that. In the matters raised by the Leader of the Opposition, the member for Roebourne and other members, there are important points and they will receive every consideration. I want to ensure that the Bill is entirely in order. If I may make a suggestion, Mr. Speaker, you might suspend your ruling until Tuesday, as the member for Fremantle proposed.

Hon. F. J. S. Wise: If the matter were suspended till later on in this sitting, it would do.

The Attorney General: I will examine the position in the meantime and if I and my advisers, together with the draftsman of the Bill, think there is any valid objection in the points that have been raised, it will be given due consideration. All we desire to do is to ensure that the Bill, as introduced, is in a form that is entirely free from objection.

Mr. Fox: Why is another Bill wanted at all?

The Attorney General: With the indulgence of the House and in pursuance of the suggestion offered by the member for Fremantle, my proposal is that you, Mr. Speaker, suspend your decision and we will go into the matter in the meantime.

Hon. A. H. Panton: And we could examine it, too, in the meantime.

The Attorney General: As the Bill is drafted and as far as I was able to see, the Title is sufficient to cover all that is required. I am quite prepared to examine what has been said to ascertain whether any alteration to the Title is necessary and make certain that it is in accordance with the Standing Orders.

Hon. F. J. S. Wise: As I understand the position with regard to Standing Order 141, it does not seem to apply since you, Mr. Speaker, have already given your ruling. If that be the difficulty in the way of what the Attorney General proposes, we would be on sounder grounds if we accepted the assurance that the Minister has given. I would like to see a composite Bill introduced, which would save all the bother. However, that is not the course that has been adopted and, in fact, if two separate Bills were introduced there is no fear that the one dealing with Legislative Council would ever become law. Although the ruling has been given, I would like to move the adjournment of the debate until after the tea suspension so that you, Mr. Speaker, could have an opportunity to look into the matter.

The Attorney General: If I may intervene again, I welcome the suggestion of the Leader of the Opposition, with the exception that I would like an opportunity to

consult the Crown Law officers and in particular the draftsman of the Bill.

Mr. Speaker: Order!

Hon. A. H. Panton: The matter has to be settled at once because Mr. Speaker has given his ruling.

Hon. J. B. Sleeman: I suggest that the member for Roebourne withdraw his motion and then you, Mr. Speaker, might suspend the matter for an hour to look into it.

Mr. Rodoreda: We are in difficulties. It is useless for me to withdraw my motion to disagree with Mr. Speaker's ruling because it has already been given. If I withdraw my motion and Mr. Speaker's ruling is upheld, the Bill goes on. That is not the position I want. If the House can find a way out of this impasse, I will be prepared to accept it. For my part, I think we have gone too far for me to withdraw. It just cannot be done. The ruling has been given and we have been discussing the motion to disagree with it. I assume that my remarks will close the debate.

Hon. J. B. Sleeman: You have no right of reply on such a motion.

Mr. Rodoreda: The member for Fremantle had two goes, and I am having my second one, seeing that these are unusual conditions.

Mr. Speaker: At present, a motion is before the Chair and I have given my ruling.

Hon. J. T. Tonkin: It is obvious that we are in difficulties and both sides of the House would like to see them resolved. If it is decided now that the Title of the Bill is in order, would it be competent for you, Mr. Speaker, when the Bill itself is introduced to give a different ruling after you had seen the Bill and considered the position regarding the Title? Could you, Mr. Speaker, then change your opinion and give an altered ruling or is your ruling irrevocable? If it is not, we would achieve our objective by accepting the position now when you have ruled the Bill in order and then next Tuesday we could raise the point again. Possibly by then the Attorney General himself, having taken advice in the meantime, might confer with you, Mr. Speaker, and as a result of a study of the Bill, you might find your way clear to announce to the House that upon further consideration and having seen the Bill itself you found it necessary to reverse, or it might be to uphold, your ruling. We would then be in the same position as we are now. If that is a way out of the difficulty, we might try it.

Mr. Speaker: The question will have to be put that my ruling be disagreed to.

Question put and negatived.

Debate Resumed.

Amendment put and negatived.

Question (leave to introduce) put and passed; leave given.

Bill read a first time.

BILL—FISHERIES ACT AMENDMENT.

Read a third time and transmitted to the Council.

BILL—PLANT DISEASES ACT AMENDMENT.

Second Reading.

Debate resumed from the previous day.

HON. F. J. S. WISE (Gascoyne) [5.19]: This Bill is to make certain that payment of inspection fees under the Plant Diseases Act, the collection of which is in doubt, will not only be ensured but, where there have been services rendered under the Act in the past, the sums owing will be collected. There is no doubt whatever that the House should pass this Bill which is to enable the Department of Agriculture to collect fees for the inspections which have been made, principally at Kalgoorlie, as outlined by the Minister when he introduced the Bill. The inspection fees under the Act have caused me great concern because they are so low. The Act is a very old statute which was instituted long before certain industries now thriving in this State were even thought of. Under the provision for the imposition of inspection fees, the amount chargeable on fruit imported from other States, irrespective of type, irrespective of whether it is a box of cherries weighing 10 lbs. or a case of bananas weighing 120 lbs., is the same. The difficulty is that meticulous care is required to inspect certain fruits and vegetables for disease, which could be fatal to some of our industries. Certain diseases are prevalent in other States and, if introduced here, could be a serious threat. I refer to apple scab and

codlin moth, diseases that are a menace to the apple industry.

Recently, at my request, the Minister for Agriculture gave attention to certain variations in regulations under the Act to ensure rigidity of inspection of imported bananas. I requested, amongst other things, a review of the inspection fee for bananas, which are contained in fairly large cases—often weighing up to 120 lbs.—and have to be thoroughly inspected for one or two types of disease, particularly squirter, and at times the whole contents of the case have to be unpacked and re-packed by the inspector. Yet all that can be charged under the Act by way of inspection fees is 4d. This, I submit, is entirely unfair to the growers in this State.

In my approaches to the Minister, both in person and by letter, I have strongly represented this point, and have claimed that the schedule providing for these inspection fees is so old as to be inapplicable to present-day conditions. I earnestly ask the Minister to review the matter and impose a charge for the inspection of imported fruit commensurate with the work involved, as well as to afford our industries some protection from haphazard importation of fruit from the other States.

The Minister for Agriculture: I will give you that assurance.

Hon. F. J. S. WISE: On the understanding that the Minister will consider the matter further, I shall support the second reading.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—NATIVE ADMINISTRATION ACT AMENDMENT.

Second Reading.

THE MINISTER FOR NATIVE AFFAIRS (Hon. R. R. McDonald—West Perth) [5.25] in moving the second reading said: This is a Bill to amend Section 42 of the Native Administration Act, 1905-1941. Section 42 deals with what are known as prohibited areas, that is, specified areas within which natives are not permitted to go, or to go except at certain times. The section reads—

> The Governor may by proclamation, whenever in the interests of the natives he thinks fit, declare any municipal district or town or any other place to be an area in which it shall be unlawful for natives not in lawful employment to be or remain, and every such native who after warning enters or is found within such area without the permission in writing of the protector or police officer shall be guilty of an offence under this Act.

In pursuance of that power, from time to time municipal districts or townsites have been declared prohibited areas for natives not in lawful employment. Sometimes there are prohibited areas for certain specified hours, such as at night between sunset and sunrise, so that by day the natives may enter the area and transact business and do shopping. One of the prohibited areas is that comprised in the City of Perth. The proclamation constituting the area of the City of Perth a prohibited area was made on the 9th March, 1927. It has recently been desired to review this proclamation as affecting the area comprised in the City of Perth, because it is thought to be a very large area and that it is unnecessary and undesirable that natives should be excluded from the whole area. It might be desirable to exclude them from the central city area and the parts immediately adjacent; but in the more distant parts of the city it is thought there are not now reasonable grounds for constituting such outlying parts as a prohibited area.

In particular, there is an area in East Perth where natives attend for recreation purposes, and it is hoped that the influence of this place, where dances are held, may be beneficial; but at the same time that place is inside the prohibited area and is forbidden to natives unless they proceed there by permit. However, when it came to be considered that the City of Perth area should be reviewed and contracted, it was found that, although there was power to proclaim a prohibited area there was no power to cancel or revoke the proclamation and no power to vary the boundaries of prohibited areas by contracting their size. As the law now stands, the advice of the law officers is that once a townsite, a municipal district or a place is proclaimed to be a prohibited area, it so remains for all time. Although the prohibited area may be added to, it cannot be contracted, nor can it be withdrawn from the prohibition.

The object of the Bill is to overcome this difficulty and to enable proclamations of prohibited areas to be revoked, or to enable the areas to be varied as to their boundaries. It is considered that there must be some degree of elasticity, because conditions vary from time to time and it may happen that a country townsite, which for certain purposes it might be desired to proclaim a prohibited area, might, after a while, in the opinion of the people and the municipal authorities, be a place to which no such prohibition should apply. Opportunity is taken in this Bill to delete the words in Section 42 "municipal district or town or other place" and to insert in lieu thereof the words "place or area specified or defined in the proclamation."

The advice of the law officers to the Department of Native Affairs is that the words "municipal district or town or other place" are limiting in their application, and that the purpose of the Act would be furthered by substituting words of wider application. The section is therefore to be amended to read that a proclamation of a prohibited area may be made as to any "place or area specified or defined in the proclamation." The measure is to remedy what was apparently an oversight in the drafting of the Act and to give the department more elasticity in dealing with prohibited areas. I think the Bill is desirable in the interests of our native population, and I move—

That the Bill be now read a second time.

On motion by Hon. A. A. M. Coverley, debate adjourned.

BILL—ROYAL STYLE AND TITLES.

Second Reading.

THE ATTORNEY GENERAL (Hon. R. R. McDonald—West Perth) [5.36] in moving the second reading said: The House will remember the passage this year through the Imperial Parliament of the Indian Independence Act. By the terms of that Act, the two Dominions of India and Pakistan were created. They were to be, and are today, Dominions within the framework of the British Commonwealth of Nations. They operate constitutionally on a basis similar to that of Australia, Canada and the Dominions, which we have hitherto had in the British family of nations. They have Governors-General, who are appointed by His Majesty the King; and the new Dominions, like the old Dominions, are under the sovereignty of the Crown.

Hon. A. H. Panton: Do you think they are acting in a constitutional way?

The ATTORNEY GENERAL: I do not suggest that internally they are acting in a constitutional way, but externally I think the constitutional aspect is all right.

Hon. F. J. S. Wise: They are given the authority of a constitution.

The ATTORNEY GENERAL: It will be all right after this Bill is passed. They may be gratified by the passage of this Bill by the Western Australian Parliament and it may assist them in the management of their affairs. When the British Government passed the Independence of India Bill, it included a paragraph in Section 7 in these terms—

> The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words "Indiae Emperator" and the words "Emperor of India" and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.

I do not propose to embark on any historical discussion of the term "Emperor of India," because I am not particularly competent to do so. It is obvious, however, from this British legislation that the term "Emperor of India" was deemed to be constitutionally incompatible with the status of India and Pakistan as self-governing Dominions within the framework of the British Commonwealth of Nations.

Hon. F. J. S. Wise: Did the request for this come from the Dominions Office through the Prime Minister's Department?

The ATTORNEY GENERAL: Not quite. It comes rather indirectly in a general way which I will suggest in a moment. Following the passage of the Indian Independence Bill, the Prime Minister of Australia introduced into the House of Representatives, on the 23rd October of this year, a Bill for an Act to assent to an alteration in the Royal Style and Titles of His Majesty the King. The Act has a preamble which refers to the Statute of Westminster and to any law touching the succession to the Throne or the Royal Style and Titles requiring the assent of the Parliaments of all the Dominions as well as of the Parliament of the United Kingdom. The

Federal Bill then goes on to recite the terms of the section in the Indian Independence Act which I have just read. The preamble then says it is desirable that the Parliament of the Commonwealth should assent to an alteration in the Royal Style and Titles being made in accordance with the provision of the Indian Independence Act. The Bill then proceeds to say that the assent of Parliament is given to the omission from the Royal Style and Titles of the words "Indiae Emperator" and the words "Emperor of India"; and it is provided that the Act shall come into operation on the day it receives the Royal Assent and that the date on which the omission of the Royal Title referred to becomes effective shall be notified by the Prime Minister by notice in the "Gazette."

As I understand the position, this being a matter of external affairs, the proper Parliament to deal with it as a constitutional phrase is the Parliament of the Commonwealth. But when it comes to a domestic matter, I consider it is necessary for the State Parliament to make its own provisions. The reason the State Parliament has to do that is that we have a number of Acts of Parliament and a number of regulations in which there are references to the Royal Title of Emperor of India, and there are forms to be used by public and official documents which contain that title. Unless we authorise their omission by a measure such as this, then under the authority of the statutes of our State the words "Emperor of India" must continue to be used, because that is a statutory phrase which is employed by those Acts which remain in force and which is part of the forms prescribed under a number of those Acts.

For example, in grants and leases under the Land Act, the term "Emperor of India" is prescribed as part of the form to be used. The same applies in connection with goldmining leases under the Mining Act and in the case of a Supreme Court writ, and certain processes issued under the Supreme Court rules by virtue of the Supreme Court Act of 1935. The Bill proposes that this measure shall take effect when proclaimed, and the intention is that that shall be when the Commonwealth Bill passes through the Commonwealth Parliament, as to which I am not certain at the present stage. It will be possible if this measure is approved by the House to proclaim it to come into operation and thereupon the necessary steps can be taken which it authorises.

It is felt desirable at this stage to pass the Bill so that it can be used without delay when needed. Otherwise it might be the best part of a year before a measure of this kind could be passed; and in the meantime the title of Emperor of India would be used in official and State documents of Western Australia. While I am not suggesting there would be any difficulty, at the same time I submit it is the proper attitude that we should adopt towards the newly formed dominion that we should be in a position—

Hon. A. H. Panton: I think you have us converted.

The ATTORNEY GENERAL: —to omit this title from our State documents when the proper time arrives, and thus not create any possible misunderstanding by continuing to use this title, as we would be compelled to do in the absence of a measure such as this. I move—

That the Bill be now read a second time.

HON. F. J. S. WISE (Gascoyne) [5.45]: I have no objection to the Bill going into Committee. The requirement with which it deals is something that is part of our inheritance under the Statute of Westminster. If there is anything likely to cause offence to or misunderstanding by our co-Dominion of India, I think that the Commonwealth of Australia would desire it to be removed. I fully appreciate that though there is nothing nation-rocking in it, there might be instances of possible misunderstanding if the term were not omitted.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—LICENSING (PROVISIONAL CERTIFICATES).

Second Reading.

THE ATTORNEY GENERAL (Hon. R. R. McDonald—West Perth) [5.48] in moving the second reading said: Under Section 51 of the Licensing Act it is provided that

an application may be made to the Licensing Court for what is called a provisional certificate—that is, a certificate the effect of which is that if a man erects premises in accordance with plans and specifications, and then applies to the court, he will be granted a license to sell liquor under the Act, usually a publican's general license. Section 61 provides—

> A provisional certificate shall be in the form in the Eleventh Schedule, and may be granted for any period not exceeding twelve months.

It soon became apparent, after the outbreak of war, that a number of provisional certificates had been granted just before the war, or in the early days of the war, and as to which the applicants would have no chance of complying with the requirements by completing the building of the premises within the normal twelve months. So, the Government of the day passed what is known as the Licensing (Provisional Certificate) Act, 1941, which provided that in the case of any provisional license granted after the 5th December, 1940—that was after the war had commenced—the right of the applicant to apply for a license was extended, and he was enabled to apply at any time during what the Act called the "prescribed period," which was the period from the 15th January, 1942, until the end of the war and twelve months afterwards. So, the effect of the 1941 Act was that any applicant holding a provisional certificate, which he had been granted after the 5th December, 1940, had his rights protected, and could apply for his license after having built the hotel premises, in accordance with the provisional certificate, at any time up to twelve months after the war had ended.

Hon. A. H. Panton: Was the 1941 Act for the Adelphi Hotel? A private member introduced that measure.

The ATTORNEY GENERAL: No.

Hon. F. J. S. Wise: That was about 1935 or 1936.

The ATTORNEY GENERAL: Yes. The 1941 Act is still in force because the decisions of the courts appear to be that the war is not yet ended. The latest decision to that effect is in the case of Dawson v. The Commonwealth, reported in Vol. 73, Commonwealth Law Reports, at p. 157. Now, two difficulties have arisen. The first relates to a provisional certificate granted to the Rottnest Board of Control. That certificate was granted on the 4th July, 1939, and was, possibly by inadvertence, not brought to the attention of the Government or the Licensing Court, so that it was not protected by the Act of 1941, because that measure did not apply to any provisional certificate granted in 1939. The Rottnest Board of Control intended, as members no doubt are aware, to erect an up-to-date hotel, but the island was taken over by the military authorities on the 1st July, 1940, so there was no possibility of the hotel being erected within the prescribed twelve months.

Hon. F. J. S. Wise: Are there any other provisional licenses that will come within the range of these dates?

The ATTORNEY GENERAL: There are one or two more which will be covered by this measure if it becomes an Act. A provisional certificate was issued for an hotel in North Perth. I am not aware of any provisional certificates having been granted in 1939, the holders of which are in the same position as the Rottnest Board of Control. That board received its certificate at a date earlier than the period which the 1941 Act prescribed for the protection of licenses. In addition to the difficulties caused directly by the war, as in the case of the Rottnest Board of Control, there are others connected with building materials, which have been applicable to all people who want to build, and particularly to those who want to erect premises like hotels which must be subordinate to houses. The difficulties in connection with materials not only exist today, but, in the case of holders of provisional certificates, will continue to do so for some years to come. The Act, although giving protection to all holders of provisional certificates coming within the period, may expire within 15 months if it were determined within a month or two that the war had come to an end. Sooner or later a proclamation to that effect will be made by the Commonwealth Government.

Mr. Marshall: It does not seem as if the war will come to an end over there for a while yet.

The ATTORNEY GENERAL: That is a different war.

Hon. J. B. Sleeman: Over where?

Mr. Marshall: At Canberra.

The ATTORNEY GENERAL: That war had not started when this Act was passed.

The 1941 Act may come to an end within 15 or 18 months if the war should be declared to be officially ended within the next three or six months. But the building difficulty will not be overcome for, perhaps, three or four years.

Hon. F. J. S. Wise: That is almost funny.

The ATTORNEY GENERAL: Let us hope it will be funny. In order to preserve the position of the Rottnest Board of Control and other applicants who hold provisional certificates but are not able to build, for some three or four years at all events, it is now thought best to bring down this Bill, of general application, to provide that provisional certificates obtained as far back as the 1st January, 1939, shall be protected and continue to be protected until the period of protection is terminated by proclamation of the Governor, which proclamation shall not be later than the 31st December, 1951. The protection shall continue for 12 months after the end of the prescribed period. By the Bill, a five-year period is, in effect, being granted, during which applications may be made for a license on complying with the terms on which the provisional certificate was granted.

Hon. F. J. S. Wise: Do not you think, since the provisional certificate holders would be known, it would be better to specify them?

The ATTORNEY GENERAL: I am quite prepared to entertain that suggestion. The matter was discussed with the Chairman of the Licensing Court, who thought the better course was to bring down a Bill of general application.

Hon. A. H. Panton: This is merely an invitation to hawk provisional licenses.

The ATTORNEY GENERAL: I do not suggest that.

Hon. A. H. Panton: That is the fact.

Hon. J. B. Sleeman: It looks like a special Bill for special people.

The ATTORNEY GENERAL: I can inform the hon. member that no representations have been made to me, except by the Rottnest Board of Control.

Hon. F. J. S. Wise: I think that is a valid representation.

The ATTORNEY GENERAL: All holders of provisional certificates will be anxious to build hotels and get into profit earning as quickly as possible. They are not going to hang back. As the Leader of the Opposition has suggested, I will secure a list of the certificates affected by the Bill and will supply him with that information.

Mr. Marshall: There is one certificate for a big hotel in West Perth. Do you know that district?

The ATTORNEY GENERAL: I do, and I can tell the hon. member that I have been approached by nobody interested in that West Perth hotel.

Mr. Marshall: Do you know of the granting of a provisional certificate there?

The ATTORNEY GENERAL: I am well aware of it, but there may be such hotels in any constituency, and I am not concerned about that. Some protection is necessary for hotels in this position, and I believe the Bill will meet the case that I referred to—it is a genuine case—and will continue the protection for a reasonable time, until those who hold such certificates are in a position to comply with the terms on which the certificates were issued.

Hon. E. Nulsen: It means protection until 1952.

The ATTORNEY GENERAL: Yes. They can apply for their licenses up to that period, and the court has power to grant licenses, on application, at any time within that period. The Governor has power to shorten the period by proclamation if he thinks that, by reason of more materials being available, a limit should be placed on the period for which protection is given.

Mr. Marshall: Twelve months having elapsed, there is nothing to prevent a provisional certificate holder renewing his application.

The ATTORNEY GENERAL: Applications for licenses are costly and it is hard to compel the holders to go through the whole procedure again. I do not care whether they have to go through it, but when conditions have been abnormal, due to wartime causes, it seems—as it seemed to this Parliament in 1941—reasonable to allow these people some time in which to put their houses in order.

Mr. Graham: Only a few nights ago we exempted licensed premises from certain wartime provisions.

The ATTORNEY GENERAL: That is so—repossession provisions. I move—

That the Bill be now read a second time.

On motion by Hon. A. H. Panton, debate adjourned.

BILL—GAS (STANDARDS).

In Committee.

Resumed from the 11th November. Mr. Perkins in the Chair; the Minister for Works in charge of the Bill.

The CHAIRMAN: Progress was reported after Clause 10 had been agreed to.

Clause 11—Pressure.

Hon. F. J. S. WISE: I do not know whether the Minister has paid close attention to the wording of this clause or can explain it clearly, but I think he must agree that it is poorly drawn. As at present worded it is difficult, unless one watches the punctuation closely, to understand just what it means. The clause reads —

An undertaker shall supply gas at such a pressure as will balance a column of water not less than an inch and one half in height at the main—

There is no comma there.

—at or as near as may be to—

There is no comma there.

—the junction of the main and the service pipe supplying the consumer.

I think the clause should read—

An undertaker shall supply gas at such a pressure as will balance a column of water not less than one and a half inches in height at the junction of the main, or as near as may be to the junction.

The Minister for Works: At the junction of the main with what?

Hon. F. J. S. WISE: At the junction of the main with the service to the householder. If the Minister will look at the schedule, he will find that it is provided that a "self-registering pressure gauge shall be at a point within 2 ft. of the building line of any premises to be connected to the inlet service pipe by a flexible or other suitable pipe which must be gas-tight." In the schedule it is definitely prescribed that the gauge shall be within 2 ft. of the building line and in the clause it says that it shall be "at the main at or as near as may be to the junction of the main and the service pipe supplying the consumer." Why is there any difference between the two provisions? Can the Minister explain it?

The MINISTER FOR WORKS: I admit that, as the Leader of the Opposition has presented the matter, there appears to be a disparity between the clause and the schedule. There may be, or there may not be, some reason for it. As for the matter of punctuation, irrespective of what we might do, the difficulty would still be there. The hon. member may be quite right in his contentions, but I am not agreeing that he is, far from it. The test has to be made at the main or as near as possible to the junction of the main and the service pipe, and, according to the schedule, it must be within 2 ft. of the junction of the two pipes. I do not think the punctuation is worth quibbling about.

Hon. J. T. TONKIN: The Minister made it clear that he learnt his lesson as he went along but he certainly did submit an explanation. The wording in the New South Wales Act is much clearer and it reads—.

A gas company shall supply gas at such pressure as will balance a column of water not less than two inches in height between the hours of 5 a.m. and 9 p.m., and a column of water not less than 1½ inches in height between the hours of 9 p.m., and 5 a.m. at the main or as near as may be to the junction therewith of the service pipe supplying the consumer.

That wording is preferable to the provision in the Bill. Whether or not the clause is grammatical, I certainly would not describe it as good English.

The Minister for Works: If it is not grammatically wrong, you cannot come to the conclusion that it is bad English.

Hon. J. T. TONKIN: One can have something that is quite grammatical, and yet it might not be good English. It is the Minister's Bill and, if people object to the wording later on, he will have to carry the blame. We have pointed out the position to him. We should not pass the clause until the Minister has furnished the information we sought from him as to why in the test the gas under pressure has to balance a column of water not less than 1½ inches in height at the main or as near as may be to the junction of the main and the service pipe for the full period, whereas in other legislation two inches applies for part

of the period and 1½ inches during the off period.

Sitting suspended from 6.15 to 7.30 p.m.

The MINISTER FOR WORKS: The member for North-East Fremantle submitted a comparison between the proposal in the Bill and the comparable section in the New South Wales statute. I imagine that one is not much different from the other; otherwise he would have moved an amendment. Had he done so, I would not have opposed it, because I see no difference between the two.

Hon. J. T. Tonkin: There is a difference.

The MINISTER FOR WORKS: But not substantial enough to prompt the hon. member to move an amendment.

Hon. J. T. Tonkin: You do not know. I asked a question.

The MINISTER FOR WORKS: And I have answered it so far as seems necessary at the moment. He also urged that the pressure represented by 1½ ins. should be increased to 2 ins. The hon. member, when speaking on the second reading, said Great Britain was working towards the time when all gas companies would have a 2in. standard. This implies that that standard has not yet been reached.

Hon. J. T. Tonkin: Nearly.

The MINISTER FOR WORKS: Therefore we have to assume that it is still 1½ ins. He quoted New South Wales and Queensland as following the 2in. standard. I gather that in Victoria, South Australia and Tasmania, the standard is 1½ ins. Admittedly the 2 in. standard would probably be better and might be an objective to be aimed at later, but it would be rather illogical at this stage to jump to that height.

Hon. J. T. Tonkin: What is the difficulty?

The MINISTER FOR WORKS: I do not know, but can the hon. member show what is wrong with the 1½in. standard which, I believe, is the standard in England?

Hon. J. T. Tonkin: It is not.

The MINISTER FOR WORKS: The hon. member said that England was moving gradually towards the 2in. standard. He also suggested that whereas 1½ ins. or 2 ins. might be satisfactory during the day-time when the greater pressure is needed, at night-time when the requirements are fewer, it might sink to a lower level. We have sufficient gas to meet the 1in. pressure at night-time as well as during the day, so I see no sound reason for altering the proposal in the Bill. I promised to give the member for Collie some idea as to the strength of Maitland coal, which I believe he wanted for the purposes of comparison.

Mr. May: Not necessarily Maitland.

The MINISTER FOR WORKS: Maitland coal is used here for gas-making and affords the best comparison. The heat content of Maitland coal is 14,000 B.T.U. and Co-operative, Proprietary and Stockton coal is 9,600 B.T.U.

Mr. May: You are wrong.

The MINISTER FOR WORKS: This information has been supplied from a source as authentic as any available in the State. A good deal of coal is being taken from the Cardiff seam and that coal is of 8,400 B.T.U.

Hon. J. T. TONKIN: I am disappointed in the Minister. I asked him when speaking on the second reading, to ascertain why it was not possible to prescribe for this State the same standard as is prescribed in New South Wales and Queensland—that is, a pressure of 2 ins. Obviously the Minister has forgotten about it.

The Minister for Works: I was asked a lot of questions and probably have forgotten a few.

Hon. J. T. TONKIN: But afterwards the Minister wrote the question down so that he could obtain the information.

The Minister for Works: Along the lines of the information I have supplied.

Hon. J. T. TONKIN: In New South Wales the provision is that the pressure shall be sufficient to balance a column of water of 2 ins. between 5 a.m. and 9 p.m., but between 9 p.m. and 5 a.m. it need be only 1½ ins.

The Minister for Works: I made reference to that.

Hon. J. T. TONKIN: But did not answer my question. The provision in Queensland is somewhat similar, but provides for the 2in. pressure between 5 a.m. and 10 p.m. and 1½in. between 10 p.m. and 5 a.m. Seeing that it is possible now to provide a better pressure during the time it is needed, why cannot we make provision for it in Western Australia? Obviously, greater pressure is required during daylight hours,

when domestic consumers are using gas. The Minister has not ascertained why it would be difficult to have the same standard here as elsewhere. He said that we should crawl before we walk, or something to that effect.

The Minister for Works: I think you are misquoting me.

Hon. J. T. TONKIN: Although the Minister did not use those actual words, that is what he meant. For his benefit I will read from the recommendations of the Committee of Inquiry, to which I have referred a number of times, and which was set up in 1945 in Great Britain—

Recommendations on gas quality, gas testing and meter testing: Each undertaking to maintain in any main or service pipe of not less than two inches in diameter a pressure not less than two inches in excess of the governed pressure.

The Minister for Works: Tell the Committee why the companies are not conforming to that recommendation and you will have answered your own question.

Hon. J. T. TONKIN: Which companies?

The Minister for Works: The private companies supplying gas in the Old Country.

Hon. J. T. TONKIN: I will answer that question.

The Minister for Works: Then we need not proceed further with the argument.

Hon. J. T. TONKIN: The big majority of the companies in Great Britain are supplying gas at that pressure.

The Minister for Works: Are you sure it is two inches?

Hon. J. T. TONKIN: I am positive.

The Minister for Works: Have you authoritative information?

Hon. J. T. TONKIN: I can get it for the Minister later on. It is referred to in the report of the Fuel Research Board.

The Minister for Works: But only showing that it is desirable.

Hon. J. T. TONKIN: No; the board deals with the present situation and then says that it recommends it should be statutory for all companies.

The Minister for Works: Quite so. The board recommends that.

Hon. J. T. TONKIN: We are making a statutory provision here.

The Minister for Works: But that is not the point we are at.

Hon. J. T. TONKIN: I think it is.

The Minister for Works: You are showing that the majority of private companies in the Old Country do conform to that standard.

Hon. J. T. TONKIN: They were providing a pressure of two inches before the Committee of Inquiry sat. That committee sees no reason why all the gas companies in Great Britain should not supply gas at a pressure of two inches. Can the Minister tell me why we cannot have such a pressure in this State? Is there any insuperable difficulty in the way? Surely, the Minister appreciates that a pressure of two inches would be better than a lower pressure.

Mr. Mann: Why?

Mr. Marshall: Obviously.

Hon. J. T. TONKIN: Did the hon. member ever try to boil a kettle of water?

Hon. A. H. Panton: He boils a billy.

Hon. J. T. TONKIN: I invite him to get up early enough and try to boil a kettle of water at Fremantle. He would find it a lengthy business.

Mr. Mann: Will you address the Minister on the point.

Hon. F. J. S. Wise: It is a hopeless task, I am afraid.

Hon. J. T. TONKIN: The Fremantle company is using the same class of coal to produce gas as is used in New South Wales, where the companies have to provide a pressure of two inches. Why cannot that pressure be provided here?

Hon. J. B. Sleeman: The Minister is prepared to argue the point over a half-inch.

Hon. J. T. TONKIN: The Minister ought to be sensible on this matter and give the Committee some adequate reason why he made this provision in the Bill instead of the more general provision which is in operation elsewhere.

The MINISTER FOR WORKS: The member for North-East Fremantle is aware that if I knew the answer to his question I would give it to him. He might recall that he asserts that on the occasion we discussed the matter he asked me certain questions along certain lines. I am stating in reply that I do not recollect his having

asked the question along those lines. I supplied information that I thought he wished to have.

Hon. J. T. Tonkin: Have you your notebook?

The MINISTER FOR WORKS: No. I took only mental notes so far as I remember.

Hon. J. T. Tonkin: No, you wrote this down.

The MINISTER FOR WORKS: I recall that. I might be able to find the notes and I might not. I am not deliberately trying to put the hon. member in the wrong. He asked me why it was impossible for this company to raise its pressure standard from 1½ inches to 2 inches. I do not know that it is impossible. I only know that the cost factor makes it impracticable, though why I do not know. I asked the hon. member the reason when he was on his feet, but evidently he does not know. There has been a suggestion submitted by the Minister for Education—not that I can follow it—that we should split the difference and make it 1¾ inches.

Mr. Marshall: A private arrangement between you two!

The MINISTER FOR WORKS: No. If it had been private I would not have submitted it to the Committee. However, I will have this matter inquired into. I do not think the value of the information obtained will be worth tuppence if we get it, but I will willingly try to get it for the hon. member in order to appease him. However, I do not want to hold up the Bill now. I badly want to get it through. But I will make the necessary investigations; and if I find the hon. member's suggestion is feasible, I will undertake to have the clause recommitted so that he can submit the necessary amendment.

Hon. J. T. Tonkin: That is better.

Hon. F. J. S. WISE: I think we should tighten up the wording of this clause to make it not only clear but almost identical with the provisions in the New South Wales Act. In order to achieve that I move an amendment—

That in line 3 after the word "main" the word "at" be struck out.

The Minister for Works: I raise no objection.

Amendment put and passed.

Hon. F. J. S. WISE: I move an amendment—

That in line 4 after the word "junction" the words "therewith of" be inserted.

Amendment put and passed.

Hon. F. J. S. WISE: I move an amendment—

That in line 4 after the word "junction" the words "of the main and" be struck out.

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

Clauses 12 to 15—agreed to.

Clause 16—Defect in heating power:

Hon. J. T. TONKIN: I move an amendment—

That a new paragraph be added to Subclause (1) as follows:—

"Where the quarterly average calorific value of the gas supplied by an undertaker is less than the declared calorific value the undertaker supplying such gas shall be liable upon summary conviction to a penalty not exceeding £200."

In this Bill the Minister prescribes that there can be some small limits of divergency from the declared standard. He allows for a divergency of up to two per cent. before any fine is imposed. So if the gas is tested on any day and there is a divergency which is not more than two per cent.—it might be 1.9 per cent.—there is no penalty. A gas company could go on supplying gas which was 1.9 per cent. less than the declared standard every day for 12 months and not be subject to a penalty. By the company supplying at less than the standard, especially if the gas was being sold on a calorific basis, the people would be paying for something they were not getting. I calculated that with a deficiency of 1.9 per cent. on average gas consumption, the amount would be about 2s. per quarter per consumer.

If there were 5,000 consumers, that would be £500 per quarter that the gas company would receive to which it would not be entitled. The only way to meet a situation like that is to provide that the quarterly average of the gas supplied must be not less than the declared standard. That would permit of a variation either way. A company might be supplying gas for one week at a standard which was 1.5, 1.6 or 1.7 below the declared standard and there would be no penalty for that. But the company would have to supply above its declared

standard for some other days in order to balance up and if it is given a quarter in which to average out, no hardship will be imposed. This would ensure that the company would not benefit from the small limits of divergency which, of course, must be provided. This idea is not original but is a recommendation of the Gas Industry Committee of Inquiry. At page 31 of this report, paragraph 180, we find the following:—

We therefore recommend a stricter control of gas quality and distribution pressure and suggest the following statutory obligations:—

(1) Each undertaking shall declare a calorific value and specific gravity for its supply, the limits of declared calorific values to be 450-500 B.Th.Us. per cubic foot.

The undertaking shall then be required to adhere to the declared values within the following limits of divergency which shall not be exceeded for any period of two hours or upwards:—

Calorific value	.. ..	3 per cent.
Specific gravity	.. ..	5 per cent.

What follows is the important part—

The quarterly average calorific value shall not be less than the declared calorific value.

That is made as a recommendation to meet the point I have just outlined. I have suggested a penalty of £200 because it is less than the benefit that would accrue to the company if it continued to supply, for a full quarter, gas which was 1.9 per cent. less than the prescribed calorific value. By doing that the company would gain about £500 per quarter. A penalty of £200 would, therefore, not be excessive. But I believe that, in addition to that penalty, a company could not easily keep so close to the margin, if it was endeavouring to benefit from that small limit of divergency, but would go well below on some days when it would be subjected to the other penalties as well. In such a case, there would be the dual penalty. My amendment would not impose any hardship on the company, but would ensure a fair deal to the consumers.

The MINISTER FOR WORKS: I detect no fault in the argument of the member for North-East Fremantle. What he has to say contains a few technical elements which are beyond me, but I will make inquiries about them. The penalty seemed unduly high at first, but as it is not to exceed £200 it will be possible for it to be graduated according to the nature of the fault.

Mr. MAY: I again draw the Minister's statement to the severe penalty which it is proposed to impose when the gas is not up to the required calorific standard. If Eastern States' coal cannot be obtained, and the undertakers have to use Collie coal, what will be the position? I want to refer to the figures already given by the Minister, in connection with calorific values of native coal, and I wish also to quote from the report of the Department of Mines, laid on the Table of the House this afternoon, as follows:—

Collie coal. By invitation of the South Australian Government, samples each of approximately one ton of coal from Proprietary and Griffin Collieries were sent in sealed containers to South Australia for drying tests in the experimental Fleissner steam-drying plant at Osborne. This process aims to improve the keeping qualities of the coal as well as achieving a high degree of drying. The coals of these tests were taken from large (screened) deliveries from the two mines in August, 1945. The results of those tests were:—

	Proprietary Coal		Griffin Coal	
	Raw coal	Dried coal	Raw coal	Dried coal
Heating value B.T.U. pound gross	9380	11030	9840	11720

Referring to the clause under discussion, I again ask the Minister to protect our own fuel as much as he can.

The MINISTER FOR WORKS: The problem which the member for Collie seems to think exists is covered in an earlier part of the Bill. He has said that satisfactory tests with Collie coal have been made, and I do not deny that. I hope that further tests will convince the departmental officers concerned that it is all right.

Mr. May: They are the latest figures.

The MINISTER FOR WORKS: Yes, but there may be many more to come.

The CHAIRMAN: Order! I hope the Minister will relate what he is saying to the amendment.

The MINISTER FOR WORKS: I am relating my remarks as much as did the member for Collie.

Hon. J. T. TONKIN: The Minister could easily have supplied the answer to the inquiry by referring the member for Collie to the Bill.

The Minister for Works: I did that, but I appoint you my deputy to make a further explanation.

Hon. J. T. TONKIN: The point raised by the member for Collie is pertinent, be-

cause it would be wrong to impose a drastic penalty if there might be circumstances which would make it impossble for the undertaker to meet the requirements of a particular section. Subclause (4) indicates that the penalty shall not be incurred if it can be shown that the defect was due to circumstances beyond the control of the undertaker. It would only be necessary for him to point out that he was unable to comply with the standard owing to such circumstances.

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

Clause 17—agreed to.

New Clause.

Hon. J. T. TONKIN: I move—

That a new clause be inserted as follows:—

18. No meter shall be issued for the use of a consumer by an undertaker until it has been first tested and stamped by a gas examiner in accordance with the regulations. Within 12 months, or such further time as the Minister deems necessary, after the commencement of this Act, every meter in use on the premises of any consumer at the commencement of this Act shall be so tested and, if found accurate, stamped.

All meters issued by an undertaker and in use shall be again tested and, if found accurate, re-stamped at intervals of not more than seven years.

A consumer cannot take a supply of gas from an undertaker except through a meter. In the Minister's Bill a consumer is a person entitled, in accordance with the provisions of the measure, to receive a supply of gas from an undertaker. It is only right and proper that, when fixing gas standards, we should ensure that the consumers get the quantity of gas that they pay for.

The Minister for Works: What bearing has that on the measure?

Hon. J. T. TONKIN: A lot. I am showing that the amendment is relevant to the Bill. Although gas of a certain standard is supplied at a certain pressure, if the meters are not accurate the consumers cannot know that they are receiving the quantity of gas that they are paying for. The amendment will ensure that the meters are accurate and in good order. If it is right to provide for pressure gauges and so on, it is right to provide for accurate metering. It would be better for the consumers to have gas of a lower quality and receive the quantity they pay for than to pay for a quantity of high quality gas and receive less than they pay for. At present the consumer has no guarantee that the meter is accurate.

The CHAIRMAN: With regard to the proposed new clause, there does not seem to be any provision in the Bill that deals with the quantity of gas supplied to consumers, and Standing Order 281 reads—

Any amendment may be made to a clause, provided the same be relevant to the subject-matter of the Bill . . . . .

The new clause would appear to come within that category. The interpretation sets out—

"'Subject-matter of a Bill' means the provisions of the Bill as printed, read the second time and referred to the Committee."

There seems to be no provision in the Bill regarding the quantity of gas sold to a consumer. The measure is concerned with the testing of gas, the pressure of gas, but in no place can I find any mention of the quantity of gas sold to a consumer. I must therefore rule that the proposed new clause does not come within the scope of the subject-matter of the Bill and is therefore out of order.

Dissent from Chairman's Ruling.

Hon. J. T. Tonkin: I regret having to do so but I must dissent from your ruling, Mr. Chairman, because I think you are quite wrong.

[*The Speaker Resumed the Chair.*]

The Chairman having stated the dissent,

Mr. Speaker: I have examined the reasons for the dissent from the ruling and I uphold the ruling given by the Chairman of Committees.

Hon. J. T. Tonkin: Surely, Mr. Speaker, you are going to hear from me some elaboration of the reasons I submitted in support of my dissent from the Chairman's ruling. That is usual before the Speaker gives his ruling. Surely this is a most extraordinary procedure!

Hon. F. J. S. Wise: It is a most extraordinary attitude.

Mr. Speaker: Does the hon. member propose to move to disagree with my ruling?

Hon. J. T. Tonkin: Your action, Mr. Speaker, forces me to do so.

Hon. F. J. S. Wise: Surely you should have been heard first.

Dissent from Speaker's Ruling.

Hon. J. T. Tonkin: Most decidedly. I move—

That the House dissent from the Speaker's ruling.

It is most unusual for Mr. Speaker to give a ruling without having the points at issue placed before him. I am in the position of having to adopt a course I am very disinclined to take. I feel so strongly with regard to the amendment which I placed on the notice paper and which I have no doubt conforms to the Standing Orders, that there is no other way out of it. I must move to disagree with the ruling. The reasons I submitted in dissenting from the ruling of the Chairman of Committees are those I would urge in opposition to Mr. Speaker's ruling. I take it, Mr. Speaker, that you desire your ruling to stand and do not wish to hear me first.

Mr. Speaker: In support of the motion before the Chair, I could hear the hon. member's reasons for disagreeing.

Hon. J. T. Tonkin: The Chairman of Committees ruled that the new clause was out of order under Standing Order 281 because it was not within the scope of the Bill, but that Standing Order refers to matters being within the scope of the Title. Dealing with that point first, the Title of the Bill is that it is "for an Act to amend the law with respect to the supply of gas." I would like to know how gas can be supplied except through a meter. As the proposed new clause I submitted deals with the provision of meters, it certainly has something to do with the supply of gas and therefore is well within the Title. Furthermore, the short Title of the Bill shows that it is cited as the Gas (Standards) Act. In the measure the standard is fixed at so many B.T.U. per cubic foot. How could one get so many B.T.U. per cubic foot without having a meter with which to measure the supply? How does a consumer know that he is getting 450 B.T.U. per cubic foot unless he has a meter with which to measure the gas?

Hon. A. R. G. Hawke: He could not possibly know.

Hon. J. T. Tonkin: As to the amendment being within the scope of the Title, I do not think there can be any shadow of doubt.

Hon. A. R. G. Hawke: None whatever.

Hon. J. T. Tonkin: As to whether the proposed new clause is relevant to the subject-matter of the Bill, the measure deals with the provision of gas and its quality, purity and pressure, while the calorific value of gas per cubic foot is also mentioned. The only way that they can be gauged is by measuring the quantity of gas that is being supplied, and the Minister's Bill refers to consumers. It sets out that a "consumer" means—

A person receiving or a person entitled in accordance with the provisions of any Act to receive a supply of gas from an undertaker to which this Act applies.

A consumer cannot receive a supply of gas unless a meter is installed, and therefore in providing for a meter it is just the same as in providing for a main. It might just as well be ruled that, if I moved an amendment with regard to the size of a main or where the apparatus for testing the pressure was to be placed on the main, I would be out of order. A meter is just as much a part of the supply line as the main itself because there could be no question about the purity, quality or anything else if there were no meter. Standing Order 264 reads—

No clause shall be inserted in any such draft foreign to the Title of the Bill, and if any such clause be afterwards introduced, the Title shall be altered accordingly.

Who can say that the new clause is foreign to the Title of the Bill, the Title being a Bill for an Act to amend the law with respect to the supply of gas?

Hon. A. H. Panton: If the clause were foreign to the Title, it could be amended.

Hon. J. T. Tonkin: As the member for Leederville has said, if the clause were foreign to the Title, it would be competent for the Committee to amend the Title to permit of the inclusion of the clause. For these reasons, which I had hoped you would hear before giving your ruling, I have moved to disagree.

Mr. Perkins: The question at issue is whether the proposed new clause is within the subject-matter of the Bill. There is no question of the Title of the Bill being involved.

Hon. A. H. Panton: That is the Standing Order you read.

Mr. Perkins: The Standing Order I read is No. 281, which states—

> Any amendment may be made to a clause, provided the same be relevant to the subject-matter of the Bill, or pursuant to any instruction, and be otherwise in conformity with the rules and orders of the House; but if any amendment shall not be within the Title of the Bill, the Committee shall extend the Title accordingly, and report the same specially to the House.

The question to be decided is whether the new clause is within the subject-matter of the Bill. If members consider the Bill clause by clause, they will find that in no clause is any mention made of the quantity of gas supplied to the consumer. I suggest that that is the relevant point. The member for North-East Fremantle is right in contending that it is a point which vitally affects the consumer, but unfortunately it is not within the subject-matter of the Bill and cannot be dealt with under this Bill, but must be dealt with under some other measure.

Obviously, from the hon. member's remarks, there is legislation under which the metering of gas for consumers can be dealt with. He mentioned that the local authority in his area had power to check meters, but had not done its job. He showed clearly that the metering of gas to the consumer or the checking of meters could be dealt with in other ways. Separate provision is made for checking scales used in shops and also for checking weighbridges and similar devices. If some such provision had been included in the Bill, the hon. member would have been in order in moving his new clause, but as there is no mention in the Bill of checking the quantity as distinct from the pressure and quality of the gas delivered to the consumer, the new clause conflicts with Standing Order 281 and is outside the subject-matter of the Bill.

Hon. F. J. S. Wise: If this question is to be decided on the last point raised by the member for York, I submit that it will not bear examination. This Bill is for an Act to amend the law with respect to the supply of gas. In arranging for a supply of gas from a company in a general way, there are provisions to govern such arrangements. It is quite wrong to say that there is no provision in the Bill to provide for a measure of quantity. I refer you, Mr. Speaker, to Clause 4 (3) in which specific mention is made to "a quantity of gas" which an undertaker in any period of 12 months shall supply. The wording of the clause is—

> The Minister may, by notice published in the "Gazette," and upon and subject to such terms and conditions as the Minister may stipulate in the notice, declare that the provisions of this Act, other than Subsection (2) of this section, shall not apply to any undertaker, which, in any period of 12 months expiring on the thirtieth day of June in any one year, shall have sold less than a quantity of gas, not being more than twenty-five million cubic feet . . . . .

Mr. Rodoreda: Subclause (2) is still more relevant.

Hon. F. J. S. Wise: In prescribing for a measured quantity of gas, which can only be measured through a meter, there is distinct relevancy between the new clause, and the Title and scope of the Bill. Subclause (2) deals with "the amount of gas" disposed of during the 12 months by any undertaker, and imposes certain conditions regarding the quantity so supplied. Although there is no mention of the word "meter" in the Bill, the measurement of gas can be made only through meters, and the new clause is designed to arrange on behalf of consumers for the provision of meters. Throughout the Bill there is specific mention of measurement of gas to be supplied by the undertaker.

Hon. J. B. Sleeman: I consider that the new clause is certainly relevant to the subject-matter of the Bill. The measure is for an Act to amend the law in respect of the supply of gas. Mention is made of meters and the measuring of gas, and it is impossible to get gas without a meter. In North Fremantle where the pipes have been down for years, because there are no meters, people cannot get gas. Certainly provision is made for the measurement of gas. How could anyone tell how many million feet had been consumed unless there was a meter? For those reasons, I regard the new clause as relevant to the subject-matter of the Bill and I think your ruling is wrong.

Mr. Graham: I would particularly draw your attention, Mr. Speaker, to Clause 7,

Subclause (1). Amongst other things it states—

> the sum payable by the several undertakers shall be calculated at the rate of not more than one farthing for every two thousand cubic feet of gas sold by them . . . .

If this clause is dependent upon the quantity of gas sold, obviously it has to be measured, and to be measured it has to pass through the meters of the consumers. The new clause contains certain provisions regarding the introduction and supply of meters, and is in accord with the provision in the clause I have quoted. I suggest that, as you obviously gave your decision upon exceedingly short notice and did not have an opportunity to peruse the Bill closely nor to consider the several clauses which have been pointed out to you—I think the one I mentioned is in point—you might be prepared to reconsider your ruling.

Mr. Fox: I would like to hear some of the legal authorities on the opposite side of the House express an opinion on this matter. It is remarkable how silent they are. Is it out of a sense of loyalty to you, Sir? I consider they are not taking up a right attitude.

The Chief Secretary: We have not had a chance yet.

Mr. Fox: I am rather surprised that four legal men in the Government are not prepared to express an opinion on this amendment. The proposed clause would make a lot of difference to the people who use the gas. How is the gas to be measured if there are no meters? There is no possibility of measuring it at the source of supply. If it is left to the company to measure the gas, there is no saying what it might do if it were unscrupulous.

Hon. E. H. H. Hall: Oh!

Mr. Fox: Many business people are unscrupulous, as we know from the fact that they are brought before the court every day. That is in reply to the hon. member's "Oh." I consider the clause is relevant to the Bill, because the quantity of gas is mentioned in several places. I point out, Sir, that you gave your ruling before you heard any argument at all, and I do not believe you would lose any dignity if you took time to reconsider your decision and reversed it. I would like to hear some legal expression of opinion on the point.

The Minister for Education: The ruling of the Chairman which you, Sir, have upheld, has, in my 12½ years' experience in this House, been supported, I would say, by many Speakers and Chairmen of Committees, some perhaps even more eminent than those who hold the present positions. During my first two or three years as a member, in my inexperience and with my obvious lack of knowledge I subscribed most wholeheartedly to the view which has been expressed by the member for North-East Fremantle and others who have addressed themselves to this subject; but I am afraid it was not very long before my education was completed, or very nearly completed, on this matter. I learnt to my regret on five or six occasions that, though a matter might obviously be within the Title of the Bill even if it were not within the scope of the Bill as introduced, printed and passed at the second reading stage, it could be ruled out of order.

The member for Fremantle himself, quite learned in Standing Orders even at that time, was in 1935 most unfortunately ruled out of order on this very ground, and on a matter which would appear to be far more relevant to the Bill which was then before the House, and indeed within the scope of the Bill then before the House, to a much greater degree than that which the member for North-East Fremantle seeks to persuade the House that his clause is within the scope of the present measure. The Bill to which I refer was introduced by the then Minister for Lands (Hon. M. F. Troy) and it afterwards became the Act under which Co-operative Bulk-handling Ltd. carries on its operations. The member for Fremantle at that time was somewhat concerned as to the effect that the installation of bulk-handling at Fremantle might have upon some of his constituents. In order to preserve their interest he proposed to tack on to the end of Clause 1, which provided for the Bill to come into effect on a date to be fixed by proclamation, these words—

> but not until such time as the men displaced in the industry are adequately provided for either in suitable employment or with monetary assistance until such time as those employed in bulk handling have their hours reduced to four hours a day.

Hon. J. B. Sleeman: You have picked a poor comparison.

The Minister for Education: No, it is not. If the hon. member will listen to what the then Minister for Lands said, he will find the case is almost on all-fours with the one before the House. The Chairman gave his ruling, which will be found at page 2284 of "Hansard," 1935, vol. 2, as follows:—

I rule that the amendment is relevant. I could state a reason in support of my ruling, but I shall not do so.

"Hansard" continues—

The Minister for Lands: I think you are wise, Mr. Chairman, in not stating your reason! I shall leave the amendment to the Committee. I told the member for Fremantle the other night that while the Government sympathised with his objective, they could not agree to an amendment of this description. Provision will have to be made in some other direction, and there are many ways open to the hon. member. I am sure Parliament and the Government will do their best to meet the situation that may arise.

Hon. J. B. Sleeman: What has that to do with this matter?

The Minister for Education: Quite a lot, as I shall show in a moment. The then Minister for Lands moved that the Committee dissent from the Chairman's ruling. After the Speaker had resumed the Chair, the Chairman stated the dissent. The report continues—

Mr. Speaker: Does the member for Fremantle desire to speak to the dissent?

Mr. Sleeman: I think the Chairman was correct in his ruling. The amendment deals with the time when the Bill shall come into operation. The title says that the Bill shall come into operation on a date to be fixed by proclamation. The amendment simply states that the proclamation shall not be made until certain things have been done. It is quite relevant to the clause. It provides that the Bill shall not come into force until the men who are displaced in industry are provided for. What could be more relevant than to provide for the men this Bill sets out to displace?

That, broadly speaking, is the point which has been taken by the member for North-East Fremantle.

Hon. A. H. Panton: Very broadly!

The Minister for Education: We now have the Speaker's ruling.

Hon. J. B. Sleeman: Who was the Speaker?

The Minister for Education: I am unable to say who was the Speaker in 1935. I think he was the member for Leederville.

Hon. A. H. Panton: Whatever ruling I gave would be right.

The Minister for Education: The Speaker's ruling was as follows:—

The member for Fremantle has moved an amendment to add to the title of the Bill a provision that it shall not come into operation until the men displaced in industry are adequately provided for, etc. The Minister for Lands has moved to disagree with the Chairman's ruling. Standing Order 277 reads—

> Any amendment may be made to a clause provided the same be relevant to the subject matter of the Bill, or pursuant to any instruction, and be otherwise in conformity with the Rules and Orders of the House; but if any amendment shall not be within the title of the Bill the Committee shall extend the title accordingly, and report the same specially to the House.

The procedure of Parliament is that any amendment must be not only relevant to the Bill, but must not be beyond the scope of the Bill. Those are the two fundamentals of amendments to be made to any Bill in Committee. The first thing I have to consider is whether the amendment is relevant, and secondly whether it goes beyond the scope of the Bill. The Bill is to provide for an Act relating to the bulk handling of wheat by Co-operative Bulk Handling, Ltd.; that and no more. The amendment provides that the Bill shall not come into operation until such time as the men displaced in industry are adequately provided for. I must therefore uphold the contention of the Minister for Lands that the amendment is out of order.

Now we are in just the same boat today.

Opposition Members: No!

The Minister for Education: Yes, precisely the same boat.

Hon. A. R. G. Hawke: Terrible!

The Minister for Education: This Bill sets out to deal with the question of the supply of gas. But it does not mention measurement except in one paragraph having reference to the type of company to which the Bill shall apply. That is the only reference there is to measurement at all. It does not refer to the measurement of gas one way or another.

Hon. J. T. Tonkin: It refers to the amount of money that has to be paid in accordance with the gas sold.

The Minister for Education: There is no reference anywhere to the assessment for which the hon. member seeks to provide in his amendment. I said at the beginning that I held the view once and would gladly hold it again on many occasions were it not for the education I have received that the opinion submitted by the member for North-

East Fremantle is right. But I have been disabused of that idea quite successfully because of the fact that these rulings have been given and upheld on many occasions by this House so that there is no doubt whatever about the position. It might be competent to disagree with the ruling given by the Chairman of Committees and upheld by yourself, Sir, but there is no doubt about it. If further evidence were wanted we might find some more.

Hon. J. T. Tonkin: Let us hope it would be better than you have given us.

The Minister for Education: That was good evidence.

Hon. A. R. G. Hawke: It was not evidence at all.

Mr. Yates: It was excellent evidence.

The Minister for Education: Seeing that the member for Fremantle wanted legal advice I would tell him that it was on all fours with the present instance. He will not find a better case than that.

Mr. Fox: The Minister's advice would not be worth 6s. 8d. unless it was better than the last evidence he produced.

The Minister for Education: Fortunately the member for South Fremantle is not obliged to pay for good advice on this occasion.

Mr. Fox: I will be getting it at its true value.

The Minister for Education: We had an occasion once in 1945 where the Minister for Lands, as he then was—and I again refer to my pleasant friend, the member for Leederville—was of the opinion that an amendment moved by the member for North Perth to the Administration Act was out of order, although it purported merely to amend a section of that Act which the Bill then before the House actually proposed to amend.

Hon. J. B. Sleeman: If it was moved by the member for North Perth, you can rely upon it that it was out of order!

The Minister for Education: Notwithstanding the views held by the Minister for Lands at that time, the Deputy Speaker, the member for Roebourne, upheld the member for North Perth because obviously on that occasion an amendment to the same section of the Act as the Bill itself proposed to amend could hardly with any reason at all be declared to be beyond the scope of the Bill. But it is interesting to note how strongly the member for Leederville held to the view that the ruling he had given as Speaker in 1935 was still sound law, or sound Standing Order of this House. Notwithstanding that this amendment was one which did have a definite relativity to the subject-matter of the Bill, unless—it was clearly indicated by the hon. gentleman—the relativity of the amendment to the scope of the Bill was so clear and well defined as to be incapable of any misinterpretation whatever, then in no circumstances should it be allowed to be put in the measure. But, as I said, on that occasion the member for Roebourne was Deputy Speaker and took the contrary view and the matter went no further, in the absence of the Speaker for the time being.

I have no hesitation in saying that if we are to follow the practice laid down in this House over a long period of years on this question of amendments being ruled out of order unless clearly and without question within the scope of the Bill, then your ruling, Sir, has to be supported on this occasion. If we do not support your ruling, we immediately lay every Bill that comes before this House open to the insertion of questionable amendments quite outside the Standing Orders as they have been interpreted and upheld for many years—12 to my own knowledge. While I would not, in any circumstances, have raised the point of order against the member for North-East Fremantle in regard to this matter, I feel that the point having been taken by the Chairman, and properly stated in accordance with the practice that has prevailed in this House and in accordance with Standing Orders, we cannot do anything else but uphold the ruling given.

Hon. A. H. Panton: I agree to a large extent with the Minister that we should follow previous practice and I very respectfully suggest—I repeat that I respectfully suggest—that the practice in this House over the 20 years I have been here has been that when a Speaker has been called on to uphold or disagree with a ruling by a Chairman, he has given both sides an opportunity to state their case. If I may say so, I think you were very wrong in giving a decision without hearing either side. To return to the Minister, I say definitely that

the case of 1945 which he quoted is not comparable with this one at all. I was obviously wrong on that occasion, because the Deputy Speaker gave a ruling against me and I did not have the temerity to challenge his decision. The Minister has told us what the member for Fremantle was endeavouring to do in 1935, and that was to make provision for men it was thought would be displaced by bulk-handling. There was no provision for that in the Bill. It has already been stated on more than one occasion tonight that gas cannot be measured except through a meter. Quite obviously the Chairman did not read the Bill when he gave his decision and you, Mr. Speaker, did not take time to do so. The fourth paragraph of Clause (1) of the Schedule reads—

> In order to test the gas for calorific value when a flow calorimeter is used, the gas shall first pass through an efficient meter and governor.

In those circumstances, the case in which a ruling was given in 1935 is not comparable in any shape or form with the present instance, because there is no question about a meter being provided in this Bill. As I have read, provision is made for an efficient meter and governor and measurement would be made through that meter. I am not going to ask you to retract, Mr. Speaker. To get you out of trouble we will have to carry a motion disagreeing with your ruling. You have been in this House a long time but have not had a great deal of experience as Speaker. I would therefore point out that if your ruling is allowed to stand, then in 10 years' time the member for Middle Swan, who will be a little older then, will quote that ruling and say it must have been right because the House was not divided on it. Then there is the member for Canning. He looks a bright lad and he might quote it, too. Speaker's rulings are always used some years afterwards. The Minister for Education went back to 1935.

The Minister for Education: If I had had more time I would have found many more instances.

Hon. A. H. Panton: But they would not be comparable.

The Minister for Education: Yes, they would.

Hon. A. H. Panton: If, when I was Speaker, I gave a ruling, I was in the hands of the Chamber just as you are, Sir. If members disagreed with me, I still considered I was right. If you, Mr. Speaker, had heard the argument, you would have come to a different decision. I hope that in future you will listen to the arguments. It is not a question of my saying anything detrimental to the Speaker who, like everyone else, is human and liable to make mistakes. His decisions are in the hands of the House. Whatever will be decided tonight will stand until it is upset by some subsequent ruling. I hope the motion disagreeing with the Speaker's ruling will be carried.

Mr. Hegney: I support the motion to disagree with your ruling Mr. Speaker. I am not going to criticise your action in giving a decision without hearing the evidence. We are all subject to being caught on the hop, as it were. You, Sir, heard the Chairman outline his case and made a decision on his statement. I do not think you intended to make a decision without hearing arguments for and against the ruling. I am not going to turn to precedent. We ought to judge each case on its particular circumstances. I have studied the Bill fairly closely, and I was amazed when the Chairman of Committees, in outlining his reasons, said that there was no reference to meters in the Bill. As I interpret the subject-matter of the Bill, the amendment of the member for North-East Fremantle is well and truly within its scope. I am not going to reiterate what has already been pointed out, but on at least four occasions in the Bill reference is made to measurements.

There is also the inference in regard to the definition of consumer and undertaker. Reference is made there to supplies of gas and the inference quite definitely, apart from the other provisions, is that it must relate, indirectly at least, to some measurement. The Minister for Education put forward a very strong argument with a very weak case when he endeavoured to make a comparison between this matter and what happened in 1935. I do not see that there is much similarity between that case and this. The Chairman of Committees gave as his definite reason that there was no provision in the Bill with respect to meters or measurements. That has been clearly

and definitely disproved. For these reasons, I regret I must disagree with his ruling and at the same time with yours, Mr. Speaker.

Hon. A. R. G. Hawke: Your action, Mr. Speaker, in judging this matter before any evidence was given, was indeed most unfortunate. I feel confident that if you had had the opportunity of hearing the case against the Chairman's ruling before coming to a conclusion, you would have given a different decision altogether. If you read the Bill, particularly Clauses 4 and 7 and the schedule, you will find that the process provided for could not possibly be operated without the use of meters. The Bill uses the word "meter" in at least one place and it sets down certain procedures to be followed, which could not physically be followed except with the use of meters. They are necessary to test the measurements and see just how much gas is being made and supplied by the different undertakers. The Minister for Education, out of an admirable spirit of loyalty to you, Sir, put up the best case he could in respect of your ruling. But his case was so weak that he was forced to draw a comparison between two sets of circumstances that were entirely different.

The Attorney General: The word most used in the Bill is "undertakers." What do you make of that?

Hon. A. R. G. Hawke: To suggest that the amendment proposed to be moved to the bulk-handling Bill, stipulating that that measure should not be proclaimed until some wharf-labourers at Fremantle had been provided with full, alternative work, or reasonable alternative work, would compare with the one under discussion, is surely stretching legitimate comparison beyond breaking point.

Mr. Yates: They are different circumstances, but the principles are the same.

Hon. A. R. G. Hawke: The principles are entirely different. Members will all agree that we could not, by any stretch of imagination, try legitimately to put into the Bill to establish a bulk-handling organisation, something to say that workers employed at Fremantle, who might be disemployed as a result of the introduction of bulk-handling, should be provided with alternative work before the Act could come into operation. There is a world of difference between that proposition and the amendment of the member for North-East Fremantle to include in this Bill a clause saying that meters which will measure gas shall be tested and stamped in accordance with the regulations.

The Minister for Education: You cannot have gas without meters, or bulk-handling without workers.

Hon. A. R. G. Hawke: Whether or not there is something included in the Bill about testing meters, they will still be used. Obviously, the new clause would be relevant and proper even if the word "meter" were not mentioned in any part of the Bill or schedule. The word "meter" is mentioned in the schedule, and consequently any amendment to the Bill, including any new clause dealing with meters, in my opinion is completely in order. In view of the fact that you gave your decision on the matter, Mr. Speaker, before hearing evidence from the Chairman of Committees, or anyone either for or against the Chairman's ruling, I hope you will, if possible, withdraw that ruling and give an opposite one, or, if you are not inclined to do that, I think it is the duty of the majority of members in this House to vote against your ruling, much as they will feel disinclined to do so.

Mr. Rodoreda: Much has been said about precedent and the customs of this House. I hope your action tonight, Mr. Speaker, will not create a precedent, and that neither you nor any other Speaker during the life of this Parliament will give another verdict before hearing the evidence. You heard only one side of the matter, and no opportunity was given to those holding opposite views to put them before you. I hope that will not occur again. I regret the incident, and believe that you also regret it. The Minister for Education is the only one, so far, that has come to the assistance of yourself and the Chairman of Committees. While I was Chairman of Committees I endeavoured to give the benefit of the doubt to the mover of an amendment, if there was any doubt about its being relevant to the Bill.

The Minister has quoted an instance of where I refused to allow an objection by the then Minister for Lands. He endeavoured to quote analogies, but there can be no analogy here. The point is whether the question under discussion is relevant to the subject-matter of the Bill. Each instance

must stand alone. Once it is found that the question is irrelevant there is no doubt about the duty of the Chairman and yourself to rule it out of order. The only subject under discussion is whether the amendment is relevant to the Bill. Nothing that has been said can affect that. It is purely a question of interpretation, and I have no doubt that the amendment is entirely within the scope and subject-matter of the Bill. Quantities of gas are mentioned throughout the Bill. Both the Minister and the Chairman of Committees base their arguments on the point that nothing is said in the Bill about quantities, and that it is a question of standards and pressure. A cursory examination of the Bill shows that quantities are mentioned right through it. There is no known method of measuring gas except by the use of meters.

The Attorney General: It is easy to assert relevancy to a Bill by a process known conversationally as chain-talking. That is to say that the last word or two suggests some new idea and one starts off on that, and continues the process ad infinitum. After all, this is not a matter of the Title but of the scope of the Bill, the short Title of which is a "Gas (Standards) Bill." It is not a "Gas (Volume) Bill." The measure deals with three matters. The first is the companies to which it applies, which are arrived at by the quantity of business that they do—which is not concerned with meters, but with the volume handled by their apparatus. The second is the testing of the calorific value of the gas. The third is the penalties that apply for failure to maintain the calorific standard.

Hon. J. T. Tonkin: The fourth is payments to the commission.

The Attorney General: They are incidental matters that do not subtract from the main purpose of the Bill. There is an Act called the Sale of Goods Act, which defines a sale as the transfer of property and goods in exchange for a monetary consideration which is called a price. That Act regulates matters concerning the sale of goods for money. Under such a Bill we could not introduce an amendment dealing with currency, although money is an integral part of every sale.

Hon. J. T. Tonkin: But you could introduce an amendment regarding goods.

The Attorney General: Yes, but this Bill does not deal with meters. It deals with the testing and determination of another factor. Gas production involves machinery, but we could not introduce an amendment to deal with the inspection of machinery, as that would be outside the scope of the Bill. We cannot have gas without coal, but we could not therefore legislate by amendment to deal with matters affecting coal supplies. I have sat here too long—like my colleague on the other side of the House—to have any doubt about the interpretation of this Standing Order that has been maintained in this House. It is a confirmed and settled estimate of the meaning and scope of this Standing Order, and I see no reason why that interpretation should not be maintained, unless we amend the Standing Order, which is another matter. This is a Gas (Standards) Bill, and does not deal with the technique of measurement, or with machinery, production, calorimeters, pipes or matters such as that, even though they may be essential to the production of gas. Do not let us adopt the specious argument that because a thing is mentioned in the Bill that lets in any amendment at all. On that score I would point out that the significant word most used in the Bill is "undertaker."

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

Ayes	18
Noes	21
Majority against ..	3

AYES.

Mr. Coverley	Mr. Needham
Mr. Fox	Mr. Nulsen
Mr. Graham	Mr. Panton
Mr. Hawke	Mr. Reynolds
Mr. Hegney	Mr. Sleeman
Mr. Hoar	Mr. Smith
Mr. Kelly	Mr. Styants
Mr. Marshall	Mr. Tonkin
Mr. May	Mr. Rodoreda (*Teller.*)

NOES.

Mr. Abbott	Mr. Murray
Mr. Ackland	Mr. Nimmo
Mr. Bovell	Mr. Perkins
Mrs. Cardell-Oliver	Mr. Read
Mr. Cornell	Mr. Seward
Mr. Doney	Mr. Shearn
Mr. Grayden	Mr. Watts
Mr. Hall	Mr. Wild
Mr. Leslie	Mr. Yates
Mr. Mann	Mr. Brand
Mr. McDonald	(*Teller.*)

Question thus negatived.

Committee Resumed.

New Clause:

Hon. J. T. TONKIN: I move—

That a new clause be inserted as follows:—

18. From and after the commencement of this Act, a gas undertaker shall not make any charge, whether directly or indirectly, and by whatever name such charge is designated, for the hire of any meter.

A gas undertaker offending against the provisions of this section shall be guilty of an offence, and shall be liable to a penalty not exceeding twenty pounds, and to a penalty not exceeding five pounds for every day during which the offence continues.

The object of this amendment is to see that any meter which is supplied will not have to be paid for by the consumer. The schedule refers to meters. With regard to the testing of gas, Clause 12 says that any test of the calorific value, purity or pressure of gas shall be made in accordance with the provisions of the schedule, which states—

In order to test the gas for calorific value when a flow calorimeter is used, the gas shall first pass through an official meter and governor.

The meter referred to does not mean a calorimeter but an ordinary gas meter fitted with a governor to control the pressure, and such pressure is to be measured after it has passed through an efficient meter fitted with a governor. The reason for that is that to test the gas under conditions where there was no meter installed would be to test it under conditions entirely different from those under which the consumers get their supply. If a meter intervenes between the source of supply and the cooking appliance, the same pressure would not be obtained as if the gas passed direct from the source of supply without a meter being interposed. If a flow calorimeter is used, the gas has first to pass through an efficient meter and governor. That presupposes that there must be a meter somewhere, and my amendment provides for any meter.

Assume that the gas examiner goes into a certain street to test the pressure of gas: If he is going to use a flow calorimeter, he must be certain that there is an efficient meter at the point where he is to conduct the test, and if it is on a consumer's premises—it is not much good making the test at the Gas Company's works, because it is the pressure in the consumer's home that we are concerned with—he has to see that there is a meter installed, otherwise a flow calorimeter would be useless, and he has to see that an efficient meter is there.

I want to ensure that when the examiner finds that such a meter is there and he carries out his test, the householder shall not pay any rent for the meter. That brings me to the reason for the proposed new clause. It has long been a source of complaint with consumers that they are charged meter rent year after year until they have paid many times the value of the meter.

Mr. Leslie: That does not apply only to gas.

Hon. J. T. TONKIN: Surely the hon. member is aware that people have to pay rent for electric meters. New South Wales does not impose that charge.

Mr. Leslie: Western Australia does.

Hon. J. T. TONKIN: We are trying to improve the position in Western Australia. The hon. member may be arguing that the consumer should pay rent for a long period and contribute three or four times the value of the meter, but I am not arguing that way. If the company is receiving a reasonable price for its gas, paying good dividends and holding consumers' deposits free of interest, there is no reason why it should also levy a further charge for the hire of meters. The meter charge at Fremantle is 9d. per month.

The Minister for Works: Or per quarter?

Hon. J. T. TONKIN: No, per month. That is equal to 9s. per year. The company is not supposed to charge more than 15 per cent. per annum; that is, it can expect to recover the cost of the meter in seven years, but some people pay meter rents for 50 years. There is no justice in that. A sufficient price should be charged for the gas to meet all the company's expenses. The Water Supply Department does not charge meter rents.

The Honorary Minister: Of course it does.

Hon. J. T. TONKIN: Then it is time that charge was abolished. We shall have to give attention to it. I must have been dodging mine all along. I cannot imagine that a man without a water meter and therefore paying no excess and no meter rent, should be so favoured as compared with a person having a meter.

Hon. A. H. Panton: No charge is made by way of meter rent in the metropolitan area.

Mr. Cornell: There is in the country.

Hon. J. T. TONKIN: Then the country should wake up. There is no justification for charging meter rent. The gas company ought to be in a position to work out what additional cost should be included in the price to cover the expenses incidental to supplying gas. As this will be under control, there should be no difficulty. Because it is desirable that the practice of charging meter rents should be discontinued and because their abolition would confer a distinct benefit upon consumers and impose no great hardship upon the company, I submit the new clause. Lest you, Mr. Chairman, might be tempted to regard my proposed new clause in the same way as before, I wish to refer to a provision in the Bill to show that it has a distinct bearing. Clause 7 (1) reads—

> Every undertaker shall pay to the Commission annually such sum as the Governor by Order-in-Council published in the "Gazette" prescribes, and the sum payable by the several undertakers shall be calculated at the rate of not more than one farthing for every 2,000 cubic feet of gas sold by them respectively . . .

The only way an undertaker can calculate the quantity of gas sold in order to pay the requisite amount to the Commission is to total up the respective meter readings on consumers' premises. Payment could not be made to the Commission on the quantity of gas supplied through the meter at the works, because there is considerable leakage between the works and the point of consumption. In Fremantle, one can smell the gas leaking from the mains any day or night. If the provision referred to the gas metered on the undertaker's works, the undertaker would be receiving payment for a lot more gas than he actually supplied. Therefore, it must refer to the quantity of gas actually sold to consumers, and the only way the company could ascertain that would be to read the meters on the premises of consumers. Then, at the end of the year, the total of the meter readings of the various consumers would be compiled and on that quantity the company would make its payment to the Commission. This being so, the only way in which the company could get the total would be to supply meters to consumers. I propose that these meters, supplied to measure the quantity of gas sold to consumers, shall not be subject to the payment of rent. I submit that the proposed new clause is relevant to Clause 7.

Progress reported.

House adjourned at 9.39 p.m.

Legislative Council.

Tuesday, 18th November, 1947.

The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

ASSENT TO BILL.

Message from the Lieut.-Governor received and read notifying assent to the State Housing Act Amendment Bill.

BILLS (4)—THIRD READING.

1, Stallions Act Amendment.

Transmitted to the Assembly.

2, Municipal Corporations Act Amendment (No. 2).

3, Road Districts Act Amendment (No. 2).

Returned to the Assembly with an amendment.

4, Street Photographers.

Returned to the Assembly with amendments.