

thing other than the difference between the nominal amount and the amount paid up in cash or deemed to have been so paid. Retrospective legislation is the worst type of legislation. In the past, people have been called upon to pay for their shares, and rightly so. The object of requiring people who get their shares other than by payment of cash to file a contract with the Registrar is to enable any person inquiring about the company to get the information that the shares were not paid for in cash. Creditors would then know that the cash would not be available in the event of liquidation. Therefore people who receive shares without the payment of cash and do not file a memorandum have to pay for their shares for the protection of creditors on the sound ground that, if they neglect to give the creditors warning, they should stand the consequences. They are the wrongdoers and the responsibility should not be on the creditors. Now we are asked to make special provision for those people. We would be barely performing our duty if we did not attempt to defeat the subclause, because it is a monstrosity. I move an amendment—

That Subclause 3 be struck out.

Why do we want to go back into the past merely because someone is in danger of being obliged to comply with the law as other people have had to do for years past. We are asked to step in over the courts and give those people protection by retrospective legislation. See how easy we are making it! As the law stands, if people can show that they actually gave equivalent value for their shares the law will release them; but we provide that a person who did not give value for his shares but obtained them on a fictitious basis may be absolved from the consequences. The person can be absolved even if he did not pay a shilling for his shares. The clause says, "If the shares were allotted in good faith and for a substantial consideration." What is the difference between paragraph (a) and paragraph (b)? The clause would be a disgraceful piece of drafting if done by the office boy in the Crown Law Department. The allottee is also absolutely absolved from any liability even if the creditor had the honest belief that the shares had been paid for in cash. What is "substantial consideration?" I defy the Minister to answer the question. The courts will not rip up a transaction if it is not impeached. A similar provision is stated to

exist in Tasmanian and New Zealand law. Those Acts, however, if examined, might prove to say something altogether different. Even if that is the law in Tasmania and New Zealand, we should not make it the law here. The provision is fortunate enough for the shareholder, but what about people who are relying on the shareholder and have done something for the company? This is the most unjust and the worst of the clauses.

Progress reported.

House adjourned at 11.32 p.m.

Legislative Council.

Wednesday, 26th November, 1941.

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

ASSENT TO BILLS.

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

- 1, Wills (Soldiers, Sailors, and Airmen).
- 2, Public Service Appeal Board Act Amendment.
- 3, Road Districts Act Amendment (No. 2).

QUESTION—MEAT INDUSTRY (TREATMENT WORKS) LICENSING ACT.

As to Charges.

Hon. G. B. WOOD asked the Chief Secretary: 1, Is it by permission of the Government that the meat exporters, brokers and proprietors of meat treatment works are charging 3 per cent. commission, plus 1d. per pound killing charges on lambs purchased by the Commonwealth Government? 2, In view of the fact that Regulation 10 under the Meat Industry (Treatment Works) Licensing Act prescribes 1d. per pound as the maximum fee for all charges, is the Government satisfied that the 3 per cent. extra charge is legal?

The CHIEF SECRETARY replied: 1, Yes. 2, Yes, because the 3 per cent. commission is separate and distinct from, and is not any part of the charge fixed by Regulation 10 for treating sheep, cattle and pigs, but is a charge covering other services.

BILL—RIGHTS IN WATER AND IRRIGATION ACT AMENDMENT.

Report of Committee adopted.

BILL—MAIN ROADS ACT (FUNDS APPROPRIATION) (No. 2).

Second Reading.

Debate resumed from the previous day.

HON. SIR HAL COLEBATCH (Metropolitan) [4.37]: The avowed purpose of this Bill is to meet certain objections that have been raised by the Commonwealth Grants Commission against one feature of Western Australia's financial policy. Since the result of those objections was the imposition upon Western Australia of a penalty by way of reduction of the grant which it would otherwise have obtained, I think we must all be agreed that it was the duty of the Government not only to take notice of the objections, but to take some action.

On a future, and I think more appropriate, occasion that will arise in the natural course of events before the end of the session, I propose to analyse more closely the report of the Commission; but for the present I shall content myself with referring to one or two features of it that have a direct bearing on the matter we are now considering. I shall refer to them for the pur-

pose of establishing a contention that, whilst the Government was entirely right in taking some action as the result of that report, the action it has taken is the wrong one, and that there was another course open, one much more in keeping with the dignity of a self-governing State and calculated to give much greater advantage to Western Australia.

It may be remembered that at the time the report was published one of the members of the Commission, Sir George Pearce, who I take it was appointed to some extent, at all events, because of his long association with Western Australia, happened to be in this State. I put to him two simple questions: First, does he consider the grants recommended by the Commonwealth Grants Commission to be just and equitable as between South Australia and Western Australia? This was his reply—

Having heard the evidence before the Commission, examined the facts, statistics and data collected; and in accordance with the principles adopted by the Commission for the measurement of the financial needs of the claimant States in order to enable each of such States by reasonable effort to function at a standard not appreciably below that of other States, I approved and signed the recommendations of the Commission.

I want to emphasise those words—"In accordance with the principles adopted by the Commission for the measurement of the financial needs of the claimant States." That is an assumption that the principle adopted by the Commission is a just and proper one. On another occasion Sir George rebuked me for assuming that the comparison of the amount of the grant should be that of one claimant State with another. The comparison made is that of each claimant State with the three standard States, New South Wales, Victoria and Queensland.

But for that correction I would still have been under the impression that if a comparison were made on a definite point between South Australia on the one hand and New South Wales, Victoria and Queensland on the other, and if an exactly similar comparison were made on the same point between Western Australia on the one hand and New South Wales, Victoria and Queensland on the other, a comparison would, as a matter of fact, be established between South Australia and Western Australia. That is beyond dispute. However, I accept Sir George's statement and content myself with saying

that if the method adopted does not permit of an equitable arrangement as between South Australia and Western Australia, then it stands condemned. It is obvious that the Commonwealth has only a certain amount of money which can be divided amongst the claimant States, and consequently it is essential that it should be justly distributed between them.

The second question I put to Sir George Pearce was this: Had the Western Australian Government succeeded in its attempt to divert traffic fees to State revenue, would the Commission have recommended a larger grant to Western Australia? That, I take it, is really the subject-matter of this Bill. It seemed to me that it was quite a simple question to put to a member of the Commission, particularly as the Premier had levelled against this Chamber the charge of having deprived this State of the sum of £65,000. As the main basis of the Commission's investigation was the needs of the State, it was rather, I might say, ridiculous to suggest that if the State had obtained an additional revenue of £65,000 by diverting revenue from the local governing authorities to itself, the Grants Commission would have given it another £65,000, making a total of £130,000 additional revenue to the State.

I was under the impression that what really happened was that the Commission said, "You have not collected this money which you ought to have done; had you done it you would not have required so large a grant and therefore we are giving you the grant you would have required had you collected this sum of money." Had my conception of the matter been correct the grant would have been just the same, and the Government would have obtained a larger revenue and the local governing authorities a smaller one. However, I put the question to Sir George Pearce and his reply was:

In my opinion the fact that the State had brought its finances more into line with those of other States in this matter, would have been helpful to the State in the amount of the grant. In this connection it might be mentioned that South Australia (whose grant is apparently regarded as generous) had done so.

In other words, South Australia had been a good boy and was receiving a generous grant; just how generous I shall indicate at a later stage from the admission of the Commission that the grant to South Australia was too much. It will be remembered that when the Commission was first appointed

and this question of special grants to the States first arose, the idea of the Commonwealth Government was that the grant should be assessed on the basis of the disability suffered by the States as a result of Federal policy. I contend, without fear of contradiction, that that is the only just and proper basis on which grants can be made. Consequently it is no business of the Commission whether the State Government collects taxes on road revenue or on any other class of revenue. It has been said that it is a difficult matter to assess grants on the ground of disabilities. I admit there is some difficulty in that matter, but I do not think the process would be any more difficult than that which the Commission has adopted.

As far back as 1929, at the request of the Federal Government, an economic inquiry into this matter was conducted by Professors Giblin, Copland and Bengden, together with Mr. E. C. Dyason, the well-known Melbourne authority on finance, and Mr. Wickens, Commonwealth Statistician and Actuary. It would be not only difficult but impossible to find a tribunal more competent to investigate such a matter. With the exception of Mr. Wickens, who had been an officer of the Western Australian State Government and who had, a considerable time before his appointment to this committee, been transferred to the Commonwealth, not one member of that committee had any interest in this State.

I do not intend, at this stage—because I do not see that it would be appropriate to this Bill—to go into the matter of that report, excepting to say this, that the economic committee of inquiry did find that because of Commonwealth policy the States of South Australia, Western Australia and Tasmania were severely prejudiced; and that Western Australia was far more prejudiced than the other two. Since that date because of the enormous increases in tariffs the inequality has been intensified. The advantages obtained by other States in which protected industries predominate have, to a large extent, been increased, and the disadvantages of States such as Western Australia, which depend chiefly on industries competing against the rest of the world, have been intensified.

What has happened to justify the Commission in giving to South Australia double the grant it has accorded to Western Australia? Disabilities arise chiefly out of the

tariff policy, and a burden is passed on to the primary competitive industries in order to assist those industries—chiefly manufacturing—which are protected against outside competition. If we turn to page 111 of the Commission's report it will be found that at the time the report of that professional committee was issued, South Australia had 64 persons per thousand of population employed in factories and Western Australia had 51. That was in 1928-29. At the time the Grants Commission compiled its report, taking the statistics for the year 1939-40, South Australia had increased the number of persons per thousand employed in factories from 64 to 75, which was quite a substantial increase. At the same time Western Australia had declined from 51 to 49, and 51 had been the highest figure attained by Western Australia during the intervening years. In some years it had been as low as 31.

Hon. H. Seddon: What was South Australia in 1927?

Hon. Sir HAL COLEBATCH: That was the year before the report was issued. South Australia was then 74 and it is now 75. I took the year in which the report was issued. Turning now to page 29 of the Commission's report, special reference is made to the drift of skilled labour to the industrial States of Victoria and New South Wales owing to the recruitment of munition workers at higher wages. And so it goes on. But the Commission meets that position by saying—

The Federal Government has been impressed by the case presented, and has appointed a special committee to examine the economic position of Western Australia and the effect on that State of Australia's war effort.

The Commission refers to the increase in the cost of production as being prejudicial to Western Australia and Tasmania. The suggestion is that we are to be compensated by the appointment of a committee. I am not going to suggest for one moment that the committee may not do very good work, but the recommendation of the Commission is intended to assist in the present financial year, and no one can imagine that a committee, however excellent the work it does can possibly, through its labours, have any effect on the Government finances of Western Australia for the current year. Yet it was the finances of the Government

for the current year that the Commission was supposed to consider.

At the same time, it was well within the knowledge of the Commission that South Australia was improving its position vastly because of the expenditure of a large amount of war money in that State and the erection of factories of a much greater magnitude than that State had previously experienced or that Western Australia has ever had the advantage of. While the Government rushes to fulfil the wishes of the Grants Commission in regard to what I say is a paltry matter—it is paltry in view of the large sum of money involved in connection with the Commission's report—there is a curious silence about a much more important feature of the report. If members turn to page 114, they will find particulars of the money that has been granted to the different States since 1910. For present purposes, I shall refer only to the figures at the bottom of the page.

Last year South Australia received £1,000,000 and Western Australia received £650,000. For the present year, the South Australian grant has been increased by £400,000 and the Western Australian grant has been reduced by £20,000. Can anyone having the least knowledge of the circumstances of the two States and the extent to which the war effort has influenced the finances of those States, come to any conclusion other than that the opposite course should have been adopted by the Commission, namely, that our grant should have been increased and, if necessary, the South Australian grant should have been decreased? War expenditure in South Australia is still increasing to an extraordinary extent. Already we have statements from the Government of South Australia rejoicing in the heightened prosperity. But what is the position here? At the time of the Commission's report, only our goldmining industry was showing any real vitality. Since then even that industry has come up against tremendous difficulties, but in spite of those difficulties it is contributing to the Federal Government in new revenue a sum of money as much and half as much again as the grant recommended by the Commission.

How did the increase to South Australia come about? Members will recall that in reply to a question of mine, Sir George Pearce justified the recommendation on the

ground that it was in accordance with the principles adopted by the Commission. On another occasion, however, he said that those principles were not necessarily enduring and might be altered as seemed desirable. As a matter of fact, they were altered for the purposes of the recommendation for the present year. A new element was introduced into the calculation, as far as taxation severity was concerned. I do not propose to analyse this, but on page 88 is a statement of how the amounts are made up. Under the heading "Severity of Taxation," a sum of £455,000 is added to the South Australian grant, and only £150,000 to the Western Australian grant. So the South Australian grant is increased over and above ours by £300,000 simply on the question of severity of taxation. According to tables published by the Commonwealth Treasurer a few months ago, a £250-a-year man in this State, with a wife and one child, pays £1 11s. 3d. in State income tax. In South Australia, a corresponding individual would pay £6 5s. a year, or £10 if the income is from property.

I do not for a moment suggest that the State Government should be influenced by the report of the Commission to the extent of raising taxation on small incomes. I do not suggest that as an alternative to the Bill. I should be sorry if the Government took any notice of a recommendation of that kind from the Grants Commission. But an alteration was made this year which lifted the South Australian grant by £400,000. A complete condemnation of this method is furnished by the Commission itself on page 88, as follows:—

The grant assessed for South Australia was £1,400,000, but as this amount appeared to be in excess of the needs of the State in 1941-42, the Commission considered it would be in the best interests of South Australia if it recommended that payment of part of the grant should be deferred until the following year.

So it recommended a deferment of a quarter of a million of money; in other words, it stated, "This is giving South Australia far too much money. We do not admit that our method is wrong, but we will defer payment of £250,000 of the grant for another year." What the deferment means I do not know. Obviously, when the time comes for another Commission to make a report, the circumstances of South Australia will be taken into account and a sum will be recommended according to the needs of the

State, and that sum cannot be influenced for one reason or other by the fact that £250,000 of this year's grant has been deferred. However, we have there a candid admission that the practice followed by the Commission has given South Australia a quarter of a million of money more than it needs.

In view of all these circumstances, I contend that the Government, instead of bowing to the dictation of the Commission and introducing this Bill, should have moved Parliament to back it in a vigorous and determined protest against the unjust method adopted by the Commission. I know that a protest of the Government has been ignored, but I do not think that the Commonwealth Parliament would have ignored a protest having the full backing of both Houses of Parliament. I am sure that such a protest would have been backed by all parties and certainly it could have been backed by evidence that could not be refuted. That is the course I consider the Government should have adopted.

There is only one other point to which I wish to refer and I hope the Chief Secretary will explain it. The Bill, we are told, provides that 22½ per cent. of the amount now payable to the Commissioner of Main Roads shall be paid to Consolidated Revenue and an equivalent amount shall be made available to the Commissioner from the petrol tax funds. I want to know who is going to be the loser by this transfer? It is denied that the road authorities, either metropolitan or country, are to suffer. I know the Government does not pretend to be able to produce rabbits out of hats. The Government cannot get this money from nowhere. I fail to see how the Government can secure an additional £30,000 or £29,000, or whatever it is, without somebody else being that same amount worse off.

Hon. A. Thomson: It is said that there is only going to be a cross entry.

Hon. Sir HAL COLEBATCH: If that is so, the Government would be deceiving the Grants Commission. It is a bit of sharp practice, if that is so.

Hon. A. Thomson: Well, that is what it is!

Hon. Sir HAL COLEBATCH: I should think the Grants Commission would quickly discover it and say, "You are trying to trick us; you are not doing the straight thing." I want to know, if the Government is to be

that much better off, who is going to be that much worse off. I shall oppose the second reading of the Bill.

HON. J. CORNELL (South) [5.2]: During the last two sessions of Parliament the main discussion in this connection has centred upon the amendment of the Traffic Act. Now discussion appears to be about to centre on the Main Roads Act, a companion measure to the Traffic Act. I shall not enter into an academic discussion of the virtues or failures of the Commonwealth Grants Commission. We must concede this to the Government, that there must be some substance in its contentions as otherwise it would not be so persistent in asking for the necessary legislation. The Government has been consistent right through the piece. What I understand to be the crux of the whole situation is that money today collected and paid to local governing bodies in the metropolitan area is to be received by the State Government and taken into Consolidated Revenue. In order that local governing bodies shall not be subjected to inconvenience or shortage in finance, it is proposed that a sum equivalent to what is taken from them in registration fees shall be paid to them under the Main Roads Act by way of petrol fees. I understand that is to be the position, Mr. Chief Secretary.

The Chief Secretary: Not quite.

Hon. J. CORNELL: Oh well!

The Chief Secretary: It will do for the present purpose.

Hon. J. CORNELL: The Grants Commission, if my memory serves me correctly, has pointed out that the fact of the traffic fees being handled solely by local governing authorities has influenced the Commission in cutting down Western Australia's grant. I feel a kind of Ishmael in the face of this proposal. When it first came before this House, I voted against it because of the plea that sufficient publicity had not been given to the proposal and that country road boards were somewhat perturbed, believing that their turn would be the next for killing. The proposal was defeated by the fact that it had no effect whatever on local governing bodies outside the metropolitan area. Prior to the second introduction of the Bill the province I represent had seven or eight local governing bodies, of which not one wrote to me indicating whether it supported or

was against the proposal. Again if my memory serves me rightly, I voted for the proposal. Since then I have had every reason to assume that the metropolitan local governing bodies, with the exception of the Perth Road Board, have got busy and, I would not say intimidated the country local governing bodies, but influenced them, with the result that not one of those bodies in the South Province has failed to write to me suggesting that I oppose the Bill.

Then, what sort of reasoning is one to adopt? The position is that the Bill does not affect the country local governing bodies but does affect the metropolitan local governing bodies. The metropolitan bodies are asking the country local governing bodies to become Aunt Sallies, or hewers of wood and drawers of water. Self-preservation is said to be the first law of Nature. Firstly, having voted against the Bill because of want of sufficient notice, and secondly having voted for the proposal because no country road board or municipality bothered two hoots, I now have all the road boards in the South Province writing me to oppose the measure. In the words of the old song, "So what can a poor girl do?" What am I to do? A certain event happens next year and the metropolitan local governing bodies are desirous of retaining what they have got, just as I am desirous of holding what I have got. That is the position I happen to be in, and other members are in the same position.

I will wait awhile and see what is going to happen. My personal opinion is that the Bill should be agreed to. I believe that is the general consensus of opinion. Inasmuch as the metropolitan local governing bodies are not going to be affected financially and the Bill does not apply to country road boards, I think it is up to us now to buckle on our armour and rush to the aid of the country road boards when their turn comes.

HON. A. THOMSON (South-East) [5.11]: Unlike Mr. Cornell, I have consistently opposed measures of this nature when they came before the House. We are told on the one hand that the local authorities will not lose anything by the measure, but will find themselves in just exactly the same position. In view of the petrol restrictions imposed and also of the pressing needs of the Federal Government, I wonder how long this money that we re-

ceive from Federal taxation will remain available to us. I am told that the agreement is to endure until 1947. When the Federal Aid Roads Agreement was arrived at, I attended a large number of conferences. At that time it was the Government's intention that country road boards, like those in the Eastern States, should obtain the whole of the traffic fees and hand them out as the Government might desire. The Road Boards Association was consistently against that proposal saying, "We have no guarantee what our income will be under the proposal." Ultimately it was agreed to pass the Act we have today.

A thoroughly sound case has been put up by Sir Hal Colebatch with regard to the Commonwealth Grants Commission. When we compare what is given to South Australia with what is provided for Western Australia, one cannot but recognise that comparisons may be decidedly odious. It is highly difficult for a layman to satisfy himself, by formula, that the Commission is justified in giving South Australia so large a grant. When dealing with income taxation we were told that the Government felt compelled to increase the income tax because the Commonwealth Grants Commission had pointed out that this was one of the lowest-taxed States in Australia. Now we are in the position of being the second-highest taxed State in the Commonwealth.

Hon. J. J. Holmes: And our grant has been cut down.

Hon. A. THOMSON: All we have got for complying with the wishes of the Commission is that our grant has been reduced.

Hon. J. J. Holmes: Further reduced.

Hon. A. THOMSON: Yes, further reduced. Therefore I think the suggestion thrown out by Sir Hal Colebatch well worthy of consideration by the Government and both Houses of Parliament. If necessary, let us have a meeting of both Houses and emphatically protest against the action of the Grants Commission. It appears to me that this State is in a most unhappy position. As pointed out by many members, Western Australia was hit very hard in the taxation of its gold mining industry. We find the Commonwealth deriving a decided advantage from that industry, but apparently it does not take into consideration the benefits it gains from that portion of the taxation of Western Australian industries when it comes to considering the Commonwealth grant.

True, the Government has devoted some considerable space to denunciation of this Chamber in depriving the State of Western Australia of the sum of £65,000 because of our refusal to be bulldozed into complying with the Grants Commission's request. That has been the only reason put forward by the Government for its attempt to secure this amount of money from the metropolitan traffic fees.

Hon. J. Cornell: The Grants Commission does not care two hoots whether we pass the Bill or not.

Hon. A. THOMSON: I do not suppose it does. But the Government thinks that is the only way to get the extra £65,000. On the other hand, we have no guarantee that we shall receive that amount if we pass the Bill. There is another phase to which consideration must be given. Mr. Cornell said that when the country road boards are faced with the same position as the metropolitan local authorities, we will have to gird on our armour and fight to protect their interests. I say quite frankly that if I voted for this measure which will take from the metropolitan area—though we are told it will not—the fees which it has enjoyed, I could not in justice vote against any future proposal to take similar money from country road boards. I feel that I must be consistent.

Another point that has to be borne in mind—and I have no doubt it has been submitted to the Federal Grants Commission—is that for a very long period in the history of Western Australia the activities of the Main Roads Department provided the greatest avenue for the absorption of the unemployed. Throughout the whole of the country districts road camps were established. At the beginning there is no doubt that the works were more costly than they should have been because unfortunately many of the men engaged were not used to that kind of life, and were compelled to do work that they had never done prior to the depression. As time has passed, however, those men have improved in efficiency and excellent work has been done under the capable administration of the Main Roads Department officials. I have nothing but praise for the engineers who have been in charge of the work carried out. Men were shifted from all parts of the State and found employment as a result of the money provided from the petrol tax contributed by motorists.

In view of the present position, I intend to vote against the measure. I do not doubt the sincerity of the Government which feels that by this means more money can be obtained from the Federal authorities. I would point out, however, that taxation in this State has increased until we are the second-highest taxed State in the Commonwealth and the main reason for the increase in taxation was that the Federal Government insisted that we should take that step or we would not get as much money from it as we did previously.

Hon. H. Seddon: Do you say that was the main reason?

Hon. A. THOMSON: That was one of the reasons that were given and it influenced the votes of some members. The Government stated that an increase in taxation was required because the Federal Grants Commission had drawn attention to the fact that Western Australia was one of the lowest-taxed States in the Commonwealth. We accepted the position and increased taxation to such a degree that we became the second-highest taxed State in Australia.

Hon. J. Cornell: The Government stated that it could not carry on without increasing taxation.

Hon. A. THOMSON: One reason given for the increased taxation was the insistence of the Federal Grants Commission. I intend to be consistent. I voted against a similar measure previously and I intend to do so on this occasion.

HON. H. TUCKEY (South-West) [5.20]: The introduction of this Bill seems to have been due to the attitude of the Federal Grants Commission. I agree with Sir Hal Colebatch that it is hardly within the province of that body to direct the policy of the Government of this State. While I am inclined to assist the Government as far as possible, I consider that in this instance an important principle is involved and I do not propose to vote for the second reading. Mr. Cornell said that the local governing bodies would not be affected. Admittedly local authorities in the metropolitan area will not be affected because they will be recouped from the petrol tax proceeds, but Mr. Cornell must know that if the amount of petrol tax is reduced, that must be reflected in the condition of the country roads, because I understand that the petrol tax proceeds are mainly used

for the building of roads in country districts.

Hon. J. Cornell: None is being built at present.

Hon. H. TUCKEY: That is true, but it must be remembered that post-war problems will have to be dealt with and hundreds of miles of roads throughout the State are awaiting construction. If the petrol tax fund can be built up it will be useful after the war is over to provide employment for many returned men.

The Chief Secretary: It is a wonderful future for those men, is it not?

Hon. H. TUCKEY: The Government has already suggested that it would be one means of employing many of our returned men; that public works will have to be undertaken for that purpose. We have to develop this State and I am opposed to putting road funds into Consolidated Revenue in order to meet the whim of the Federal Grants Commission. It seems to me to be entirely wrong to pay traffic fees into Consolidated Revenue. The petrol tax is provided by motorists and the money should be spent on road construction. I agree with what Mr. Thomson said with regard to the large amount of money that will be required later on for these works. I am opposed to the measure and I hope the House will not pass the second reading.

HON. L. CRAIG (South-West) [5.24]: I had not intended to speak on the Bill because I thought it would automatically pass the second reading and I am somewhat surprised that there is considerable opposition to it. One point forgotten is that this proposal to take money from the traffic fees does not amount altogether to fleching something to which the Government has no right. It is in effect a recoup from State revenue of moneys that were contributed for the formation and construction of roads within the metropolitan area during the depression period. I think over £100,000 was so spent and this is a recoup. It is true that country road boards are going to be affected inasmuch as there will be less money available to spend on main roads than previously, but country roads have been very well served in the past by this Federal Aid Road money.

Hon. G. B. Wood: So they should be!

Hon. L. CRAIG: I am not saying they should not be, but country road boards should be grateful that about 90 per cent.

of all that money has been spent in the country and that they have therefore been saved the expenditure of many thousands of pounds from their own funds.

Hon. V. Hamersley: By whom is the money paid?

Hon. L. CRAIG: A good deal of it is contributed by motorists in the Eastern States. We are receiving a lot more towards our roads than we are entitled to and we must not pretend that we are not. We are receiving money that our population does not warrant our receiving. Due to the services of Mr. Bruce and Sir George Pearce the money was allocated on a population plus area basis and the people of the other States are making a contribution to this State. That is a fact, however members like to put it. I am not saying that it should not be done, but that is the position.

Hon. G. B. Wood: We agree with you.

Hon. L. CRAIG: I am glad that hon. members do agree with me. The country road boards have been very well treated. I am a member of a country road board and I know what my particular ward has been saved. Any country road district through which a main road passes has been saved considerable revenue. We must not pretend it is not so. Everybody knows that that is the truth. I think I am not exaggerating when I say that roughly 90 per cent of the Federal Aid Road money has been spent in country districts. At present no money is being expended by the Main Roads Department in the country because bitumen supplies are not available. The Commonwealth Grants Commission has said that we are going to be fined £65,000. Although we may say we are not going to let the Commission dictate the policy of this country, it is a serious matter to lose such a sum.

Hon. J. A. Dimmitt: Do you think we can deceive them in this way?

Hon. L. CRAIG: No. I think that whether we pass this measure or not will have no effect on the revenue of this country. Financially the metropolitan local authorities will not be affected. The greatest opponent of this legislation in the past has been the chairman of the local authorities association, Mr. John Black, of Cottesloe, but he has raised no objection to this Bill. He has spoken with a very powerful voice in the past for all the metropolitan local authori-

ties, but on this occasion he is raising no objection.

Hon. A. Thomson: Is that his personal view or his view as chairman of the association?

Hon. L. CRAIG: I discussed the matter with him this afternoon.

Hon. A. Thomson: I am asking whether what he expressed was his personal opinion or the opinion of the local authorities.

Hon. L. CRAIG: Of course he would not speak to me on behalf of the local authorities! I am afraid, Mr. President, that we have a very sceptical House.

The Chief Secretary: Are you only just beginning to realise that?

Hon. L. CRAIG: We need to give fair consideration to this measure. I believe that the Bill is reasonable. By it we improve the revenue of the State to the extent of the amount of traffic fees proposed to be taken. In passing the measure we do that much good for the State Government. If those of a different political complexion from the present Government were in power, they would undoubtedly like this extra money. As a result of the passage of the Bill we shall probably obtain extra money from or be fined less by the Federal Grants Commission.

Hon. W. J. Mann: Why should we be fined?

Hon. L. CRAIG: It is not a question of why we should be fined; the fact remains that we are fined and we have no power to stop it. Whether we like being dictated to or not does not matter; we are being fined, and, in the circumstances, I think the House should agree to the second reading of the Bill.

HON. G. FRASER (West) [5.30]: In this instance I must be regarded as a sinner who has repented. For years I have opposed legislation having a similar object but on this occasion I shall support the Bill. My reason is that the major objection I had in previous years has been removed from the Bill now before the House. That objection was that the funds to be made available to local governing authorities would be paid only after they had expended money on new roads. Seeing that the local governing bodies in my province had to incur no expenditure on new roads, I held that in consequence they would be penalised be-

cause they had kept their roads up-to-date. Now after the lapse of some years the roads have deteriorated so that the local authorities must again re-construct the roads or put down new ones and so they will not be debarred from receiving their proportion of the 22½ per cent. to be made available. That being so, my major objection to this legislation goes by the board. I desire to give the Government an opportunity to find out whether the Commonwealth Grants Commission will manufacture some other excuse in future for withholding certain payments from Western Australia.

Hon. J. Cornell: At any rate, the hon. member is a brand plucked from the burning!

Hon. G. FRASER: I recognised that the Government may have had some justification in the past for attempting to legislate along the lines indicated in the hope that more favourable consideration would be received from the Commonwealth Grants Commission. I support the second reading of the Bill in the belief that it will afford an opportunity to test the attitude of the Commission.

Hon. H. SEDDON: I move—

That the debate be adjourned.

The Chief Secretary: I am anxious to make some progress with the business on the notice paper, and I would like the debate to proceed.

Hon. H. Seddon: The Bill has only been on the notice paper for a day or two.

The Chief Secretary: It has been here for weeks.

Motion put and passed.

BILL—ROAD DISTRICTS ACT AMENDMENT (No. 3).

Returned from the Assembly without amendment.

BILL—METROPOLITAN MARKET ACT AMENDMENT.

In Committee.

Resumed from the previous day. Hon J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

Clause 2—Amendment of Section 12:

The CHAIRMAN: Progress was reported on the clause without any amendment having been made to it.

The CHIEF SECRETARY: I moved to report progress after we had discussed Clause 2 for a long time with particular reference to the latter portion dealing with the original owner of fish. I advanced an interpretation of the provision which did not meet with the approval of certain metropolitan members who were afraid that the clause as it stood would adversely affect certain large city traders to the extent that they would be compelled to dispose, through the Metropolitan Market, of any fish they desired to sell wholesale. Arising out of the confusion that was so apparent I suggested that I would endeavour to clarify the position, which I think I have been able to do.

I informed members last night that emporiums such as Roans, Foys, Bairds and other large concerns in the city that had apparently from time to time supplied certain quantities of imported fish to retailers for resale, would not be affected by the clause. I have been advised by the market authorities that there was no intention that such firms would be affected, and they did not consider that the Bill in its present form would have that result. In order to make the position still more clear, I have had the proposed new Subsection (2a) re-drafted, but unfortunately I have not had an opportunity to place it on the notice paper. When I read the subsection in its amended form, I believe members will agree that it sets out the position very definitely and clearly, particularly seeing that it contains a definition of the word "fish." I am convinced that they will have no objection to the amended provision being incorporated in the Bill.

Hon. Sir Hal Colebatch: Does your re-drafted amendment deal with the whole of the proposed new Subsection (2a)?

The CHIEF SECRETARY: Yes. I move an amendment—

That before the word "No" in the first line of proposed new Subsection (2a) the figure and brackets "(1)" be inserted and that the second paragraph of the proposed new Subsection (2a) be struck out and the following inserted in lieu:—

(2) For the purposes of paragraph (1) of this subsection the expression—"Fish" includes every variety of marine and freshwater fishes and crustacea, and marine animal life, which, after being taken from the waters in which they are found, are not subjected to any process, other than freezing, for the purposes of preserving the same.

"Original owner" means—

- (a) the person by whom or by whose servants any fish is taken from the waters in which it is found, when such person is resident within the State; and
- (b) the person who first receives any fish within the State when the person by whom or by whose servants such fish is taken from the waters in which it is found, is not resident within the State.

The amendment will eliminate the difficulty that metropolitan members considered would arise if the proposed Subsection (2a) were agreed to as it appears in the Bill, seeing that it excludes the particular varieties of fish to which they referred, namely, imported fish from New Zealand, South Africa and Great Britain.

Hon. Sir Hal Colebatch: It would also exclude locally tinned fish.

The CHIEF SECRETARY: Yes. Consequently no objection should be raised against the subsection in its amended form. Then with regard to the question of the original owner the effect of the amendment is to divide the provision embodied in the Bill into two parts. The first deals with the owner of fish caught in Australian waters, and the second deals with the owner of fish imported from outside the State.

Hon. J. J. Holmes: What about tinned fish?

The CHIEF SECRETARY: That variety is not included at all. I have been informed by our legal advisers that the amendment represents the best that can be done with the provision. I do not mind admitting that great difficulty and the expenditure of much time and thought have been necessitated in the endeavour to deal with this point. It represents another instance indicating how extremely difficult it is to arrive at an exact definition of certain matters so as to eliminate all possibility of doubt.

Hon. L. B. BOLTON: All I desire is to protect the interests of people who felt that the provision in the Bill would make a great deal of difference to their trading activities. Today I interviewed two other firms the heads of which considered they would be seriously affected by the Bill and one of them in a letter to me, said—

As far as the wholesale firms to whom I sell, such as Watson's Supply Stores, Fremantle, Carbarns, Macfarlane's, Sara & Cook, etc.—and, for the Easter trade, other firms such as Foggett Jones, G. Wood Son & Co., D. & J. Fowler,

Westralian Farmers, etc., these firms of course sell the whole of their purchases wholesale—if in the metropolitan area deliver with other goods sold, or, alternatively, if sold to the country, send by rail traffic in the usual routine of business.

If the Bill were passed in its present form the effect would be that the whole of those firms would have to do their re-selling through the Metropolitan Market. I was glad to hear the Chief Secretary say that that was not what he desired, neither was it what the Metropolitan Market Trust desired. It appears that the amendment will suit my purpose. So long as it safeguards those people we have been asked to protect, I shall be satisfied.

The CHIEF SECRETARY: I assure the hon. member that the amendment absolutely meets all the objections he has raised. It would be impossible to make the position any more clear. The firms to which he referred will not be affected in the slightest degree by the amendment.

Hon. J. M. MACFARLANE: I believe the Chief Secretary wants to meet the position that has been set up, but I claim he will fail to do so by his amendment. I do not, however, offer any further opposition, seeing that we have an assurance that there is no intention to interfere with the conditions of trade appertaining to this class of fish. A good deal of the argument has hovered around imported fish that is prepared and frozen, but not preserved in any way. Filleted fish is not preserved; it is smoked and chilled.

Hon. J. A. DIMMITT: I appreciate the action of the Chief Secretary. He has been generous in his attitude towards those who complained that the Bill would create many difficulties. To my mind, his amendment has cleared up all those difficulties.

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

Clause 3, Title—agreed to.

Bill reported with an amendment.

MOTION—FARMERS' DEBTS ADJUSTMENT ACT.

As to Refund of Misappropriated Money.

Debate resumed from the 11th November on the following motion by Hon. E. H. H. Hall (Central)—

That, in the opinion of this House, the decision of the Premier that he had approved of

a refund to Mr. R. H. McClintock, as per his letter to that gentleman of the 25th February, 1941, of the moneys misappropriated by an officer of the Agricultural Bank, whilst the latter was acting as receiver under the Farmers' Debts Adjustment Act, be adhered to.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West) [5.55]: There is little I can add to what I have said before on this subject, other than to make the position as clear as possible concerning the amount in dispute. It is admitted that Burns did embezzle money from four settlers in the Geraldton district. The gentleman referred to by Mr. E. H. H. Hall—Mr. McClintock—has suffered to the extent of £290, made up of approximately £200 during the period when Burns was acting as receiver under the Farmers' Debts Adjustment Act, and approximately £90 subsequent to the date when Mr. McClintock was discharged from the operations of the Act, and when Burns was acting under a private arrangement with him. It will be remembered that Mr. Hall, in support of his motion, pointed out that the Solicitor General advised that there was a moral obligation, even if there was no legal obligation, on the Government to meet the amount involved.

I point out that when the Solicitor General gave the opinion referred to by Mr. Hall, he was not aware that Burns had been acting in a private capacity. According to the information supplied to him, the whole of the money involved had been embezzled while Burns was acting as receiver under the Farmers' Debts Adjustment Act. Consequently, when all of the circumstances are made known, the position becomes somewhat different. Actually there is neither a moral nor a legal responsibility on the Government to meet any amount which might be represented by defalcations on the part of Burns during the period when he was acting privately for Mr. McClintock, and not as receiver under the Act in question. Mr. McClintock concluded his period under the Act with the return from the 1938-39 crop, and was discharged from the operations of that legislation on the 5th September, 1939, when the stay order lapsed.

From that date, Mr. McClintock was an entirely free agent. There was no necessity for him to ask Burns to carry on his affairs, though unfortunately for him that is what he did. Mr. Hall referred to the fact that

the fees that were payable to Burns as a receiver under the Act were paid into the Agricultural Bank, and he used that as another argument why a responsibility should be cast upon the Government to recoup Mr. McClintock the £90 odd in dispute. I reply to that by saying it is true that any fees to which Burns was entitled while acting as receiver under the Farmers' Debts Adjustment Act were paid into revenue, but from the time the stay order lapsed and Mr. McClintock was entirely free of the Act the Agricultural Bank received no benefit whatsoever—because it was a private arrangement between Mr. McClintock and Burns. I have already pointed out that Mr. McClintock, being a free agent, could please himself as to whether he did his own work, or asked Burns to do it or obtained the services of someone else. Had he obtained the services of some other person and the same thing had occurred, of course there would have been no question at all. In that case Mr. McClintock would not have thought of trying to throw the responsibility upon the Government.

Attention was also drawn by Mr. Hall to the fact that public accountants were obliged to furnish a bond for £2,000 before they could become entitled to act as receivers under the Farmers' Debts Adjustment Act. That is correct, but Mr. Hall did not proceed quite far enough with his explanation. If a farmer is discharged from the operations of the Farmers' Debts Adjustment Act and subsequently makes an arrangement with the accountant who has been acting as his receiver, then the £2,000 bond lapses. That bond is only applicable while the farmer is under the Farmers' Debts Adjustment Act. The hon. member will agree, I think, that there are many accountants in the State acting for individual farmers who do not provide a bond at all.

I understand there are numerous cases of farmers who have been subject to the Farmers' Debts Adjustment Act and whose business has been handled by accountants as receivers under that Act, who, after having been freed from the Act, have continued to employ those accountants. But such farmers must be aware that the £2,000 bond required under the Act does not apply when they enter into such a private arrangement. I also point out that had the Agricultural Bank taken out a bond under the Farmers'

Debts Adjustment Act similar to that which accountants who act as receivers under the Act must furnish, the insurance company would not have recognised any liability at all with respect to the £90 in dispute, because the defalcation occurred after the receivership under the Act had been terminated.

Hon. J. J. Holmes: Burns was not a receiver under the Farmers' Debts Adjustment Act when he embezzled the £90?

The CHIEF SECRETARY: I shall deal with that aspect now. Mr. Hall endeavoured to make a strong point of the fact that, after Mr. McClintock was free from the Act, Burns was still employed by the Agricultural Bank, that he was also acting privately for Mr. McClintock and that because of his association with the Agricultural Bank—not as receiver under the Farmers' Debts Adjustment Act—the Government had some responsibility. The Government must take the stand that it has no responsibility whatever, as Burns's position as receiver had terminated. In addition, Mr. McClintock's obligations under the Act had also terminated.

Hon. L. Craig: Did the farmers concerned know anything about the termination of the appointment?

The CHIEF SECRETARY: Undoubtedly.

Hon. L. Craig: They did know?

The CHIEF SECRETARY: Yes. The stay order had lapsed.

Hon. G. W. Miles: The other farmers in the district did not know.

The CHIEF SECRETARY: Mr. McClintock was free of the Act; and because he was, he made a private arrangement with the man who, as receiver, had been handling his affairs. While Burns was acting in a private capacity, he embezzled the sum of £90. The amount which was embezzled during the period Burns was acting as receiver and while Mr. McClintock was still subject to the Farmers' Debts Adjustment Act, has been made good. Mr. Hall also tried to make a comparison of what would have happened in the case of a private employer. He said that a firm would not fail to make good the amount in similar circumstances. I venture to say that no private firm would make good a loss incurred as the result of a private arrangement between one of its employees and someone else, because the firm would have had no control over the man who embezzled the money or over the unfortunate victim. It would be unreason-

able to expect any firm to accept responsibility in such circumstances. Mr. McClintock could have recourse against the person with whom he made the contract, but we are all aware that any action which Mr. McClintock might take against Burns would be fruitless, as Burns probably is penniless.

I have only one other point I wish to make. Mr. Hall made it perfectly clear, by quoting from the file, that it was desired to make good the amount stolen while Mr. McClintock was under the Farmers' Debts Adjustment Act and Burns was acting as receiver. As Mr. Hall said, "That is the whole thing in a nutshell." That is his own expression. I agree with him. The Government has met its responsibility for all the money that was embezzled by Burns while he was acting as a receiver under the Act. The amount was ascertained to be approximately £200 and it was paid by the Government. That covers the whole position. I have enlarged a little on what I said previously; but, at the risk of being charged with reiteration, I would like to sum up the position in the following way:—

Mr. McClintock was carrying on farming operations and applied to the Farmers' Debts office for the protection of the Act whilst he was financially embarrassed.

His affairs were handled by Burns as a receiver under the Farmers' Debts Adjustment Act up to the end of the 1938-39 season. On the 5th September, 1939, the stay order lapsed and Mr. McClintock was given his discharge on the 22nd November, 1939.

Up to November, 1939, funds belonging to him were embezzled to the extent of approximately £200; and this amount has been made good by the Government.

Subsequently to Mr. McClintock receiving his discharge from any obligation to the Controller of Farmers' Debts or to the Government, he privately arranged with Burns to look after his accounts; and Mr. McClintock had his account with the National Bank, not the Agricultural Bank.

During the period November, 1939, to July, 1940, whilst Burns was acting privately for Mr. McClintock, he embezzled from Mr. McClintock the sum of approximately £90, and it is this sum, which the Government is neither legally nor morally obliged to pay, that Mr. Hall states the Government should recoup to Mr. McClintock.

Hon. H. Seddon: Was the Agricultural Bank aware that Burns was acting in a private capacity for certain farmers?

The CHIEF SECRETARY: I believe not. Those are the facts of the case.

Hon. E. M. Heenan: Mr. McClintock

himself was aware that Burns was acting in a private capacity?

The CHIEF SECRETARY: He must have been, because he had received his discharge under the Farmers' Debts Adjustment Act and had approached Burns to act for him. What the terms of the arrangement were, we do not know. I regret that any farmer should suffer because of defalcations of this kind; and, while we might be sympathetic in such cases, no Government could pay money to any person because it sympathised with him or was asked to pay the amount.

Hon. G. W. Miles: It is not the Government's money, either!

The CHIEF SECRETARY: Had the full amount been paid, the payment would have been discovered by the Auditor General, who would have taxed the department with having paid £90 which it was neither legally nor morally bound to pay and for the payment of which it had no authority. The Government would then have been subjected to exceedingly severe criticism. Similar cases may occur from time to time—I hope not—and, were this payment to be made now, Mr. McClintock's case would be cited as a precedent. It would be said that what was done in that case should also be done in the cases of "A" and "B." I oppose the motion.

HON. H. V. PIESSE (South-East) [6.13]: I have listened carefully to the Chief Secretary's remarks, because I have acted as a receiver under the Farmers' Debts Adjustment Act and understand the procedure well. Mr. McClintock may have been led astray because the cancellation of the stay order was published in the "Government Gazette," and it is not always a debtor's privilege to know that a stay order has been cancelled.

Hon. H. Seddon: He would be informed.

Hon. H. V. PIESSE: He is not always informed. A composition is arranged, and either the Farmers' Debt Adjustment Office pays the amount of the composition or the receiver does so. I have in several cases paid the composition to the creditors.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. H. V. PIESSE: I was referring to the duties of a receiver under the Farmers' Debts Adjustment Act. I would like to

give the House a definite illustration which may have some bearing on this motion. Certain moneys are lent by the Farmers' Debts Adjustment Office, and the proceeds of the farming operations of the man concerned are paid to the receiver who, in turn, pays the various accounts and sometimes at the end of the season, after the proceeds have all been paid in, a composition may be arranged. That composition may consist of money advanced by the Farmers' Debt Adjustment Office together with the proceeds of the farmer's seasonal returns. The full composition, therefore, is paid out by the receiver, receipts are issued by him because he is paid the money by the Farmers' Debts Adjustment Office, which is an advance from Federal money.

My reason for mentioning that is to show that Mr. McClintock, or anyone in his position, would have great confidence in his receiver. The Government employed Burns, and while that did not amount to a guarantee, the mere fact of his being employed in the Agricultural Bank was a sufficient guarantee to prove that the bank was behind him. Naturally Mr. McClintock would have greater confidence in Burns than in, perhaps, a private trustee. That is an important point because one has only to realise that when a composition is made a surplus amount of money, perhaps £100 or £200, is sometimes left in the trustee's account. No doubt Mr. McClintock said to himself, "I have every confidence in the way this man has put up my statements. He has put them through the bank, paid my interest to the bank, paid my machinery hire, my grocery accounts and carried me on over the past few years, and I still have £100 in his bank account. I will let him carry on." That has been said to me as a receiver on several occasions, but I have always kept a trust account and have made a complete statement to the debtor himself; and I did not carry on further than the following season.

Mr. McClintock may have gained tremendous confidence in that man because he was employed by the Agricultural Bank. I can quite understand any farmer doing that. Farmers are not accustomed to keeping their own books, and many did not keep them prior to the Farmers' Debts Adjustment Act coming into force. Many men who came under that Act have today learnt the art of keeping their own books,

and have also made out programmes of work, and their expenditure is all set out similarly to what it was when they were under the Farmers' Debts Adjustment Act or a receiver. If Burns robbed the Agricultural Bank during the period he was controlling Mr. McClintock's affairs as receiver, naturally the bank should be morally responsible for having introduced him and allowed him to act as receiver. I support the motion.

HON. E. H. H. HALL (Central—in reply) [7.35]: First of all I desire to express my appreciation of the manner in which the Chief Secretary has dealt with this matter. He has, if members have not already made up their minds, made it an easy task for me to prevail upon them to support this motion. It has been narrowed down to one point with which I shall deal presently. I remind members that if they do pass this motion the Government can—I hope it will not—ignore it. If the House does pass the motion I hope the Treasurer will, in his mercy, strive to give effect to it.

I can only deal with matters raised by the Chief Secretary, and that is all I wish to do; I do not wish to introduce new matter. In the course of his reply he mentioned the Auditor General and suggested, very properly, that if the Government started disbursing payments that it was not specifically authorised to make, the Auditor General would have something to say. If members will look at the Public Accounts, they will find that an amount of £4,000 odd was granted to the Government for the purpose of paying out, during the year ended the 30th June last, compassionate allowances. There is now standing to the credit of that fund—and I confirmed this by a visit to the Auditor General this morning—an amount of £1,400 awaiting distribution, failing which it will be carried forward to the next financial year. Members need not worry about where the Government can find this £97 odd. It is waiting to be distributed, and I ask members to assist me to recommend that the Government do that. We have no legal ground to assist us in this matter; it is the moral ground stressed by the Solicitor General and the Under Treasurer.

To get to the point raised by the Chief Secretary, if Mr. McClintock could have

satisfied me that he got his discharge, or, in other words, as mentioned by the Chief Secretary, and borne out by the file, his stay order had lapsed on the 5th September, 1939, and if any receipt had been given by Mr. McClintock, as I maintain there should have been, and this receiver had discharged his duty in anything like a business-like manner, I would not have proceeded with the matter. There should have been a finalisation statement. There was £97 of Mr. McClintock's own money from the proceeds of his wheat and wool, over which this man Burns had entire control. That is a fact, but the files do not disclose a finalisation statement. The stay order lapsed and the receiver might have been advised that his receivership was terminated, but was the farmer advised to that effect? The files do not disclose that.

The Chief Secretary: Why did he make the private arrangement?

Hon. E. H. H. HALL: I am coming to that point. I thank the Chief Secretary for his interjection because he said that Mr. McClintock "arranged with Burns." The file contains nothing to prove that statement.

The Chief Secretary: There is no need for that.

Hon. E. H. H. HALL: Burns was an Agricultural Bank official. When the stay order lapsed he still continued operating on an account at the National Bank—a receiver account. I interviewed the manager of the National Bank at Geraldton and said, "Did Mr. McClintock come along with Burns when he opened a fresh account?" He said, "No, Burns simply closed one account and opened the other, and promptly drew cheques against it."

Hon. H. V. Piesse: Was it necessary for him to do that?

Hon. E. H. H. HALL: That is what he did. There is nothing to show that Mr. McClintock agreed to that arrangement. The important point members have to bear in mind is that the stay order lapsed on the 5th September, 1939. No finalisation statement was issued. This point should decide the attitude of members on this motion. The stay order lapsed on that date and within a week the matter should have been cleared up. A cheque should have been drawn for the amount of the credit balance and posted to Mr. McClintock, or he should have collected it and signed for it, and Burns should have reported to his superior officer,

the manager of the Agricultural Bank, at Geraldton, or the director under the Farmers Debts Adjustment Act, the late Mr. White—but he did neither.

If members have open minds and desire to do justice and show a little mercy to a man who has battled in the country for 30 years, this will decide them. On the 6th March, 1940—over six months after this matter is supposed to have been cleared up—a letter was written by the Director, under the Farmers Debts Adjustment Act, to the receiver at the Agricultural Bank at Geraldton which states—

Re McClintock, Yuna. As the abovenamed farmer's application for debt adjustment has been finalised, and the stay order allowed to lapse, kindly forward a statement of your receivership account as soon as possible.

Hon. A. Thomson: That is six months after.

Hon. E. H. H. HALL: Yes, and there is worse than that. That shows no finalisation statement had been made out. On the 16th April, Burns replied and his reply is here for the world to see. It is written on Agricultural Bank paper from the Agricultural Bank at Geraldton by an Agricultural Bank officer. This is what he said—

The Director, Farmers' Debts Adjustment Act, Perth: Your letter of the 9th has been handed to me today and in reply have to advise that I have been having a holiday here since returning from Perth. The receivership has already been closed and a statement to the date of the lapsing of the stay order will be forwarded to you during the coming week.

That letter was received by the director in Perth on the 18th April. Shortly after this Burns went on his long-service leave and a new man took charge.

Hon. V. Hamersley: Who was receiver in the following April?

Hon. E. H. H. HALL: So far as I can see, Burns was receiver until he was dismissed. Mr. Holmes asked, when I was speaking, and again today, the date on which Burns finished up. Here is the answer contained in a letter dated the 17th September, 1940, to the secretary of the Superannuation Board, Perth—

I have to advise that, on referring the matter to the Solicitor General, he expressed the opinion that Mr. Burns remains in the Bank's service until the date of his retirement, viz., 9th December, 1940.

That was when his long-service leave was due to expire. But what happened? The

accountant at Geraldton took over Mr. McClintock's affairs and was not satisfied and sent for an auditor from the Auditor General's department. It was then that these thefts were disclosed. According to the Chief Secretary, Burns's service terminated when the stay order lapsed. However, Burns continued to act as receiver up to the date when he went on leave, namely, the 27th March, 1940. Because of his misappropriation of funds, Burns was dismissed on the 13th September, 1940. The stay order lapsed on the 5th September, 1939, and Burns was dismissed from the service on the 13th September, 1940. He was not allowed to avail himself of the balance of his long-service leave, and rightly so. But the Government's relations with Mr. McClintock had not terminated when the stay order lapsed, because the Government, through the Commissioners of the Agricultural Bank, allowed Burns to continue acting as receiver for Mr. McClintock till the date when he went on leave, namely, the 27th March, 1940.

On the 18th July, 1940, Burns signed a statement admitting that during the period from December, 1938, to June, 1940, he drew cheques in fictitious names for services which were not performed and applied the proceeds to his own purposes. As Mr. Piessio stated, the unfortunate man McClintock had learned to place implicit trust in this officer of the Agricultural Bank, who had arranged for the payment of his debts and for the supply of super and for other things. Therefore Mr. McClintock had complete confidence in Burns. There is nothing in the file to show that Mr. McClintock agreed that Burns should continue to act as receiver. I ask members to bear in mind the dates I have quoted. The files contain no statement that the Government department insisted on a final statement being submitted by Burns with a receipt from Mr. McClintock for the £97 odd that was to his credit when the stay order lapsed.

Therefore we come back to the Premier's letter of the 25th February, 1941, as follows:—

In reply to your letter of the 6th instant relating to the defalcations by an officer of the Agricultural Bank whilst he was acting as receiver for certain estates under the control of the Farmers' Debts Adjustment Scheme—

Not under the Farmers' Debts Adjustment Act—

—I have to advise you that after having an investigation made, I have approved of a re-

fund of the moneys misappropriated by this officer while acting as receiver.

I ask the House to show a little mercy to Mr. McClintock. Far be it from me to kick a man when he is down, let alone one who is in gaol, but there is Burns's personal file for anyone who cares to see. If members peruse it, they will find that though he was a capable clerk and carried out his duties in a satisfactory manner—I hate to mention this—he was continually in financial difficulty and for this was reported to the Bank. There are members in this House who understand ordinary commercial practice. We endeavour to protect men who have weaknesses, but I ask any one to justify the action of presenting Burns with a cheque book and giving him liberty to draw cheques for a farmer located 50 miles out in the country. Legally Mr. McClintock has no claim; morally there is a claim, and I feel sure that if the House passes the motion, the Premier will accede to our wishes and do justice to Mr. McClintock.

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

Ayes	10
Noes	15
Majority against				5

AYES.

Hon. C. F. Baxter
Hon. L. B. Bolton
Hon. E. H. Hall
Hon. V. Hamersley
Hon. J. G. Hislop

Hon. H. V. Plesse
Hon. A. Thomson
Hon. H. Tuckey
Hon. F. R. Welsh
Hon. G. B. Wood
(Teller.)

NOES.

Hon. Sir Hal Colebatch
Hon. L. Craig
Hon. J. A. Dimmitt
Hon. J. M. Drew
Hon. E. H. Gray
Hon. E. M. Heenan
Hon. J. J. Holmes
Hon. W. H. Kitchin

Hon. J. M. Macfarlane
Hon. W. J. Mann
Hon. G. W. Miles
Hon. T. Moore
Hon. H. Seddon
Hon. C. B. Williams
Hon. G. Fraser
(Teller.)

Question thus negatived.

BILL—FIRE BRIGADES ACT AMENDMENT.

Assembly's Message.

Message from the Assembly notifying that it had disagreed to the Council's amendment now considered.

In Committee.

Hon. J. Cornell in the Chair; the Honorary Minister in charge of the Bill.

Clause 2: Add the following proviso to

the clause:—Provided that for the purposes of this subsection the term "Annual estimated expenditure" shall not include any moneys expended or proposed to be expended in relation to or arising from either directly or indirectly war or warlike operations.

The CHAIRMAN: The Assembly's reason for disagreeing is as follows:—

It is considered this amendment would create doubts and confusion as to the responsibility of the board as to expenditure and estimated expenditure, and thereby interfere with the efficient working of the fire brigade system.

The HONORARY MINISTER: I move—

That the amendment be not insisted on.

The Civil Defence Council has already provided equipment for fire brigades and it is reasonable to suppose that this assistance will be continued. To meet an extra demand for fire-fighting purposes, the Fire Brigades Board will have to look to the Civil Defence Council. The amendment will create confusion and will hamper the board in its work.

Hon. Sir HAL COLEBATCH: I cannot agree with the suggestion that the amendment will create doubt and confusion as to the responsibility of the board. It simply provides that certain things shall not be the responsibility of the board. I think members will agree that destruction caused by war should not be the responsibility of the board. Therefore the amendment, instead of creating doubt and confusion, clears the matter up. How it could interfere with efficient working of the brigades I cannot understand. In the event of the measure becoming law, it cannot become operative until the 1st October, 1942, when the next financial year begins. If we establish the principle that expenses arising, directly or indirectly, out of warlike operations are not the responsibility of the board, there is surely ample time between now and the making of the next assessments for the Government to set out some principle by which that particular expenditure should be met. Indeed, I do not think there would be any difficulty in doing it now. If the Committee insists on its amendment, another place will quite possibly invite a conference, at which the responsibility could be set up.

The HONORARY MINISTER: The Fire Brigades Board can well be left to look after its interests. Is a fire brigade going

to consider, in the event of a fire, whether the fire arises from a war plane or a bomb?

Hon. H. SEDDON: The position created by the Bill is that the expenses of the Fire Brigades Board shall be borne in future to the extent of three-eighths by local authorities, three-eighths by fire underwriters, and the remaining quarter by the Government. Thus the Government would meet only a quarter of the expenditure. The responsibility for war damage is that of the entire community. The Committee should adhere to the amendment.

Hon. G. FRASER: I hope the Committee will not insist on the amendment. Should it do so, the possibility arises of a fire brigade attending a fire having to ascertain whether it was caused by operations of war or otherwise.

Hon. L. B. Bolton: That would be ridiculous.

Hon. G. FRASER: If a fire brigade attended a fire which was afterwards proved to have arisen from war causes, it would be misappropriating funds.

Hon. L. B. Bolton: The Minister in introducing the Bill certainly drew the long bow.

Hon. G. FRASER: There was no drawing of the long bow. It is laid down that a fire brigade must not expend money on war damage.

Hon. Sir HAL COLEBATCH: Surely the suggestion that firemen would hesitate to attend a fire until they knew who was responsible is too fantastic for serious consideration. Firemen are not made like that. This is a matter of compiling estimates, a matter of setting out for what the Fire Brigades Board is responsible, on the scale set out in the Bill. The amendment merely says that some other method must be provided for repairing damage caused by war. It has nothing to do with attendance at fires. The provision is an entirely proper one to make.

Hon. L. B. BOLTON: I hope the Committee will insist on the amendment. The insurance companies, or in other words the insurers will, under the amendment, pay an additional £13,000 annually. Who is going to pay that if not the insurers? Why should any section of the community be asked to accept responsibility for that sum? The sole object of the amendment is to free local authorities and insurers of the capital

cost involved. The amendment is perfectly justified.

Question put and negatived; the Council's amendment insisted on.

Resolution reported, the report adopted and a message accordingly returned to the Assembly.

BILL—WORKERS' COMPENSATION ACT AMENDMENT.

Assembly's Message.

Message from the Assembly notifying that it had agreed to amendment No. 1 made by the Council, subject to a further amendment, now considered.

In Committee.

Hon. J. Cornell in the Chair; the Honorary Minister in charge of the Bill.

No. 1, Clause 2: In paragraph (a):—Delete the word "six" in line 17 and substitute the word "five."

The CHAIRMAN: The Assembly agrees to the Council's amendment subject to the Council's making a further amendment as follows:

Add to the amendment the following words:—"and add to the paragraph the following words: 'and by adding after the word 'writing' in line 14 of the definition of 'worker' the following words:—'The worker's remuneration shall not include overtime or other allowances. Where a worker's wages are based on a basic wage which is greater than the basic wage fixed from time to time by the Court of Arbitration for the metropolitan area his remuneration shall not include the total amount which accrues in any year on account of the differential basic rates aforesaid.'"

The HONORARY MINISTER: I move—That the amendment, as amended, be agreed to.

The amendment is to Clause 2. Mr. Baxter moved here an amendment in practically similar terms. It will be of advantage to people in the country, particularly to miners. Another place has shown itself magnanimous in accepting 12 of the 13 amendments made by the Council, and we should reciprocate that Christmas spirit.

Hon. C. F. BAXTER: We do not expect much magnanimity from the Honorary Minister. There is a wide difference, in fact an impossible difference, between my amend-

ment and the Assembly's amendment. My amendment was to the effect that overtime, district allowances, and so forth should be taken into account by increasing the maximum from £400 to £500. The Assembly's amendment asks for overtime and allowances which cover a tremendous field. My amendment proposed a maximum of £100 in these respects. Those who know anything about industrial awards will be aware that allowances are legion. I counted over 30 of them the other night. If this amendment were agreed to, how could any employer, much less any insurance company, arrive at what would be the amount to assess for insuring under the Workers' Compensation Act? This Committee has gone to the limit in regard to the definition of "worker." I am sorry the House did not adopt the amendment I moved to make the figure £400. The overtime and district allowances would have met the position with regard to those excluded by increased earnings. There are not many but there are some who should be provided for, and my amendment would have brought them within the scope of the Act. I hope the Committee will stand by its amendment, in which it was over generous. The Minister responsible for this measure was very elated when he found that we had agreed to an increase up to £500.

Hon. J. J. Holmes: The Minister here was delighted when the amendment making the figure £500 was agreed to.

Hon. C. F. BAXTER: So were they all!

Hon. E. M. HEENAN: It is the reference to the Committee's generosity that brought me to my feet.

Hon. C. F. Baxter: The Minister used it.

Hon. E. M. HEENAN: It is not a question of generosity but of arriving at some fair figure. If £500 is adequate for this part of the State, I suggest that a man working at Cox's Find, for which the Arbitration Court fixes a higher basic wage than exists in Perth, should receive some consideration. Possibly the Committee considered that it did not want the amount to exceed £450 and that it would be on the safe side in going a little further and making it £500, but it differentiated between the worker living down here and the worker living elsewhere. Allowance for the basic wage must be made, otherwise a hardship will be inflicted on a number of men who are residing in parts of the State where

we want to keep them and where there is a great shortage of labour.

Hon. H. SEDDON: When it is realised that the basic wage varies in different parts of the State, it will be seen that there is a good deal in Mr. Heenan's argument. I think the idea of the amendment is that that variation shall be discounted before a man's remuneration is reckoned to exceed £500. The same point arose some time ago in connection with income taxation. Through the fixing of a set amount under the Income Tax Act, men who were on the basic wage in one part of the State paid taxation, whereas those on a different basic wage elsewhere escaped taxation. I take it the amendment is intended to overcome an anomaly of that kind, but how it will work out is another matter.

Hon. Sir HAL COLEBATCH: I am inclined to agree with what Mr. Baxter has said, particularly in regard to the matter of allowances, but there is one point in regard to overtime about which I would like to be informed by those who are more familiar with the working of the Act than I. A worker is defined as a person who does not receive more than £500. What does that mean? Does it mean during the 12 months preceding the accident?

Hon. C. B. Williams: Yes.

Hon. Sir HAL COLEBATCH: Then I am inclined to think there is some justification for not including overtime. Suppose a man during the 12 months does a good deal of overtime which brings his amount of remuneration above £500, and then at the end of the 12 months overtime ceases and he reverts to £8 a week. If he should then meet with an accident, it seems to me to be rather unjust and not quite what we intended, that he should be told he can receive no compensation because in the previous year, through working overtime, he received over £500.

Hon. G. FRASER: There is another point. The fee to cover that man's insurance was paid during that year because it was provided for on the pay sheet and not paid for the individual. It becomes individual only when a man is hurt. So that if a man did not meet with an accident, notwithstanding that he received over £500, the fee would have been paid for him, which makes it all the more reasonable that we should agree to the Assembly's amendment. Another point is that a worker has no know-

ledge that overtime and allowances will take him over the £500 mark. If the Assembly's amendment is agreed to, no one will be any the worse off, the companies will not lose and the individual will be covered.

Hon. L. B. BOLTON: I am not sure I agree with Mr. Baxter's contention that the amount should be based on the previous year's earnings. I think when we dealt with the Bill we agreed that for compensation purposes the amount should be the earnings of the previous week.

The CHAIRMAN: The only amendment made was the deletion of £400 and the substitution of £500.

Hon. L. B. BOLTON: I am referring to the assessment of a man's rate when he was injured.

The CHAIRMAN: That has been agreed to by the Assembly.

Hon. L. B. BOLTON: What I am leading up to is that to agree to its being based on the previous week's earnings, is more correct than to base it on the previous 12 months' earnings. I think we did agree to that. I supported it because, as a large employer of labour, I have, when dealing with compensation cases, based the amount on the previous week's earnings.

Hon. J. J. Holmes: Or whichever was the greater.

Hon. L. B. BOLTON: Yes. Where a man has not been working for a full 12 months it would be difficult to assess on that basis. I am opposed to the amendment. When the Committee agreed to substitute £500 for £400, it went as far as it should in the interests of the industries of this State.

Hon. T. Moore: Would you say it would be right that if a man's earnings during the previous week, including overtime, brought his rate up to over £500, he should not be paid in the event of his meeting with an accident?

Hon. L. B. BOLTON: I would not want him to be deprived of compensation.

Hon. T. Moore: You will be depriving him of it.

Hon. L. B. BOLTON: No. If the hon. member is speaking of the compensation which would be paid, the maximum is £3 10s., whether he earns £5 or £20 per week.

Hon. L. Craig: But if his rate was over £500 a year he would not come under the provision.

Hon. L. B. BOLTON: No.

Hon. L. Craig: Just because he worked that one week at that rate!

Hon. L. B. BOLTON: I would not debar a man from compensation, and I do not think any reasonable employer would do so.

The HONORARY MINISTER: Although he has no practical knowledge of industrial affairs, Sir Hal Colebatch has advanced the best argument so far to prove to members that we should agree to the Assembly's amendment. I cite the instance of an engine driver who, owing to firemen not being available due to enlistments, was compelled to fire his own engine for a number of weeks, with the result that his wages plus overtime excluded him from the application of the Act. In these days men may be called upon to work overtime to a considerable degree and they should not be penalised in consequence. It should not be difficult for any paymaster to make the necessary computation.

Hon. T. MOORE: Mr. Bolton indicated very clearly how this matter will work out. If a man earned over £10 a week because of excessive overtime and he should meet with an accident in the course of his work, he would be outside the scope of the Act.

Hon. L. B. Bolton: What employer would take advantage of that?

Hon. T. MOORE: I am quite sure Mr. Bolton would not take advantage of it, but that is the point we have reached. Men are forced to work overtime in these days and we shall have to speed up much more than we are doing today. Industry is not moving as it should. If men are called upon to work excessively long hours in order to promote the nation's war effort, they should not be penalised should they meet with an accident. Excessively long hours of work make accidents more likely.

Hon. C. B. WILLIAMS: The Committee could well give way on this matter. After all, those affected will only be skilled tradesmen and if they are called upon to work overtime in order to assist the nation's war effort, they should not be adversely affected under this Act. It would be ridiculous to deprive them of benefits that should accrue to them, merely because they were working hard turning out war requirements and had earned overtime. The great bulk of the workers will never earn £500 a year, so not very many will be affected.

Hon. Sir HAL COLEBATCH: I am sure every member desires to do what is right. I shall place before members details of an actual incident that has happened in a factory employing a considerable number of men. The factory is working 24 hours a day and the management desires to work three eight-hour shifts. That is impossible because the men are not available. The factory is dealing largely with war work and has to be carried on with 12-hour shifts. The men employed are skilled and entitled to high wages, probably £7 or £8 a week. Because they have to work 12-hour shifts, their earnings amount to £10 or £11 weekly. If we insist upon the amendment under discussion which will mean that overtime has to be counted and reject the Assembly's further amendment, will the effect be that should one of the men working the 12-hour shifts meet with an accident, he will be debarred from benefits under the Workers' Compensation Act? Does it mean that if overtime conditions continue for a year bringing the earnings of such a man to over £500 and that individual should meet with an accident, he will be debarred from the benefits of the Act? If it means either, I do not think it is right.

Hon. J. G. HISLOP: I would like to see the Council's further amendment altered so that it would read that the workers' remuneration shall not include overtime. A worker should know whether he is insured, for if he should meet with an accident and then find out that he is not to receive any compensation, his position is most difficult. If a man is prepared during the war period or the reconstruction period to work overtime, he should not be deprived of his rights under the Act. We should not include overtime in considering the man's remuneration. I have known of instances of men regretting that they had worked overtime because it had resulted in their meeting with serious accidents.

Hon. J. J. HOLMES: No matter what maximum amount we may fix in the Bill in relation to workers to be covered by the Act, anomalies will occur. The Government asked that workers receiving £600 should be included. The old Act provided for men receiving up to £400 and the Council agreed to fix £500 as the maximum amount. Now the Government wishes to extend the amount still further.

Hon. L. B. Bolton: We do not know quite how far it will go.

Hon. J. J. HOLMES: I emphasise the point that irrespective of what amount may be fixed, anomalies will occur.

The CHAIRMAN: I direct the attention of the Committee to the fact that the alternative amendment cannot be altered. Standing Order 225 sets out what may be done when the Legislative Assembly disagrees to an amendment made by the Council, or agrees to the Council's amendment subject to a further amendment.

Hon. Sir HAL COLEBATCH: The Assembly has amended the Council's amendment. Cannot this Committee agree to the Assembly's amendment to the Council's amendment, subject to a further amendment? If so, I move—

That the Assembly's amendment be amended by striking out after the word "overtime" in line 2 the following words:—"or other allowances. Where a worker's wages are based on a basic wage which is greater than the basic wage fixed from time to time by the Court of Arbitration for the metropolitan area his remuneration shall not include the total amount which accrues in any year on account of the differential basic rates aforesaid."

Hon. L. CRAIG: The arguments that have been raised tonight are the same as those raised on the second reading debate. It was then pointed out that a great deal of overtime would be worked on account of war-time conditions. It was also pointed out that the increase in the basic wage, since its inauguration, was 6 per cent., which, on £400, would amount to £24. We increased the amount in this provision to £500, to cover overtime and other allowances mentioned by Mr. Baxter.

Hon. C. F. Baxter: To cover all such allowances.

Hon. L. CRAIG: Yes. We should disagree to the Assembly's amendment.

The HONORARY MINISTER: Much additional information has been obtained by the Government since the Bill was discussed in Committee. Mr. Duncan, the manager of the munitions works at Adelaide, was in this State organising labour for those works. He could only secure four skilled men.

Hon. J. J. Holmes: What has that to do with the amendment?

The HONORARY MINISTER: There is a grave shortage of skilled workers. Mr. Duncan said that in Adelaide the men were working round the clock and, without doubt,

they will be required to do so here. That might place them outside the scope of the Act.

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

Ayes	13
Noes	12

Majority for	1
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AYES.

Hon. Sir Hal Colebatch	Hon. W. H. Kitson
Hon. J. A. Dimmitt	Hon. T. Moore
Hon. J. M. Drew	Hon. H. Seddon
Hon. G. Fraser	Hon. A. Thomson
Hon. E. H. Gray	Hon. C. B. Williams
Hon. E. M. Heenan	Hon. E. H. Hall
Hon. J. G. Hislop	(Teller.)

NOES.

Hon. C. F. Baxter	Hon. W. J. Mann
Hon. L. B. Bolton	Hon. G. W. Miles
Hon. L. Craig	Hon. H. Tuckey
Hon. V. Hamersley	Hon. F. R. Welsh
Hon. J. J. Holmes	Hon. G. B. Wood
Hon. J. M. Macfarlane	Hon. H. V. Plesse
	(Teller.)

PAIR.

AYE.	NO.
Hon. W. R. Hall	Hon. H. L. Roche

Amendment thus passed; amendment on the Assembly's amendment to the Council's amendment agreed to.

Resolution reported, the report adopted and a message accordingly returned to the Assembly.

BILL—PLANT DISEASES (REGISTRATION FEES).

Report of Committee adopted.

BILL—LAW REFORM (MISCELLANEOUS PROVISIONS).

Second Reading.

HON. E. M. HEENAN (North-East) [9.2] in moving the second reading said: This Bill, as its Title sets forth, seeks to amend the law in four important respects, the first being the liabilities of husbands, the second, proceedings against, and contributions between, tort-feasors; the third, the effect of death in relation to causes of action; and the fourth the law of property known as the rule against perpetuities.

Dealing with the first proposition, there is an ancient rule of common law which makes a husband liable for damages for any torts committed by his wife. The legal term "tort" can be simply defined as "a wrong or injury done by one person to an-

other for which the injured person has a civil remedy for damages." Common examples are libel, slander, and negligence, such as negligent driving of a motor car, or the negligent performance of some undertaking or duty. Assault, nuisance, in the case of a manufacturer setting up a noisy or objectionable trade next to a dwelling-house, are other common examples.

These do not exhaust the list, but they are everyday examples of torts. As the law stands, a husband can be sued for damages in respect of torts committed by his wife. This rule had much to commend it when, upon marriage, a wife's property automatically became vested in the husband and the wife was not allowed to own property. Under such circumstances it was probably only right and proper that the husband should be liable for his wife's torts. About fifty years ago, however, this old law was altered, and we all know that a wife is now able to own property on her own account and retain as her own any property she may have possessed at the time of her marriage. Such being the case, it no longer seems necessary to make the husband responsible for his wife's torts. If this Bill is passed, that ancient law will disappear, as it already has done in England and also in New Zealand. The position will be that anyone who sustains damage, such as I have indicated, from a married woman, will have to look to her, and to her separate estate alone, for damages. The husband will not be liable. That is the first, and perhaps the most important provision, in this Bill.

The second proposal is an intention to alter the law where a tort is committed by two or more persons in concert. The legal term is "tort-feasors." To illustrate the point, I can quote the case of two motor cars colliding, the collision being due to the negligence of both drivers although, perhaps, in different degrees. In such a case, if a pedestrian or passenger is injured, he could sue both drivers and recover damages from either—usually, of course, applying to the one who is best able to pay. He would get judgment against the two, but when it comes to enforcing payment, he selects the man of substance as against the man of straw.

As the law stands, the tort-feasor who pays cannot make the other tort-feasors reimburse him for their share of the liability.

Under the proposed amendment, where two or more wrongdoers—I am substituting that word for tort-feasors; they are almost synonymous—jointly injure a person, the court, when trying the case, may apportion the damages between them according to their respective shares of the blame. In the case I have quoted, the court may say that one driver should assume three-quarters of the blame, and therefore has to pay three-quarters of the damages and the other driver is liable for the remaining quarter.

Further, if the injured person should sue only one of a number of wrongdoers who have injured him, and that particular wrongdoer should pay the damages, he could recover from the other wrongdoer or wrongdoers who were partly responsible a fair proportion of the damages paid, such proportion to be fixed by a judge. This provision is taken from the English Law Reform Act of 1934.

With reference to the third amendment, by an ancient rule of law, where one person wronged another and either of them died before the injured person recovered damages, the cause of action ceased to exist unless the wrong was one directly attaching to property, or by which the property of the wrongdoer was augmented. For example, if a negligent motorist injured a pedestrian who died, the estate of the injured pedestrian could not recover any damages although the injured pedestrian had incurred loss in the way of hospital and medical expenses, and loss of wages prior to death. So also if the wrongdoer died, the injured person could not recover any damages although, for example, he might have been negligently injured by the wrongdoer's motor car and have lost a leg.

By this section, if the wrongdoer dies, his estate is liable for damages to the injured person and, conversely, should the injured person die, his estate may recover damages from the wrongdoer, but it is not entitled to recover damages for the pain and suffering and loss of expectation of life of the deceased injured person, because those are losses personal to the injured person who died. In England, the estate of an injured person can recover damages from the wrongdoer on account of loss of expectation of life, pain and suffering of the deceased person, but in this Bill that portion of the English law is omitted because it has been found

difficult to administer by the courts. This clause is otherwise taken from the English Law Reform Act.

With reference to the fourth proposed amendment, there is a rule of law known as the rule against perpetuities under which where any property is dealt with by a deed or will, the absolute ownership or control and right of distribution of that property must vest in someone within the life of the beneficiary and for 21 years afterwards. For example, a man may by his will give the income of property to his son for life and direct that after his son's death the full ownership of the property shall belong to his son's children who attain the age of 21 years. That disposition would be valid. If, however, he provided that the children should not attain ownership of the property until they reached the age of 25 years, it would, in many cases, be contrary to this rule with the result that, after the son's death the gift to the children would be void and the property in question would be dealt with, either by the residuary clause in the will, or by going to the next of kin as on intestacy, a result which the testator did not intend or desire.

The proposal in this part of the Bill copies a similar provision in the English Property Act which provides that where in any deed or will a provision offends against the rule in perpetuities by naming an age beyond the rule, then such provision shall be deemed to be altered and read as if the age had been made 21. It thereby brings the matter within the law. This provision will save a number of dispositions of properties from being rendered invalid by inadvertently offending against a technical rule.

In conclusion, all the provisions in this measure alter what is known as the common law. They do not alter the statute law. These proposals, with some minor differences, have already been adopted in England and in New Zealand. This Bill has been approved by the Law Society of Western Australia. I move—

That the Bill be now read a second time.

HON. L. CRAIG (South-West) [9.15]: I find it rather difficult to speak on this Bill because I have exactly the same notes as Mr. Heenan has. The Law Society has a committee dealing with old Acts with a view to bringing them up to date, and the Bill makes quite interesting reading. It is mere-

ly introducing amendments which, if considered as set out in the notes, are most interesting and appear to be necessary. I have my own notes which I understand much better than those supplied to me, but as I feel sure that the House will vote for the second reading, I doubt whether it would be of any advantage to explain the provisions to Mr. Heenan. Therefore I shall lay aside my notes, which are much clearer than those handed to me. I support the second reading.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West) [9.17]: I rise merely to say that I have no objection to the Bill.

Question put and passed.

Bill read a second time.

In Committee.

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

House adjourned at 9.20 p.m.

Legislative Assembly,

Wednesday, 26th November, 1911.

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QUESTION—PUBLIC SERVICE.

Rights of Enlisted Women.

Mr. SAMPSON asked the Premier: Do women of the Civil Service, including teachers who have volunteered and been accepted for service oversea, retain their position on their return from active service abroad, also do they retain all rights as in the case of men in connection with seniority, long service leave and superannuation?

The PREMIER replied: This question has been raised quite recently and is now under consideration.

QUESTION—POST-WAR PROBLEMS.

As to Employment of Service Men.

Mr. McLARTY asked the Premier: 1, Has the Government set up any organisation to frame plans for the restoration to civil vocations of soldiers, sailors and airmen, after the war? 2, If so, what is the nature and composition of the organisation? 3, If not, what steps does the Government propose for this purpose?

The PREMIER replied: 1, Yes. 2 and 3, A committee has been formed to deal with post-war reconstruction in connection with public works, consisting of the following:—Mr. R. J. Dumas (Director of Works), Chairman, Mr. A. J. Reid (Under Treasurer), Mr. G. K. Baron Hay (Under Secretary for Agriculture), Mr. W. V. Pyfe (Surveyor General), Mr. N. Fernie (Director of Industrial Development). In addition consideration has been given to the diversification of primary industries, such as flax, tobacco, etc., in the post-war reconstruction, and plans are under consideration for secondary industrial development and for housing. Co-operation is taking place between the Commonwealth and State Governments regarding this matter.

BILLS (6)—FIRST READING.

- 1, Loan £916,000.
- 2, Administration Act Amendment (No. 2).
- 3, Death Duties (Taxing) Act Amendment.
- 4, Stamp Act Amendment.
- 5, Workers' Homes Act Amendment.
Introduced by the Premier.

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