Probably there are good reasons for this but, as the member for Wembley said, I wonder whether the fact that two departments are involved leads to a certain inefficiency because of overlapping. If this matter was looked at by those people who are anxious to bring about reform, it could well lead to greater efficiency; and perhaps overlapping could be reduced if the two Acts were combined and we had a composite Act brought before the House at some future time.

Also, I tried to find out whether any reports were submitted by the trustees of the Karrakatta Cemetery but I was unable to obtain one. I know we could hardly expect to have a report from the trustees of every cemetery in Western Australia, but at least I think a report should be prepared by the trustees of the major cemetery in the State, namely, Karrakatta. If there is a report available it could not be traced through the records of the House this evening. Perhaps the Minister may know whether such reports are submitted to him as a matter of administrative practice and he could tell the House whether they are tabled for the information of members.

Mr. Ross Hutchinson: Which reports?

Mr. HARMAN: Reports by the trustees of the Karrakatta Cemetery. With those remarks I support the Bill.

MR. ROSS HUTCHINSON (Cottesloe —Minister for Works) [9.19 p.m.]: I trust it will not be held against me that I am untrammelled by any great knowledge of this subject.

Mr. Graham: I think you are a bit too modest.

Mr. ROSS HUTCHINSON: Not a bit. I appreciate the remarks that have been made on the discrepancy that exists in the gestation period referred to in the Acts that have been mentioned—I refer to the periods of 28 weeks and 20 weeks. I am unable to say whether or not this gap should be closed at some future time but I will certainly mention it to the Ministers concerned.

As I understand the situation, the 20-week gestation period applying in the Registration of Births, Deaths and Marriages Act was used to ensure that a scientific or medical inquiry could be held for the purpose of determining the cause of death. It was felt that this might add to the scientific and medical knowledge available. However, here again I am treading on ground about which I do not know a great deal.

During his speech, the member for Maylands made mention of the fact that the Cremation Act and the Cemeteries Act come under different ministerial jurisdictions, and he suggested it might be of value if the two Acts were combined and thus brought under the one Minister. Here again, I am not sure whether this should be so. I imagine there is quite a deal of difference in the two Acts. I fancy the Cremation Act is the newer one and the reason it was placed under the jurisdiction of the Minister for Health was because of fears about the correct implementation of the legislation in regard to health matters generally. With the passage of time presumably any fears that may have been held have been allayed and the two Acts perhaps could be combined. This is another subject I will mention to the respective Ministers; and the honourable member, too, could make representations in that direction.

As regards the reports, I am afraid I have no knowledge whether or not they are tabled, but if the honourable member asked the Minister concerned he would be able to elicit that information.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

House adjourned at 9.25 p.m.

Legislative Council

Wednesday, the 4th September, 1968

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

ADDRESS-IN-REPLY

Acknowledgment of Presentation to Lieutenant-Governor and Administrator

THE PRESIDENT: I desire to announce that, accompanied by several members, I waited on His Excellency the Lieutenant-Governor and Administrator and presented the Address-in-Reply to His Excellency's Speech, agreed to by the House. His Excellency has been pleased to make the following reply:—

> Mr. President and honourable members of the Legislative Council: I thank you for your expression of loyalty to Her Most Gracious Majesty The Queen, and for your Address-in-Reply to the Speech with which I opened Parliament.

QUESTION: WITHOUT NOTICE

RELEASED PRISONERS

Publicity

The Hon. C. R. ABBEY asked the Minister representing the Chief Secretary:

(1) Has he seen, heard, or read any of the publicity which has been given to recently released prison

inmates from the Fremantle gaol following their being interviewed by Press representatives?

(2) If so, what was his reaction to this type of publicity?

The Hon. G. C. MacKINNON replied:

(1) and (2) Yes; I have seen some of the publicity referred to and my reaction was very strong indeed. Only this morning I had the President (Mr. McLellan) and the Secretary (Mr. McGivern) of the Western Australian Gaol Officers Union in my office and they also are deeply concerned about this type of publicity.

As it happens, these are prisoners who have quite extensive records to date and they are being interviewed or written about either by representatives of radio and television stations or by the Press. This is extremely detrimental to constituted authority and renders the task of an extremely worthy body of men—that is, the prison officers—and also those engaged in prison administration duties very difficult.

Such publicity also causes grave concern among people who have relatives in Fremantle gaol or any other gaol at present; that is, when they hear quite unsubstantiated stories of bashings and this type of thing. Naturally they become very concerned over their relatives or any friends who are in gaol. They do not stop to think that both the members of the union and prison authorities have to comply with rigid rules and regulations governing the behaviour of officers towards prisoners, and that any actions like this would be dealt with by one or both of these organisations.

It is apposite that Mr. Abbey should have asked this question today, because one of the persons to whom a great deal of publicity has been given was today remanded for trial in Kalgoorlie on five additional charges. This would give some indication of the prevalence of acts by persons such as this one.

My regard is for the denigration of constituted authority and of a body of men who are doing a very good job for society in general, and are protecting the law-abiding and law-conforming citizens. I have the greatest sympathy for the once-up prisoner—who could be anybody—who happens to be caught up with a set of circumstances and finds himself in this position; but I find it difficult to have a lot of sympathy for people with records as long as one's arm, who show every indication of returning to the places which they have run down, and who have been given the opportunity to run down these places, through overenthusiasm on the part of certain of our news media. I trust this satisfactorily answers Mr. Abbey's question.

QUESTIONS (3): ON NOTICE

KWINANA INDUSTRIAL AREA

Resumptions

1. The Hon. F. R. H. LAVERY asked the Minister for Mines:

(1) Will the Minister please table a map of the Kwinana industrial area showing—

(a) the area of land resumed or acquired by the Department of Industrial Development; and

(b) what areas it is proposed to further resume or acquire for the use of Western Aluminium NL?

(2) In respect of each of the blocks or areas resumed or acquired—

(a) what was the purpose of the resumption or acquisition;

(b) what was the purchase price per acre;

(c) (i) what portions have been sold to various companies;

(ii) what companies are to be accommodated; and

(iii) what was the sale price per acre of the sold portions;

(d) what rental will be asked for leasehold lands in this area?

The Hon. A. F. GRIFFITH replied:

(1) Yes. A map of the Kwinana industrial area will be tabled, showing in various colours as explained in the legend thereon—

(a) the area of land acquired for the Department of Industrial Development;

(Note: It has not been possible to show scattered quarter acre lots at the scale of 40 chains to the inch used in the plan supplied. Thirty-four such lots in the Kwinana and Rockingham industrial areas have been acquired, either by purchase or by exchange. None of these lots has been sold.)

(b) the areas it is proposed to further acquire for the use of Western Aluminium NL are indicated on the plan by a yellow border.

(2) In respect of each of the areas shown on the plan in the following colours:—

(a) The purpose of the acquisition is shown hereunder—

Green—Land acquired under the provisions of the Industrial Development (Kwinana Area) Act prior to the 31st December, 1953, for purposes of industry generally.

Red—Land acquired for purposes of industry generally under amendment No. 14 of 1959 to the Industrial Development (Kwinana Area) Act. All of this land was acquired from the Commonwealth.

Blue—Land acquired under provisions of the Industrial Development (Resumption of Land) Act for purposes of industry generally. The bulk of this land was acquired from the Commonwealth.

Orange—Land acquired under provisions of the Industrial Lands (Kwinana) Agreement Act No. 93 of 1964 to provide a site for C.S.B.P. fertiliser works, partly by exchange with BP and partly by acquisition.

Yellow, Coloured, or Bordered —Land acquired or about to be acquired under provisions of the Aluminina Refinery Agreement Act 1961, and subsequent amendment Act for the use of Western Aluminium NL for residue disposal.

Purple—Land acquired pursuant to improvement plan No. 3 for redevelopment for industrial sites and services, including the Western Mining Corporation nickel refinery site.

Grey—Land about to be acquired pursuant to improvement plan No. 3 for redevelopment for industrial sites and services, including Western Mining Corporation nickel refinery site.

(b) Prices ranged from $100 to $9,000 per acre, dependent on date of purchase, size, and position of land, and other factors which determine ruling land prices at any particular time of acquisition.

(c) (i) Approximately 640 acres to a number of different companies. This includes six cases covering approximately 244 acres where final documentation is not yet complete.

(ii) Only subsequent negotiations can finally determine this question.

(iii) Sale prices ranged from $500 to $7,000 per acre.

(d) Normally, a rental—to be negotiated—sufficient to cover interest on the funds expended to acquire the land plus costs of administration.
Note: Refinery and works sites for Western Aluminium NL, Broken Hill Proprietary Co. Ltd., and BP Refinery (Kwinana) Pty. Ltd. have not been included as these lands were subject to special Acts of Parliament.

I ask that the much-wanted map be laid on the Table of the House.
The map was tabled.

PUMPING LICENSES

Canning River

2. The Hon. J. DOLAN asked the Minister for Mines:

(1) How many pumping licenses on the Canning River were in operation on the 30th June, 1968?

(2) Are these licenses issued annually?

(3) How many new licenses have been issued for pumping water from the Canning River since the 30th June, 1964?

(4) On what date was the last new license issued for pumping from the Canning River, and for what location number was the license issued?

The Hon. A. F. GRIFFITH replied:

(1) 175.

(2) No, but licenses are subject to annual review by means of a statutory declaration by the licensees.

(3) Eight, but in each case the issue of the new license was to regularise an existing pumping arrangement. No further supplies from the Canning River were committed.

(4) The 28th June, 1967, for Canning Loc. 30, Lot 14.

TWO-WAY RADIO

Change to Single-Sideband

3. The Hon. J. HEITMAN asked the Minister for Mines:

(1) Is it contemplated that two-way radio, both H.F. and V.H.F., will be changed to a single-sideband?

(2) If the answer to (1) is "Yes"—

(a) when will this take place; and

(b) will a trust fund be set up to cover cost of changeover?

The Hon. A. F. GRIFFITH replied:

This question falls within the province of the Federal Government, but inquiries I have caused to be made revealed the following:—

(1) Following discussions in 1967 between representatives of the post office, the Royal Flying Doctor Service, other outpost services, and the radio industry, it was agreed that radio stations in the outpost networks should change from double-sideband to single-sideband radio transmission. These stations work on the high frequency band.

The programme agreed upon for the change provided for all control stations in the outpost services to be equipped for operation on single-sideband by the 1st July, 1970. They would operate both DBS and SSB equipment over the following five years until 1975. In addition, all outpost stations will be required to install SSB equipment during this five-year period. The use of double-sideband transmissions will be discontinued as from the 30th June, 1975.

The need for such a change arose because of the heavy demand in Australia and other parts of the world for new radio stations to be accommodated in the medium and high frequency bands. The changes will be at the expense of the users. (This is from a Commonwealth point of view.)

Very high frequency will be changed in the metropolitan area only from the present 60-kilocycle to 30-kilocycle channelling. The frequencies involved are 70 to 85 megacycles, and 156 to 174 megacycles.

(2) The changes which must be made on or before the 30th June, 1969, will be at the expense of the users. V.H.F. operates on double-sideband and frequency modulation.

BILLS (2): INTRODUCTION AND FIRST READING

1. Criminal Code Amendment Bill.
2. Justices Act Amendment Bill.

Bills introduced, on motions by The Hon. A. F. Griffith (Minister for Justice), and read a first time.

MEDICAL ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [4.47 p.m.]: I move—

That the Bill be now read a second time.

On the 3rd August a 15-bed hospital, complete with operating theatres, delivery suite, and the like, was opened at Exmouth. It is confidently believed that this hospital will be used by both Australian and American nationals. It is indeed a further step in the general integration of the town.

Naturally, the Americans would desire to be treated by their own doctors, particularly the service personnel. There are two qualified American service doctors currently stationed at Exmouth. Whilst under the laws of Western Australia these people can treat their own nationals in our hospital, they cannot, at the present time, treat Australians.

On the face of it this would appear to be somewhat inexplicable. However, I will endeavour to explain the reason. America demands that Australian doctors wishing to practise in America should undergo an examination. I am advised that some 55 per cent. of our graduates take an examination which does entitle them to registration in America. Naturally, this requirement precludes automatic reciprocity between Australia and America. American doctors likewise have to undergo an examination before they are acceptable for registration in this State. In the ordinary circumstances this presents no difficulty. However, in Exmouth, it is desired to change the situation.

It is rather coincidental that only today another case was brought to my notice, and this presented the same difficulty. I might find it necessary to have another look at this particular aspect of our registration laws under the Medical Act, and to refer the matter to the Medical Board for its consideration.

The position at the present time is that we have one registered medical practitioner working at Exmouth. We are

faced then with the situation where there are two American registered doctors legally entitled to work on their nationals in the Exmouth Hospital and one Western Australian registered medical practitioner legally capable of working on Australian nationals in that hospital. It stands to reason that the two American doctors would desire to assist the locally registered medical practitioner if the occasion arose when it was desirable for them to do so. There are matters such as anaesthetics, and the like, in the normal routine, and then, of course, there is always the possibility of an emergency situation.

Under the present legal position, these American doctors would be running grave risks in assisting. This would be quite unfair, and it is desired to correct the situation. The matter has been discussed with both the doctors and with Captain Freedman. The best method of overcoming the problem would appear to be a small amendment to subsection (2)(c) of section 11 of the Medical Act. This section states, *inter alia*, that any person who satisfies the board that he is registered as a person entitled to practise medicine or surgery in any State or Territory of the Commonwealth, and whose sole occupation is that of a medical officer permanently attached to any of the armed services of the Commonwealth, may, if the Minister in his absolute discretion thinks fit, be registered as a medical practitioner under the Act.

The amendment proposed in this Bill is to allow the Minister, in his absolute discretion, to recommend for registration medical officers attached to armed services other than those of the Commonwealth. The routine would then be that the two American practitioners would satisfy the board as to their good fame and character, etc., as specified under section 11(2) of the Act, and the Minister, in his absolute discretion, could agree to their registration to practise without fee or reward in the Exmouth Hospital. This would then give these doctors the necessary legal protection to allow them to practise in the hospital and to assist our own doctor as and when it was felt fit and necessary. I commend the Bill to the House.

Debate adjourned, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

SUPERANNUATION AND FAMILY BENEFITS ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [4.52 p.m.]: I move—

That the Bill be now read a second time.

This Bill is introduced to enlarge the investment powers of the Superannuation Board in order that it might assist in the scheme for building homes for Government employees. This assistance will be granted to the board by authorising it to purchase houses from the Government Employees' Housing Authority. Houses so acquired would then be leased to the authority and Government employees would become the tenants. By this means, the Government Employees' Housing Authority would procure funds for the erection of more houses.

The Government Employees' Housing Authority is a statutory body established in 1965 to co-ordinate and manage housing for Government employees who are stationed in country areas. In order to refresh members' knowledge of the authority's activities, I would say briefly that, in the three years of its operations, it has taken over the control of 575 houses from Government departments. It has spent $648,000 on improvements to houses. The authority has financed the erection of 98 new houses throughout country areas, and 10 duplex units in country towns for the accommodation of single persons.

The authority has co-ordinated arrangements with local authorities to erect houses for Government employees under a scheme which guarantees the authorities a rental sufficient to cover their outlay. Nine shires have to date agreed to provide 11 houses and eight duplex houses—that is, 27 units of accommodation—during this financial year. I signed another approval this morning, allowing another shire to participate. Three other shires already have erected accommodation for single employees working in their districts.

So it will be appreciated, I am sure, that good progress has been made by the authority up to date, but it is felt that a greater range in activities will be necessary if we are to increase the stock of housing available to Government employees in the country.

Point of Order

The Hon. W. F. WILLESEE: On a point of order, has the Bill yet been distributed?

The Hon. L. A. Logan: It should be on the file.

The Hon. W. F. WILLESEE: I could not find it.

The PRESIDENT: It is Bill No. 11.

The Hon. W. F. WILLESEE: Thank you.

Debate Resumed

The Hon. L. A. LOGAN: The authority has done a commendable job with the finances available, but its objectives can be achieved only by giving it additional financial support, and that is the purpose of this Bill.

It has transpired that the Superannuation Board will willingly provide such support, if empowered to do so by the passing of this measure. Naturally, the

terms and conditions applicable to purchase and lease will be a matter for agreement as between the board and the authority, and the board will doubtless seek and obtain favourable terms on its investment.

It is believed that the arrangement now proposed will permit the board to invest contributors' funds in a manner directly to the benefit of the many contributors giving part or all of their Government service in country areas.

I am able to inform members that the Superannuation Board, in supporting the proposed scheme, has indicated that $1,100,000 will be made available during this current financial year for the housing programme for Government employees for 1968-69. It may be expected that similar amounts will become available year by year.

The Government Employees' Housing Authority is authorised to borrow at the rate of $300,000 per annum under its Act, and this sum, together with the $1,100,000 from the Superannuation Board, will provide the necessary funds for the housing authority's current $1,400,000 housing programme. This compares with $640,000 available to the authority last year.

In commending this Bill to members, I would remark that the provision of housing for both married and single employees in country centres is an essential to effective administration of government and the provision of these additional funds for this purpose will permit the speeding up of the authority's programme with, I suggest, a mutual benefit to employer and employee.

Debate adjourned, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

RURAL AND INDUSTRIES BANK ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—*Minister for Health*) [4.58 p.m.]: I move—

> That the Bill be now read a second time.

In introducing this measure, I would mention that, under the 1966 legislation, Parliament empowered the Rural and Industries Bank of Western Australia to buy and sell land for houses and to call public tenders and to enter into contracts for the erection of 100 homes in any one financial year. That was, of course, in addition to the bank's normal lending and trading activities, through which the bank has provided almost $43,000,000 for some aspects of housing and in respect of 18,519 applicants over the past 12 years.

Arising from the 1966 provisions, the bank acquired land from the Government at Coolbinia and at Karrinyup. In a matter of 12 months, the development, subdivision, and servicing of the areas was attended to and seven contracts were let in that first period. The next 12 months —that is, to the 30th June, 1968—saw 77 contracts let and a further 22 brought to their concluding stages, and as a consequence, this was about as far as the bank could contemplate going as it approached the legislative limit placed on its activities in that field.

I might mention in passing that, whilst as at the 1st August, 1968, income from Coolbinia and Karrinyup areas totalled $1,230,024, outgoings and commitments amounted to no less than $1,904,849. In effect, the bank had financed the scheme until the revolving fund could be brought up to the amount expended.

It has become quite apparent that with the experience gained in this undertaking —and with the bank's resources—it can play an even more important role in housing than is presently allowed under the Act. The commissioners view the position in this light and are supported by the Government, because every possible method must be used to meet the housing needs of the State's rapidly increasing population and, of course, that includes the migrant intake.

In our highly developmental stage, especially, the migrant intake is of some importance. Indeed, last year, a little over 23 per cent. of the British migrant intake into Australia came to Western Australia, as a result of the migration policy of the State Government.

In order that the bank's commissioners may be enabled to expand the bank's activities in the housing sphere, it is proposed to amend section 19 of the Rural and Industries Bank Act to remove the limitation of 100 houses, which presently confines its activities to this number.

Members who supported the 1966 amendment will be pleased to know that the 131 houses for which the bank has been responsible, up to the 1st August, 1968, involve 36 separate contracts with large and small builders. These range from single homes to a group of 13. Total value of these contracts to the building industry was $1,416,411. The scheme, in essence, calls for the least capital outlay on the part of the industry. Builders are paid promptly for work done and do not have to look for or to buy land, or to wait for their money until the house is sold or mortgages are arranged.

Members will be interested to know that the bank takes no profit from the houses, which are retailed at the wholesale price, so they are keenly sought by the public. Rarely is a house completed before it is sold. Presently six uncompleted homes are sold and interest has been shown in another 14. The bank will not, however, talk seriously of a housing proposition until the building is 80 per cent. completed.

Home purchasers are required to enter in a $2,000 bond not to resell within four years, which is to discourage any speculative activity with regard to the house and land.

Finance, at the purchaser's choice, may be arranged through any bank, building society, or similar institution. Consequently, these arrangements are not confined to any one financial organisation.

The Rural and Industries Bank has also been entrusted with the development of the Hamersley East project, which eventually is expected to yield something like 2,300 building lots. The bank has already spent $81,461 in this area and committed itself to a further expenditure of $723,000. It may be expected that the first lots will become available in this area to private individuals and to the building industry before the end of this calendar year. At least, that is the objective.

In the course of time, portion of the income from the Hamersley East project will be directed to further development in a similar manner to that already received from Coolbinia and Karrinyup. In the final analysis, however, all income less a small administrative charge made by the bank, will find its way back into housing.

The second provision in the Bill has relation to section 96 (1) (c) of the principal Act, which requires the commissioners to prepare each year, "an analysed cash account in such form as may be prescribed, showing particulars of receipts and disbursements made by the bank for the period covered by the said revenue account." In this connection, I desire to inform members that the bank publishes its accounts and balance sheet each year in line with the practice in the industry. No analysed cash account has ever been prepared. As a result, the Auditor-General has felt compelled to comment each year on its absence. In supporting this action, the Auditor-General commented—

> No form has been prescribed and no analysed cash account has ever been prepared. It is difficult to envisage a cash statement which would give a true presentation of the bank's transactions over a period of 12 months and I am of opinion that if no such statement can be prescribed, this subsection of the Act should be repealed. The subsection was taken verbatim from section 69 (c) of the Agricultural Bank Act, 1934, and I am not aware of an analysed cash account having ever been prescribed or prepared under that Act.

It would seem, therefore, that, as this requirement of the Act is superfluous in the opinion of the Auditor-General, it should be deleted, and the Bill proposes its deletion. I commend the Bill to members.

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

ROAD AND AIR TRANSPORT COMMISSION ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [5.5 p.m.]: I move—

> That the Bill be now read a second time.

The principal Act, as amended by this Bill, would provide an alternative basis for assessing license fees for omnibuses and aircraft. The bases at present set out in the Act require calculation of license fees for commercial goods vehicles on the gross weight of the vehicle; that is, tare weight, plus load. The fees for omnibuses and aircraft are required to be calculated as a percentage of the gross earnings. These provisions involve the operators in the submissions of returns of earnings and the calculation of fees from month to month.

These requirements work out quite satisfactorily in so far as the larger operators are concerned because they, of necessity, must maintain a full accounts system. The smaller businesses are in a different category, however, for with them, the preparation, submission, and checking of monthly returns represent a quite unnecessary overhead in the amount of time and accounts work involved by the operators themselves, and also by the Transport Commission in the examination of accounts and assessment of license fees.

With a view to eliminating this aspect, it is proposed by an amendment to section 21 of the Act to provide an alternative basis of assessing license fees. At this point, I would mention that the proposed maximum rate specified in the Bill would give a result, in practice, of less than the maximum of 6 per cent. of gross earnings already provided in the Act.

Subsection (1) of section 21 as amended, would then permit omnibus license fees to be based either on a percentage of gross earnings, as at present, or in appropriate cases, at a rate not exceeding $10 per annum for each passenger the omnibus is licensed to carry at any one time. In respect of aircraft, the alternative provided is a calculation of the fee, at a rate not exceeding 10c per pound weight of the maximum permissible take-off weight.

With the passing of this amending measure, a definite fee could be assessed on the granting of a license. The expense and inconvenience of submitting monthly returns would be avoided.

The purpose of the final subsection proposed to be added, is the exclusion of subsidies from the gross earnings, for the purpose of calculation of fees. This applies to aircraft only at present, but it is considered that a similar provision should be extended to omnibuses.

In order that members might have a clear picture of what is intended, I shall outline a probable calculation, on the basis of a single omnibus operating over a distance of 500 miles a week. Anything lower would not be an economic proposition. The average cost of operating a 30 to 36 passenger omnibus is about 35c a mile. To allow a moderate profit, a return of about 38c a mile would be required. The gross earnings per annum would be in the vicinity of $9,500. Under the existing system, 6 per cent. of this would amount to a fee of $570. Under the alternative basis, the annual license fee would range from $300 to $360. These are the maximum fees and in practice the actual license fees charged would be less.

In the case of a Cessna 182 aircraft, licensed to carry three passengers and with a take-off weight of 2,650 lb. with the position at, say, 200 hours flying per annum, which is quite a low usage economically speaking, the gross income would be $6,400. Under the present system, a fee of $384, representing 6 per cent., would be indicated. Under the alternative method proposed in the Bill, the maximum annual license fee would be $265 per annum, calculated on the basis of 2,650 lb. multiplied by 10c. This calculation is based on hire charge of $32 an hour for this type of aircraft.

Taking a larger aircraft, such as the Beechcraft Queen Air, licensed for nine passengers and flying 200 hours per annum, at $110 an hour and with a take-off weight of 8,200 lb. the annual license fee would be $820 under the alternative arrangement now proposed, as compared with $1,320 as at present.

It will be apparent therefore, that the proposed amendments would not only reduce the operators' fees, but in substantially reducing the accounting requirements, as affecting both the operator and the Transport Commission, a mutual benefit will ensue and I commend the Bill to members.

Debate adjourned, on motion by The Hon. J. Dolan.

DRIED FRUITS ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.10 p.m.]: I move—

That the Bill be now read a second time.

This Bill has as its objective the improvement of the financial position of the Dried Fruits Board by increasing the maximum levy which can be charged to growers from $1.17 to $2.016—an increase of about 84c a ton over the existing rate, and equivalent to .09c per pound.

One of the responsibilities of the Dried Fruits Board is to enter into contracts with similar boards in other dried fruit producing States, with a view to concerted action in the marketing of dried fruits produced in Australia. There are other ancillary functions as prescribed by the Act.

The board proposes a levy, under section 16 of the Act, to enable it to carry out its commitments. These include the employment of office staff, payment of fees and allowances to board members, and an annual payment to the Department of Primary Industry to cover inspection costs etc.

The board has been operating on the maximum levy for some time but this amount is now insufficient to enable it to meet its commitments. The decrease in returns has been brought about mainly by decreasing yields of dried vine fruits. The board, in its annual report for 1966, states that there was an excess of expenditure over revenue of $701. For the year ended the 31st December, 1967, a further excess of expenditure over revenue amounted to $697.

It is considered that the operations of the board greatly benefit the dried fruits industry in this State. In order to permit a continuance of activities, it is necessary that the board be in a position to obtain sufficient income and this can be provided by the proposed increase in the levy.

The new maximum levy rate of .09c per pound if based on an average production of 1,783 tons, which has been the annual figure for the past five years, will provide for additional annual revenue of up to $1,497. Whilst it is not presently proposed to impose the maximum rate of levy, it is considered that the amount to be imposed should be sufficient to meet rising costs over a reasonable period and should also insulate the board against fluctuating production figures.

Debate adjourned, on motion by The Hon. N. E. Baxter.

GERALDTON PORT AUTHORITY BILL

Second Reading

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [5.1 p.m.]: I move—

That the Bill be now read a second time.

Before briefly explaining the provisions of this Bill, I desire to acquaint the House with the history of the Port of Geraldton giving some details of its present size and importance to the State and the reasons for introducing this piece of legislation.

In 1874, the first jetty was constructed at Geraldton and the port operated under the administration of the Railways Department. A new jetty was completed in 1894. By 1904, the town had developed to

population of 2,500 people and in that year, 257 vessels, representing a total gross tonnage of 180,302 tons, entered the port.

With the further development of the town and the hinterland, further port expansion became desirable and in 1926 a breakwater was completed for the protection of land-backed berths, which were commenced two years later. I might mention that I happened to be working on this project in 1925. I was employed in the engineer's office and later as a storekeeper. The first berth was opened in 1931 and that year the total gross tonnage entering the port was more than double the figure previously mentioned. Wheat was the main export at that time, with phosphate rock and sulphur for the manufacture of fertiliser comprising the main imports.

The importance of the Port of Geraldton gradually consolidated with an increase in trade, and by 1957 the Harbour and Light Department took over its administration. In that year, 564,209 gross tons entered the port. The cargo handled was 365,096 tons. In the following eight years, the volume of trade grew steadily and, over the past three years, it has expanded rapidly. The principal imports are now, as previously, phosphate rock, sulphur, and fertiliser and the principal exports, grain, iron ore, and manganese.

With the increase in the size of ships, we find that, for the year ended the 30th June last, 241 ships, representing 1,502,630 gross tons, were involved in the year's trading in 1,374,615 tons of cargo handled.

Berthing facilities now comprise four berths of a total length of 2,238 feet. Road access is provided to all berths and rail access to three of them. A covered storage area of 32,000 square feet is available at No. 1 berth. The existing port area comprises approximately 82.6 acres and land is available for further development. The port facilities available include a tug service, a 50 ton road weighbridge, an administration building, and a waterside workers' amenities building.

On a leased area of approximately 10.5 acres within the port precincts, Co-operative Bulk Handling Ltd. has provided storage for 5,700,000 bushels of grain with an elevated conveyor loading system to deliver grain into ships' holds at the rate of 800 tons an hour.

The Western Mining Corporation has developed a loading terminal at No. 4 berth in a 13 acre area. This comprises a stockpile area for iron ore with a conveyor system and travelling ship loader to load ore into ships' holds at a rate of 1,500 tons an hour. Bulk ore carrier ships of 28,000-ton capacity are being loaded at No. 4 berth. Manganese ore, which had been previously loaded into ships by kibbles and ship's gear, is now being handled by the Western Mining Corporation ore loading equipment.

From this it will be apparent that the export of iron ore during recent years has resulted in a major increase in the overall trade tonnage, which is reflected in the revenue figures. The total revenue for the port in 1964-65 was $203,731. In each of the following three years, there were substantial increases in this figure, with total revenue of $659,129 being received last financial year.

With the great development of this port, members will appreciate that the time has come to legislate for port control along similar lines to that provided for the Fremantle Port Authority, the Bunbury Port Authority, and the Albany Port Authority.

This Bill provides for the control of the port to be vested in five members appointed by the Governor. They will hold office for three years and will be eligible for reappointment. It is not intended that the members represent any particular section of the community or be responsible to any organisation for their decisions. The Government will endeavour to select those members whose special knowledge and experience will be valuable to the authority. The Minister for Works, who introduced this measure in another place, expressed the view that he would not be averse to members of Parliament making recommendations to him in this connection.

The authority to be set up will have full borrowing powers, subject to the Governor's approval, and will also be given consideration for any allocation of loan funds from the State Treasury. As in the case of Bunbury and Albany, the control of the harbour master will remain with the Harbour and Light Department.

In commending this Bill to members, I would comment that the setting up of the Geraldton port authority is in line with the Government's policy of decentralised control and has been advocated by commercial interests.

Debate adjourned, on motion by The Hon. F. R. H. Lavery.

BILLS (5): RECEIPT AND FIRST READING

1. Esperance Port Authority Bill.

   Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

2. Artificial Breeding Board Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. G. C. MacKinnon (Minister for Health), read a first time.

3. Commonwealth and State Housing Agreement Act Amendment Bill.

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

4. State Trading Concerns Act Amendment Bill.

Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

5. Liquid Petroleum Gas Act Amendment Bill.

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

CREMATION ACT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

Personal Explanation

THE HON. G. C. MacKINNON (Lower West—*Minister for Health*) [5.26 p.m.]: May I have your permission, Sir, to make a personal explanation?

The PRESIDENT: The Minister may proceed.

The Hon. G. C. MacKINNON: The Leader of the Opposition in this House (The Hon. W. F. Willesee), when speaking to the Cremation Act Amendment Bill asked if it were possible for the Cremation and Cemeteries Acts to be combined. Members will recall I made a guess at an explanation and I now wish to elaborate on it.

Both Acts have a common purpose in that they regulate lawful means to dispose of a dead body. Here the similarity ends. A body which is buried can be retrieved for medico-legal investigation. The matter can therefore be left to laymen to administer.

The fact that a cremated body cannot be retrieved demands that properly qualified people ascertain that there is no reason why a body should not be cremated. This demands the services of an experienced and qualified medical practitioner. Hence, the system of medical referees set up under section 8 of the Cremation Act.

The difference between the two Acts emerges in that no permission is needed for a burial, but a permit from a medical referee must be obtained in the case of cremation. Not all applications for permission to cremate are straightforward. Doubtful cases must be referred by the medical referee to the Commissioner of Public Health. These factors, in my opinion, suggest an advantage in retaining two separate Acts.

MEDICAL TERMINATION OF PREGNANCY BILL

Second Reading

THE HON. J. G. HISLOP (Metropolitan) [5.27 p.m.]: I move—

That the Bill be now read a second time.

It is just over two years since I first thought of introducing in this House a Bill relating to the termination of pregnancies. The first Bill which was introduced was to help most of us think about what should be put before the House and what should be accepted.

We have found since that there are numbers of people who have evinced an interest in such a measure and I have received numerous letters setting out what these people felt should be embodied in a Bill of this kind. The Bill has been formulated after considerable research into legislation dealing with the termination of pregnancy which exists in other countries of the world. It will be found that there is a great similarity between the English legislation and the provisions in the Bill before us.

The information obtained from the various countries of the world proved to be so vastly different in character that it was not easy to incorporate it into this measure. At this point I would like to go through the Bill and explain some of its clauses, because I feel this would help us better understand its provisions. Clause 3 of the Bill merely gives the interpretation of gynaecologist, the law relating to abortion, medical practitioner, and physican. Clause 4 reads as follows:—

> 4. (1) Subject to the provisions of this section, a person shall not be guilty of an offence under the law relating to abortion when a pregnancy is terminated by a medical practitioner if that practitioner and a gynaecologist are of the opinion, formed in good faith that—
>
> (a) the continuance of the pregnacy would involve risk to the life of the pregnant woman, or of injury to the physical or mental health of the pregnant woman or any existing child or children of her family, greater than if the pregnancy were terminated; or
>
> (b) there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.
>
> (2) Where the ground for the termination of the pregnancy is that the continuance of such pregnancy would involve risk of injury to the mental health of the pregnant woman or any existing child or children of her

family, it shall also be necessary for a physician, after an examination of the woman or of the child or children as the case may be, and before termination of the pregnancy, to confirm the existence of such a risk.

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to health as is mentioned in paragraph (a) of subsection (1) of this section, account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4) Except as provided by subsection (5) of this section, any treatment for the termination of pregnancy must be carried out in a hospital approved for the purposes of this Act by the Commissioner of Public Health appointed under the Health Act, 1911.

(5) Subsections (2) and (4) of this section, and so much of subsection (1) as relates to the opinion of a gynaecologist, shall not apply to the termination of a pregnancy by a medical practitioner in a case where he is of the opinion, formed in good faith, that the termination is immediately necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman.

At this stage I might relate the provisions in the clause I have just read to the reasoning obtained from a study of the question. I draw the attention of members to a booklet entitled *Abortion, an ethical discussion,* by Roland Leicester, Chairman of the Church Assembly, Board for Social Responsibility. I take it this is a board which operates in England. I might be pardoned if I quote from this publication, because it is of considerable interest to me. On page 8 the following appears:—

> Why then is there the problem of abortion here? We cannot answer for those people who, in the nature of the case, are not available for questioning. But from those expectant mothers who go to their doctors, or to the hospitals, to ask for termination, and from those patients in hospital suffering from the serious ill-effects of abortion improperly induced in secret, a composite picture can be drawn.
>
> For some mothers there is a genuine risk that their health, physical or mental, may be impaired if the pregnancy goes to term; for some few, a risk to life. These risks are normally considered by a general practitioner, discussed by him both with the patient and with a medical colleague (a consultant in whatever branch of medicine is involved), and finally with the gynaecologist and obstetrician who would be responsible for the termination if it were adjudged to be necessary. Termination in these circumstances is now generally thought to be permitted, as we shall see, in English law. An ethical consideration of it will also follow.

In the next paragraph the following appears:—

> For other mothers there is a risk that their child may be born deformed. If the mother has already contracted rubella ('German measles') and the virus is still active at the time of conception, there is a high risk that her child will be defective in eyes, ears, heart and brain. The risk diminishes as rubella is contracted later in pregnancy; and after the third month, when the child's tissues are well formed, there is virtually no risk at all. The risk of the child's being affected is higher the earlier the infection takes place during pregnancy.

In dealing with unmarried expectant mothers, the following appears on page 9:—

> Unmarried expectant mothers sometimes resort to abortion to rid themselves of a child which may prove to be socially inconvenient. Married women do so, far more frequently: if, for instance, their 'family planning' has failed—if a child comes before it is wanted, or a further child comes who is unwanted—or if there has been no 'planning' at all, a woman may resort impulsively to abortion rather than face a new burden which she feels to be intolerable. The manner of their resort, for married and unmarried alike, varies according to their means and social position. It is widely alleged that for the wealthy it is to a private nursing home where a medical practitioner can be found to perform the operation; and that the fees are high, as the professional risks are considerable. In the nature of the case, the facts are not available on which we could pronounce whether this allegation be true or untrue; but its currency is itself one of the present provocations to reform. For the poor, the resort is to the unqualified—to the failed medical student, nurse or midwife, the 'doctor' whose name has been struck off the medical register, or to the man or woman who is 'known' to help women to get rid of their pregnancies. The abortionist may not be known personally to the mother. He or she is 'introduced'; the foetus is interfered with, sometimes in a blind and barbarous way; the fee is collected; and the mother is left to await the result—which may involve severe haemorrhage, sepsis, acute pain, and physical damage, perhaps irreparable and perhaps sufficient to prevent her from ever bearing a child again.

An examination of the Bill will reveal that any reference to rape or incest has been left out. In this respect the Bill is very similar to the British formula. From the information given in reply to questions asked it was found to be almost impossible to make a separate reference to rape or incest. A good deal of thought has been given to this aspect for the termination of pregnancy; and some women in the community have asked that rape and incest be included as grounds. Let me quote from a letter which has been written to me by very well versed members of the Law Reform Committee of Western Australia. In dealing with clause 4 of the Bill the letter states—

> You will note that the Bill contains no specific reference to rape as a ground for termination of pregnancy. We have found it next to impossible to frame an acceptable clause to this effect without either throwing too heavy a burden on the medical practitioner or opening the door to abortion on demand. However, we believe that the wording of the clause as drafted is wide enough to cover all cases of pregnancy resulting from rape where the circumstances of the rape or its effects would be such as to impair the physical or mental health of the pregnant woman.

In reference to clause 4(1)(a) of the Bill, the letter states—

> "child or children of her family". This wording intentionally casts a wide net. Mr. A. J. C. Hoggott in his article on the United Kingdom Act at p. 249 of the Criminal Law Review 1968 (a copy of which we supplied to you) submits that the wording includes the mother's illegitimate children or those of her husband by a previous mistress who are living with her, adopted children, and probably also children living in the family who are adopted in all but law. He points out that the courts have shown a tendency to interpret the words "child of the family" in a generous fashion.

I now turn again to the publication *Abortion, an ethical discussion*. In dealing with rape the following appears on page 11:—

> The fifth group among potential applicants for abortion are girls or women against whom a sexual offence has been committed, the victims of rape or of incest, or young girls below the age of consent. Numerically this group is small: conception from genuine rape, though it can occur, is rare; the child of incest is seldom treated as such—it is more commonly treated as any other illegitimately conceived child is, and either aborted or born and subsequently either taken into the family or placed for adoption. Yet, small as the numbers are, they arouse strong feeling and considerable concern. The mother may be in anguish as a result of her experience, as well as of the prospect of bearing and rearing a child begotten in the assault upon her; so, compassion for her says "abort." The child may suffer, not only the deprivations common to fatherless and especially illegitimate children, but the ultimate deprivation of love—its mother may hate it for being at all. Compassion for the child argues, therefore, "abort." The mother's rights as a person have already been invaded once, in the assault: if it is held to be a further invasion of her rights to make her bear and rear this child, then logic adds its persuasion—"abort." However small statistically the group may be, it mounts nevertheless a formidable case to be answered; and the difficulties, practical and moral, which it presents will be examined in their place. But it is to be noted that the existing case law, which has secured to medical practitioners a tenuous right lawfully to terminate a pregnancy which threatens the mental health of the mother, arose from the termination of the pregnancy of a girl who, while three months under the age of fifteen, had conceived as the result of a criminal assault upon her. The *Bourne* judgment, of 18 July 1938, although never tested on appeal, is still thought to represent the law of England and Wales today.

In discussing the laws governing this subject, as laid down in England at various times, the following appears on page 21 of the publication:—

> Laws of this sort are more developed in some foreign countries than in England—they are summarized, as they then stood, in an Appendix to the 1939 Inter-Departmental Committee Report, and the laws of several post-War Central European states may now be added to them. In general the aim of these laws is to secure that, if a pregnancy is to be terminated, the operation shall be performed only by persons medically skilled and qualified to perform it, and at a time in relation to the pregnancy which offers least threat to the mother's life and health.

Then on page 22 the following appears:—

> The medical practitioner has a clear interest to defend in this matter. He has to preserve the autonomy of his professional judgment, which would be undermined if ever, for instance, the law gave a woman the right to have her pregnancy terminated irrespective of his opinion whether the abortion was medically necessary or could safely be induced; or if the law set such limits to the circumstances in which a pregnancy might lawfully be terminated as would prevent a doctor from terminating lawfully in a case in which he felt, on medical grounds,

professionally bound to do so. The interests of the medical practitioner, therefore, appear to be two: the maximum liberty in which to exercise professional judgment—doubtless with concurrent specialist opinion—on what the medical indications in each individual case demand; and protection from the pressure of a large number of demands for termination for which no medical justification would be possible. He needs, in short, to be free to do his professional duty, in consultation with his colleagues and in a manner consistent with the ethics of his profession, without fear of molestation either from the law or from patients whom he would, all too often, be bound to disappoint.

With the interests of the medical practitioner go those of his nursing colleagues and the theatre staff, on whom the operation of abortion does, in fact, throw a heavy emotional strain. The strain is tolerable when the need for the operation is recognized and accepted; it would not be accepted, and so other strains would arise, if confidence in the medical justification for termination were undermined.

Returning to the Bill, clause 6 reads as follows:—

> 6. (1) Subject to subsection (3) of this section, no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection.
>
> (2) In any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it.
>
> (3) Nothing in subsection (1) of this section shall affect any duty to participate in treatment which is necessary to save the life or to prevent grave permanent injury to the physical or mental health of a pregnant woman.

I think this aspect is very well covered. There may be some members who would like to remove subclause (3) of clause 6. If doctors have a conscientious objection, they need not be called upon to do this work. There have been other Bills in which this provision has been included, but all of us in the medical profession should at least be willing to give up some of our views if, in doing so, it means the saving of the life of a woman, a man, or a child.

The report on the Abortion Act, 1967, by A. J. C. Hoggett, Lecturer in Law, University of Manchester, contains some pertinent statements. He starts off by saying—

> If an abortion is performed within the first six weeks of pregnancy, the risk to life is generally negligible and the risk to health small. After the twelfth week, an abortion becomes difficult to carry out in one session with safety and privacy. There appears to be two major risks inherent in abortion, infection resulting from dead tissue left in the uterus and guilt feelings. What constitutes a risk, however, would seem incapable of exact definition. If synonymous expressions are required, perhaps the best would be a "serious possibility" or a "real danger," but the question is not likely to arise for determination as it is sufficient if two registered medical practitioners believe that such a risk exists. Despite the fact that the sponsors of the Bill stated that "the references in the paragraph to risk do not include references to such risk as is inseparable from any pregnancy or childbirth," it does not seem that, in applying the section, there is any requirement to ignore the normal risks inherent in pregnancy.

On page 248 he states—

> Injury to the "mental health of the pregnant woman" presents similar problems. Pregnancy produces certain psychological changes which may be regarded as normal. The pregnant woman suffers from fear of the consequences of pregnancy and childbirth and of the attitude that her husband may adopt as the result of her physical changes. In addition to these normal changes, the woman may become unbalanced during the pregnancy itself and, after delivery, may suffer from depressive-psychotic states which could lead to a rejection of the child. Unlike the case of risk to the health or life of the pregnant woman, it seems possible to argue that the "normal" psychological changes which occur in pregnancy do not involve "injury" to mental health. A risk of very short mental disturbance may also have to be discounted on the grounds that it is self-correcting.

It is on this basis that a psychiartrist has not been included in the Bill, as is the case in Great Britain, because I have been told by the psychiatrists, and those who are practising in such places as Heathcote and the Claremont Mental Hospital that there are now very few psychological cases in pregnancy. If necessary, a person who warranted treatment could be given modern tablets and various other methods of treatment. Therefore I feel a gynaecologist and a physican could make the decision. If they thought there was any likelihood of mental deficiency the psychiatrist would be called in.

The next paragraph I will quote is of considerable interest in relation to what

is incorporated in the Bill; and I think members will recognise it. It is on page 249 and reads as follows:—

> The medical practitioner may also take into account the "risk . . . of injury to the physical or mental health of . . . any existing children of her [the pregnant woman's] family." It is submitted that, for the purposes of this Act, "family" means the sociological and not the legal unit. It thus includes not only the mother's illegitimate children living with her but also the illegitimate children of her husband by a previous mistress. Clearly the words cover adopted children but there seems no reason why they should not cover children living in the family who are adopted in all but law. "Children of her family," it is submitted, also includes the case of the daughter of a widower acting in *loco matris*. This wide interpretation of the Act seems sanctioned by the fact that reference may be made to the pregnant woman's actual environment which includes the children mentioned above. The courts have shown a tendency to interpret the words "child of the family" in a generous fashion.[1]

Here is another section which could also have its place in the Bill I am presenting—

> If one medical practitioner gives an opinion *mala fide* and a second medical practitioner, while genuinely of the opinion that an abortion is permissible, carries out the operation, the second doctor is guilty of an offence contrary to section 58 of the Offences against the Person Act.

This would be a good example. To continue—

> This appears to be the consequence of section 5 (2) even though the second practitioner has no reason to doubt the genuineness of the first opinion. This form of "cross infection" seems undesirable in a criminal statute. It should be sufficient that a person performing the operation genuinely believes that the requirements of the law are complied with.

The medical practitioner has a clear interest to defend in this matter.

I now refer back to the Abortion Act, as follows:—

> The interests of the medical practitioner, therefore, appear to be two: the maximum liberty in which to exercise professional judgment—doubtless with concurrent specialist opinion—on what the medical indications in each individual case demand; and protection from the pressure of a larger number of demands for termination for which no medical justification would be possible. He needs, in short, to be free to do his professional duty, in consultation with his colleagues and in a manner consistent with the ethics of his profession, without fear of molestation either from the law or from patients whom he would, all too often, be bound to disappoint.

That quotation can be found on page 22. The following can be found on page 31:—

> This kind or argument is bound to direct our attention away from the crucial value-judgments that have to be made; we shall spend our time in inconclusive arguments about questions which, until we have agreed upon the answer to the underlying evaluative questions, cannot receive an answer which will satisfy us. The same will be true if we argue in terms of the other concepts mentioned: 'soul,' 'life,' and 'person'. They can be pulled too easily in any direction. It will be better to describe the case before us in terms which are not so pliable, and then to ask what we ought to do about it. Thus, we may say that the foetus will, if it develops in the usual way, turn into a typical adult human being; that it is not *now* a typical adult human being; that, nevertheless, it is, in most cases, an object of hope, on the part of its parents, because of its potential future as a child of theirs (as is evidenced by the distress usually caused by miscarriages). We then go on to argue that, because of its potential future, there is a *presumption* that we ought to do what we can to preserve the foetus. This argument is based on the premiss that it is a good thing, *ceteris paribus*, for there to be another human being.
>
> This, however, is only a presumption. In particular cases it may be argued on a number of grounds that it is better that this or that child should not be born; or that, though this is not so, yet since the child cannot be born without the mother suffering death or some other grave harm, to kill the foetus is the lesser evil.

The next portion refers to a child with a good deal of disability—

> In order to give some guidance about these particular cases, what we have to do is to consider what grounds can suffice to justify an abortion; for example, what kinds of physical, mental or social handicap would make it better for the child not to have been born.

I will leave that now and look at some of the statements that have been made by B. Chappell and P. R. Wilson, who carried out an investigation on the various conditions of abortion and prostitution. The report played a major part in the investigation, and was presented by

D. Chappell, Lecturer in Law, University of Sydney, and P. R. Wilson, Lecturer in Government, University of Queensland. We find ourselves always returning to the question of rape because it has so much influence on the mind of a woman, and just as much influence on the mind of a man. Page 21 of the report, on the question of rape, reads as follows:—

> It will be noted that the United Kingdom Abortion Act makes no mention of rape as a ground for terminating a pregnancy. When the Medical Termination of Pregnancy Bill upon which the present Act is based, was first introduced to the House of Commons by its sponsor, Mr. David Steel, it did contain such a ground. However, during the course of the extensive revision of the Bill which took place during its passage through both Houses of Parliament, this specific ground was dropped in favour of the broad provisions outlined in the Abortion Act, provisions which, it was felt, should embrace rape and other sexual offences. It was also pointed out by those who opposed reform that there would be many difficulties involved in giving effect to this type of ground for abortion. For instance, in some cases there could be considerable doubt as to whether a woman's pregnancy was the result of rape or another sexual offence. In these circumstances it would be invidious to place upon a medical practitioner the task of deciding, as a matter of law, whether or not an offence had been committed. Yet if the matter were left to be settled by a court, it might well be too late to terminate the pregnancy.
>
> Just how these and other problems might be resolved in the drafting of any legislation giving effect to the broad areas of support discovered in the survey for lawful abortions remains a subject for speculation and discussion. The translation of public opinion on any subject into statutory form is a complex and hazardous task, and naturally so in such a contentious area as abortion. Even though our survey reveals considerable public support for reform of some type, the critical question which will be asked by legislators is whether this reform is politically feasible. It is already obvious that intense pressure group activity will operate against any reform, particularly from the Roman Catholic Church, and the danger which legislators will wish to avoid is the alienation of a solid voting section of the electorate. It will therefore take political courage to sponsor liberal abortion law reform in Australia.

Sitting suspended from 6.3 to 7.30 p.m.

The Hon. J. G. HISLOP: I think this is an appropriate stage to refer to the Bill itself once again, and in this regard I have a few comments to make. I would refer members to clause 4 of the Bill and, although I have read it before, I would like to mention it again. It reads as follows:—

> 4. (1) Subject to the provisions of this section, a person shall not be guilty of an offence under the law relating to abortion when a pregnancy is terminated by a medical practitioner if that practitioner and a a gynaecologist are of the opinion, formed in good faith that—
>
> (a) the continuance of the pregnancy would involve risk to the life of the pregnant woman, or of injury to the physical or mental health of the pregnant woman or any existing child or children of her family, greater than if the pregnancy were terminated; or
>
> (b) there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.
>
> (2) Where the ground for the termination of the pregnancy is that the continuance of such pregnancy would involve risk of injury to the mental health of the pregnant woman or any existing child or children of her family, it shall also be necessary for a physician, after an examination of the woman or of the child or children as the case may be, and before termination of the pregnancy, to confirm the existence of such a risk.
>
> (3) In determining whether the continuance of a pregnancy would involve such risk of injury to health as is mentioned in paragraph (a) of subsection (1) of this section, account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

Most of the countries which have to some extent accepted the verbiage which I have just quoted believe that we should look not only at the disabilities confronting the pregnant woman, but that we should also take into account the effects the pregnancy has on the rest of the family. Some of the children may be almost grown up, but that does not alter the fact that the family must be regarded as a whole, and as the children of the family they belong to the mother. There has been a great deal of discussion about this aspect, and perhaps the reference in the Bill to children may have to be altered slightly. However, if the Bill is agreed to there is no question that a mother can expect some relief provided she is suffering from the difficult conditions laid down.

I have seen a few women—I do not see many of them because they go to gynaecologists and other doctors who carry out this sort of work— after they became pregnant and it appears to me that one of their greatest fears is how they will continue to look after the rest of the family. They reach a stage where they just cannot carry on, and I believe this is one of the major reasons which would cause them to apply for relief. As I said, I have seen a few women in this category and they would be definitely eligible for such treatment.

A mother is in almost total control of the house. She has to care for all of her brood and be ready, at the end of the day, when the father comes home from work, or the children come home from school, to look after their every need. That is all in the hands of the mother and I wonder whether we realise how different is the position of a woman today as compared with the situation of some 40 years ago.

When I was a small boy my parents were able to engage help for something like 10s. a week. They were able to get a maid and that maid would be looked after as though she were one of the family. That situation does not exist today and quite often when a woman becomes pregnant she feels she cannot carry on because of the number of other problems which confront her in looking after her family.

The Hon. E. C. House: What is wrong with the pill?

The Hon. J. G. HISLOP: It does not work all the time.

The Hon. E. C. House: Doesn't it?

The Hon. J. G. HISLOP: No, and I can discuss the whole position with the honourable member if he wishes me to do so.

If a mother has a child who has been injured, as we call it, during pregnancy, another problem arises. I have seen a mongol child in a house and it has prevented that house from taking part in any social activities. If there are other children in the family it is found that they do not invite their friends to the house. In some cases a mongol child is only slightly different from the rest of the children, but there are others who are most difficult to handle.

I know of a man who looks after his mongol son. He gets up in the morning, washes his son, puts him in a chair, and then goes to work. He returns at 11 o'clock to attend to the child, again at lunchtime, and again at 3 o'clock. The mother finds it almost impossible to do anything with the boy and she gets so tired from looking after the child while the father is away that she has to rest during the times the father is able to attend to him.

I could tell members many stories of the disabilities with which mothers are faced in similar situations, and I am convinced that a mother would not ask for relief unless she were absolutely forced to do so. I know of a number of individuals who have disrupted the houses in which they live simply because of their malformation. One could recite a number of instances but I hesitate to do so.

If a woman felt that it was impossible for her to carry on with her pregnancy, and she consulted a gynaecologist, or a physician, and advised him of the situation in which she was living, and he was convinced of the genuineness of the request, I think it is justifiable to give her relief from a further birth. This is the attitude I think we should adopt, especially when it is realised that we are on the verge of a new era. The old days are dying out and a new era is coming in.

The letters I have received from different women's organisations indicate that women believe they should have a say as to what should happen to their own bodies. Some women have written to tell me that their bodies belong to them and neither man nor the law has a right to tell a woman what she should do about her own body. Women are becoming self-controlled and they believe they should have a say in what should happen to them.

To give members some idea of the views being expressed by women I would like to quote from *The West Australian* of the 21st August. This article appeared on the women's page and it substantiates the viewpoints I have expressed. It was an article dealing with Professor Enid Campbell, one of the three Professors of Law at the Monash University. She said the laws on abortion and prostitution in Western Australia needed to be re-thought. The article then went on to state—

> In many areas of law Australia seems to be imitative. It doesn't take steps to reform the law till reform is accomplished in England.
>
> The law on abortion is another which needs to be re-thought because it operates in a personal area.
>
> Abortion laws are man-made laws, but abortion is of vital importance to women. It affects the fathers too, but a woman should have dominion over her own body.
>
> Existing laws work badly. They don't deter women bent on having abortions and probably drive them to "backyard" abortionists.
>
> I see no reason why every woman, married or single, should not be able to obtain an abortion by a qualified medical practitioner—certainly on all the grounds specified in the recent English legislation. I would even go further and advocate abortion by request.

> Abortion is a matter of personal morals, which it is not the function of the State to enforce. Law reform should leave the moral decision to the individual and the medical practitioner.

That is the view of the Professor Enid Campbell who is the first woman professor of law at the Monash University. This is not the only opinion I could quote. If I had the time I would like to present the plea made by a doctor for compassion on pregnancies. I might be able to read the last paragraph of it which would give us some of the views held by the man in question. He is a doctor in Victoria, and I think we all know the view expressed by the police in Victoria; it completely condemns any idea of abortion. The situation has now been reached where very few members of the profession are ready to carry out abortions without being given permission to do so.

This doctor said he would like to refer to the case of a Greek woman with five children whose husband was killed in an accident when she was two months pregnant. To make matters worse, her sister-in-law's husband went for the ride and he, too was killed. That woman had four children. So here we have two youngish widows left living together with nine children to care for; what a burden, without the thought of having more children. The sympathetic doctor considered helping, irrespective of the fee—but was, of course, too afraid to proceed under conditions as they are. These are two of numberless cases which exist as enormous problems to the individuals concerned.

Since that report was printed I have been informed that that case is absolutely true. When we consider the conditions that apply in these circumstances I think we will find there is a real case for many women to seek termination of pregnancy. I could go on for a long time relating cases of various people who made a request which was answered.

This might be the appropriate moment for me to go into the question of what can be done for the womenfolk. At page 171 of the *British Medical Journal* of the 20th January, 1968, will be found a number of cases that called for termination. I will not read them all. I will simply give the headings of certain conditions, and if anybody wishes to see this report later he is at liberty to do so. The first deals with alimentary conditions and states—

> Acute Abdomen.—Urgent surgical intervention is required in most acute abdominal emergencies, and termination of pregnancy may become necessary in the course of such operations.
>
> Liver Disease (for example, acute hepatitis, acute hepatocellular failure, progressive hepatitis, lupus, hepatitis).
>
> Cardiovascular Conditions. The time of decision should be before the twelfth week. Maternal mortality in cardiac failure ranges from approximately 2 per cent. in the milder cases to 18 per cent. in the severe. Where atrial fibrillation coexists with failure the mortality may reach 32 per cent.

Reference is then made to respiratory conditions, but these, fortunately, are not numerous in the child-bearing age. Reference is also made to renal conditions and neurological conditions including multiple sclerosis. This condition is causing considerable concern. We then find reference to epilepsy, cerebal and spinal tumours and intracranial aneurysms; peroneal muscular atrophy, and hereditary spastic paraplegia. A further reference is made to pseudohypertrophic muscular dystrophy, metachromatic leucodystrophy and myasthenia gravis. This is a disease which is very difficult to throw off. The journal then refers to endocrine conditions. If a person had melanoma, which is a recurring cancerous growth, and if this were allowed to continue, the mother would suffer very badly. It might even spread to the child. Last of all, reference is made to gynaecological and obstetrical conditions.

One aspect I would like to stress is that if a woman is pregnant it would be disastrous if she had to undergo radiological treatment within the first three months; although after three months it would be safe. If radiological treatment were essential there should be a termination of the pregnancy. These are some of the factors which add to the problem and which bring the whole matter down to earth; they do so more realistically than any attempt to try to impress the position on those who have to carry out this condition. It may be exactly what is required by those who desire to know as much as possible of this matter.

I said we were dealing with a new era. It is certainly a new era, firstly because of the attitude of the womenfolk; and secondly, because of the research work that has been done recently. I have with me an article from *News Week* dated the 1st July, 1968, entitled "Window on the Womb." The author in question is Dr. Cecil B. Jacobson, and this is what he had to say—

> When a woman catches German measles during the first three months of pregnancy, her chances of having a defective child are high. Yet how does her doctor know for sure. At the A.M.A. meeting a Washington obstetrician described a way of detecting birth defects in advance by sampling cells from the foetus in the womb to study the chromosomes.
>
> The cell sample Dr. Jacobson of George Washington University School of Medicine explained, is obtained by the technique of amniocentesis. A long hollow needle is inserted through the

abdomen and into the uterus and a small amount of the amniotic fluid surrounding the foetus is removed. The fluid contains foetal skin cells which are grown in tissue cultures and then treated chemically so that the chromosomes can be studied under the microscope. The mother must spend a day in the hospital whilst the amniocentesis is done and about three to four weeks is required for the chromosome analysis. The test, for obvious reasons is limited only to those conditions where genetic consequences are severe enough to warrant a surgical procedure, Jacobson emphasises.

The tests are performed on women who have been exposed to radiology, serious viral infections, certain drugs known to cause congenital abnormalities or, who have previously borne defective children.

In cases where German measles has affected the foetus, for example, many of the skin-cell chromosomes will be broken. Rare hereditary Mongolism can also be diagnosed by chromosome examination. If a chromosomal defect is detected, the likely result in the child is carefully explained. The decision for management of the pregnancy rests solely from the parents.

Some women choose therapeutic abortion when the test is positive, but some deliver the children anyway, he reports. What happened to the mothers who made this choice in the face of a positive test—They've had exactly what we thought says Jacobson. In all cases we have been correct.

Fortunately the chromosome test can bring good news. Jacobson recalls a 34-year-old woman who was a carrier of a chromosome defect that gave her 75 per cent. chance of having a Mongoloid child. The test, happily, showed that the infant she was carrying was quite normal and would not even transmit the defect into the next generation.

Later I will point out that it is possible to have a chromosome defect for so long that it can go on being repeated. This is happening at the present time, and it is referred to in the Australian Health Education Advisory Digest *Ahead*, which medical men receive from time to time. I shall quote a few portions of an article by Dr. G. J. Morgan, a genetic counsellor at Prince of Wales Hospital, Sydney. The first is as follows:—

> By gently scraping a smear from inside a baby's cheek and sending it to a cytological laboratory, where human cells are investigated, a family doctor can find out quickly whether the child has a genetic flaw which will affect its sexual development.

He goes on—

> By pricking a baby's heel and sending a few drops of its blood to the same laboratory, he can obtain an inquiry into a bigger range of genetic complaints, including mongolism.
>
> One important activity is counselling parents and other relatives about the risk of a disease being inherited by other children. Many of the people who believe that hereditary disease runs in their families really have no grounds for their fears. By putting them right—by pointing out, for example, that tuberculosis is not inherited—the genetic service saves them and their children a lot of unnecessary anxiety.

I will quote only short extracts in order to point out what could happen. If any member wants to see what these chromosomes look like, I will be willing to place this book on the Table of the House. To continue quoting—

> The parent who bequeaths this translocation chromosome—usually the mother who is normal herself—is a carrier of mongolism. At every conception there is a risk of the disorder occurring in the child.
>
> Quite different defects are produced when a child inherits the wrong number of sex chromosomes. In Turner's syndrome, which occurs only in girls and comes from inheriting one X chromosome, instead of the normal XX, the child is dwarfed and does not mature sexually. With early treatment, however, the child's sexual development can be improved.
>
> Klinefelter's syndrome, which affects only boys, is due to an extra X chromosome—making XXY, instead of XY. This may result in slight breast development and generally a less masculine physique than usual. Otherwise an affected person appears normal, although he is nearly always infertile.
>
> Turner's syndrome and Klinefelter's syndrome both come about through faulty chromosome division in a parent's sex cells.

We must realise there are various other diseases which the child can transmit, but I want to point out as follows:—

> Among the sex-linked recessive gene disorders passed from mothers to sons are the bleeding disease, haemophilia, and the commonest type of muscular dystrophy, known as Duchenne dystrophy. By interviewing parents and other relatives of boys with Duchenne dystrophy, it is possible to draw up family trees showing how the disease has been transmitted from generation to generation by carrier women. Until recently sisters of boys with muscular dystrophy had no means of

knowing whether they were carriers who might transmit the disease to their own sons. Research at the School of Paediatrics is aimed at uncovering more information about carriers, so that before long it will be possible to identify the girls with the gene for Duchenne dystrophy.

What a tremendous step forward it will be if these tests can be introduced into the various hospitals. No doubt, within a short period of time, the person who wrote this article will be looking into this work in the same way as Professor Jacobson. In order to provide an illustration of the chromosomes and what they do to children, I have brought this booklet in for inspection.

I think I have gone over this matter reasonably well; and I would like to point out to the mothers of children that, in time, action will be taken whenever requested. I think members can see the difference, in that Professor Jacobson removes some fluid from the uterus—quite a small amount—and from that he can tell before it is born what disability a child will have.

The work being done in Sydney is carried out by taking blood from the heel of a newborn baby; but that does not give the promise that one will be able to do anything about it, because the trouble started during the time of pregnancy.

I have attempted to explain what is going on today and what it will mean to women, particularly, if this measure is passed. We will not find so many disabled persons in the streets, as we do today, because within a week or two of the pregnancy starting any genetic complaint would be known and it could be controlled quite easily by emptying the uterus.

It might mean that a second investigation will have to be undertaken to see whether this is a repetitive condition within that woman's womb.

However, that belongs to the future. I think in the beginning there should be a certain degree of liberty for the mother. There is no doubt whatever the viewpoint is swinging over to a desire—and in some letters it is a demand—that women be entitled to mark out their own future.

I conclude by saying to those who are interested in this matter and to those with the maternal viewpoint that I would like to meet them; and I would like to meet even those who objected before the Bill was introduced.

Debate adjourned, on motion by The Hon. A. F. Griffith (Minister for Mines).

TRUSTEES ACT AMENDMENT BILL

Second Reading.

Debate resumed from the 3rd September.

THE HON. N. E. BAXTER (Central) [8.10 p.m.]: Before dealing with the amendments in the Bill before us, I think I should go back and outline the Bill of 1962, now the principal Act, as described by the Minister for Justice in his second reading speech. I will quote from the Minister's introductory remarks which are to be found on page 508, vol. 1 of *Hansard*, 1962, as follows:—

> The main objects of the scheme are—
>
> (1) To bring together in one place all the statutory provisions relating to trustees.
>
> (2) To hold a reasonable balance between the sometimes (but not always) competing interests of the settlor or testator, the trustee and the beneficiary.
>
> (3) To ensure that the legitimate intentions of testators and settlors are not frustrated by unnecessary technicalities or by any law which has today lost its significance.
>
> (4) To bring the legislation of the State up to date, in the light of the experience of other jurisdictions and of the economic circumstances prevailing in the State today; and
>
> (5) To simplify will drafting and conveyancing, and to reduce expense in the administration of trusts by permitting trustees to exercise their powers without unnecessary reference to court, by trusting the trustees and allowing the court to exercise supervisory powers.

That was an outline of the Trustees Bill when it was introduced into this Chamber in 1962. The Minister made quite a few other remarks in connection with the Bill, which was debated at length by Mr. Wise, Mr. Watson, and Mr. Heenan. I am not so concerned with the first few provisions in the Bill before us as they seem to be quite good and well founded; but I am a little concerned about the section of the Act which deals with commissions to trustees.

The various Acts concerned with this aspect are the Trustees Act, the Perpetual Executors, Trustees and Agency Company (W.A.) Limited Act, and the West Australian Trustee Executor and Agency Company Limited Act. The provisions for commission, after investigation, are, in my opinion, varied to some extent. I will deal first with the provisions of this Bill which seeks to amend certain subsections of section 98 of the principal Act.

The first amendment mentioned by the Minister amounts to a difference in a play on words and their meaning, and the meaning of the words in the amendment as compared with those in the principal Act,

For the benefit of the House I think I should repeat the provision in the principal Act and the provision in the amending Act.

The Hon. A. F. Griffith: Amending Act or amending Bill?

The Hon. N. E. BAXTER: Amending Bill. Subsection (2) of section 98 provides—

> The aggregate commission or percentage allowed under subsection (1) of this section in respect of all persons who are, or have been, the trustees shall not exceed five per centum of the gross value of the trust property at the time the application for commission or percentage is made or, if the trust property has at that time been distributed, at the time of distribution.

When we turn to the provisions of the Bill we find the amendment provides that the aggregate commission, or percentage allowed under subsection (1) of this section shall not exceed 5 per cent. of the greatest gross value—note, the greatest gross value—of the trust property occurring at any time before the termination of the trust.

As members will realise, there is quite a difference between the provisions in the Act, and the provision in the amendment. The original section in the Act provides that 5 per cent. of the gross value shall be charged, or assessed, at the time the application for commission is made, or if the trust property is distributed.

The Hon. F. J. S. Wise: Will the honourable member explain the difference between the gross value and the greatest gross value.

The Hon. N. E. BAXTER: There could be quite a difference between the gross value and the greatest gross value. I did a little exercise and worked out a few figures in this respect. For example, working on an estate which showed a final balance for probate of $72,000, and the beneficiaries being a child or children who had not attained the age of 21 years, and not being a wholly dependent child or grandchild, the net probate would be $9,040. The property could have carried a mortgage of $20,000; owed a debt to a stock firm of $5,000; had sundry debts of $1,000; and debts to a machinery firm of $5,000. The total debts would be $31,000, making the greatest gross value of the trust property $103,000 as against a probate figure of $72,000.

Before I make a comparison of the two values I would point out that under these circumstances, if the limit of 5 per cent. commission was allowed on the greatest gross value of the trust property, the amount of commission would be $5,150. Therefore, from the total value of the estate would be taken, in State probate duty and commission to the trustee, a figure of $14,190. Of course, to that figure one has to add Federal death duties, which I have not calculated in this instance. However, although that figure would not be as great as for State duty, I would not like to assess the figure at the present time.

On the other hand, if the commission was worked out at 5 per cent. on the final balance arrived at for probate, the figure would be $3,600—a difference of $1,550 in the commission paid. One wonders whether this difference occurs between the original gross value of the trust property, and the value at the time of distribution. The figure would be somewhere about the probate figure, with possibly an allowance for collection of some particular assets or the payment of debts which may be owing.

The greatest gross value of the trust property would be the whole of the value of the assets of the property, without deducting from that figure any liabilities whatsoever. So it can be seen that there is quite a big discrepancy between the provisions of the Act and the provisions of this amending Bill, regarding the total figure on which the commission is assessed.

The Hon. A. F. Griffith: I take it that the honourable member is saying that if the assets equal the liabilities, or come near to it, the trustee should work for nothing.

The Hon. N. E. BAXTER: No, I am not suggesting that at all.

The Hon. A. F. Griffith: Well, on what basis, according to your reasoning, would the commission be deducted?

The Hon. N. E. BAXTER: The basis is contained in the Act, as the Minister well knows. I will quote subsection (1) of section 98 of the parent Act, as follows:—

> The Court may, out of the property subject to any trust, allow to any person who is, or has been, a trustee thereof or to that person's personal representative such commission or percentage for that person's services as is just and reasonable.

The basis for the court's decision, I maintain, is laid down in the succeeding subsections.

The Hon. A. F. Griffith: I know all about that.

The Hon. N. E. BAXTER: The Minister would know all about it; I am pointing the facts out to the House. That is the position under the Trustees Act.

The Hon. A. F. Griffith: I am wondering, with the question you are raising, on what basis you would think the trustee should receive a commission if the assets are near to the amount of the liabilities.

The Hon. N. E. BAXTER: The commission should be worked out according to the court's decision. I believe that under the

original provisions in this section of the Act it is quite competent for the court to say what is a fair thing. There is no necessity for this new provision to provide that the commission shall be assessed on the greatest gross value. The greatest gross value, naturally, must involve the total assets prior to any deduction for liabilities.

I believe that estates, today, are hit hard enough with both State and Federal probate—the State probate is very vicious—without providing for a heavy commission to a trustee, unless it is earned. It could be that the work involved in the example which I have worked out at random, would not be commensurate with the payment of 5 per cent. of the greatest gross value. I think the Minister is attempting—

The Hon. A. F. Griffith: I would not attempt anything at this time. Using your own example, on what figure would you say, in practice, the trustee is now being allowed commission?

The Hon. N. E. BAXTER: I would not like to assess any figure because the Act provides for the court to make a decision.

The Hon. A. F. Griffith: I am asking you to assess the figure on your basis.

The Hon. N. E. BAXTER: It is laid down in the principal Act.

The Hon. A. F. Griffith: According to your knowledge, on what basis is commission being paid; do you really know on what basis it is paid at present?

The Hon. N. E. BAXTER: The basis is laid down in the Act, as I have pointed out.

The ACTING PRESIDENT (The Hon. F. D. Willmott): Order!

The Hon. A. F. Griffith: I do not think you really know.

The Hon. N. E. BAXTER: The only authority that would know is the court, and the court works under the provisions now existing in the principal Act. I do not think there is any point in denying that, and we must not forget that these provisions were originally recommended—according to the Minister's speech in 1962—by the Law Society. The same Law Society is now proposing this amendment.

The Hon. A. F. Griffith: I would like to get some clarification of the honourable member's thinking.

The Hon. N. E. BAXTER: The clarification of my thinking is simple. We should abide by the provisions of the Act as laid down at the present time. In my opinion, this amendment certainly is not a fair thing to the beneficiaries of an estate. Commission based on the greatest gross value will be paid out of the estate before the beneficiaries receive their share. This value can include many thousands of dollars owing in debts. In my opinion the next thing we will have before us will be another amendment because the Government will want to charge probate on the liabilities of the estate as well.

The Hon. E. C. House: Hear, hear!

The Hon. N. E. BAXTER: We all know that a number of farming properties have been practically ruined because of the incidence of probate.

The Hon. A. F. Griffith: The honourable member knows, as well as I do, the basis on which probate is charged.

The Hon. N. E. BAXTER: I know what the basis is. If the Minister would like an illustration of the comparison in probate duty, I can very easily give it to him. I will compare our probate duty with the provisions in the Victorian Act. I will give the figures on an asset of $72,000—on a farming property.

The Hon. A. F. Griffith: Was that example you mentioned a Western Australian estate?

The Hon. N. E. BAXTER: Yes, a Western Australian estate on which probate of $9,040 was paid on an asset of $72,000. The beneficiaries were a child, or children, who had not attained the age of 21 years, and were not dependent children or grandchildren of the deceased.

As I have already stated, the probate duty in this State, on that figure, is $9,040. In Victoria, the probate duty, based on similar beneficiaries, is $6,160. There is a mighty difference there. However, I will say that in the Victorian Act there is provision for primary producing properties, under which a rebate of 30 per cent. of the probate duty is allowed. In Victoria primary producers do get some relief from the slave master of probate duty, which can force the beneficiaries into selling a property, or portion of it.

I think I have dealt with that particular part and I will now pass on to a further proposal in the amending Bill—proposed new subsection (3) of clause 4. This proposed subsection provides for the interim payment of commission to trustees. This is not provided for in the principal Act. The proposed new subsection reads as follows:—

> (3) The Court may, from time to time, allow such portion of the aggregate commission or percentage allowable under this section as it thinks fit.

The principal Act states that no allowance shall be made except on the termination of the trust, unless the court otherwise orders. I wonder why that particular provision was placed in the original Act? In my opinion, proposed subsection (3), which I have just read, has no relationship to subsection (3) of section 98 of the principal Act. The old subsection provides that no allowance shall be made except on the

termination of the trust, unless the court otherwise orders; whereas the proposed new subsection provides for interim payments to the trustees. In other words, if an application is made to the court, then the court can order a payment. There must have been a reason for the insertion of subsection (3) of section 98 in the principal Act, which states that no allowance shall be made except on the termination of the trust.

Let us think about this for a little while. Was that provision inserted to speed up the work of trustees dealing with estates? I am rather inclined to think it was. I know of many cases where estates in the hands of trustees have been carried on and on for an unduly long time before they were finally wound up. Perhaps this proposed new section is to be inserted so that if there were any undue delay in winding up an estate the trustee could not obtain any commission unless the court so ordered.

The Hon. F. J. S. Wise: Your point is that an asset is not a debt and a debt can never be an asset, and therefore commission cannot be charged.

The Hon. A. F. Griffith: Even if the debt is due to the estate?

The Hon. N. E. BAXTER: No, not a debt dut to the estate, but a debt which an estate owes should not be subject to the payment of commission.

The Hon. A. F. Griffith: So I get back to my first question. You would have the trustee work for nothing?

The Hon. N. E. BAXTER: There is no suggestion that the trustee should work for nothing.

The Hon. A. F. Griffith: If the debt exceeded the asset the trustee would have to work for nothing, because you would not pay a commission on the debt, but only on the asset, and if there are no assets left in the estate, on what would he be paid a commission?

The Hon. N. E. BAXTER: No; but on the other hand—

The Hon. A. F. Griffith: Never mind about on the other hand; keep to this point!

The Hon. N. E. BAXTER: If there is no asset on which a commission can be paid, from where is the commission to come?

The Hon. A. F. Griffith: You are propounding a policy and I asked you a question, but you bucked the question by saying, "on the other hand."

The Hon. N. E. BAXTER: I did not buck the question. The Minister is now suggesting that at the termination of the estate, if it finishes up square, or in debt it should, in other words, still pay commission on the greatest gross value of the debts of that estate. If the estate is wound up with a deficit, who is to pay the commission from a deficit? That is what the Minister is proposing.

The Hon. A. F. Griffith: Your problem would be easily solved; you would not get a trustee to act.

The Hon. N. E. BAXTER: I should imagine anyone who was in the position that, after his death, his estate would finish up square after the payment of debts, or with a deficit, would probably not be in business when he died; because I do not know how I could carry on in business if my debts were greater than my assets, or even if my debts equalled my assets. After all is said and done one cannot get blood out of a stone. If the estate is in deficit when it is wound up, who is to pay the commission to the trustee? Would the trustee say to the beneficiaries, "Tom Jones has made you beneficiaries under his will. I have now wound up the estate, but there is nothing left in it. In fact, there are debts amounting to $2,000 still owing, but whilst I was administering the estate its gross value was $20,000, so you now owe me 5 per cent. of $20,000"?

If the trustee was to be remunerated for his duties the beneficiaries would have to pay his commission, because the Government would not come to their rescue by saying, "As this poor chap died leaving an estate that is still in debt, we will pay the commission of the trustee"; but that is what the Minister is proposing with this amendment.

The Hon. A. F. Griffith: I am not proposing anything of the kind, and you know it!

The Hon. N. E. BAXTER: The question is quite simple, and what I have outlined is probably what will happen if the estate finishes up square, or in debt.

The Hon. F. J. S. Wise: I think the Minister is mainly concerned with the fact that you are not proposing something, but opposing something.

The Hon. N. E. BAXTER: With these amendments, that is quite correct. I do not consider I can support them because I think the principal Act, as it stands, is fair enough. I cannot see how it is in the least bit fair to say, "If you die we will allow the trustee to be paid the greatest commission on the greatest gross value of your estate, which includes your debts." As I said before, if we are prepared to adopt this principle in regard to the commission that is to be paid to trustees, perhaps the day will come when we will adopt the principle of the greatest gross value for the purpose of assessing probate for the payment of death duties.

The Hon. A. F. Griffith: In other words, you do not think we should clarify the Act.

The Hon. N. E. BAXTER: The existing provision in the Act is clear enough. The amendment in the Bill is merely a play on

words, and the use of the term, "greatest gross value" in regard to the payment of commission not only on the assets, but also on the liabilities of the estate as well, is completely unjustified. On that basis I cannot hold with the view of creating a debt on a debt, or creating another liability on a liability that already exists.

Under the Act as it stands the amounts are allowable and are subject to the decision of the court. The relevant sections in the Act are quite sufficient to permit any trustee to be reasonably remunerated for his services. As I pointed out in the illustration I gave of a $72,000 estate, the administration of that estate would not occupy a trustee's time for more than six months of the year. At the end of that period he should be in a position to wind up the estate. As I illustrated, the payment of $3,600 on the final balance of the estate would, I maintain, be fair remuneration for the amount of work performed by the trustee in cleaning up such an estate.

As provided in the principal Act, I do not think we can go far wrong by leaving the court to decide what is a fair and reasonable remuneration to pay a trustee, but if we are to provide that the court can allow payment of commission on the greatest gross value of an estate we will be doing a disservice to those testators who pass their assets on to beneficiaries, particularly widows and children, and those beneficiaries who have substantial debts to meet, including the payment of probate duties. In the Committee stage I will be prepared to vote against this amendment.

The Hon. A. F. Griffith: Will you tell me what you thought of section 143 of the Administration Act, which was repealed?

The Hon. N. E. BAXTER: Yes, I will. I meant to mention that, as a matter of fact. Section 143 of the principal Act, which was repealed—

The Hon. A. F. Griffith: I am speaking of section 143 of the Administration Act.

The Hon. N. E. BAXTER: I will read what the Minister said on this question, too. He said—

> The amendment proposed will make it clear that the trustee is entitled to be allowed commission on the greatest gross value of the property occurring at any time during the existence of the trust—as provided by section 143 of the Administration Act, 1903, which section was repealed by the Trustees Act.

That section, as I pointed out to the Minister yesterday evening, was amended by amending Act No. 80 of 1962. This is what section 143 of the Administration Act provided—

> The Court may, by way of remuneration, allow to an administrator or executor for the time being, on passing his accounts, such commission, not exceeding five pounds per centum on the assets collected by such administrator or executor, including rents and income, as the Court thinks just. No allowance shall be made to any administrator or executor who omits to pass his account pursuant to any order of the Court.

The Hon. L. A. Logan: That is, on assets?

The Hon. N. E. BAXTER: Yes, on assets collected. If the Minister so desires, let us compare that section with the provisions in the amending Bill. Is there any similarity between the provision in the Bill before the House and section 143 of the Administration Act? If, as the Minister said in his speech, that was the fair and proper thing to do, why was not that section included as an amendment in the Bill instead of what has been offered to us at present?

The Hon. A. F. Griffith: I thought I told you. I told you there were two interpretations on what gross value means.

The Hon. N. E. BAXTER: I realise that. If the Minister cannot remember the contents of his own speech I will read it again.

The Hon. A. F. Griffith: No, don't do that. We have heard it enough.

The Hon. N. E. BAXTER: In his speech the Minister has intimated that the provision in the Bill will do the same as section 143 of the Administration Act does. If that is so, why not use the same provision in the legislation now before us? That is what the Minister intimated in his speech; I cannot place any other interpretation upon it.

The Hon. A. F. Griffith: I cannot help that.

The Hon. N. E. BAXTER: The Minister cannot help it, because he said it. The words are there, as plain as a pikestaff. The Minister has said that the two provisions are the same, but are they?

The Hon. E. C. House: Why was that section repealed?

The Hon. N. E. BAXTER: Yes, one wonders about that. One must ponder over the interpretation of the words, "on the assets collected by such administrator or executor." Exactly what do those words mean? I am at a loss to know what they mean, although I have a vague idea. However, by no stretch of the imagination can I come to the conclusion that section 143 of the Administration Act has the same meaning as the amendment in this Bill. I would say that the assets collected by the administrator or the executor would be the total assets of the property brought into being, less the liabilities.

The Hon. F. J. S. Wise: Do you not think that any bank overdraft owed by the estate should be taken into consideration by charging 5 per cent. on it?

The Hon. E. C. House: It is not an asset.

The Hon. N. E. BAXTER: No, it is not an asset or part of a deceased's estate. As I said before, when an estate is assessed for the payment of probate duties, it is assessed on the final value. The provision in the principal Act which states that the court shall pay what is just and reasonable is, I think, a fair enough provision without putting this impost on estates to increase nothing else but death duties. At this stage I would vote against that particular clause in the Bill.

THE HON. I. G. MEDCALF (Metropolitan) [8.45 p.m.]: I would like to make a few observations on this Bill, and I propose to deal briefly with three main items contained therein. Firstly, I wish to deal with the amendment to section 16, then with the amendment to section 30, and finally with the amendment to section 98.

Section 16 of the 1962 Trustees Act contains comprehensive powers of investment. Members will appreciate that trustees are under fairly strict obligations as to what they can do with trust moneys. While they hold such moneys, and before they distribute them, they have to keep the funds invested in what are called "trustee investments." Trustees cannot leave the funds lying idle in an account which does not bear interest; and they have to put the funds into gainful investments which will not only preserve the assets for the beneficiaries, but will also earn some income in the meantime, in case there are life tenants and other people who are entitled to the income; and also in the ultimate if there are no life tenants for the final beneficiaries.

The authorised investments originally included Commonwealth loans, savings bank accounts, and mortgages of real estate under fairly restricted provisions, and one or two other channels which were also very restricted.

For some years there has been a feeling among trustees that they should have the field of authorised investments enlarged. For that reason the trustee legislation was amended in 1962, and in section 16 a comprehensive list of investments which could be made by trustees is found. In addition to the investments I have just mentioned, others—such as deposits in the short-term money market; securities guaranteed by the United Kingdom and various State Governments; deposits in building societies; stocks, shares and debentures, which were a completely new departure—are also listed. Investments in stock, shares, and debentures in public companies are very restricted; the companies have to be quoted on the Stock Exchange, the shares must be fully paid, and the companies must have a share capital of not less than $2,000,000 and must have paid dividends in the preceding 15 years. These are fairly restrictive provisions.

In the terms of the amending Bill before us these authorised investments are to be extended to include common trust funds of trustee corporations. Members may wonder why it is necessary to include this in the Bill, because they may feel that the common trust fund of a trustee corporation is already an authorised trust investment. In fact, it is not an authorised trust investment in the terms of the Trustees Act, but it does not mean that trustee companies have been doing things which they should not do.

In 1951 trustee companies were authorised by this Parliament to form what were known as common trust funds. They could combine the funds from various estates—which might comprise assets of a few hundred dollars each—into a large fund for investment. That was something which trustees could not have done had not the relevant Acts been amended in 1951. The Acts were amended, and thereafter there was available a new form of investment into which trustee companies and the public trustee under his own Act were allowed to channel their funds. They could combine various trust funds into a common trust fund, but the Act provided that the moneys constituting a common trust fund must be invested in one of the authorised investments permitted under the Act; in other words, they had to invest these common trust funds in authorised trustee investments.

That was all right as it affected the public trustee and trustee companies, but what about the private trustees? If they had trust funds they could invest them, but perhaps they did not know of any suitable trustee investment, or perhaps they wanted the best possible trustee investment. They may have heard of these common trust funds as being good investments. Nevertheless, a private trustee could not put his trust funds into a common trust fund of a trustee company or the Public Trustee.

The Bill seeks to empower private trustees to hand over their trust funds to a trustee corporation, so that those funds can be invested in a common trust fund, just like any other moneys which a trustee corporation can invest. When a trustee corporation receives the money it will combine it with other moneys, and perhaps obtain a mortgage or a substantial investment which is not available to a private trustee.

I now turn to the proposed amendment to section 30, and this does not need a great deal of explanation. The explanation given by the Minister in his introductory speech is quite adequate to cover

the position. Where a trustee is also a beneficiary of the trust, and wants to take part of the trust property—say a house or some shares—and appropriate it in kind or in specie; that is, give it to certain beneficiaries of the trust fund, he has to serve notice on everyone who is interested before he can deal with that part of the property.

The object of the amendment in the Bill is to relieve a trustee of the need to serve a notice on himself, when he is one of the people concerned. It is absured to expect him to do so. As a safeguard, the amendment in clause 3 provides that in such a case the action which a trustee takes in appropriating a part of the property is not effective until such time as it has been approved by an order of the court. This is done to prevent him from giving himself an advantage. The court itself must authorise such appropriation.

There is another minor amendment to section 30 which simply seeks to correct an apparent error in the wording in the Statute. I do not think members will welcome my going further into this.

The third major amendment in the Bill —the one referred to by Mr. Baxter—is that dealing with commission. It is an amendment to section 98 of the Act. I feel this warrants some explanation. There is no substantial difference between the proposal in the new subsection (2) and what is in the original Act. It will be recalled that the new subsection (2) refers to the greatest gross value of the trust property. I do not know that there is any difference between the greatest gross value and any other gross value. In my view there is only one gross value, and that is the entire value of all the assets, without taking into consideration any liabilities or deductions. On the other hand, the net value of an estate is the value after the various deductions or liabilities have been taken into account for the purposes of probate duty. So we have two values—one is the gross value, and the other is the net value. But there is only one gross value.

Although the Bill refers to the greatest gross value it is in effect expressed in that way in order to clarify a doubt which had arisen over the wording in the existing subsection. The wording of subsection (2) is as follows:—

> The aggregate commission or percentage allowed under subsection (1) of this section in respect of all persons who are, or have been, the trustees shall not exceed five per centum of the gross value of the trust property at the time the application for commission or percentage is made or, if the trust property has at that time been distributed, at the time of distribution.

That refers to the gross value in each case. It refers to the gross value of a trust property at the time the application is made, and at the time of distribution. The words "gross value" are not repeated, but they are clearly implied. So it is gross value at the time of the application for commission or at the time of distribution. The contention was that the gross value could be greater at one time than another.

I would suggest it is open to grave doubt whether there was anything in that argument, but it was seriously thought there was something in it. Perhaps it could have been argued in court. In order to dispel any doubts, the proposal in the Bill was put forward. It was suggested that the gross value at the time of application for commission might be different from that at the time of distribution, because the property might have been distributed. Therefore if the property had been distributed, the argument was the gross value might be nil.

The Hon. A. F. Griffith: That was what I was trying to pursue with Mr. Baxter.

The Hon. I. G. MEDCALF: The gross value at the time of distribution might be nil, but I do not see anything in that argument. As I see it, the gross value at the time of application is the same as the gross value at the time of distribution. Even if the assets have been distributed they have a gross value. In my view there is no need to amend the section, but I am well aware this argument has been put up by responsible people.

It was purely to clarify the position that this particular amendment has been proposed. I feel it should be apparent there is only one gross value; that is, the gross value of the whole of the assets. It is not as though we were allowing commission on—as was suggested—a bank liability. The question was asked whether it was fair to allow commission on money owed to a bank. Nobody suggested it was. The Commissioner of Stamps charges stamp duty on money owing to a bank. If a person had a property and a debt on it, and somebody bought the property and took over the debt, then the purchaser would have to pay stamp duty not only on the property, but also on the debt. The stamp duty is assessed on the value of the property and the liability taken over.

The Hon. F. J. S. Wise: The debt is part of the consideration.

The Hon. I. G. MEDCALF: That is the theory. There are many cases to support the action of the Commissioner of Stamps in this respect; and undoubtedly he has the right to do that. Whether or not this is equitable is another matter.

In this case we have the gross value assessed on the total value of the assets, and not on the bank debt. One cannot pay the bank debt unless one has the assets out of which to do so, in the first place. There is no suggestion that commission is being taken on a bank debt.

However, looking at it from the point of view of those members who ask whether it is fair to take this commission out when an estate is reduced by so many debts, I would like to point out that the authority is only permissive. There is no indication that this "shall" be the commission. Subsection (1), which is not being amended at all, reads—

> The Court may, out of the property subject to any trust—

and I emphasise the words "the Court may"—

> —allow to any person who is, or has been, a trustee thereof or to that person's personal representative such commission or percentage for that person's services as is just and reasonable.

The experience has been that the court is very jealous of allowing commission. It is extremely jealous and it is not easy to get commission out of the court. Anyone who has made application to the court for commission is well aware of the fact that there is no hard and fast rule about this. The court will not normally allow the maximum of 5 per cent., as stated here. That is the maximum, but the court will not usually allow that. In fact, generally speaking, the court allows considerably less than 5 per cent.

A member: The court will grant whatever it considers just and reasonable.

The Hon. I. G. MEDCALF: That is right. I recall that the golden rule of the court —and I mention this because of the question raised as to how much commission the court will order—was 2½ per cent. on corpus and 5 per cent. on income. That was the maximum the court would usually award and the 5 per cent. is more hoped for than likely to be received.

The Hon: L. A. Logan: It is subject to the court.

The Hon. I. G. MEDCALF: It is entirely subject to the court, and therefore members are quite safe in leaving this as it is in subsection (1). This already protects the estate because the court will award only what is just and reasonable.

The Hon. F. J. S. Wise: Can you advance any strong reason why the next two sections should be deleted and substituted by the proposed amendments?

The Hon. I. G. MEDCALF: Yes. My suggestion is that considerable doubt has been expressed by some people as to subsection (2), and in order to clarify these doubts as to whether there was in fact a difference in the value of an estate at the date of application for commission and the value at the date of distribution, it is desirable that these amendments be made. These resolve that doubt. However the amendment does not in my opinion increase by one iota the amount of commission which can be allowed. It makes no difference. It merely refers to the greatest gross value. The proposed new subsection (2) of section 98 reads—

> (2) The aggregate commission or percentage allowed under subsection (1) of this section shall not exceed five per centum of the greatest gross value of the trust property occurring at any time before the termination of the trust.

The inclusion of the words "greatest gross value" is to overcome the suggestion that at the time of distribution the gross value is nil because the property had been distributed. That was the argument which was responsible for the amendment.

The Hon. S. T. J. Thompson: The gross value excludes the liabilities then?

The Hon. I. G. MEDCALF: Yes. It is the gross value of all the assets, excluding the liabilities.

The Hon. A. F. Griffith: Tell members what happens to the corporate trustee companies which are paid under their own Acts.

The Hon. I. G. MEDCALF: They have separate Acts and separate scales laid down for them.

The Hon. A. F. Griffith: Yes, but so far as the gross value is concerned, are they not dealt with similarly?

The Hon. I. G. MEDCALF: Yes. They work on the basis of gross value in exactly the same way. The gross value has always been the figure used by trustees since time immemorial. They have never worked on a net value basis because as has been suggested by the Minister, if this were done no trustee would act. To take the hypothetical case mentioned where the assets and liabilities are equal, I think I heard the Minister say that no trustee would act. That estate would be a bankrupt estate, but the Public Trustee would act because he is required to do so.

If the Public Trustee did act in such a case, the question of commission would be merely academic because if there were no assets out of which to take the commission obviously the question would not arise.

However, to illustrate this point, we will take a case where the assets are $102,000 and the liabilities are $100,000. This gives a surplus of $2,000. It is conceivable in those circumstances that a trustee might claim the $2,000 as commission, this being approximately 2 per cent. of the gross value of the estate.

The Hon. H. C. Strickland: I think someone would have grabbed it before then.

The Hon. I. G. MEDCALF: I mentioned that case only to try to illustrate the point that it is the gross value of the assets on which the commission is always charged. However, the court will not just allow any

fanciful commission. If I may, I would like to draw attention to subsection (4) which will remain in the Act, because it is not being amended. This reads—

> (4) Where the Court allows a commission or percentage under this section, in any case in which two or more persons are or have been trustees, whether acting at the same time or at different times, the Court may, in its discretion, apportion the total amount allowed among the trustees in such manner as it thinks fit, and, in particular, may divide the amount in unequal shares or may make the allowance to one or more of the trustees to the exclusion of the other or others.

In other words, the court can pick out the trustee who has done the work and say, "Here, you can have this" and the other two or three nominal trustees—who may perhaps be members of the family—need not get anything. In such circumstances the court would frequently not award these nominal trustees anything.

The Hon. A. F. Griffith: I am told the Master of the Court is unaware of an instance when the maximum commission has been allowed.

The Hon. I. G. MEDCALF: I can fully credit that. It is difficult to get a high commission from the court.

The Hon. N. E. Baxter: How does subsection (3) affect subsection (2)?

The Hon. I. G. MEDCALF: Subsection (3) reads—

> (3) No allowance shall be made under subsection (1) of this section except on the termination of the trust, unless the Court otherwise orders.

The question has been asked—and here again some people may think it a fanciful suggestion but I suppose it is arguable—how can a trust be terminated unless the commission has already been paid, and therefore how can an allowance of commission be made? Subsection (3) reads—

> (3) No allowance shall be made under subsection (1) . . . except on the termination of the trust . . .

The trust must be terminated first, but before it can be terminated the commission must be paid. It is a never-ending circle. That is the reason for the suggestion in the proposed new subsection (3) that the commission may be allowed on an interim basis, we might say, and this is the proposal in the Bill. Proposed new subsection (3) reads—

> (3) The Court may, from time to time, allow such portion of the aggregate commission or percentage allowable under this section as it thinks fit.

I want members to take note of the words "from time to time." In other words, the court will not necessarily wait for the termination of the trust. Some trusts, of course, can go on for an indefinite period. There may be a series of trustees. This often occurs because frequently trustees die in office and others take over. This applies to many trusts and if it was necessary to wait for the termination of the trust before any commission could be paid, this could be unfair to the trustee who may have done a lot of work.

The Hon. A. F. Griffith: And carried the expense himself in relation to the administration of the trust.

The Hon. I. G. MEDCALF: Of course. However, it still comes back to the court. This proposed new subsection says, "The Court may from time to time." It all comes back to the court. The discretion under the amendment will still be as it is under the Act—with the court.

I would like to refer for a moment to section 143 of the Administration Act. One of the reasons for the repeal of this section is that it is desirable for all provisions governing commission to be placed in the one Act. This applies to a number of matters in several other Acts as well. They have all been brought under this Act.

The Hon. A. F. Griffith: There are six, all told.

The Hon. I. G. MEDCALF: If members look at the schedule they will see some of the Acts which are repealed as a result of this Bill. The differences between section 143 of the Administration Act and the provisions in this Bill are not really very numerous. Section 143 of the Administration Act refers to the court and to a maximum of 5 per cent., just as does this Bill. That section refers to "on passing his accounts," but I do not think that is included in the Trustees Act. However, the court may require the passing of accounts; so here again it boils down to the same thing. It finally rests with the judgment of the court.

The Hon. N. E. Baxter: You say the collection of assets—

The Hon. I. G. MEDCALF: Yes. The "collection of assets" is a rather loose term. If I remember correctly, the exact reference is, "the value of the assets collected." That means the total value of all assets. One of the trustee's first obligations is to get in all the assets of the estate or trust, and the collection of the assets means the collection by him of everything. If we take the case of a deceased estate, by collecting the assets, the trustee is bringing together all the assets in one identity; that is, into the trust fund. Therefore, "the value of the assets collected" means the same as "the gross value" of the trust property. I support the Bill.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd September.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [9.11 p.m.]: This is a Bill which seeks to amend the Local Government Act and I might say at the outset that, where possible, particularly with regard to Bills amending the Local Government Act, I like to distribute copies of the Bills to the local authorities in the province I represent. No doubt other members like to adopt this practice also. In view of the fact that it is intended that we meet twice a year in future, I would ask the Minister to give an opportunity for a long adjournment on any future local government legislation, in order to give members an opportunity to circularise copies to the local authorities with which they are associated. If this were done we would have an opportunity to obtain their views on the legislation before we debated it.

The Minister must, of course, have obtained the support of many of the local authorities before he introduced this Bill. However, the situation would be even better if those on this side of the House were able to quote the views of the various local authorities in their electorates. After all, they are vitally concerned with the legislation as they have to operate under it every day.

With regard to the provisions in the Bill, I find myself in agreement with them. The first one, which deals with an amendment to section 45 of the Act, merely substitutes the word "fifteenth" for the word "first." The Minister was rather brief in his explanation of this amendment. He said—

> This amendment has been submitted following a request by the Avon-Midland ward of the Shire Councils' Association and is designed to enable companies to nominate representatives to be effective at the same time as other enrolments.

The Hon. L. A. Logan: That means all the enrolments on the roll at the same time.

The Hon W. F. WILLESEE: Which rolls?

The Hon. L. A. Logan: The council rolls.

The Hon. W. F. WILLESEE: What is the difference between the first and the fifteenth?

The Hon. L. A. Logan: The others are on that particular date.

The Hon. W. F. WILLESEE: I have no quarrel with the amendment, but I would like the Minister to elucidate a little further when he replies. The bald statement, "as other enrolments" did not convey very much to me.

The Hon. L. A. Logan: It will be a date on which all the enrolments are entered in the roll. This is to bring it into line.

The Hon. W. F. WILLESEE: The next amendment deals with the position where work is being undertaken in quarries and similar places. Under section 281 of the Local Government Act, such operations are limited to within one mile of the site of the work. The proposal now is that the material can be transported over any distance at all for whatever purpose. Road works is one which comes quickly to my mind. It is now proposed that the mile limit will disappear.

As long as compensation is to be paid for the removal of the spoil, and as there is a provision in the Act for compensation to be paid, subject to the further right of the individual to pursue the matter to arbitration, it would seem to me that this, too, is a reasonable approach to the problem.

Section 287 is to be amended, and I consider this is an important amendment. From time to time we have had cited cases of local authorities coming along, building roads in the vicinity of existing properties and, in the end, flooding those properties. Apparently the owners have no right of compensation. The last case I recall was an instance similar to one quoted by Mr. Dolan quite recently.

The Hon. L. A. Logan: They "plopped" in the road and left them in a cutting.

The Hon. W. F. WILLESEE: Alternatively, the opposite could happen. The amendment proposes that where a pavement level exists, that shall be the established level for improvements.

The Hon. L. A. Logan: Yes, unless the council has not laid down a street level.

The Hon. W. F. WILLESEE: Yes, if that has not been laid down. If the local authority moves in and interferes with the rights of the person after the level has been established, then the owner has a right of compensation which he has not enjoyed up to date. I think that amendment is very worth while and a step in the right direction.

Clause 5 of the Bill is another very forward move. It gives to local authorities in the metropolitan area the right to utilise their own borrowing powers to construct sewers within their own boundaries. It gives the right to build drains and associated works that go with sewerage. In turn, these can be sold to the Metropolitan Water Supply, Sewerage and Drainage Board. It seems obvious to me that the amending clause will expedite the solution of some of the problems which we complain about so often in this Chamber. I hope it does achieve this, at least to some degree.

The Hon. L. A. Logan: I hope so, too.

The Hon. W. F. WILLESEE: Clause 6 of the Bill deals with the right of a local authority to recoup itself after having expended moneys on parking facilities. When

dealing with this clause, the Minister said some doubt existed with regard to section 525A of the Act. He said, in effect, that it was badly phrased. It concerns the right of a council to borrow, to establish parking facilities, and to recoup itself from the revenue of the undertaking instead of from loans raised.

Section 525A (4) (g) is quite a lengthy provision and I would have thought it covered all the requirements. It reads—

> for the repayment of any loan or loans raised by, and any advance or advances of money made to, the council for the setting in motion and the promotion of any work necessary to give effect to the objects of the by-laws and for the payment of interest on any such loan or money;

I do not propose to argue with the proposal. If it has been found, in practice, that there is some doubt, the obvious thing to do is to take legislative steps to eliminate the doubt and this Bill seeks to do just that.

An alternative to the unimproved value of rating is proposed for some shires, subject to the approval of the Minister. I notice that the opportunity is taken, not only to introduce this method of rating but also to lift the maximum rate that can be charged on such unimproved values. I have not had the opportunity to find out how the local authorities value this suggestion, but I take some solace from the thought that the matter has to be submitted to the Minister before the rating can be established. I have no doubt the Minister will look into that aspect before allowing any serious increase in the rates.

The rest of the Bill does not have any material effect as those amendments are concerned with bringing about a better working machinery in the day-to-day administration of the Act. As I read the measure, I support it.

Debate adjourned, on motion by The Hon. J. Heitman.

House adjourned at 9.24 p.m.

Legislative Assembly

Wednesday, the 4th September, 1968

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

QUESTIONS (30): ON NOTICE

STATE SHIPPING SERVICE

Losses

1. Mr. BURT asked the Minister for Transport:

(1) What losses were incurred by the State Shipping Service during the years 1965-66, 1966-67, and 1967-68?

(2) Were these losses absorbed by the Grants Commission?

(3) Now that Western Australia is no longer a claimant State, how will these losses be met in future?

Mr. O'CONNOR replied:

(1) The financial statements and annual reports of the service are based to a calendar year.
Losses for year—
1965—$2,730,732.
1966—$2,393,967.
1967—$2,372,565.

(2) Losses were met from the Consolidated Revenue Fund of which the special grant was only part of the funds available.
However, from 1965 the Grants Commission set a ceiling of $2,400,000 on the loss which it was prepared to support by the special grant. Any loss in excess of this amount had to be met entirely from the State's own resources.

(3) From the Consolidated Revenue Fund as before. In fact the position is now precisely as it was under the Grants Commission because any increase in losses will have to be met from the State's own resources.
The grant received from the Commonwealth in lieu of the special grant is fixed and there can therefore be no increase in this amount to cover increased losses by the State Shipping Service.

GOLDFIELDS WATER SUPPLY

Adequacy

2. Mr. BURT asked the Minister for Water Supplies:

(1) In view of the likelihood of further mineral finds in the goldfields, which could lead to the establishment of more producing mines, what steps has the Government taken to ensure that adequate fresh water supplies are available to meet the needs of—
(a) mining and treatment operations; and
(b) domestic uses?

(2) Has the Government investigated the underground fresh water potential in the north-eastern and east Murchison goldfields?

(3) If so, what relevant information has been obtained from these investigations?

Mr. ROSS HUTCHINSON replied:

(1) Action will be dependent upon the location and magnitude of mining developments in the area. The Government is maintaining close