might be three of them, and three secretaries, as well as numerous other officials. The least retiring allowance they could be paid would be the full amount if they had been in employment that long, and the average, taking it as six years of employment, would represent a considerable amount of money. These officers would have to be retired on an average of about £800 each. Inside the two-year period it would be possible that 20 or 30 people would have to be retired at that figure; and, although the ratepayers might not have been willing for the amalgamation to take place, they would have to foot the bill. This is a grave weakness in the measure and one which requires very careful examination.

After hearing the objections raised by various members, I think the Minister might be prepared to take the measure back and examine it further. If the power is left entirely with the Minister to say that amalgamations shall take place, I think it is up to the Government to help the local authorities concerned in respect of any added expense due to amalgamation. I cannot bring myself to support the second reading, and will therefore oppose it.

On motion by Hon. A. F. Griffith, debate adjourned.

House adjourned at 9.5 p.m.

Legislative Assembly

Wednesday, 19th October, 1955.

CONTENTS.

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

BILL—LOCAL GOVERNMENT.

Message.

Message from the Governor received and read recommending appropriation for the purposes of the Bill.

QUESTIONS.

TRANSPORT BOARD.

Inspectors and Fines.

Mr. ACKLAND asked the Minister for Transport:

(1) How many inspectors are employed by his department to check road vehicles on country roads?

(2) Are sufficient inspectors employed to work three shifts of eight hours for seven days a week?

(3) If the answer is in the negative, what overtime is paid to inspectors who are to be found on the road in the early hours of the morning?

(4) What is the annual cost to the State by the employment of these men?

(5) What recoup is returned to the State by way of fines imposed for breaches of the Traffic Act?

The MINISTER replied:

(1) Three inspectors and three patrol officers are employed by the Transport Board. Inspectors are called upon to undertake general inquiries and other work in addition to road patrols.

(2) No.

(3) Overtime is not worked on road patrol duties. Officers are rostered for varying shifts which may be either day or night throughout the week.

(4) The officers concerned are remunerated from the transport co-ordination fund—not from Consolidated Revenue. The gross amount so paid during 1954-55 was £4,677 which covers certain general work in addition to road patrols.

(5) This amount is not readily available. Presumably the intended reference is, in any case, to the State Transport Co-ordination Act—not the Traffic Act.

WUNDOWIE PRODUCTS.

Method of Transport.

Mr. ACKLAND asked the Minister for Transport:

(1) Does the Wundowie Charcoal and Iron Industry situated adjacent to the main East-West railway use road transport to convey its products to the metropolitan area?

(2) If the answer is in the affirmative—

(a) is the reason because road transport is cheaper; or

(b) is road transport more satisfactory and more expeditious than rail transport?

The MINISTER replied:

(1) Yes.

(2) The cartage of Wundowie pig iron by road was investigated by the Treasury last February. In view of the short distance involved, it is more economical and convenient to transport pig iron by road and is definitely advantageous to State finances. The advantage of road transport for short hauls is also recognised in the Government's decision to authorise road haulage of superphosphate up to 40 miles from the different works.

HOUSING.

(a) Vale Park, Removal of Residents.

Mr. WILD asked the Minister for Housing:

(1) How many residents have been moved from Vale Park to other areas since the decision to do away with the temporary housing accommodation provided by the State Housing Commission?

(2) To which housing area have they been allotted?

The MINISTER replied:

(1) Three families.

(2) Bentley Park, one family; Willagee, two families. Housing accommodation also offered to three other families.

(b) Salter Point, Type of Homes Erected.

Mr. WILD asked the Minister for Housing:

(1) Has the area at Salter Point on which brick and timber-framed houses are now being erected by the State Housing Commission ever been designated as a brick area?

(2) If "Yes" is the answer to No. (1), on what grounds did the commission override the local authority?

(3) What was the necessity for erecting timber-framed homes on river sites, when other large areas of land were available on which such houses could have been erected?

The MINISTER replied:

(1) No.

(2) Answered by No. (1).

(3) The commission is in no different position from any other owners of property who build of materials of their own choosing in optional areas.

BUNBURY POWER STATION.

Reduction of Duty on Plant.

Mr. ROSS HUTCHINSON asked the Minister for Works:

(1) Is it a fact that, for the purposes of determining the lowest tender in the detailed comparison of the tenders of the Permutit Co., Westeels Industries Ltd., and W. G. Utting Sales Co. for the demineralising plant for the Bunbury power station, a substantial reduction for duty of approximately £4,000 was made to the Permutit Co., whilst a lesser amount of £1,480 was allowed to Westeels, and the firm of W. G. Utting received no allowance?

(2) If it is not a fact that these allowances for duty were made, would he explain the reasons for deducting duty in arriving at adjusted prices on folios 20 and 21 of file S.E.C. 1/B1/19R?

(3) Does this mean that local or Australian firms may be seriously disadvantaged because of the manner in which

the Tender Board assesses charges for duty in the consideration of tenders, instead of such firms receiving the so-called benefits of a tariff wall?

The MINISTER replied:

(1) and (2) Yes. The tender of W. G. Utting included plant which was imported for which no customs duty was stated. When the operating costs for each offer were capitalised, because of the substantial difference between Utting's tender and the lower tenderers, this tender was passed over.

The plant offered by both Messrs. Permutit and Westeel Industries was substantially imported and both companies made considerably different allowances for duty. On a similar plant supplied by Permutit for the South Fremantle power station, duty paid by the commission was £1,121 15s. 11d. Hence it was considered that the only equitable way to consider their tenders was on a duty free basis.

(3) No.

HEALTH.

Tetanus and Diphtheria Immunisation.

Hon. C. F. J. NORTH asked the Minister for Health:

(1) How long does immunisation for tetanus remain effective?

(2) How long does immunisation for diphtheria remain effective?

The PREMIER (for the Minister for Health) replied:

(1) A full course consisting of three injections of tetanus toxoid is believed to confer substantial immunity in the majority of cases for life. In the event of certain types of injury in an immunised person, however, an additional injection may be given as an added safeguard to boost immunity.

(2) The basic immunisation course with modern diphtheria prophylactics, consisting of at least two but sometimes three injections, confers good immunity for up to four years, when a refresher or booster dose is necessary. In most cases, this is sufficient to tide a person over the most susceptible ages for infection; in special circumstances a second booster is given.

GERALDTON BULK HANDLING TERMINAL.

Land Resumptions and Compensation.

Mr. HILL asked the Minister for Works:

(1) What was the area of land resumed at Geraldton for the bulkhandling terminal?

(2) What was the amount of compensation paid for these resumptions?

The MINISTER replied:

(1) 2 acres 30.2 perches.

(2) £35,355.

TRANSIT SHED, ALBANY.

Use for Shipments to Wholesalers.

Mr. HILL asked the Premier:

(1) Is he aware that the transit shed at Albany is necessary because of the number of wholesale distributors who receive direct shipments of their requirements to that port?

(2) Will he give a list of the wholesale distributors at Bunbury who desire to have direct shipments to that port?

The PREMIER replied:

(1) A transit shed has been in operation at Albany for a number of years. Harbour development plans provide for the erection of a further transit shed in conjunction with No. 2 Berth. This work is being carried out as funds become available.

(2) This is not known as importers make representations as a body through their organisations.

BILL—PENSIONS SUPPLEMENTATION ACT AMENDMENT.

Leave to Introduce.

The TREASURER: I move—

That leave be given to introduce a Bill for an Act to amend the Pensions Supplementation Act, 1953.

Question put and passed.

Leave given; Bill introduced.

First Reading.

THE TREASURER (Hon. A. R. G. Hawke—Northam): I move—

That the Bill be now read a first time.

If permitted at this stage, I might say that it is the desire of the Government to pass this Bill through all stages tomorrow because of the necessity for the Commonwealth Government to pass an approving measure in the event of this Bill becoming law in Western Australia. The Commonwealth Parliament is not likely to remain in session much longer, so the more speed that we can make with this Bill, the quicker will the provisions apply to those who will benefit by this measure.

Question put and passed.

Bill read a first time.

BILLS (5)—THIRD READING.

1. Metropolitan Water Supply, Sewerage and Drainage Act Amendment.
2. Soil Conservation Act Amendment.
3. Health Act Amendment.
4. Marketing of Barley Act Amendment.
5. Soil Fertility Research Act Amendment.

Transmitted to the Council.

BILL—FREE ENTERPRISE PROTECTION.

Second Reading.

Debate resumed from the 28th September.

MR. LAPHAM (North Perth) [4.43]: I rise to support the second reading of the Bill, though while I favour the principle contained in the measure, I feel that in its present form it is not altogether acceptable to me. What I am very keen about is the intention behind the Bill, but I consider that quite a lot of amendments will be necessary before the measure can be brought to anything like perfection. Perhaps even after it has been passed by both Houses, experience will show the need for further amendment. This is something new in the way of legislation, not only in this State but also in the world, and consequently we must expect difficulties to arise in framing legislation of this nature.

The Bill is designed to prevent practices that are unfair, restrictive, detrimental to the public, or not conducive to free enterprise, and consequently in restraint of trade. During my period as a member in this House, I have on many occasions listened to members opposite lauding the merits of free enterprise and unhampered competition. I believe that this Bill, after being amended, should pass this House by a unanimous vote. It was introduced by the Leader of the Country Party and therefore should receive the support of Country Party members.

It is in accord with the constitution of the Liberal Party, and in that regard, I should like to quote from a speech recorded in "Hansard" of 1951, at page 816. The speech was made by Mr. D. Grayden, then member for Nedlands, who, in the course of his remarks, said—

> I have here a copy of the official platform of the Liberal Party of Australia issued by the Federal Secretariat in November, 1948. At page nine, under the heading of "Employment", in paragraph (3), there is this—
>
> > The effective regulation and supervision of monopolies and trade combinations inimical to the public interest.
>
> I think that sets forth quite clearly the Liberal Party's opposition to those restraints upon trade and commerce of a monopolistic nature.

As that paragraph appears in the constitution of the Liberal Party, I feel that Liberal members will support the principle contained in this measure. The Labour Party is also keen on the principle contained in the Bill, because on its platform is a plank for the socialisation of industry where necessary to prevent the exploitation of the people. Therefore, I say we should have a unanimous decision on this Bill if members adhere to their party constitutions.

A study of the Bill with the proposed amendments presents rather novel and interesting reading. "Combine" is defined as meaning any number of persons having as its object or purpose, or as one of its objects or purposes, the controlling or influencing the supply of, demand for or price of any goods, and creating or maintaining a monopoly in the supply of any goods. In analysing that definition, the words "any number or persons" immediately attract attention. It is obvious that "any number" could mean two or 22 persons. The rest of the definition is self-explanatory. It might include a firm, company, large enterprise, trade association or incorporated body, and as I interpret the definition, it could refer to a partnership which had for its object or purpose the doing of certain things.

Before considering those things which might be done, we should look at the words "object or purpose". On a cursory examination, those words conveyed to my mind the impression that they might relate to the memorandum or articles of association of a company, or to a partnership agreement, or to something written or definite in form, something that would indicate deliberate intent, such as would have to be proved in a court of law. Having made inquiries from a member of the legal profession, however, I am satisfied that my impression was wrong and that the object or purpose of the offending person could be implied by general conduct, or as long as two persons conducted their business with the intention of controlling or influencing the supply of, demand for or price of any goods or creating or maintaining a monopoly in the supply of any goods, then they are a combine.

The public's general impression of a combine, and that which I have always had, is of a number of firms combined to do certain things or an association of different firms formed for such a purpose, when in either case they did so mainly from a motive of profit. I was a little confused in this regard and so I sought legal opinion on the matter. The opinion I have received states—

> The definition presumably aims to catch associations attempting to restrict the supply of goods and therefore to increase the demand for and price of such goods and the courts would no doubt strive to give the words some such limited meaning. In the light of the history of legislation of this nature and the common law decisions on restraint of trade, the courts might be tempted to hold that an association formed to influence supply and demand and prices only to the extent of eliminating ruinous and "cutthroat" competition was not a combine, but there is no certainty that

the courts would so hold and in any event although the words appear in Eastern States legislation and the now repealed Profiteering Prevention Act of 1938 of this State, there does not appear to be any good reason why a clearer definition should not be attempted.

I am satisfied that when the Leader of the Country Party introduced this Bill, it was not his intention that there should be any undue restriction placed on reasonable business because, in common with the rest of us, he would appreciate the efforts of anyone who could increase the supply of articles in short supply. Any individual who endeavoured to accomplish that—a combine or otherwise—would be doing a a service to the community.

Then again no two persons, or more for that matter, should be penalised for influencing the demand for goods because that is quite a natural business trait. That is what advertising is supposed to do. A manufacturer creates an article and, by advertising or some similar means, endeavours to create a demand for it. A baker puts a few poppyseeds on the top of his loaf and then endeavours to create a demand for that type of loaf. As the Bill stands, it could possibly be said that the baker was creating a demand for the bread and was consequently a combine. I am satisfied that the Leader of the Country Party, when introducing the Bill, did not intend that such a person should be guilty of an offence. The Bill, as submitted to the House, is therefore defective in that sense.

Apparently the Minister noted that defect because he has on the notice paper an amendment which will seek to add the words "or services, to the detriment of the public or any section of the public." If agreed to, that will alter the whole meaning of that provision. The definition, as amended, would then in effect read: "A combine means any two persons having as their object or purpose the controlling of or influencing the supply of goods or services to the detriment of the public." That would alter the whole effect of that clause. In its amended form it could apply to manufacturers, distributors, electricians, plumbers, or many others, including professional men.

Further on in the Bill there is a clause dealing with illegal undertakings and acts and it is very illuminating because it sets out that "every person commits an offence against this Act who, either as principal or agent, is or becomes or has been or has undertaken or will undertake to become a member of a combine". That means that any manufacturer who lays down a retail price for an article, when he is not actually also the retailer, is a combine. As an instance I might mention Joyce Bros. of Fremantle, a reputable firm well known to the member for Fremantle.

That organisation manufactures mattresses and stipulates a price to be charged by the retailer for them. If the Bill were passed in its present form it would mean that that firm would have to cease that practice or it would become a combine under this measure. The Bill continues—

> acts or has acted or will act in obedience to or in conformity with the directions of a combine with respect to the sale, purchase or supply of any goods.

That means that should any retailer acting in conformity with the instructions of Joyce Bros. sell the article at a certain price, it would be acting in conformity with a combine and consequently contravening the Act.

It would be interesting to know what would be the position of a sub-agent of General Motors Holdens Ltd. There are a lot of country agents selling Holden vehicles for Sydney Atkinson Motors Ltd., who are the agents in this State, and as these vehicles are sold at the set price, legal action might quite possibly be taken because the sub-agents were acting in accordance with the direction of a combine and consequently contravening the Act. Manufacturing chemists would also be affected because they all lay down the prices to be charged for the articles they manufacture. There might therefore be difficulty in regard to the selling of their products.

Clause 6 contains the meat of the measure. I received quite a lengthy report from a legal practitioner in relation to this clause and will read it for the information of members. It states—

> Section 6 is the principal section, creating the offence at which the Bill aims. It provides the every person commits an offence against the Act who, either as principal or agent, does one of the following acts:—
>
> (a) is or becomes or has been or has undertaken or will undertake to become a member of a combine.

It will be noted that it is not only persons who are or become or who undertake to become members of a combine who commit offences but that a person also commits an offence if he has been or has undertaken to become a member of a combine. Prima facie, if this provision of the Bill becomes law it will give the resulting Act a retrospective operation so that as soon as the Bill is assented to any person who in the past has been a member of a combine or who has undertaken to become a member of a combine, whether or not that undertaking has ever been fulfilled, will be guilty of an offence, and

if he has been a member of a combine or given an undertaking to become such within two years of the date of assent to the Act, will be liable to prosecution.

The draftsman has apparently followed certain of the wording of Sections 7A and 7B of the Commonwealth Australian Industries Preservation Act and of Sections 17 and 18 of the repealed Profiteering Prevention Act of this State. Section 7A of the Commonwealth Act provides, inter alia, that any person who offers any rebate, discount or concession to a second person upon the condition that the second person deals or has dealt or will deal exclusively with a particular person or with a commercial trust as defined by that Act is guilty of an offence. Similarly, Section 7B makes it an offence for any person who refuses to supply a second person because that second person deals or has dealt or will deal or intends to deal with a third person or deals or has dealt or will deal or intends to deal with persons who are not members of a commercial trust. But these sections do not provide that "a person who offers or has offered any rebate" or who "refuses or has refused to supply" shall be guilty of an offence.

Unless Section 6 of the Bill is to contravene a cardinal principle of criminal and quasi-criminal legislation, paragraph (a) should merely read—"is or becomes or undertakes to become a member of a combine."

It will also be noted that this provision provides that a person commits an offence if he "will undertake to become a member of a combine." These words have apparently been inserted in the Bill for the same reason as the words "has been" already referred to and it is difficult to know what meaning should be ascribed to them. Prima facie a person who is willing to become a member of a combine merely by forming the mental intention so to do becomes guilty of an offence. However, such an intention would be difficult to prove in the absence of overt acts demonstrating the intention. However, a person might be convicted on the evidence that he made inquiries as to the possibility of joining a combine and had taken an application form required to be completed by prospective members. The words "or will undertake" should be deleted.

The Bill contains one particularly obnoxious provision from the point of view of jurisprudence in that it has a retrospective operation. Further, since it makes membership of certain types of association unlawful it should contain a provision that it is to come into operation on a date to be fixed by proclamation to give any associations to which its provisions would apply if it were now law an opportunity to alter their objects and policies.

The terms of this Bill are very wide and it is difficult to see an end to its implications.

Clause 6 is similar in some respects to sections of the Commonwealth Australian Enterprise Preservation Act, 1906-1950, which deals only with trade and commerce with other countries or among the States.

The local Bill however is wider and has no provision corresponding to Section 4(3) and Section 7A (3) of that Act which provide a defence to any person who can prove that the arrangement was not to the detriment of the public and did not constitute competition which was unfair in the circumstances and was not destructive to industry in Australia.

There is also no similar provision to Section 14 of the Commonwealth Act under which certain proceedings cannot be instituted without the written consent of the Attorney General.

No attempt has been made in the Act to distinguish between 'combines' or trade agreements which are reasonable and do not unduly inflate prices and combines and trade agreements which have the effect of enhancing prices to an unreasonable extent.

It is far wider than the Sherman Act of America under which, we understand, a "wrongful intent" is an essential element of an offence.

The difficulty in relation to all legislation on this subject is that many agreements or combinations are in the interests of the public—the producer and the consumer—and numerous boards have been established by statute in recent years to control the sale and distribution of various commodities.

The Act may boomerang and lead to price cutting wars which oust the small man, leaving the large company in control and thus create in truth the monopoly which the Bill seeks to eradicate.

It may be argued that the constitution or rules of the "combine" would need to contain a clear intimation that the matters set forth in either paragraph (a) or (b) were objects or purposes of the "combine" before the Act could apply to it and that therefore unless such matters were set out in the rules or constitution the "combine" would be outside the Act.

If such were the correct interpretation then any association could place itself in a secure position merely by amending, if necessary, its rules and by this means the whole Act could be made of no effect.

We feel, however, that this is not the correct interpretation and we are of the view that a proper construction would be that any association which, as a fact, had as one of its objects or purposes any of the matters set out in paragraphs (a) or (b) would be within the ambit of the Bill.

There would not, we think, be any Trade Association which did not at least "influence" the supply or price of goods.

In several respects the clause is badly worded. For instance, at the very moment the Bill became law all members of every "combine" would be guilty of an offence without any time being allowed them to cease to be members by resigning. Also, persons who had, prior to the passing of the Act, ceased to be members of a particular combine, could be prosecuted if they had been members within two years of the passing of the Act. (See Clause 7).

We think that there is no doubt that it could be argued that the price list contained in the Association's journal is an attempt to "influence" the price of goods and that, therefore, the Bill is a dangerous one to the Association and its members, if it is desired to continue to issue the list even although it would, of course, be said in defence that the list is only issued for members' guidance and assistance.

In short, we think the definition so widely drawn that if policed in accordance with its wording it could become nothing but an instrument of tyranny.

The limitation within which a prosecution may be brought, in effect is to impose a penalty for activities now past and which are and will be up to the passing of the Bill perfectly legal, e.g. if the Bill became law this month one could be prosecuted for one's membership of a combine last year.

In short the very grave objections to this Bill are—

(a) the definition of "combine" is far too wide in that it would grievously affect legitimate trade organisations.

(b) the attempt to give the Act retropsective operation is iniquitous.

We should analyse the objections contained in that report I have read from members of the legal profession. They state that the definition of a combine is far too wide in that it would grievously affect legitimate trade organisations. There is no doubt that the Bill as it stands would definitely affect them. As I intimated before, the Bill, in its present form, provides that any person who endeavours to control the supply of or demand for any article would be contravening the law and committing an offence. To my mind, that is legitimate business trading and a normal thing for any businessman to do.

It is only natural for any businessman to attempt to create a demand for the article he is trying to sell. Therefore, the Bill as it is at the moment, is wrongly drafted but the amendments proposed by the Minister throw a different light on the measure and all the obnoxious factors that have been raised by the members of the legal profession will be overcome by them.

Mr. Court: And quite a few more added.

Mr. LAPHAM: To my mind there are already quite sufficient because the Minister proposes to insert a dragnet clause in the Bill to provide that such offence shall be committed to the detriment of the public.

Mr. Oldfield: If the Minister's amendments are agreed to, people will be afraid to have a cup of coffee together.

Mr. LAPHAM: I do not know about that, but I consider that if the Minister's amendments are agreed to, they will make the Bill workable and will give it some teeth.

Mr. Oldfield: If two traders had a cup of coffee together and returned to their respective stores and each charged the same price for any one article, it would be a technical offence.

Mr. LAPHAM: One of the Minister's amendments provides for the appointment of a commission to protect free enterprise. The amendment sets out the power and authority of the commission. That amendment makes the Bill more workable. As the measure now reads, it would be possible for a vexatious and frivolous complaint to be lodged against a legitimate firm, but under the terms of the amendment a responsible authority would have to take action. I could not imagine any responsible person or body bringing forward any petty or frivolous complaint against any trader. In fact, if anything, the authority would err on the side of conservatism and would ensure that the case was clear cut before action was taken.

With such an authority in control a brake would be on irresponsible actions being taken against any honest trader. Furthemore, one of the difficulties of legislation of this type is that many associations might be classified as combines after a cursory examination of their activities, but if a responsible officer were in control he would be able to investigate each case on its merits, and I am satisfied he would not take action unless it was absolutely necessary.

In other parts of the world, legislation of this nature has met with a very mixed reception. Throughout the world many

inquiries have been held into the activities of combines, cartels, associations, or into the fixing of a retail selling price. Yet, there has never been a unanimous decision arrived at on this question. This would indicate a difficulty which would beset any commissioner appointed to carry out this task. In fact, he would have my sympathy. It would be wise to adopt a policy of moving slowly in regard to this measure. I have here a copy of "The National Chamber of Trade Journal" dated August, 1955, which is published in England and which contains the following—

> The conclusions in the Majority Report (Chapter) are that the collective enforcement of Resale Price Maintenance is against the public interest (except in special circumstances) and should be prohibited by law, subject to certain exceptions.

A further report from another newspaper reads as follows:—

> In 1952, the Monopolies Commission was ordered to produce a special report on the country's monopolies situation.
>
> Its findings, which have just been published are in two parts: a majority view proposing sweeping and ruthless legislative action against restrictive practices, and a minority view which takes a more lenient attitude toward some price fixing and other trade practices.

The minority recommendation is for the registration of trading agreements to prevent their being kept secret. There is no provision made at all in this Bill for registration of any trade agreements, or anything of a similar nature. It is obvious that this is a very difficult problem. Everybody seems to feel that something should be done. As a matter of fact, I do myself. I am very dissatisfied with the retail prices charged. I feel the prices charged by manufacturers of electrical goods are excessive.

A friend of mine approached me and said he wished to purchase a polishing machine which cost in the vicinity of £40 This was a few years ago. He asked me if I knew where he could get a cut from. He was a wise man, because it is always necessary these days to see from where it is possible to get a cut. I was able to secure a discount on that machine and I was allowed as much as £13 by way of a cut. Members need not try to tell me that that retailer did not make something out of it himself.

Mr. Nalder: Are you open for orders?

Mr. LAPHAM: The profit on electrical goods is far beyond anything that is reasonable.

Hon. L. Thorn: You will be cut out yourself, now.

Mr. LAPHAM: Oh no, I will not; I am not disclosing the source. I am merely showing how I arranged it through someone else. A Bill of this nature is necessary. Wrong practices definitely do exist. I do not think anyone of use should quote individual firms, but the firms themselves know whether their charges are fair and reasonable, or whether they are not. When this legislation becomes law, I think those firms will have some regard for the activities of this Chamber and will alter the prices of many of their items.

Many of the minor points in the Bill may not be to our liking, but, as reasonable men, I think we should have regard to the general principles and allow this legislation to go through. There may be mistakes made, but these can be remedied at a later stage. As I said before, this problem is world wide, and we would be extremely lucky to solve it in Western Australia merely by the introduction of one Bill. But if the provisions of the measure were placed on the statute book, they would act as a deterrent to those traders who stoop to certain snide practices. I think the public concurs with me when I make this statement.

I have an extract which appeared in the "Daily News" of recent date. It refers to a news item from Sydney and reads as follows:—

> The Anglican General Synod will urge Prime Minister Menzies to curb the growth of monopolies.
>
> The Synod yesterday decided to seek this action under the Australian Industries Preservation Act.
>
> Failing this, it will ask the Government to introduce legislation similar to America's Sherman Anti-Trust Law.
>
> Mr. J. P. Abbott, a former Federal Minister and M.H.R., proposed these measures.
>
> A Newcastle lay delegate to the synod, he said that if monopolies wielded unrestrained power they could dominate an individual's freedom to expand and develop.
>
> They could also shape the destinies of people neither in their own interests nor that of the State.
>
> Australia had an acute housing shortage and young couples had great difficulty building their own homes.

As I have said this article is from Sydney where there is a housing shortage. We have no housing shortage in this State.

The article continues—

> However, a Royal Commission had shown there was a timber monopoly in New South Wales which had a detrimental effect on the industry.
>
> He was a shareholder in Broken Hill Pty. Ltd., but he believed the company was stifling competition.

It will be seen, therefore, that in all sections of our community the people think something should be done about monopolies. They do not want drastic legislation introduced; they do not wish to be repressive, but the people do feel that a fairer deal should be given. I agree wholeheartedly with that because, to my mind, the prices charged today for many commodities are not what one might call fair. They are excessive and have been brought about by retail price fixation which the retailer cannot alter. If he does not sell his goods at the fixed price, he does not get them. It is not fair to the public.

As a matter of fact, it is not fair to anybody, because it has a tendency generally to boost in many ways the fixation of the basic wage. It will also have the tendency to increase the cost of manufacture, the cost of building and the cost to industry generally. It acts like a snowball and does no good to the community in any way. I suggest that all members should vote for the second reading of the Bill. I feel that after considerable thought has been given to the amendments they will be ideal, and will overcome some of the disabilities that are apparent in the original measure.

Mr. Court: Early in your speech did you say that you had a legal opinion that persons did not include limited companies or organisations?

Mr. LAPHAM: No, I never mentioned that. I said that persons could possibly include limited companies, but did not altogether have to be limited companies. It could consist of a partnership of two or 22 persons. If two directors decided to do a certain thing they could be acting as a combine.

Mr. Court: Under the Interpretation Act a person includes a body corporate, and I think that is what the Bill relies on.

Mr. LAPHAM: It could also include two persons in partnership. Those are very wide powers, but I feel the powers are limited to a certain extent by the amendments proposed by the Minister. He has been able to review the Bill introduced by the Leader of the Country Party. It is a difficult matter to put into practice what one has in mind, but once it is on paper it is not hard to see any faults that may exist. I feel that the Minister has been able to see the faults, and proposes to attempt to correct them with his suggested amendments. It would be a very good thing if we did pass this legislation. We could then have something on which we could rely in the event of some firm deliberately attempting to put unfair practices into operation.

MR. JOHNSON (Leederville) [5.25]: My attitude towards this Bill can possibly be best demonstrated by the telling of two short stories.

Mr. Oldfield: Are they clean?

Mr. JOHNSON: Yes, they would not interest the hon. member. The first story goes back a long time. In an important fishing village everything was suffering from water erosion. The sea was encroaching to an alarming extent, and looked as though it might undermine the town. This happened before parliamentary representation, and the villagers petitioned the local baron, and asked that something be done. The baron could do nothing himself, so he went to the king who was an all-powerful monarch. Like our present Ministers, the king undertook to have the matter examined!

On an appointed day the king and his court visited the town to have a look around. They arrived when the tide was out, and sat down to wait for it to come in. Instead of having a cup of tea they indulged in a flagon of mead. Eventually the tide turned, and by that time they were all a bit mellowed with the mead; they were slightly under the "affluence of incohol". The seventh wave just reached the first courtier who called to the king and said "We had better move." But the others being in the dry—externally at least—decided to stay till the barrel cut out.

They were human in those days. The fourteenth wave came a bit nearer and the chief baron—who was a little more elevated than the rest—said to the king "You order us about something horrible, and we have to do what you say! How about trying yourself out on the feeble waves?" The king who was, of course, even more elevated than the baron, agreed. He called on the town crier, the heralds and the clerk assistant to command everyone, including the waves, not to move from the spot until the king had finished his wassail and his mead.

The twenty-first wave took very little notice, and reached the foot of the third baron's chair. The twenty-eighth wave went a bit further. The thirty-fifth wave dampened the chief baron's hose, while the forty-second wet the king to the knee. But the forty-ninth wave, being seven times seven, was a bobby dazzler; the king and his court were all wet—as is this legislation. That is what I think of the chances of this legislation being effective—they are about as good as King Canute's chances of stemming the tide. He might have delayed it while he soaked up some of the dampness, but it was not very effective.

The second story is a bit more modern. There was an old prospector named O'Brien who did a perish back of Yalgoo.

Hon. L. Thorn: Not our Bill.

Mr. JOHNSON: One day O'Brien found himself talking to St. Peter.

Hon. J. B. Sleeman: It could not have been our Billy.

Mr. JOHNSON: St. Peter was not really expecting prospectors at that time so he challenged O'Brien and questioned his

right to come in. After he had explained the situation, St. Peter had to admit that the import quota for prospectors was overfull and that there was not room for him. Our friend O'Brien had kissed the blarney, so he talked to St. Peter for a while and suggested that he let him in for a trial run while he got over perishing and had a little refreshment; and said that if there were not space for him at the end of the fortnight, he would take his chance elsewhere.

A couple of days later Peter found a prospector who had been with him for several years asking for an exit visa. The following day there were several more with the same request, and eventually there was a flood, till nobody was left but poor old Bill He was the only prospector in heaven. After he had been on his own for a week, he appeared before Peter and asked for an exit visa. Peter asked, "What gives?" "Well," said Bill. "Its like this. I told my old mate Saltbush that I had heard a rumour of a gold strike just inside the entrance of hell and was going there when I perished. Saltbush went to have a look, and so did the others; and now I want to go too. There may be something in it".

Mr. Oldfield: Is this a Jack Davey show?

Mr. JOHNSON: That illustrates the reason I am giving my support to this Bill. There may be something in it, though I am very much disinclined to think so. There is a good deal available in the way of serious comment on this type of legislation, and there was a good deal of matter in the speech which preceded mine. I am not going to cover any of the same ground, but I would like to refer to one or two authorities.

First of all, there is Hobson's "Science of Wealth", which is a textbook that has been used for a long time in the teaching of economics. It was written in 1911 and at page 129 the writer has this to say about free competition—

> If there were absolutely "free competition" everywhere and equal abundance of all the factors of production, all prices would stand equally at a minimum, and all goods and services would exchange according to the sum of their "costs". Our blankets, teapots, shirts, bread, and coal, unloaded of all their composite surplus, would, of course, no longer sell for a sovereign each but at various lower levels.

The price is the 1911 price. I fancy that that statement expresses fairly clearly and concisely the outlook of members opposite and that of the people who introduced and support this Bill. A little further on, at page 137, he speaks of monopolies. He says—

> There is a popular notion that in an age of capitalism, since the larger business in a trade is always economically stronger and more profitable than the smaller, it is only a question of time for the whole trade to pass into the hands of a few monster firms which, after trying to slaughter one another, will end by combining. Thus it is conceived will competition work itself out in all the industries, leaving a single trust or combine in complete control of the market, and able to dictate prices to the consumer. In a good many industries the modern development of business life seems to sustain this view.

He proceeds to qualify that opinion and to show that in certain luxury types of industry this rule appears to be avoided, and that there seems to be an upper limit to the useful extent of industrial expansion. He finishes the chapter in this way—

> The real risk to which consumers are exposed in modern industry is rather that of suspended or mitigated competition among a few larger businesses than that of a complete monopoly. The economy of big production seldom hands over a market to a single firm, but it often reduces the number of effective competitors to a paucity that enables them by agreements to regulate output and fix prices high enough to yield them a considerable surplus profit. A great amount of experimentation in methods of federation and agreement among big firms in the same line of business is continually going on, and perhaps constitutes at the present time a graver menace to the consuming public than any domination of the x "trust". The metal and machine-making trades for instance, in Great Britain and America, are riddled with agreements for regulating selling prices, while shipping and railroad, insurance and banking companies, are continually forming "combines", "conferences", or other associations for regulating services and prices. Wherever one turns in modern industry, combination shows itself as real and almost as pervasive a force as competition.

That was written in 1911. Time has moved on since then, and the tendency to increase the size of and closer agreements within trades has become even more apparent.

On the 28th February of this year, in the South African Parliament, the Minister of Economic Affairs, Hon. E. H. Louw, introduced a Bill to regulate monopolistic conditions. The following is a report, in part, of what he said, and is taken from the "Journal of the Parliaments of the Commonwealth":—

> The Minister said he had caused investigations to be made about similar legislation in other countries. It appeared that on the Continent, in Scandinavia, Britain, America and Canada

everybody experienced difficulties arising from monopolies. The tendencies in those countries were for businesses to form monopolies in order to keep strong. This practice was more apparent in some countries, particularly America, than in others, but it was nevertheless apparent everywhere. In fact it could be unequivocally stated that there was no country which was anti-monopolistic, not even America with all its anti-monopolistic legislation and courts.

Further on appears the following:—

> In South Africa, for example, industries controlled by a small number of people were those manufacturing explosives, fertilizer, iron and steel, lead pipes, copper pipes, chains, paper, cigarettes, soap, wire cables, electric cables, bicycles, bicycle tyres, motor tyres, driving belts, cement, steel pipes, steel cylinders, electric motors, nuts and bolts, windmills, sewerage pipes, bags, carpets and yet others. "They are so well organised that one can call them cartels," the Minister said. "A few such undertakings get together and regulate the market. An outsider cannot enter it. They take shares in each other's businesses in order to interlink their interests and instead of the main object of their so-called trade associations being to negotiate on behalf of those associations with the State and other interested parties, in reality they are only there to control the market."

The Labour Party's attitude toward the Bill was expressed by Mr. A. Hepple who said that his party was strongly in favour of legislation to control monopolies and restrictive trade practices. For that reason his party was rather disappointed in the Bill "because it had no teeth". It would appear that Labour Parties have some slight resemblance to one another in a number of countries.

Reference has been made in this debate to the proposal of the British Government and the Sherman Anti-Trust Law in U.S.A. The United States of America provide probably the best situation in which to study the effects of monopoly legislation because the Sherman Anti-Trust Law was passed in 1890. There were a number of well-established prosecutions under that measure.

I propose to quote from a textbook I have used before which is based purely on American experience and written by an American professor from an American university. It is one of a series of books of descriptive economics which sets out the situation in America without being actively concerned in promoting any particular amendments to the economic situation. I quote from "Economics of Business Enterprise" by Leonard A. Doyle, Acting Associate-Professor of Economics of Stanford University, California, to illustrate how the book is constructed and its purpose. The first chapter is framed as a legal trial and the prosecuting attorney opens the case—

> Your Honour, ladies and gentlemen of the jury. The defendant in this case is the Private-enterprise System of the United States and certain of its officers and directors. Defendant is charged with suppressing competition and promoting monopoly.
>
> From the major crime of suppressing competition and promoting monopoly, many grave consequences inevitably follow which affect adversely the economic, social, and political welfare of the public. Of the many consequences, the following are particularly serious:
>
> 1. Prices are administered by business groups and are not established by the free play of the market.
>
> 2. The patent system is abused so as to suppress new products rather than to encourage their development and production.
>
> 3. A substantial amount of manpower and other economic resources is devoted to socially wasteful uses to foster monopoly through advertising and promotion.
>
> 4. Adequate security is not provided for the population against the hazards of illness, unemployment, and old age.
>
> 5. Not all of those able and willing to work are able to find employment.
>
> 6. Adequate housing at prices within reason is not provided.
>
> 7. The public is unable to secure the food it wants at prices it can afford to pay.
>
> 8. Essential commodities such as steel, rubber, aluminium, copper, and lumber are restricted in supply at critical times through lack of production capacity.
>
> 9. Undue influence is exercised over government, transportation, communication, education, the arts, and even religion by large business interests.

That demonstrates fairly accurately most of the charges that can be made and are at times made by various people against private enterprise and the general system and deals in particular, as members will note, with the effect of monopoly and restrictions on competition.

Mr. Court: That is only a series of charges.

Mr. JOHNSON: The book is an answer to those charges. It is the defence against those charges.

Mr. Court: Defence or proof?

Mr. JOHNSON: Defence. The book is "Economics of Business Enterprise." It is descriptive economics and does not set out to amend the economic system of the United States. It tries to describe it and, in effect, to show that though there are abuses, the private enterprise system is the only possible answer. I find this book most interesting because it is highly descriptive and it does show the faults of private enterprise; and it endeavours to show its virtues.

The author concludes chapter 3, the heading of which is "The Advantages and Limitations of Pure Competition," with these words—

> It is necessary to point out, however, that pure competition is the exception and not the rule in modern economic life.

He then follows with chapter 4, which is headed "The Behaviour of Market Demand—Incentives to Avoid Pure Competition," and he has a few quotable pieces in opening that chapter—

> The obvious objection of business firms to pure competition is that it very often provides little profit.

Further, he says—

> The chief attraction of pure and perfect competition is for the consumer and not the firm.

Those are quite accurate statements. He then goes on to deal with "The Problem of Socialisation and the Professions"—the proposed Bill covers services as well as goods—and he has this to say—

> In a democratic society the people influence the direction and nature of economic activity by their decisions in the market and by political action. Political action may be employed to influence economic activity when the market influences appear to result in a situation which is regarded as unsatisfactory.

A little further on, he says—

> "Socialisation of economic activity" is a term used rather loosely in contemporary discussion. If a plant is owned and operated by the government, we may say that the particular plant is socialised. If all establishments in a particular industry are government-owned and operated, the entire industry is said to be socialised. The term "socialised" is also applied when the government does not own or operate an establishment but provides all or part of the funds required for the expenses of the establishment. When the government provides funds for a "private" operation, it usually exercises some degree of control over the enterprise. Control may consist of establishing regulations which must be met as a condition of receiving funds, or if may involve having one or more representatives of the government active in the management of the enterprise. Participation in management may be at the policy level, at the operating level, or both. Government participation in the management of private enterprise is often feared by those persons who do not presently have such participation but who may be subject to control or regulation in the future. The professions are particularly sensitive to outside control, yet certain types of professional activity, notably those connected with education and health, encounter conflicts of interest which many contend may best be resolved by socialisation.

He seems to have a little bit both ways. From what I have read, it appears that the interference with private enterprise, suggested by the Bill, brings the whole of commerce within Mr. Doyle's definition of what is "some degree of socialisation." Later, he goes on to say this about politics when interfering in business—

> In a democracy political agitation may play an important part in directing attention to areas of economic activity in which private enterprise might do a much better job but fails to do so because of inertia.

The final chapter is something which I think all members on both sides of the House should read. It is too long for me to read here, but I would like to quote a few important short passages from it. Mr. Doyle has this to say—

> The discussion of the economics of business enterprise started with a trial in which the private-enterprise system was charged with suppressing competition and promoting monopoly. In an enterprise economy it is to be expected that on occasion the activities of many persons and enterprises will be of a questionable nature. There is no "invisible hand" or natural law which forces individuals always to act in a way which promotes the general welfare.

The point that can be strongly endorsed there is that "There is no 'invisible hand' or natural law which forces individuals always to act in a way which promotes the general welfare." One of the objects of the Bill is to act as an invisible hand in that regard. A little later we find this—

> Too often any business behaviour not consistent with the requirements of pure competition is termed "monopolistic." If the problem were only one of terminology, we might properly regard monopoly as the opposite of pure competition and so argue that any behaviour intended to get away from pure competition is logically a move in the direction of monopoly. As we

> have seen, however, "monopolistic behaviour" often is a term of hig emotional content implying "unwarranted" restriction of output and "excessive" prices.

That is a very fair statement, I think, and one for which I consider we must have regard. It was well illustrated by the member for North Perth when he pointed out that we should be careful to see that everything that could come within the confines of the Bill should be closely examined to ensure that they were, in fact, monopolistic and against the public interest, and not monopolistic and useful to the public interest. I draw attention to this sentence—

> If a high profit rate is maintained over a long period of time, however, one may conclude that entry is restricted by some means so that new firms are unable to survive as effective competitors.

He is making an important point there, namely, that profits are a barometer by which one can measure the degree of monopoly in an established business. A high profit over a long period is, in itself, something that goes to prove that there is a degree of monopoly.

Mr. Court: I would not say that is so in the case of one particular business within an industry. There are many single businesses that are famous for the fact that they do maintain a high profit consistently, because of their efficiency compared with their competitors.

Mr. JOHNSON: I did not say it was necessarily proof, but it is prima facie proof that there is a degree of monopoly existing if profits remain high for a period of time. It does, in itself, warrant some examination to see whether the high profit is the result of pure efficiency, or whether it is from a degree of monopoly.

Mr. Oldfield: But the Bill is not aimed at monopolies, but those who conspire to be monopolies.

Mr. JOHNSON: That is the same thing.

Mr. Oldfield: No. A monopoly like the B.H.P. has been built up by its own efficiency. The B.H.P. produces the best steel in the world, and it is the cheapest, and the company should not be destroyed because it is a monopoly.

Mr. JOHNSON: The Bill is not designed to destroy anybody, but to control those who misuse their position. The member for Maylands desires to suggest that the B.H.P. is a monopoly. The question should be examined on more than the fact that the product is cheap. I am not the only one who thinks that the cheap production of the B.H.P. is to some extent, protected, and that the company has something very close to a monopoly of the steel industry in the whole of Australia—

Mr. Oldfield: It is a monopoly.

Mr. JOHNSON: —and that it is not acting completely in the best interests of Australia in that there is less production of certain lines than is desirable. Yet there are great difficulties in the way of anyone establishing a competing industry.

However, to return to my own argument, members will recall that in dealing with this book I quoted some of the charges which are publicly made against private enterprise, and this is what the author, in his concluding chapter, has to say in relation to Nos. 4 to 8 of the charges—

> The points raised by 4 to 8 above are charges which may be made against any economic system, for they all relate essentially to the conflict between mere desire and effective demand. As was pointed out in the first two chapters, the fundamental problem of economics is scarcity. Scarcity is relative to purchasing power (or resources), and when society eliminates scarcity, it will have little interest in economics.
>
> It is true that scarcity is the lot of any society, but this is not sufficient reason for contending that any particular stage of economic development is the best possible.

On that particular point, he has a little bit each way. He demonstrates the argument which we have heard from the other side fairly frequently, that private enterprise has produced a better standard of living than anything else has ever done—a point with which there cannot be much quarrel because nothing else has been tried.

The private enterprise system has, in recent years, been interfered with considerably—interfered with politically, as Mr. Doyle suggests in his book—because it has been shown that it has not managed to fill reasonably all the wants of the people. I desire, to make clear that I feel the Bill is tending to prevent change. The philosophy of it is to prevent a change in the system as it is now, and a reduction of existing competition. Anyone who tries to prevent change is running into largely the same trouble that King Canute encountered. There is one difference, namely, that the change in human affairs is not like a tide—it does not ebb and flow. Change is the only unchanging thing that we are aware of in this frail life, and it is always moving onward. Whether for better or worse, it goes on moving, and anyone who tries to prevent change is trying to do something that is impossible.

It is possible that the Bill may prevent some of the most obvious and flagrant abuses, but the answer to the problem—and it is a problem—that all parts of the House agree wants answering, is not in attempting to stem the tide, but in forward planning; looking forward to the foreseeable future and planning to ensure that the changes that we know will take place, and must take place, are made in such a direction that they will be for the benefit of the

whole community and, in particular, for the whole of the State of Western Australia for which this House is responsible.

On motion by Mr. Perkins, debate adjourned.

BILLS (2)—RETURNED.

1, Swan Lands Revestment.

2, Mining Act Amendment.
Without Amendment.

BILL—TRAFFIC ACT AMENDMENT.

Received from the Council and read a first time.

BILL—LICENSING ACT AMENDMENT (No. 1).

Second Reading.

Debate resumed from the 28th September.

THE PREMIER (Hon. A. R. G. Hawke—Northam) [6.2]: As far as members of the Government are concerned, this is being treated as a Bill introduced by a private member and, consequently, individual members of the Government will vote as they think desirable. Some Ministers will vote one way and some the other way, I should imagine; I will be one of those who will vote the other way. I am not keen about the proposals set down in this measure and I think that if the propositions contained in the Bill are to be accepted in this State at some time in the future, some prior steps might have to be taken.

The licensing of premises at airports within the State is, as far as I am aware, something that has not so far been attempted. I have read the speech of the hon. member who introduced the Bill and I gathered from his remarks that the method that he proposes for airports in Western Australia, so far as overseas and interstate air passengers are concerned, does not exist in any other part of Australia. It seems to me that there is not a great deal to be said in favour of the proposition in the Bill and, for my part, I do not propose to support it.

MR. NORTON (Gascoyne) [6.5]: This Bill appears to be one purely of a discriminatory nature in that it covers only those persons who are travelling by air interstate or from overseas; it does not cover passengers who are travelling within the State on our extensive airways system. Airlines operating throughout the North-West would not be covered by this Bill. On aircraft travelling through the North-West might be people from overseas and Darwin as well as from within the State. On such a trip would be a mixed set of passengers and so this measure would not cater for all the passengers in the aircraft.

As a result, the measure would be discriminatory and that is not in the best interests of all concerned. There might, for instance, be passengers from the North-West travelling to Perth by plane and some of them might intend to board another aircraft in Perth to travel to the Eastern States. While waiting to catch the plane in Perth those passengers would not be entitled to the privileges outlined in this Bill.

It appears that this measure sets out to establish a club for a selected airline. To become a member of that club all that is necessary is an interstate air ticket. That ticket also entitles a person to take other people to the club for refreshments. Members of D.C.A. and airline officials would also become members of that club —and there again is discrimination. As the hon. member wished to introduce a Bill to cover airline passengers, I think his best plan would have been to model the measure on the same lines as the Act which covers the railway refreshment rooms. Under that proposal every person on the train or station is entitled to a drink.

Mr. Ross Hutchinson: This is the same, is it not?

Mr. NORTON: No, this measure is discriminatory. A person travelling on a suburban train is not prevented from having a drink at the railway refreshment rooms. The legislation covering the railway refreshment rooms does not state that only those passengers travelling interstate are entitled to refreshments.

Mr. Ross Hutchinson: Is that your only objection to the Bill?

Mr. NORTON: No. I have many more objections. A person under the influence of liquor is not allowed to board an aircraft. A passenger may not appear to be under the influence when he boards the aircraft but shortly afterwards he could be and thus become a nuisance to other passengers and the crew. It is quite clear that only one company has asked for this Bill. I do not think the hon. member has discussed it with the members of D.C.A., M.M.A., T.A.A., and Airlines (W.A.) Ltd.

Mr. Ross Hutchinson: Have you?

Mr. NORTON: I have found out what some of them think about it. The officials of M.M.A. are not in favour of it.

Mr. Ross Hutchinson: What are the reasons?

Mr. NORTON: They do not consider it necessary.

Mr. Ross Hutchinson: Did you discuss it with the management of M.M.A.? Is it because of the management?

Mr. NORTON: I do not know. They say that it is their policy.

Hon. J. B. Sleeman: Drink would be available on the plane, would it not?

Mr. NORTON: Yes, on Qantas and interstate airlines but not on planes within the State. There is no reason why drink should be served in the waiting room.

The Minister for Housing: It is just for V.I.P's from overseas—the privileged class.

Mr. NORTON: Also, why should the bar be open in order to serve passengers 30 minutes before the arrival and 30 minutes after the departure of an aircraft? Because of the circumstances I have outlined I must oppose the Bill.

The Minister for Housing: Hear, hear!

MR. ANDREW (Victoria Park) [6.10]: I think that when the member for Cottesloe decided to introduce this Bill he was motivated by the idea that Perth Airport was, at that time, going to be a setting down point—in fact, the first point in Australia—for an international airline. But since then the airline concerned has changed its mind and Perth Airport will not be used for this purpose.

Mr. Ross Hutchinson: What you have said is not right.

Mr. ANDREW: The member for Cottesloe thinks that the proposal in this measure is necessary. That may or may not be so; but as we all know, there are many varied opinions on the proposition. Personally, I intend to support it at the second reading stage but I do not, and never would, support all the provisions which are now embodied in it. It may be considered that this amenity is necessary at major airports and I would suggest to the member for Gascoyne that one of its virtues is that it is limited in extent and we do not require its provisions in every airport within the State. There are no major airports in the North-West and in my opinion this amenity would not be necessary except at major airports.

But, as the member for Gascoyne said, there are some provisions in the measure which are not in conformity with the intention of the sponsor of the Bill. The member for Cottesloe said that its provisions are intended to cater for the convenience of passengers who are travelling to or from Perth by interstate airline or through Perth on the international route. When replying to the debate I would like the hon. member to inform me why it is necessary to have the bar open 30 minutes before the arrival and 30 minutes after the departure of an aircraft.

If the measure is for the convenience of passengers and intending passengers there is no reason why the bar should be open if they are not there to use it. They will not be there until the plane lands and, generally speaking, aircraft remain at an airport for a number of hours before they leave again. Under those circumstances there would be no necessity for the bar to be open 30 minutes before the arrival of an aircraft.

New Section 44C states, among other things, that a licensee can sell or dispose of liquor to any person who buys a meal in the dining room. That is the only qualification in that regard, and I feel sure that it will lead to a good deal of abuse. There will be the inveterate drinker who is kicked out of the hotel in Perth at 9 o'clock and then takes a crowd by taxi to the airport. They buy a meal—it might be only a cup of tea and sandwiches—

The Minister for Housing: They need not have the cup of tea.

Mr. ANDREW: That is so. They do not have to drink the tea, but they can get liquor with their meal.

Mr. Ross Hutchinson: May I point out at this stage that the Licensing Court must specify the hours that must be observed, after the Bill is passed. A person would not be able to get a drink with a meal at any hour but only at the hours specified by the Licensing Court.

Mr. ANDREW: That may be so, but it does not alter the fact that a person can order a meal and have alcoholic liquor with it. People who want to go on a bender and who are shut off from liquor at 9 o'clock could go to the airport and have as much drink as they liked merely by ordering a meal and nibbling at it or not eating it at all. As the Minister for Housing said, they need not drink tea.

Mr. Ross Hutchinson: A person could not do that because the meals would be served at specified hours—say, between 6 and 7.30 p.m.

Mr. SPEAKER: Order! The member for Cottesloe can reply to the debate later on.

Mr. ANDREW: This Bill does not specify any particular hours. It simply says that a person can have a meal in the room set aside for the purpose and drink with that meal. No hours are stated. There is another point: Why is it necessary to have the bar open six hours after an aircraft's arrival, if it is grounded at the airport?

Hon. L. Thorn: It is nearly mealtime now.

Mr. ANDREW: We had better wait for the Speaker.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. ANDREW: The clause in the Bill which provides for the bar to remain open while the plane is grounded at the airport for a period of six hours needs amending. If a plane is grounded for that time at the airport, why would the passengers and others want to drink all that while? This is intended as an amenity, and not as a means for people to dring to excess. Provision should be made to tighten up the opportunity for people to drink to excess. For myself, I consider that a period of one hour after the arrival of a plane, and one

hour before its scheduled departure would be quite ample. We know that it is possible for a plane to be scheduled to leave at 10 p.m., but through engine trouble or other contingency, it may be delayed. That is an occurrence which cannot be prevented. If the scheduled time of departure is 10 p.m., the bar should open at 9 p.m.

There is another matter on which I wish to be enlightened. This Bill provides drinking facilities for international as well as interstate air passengers. There is a number of landing fields at Guildford airport, such as the T.A.A., A.N.A. and others, situated some distance apart. Where would the proposed bar be placed so as to suit all landing fields, or will a bar be established at each field? That point needs to be cleared up.

To sum up, I favour the amenity being provided at the airport on condition that there is no opportunity of its being abused. The period mentioned in the Bill—30 minutes before a plane arrives and 30 minutes after it departs—serves no useful purpose for passengers or their friends. Neither before the arrival of a plane, nor after its departure can the passengers be in the company of their friends. I do not think that a person should be permitted to obtain alcoholic liquor merely by buying a meal.

Furthermore, the length of time proposed by the member for Cottesloe to keep the bar open after the plane has arrived is far too long. I suggest that one hour after arrival and one hour before scheduled departure is sufficient time for the bar to remain open; that would meet with the objects of the Bill. Those matters can be dealt with at the Committee stage.

MR. PERKINS (Roe) [7.35]: I support the second reading. As members are aware, I have no liking for alcoholic liquor, but I agree with the measure providing for drinking facilities at Guildford, which will become an important international airport. This will make available an amenity similar to the facilities provided at other airports in the world. If the amenity is not provided, visitors passing through the airport will gain a poor impression of it. We are not dealing with the rights or wrongs of drinking alcohol; the point we are dealing with is the granting of a liquor licence at the airport. If licences have been granted elsewhere in the State, there is no reason why one should be refused at Guildford airport. There is legislation in force which provides for the supply of liquor at most of the larger railway stations.

Hon. J. B. Sleeman: Are not they limited in the trading hours?

Mr. PERKINS: My experience is that a good deal of latitude is allowed on that point. Be that as it may, what the member for Cottesloe is attempting to do is to provide reasonable facilities at the airport. If during the Committee stage, members decide there should be amendments, perhaps the member for Cottesloe will accept them if they meet the requirements of the airport. By merely defeating the Bill, we shall be doing a disservice to the State. We have to be consistent in the granting of liquor licences. I hope the Bill will pass the second reading. If amendments are proposed, they can be discussed on their merits.

HON. A. V. R. ABBOTT (Mt. Lawley) [7.40]: The member for Cottesloe should be commended for his action, not only in connection with this Bill, but in the interest he has shown to establish a first class airport for Western Australia.

Mr. May: Do you think this Bill will turn Guildford into a first class airport?

Hon. A. V. R. ABBOTT: Important airports in England, France, the Continent, the United States and elsewhere have drinking facilities.

Mr. May: That does not say it is right to allow drinking at our airport.

Hon. A. V. R. ABBOTT: No. Neither should members permit betting shops to be established adjacent to hotels so that people can drink and bet alternately on Saturday afternoons.

Mr. Norton: They do not discriminate.

Hon. A. V. R. ABBOTT: I agree. This is a question of drinking.

Mr. Heal: Betting is not drinking.

Hon. A. V. R. ABBOTT: I agree that establishing betting shops alongside hotels is not drinking. People who come from Europe, the United States and many other countries are accustomed to take wine or alcoholic beverages with their meals. In Western Australia some of the best light wines of the world are produced, but people do not seem to realise that. Most Australians drink beer or whisky, but Europeans do not. When they partake of a meal, they are accustomed to take wine with it. If a first class restaurant is established at the airport, surely European travellers are entitled to enjoy what they are accustomed to. We should make the Guildford airport as modern and as advanced as any other.

Mr. Norton: Do you agree that restaurants in the city should be licensed for drinking?

Hon. A. V. R. ABBOTT: I do not know, but that point does not arise here.

Mr. Brady: Do you think that bars at railway stations in the country should remain open for all country trains?

Hon. A. V. R. ABBOTT: That is a point to which I would have to give some thought. If we were dealing with the question of prohibition, my point of view

might be different. In Western Australia the people are permitted to partake of wine, beer and other alcoholic beverages—

Hon. L. Thorn: If you restrict the provision to light wines, I might agree.

Hon. A. V. R. ABBOTT: Unfortunately, some people cannot drink light wines and others do not like them. The proposal contained in the Bill is not a retrograde step. It is progressive. Everyone knows that for many years a club has been established at Maylands aerodrome which provides drinking facilities for its members. I have not heard any complaint against it. It is utilised by members whose main sport is flying. No difficulty or objection has arisen against it.

Mr. May: In that case the people concerned are playing with their own lives and not with the lives of others.

Hon. A. V. R. ABBOTT: That has nothing to do with the point in this Bill. Would the hon. member consider that it is better to allow drinking on the plane rather than on the ground, if it is considered there is danger of loss of life?

Mr. Norton: Drinking on board a plane is controlled by the crew.

Hon. A. V. R. ABBOTT: The facility at the airport will be controlled by the company officials.

Mr. Norton: No. It will be a licence granted to a person.

Hon. A. V. R. ABBOTT: That method can be altered. If an airline, carrying on civil flying, wishes to establish a restaurant at an airport, then it should be entitled to serve wine, beer or any other alcoholic beverage with meals in the normal course of events, as is the custom in Europe and elsewhere.

What objection can there be? This is not a move to establish a drinking shop on an aerodrome any more than it could be said that the granting of a licence to the Royal Aero Club was establishing a drinking shop at Maylands. That is not the purpose. People who wanted to drink would not go to the aerodrome for that purpose. The aerodrome is under the control of the Department of Civil Aviation and people require permission to enter it. Thus the control is more complete there than in licensed premises in the metropolitan area or elsewhere.

My point is that, with the member for Cottesloe, I am most anxious that this should become one of the main ports of entry into Australia. I am disappointed that Darwin keeps stepping in. In my view, Darwin is not a natural airport, and would not have been established as such but for the fact that it is under Federal control and that Federal departmental officers invariably favour Commonwealth territory. They have more authority there, and if money is to be spent, they unfortunately prefer to spend it in Commonwealth territory. As an example, I might instance the money spent by the Commonwealth in the Northern Territory as compared with our North. There is no comparison.

We ought to look at this matter in a rational manner. It is not a question of whether people shall or shall not drink any more than it is a question of whether people shall or shall not bet. Those who care to take one or other of the alcoholic beverages are entitled to do so. Many people seldom take drink; other people take it more often. While that is the law of the land, let us furnish proper facilities for the purpose, particularly as Western Australian light wines are well above average. The Premier never gives a party in this House without light wine being provided.

Hon. L. Thorn: That shows his good judgment.

Hon. A. V. R. ABBOTT: Yes. I have not attended a party to a distinguished guest where light wine has not been supplied, and rightly so. I doubt whether the Premier himself takes any because he prefers not to do so. Well, all power to him. I happen to be one who prefers to take a drink. Maybe his wisdom in this direction is greater than mine; it is a matter of personal inclination. I believe I am no worse for what I take and I am sure he is no worse for what he takes. So do not let us introduce the question whether one should drink or should not drink. Let us deal with it in a rational manner. Let us be the first airport to have first-class facilities on the lines of those to be found in London and Paris.

Then I feel sure that, as the range of aeroplanes increases, Perth must become one of, if not the main port of entry into Australia. The distances via Perth are shorter and we have a climate suitable for the necessary employees. We have our own refinery that can supply the requisite fuel; in fact, in every way Perth is suitable, whereas Darwin is an artificial airport not at all suitable. Let us have a first class airport equipped with all modern facilities to attract tourists to come here and give them the best impression. That would encourage them to come this way and this traffic could become an invisible export, as revenue from tourist traffic is termed.

The people who travel all over the world in the course of their business intermingle and it is astonishing how much good a little word can do. Enable them to say, "The facilities at the Perth Airport are good, why not go via Perth? You can carry on then to Sydney or wherever you want to go. Why go via Darwin where the climate is hot and unpleasant? Spend a few hours in Perth, which is a beautiful place."

The Premier: With a wonderful climate.

Hon. A. V. R. ABBOTT: Yes, and a good Government.

The Premier: Yes, and a friendly Opposition.

Hon. A. V. R. ABBOTT: I support the second reading of the Bill, though I feel with other members that the form it should take could be considerably improved.

MR. LAPHAM (North Perth) [7.52]: I support the second reading and I do so because I believe that what we should consider is the intention behind the Bill and not the actual wording of the measure. What is the intention of the sponsor of the Bill? Any difficulty that members may feel regarding the terms of the Bill could be easily rectified in Committee. The intention is to provide facilities so that air passengers shall have the right to enjoy some refreshment.

Mr. Norton: Certain refreshment.

Mr. LAPHAM: Provision is made for only certain passengers to enjoy such refreshment and that is wrong. It should apply to all air passengers and not to one section only. If the member for Gascoyne desired to travel to his electorate, he should be entitled to have a drink at the airport before leaving, just as he would if he were travelling interstate. After all we must bear in mind that he would be going to a rather hot climate and might feel the need for a drink. On the return journey particularly, he would be ready for a drink at the airport. Therefore members should consider the actual intent of the Bill, which is to supply refreshment to air passengers.

Why should air passengers suffer any hardship in comparison with travellers by rail or sea? Passengers on the boats are free to get anything they desire in the way of drink. At the airport, a passenger might be kept waiting for some time while the plane is receiving attention. I have known passengers to be grounded for six hours while a minor defect was being fixed, and I see no reason why they should be placed at a disadvantage on those occasions. Why should air passengers suffer a disadvantage in comparison with those who travel by rail? A rail passenger may get refreshments at a railway station.

Mr. Ackland: Those premises close at 9 o'clock.

Mr. LAPHAM: I am supporting the second reading because the intention is to provide facilities so that travellers by air may receive refreshment. The details of the measure can be dealt with in Committee. The object is a very laudable one. We should make provision for intrastate as well as for interstate travellers. The Bill provides that a friend of a passenger or an official may have a drink, and I agree with that provision.

Though I am advocating the supplying of refreshments at the airport in the form of alcoholic beverages, I am not an inveterate drinker. As a matter of fact I would generally prefer not to take a drink, not that I am reflecting upon other members. However, it is seldom that I would drink to any extent. At the same time, if anyone else wishes to have refreshment at the airport, we should not prevent him. There are times when certain members of the community take umbrage at the legislation we pass, but we are not here to legislate for one section of the community. Our duty is to legislate for a majority of the people, and if a majority are benefited by what we do, it must be well for the community generally.

I read with interest an article on this question in the "Weekend Mail" from which I should like to quote some extracts that are relevant to this debate. One of them states—

> Liquor has been served on aircraft overseas for decades. It has been served on Australia's interstate airlines for years and on Australia's international airline for years.

For my part, I see no reason why we cannot permit an individual to have a drink at the airport or buy a drink for a friend who may be meeting him. I cannot understand why there should be any opposition to this proposal. If by any chance a person under the influence of liquor boarded an aircraft, the captain or steward would be liable to a penalty for not preventing him. The penalty is a very heavy one. The captain could be grounded if he allowed a drunken person on his aircraft.

Mr. J. Hegney: What about a drunk on a bus?

Mr. LAPHAM: If I were driving, I would not allow a drunk on a bus. Many times I have had to put drunks off.

The Premier: Who helped you?

Mr. LAPHAM: At times it was difficult. On one occasion a drunk put his arms around the seat in front of him and I had to give it up, but, generally speaking, they went quietly. At the Perth Airport there is a burly Irishman and no trouble is experienced. A further extract from the "Weekend Mail" reads—

> The department is not content to just police the getting-drunk-on-airborne-alcohol aspect. It starts its activities long before that. Under air navigational regulations it is also an offence to be drunk and on an airport. It is an offence to endeavour to board an aircraft while drunk and if anyone conceals his drunkenness and still gets on board, the aircraft captain, if he detects it, will very soon get him off again. It has happened in this State.

Mr. Oldfield: I understand it is an offence for a member of an air crew to touch alcohol within 12 hours of a flight.

Mr. LAPHAM: I am not sure of the actual time, but I know there is such a provision. To continue—

> There is a certain bogey about air crews drinking in flight and it has been raised on many occasions, but the air navigation regulations are adamant on that point and state "No member of an air crew can drink 12 hours before take-off."

I will not guarantee that the time period is correct, but I think it is near the mark.

Those concerned spend a long while gaining the qualifications to enable them to undertake flying jobs. The pay is reasonably good and the prestige of captains and pilots is high, so they are not keen on allowing drunken persons on their aircraft, as that might result in their being grounded or even losing their licences for good. They will therefore see to it that no drunken person is allowed on an aircraft. I do not think we need worry about the position because this is a simple measure and all we are asked to do is to allow passengers to have a drink at an airport. I, personally, see no harm in that.

MR. OLDFIELD (Maylands) [8.3]: I believe this measure could be decided by the toss of coin, in the minds of most members—more so as the debate progresses —but there are certain features of the Bill with which I am at variance, although I am prepared to support the second reading. The member for Cottesloe, in a sincere endeavour to make refreshments available at airports, has brought this measure down after consultation with the appropriate authorities and having made a study of the existing law in order to find out whether it contained provision to enable a licence to be granted for the supplying of alcoholic liquor at an airport.

Whenever a private member brings down a Bill it should, I think, at least be granted the courtesy of a second reading, and then any member who has a quarrel with the contents of the measure has ample opportunity of dealing with them during the Committee stage. It is a pity that there was no other way open to the member for Cottesloe of achieving the end he is seeking. It is a pity that the Licensing Act does not contain provision allowing the Licensing Court to deal with this question on application from the appropriate authorities.

I think we are reaching the stage where the whole of the Licensing Act requires reviewing to bring it up to date and iron out the many anomalies that exist in it. The member for Collie, by way of interjection, inferred that pilots in charge of aircraft are playing with people's lives, and I think that is an unfair inference.

Mr. May: It is not.

Mr. OLDFIELD: The member for Mt. Lawley mentioned the fact that at Maylands aerodrome there was a licence for the Aero Club and that it had been in existence for many years. The member for Collie said that the pilots there were playing with their own lives and no one else's, and there is an inference that the captains of aircraft are dealing with other people's lives and therefore playing with them. I direct the hon. member's attention to the article read by the member for North Perth, showing that it is an offence under the existing air navigation regulations for a member of an air crew to partake of any alcoholic liquor 12 hours prior to take-off.

Further, the bar would be policed. Crew members would be known, and those in charge of the bar would see to it that air crew were not served. The member for Gascoyne raised his objection on the ground that the Bill was discriminatory and did not provide for intrastate passengers. I think that also at the back of his mind was the fact that the measure would not provide for the granting of licences at other airports throughout the State. I can understand his concern for his own electors, who frequently use air travel. I suppose the inhabitants of the North-West are the most regular air passengers of any community in Australia. I believe most of them would fly to Perth at least twice a year and the average might be even higher than that, but that is no reason for denying the Bill a second reading.

If the objection of the member for Gascoyne is that the Bill will not provide his electors with a drink on arrival in Perth, his redress is to agree to the second reading and endeavour, during the Committee stage, to have inserted into the measure provision for his electors. If he is not satisfied with the treatment his proposals receive during the Committe stage, the hon. member is then at liberty to vote against the third reading. I do not know what reception would await a move to extend this privilege to intrastate passengers, although it might meet with the approval of the member for Cottesloe.

A dog-in-the-manger attitude, such as is being adopted by the member for Gascoyne, cannot lead to progress. He is thinking of his own electorate and his attitude is, "If I cannot have this, you cannot." As I said at the outset, I am not entirely happy about the measure and I am even less happy that it has been necessary to introduce legislation to make it possible for a licence to be granted at the airport.

Mr. Norton: Did you not vote against the legislation for the two bottles and the mixed gallon?

Mr. OLDFIELD: I think the hon. member voted for it.

Mr. Norton: It did not discriminate.

Mr. OLDFIELD: It was the North-West and Goldfields members who discriminated in 1951 when they would not allow the metropolitan area to have the two hours of trading on Sunday mornings and Sunday afternoons but wanted it for the country districts. They wanted the Goldfields areas to have two hours in the mornings and three hours in the afternoons, as against two hours' trading in the agricultural areas and nothing in the metropolitan area. If that is not discriminatory, I do not know what is.

Mr. Norton: I was not here then.

Mr. OLDFIELD: Perhaps, but plenty of the hon. member's colleagues were. The two-bottle provision is discriminatory, and the member for Gascoyne supported it. People in the North-West and on the Goldfields can purchase two bottles of beer per head on Sunday mornings, but residents of the agricultural districts cannot, and therefore the legislation which the hon. member has admitted he supported was discriminatory as between the Goldfields and the agricultural areas.

A further argument put forward by opponents of the measure is that such provision does not exist elsewhere in Australia and that no other Australian airport has a licence to serve alcoholic liquors. If we have to wait for precedents from elsewhere in Australia, we will never get anywhere with our legislation. If that attitude were adopted by all Parliaments in the Commonwealth and each waited for some other State in Australia to set a precedent, we would pass no legislation at all, as there would be no precedents. Someone must be first.

The provision sought here exists overseas and all the major airports of the world cater for the needs of the passing tourist and business trade—even in temperance countries. Sweden is a case in point. Until quite recently that country had total prohibition for its own inhabitants, but made liquor available at airports for visitors to the country.

Mr. Ackland: With meals.

Mr. OLDFIELD: Yes. This measure provides for that. I think the member for Moore, when he returned from Canada, where he attended a parliamentary conference, informed us of the tight liquor laws existing there but said how well visitors to the country were catered for. In other parts of the world the attitude is to encourage the tourist trade and the authorities say, "Even if we do not think this is good for our people, those who visit us are used to such facilities in their own countries and so we will provide them."

When we see the number of people travelling abroad from Australia as tourists each year and realise how much money they are taking out of the Commonwealth, and compare it with the number of tourists entering Australia from other countries, we realise that we are getting the worst end of the bargain.

Mr. Ackland: That is our own fault entirely.

Mr. OLDFIELD: Of course. Overseas visitors who are used to service and to giving service say that Australia will never make progress on the tourist side until we provide the service to which people from other parts of the world are accustomed and for which they are willing to pay.

The Minister for Housing: A pot of beer at the airport!

Mr. OLDFIELD: It might be a glass of light wine with their meals.

The Minister for Housing: Do you think that would attract thousands of tourists here?

Mr. OLDFIELD: The member for Katanning is opposed to the Bill. I know his reasons for that attitude and do not begrudge him his feelings, because I know he is entitled to his beliefs. He is to be congratulated upon the sentiments he holds and the way he always adheres to them. We always know where he stands. Nevertheless, if we are to be progressive and endeavour to attract tourists to our State, we must provide the services to which tourists are accustomed; and so encourage them to return to Western Australia. When overseas passengers arrive at the Perth Airport, the scheduled stopover is two hours 40 minutes at all times. After they have gone through the procedure of disembarking from the plane, having their luggage checked through the Customs and having a shower and a change, they may wish to have a drink with friends they have made on the plane or some who are there to meet them.

If they desire to have a drink with their meal, this Bill will enable them to do so. I cannot see that the granting of a licence to the Perth Airport will result in people rushing out from Perth after 9 p.m. in order to have a drinking session. The airport officials would not allow that for a moment. At all country towns where a bar is provided, it remains open until 2 a.m. if the train is scheduled to arrive at about that hour. As a result, some people avail themselves of the opportunity to have a drink at that time.

The Minister for Housing: The difference is that they cannot buy it on the train.

Mr. OLDFIELD: I realise that, but I cannot see any justification for the bar remaining open after midnight at Merredin to provide for those passengers who are travelling on the Westland and who, at that time, have already retired. The only

people who avail themselves of the drinking facilities at that hour in Merredin would be some of the townspeople.

Mr. Norton: They are not allowed to.

Mr. OLDFIELD: Well, they may take the opportunity of having a cup of tea at the refreshment-room. Nevertheless, the bar is open and the fact remains that at present in this State we consider that a railway refreshment bar should be open at 1 a.m. or 2 a.m. for train passengers, despite the fact that they may already be in bed. If we accept that, I cannot see any reason why the second reading of this Bill should not be passed. I admit that there are portions of it that should be amended in Committee. I intend to speak on the third reading after I see how the Bill is dealt with in Committee. At all times I ask members to be fair when a private member makes a sincere attempt to introduce a piece of legislation and extend courteous consideration to it at least during the second reading stage.

MR. BRADY (Guildford-Midland) [8.20]: In regard to aircraft passengers travelling interstate or overseas being granted the right to purchase liquor at the Perth Airport, I do not regard such facilities as necessary. I have been at the airport on many occasions because it is on the border of my electorate. I have been there when people have arrived from or when they have left for the Eastern States, and I have always had the feeling that the atmosphere which prevailed at that spot was very enjoyable. I do not think the provision of liquor at the airport will help to improve the situation.

Groups of people go to the airport to see friends either depart in or disembark from aircraft and whilst they are waiting, they enjoy each other's company. However, if liquor is provided there, it will be found that the males of any party will go into the bar and leave their female companions outside to make their own arrangements. If there are any teetotalers in the group, they will remain outside with the women and, instead of a happy atmosphere prevailing in that party, no doubt it would be found that domestic arguments would develop when those people returned to their homes as a result of the group splitting up.

For those reasons, I do not think we should agree to this Bill. There are many people who visit the airport who do not drink. I am one of them, and there are hundreds of others. It may be said that 5 per cent. of the people who visit the airport will drink and abuse the privilege, but the other 95 per cent. will not. Nevertheless, that 5 per cent. could make it extremely inconvenient for the other 95 per cent. and I do not think that the majority who would be inconvenienced would appreciate the circumstances.

Aircraft have been travelling intrastate for the past 35 years, particularly to the North-West. During that period there has been no public clamour for liquor facilities at the airports. As a young man, I often visited the Geraldton airport and during the 15 years I was resident at that centre I never heard anyone clamouring for drink to be provided at the airport. Another point is that previously when it took 10 to 12 hours to travel long distances by plane, there might have been some justification for the provision of alcoholic liquor at an airport.

Today the travelling time has been considerably lessened. We know that planes now travel at 200, 250 and 300 miles an hour, and within a few years the speeds will be increased to 500, 600 and perhaps more miles per hour. A few years ago, a plane took 10 or 12 hours to travel from Perth to Melbourne, but today aircraft can travel the same distance in approximately six hours. Can anyone tell me that because someone is embarking on a plane to travel for a period of only six hours, there is any justification for his friends bidding him goodbye over a few drinks at the airport? I do not think that is necessary. There is another danger. If these drinking facilities are provided and the friends of the passenger indulge in drink to excess, they may enter their vehicles under the influence of liquor and may skittle someone on the road home.

The bar at the Perth railway station is closed at 9 p.m. Therefore, why should people at the airport be able to have a drink after that hour? The same applies at Fremantle when people are embarking by boat. If that is the position ruling at the railway station and at the harbour, why should we single out the Perth Airport for special treatment? I have also visited some of the airports in the Eastern States, and to my mind the atmosphere prevailing at all Australian airports is excellent and should be encouraged.

I do not know where people get the idea that all tourists are booze artists and demand alcoholic beverages. Nothing is further from the truth. The majority of them do not look for liquor at the airports, the seaports or at the railway stations. The argument that we should supply alcoholic liquor at Perth Airport because tourists seek it is not very sound.

Mr. Court: Anyone that wants a drink is not necessarily a booze artist.

Mr. BRADY: That is so, but the way some people drink—

Mr. O'Brien: Some tourists travel because of bad health.

Mr. BRADY: A certain amount of commonsense should prevail when considering this question. The provision of drink at the airport will not encourage tourists to come to our State. For the few hours that tourists are in Western Australia, while travelling to other parts by plane, it is not necessary that they should be supplied with drink merely to encourage them to return to the State.

The member for Maylands said that we should show a private member courtesy by supporting the second reading of his Bill. I remind the House that I tried to get some important amendments to the Factories and Shops Act passed through this House some time ago, and the members of the Opposition did not even show me the courtesy of hearing the second reading debate on the Bill. That measure turned out to be one of the slaughtered innocents at the end of the session. The amendments it contained were important to me, in view of the fact that I represent an industrial electorate, because they aimed at amending the Factories and Shops Act. I consider that the amendments contained in this Bill are not necessary and I do not intend to support the second reading.

THE MINISTER FOR LANDS (Hon. E. K. Hoar—Warren) [8.27]: The point that interests me more than any other is that when the member for Cottesloe was introducing this Bill, he said he was not prepared, under any circumstances, to ask for a 24-hour licence for the Perth Airport.

Mr. Ross Hutchinson: I do not think I said, "Under any circumstances." If I did, I did not mean that, of course.

The MINISTER FOR LANDS: The words used by the hon. member were as follows:—

> For that reason, I told the company I was not prepared to ask for a 24-hour licence.

Mr. Ross Hutchinson: That is so.

The MINISTER FOR LANDS: That is what I meant to say, and that is the point that interests me. For a moment we should consider that in years to come the Perth Airport will be a large and busy entrance for planes entering Australia from overseas—apart from planes coming from the Eastern States—and if the provisions of this Bill are passed and are in operation then, the drinking facilities provided 30 minutes before the arrival and 30 minutes after the departure of a plane —which makes a total of six hours in that one operation, including the time the plane is grounded at the airport—circumstances will arise when planes will be coming in so fast that these six-hour periods will overlap. No matter how sincere the hon. member who introduced this Bill is, I do not think he would like to see drinking facilities provided during the whole 24 hours.

Mr. Ross Hutchinson: I did not say I would like to see a 24-hour service.

The MINISTER FOR LANDS: Those are the hon. member's words; that he did not want a 24-hour service. However, what I have pointed out could happen with a larger airport. It is not that I am against the serving of drink to people travelling from overseas. I do not think that we should create conditions in Australia that are inferior or any less than those that obtain in other countries, but there ought to be some restrictive provisions to ensure that only bona fide people enjoy this privilege or amenity. Unless we are prepared to do that, the good name of our airport could go overnight. Nothing could be done after this Bill had been passed to restore the good name of the Perth Airport once the proposition got out of hand. I do not suggest it will get out of hand, but we must be careful if we support this measure to see that in the Committee stages it is so tied up that it will be impossible for any individuals other than the passengers, whether arriving or about to depart, to be served with intoxicating liquor.

If we did not do that, it would create a major problem in policing this type of legislation. I do not say it would be impossible to do so, but if we achieve any success at all in that direction there would have to be separate premises, or certainly a separate section of the airport, through the doors of which only appropriate people —that is appropriate in the sense that they would conform to the requirements of the Act—would be permitted to enter. Anything that would allow other people to go out to the airport and be served with drink would quickly create a situation which must react to the detriment of our airport—our only airport—and consequently to the detriment of Western Australia.

As I have already said, my interest in the first place is that the member for Cottesloe when replying to the debate must explain to me, if he wishes to secure my support, how he proposes to overcome the situation that could arise if large numbers of people were to go to the airport, with no restriction whatsoever upon the supply of liquor. That is the first point. How does he intend to police those people who are associated with passengers on the aircraft, and does he propose that the passengers in the aircraft should act as sponsors for those who come in to have a drink? I would like the hon. member to explain what he has in mind.

If we permit the Bill to go through in its present form, there will be too many loopholes for people to take advantage of. While I am in agreement with the principle, and the idea that aircraft passengers and their special, intimate friends should have a drink together if they want one—as they can at the railway station, or at an hotel; or as the passengers can when the plane itself is in flight—I feel that we must impose some restriction that would prevent other people from enjoying

this amenity. If the member for Cottesloe can satisfy me on these points, I am prepared to support the measure.

MR. HEAL (West Perth) [8.34]: I intend to support the second reading of this Bill but not in its present form. When the member for Cottesloe brought the Bill before the House, I do not think he intended it to be for the privileged few. In its present form, however, it appears that it can operate only in that manner. If members of the House consider that the airport should be granted a licence, it is my belief that passengers passing through the Perth Airport should have the privilege of going to the bar and having a drink if they so desired. If the member for Cottesloe is prepared to move an amendment along those lines, I will support the measure.

Some members appear to be perturbed about the possibility that the crews of the planes will indulge in liquor at the airport and consequently make it unsafe for aircraft to be taken into the air. As the member for Maylands pointed out, the crew are not permitted to indulge in alcoholic liquor 12 hours before the take-off. Several members have discussed what goes on in overseas airports, in leading airports in other countries and in other parts of Australia. I think members should confine their remarks to the airport of Perth, which is under discussion at the moment. Whether a licence is granted to other airports or not does not really matter very much; we should debate the measure on its merits and decide whether or not Perth Airport should be granted a licence.

In conclusion, I would like to say that the member for Maylands has raised himself to dizzy heights on this occasion. I can remember during the short period I have been in this House that there have been one or two attempts to amend the Licensing Act and the member for Maylands has, on each occasion, vigorously opposed the second reading, and has even gone so far as to move an amendment—which was ruled out of order by you, Mr. Speaker, and which no doubt you will remember—to destroy the Bill during the Committee stage. It amazes me, therefore, to find that the hon. member supports this measure.

Mr. May: His memory is not too good.

Mr. Oldfield: I said if it were not amended satisfactorily, I would not support it.

Mr. HEAL: That is not the point. The member for Maylands has done all in his power on previous occasions to prevent similar Bills from passing through the second reading stage. If this Bill reaches the Committee stage, members should see that appropriate amendments are made to enable it to work satisfactorily.

On motion by Mr. J. Hegney, debate adjourned.

BILL—ADMINISTRATION ACT AMENDMENT.

Second Reading.

Debate resumed from the 28th September.

THE PREMIER (Hon. A. R. G. Hawke—Northam) [8.37]: The Government is prepared to support nearly all the amendments set out in this Bill as introduced by the member for Maylands.

Mr. Oldfield: Thank you.

The PREMIER: There is only one portion of the Bill with which the Government is somewhat concerned and that is the portion which proposes to reduce the amount of probate duty which the Government or the State might anticipate receiving. It could be argued that the proposals in the Bill in that direction, if allowed to become law, would not operate to reduce the revenue of the Government to any considerable extent.

Hon. L. Thorn: Can a private member move to reduce the revenue of the Government?

The PREMIER: Yes, a private member has the right to do that, Mr. Speaker, as you, I think, would rule if the member for Toodyay dared to challenge the member for Maylands on that point. I think what a private member may not be entitled to do is to increase the burden which the Crown has to meet in any particular direction.

I would like to quote from a report of the Commonwealth Grants Commission covering the financial year 1954-55. On page 78 of that report the commission states that an unfavourable adjustment to the extent of £137,000 for Western Australia was made in regard to that particular year in respect to the level of probate duties applied in Western Australia. As members know, the Grants Commission works out any favourable or unfavourable adjustment in regard to a matter of this kind on the basis of the level of taxation imposed by the claimant State when compared with the average level of similar taxation imposed by the three standard States of New South Wales, Victoria and Queensland.

The Grants Commission found that our rates, when compared with the average rates in the three standard States, were lower to the extent of £137,000 in the aggregate than they should have been, and consequently the Grants Commission penalised Western Australia to the extent of that very large amount. I am sure members will realise that a penalty of £137,000 in respect of one year's operation is something that merits serious consideration when a proposal is put forward—as it is in the Bill before us—to further widen the difference between the rates we impose and the average level of rates imposed in the three standard States.

The Grants Commission also pointed out in its report that the comparatively low rates generally applied in Western Australia were to be found particularly in the rates levied on estates of less than £6,000 in value. The proposals in the hon. member's Bill, if they become the law of the State, would undoubtedly lead to the Grants Commission in the future imposing an even greater penalty upon Western Australia, in respect of probate duties, than was applied in respect of the year to which I have been making reference. It does seem, therefore, that we should very seriously consider this angle of the situation.

I would be quite as sympathetic as any other member of the House in relation to the people to whom the member for Maylands seeks to grant some relief in the appropriate amendment in his Bill. I know some argument has been advanced to the effect that there is justification for relief in the fact that money values have changed with the passing of the years, and also because the rate of duty increases very suddenly and very substantially where the value of the estate is £1, or perhaps a few pounds above a particular figure. In other words, the grading of the rate of duty changes quite suddenly and fairly substantially as the value of each estate differs in the upward ranges.

A great deal of expert attention has been given to this problem over the years. This expert attention has been given not only by officers of the State Treasury Department but also, I understand, by highly qualified men outside the government service. I was told that the member for Nedlands had concentrated considerable attention on this problem in an endeavour to work out an acceptable new system which would take out of the present Act the sudden increases, and the substantial increases, that occur whenever an estate reaches in value, say, beyond £5,000, £6,000, £7,000 and so on.

Evidently it is not easy to work out a new scale which would be generally acceptable, and which in practice would be equitable to all concerned and at the same time reserve to the State a reasonable amount of income from this source. I have had placed upon the notice paper some amendments in regard to this particular part of the Bill.

Mr. Oldfield: I am quite happy with all of them.

The PREMIER: I am very pleased to hear the member for Maylands express approval of the amendments. The indication of his approval makes it unnecessary for me to argue any further on the point. There is no other reference I wish to make to the Bill. I support the second reading.

HON. A. V. R. ABBOTT (Mt. Lawley) [8.46]: I propose to support the second reading of the Bill. It contains a number of provisions which I think simplify the administration of estates and also increase the amounts that are available for certain purposes for infants and other beneficiaries. As the Premier said, there is an argument that the scale of duties is not graduated with an evenness one could hope for. They take a big jump. I do not know whether the South Australian Act has been amended, but I certainly remember the Premier of that State, Mr. Playford, telling me he proposed to introduce legislation for that purpose a little while ago. I do not know whether he has done it. I might commend to the Premier that he look into it.

The Premier: Yes; I will do that.

Hon. A. V. R. ABBOTT: It would be an advantage and not unreasonable for estates just below an amount now to pay a little more, and for those just above to pay a little less. I do not think it is necessary to go into the details of this Bill. The Premier has addressed himself to the main points. I would have been prepared to favour some little advantage being given owing to the depreciation of money; but, as the Premier says, the State would be penalised if that were done, even more than it is now.

The Government has the responsibility of guarding the revenue of the Crown, and one necessarily takes a different point of view when one has that angle to consider, because one has to look at every aspect of the matter; whereas private members need only look at the items in general, and many items on the surface seem to justify a decrease. For instance this one could be justified on argument, but there are so many others that could be likewise considered with equal justification. I support the Bill.

Question put and passed.

Bill read a second time.

In Committee.

Mr. J. Hegney in the Chair; Mr. Oldfield in charge of the Bill.

Clauses 1 to 12 agreed to.

Clause 13—Section 100A added:

The PREMIER: This was the portion of the Bill to which I was referring. The Government is prepared to go some of distance with the member for Maylands but not the whole way. I move an amendment—

> That the words "seven thousand five hundred" in line 35, page 5, be struck out and the words, "six thousand" inserted in lieu.

Amendment put and passed.

On motions by the Premier, clause further amended by striking out the words "seven thousand five hundred" in line 39, page 5, and inserting in lieu the words, "six thousand"; by striking out the

word "ten" in line 1, page 6, and inserting in lieu the word "eight"; by striking out the word "ten" in line 5, page 6, and inserting in lieu the word "eight"; by striking out the the words "twelve thousand five hundred" in lines 6 and 7, page 6, and inserting in lieu the words "ten thousand"; and by striking out the words "five-sixths" in line 7, page 6, and inserting in lieu the words "three-quarters".

Clause, as amended, put and passed.

Clause 14—agreed to.

Clause 15—Section 134 amended:

Mr. OLDFIELD: In view of the Premier's co-operation, I do not want this clause to slip through but would draw his attention to the fact that the department is desirous of having it deleted. It was inserted to enable organisations such as Sister Kate's Home to gain some benefit. The department has said it can take care of one or two organisations by making refunds as benevolent grants each year when the Estimates are brought down. I am quite happy about the clause going through, but I thought I should draw the Premier's attention to the matter.

The PREMIER: I understood that the hon. member would agree to this clause being deleted at the Committee stage.

Mr. Oldfield: Yes.

Clause put and negatived.

Clauses 16 and 17—agreed to.

New clause:

The PREMIER: I move—

> That the following be added to stand as Clause 18:—
>
> > The Second Schedule of the principal Act is amended by deleting the words "Parent, issue, husband and issue of husband or wife".

The amendment has to do with Clause 13. The member for Maylands has indicated his willingness to accept it.

New clause put and passed.

Title—agreed to.

Bill reported with amendments.

BILL—TRUSTEES ACT AMENDMENT.

Second Reading.

Debate resumed from the 28th September.

THE PREMIER (Hon. A. R. G. Hawke—Northam) [9.2]: The Government has no objection to the Bill. I therefore support the second reading.

HON. A. V. R. ABBOTT (Mt. Lawley) [9.3]: I propose to support the second reading of the Bill although in Committee I shall oppose one of the clauses. The measure contains two provisions, one of which is to enable a trustee to invest money, under certain conditions, in a house for a beneficiary so that the beneficiary may live in it. In these circumstances the beneficiary will be able to draw a Commonwealth pension that he otherwise would not be able to receive. Under the Pensions Act a person is entitled to draw a pension, although he owns a house, whereas if he owns other property he is not entitled to it.

This provision in the Bill will be of advantage to widows, in particular, because very often they have no other income, except from a small estate and they are debarred from receiving a pension because of it, consequently they are placed in an unfavourable position compared with those who own a home. Those people would in many cases be able to draw a pension. I therefore support that provision.

I am not keen about the next one which deals with the income or annuity payable to a life tenant. We already have the Testators Family Maintenance Act which enables a widow or children to apply to the court if it is considered that due allowance has not been made under the will of a parent. It is then left to the discretion of the court to adjust the provisions of the will if it thinks fit. That would apply to anyone who had been left an income or an annuity for life.

I think that is sufficient and that nothing else is needed. The authority that it is proposed to give now is, to my way of thinking, unnecessary and will be to the disadvantage of other people. After all, a testator probably knows the circumstances of his family very much better than does anyone else.

Mr. Oldfield: Are you having regard for the variation in money values?

Hon. A. V. R. ABBOTT: Yes. If there is such a variation it affects every beneficiary. It affects not only the annuitant or the tenant for life, but those who are to benefit afterwards; and the ratio is not altered. If a testator thinks a certain proportion of his estate is reasonable for his widow, then, subject to the provisions of the Testators Family Maintenance Act, there should be no alteration. I intend to oppose that provision when the Bill is in Committee.

MR. COURT (Nedlands) [9.7]: I support the second reading of the Bill, and I have no objection to the proposed amendment to Section 5, but when the sponsor of the Bill is replying to the debate I would like him to give us more information as to how the amendment to Section 45 will work. The position as I see it, on an analysis of the proposed amendment, is that it will give the court power to vary

the wills of deceased persons. Its application might, in certain circumstances, be somewhat difficult.

For instance, it is not unusual to find a will providing for an annuity to the widow and the ultimate distribution of the capital amongst the children. That is a common form of will. At the same time the trustees are given power to invest a particular portion of the estate to pay the annuity, and they are also given power to distribute the balance forthwith to the children.

This is the point to which I invite the attention of members: If in such a case the court came to the conclusion that the annuity should be increased because, say, of a change in money values, it could be done only by taking back property from the children or ordering them to pay to the annuitant the whole or portion of the income derived from such property. In other words the court would say, "We are sorry, but you have this money, and times have changed. We feel the annuitant should get more money per week or per annum. You will have to disgorge some of the assets we have given you, or you will have to pay to the annuitant some of the income you are earning from those assets."

At that particular point it would not be so serious if the children had the assets, either producing or not producing income, and they could, without grave hardship, disgorge them or pay the income to the annuitant, but it could be that the person who received the amount distributed after providing for the annuity had either lost the money through some unfortunate investment, or had so committed it that it was almost impossible to disentangle it and make it available to the annuitant.

Mr. Oldfield: The court would take cognisance of that fact.

Mr. COURT: I am coming to that point. I realise that the proposed amendment to Section 45 provides that where the court is of opinion, having regard to all the circumstances of the case, that it is just and equitable that the amount should be varied, it can vary it. I am prepared to concede to the member for Maylands that the court would take cognisance of all the factors surrounding a particular case. If the children were able, in the case I have just instanced, to go to the court and say, "We have lost this money. We went into some venture which has turned out to be unsatisfactory, or has been a disaster, and we need the money to live," the court would probably say, "Well, the hardship has to be borne by both the annuitant and the person who has lost the money."

But there could be cases where the court would not adopt that view. It might say, "We feel that the recipient of this money, after providing for the annuitant, can make some effort to disgorge." I would like the sponsor of the Bill to let us know whether he has had regard for those circumstances that could arise. I find, in dealing with many people who are making wills while they are still active and fully cognisant of what they want to do and fully cognisant of the temperament and peculiarities of their wives and children, that they give a lot of thought to the preparation of their wills. They even take advice from their financial and legal advisers and often confer with the people who are going to administer the estate.

A will was always regarded as sacrosanct and the maker of a will would, in many cases, be horrified at the thought that somebody would try to interfere with it after his death. I do not say that there have not been thousands of bad wills made by people who want to dominate their families from the grave, as it were; they want to reach out from the grave for years to come and dictate the lives of their families through financial measures. But we have always regarded wills and the wishes of the makers of them as being sacrosanct. Hence the necessity to prove that when a man makes a will he is of sound mind and judgment and knows what he is doing.

It appears to me that this provision would have been better handled through the Testators Family Maintenance Act rather than through the Trustees Act. I am not violently opposed to what the hon. member wants to do, but I felt some responsibility, in view of the fact that I see many of the cases that the hon. member is trying to correct, and I wanted to show members the danger that exists if we allow a proposal which provides for the variation of the terms of any will, assuming the maker of it gave due thought to what he was doing. I support the second reading.

MR. OLDFIELD (Maylands—in reply) [9.14]: In introducing the Bill I touched only briefly on the aspect mentioned by the member for Nedlands and readily admit that I thought I had made it sufficiently clear why I had included the provision in the Bill. I am well aware of the objections, and the reasons for them, raised by the member for Nedlands and the member for Mt. Lawley. When discussing this aspect, prior to the Bill being drafted, these objections were mentioned and that is why the Bill was drafted in its present form. A close scrutiny shows that the only authority that can alter these payments, or vary them in any way, is the court.

When a case goes to the court it is obvious that the judge, who is charged with the responsibility of deciding whether there shall be any variation, will take into account all aspects of the case and decide whether the estate can afford to pay, whether the payment is justified or whether there has been an alteration in

money values and so on. The word "varied" means that the payment can be varied up or down as the case may be. The member for Nedlands suggested that money had been distributed to certain beneficiaries whose responsibility it was to make available to the annuitant a certain portion of the income derived therefrom. He claimed that the money may be committed in such a way that it would be impossible to pay any greater amount.

Let us take into consideration what could happen. A farmer may have died some years ago when money values were much lower than they are today and when the farming community was not so prosperous as it is at present. He may have thought, at the time he made the will, that if he gave his spouse the right to a home on the family property, for the remainder of her days, plus a sum of, say, £5 a week, it would be adequate to provide for her requirements. In such a case he may have left the property to the son to manage so long as the mother was provided with a house and £5 a week as maintenance.

Since then the value of properties has increased enormously and the income derived therefrom has grown out of all proportion, far beyond the wildest dreams of the testator. Today a sum of £5 a week is not sufficient for such a person to support herself or to live in the manner to which she has been accustomed. Under this Bill there is provision not for the annuitant but for the executor to apply to the court for a variation of the payment.

It may be necessary to vary the payment upwards or downwards. For instance, a testator may leave his son an interest in a station property and from which he has to pay the testator's wife—the beneficiary's mother—an income of, say, £1,000 a year. That is a sum which, at the time of making the will, the property could stand. But, owing to bad seasons, droughts, willy-willies and so on, the son could go bankrupt. As a result it would not be possible for him to pay his mother £1,000 per annum in maintenance. This measure will give the executor the right to apply to the court for a variation.

Hon. A. V. R. Abbott: But the court is not infallible.

Mr. OLDFIELD: That is so. Let me give another instance. Let us say that just prior to the outbreak of World War 2, a testator was the freeholder of an hotel such as the Lake Way at Wiluna. In those days it was a thriving town and the hotel produced a good income. Under the terms of the will the son, whi is the beneficiary, has to provide the spouse with an income from the estate. Overnight the mines close down and there is no income from the hotel; in fact it has to close down.

There was a case of a property decreasing in value from £40,000 to £40 overnight—in fact, it was a liability because of the rates that had to paid on it—and the testator had to try to pay an annuity to his mother. Therefore, this provision would relieve him of the responsibility of trying to meet that annuity. Whatever happens, it is not the annuitant but the court that has to decide, and as the member for Mt. Lawley has said, the court is not infallible. It may make mistakes from time to time, but it does not make as many as other people.

Our judiciary is comprised of honourable and qualified people; they have had many years of experience and they take a sane and rational view of everything placed before them. If we are not prepared to place any decision in the hands of our judiciary, we may as well throw the whole judicial system overboard. Therefore, in all its aspects, I cannot see any reasonable objection to that provision being retained in the Bill.

Mr. Court: You do appreciate the point I am making that if there had been a distribution of assets after the annuity had been provided for, there could be hardship.

Mr. OLDFIELD: I appreciate that. However, the court knows what is being done and it might say, "There is nothing left to provide an annuity." It depends on the terms of the will. I have already cited the case of the Lake Way Hotel at Wiluna which became valueless after the town was deserted. There are many such instances. As the Act stands at present, there is no provision for an annuitant, or an executor acting on behalf of an annuitant, or any other person, to apply to the court if need be. This provision merely proposes to set up the machinery to provide the facilities for them to go to the court if it is deemed necessary. There is nothing mandatory in the provision. It seeks merely to make possible an application being made to the court and the decision being left to the judiciary.

Question put and passed.

Bill read a second time.

In Committee.

Mr. J. Hegney in the Chair; Mr. Oldfield in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Section 45 amended:

Hon. A. V. R. ABBOTT: I do not think this is a wise provision. From almost the dawn of history a testator has been permitted to dispose of his property as he thought fit. At one time he could not do that, because, as is known, most properties were subject to the laws of inheritance. However, in later years it was thought that the widest possible authority should be given to a testator if he cared to dispose of his property by a will. Otherwise, if he died intestate, it was

passed by the operation of the Testators Family Maintenance Act. Section 3 of that Act reads—

> If any person (in this Act called "the testator") disposes of or has disposed of his property by will in such a manner that the widow, widower, or children of the testator or any of them are left without adequate provision for their proper maintenance, education or advancement in life, the court may, at its discretion, on application by or on behalf of the said widow, widower or children, or any of them, order that such provision as the court thinks fit shall be made out of the estate of the testator for the maintenance, education and advancement of such widow, widower, or children or any of them.

Surely that is sufficient.

Mr. Oldfield: Not 20 years after.

Hon. A. V. R. ABBOTT: I do not know that it cannot still prevail. Although it says that the ordinary application has to be made within six months, there is a provision in that Act which states—

> Provided further, that the court may extend the time for making an application as the justice of the case may require although such application be not made until after the expiration of the time appointed.

I must admit that this provision is limited to the husband, wife or the children, but the clause proposed by the hon. member provides for any beneficiary who might be a total stranger to the will, and it is desired that authority be given to the judge to alter it.

Mr. Court: They would be battling to pass a judge.

Hon. A. V. R ABBOTT: They might be, but after all is said and done, judges are human beings and I consider that the will of the testator should be carried into effect. If the money is given to one person, it must be taken from another. Why should a judge say, "I will take it from A and give it to B"? A testator may desire to help a particular child and yet a judge may decide to take the money away from that child and grant it to the wife, who has been unfaithful to the testator. The judge, of course, may not know that, and such things often cannot be proved in a court of law. However, the husband knows. Are we to grant a judge the right to vary the provisions of such a will? I do not think this clause should be agreed to.

Mr. BRADY: I would like the member for Maylands to let us know who desires this amendment. Is it the Public Trustee or some solicitors? There is some merit in what the member for Mt. Lawley says. A deceased person may wish to appear generous to his family or widow and may know that the money he is leaving could taper off in value; and that may be the very effect he desires.

The other position is that any beneficiary can get the benefit of this amendment. A son or daughter, with due regard for the memory of the father, may say that they would not move for any additional amount, but a perfect stranger who perhaps temporarily gave the deceased a hand could ask the judge for an additional sum. The members of the family who do not want to draw attention to private matters would be prejudiced as a consequence, and a stranger could ask for additional benefits.

The member for Mt. Lawley is right when he says that nobody knows the family history better than the person making the will. It may be that a particular member of a family is not capable of handling additional money and the maker of the will may know that. I do not think we should go so far as to allow a panel of judges to handle the position. They are removed from the immediate family considered in the will, and they would not know of many of the private happenings over the years in the life of the family.

While the son, daughter or widow should be permitted to ask for an alteration of the annuity, I do not think that strangers, servants and others should be given that privilege. When a man makes his will it is sacrosanct. It cannot be altered; it is his final testimony. It seems that a man is not to be master of his assets when he dies. Others could say that the deceased did not know what he was talking about and that he did his family an injustice. I have made my will but the members of my family do not know its contents. I would not give them that satisfaction. Why should people say that the deceased did not know what he was doing. I know what I did and no judge could make the decision for me.

Mr. Oldfield: There would be nothing left. You have only been here a few years.

Mr. BRADY: That is so. Like other members I am drawing on capital and have been for some time. The public do not realise that. A man could die in poverty if he remained here long enough and tried to measure up to the requirements of his district. At one time I used to give two guineas to everyone who asked for a donation but now I have cut it down to 10s. 6d. I did not want to do that but with changing money values I found it necessary. I do not think the beneficiaries should be able to upset what the deceased has provided.

Mr. OLDFIELD: I would have thought that the member for Guildford-Midland had been here long enough to appreciate that the member for Mt. Lawley is an expert at drawing red herrings across the trail particularly when it suits him. He

uses his legal knowledge and his experience to mislead members of this House.

Hon. A. V. R. Abbott: I do not think that is correct.

Mr. OLDFIELD: It is.

Hon. A. V. R. Abbott: I object to that statement, Mr. Chairman, and I ask that the hon. member withdraw it.

The CHAIRMAN: I would ask the hon. member to withdraw.

Mr. OLDFIELD: I withdraw. I thank the member for Guildford-Midland for his interest in raising this point. One of the chief trustee companies, together with several solicitors, was interested in this matter. I have discussed it with several people who are interested in the administration of estates.

There is one other reason which I did not explain and that is where an estate is being administered and the widow has been left a certain annuity from it. With the value of money decreasing she would not be receiving sufficient income from the estate to maintain herself in a manner to which she is accustomed. In other words, she has almost reached the stage where she could draw the old-age pension in addition to an annuity, and the other beneficiaries and children may be agreeable to grant the increase.

That can be done if they are all over 21. If one of them is a minor, however, it cannot be done; there is no machinery provided for it. That is why this has been put in. It will assist people to administer estates and will help them to see that justice is done where hardship has occurred because of decreasing money values brought about by a recessionary trend.

Mr. COURT: I appreciate the need for some flexibility, especially in view of the economic conditions which prevailed in the last 15 years. In many cases, widows are suffering a hardship today because what was thought to be adequate for their welfare 15 years ago has proved to be insufficient today, while other people deriving periodical payments from incomes of estates are better placed. I do not know why the sponsor wants to take the principle beyond the widow, widower or children of a deceased person. The amendment should have been made to the Testators' Family Maintenance Act, rather than to the Trustees Act.

Mr. Oldfield: The Crown Law Department has raised no objection.

Mr. COURT: They are not as experienced on these matters as the trustee companies or lawyers specialising in this type of case. The Crown Law Department does not look beyond the everyday application of the law. I would ask the sponsor why he wants the amendment made to the Trustees Act rather than to the other Act I mentioned, and why he wants to extend the principle beyond the widow, widower or children of a deceased person.

Mr. OLDFIELD: If it is thought desirable to reduce the amount of payment to a beneficiary, due to the shrinking of an estate, there is no power to do that. People who handle estate matters every day have more experience than the Crown Law Department, but I would point out that one of the trustee companies has asked for this amending Bill.

Hon. A. V. R. Abbott: The Law Society does not want it.

Mr. OLDFIELD: The policy of that society is to increase the income of solicitors.

Hon. A. V. R. Abbott: This Bill will help to bring that about.

Mr. OLDFIELD: It will not. Under the Bill, an executor can apply for the payments to beneficiaries to be varied. Only in genuine cases will applications be granted.

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

Ayes	....	....	....	26
Noes	....	....	....	5
Majority for			....	21

Ayes.

Mr. Andrew	Mr. Moir
Mr. Brady	Mr. Norton
Mr. Doney	Mr. O'Brien
Mr. Graham	Mr. Oldfield
Mr. Hawke	Mr. Owen
Mr. Heal	Mr. Perkins
Mr. Hill	Mr. Rhatigan
Mr. Hoar	Mr. Sewell
Mr. Hutchinson	Mr. Sleeman
Mr. Jamieson	Mr. Styants
Mr. Johnson	Mr. Thorn
Mr. Kelly	Mr. Tonkin
Mr. Lapham	Mr. May

(Teller.)

Noes.

Mr. Abbott	Mr. North
Mr. Court	Mr. McCulloch
Mr. Manning	

(Teller.)

Clause thus passed.

Title—agreed to.

Bill reported without amendment and the report adopted.

SELECT COMMITTEE—PERPETUAL EXECUTORS, TRUSTEES AND AGENCY COMPANY (W.A.) LIMITED ACT (PRIVATE) AMENDMENT BILL.

Adoption of Report.

Order of the Day read for the consideration of the report of the select committee.

The CHAIRMAN OF COMMITTEES: I have to report that the Bill contains the several provisions required by the Standing Orders.

Mr. COURT (Nedlands): I move—

The report of the select committee be adopted.

Question put and passed.

SELECT COMMITTEE—WEST AUSTRALIAN TRUSTEE, EXECUTOR AND AGENCY COMPANY LIMITED ACT (PRIVATE) AMENDMENT BILL.

Adoption of Report.

Order of the Day read for the consideration of the report of the select committee.

The CHAIRMAN OF COMMITTEES: I have to report that the Bill contains the several provisions required by the Standing Orders.

Mr. COURT (Nedlands): I move—

That the report of the select committee be adopted.

Question put and passed.

BILL—CONSTITUTION ACTS AMENDMENT (No. 1).

Second Reading.

MR. JAMIESON (Canning) [9.52] in moving the second reading said: The two small amendments contained in this Bill are designed to alter the Act to bring it into line with the Electoral Act in the matter of qualifications for enrolment for the Legislative Council. One of these amendments deals with naturalised persons. Such a person on being naturalised may immediately apply for enrolment for the Assembly.

When the Electoral Act was amended, consideration was not given to the Constitution Act, which contains the qualifications of an elector for the Legislative Council. The fact that a person on becoming naturalised had to wait a further year before becoming eligible to be enrolled as a Council voter was not taken into consideration, and so such a person has to wait another year in spite of the fact of his having the other qualifications required by the Act.

The second amendment deals with the qualification of a native who has citizenship rights by virtue of the fact that he has served in the defence forces and is no longer deemed to be a native under the Act. The position is anomalous by reason of the fact that this amendment was not made when the Native Administration Act was amended last year. That Act added to the interpretation of "native" the following proviso:—

> Provided that any person of the full blood or of less than the full blood descended from the original inhabitants of Australia who has served in the Territory of New Guinea or beyond the limits of the Commonwealth of Australia as a member of the Naval, Military or Air Forces of the Commonwealth and has received or is entitled to receive an honourable discharge; or who has served a period of not less than six months' full time duty as a member of the Naval, Military or Air Forces of the Commonwealth and who has received or is entitled to receive an honourable discharge, shall be deemed to be no longer a native for the purpose of this or any other Act.

As the Legislative Council has considered the matter and passed the Bill and as it concerns that House only, members here should experience no difficulty in approving of the measure. I move—

That the Bill be now read a second time.

On motion by Hon. A. V. R. Abbott, debate adjourned.

ADJOURNMENT.

THE PREMIER (Hon. A. R. G. Hawke—Northam): I should like to advise members that the Government will not ask the House to sit tomorrow after the tea hour. I move—

That the House do now adjourn.

Question put and passed.

House adjourned at 9.55 p.m.

Legislative Council

Thursday, 20th October, 1955.

CONTENTS.

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