notice paper; but until I get further information, I am not sure what my attitude towards them will be. I will leave any further remarks until the Bill is in Committee, and in the meantime I support the second reading.

On motion by Hon. C. H. Henning, debate adjourned.

BILL—LOTTERIES (CONTROL).

Assembly's Message.

Message from the Assembly received and read notifying that it had agreed to the further amendment made by the Council to the Assembly's amendment No. 1.

House adjourned at 10.7 p.m.

Legislative Assembly

Tuesday, 14th September, 1954.

CONTENTS.

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

QUESTIONS.

COAL.

As to Price, Production and Quality.

Mr. MAY asked the Minister for Mines:

(1) What is the price per ton of coal at pit top at Collie.

(2) What is the price of coal per ton upon reaching the metropolitan area?

(3) What is the landed cost of coal from the Eastern States per ton at Fremantle wharf at the present time?

(4) Is the production of coal in this State greater than the consumption at the present time?

(5) In the event of over-production, is it proposed to lessen the production of open-cut coal?

(6) What safeguards are being taken by his department to ensure that the best quality Collie coal is being made available to consumers in this State?

The MINISTER replied:

(1) 70s. per ton average price.

(2) The above plus freight of 36s. 10d. per ton average.

(3) £8 9s. per ton gas coal; £8 2s. 6½d. per ton steaming coal.

(4) As far as I am aware, all coal produced is at present being sold, but production is increasing.

(5) Instructions were recently issued to the operating companies that open-cut production must be kept to 17,500 tons fortnightly, on a ratio defined per company.

(6) The department endeavours to ensure that good quality coal is produced; but with today's competition for coal trade, this is a matter which consumers themselves can greatly control.

CRAYFISH.

As to Diminution of Number and Fresh Areas.

Hon. D. BRAND asked the Minister for Fisheries:

(1) Is there any truth in the suggestion that the number of crayfish is diminishing in areas centred on the Abrolhos Islands?

(2) If so, to what extent?

(3) As large numbers of crayfish are believed to exist south of Geraldton, has consideration been given to opening up this area?

(4) Has Snag Island or any other been set aside as a possible depot?

(5) Has Port Denison been given any consideration as a point of unloading the crayfish if southern seas are opened to crayfishing?

The MINISTER replied:

(1) Present indications are that the the population numbers remain unaffected. Continued research on this subject is in progress.

(2) Answered by No. (1).

(3) Yes. Professional fishermen have already operated on crayfish in the waters south of Geraldton. During 1953, in the area south from Geraldton to the northern boundary of the closed waters between Knobby Head and the mouth of the Hill River, 328,756 lb. of crayfish was taken. Three vessels from Geraldton produced 63,205 lb. and four "freezer" boats from Fremantle produced the balance of 265,551 lb. In the same area up to the 30th June, 1954, five Geraldton-based fishing boats caught 32,000 lb. of crayfish. No Fremantle boats worked in the area this year. From the 1st January, 1954, to the 31st July, 1954, when the waters between Knobby Head and the Hill River were open, no Geraldton boats operated in the area north of the 30th parallel.

(4) No.

(5) No approach has been made to the Fisheries Department since 1951, when it was considered that provision of a safe anchorage for additional vessels from Geraldton would entail a major harbour project.

PIG IRON.

As to Wundowie Price and Tons at Grass.

Hon. A. V. R. ABBOTT asked the Minister for Industrial Development:

(1) Is the statement being circulated by Western Australian purchasers of pig iron from Wundowie that they are charged £3 5s. per ton above the capital city price charged by B.H.P. for a similar iron, correct?

(2) If the statement is incorrect, what is the actual price charged?

(3) How many tons of pig iron are at grass at Wundowie?

The MINISTER replied:

(1) No. It is obvious that a comparison in prices is being made between B.H.P. pig iron and the special high silicon Wundowie iron. These are not comparable in quality. Recent surveys in the Eastern States have revealed that many foundries would buy foundry grade charcoal iron at £4 to £5 per ton higher than B.H.P. iron. Current freight charges prevent these sales from being made, Special irons, however, are now being sold in the Eastern States at local prices plus freight charges. If Eastern States foundries are prepared to pay such high margins over the B.H.P. prices, then it is obvious that Wundowie iron is of such a quality as to command the premium price.

(2) Foundry Grades—

	£	s.	d.
White iron	19	12	6
Chilling	19	12	6
Standard 1	19	12	6
Standard 2	19	12	6
Standard 3	19	12	6
Foundry 2	20	12	6
Special High Silicon—			
Foundry 8	23	5	0
Wundowie Special 1	24	5	0
Wundowie Special 2	25	5	0

(3) At the end of August there were 8,800 tons at grass, of which 3,175 tons have been sold and are waiting on shipping space. Sales are made up as follows:—

	tons.
Italy	500
Argentine	500
U.S.A., West Coast	2,000
Belgium	50
Indonesia	75
South Australia	25
N.S.W.	25
	3,175

STATE LOTTERIES.

As to Expenses and Prize Money.

Mr. PERKINS asked the Minister representing the Chief Secretary:

For the year ended the 30th June, 1952—

(1) What were the percentages of amounts expended in prize money to receipts from sale of tickets in State lotteries in—
  (a) Western Australia;
  (b) Queensland;
  (c) New South Wales?

(2) What are the percentages of net expenses to sale of tickets in State lotteries in—
  (a) Western Australia;
  (b) Queensland;
  (c) New South Wales?

The MINISTER FOR HOUSING replied:

(1) (a) 2s. 6d. lottery 53 per cent. 5s. lottery 57 per cent.
  (b) Not known.
  (c) Not known.

(2) (a) Average, excluding prizes and agents' commission, 4.459 per cent.
  (b) Not known.
  (c) Not known.

FREMANTLE HARBOUR TRUST.

(a) As to Distribution of Expenses, etc.

Hon. J. B. SLEEMAN asked the Minister for Works:

Re the report of the Fremantle Harbour Trust Commissioners for the year ended the 30th June, 1953—

(1) What is the proportion of items "Administration Expenses," "Superannuation," "Payroll Tax" and "Miscellaneous" chargeable against "Maintenance of wharves, etc." and "Harbour Master's Department, Pilots' Salaries and Expenses and upkeep of vessels"?

(2) What proportion of "Miscellaneous" (other than handling of cargo "miscellaneous") would be offset by the "Earnings" title "Miscellaneous"?

(3) What was the amount of money received by way of "Pilotage," "Tonnage" and "Wharfage" earnings respectively?

(4) What are the details of the item "Harbour Master's Department," "Pilots' Salaries and Expenses and upkeep of vessels"?

The MINISTER replied:

(1) Re Revenue Account Appendix No. 1—

Proportions (percentages of totals) are:—

(i) Administration: (a) Maintenance of wharves—Not readily ascertainable. (b) Harbour Master's Dept., etc.—Not readily ascertainable.

(ii) Superannuation: (a) Maintenance of wharves—5.9 per cent. (b) Harbour Master's Dept., etc.—15.4 per cent.

(iii) Pay Roll Tax: (a) Maintenance of wharves—15.25 per cent. (b) Harbour Master's Dept., etc.—2.1 per cent.

(iv) Miscellaneous: (a) Maintenance of wharves—Nil. (b) Harbour Master's Dept., etc.—Nil.

(2) Re Revenue Account Appendix No. 1—

Of the Miscellaneous Item, Working Expenses—viz. £15,130, the sum of £111,487, plus overhead, is offset by Miscellaneous Earnings.

(3)

	£
Pilotage	35,033
Tonnage rates	120,244
Wharfage	415,840
	£571,117

(4)

	£
Harbour Master's Dept.	5,060
Pilots' salaries and expenses	10,486
Upkeep of vessels	39,496
Signal Station	5,415
Wireless telephone apparatus	84
	£60,541

(b) As to Margins of Employees.

Hon. J. B. SLEEMAN asked the Minister for Works:

(1) What was the average number of employees of the Fremantle Harbour Trust during the year ended the 30th June, 1953, who were not employed in, nor connected with, the handling of cargo?

(2) What was the average of the margin above the basic wage of the employees referred to in No. (1)?

The MINISTER replied:

(1) 241 men were employed in the following categories:—Building tradesmen; fitters and fitters' assistants; electricians; labourers; and boat crews.

All trust employees are employed for the port primary function of handling cargo.

(2) Average margin above basic wage for employees enumerated in question No. (1) was £2 2s. 2d. per week.

HOUSING.

(a) As to Evictee Accommodation.

Mr. WILD asked the Minister for Housing:

On what grounds were the following families granted evictee accommodation by the State Housing Commission:—

(1) No. 73—Fremantle—with one child aged 21 years.

(2) No. 94—Perth—three children aged 29, 26 and 24 years with a weekly income of £32.

(3) No. 7—Mt. Hawthorn—one child aged 20 years—weekly income £20 5s.

(4) No. 37—Mosman Park—three children aged 21, 19 and 17 years with a weekly income of £47 6s.?

The MINISTER replied:

(1) No. 73. Regarded as an emergent case on medical grounds following a court order.

(2) No. 94. A war widow with a son on rehabilitation allowance—neurosis. Regarded as an emergent case on medical grounds.

(3) No. 7. Granted a war service home under emergent conditions of the Act as turn reached on priority list.

(4) No. 37—Policy is to accommodate families in which there is a child, which being a female is under the age of 21 years, or being a male is under the age of 18 years.

(b) As to Eviction at Woodman's Point.

Mr. HEARMAN asked the Minister for Housing:

With reference to the report in "The West Australian" of the 9th September about the eviction of a tenant from a house by the State Housing Commission, can he say why the commission took this action?

The MINISTER replied:

The Leader of the Opposition asked this question without notice last week and, upon my explaining the circumstances of the case, he did not persist in placing the question on the notice paper.

To answer this question adequately would involve disclosure of confidential information to the embarrassment of the family concerned. Before the eviction proceedings were taken, however, alternative accommodation was offered. The official file, can be made available for the hon. member's perusal if he so desires.

NARROGIN SCHOOL OF AGRICULTURE.

As to Transfer to Local High School.

Hon. D. BRAND (without notice) asked the Minister for Education:

Is he aware that a large number of country residents, especially the old boys of the Narrogin School of Agriculture, are hostile to a proposal for the transfer of that school to the Narrogin High School as a wing of that institution under one head?

The MINISTER replied:

No, I have not received any representations at all; not even from the member for Narrogin.

CEMENT.

As to Shortage.

Mr. WILD (without notice) asked the Minister for Housing:

(1) Can he advise the House how long the present shortage of cement is likely to continue?

(2) During the shortage, will the present average price continue?

The MINISTER replied:

(1) I am unable to say how long the present shortage will last.

(2) During the period of shortage, undoubtedly some form of control will have to be exercised. I make it perfectly clear that the Government has no part in the arrangement whatsoever. The Government is interested and concerned as a user of cement in considerable quantities, but the arrangement is one that was made between the producing company and the distributors.

BILLS (2)—THIRD READING.

1, State Electricity Commission Act Amendment.

2, Supreme Court Act Amendment. Transmitted to the Council.

BILL—RADIOACTIVE SUBSTANCES.

Second Reading.

THE MINISTER FOR HEALTH (Hon. E. Nulsen—Eyre) [4.45] in moving the second reading said: This legislation is being introduced at the request of the Commonwealth. I received a letter from Sir Earle Page, Commonwealth Minister for Health, asking whether the State Government would give consideration to legislation for the effective control of the use and distribution of radioactive substances, and certain apparatus producing radiation. The Commonwealth can control importation only, and it is very desirable that the States have uniform legislation to control the use and distribution of radioactive substances.

Hitherto radium has been the source of such substances, and its prohibitive price ensured that it could only be held by a few institutions of national importance. It was, therefore, under adequate control. Recent developments in atomic energy have, however, made possible, as a by-product, the manufacture of a wide range of radioactive substances which are cheap and plentiful. They may be freely purchased from the United Kingdom and, at present, the control of their distribution and use in Australia is inadequately covered by legislation.

Radiations from x-ray apparatus and from radioactive substances, if improperly handled, may cause extensive destruction of tissue and blood-forming organs. The results may be severe and permanently crippling, disfiguring or even fatal. Increasing use of x-rays in shoe shops, beauty parlours and in industry in general, in addition to their use in the medical and dental professions, has brought about a situation in which they are used not always with a full appreciation of their dangers. They consequently constitute a considerable hazard to operators and other persons in their vicinity.

The Bill proposes to introduce a system of licensing. A licence is required for the use of irradiating apparatus, including x-ray apparatus and radioactive substances, such as radium and radioactive isotopes wherein the radiations are of a nature that may be considered dangerous.

A licence is not required by medical practitioners and dentists for the use of irradiating apparatus for the sole purpose of taking x-ray photographs. Where the apparatus or substance is used therapeutically, that is, in the treatment of disease, such medical practitioners and dentists shall first be licensed. Only medical practitioners and dentists may obtain a licence for the treatment of human beings with irradiating apparatus or radioactive substances. This means that the use of x-rays for depilation by beauty specialists will cease, but that x-ray photography of feet in a shoe shop may continue if conditions are such that a licence may be granted. The Bill therefore allows, with the limitations mentioned, all persons wishing to use irradiating apparatus or radioactive substances to apply to the Minister for a licence. The licence will be granted subject to conditions imposed by the Minister. These conditions will refer to the safe use of such substances and apparatus and may be specified in regulations.

The Minister will be advised and assisted by a council to be known as the radiological advisory council, which will consist of six members. They shall be—

The person for the time being occupying the office of Commissioner of Public Health.

Five persons who shall be appointed by the Governor on the nomination of the Minister, to hold office for a term of three years, i.e.,

a radiologist;

an engineer of the Metropolitan Water Supply, Sewerage and Drainage Department of the State;

a physicist;

a physiologist or bio-chemist; and

an x-ray engineer.

In order to police the Act properly it will be necessary to have inspectors. Inspectors are given power to enter and inspect any factory, shop or warehouse; take samples of any substance which they believe to be a radioactive substance, for examination and testing; examine and calibrate any irradiating apparatus. If an inspector cannot gain entry for the purposes of the Act, a warrant may be issued by a justice of the peace authorising the person named to enter any particular building specified. If the occupier refuses to allow entry and inspection or hinders an inspector in the execution of his duties, he is guilty of an offence and is liable to a fine not exceeding £50. Where no specific penalty is provided, a person who contravenes any of the provisions of the Act is guilty of an offence, the penalty being £200.

Regulations are to be made under the Act. The regulating powers are set out fairly fully as the Act will require a lot of administration to be done by regulation, seeing that many different sets of circumstances and personnel have to be provided for and dealt with. Although a licence fee is to be charged, it is not likely that sufficient money will come in to meet the cost of the administration of the Act, so the Bill provides for the appropriation of moneys by Parliament from time to time.

It is proposed to bind the Crown by the the Act. It is felt that, as the substances and apparatus being controlled under the Act are dangerous, its provisions should apply to the Crown as well as the subject. The Act will come into operation upon proclamation. It will take some time for the necessary machinery to be put in action; i.e., the appointment of the council, the making of the regulations, printing of forms, etc. This will also give those persons who are subject to the Act ample time to take the necessary steps to enable them to be in a position to comply with the legislation.

This is a small Bill introduced to protect the public of Western Australia against radioactive substances. At one time the public were protected simply because of the high price of radium, but today radium is being used to an increasing degree and, as a result, it is necessary to introduce legislation to cover this phase. There have been instances where people have been badly affected because they have not known of the danger of radioactive substances. The Commonwealth has instituted legislation, but it operates only as regards importations: control of radioactive substances can be effected only by the various States bringing down uniform legislation such as this.

In the past there has been a good deal of destruction as a result of wars but we can all imagine what devastation will be caused in the event of future hostilities. We are hoping that the nations will fear another war so much that they will all live peacefully with one another. Now that we have atomic bombs, even the most thickly populated areas would be wiped out if another world war were to commence. For instance, if a bomb were dropped on Moscow, New York or London, the city would be wiped out.

It is important that this legislation should be passed because it will help to protect the people against radioactive substances. If it is not passed, people who know nothing of the effects of radium could become permanently affected. We have all read in the Press of the Japanese fishermen who were affected by the bomb dropped by the Americans. These fishermen had no idea of the power of this weapon and, as a consequence, although they were 200 or 300 miles away from the point of impact, they were badly burned. They are dangerously ill and will be lucky to survive.

If the Bill is amended in Committee I hope that it will be passed in such a form that it will still enable protection to be given to the people of this country against radioactive substances. It is an important measure and I hope members speaking on it will take that aspect into consideration. I move—

That the Bill be now read a second time.

On motion by Hon. C. F. J. North, debate adjourned.

BILL—LAND ACT AMENDMENT.

Returned from the Council without amendment.

BILL—LOCAL COURTS ACT AMENDMENT.

Second Reading.

THE MINISTER FOR JUSTICE (Hon. E. Nulsen—Eyre) [5.0] in moving the second reading said: The most important amendment to the principal Act proposed by this Bill is the increase in the jurisdiction of the Local Court in personal actions from £100, and in some cases from £250, to £500. As the principal Act now stands, all actions in which the amount or value of the claim exceeds £100, shall be heard and determined by a judge, but if both parties to an action agree by memorandum signed by them, or by their solicitors, that a magistrate may try the action, then the magistrate has jurisdiction to hear and determine the action accordingly.

It is felt that, owing to the increase in litigation and the falling value of money, the time has arrived for the jurisdiction of the Local Court to be increased. The Government has therefore decided that the jurisdiction should be increased to the amount of £500. The figure of £100 was inserted in the original Act in 1904 and that position obtained until 1930 when it was increased to £250 subject, however, to the restrictions previously mentioned, namely, the consent of the party. Over a period of years the restrictions have proved to be more of a nuisance than a safeguard.

Since Local Court magistrates now have higher qualifications in knowledge of law than they had either in 1904 or in 1930, it is considered that increased jurisdiction can be safely placed in their hands. Furthermore, distances are so great in the State that, in the interests of cheap and expeditious litigation, it is desirable to give to Local Courts—particularly to the courts in country districts—as wide a jurisdiction as possible. It is observed that the same principles of law and the same difficulties in ascertaining facts are usually involved in a claim for £250 as in a claim for £500.

As long as magistrates decide the questions of fact, any errors that may be made on questions of law can be corrected on appeal. It is also desirable to relieve the judges of cases involving relatively small sums, as the work of the judges of the Supreme Court is likely to increase in the future with the growth of the State, and Supreme Court accommodation and facilities already appear to be fully taxed. In the parliamentary session held last year, the jurisdiction of the Local Court in actions for recovery of possession of land was increased from land with rental of £100 to land with a rental of £500. There appears to be no reason why, in personal actions, the jurisdiction should not be increased to £500.

For the information of the House, it would be interesting to note that in New Zealand the jurisdiction of courts presided over by magistrates is £500. In New South Wales the district courts have jurisdiction up to £1,000—increased from £400 in 1949. In Queensland, magistrates have jurisdiction in their courts to £200. But this figure has not been altered since 1921.

The Bill provides that the Act will come into operation on a date to be fixed by proclamation. The reason for this, of course, will be obvious. It will be necessary, in view of the increased jurisdiction, to amend the various rules of the court, forms, etc., and possibly to provide for additional accommodation. The Bill purports in many cases to simplify procedure and reduce the cost of litigation to the parties.

For instance, one amendment provides that the plaintiff, when he requires particulars in writing of the defence from the defendant, may apply in the first instance direct to the defendant instead of to the magistrate. If the defendant fails to supply the particulars, an order can be made through the magistrate. A further amendment provides that a confession or admission of liability may be witnessed by a commissioner for declarations, a member of the Commonwealth or State Parliament, and other persons set out in the Bill, thus making it more convenient for defendants who desire to confess their liability and to save additional costs.

The Bill also provides that where the time required by a summons for giving notice of defence has expired and notice of defence has not been given, any written admission addressed to the court or magistrate or clerk of the court by a defendant, even though not witnessed by one of the persons specified in the Act, may be accepted by the court as an admission of liability.

In relation to the discovery of documents, as the principal Act stands at present, any party to an action has to apply to a magistrate for an order requiring the other party to state on affidavit what relevant documents that other party has. The Bill proposes to simplify this procedure and to bring it in accord with the practice in the Supreme Court whereby a party to an action may make a direct request to the other party for discovery of documents,

but if the party requested refuses or neglects to comply with the request, the magistrate may then order that the discovery be made and that the party in default will bear the costs of the magistrate's order. The purpose of this amendment, of course, is to expedite, simplify and make legal proceedings less expensive.

Another amendment relates to costs in any action brought in the Supreme Court which could have been commenced in the Local Court. The present section of the principal Act is mandatory and provides that costs shall be awarded in accordance with the Local Court scale of costs in certain circumstances. It is considered that the present section is too rigid and should be repealed and re-enacted. The purpose of the proposed amendment is to enable the judge hearing the case to award costs in accordance with the Supreme Court scale if, by reason of some important principle of law being involved or of the complexity of the issues or of the facts, the action was properly brought in the Supreme Court.

There may be cases involving fraud or other difficult matters which might properly be heard in the Supreme Court, notwithstanding the comparatively small amount involved. It is to be noted that the amendments proposed do not prevent a plaintiff starting an action in the Supreme Court where the amount involved is under £500, but if he does so and is successful, he runs the risk of recovering no greater sum by way of costs than he would have recovered had the action been brought in the Local Court. However, as previously pointed out, in certain cases where, although the amount involved is not great, the issues at stake are complex or involved, if the action is commenced in the Supreme Court the judge has power to award costs to a successful plaintiff in such action on the Supreme Court scale of costs.

There are other amendments which are complementary and consequential. Some bring the Act up to date, and others cut off dead wood. This Bill is very necessary in order to keep up with the times. Its purpose is to facilitate procedure, to help the public generally, and to help those involved in legal matters. We all know that money values have increased considerably and the provisions contained in the measure will permit a plaintiff to bring a case before the Local Court where the expenses are not nearly as great as those involved in the Supreme Court. That was one of the reasons for bringing the Bill down.

Generally speaking, it will also facilitate administration and give greater scope to judges in regard to matters with which they should be able to deal without increasing the cost to the plaintiff. The measure brings legal matters more up to date, and the provisions in it have been considered thoroughly. It will be helpful to all those concerned with legal procedure.

Hon. A. V. R. Abbott: Have the judges been consulted about this Bill?

The MINISTER FOR JUSTICE: Yes, the judges have perused it and are perfectly satisfied that it will be of great assistance to them generally and to the public. I move—

That the Bill be now read a second time.

On motion by Mr. Oldfield, debate adjourned.

BILL—ADMINISTRATION ACT AMENDMENT.

Second Reading.

Debate resumed from the 9th September.

MR. COURT (Nedlands) [5.13]: I support the second reading of the Bill the object of which is to amend the Administration Act, particularly because it aims at simplifying the administration of small estates; which will help to keep the legal costs down. The main queries I have regarding the measure are firstly that it limits the application of the new subsection to real estate of the value of not more than £500, or to real estate which forms part of an estate, the gross value of which, when finally assessed, is less than £2,000.

Personally, I have a feeling that it will not be very long before the Minister finds that the limit of £500 on the one hand, or the limit on real estate which forms part of an estate not exceeding £2,000 will be inadequate. In the first case we can only imagine some vacant block of land coming within the limit; in the other, where the value of the estate is fixed at £2,000, it would rarely cover a decent family residence if there were a few other assets together with such residence. Now that an amendment is being sought to achieve the very desirable object of simplifying the handling of these estates, it would be a good thing if those amounts were made a little more generous.

However, I realise that the Minister must have taken into account the fact that not all administrators are people against whom there is adequate recourse, in spite of the fact that sureties are provided for. If a trustee company were the administrator, it would be a fairly simple matter. If such a company did what it should not have done, then it would be very easy to recover from it.

We must bear in mind that many administrators of estates are made up of members of the families of deceased persons, and they may not possess very great experience. They may be subject to some influence from other members of their

families, and for that reason it might have been intentional on the part of the Minister to stipulate £500 in one case and £2,000 in the other.

The Minister for Justice: It is just as well to be on the safe side when dealing with administrators.

Mr. COURT: I agree. If it is found at a later date that the amounts of £500 and £2,000 are too restrictive, an amendment could be made to deal with the circumstances as they arise. It is provided that under certain circumstances persons who are interested in the real estate can insist on the administrator conforming to the requirements of Section 13 of the principal Act. In other words, they can compel the administrator to hold the real estate of an intestate estate, as if the same had been devised to the beneficiaries as tenants-in-common.

When he replies, I would ask the Minister to explain the machinery that is proposed for these people. Does he envisage that the rules which can be made by judges of the Supreme Court will be adequate to provide the necessary machinery? As I see it, the Act is silent on what action they can take. I presume that the people who object to the provisions of this subsection being implemented by the administrator, would have to obtain an order of the court.

The Minister for Justice: The present machinery will be sufficient to enforce the provisions of the Bill.

Mr. COURT: Except in this way: The position is reversed under this Bill. Under the present Act application has to be made to the court if the consent of all parties is not available. The great difficulty in obtaining the consent of all parties arises when minors are involved and when beneficiaries are resident in other parts of the world.

The Minister for Justice: That prevails at the present time.

Mr. COURT: It does, but under the Bill it is proposed, within the limits of the amounts prescribed, that an administrator can lease such real estate for a longer term than three years, sell it or mortgage it without the written consent of all concerned. Therefore the position which exists at present is that people who object to that procedure, must take action. Does the Minister envisage that they will have to obtain an order of the court, or will the rules laid down by the judges of the Supreme Court dealing with this particular matter be sufficient to provide the necessary machinery?

A further problem I see arising—and it is as well to tidy them all up at this stage—concerns the registration of titles. Of necessity the Registrar of Titles is very cautious in accepting transfers or in registering new owners of land. If he requests a declaration from the administrator that no beneficiary is objecting to a lease, mortgage or sale of real estate, it can have the effect of forcing the over-cautious administrator to demand an acknowledgment from all the beneficiaries that they will not take advantage of Section 13 of the principal Act. I would like to see, if possible, some provision made to ensure that the Registrar of Titles will not become unduly difficult in registering such transfers, and to ensure that any action he takes will not have the effect of defeating the very purpose which the Minister seeks to achieve from this desirable piece of legislation.

The Minister for Justice: Do you think that Section 13 should be amended?

Mr. COURT: No. That section is very necessary and desirable as it is. If an administrator sells land under the new subsection and seeks to transfer it, the Registrar of Titles may question his right to sell and, under the provisions of the proposed subsection, demand an assurance that no interested person has requested the provisions of Section 13 to be complied with. Perhaps the Minister has already taken up this matter with the Registrar of Titles and arranged that a simple declaration by the administrator of an estate that no one has requested that the provisions of Section 13 be implemented, will be sufficient for a transfer of the title.

Regarding the other provision of the Bill, namely, that extending the effectiveness of the sureties for an administrator, I think it is very desirable. Under the principal Act the sureties terminate when the duties of an administrator cease as an executor, and when his duties as a trustee begin. I think that is quite correct. The proposal of the Minister is a very desirable one, as is the measure for the making of rules by judges of the Supreme Court, which has regard for changing values and changing conditions. I support the second reading.

THE MINISTER FOR JUSTICE (Hon. E. Nulsen—Eyre—in reply) [5.23]: I am grateful to the member for Nedlands for his suggestions and reception of the Bill. The queries he has raised can be dealt with, if found necessary, in another place. I am not certain of the machinery that is required, but all the provisions contained in the Bill comply with the working of the Administration Act. Section 13 deals with real and personal estate in cases of intestacy. The hon. member brought that section to the notice of the House. I have not investigated it. I do not know how it will work, but I feel sure that the Parliamentary Draftsman has given consideration to it. If the hon. member had given me prior notice of the queries he intended to raise, I would have investigated them.

Mr. Court: I did not formulate them until late this afternoon.

The MINISTER FOR JUSTICE: If an amendment is desirable, I can give the assurance that it will be made in another place. I shall bring this matter before the Parliamentary Draftsman and if he thinks it is necessary to make amendments, they will be made in another place. I do not know if my predecessor has looked at the Bill; I shall be pleased if he can enlighten us.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Brady in the Chair; the Minister for Justice in charge of the Bill.

Clause 1—agreed to.

Clause 2—Section 18 amended:

Hon. A. V. R. ABBOTT: The Minister for Justice raised the question that Clause 2 enables an administrator under certain circumstances to sell real estate without the sanction of the beneficiaries, by obtaining an order of the court. If the persons resident within the jurisdiction entitled in distribution to such an estate require it to be held in accordance with Section 13, the method by which their objections can be taken is accomplished by rules of court. In addition, the Titles Office would require some proof that there was no objection.

I consider that the amounts of £500 and £2,000, respectively, could be raised a little because £500 of real estate practically limits it to a vacant block of land. Even the value of two or three blocks might exceed that figure. Perhaps the Minister might give this matter his consideration. I do not propose to move an amendment, but I suggest that the figures could be raised to £1,000 for real estate and £3,000 in the case of the total value of an estate.

Another point to which some consideration should be given is this: A higher amount should be permitted where the consent of all beneficiaries of age resident within the State has been obtained. The difficulty that usually arises is that some of the beneficiaries are not available to give their consent. Some may be residing outside the State and their addresses may be unknown, which means delay, and so an order of the court must be obtained and that entails expense. The Minister might discuss these matters with the law officers with a view to increasing the amounts and providing for the obtaining of the consent of all persons within the jurisdiction.

Mr. COURT: I apologise for not having referred to the Minister the question I raised on the second reading, but it was not until late this afternoon that I realised its significance. I have no intention of moving an amendment, but would be interested to learn why the amounts of £500 and £2,000 have been adopted. Doubtless the draftsman acted on directions received based on the experience of the court. I agree with the member for Mt. Lawley that the two amounts would not cover many estates nowadays, though some years ago they would have covered many. More realistic figures would be £1,250 for real estate and £3,000 for the overall estate. Can the Minister indicate whether the figures in the Bill are based on experience?

The MINISTER FOR JUSTICE: I agree with the members for Mt. Lawley and Nedlands regarding the two amounts. Money values are high as compared with those of a few years ago. On the other hand, the framers of the legislation wished to be on the safe side. Section 18 provides that no real estate shall be leased for a longer term than three years. The clause proposes that such a lease may be for a longer period in respect of £500 for real estate and £,2000 for the whole of the estate.

At present real estate is expensive. At a sale of land at Floreat Park on Saturday last, the blocks averaged nearly £1,000 each; and I know of one block with a good view that was sold for £2,000. Seeing that we are disregarding Section 18 and are extending a privilege, we should play safe. We are proposing to open up a field in which some beneficiaries might suffer.

Mr. Court: How many estates would be concerned?

The MINISTER FOR JUSTICE: Very few. I believe that if we increased real estate to £2,000 and the whole of the estate to £5,000, we would do no harm and there would be no great risk to beneficiaries. Those amounts would reflect the value of money today as compared with its value when the original legislation was introduced. If the clause be accepted, I shall make investigations and, if necessary, further legislation could be introduced next session.

Clause put and passed.

Clauses 3 to 5, Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—PUBLIC SERVICE APPEAL BOARD ACT AMENDMENT.

Second Reading.

Debate resumed from the 9th September.

MR. HUTCHINSON (Cottesloe) [5.40]: I wish to ensure that the Bill does not pass this House. There is no need for the measure. It has not been requested by anyone. I can see that it will bring nothing but trouble in its wake, because it could affect the appeals by teachers. It might preclude the possibility in future of the granting of interim adjustments in the

manner employed by the Minister for Education in 1950. It will destroy to a great extent what the teachers refer to as their Magna Carta, which was gained in 1920. I emphasise that the Teachers' Union is strongly opposed to the measure.

At first glance the Bill seems to be harmless enough. Apparently, as the Minister suggested, there might be a likelihood of confusion arising between the relevant sections of the Education Act and the Public Service Appeal Board Act with respect to the applications of teachers, but on a closer scrutiny, it is quite obvious that there need not be any conflict at all between those provisions, and what the Minister is trying to do to avert conflict will bring it about. I cannot understand what the Minister has against the teachers of this State.

The Minister for Education: That is an uncalled for remark. If the Teachers' Union desires that the Bill be withdrawn, I am prepared to withdraw it forthwith with the consent of Cabinet. I tell you that quite candidly.

Mr. HUTCHINSON: After I have finished speaking, I think that is what the Minister will do.

The Minister for Works: Do you understand what is meant?

Mr. HUTCHINSON: I have a passing knowledge of what is meant.

The Minister for Works: From what you have said up to date, I very much doubt it.

The Premier: You want more than a passing knowledge.

Mr. HUTCHINSON: Does the Premier imply that he knows more about this matter than I do?

The Premier: No.

Mr. HUTCHINSON: The Premier has suggested that I must stand or fall by what I have said so far. Already I have drawn crabs from three Ministers on the front bench.

The Premier: All I have said is that you need more than a passing knowledge of the Bill when condemning it utterly.

Mr. HUTCHINSON: I do not like to be boastful when speaking in the House and when I said that I had a passing knowledge, the phraseology might not have been quite correct. However, I wish the Premier would wait until a later stage and then he might agree that I have more than a passing knowledge.

The Premier: I shall be quite happy about that.

Mr. HUTCHINSON: The Minister for Works, by interjection, has suggested that I know nothing about it.

The Minister for Works: Can you suggest the reason for the Bill?

Hon. Sir Ross McLarty: It is not your Bill.

The Minister for Works: Disregarding what you have said, can you suggest the reason why the Bill was brought down?

Hon. A. V. R. Abbott: That is up to you.

Mr. HUTCHINSON: If the Minister will hold his horses for a moment, I will endeavour to show why the Minister for Education said the Bill was brought down. Will that satisfy him?

The Minister for Works: Why do you think it was brought down?

Mr. HUTCHINSON: If I am allowed to do so, I will point that out at the relevant stage of my speech. The Minister for Works, who not long ago gave away his—

The Minister for Works: What has that to do with this measure? How is that relevant to this Bill?

Mr. HUTCHINSON: I am going to make it relevant to the Bill.

The Minister for Works: Why do you not give your speech on the Bill?

Mr. Ackland: Who is making this speech?

Hon. Sir Ross McLarty: It sounds like the Minister for Works.

Mr. HUTCHINSON: I think that the Minister for Works, before he gave away his very important portfolio of Education, had it in mind to bring this very Bill before the House.

The Minister for Works: And so did the previous Minister for Education.

Mr. HUTCHINSON: The Minister for Education in the McLarty-Watts Government, too, had in mind to bring down this measure, but neither he nor the present Minister for Works did bring it down. Why they did not, I am not prepared to say at this stage, because I do not know. I think that shows the relevance of my mention of the present Minister for Works. Before I was interrupted, I was saying that it seems that of late the teaching profession has been harried by the present Government.

The Minister for Works: Off on that again! Cannot you get off it?

Mr. HUTCHINSON: Why is this—

The Premier: Drivel!

Mr. HUTCHINSON: Why is the Government doing such things? First of all, we vividly remember that the present Minister for Works not long ago had occasion, or saw fit, to withdraw the long service increments of women teachers, but I will not pursue that subject at present, although more may be heard about it when the Estimates are being debated. Through questions I asked in this House, I eventually had the present Minister for Education keep the word of the former Minister for Education. Secondly, with regard to the matter of the Government harrying the teachers, the boarding subsidies have been substantially reduced, and now, by

means of this measure, the hard-won rights of teachers and their method of appeal are being attacked.

The Minister for Education: You know that is not true.

The Minister for Works: We will expect you to substantiate that statement.

Mr. HUTCHINSON: I have no doubt that it was never the intention of the Minister for Education to do what I am suggesting will result if this Bill is passed. I do not for one moment suggest that he had that intention, but I do say that the right of appeal of the teachers will be in danger if the measure is passed.

The Minister for Works: You must show us how.

Mr. HUTCHINSON: Very well. Would the Minister for Works be surprised, at this stage of my much-interrupted speech, to know that the Bill will probably be withdrawn?

The Minister for Works: I would not be at all surprised. If you can show to be true what you are claiming, that would be the logical thing to do.

Mr. HUTCHINSON: If I am allowed to, I will proceed to establish the facts.

The Minister for Works: Do not dodge it. Get on with it.

Mr. HUTCHINSON: I cannot understand the Minister proceeding with this Bill unless, as I have suggested, under pressure of work he possibly has not given it the close study he might have devoted to it under other circumstances.

The Minister for Education: I gave it close study and during my introduction of the measure I invited any member who wished to do so to peruse the file. The Bill was introduced on the basis of the file.

Mr. HUTCHINSON: I realise that, but I feel that the Minister has not studied the full implications of the measure. As I said at the outset, it might appear that there is a conflict between the provisions of the Education Act with regard to the reclassification of teachers, and those in the Public Service Appeal Board Act but, as I also mentioned earlier, a closer inspection reveals that such is not the case. The Minister stated briefly three effects of the Bill: Firstly, that the classification of teachers—their salaries and allowances —would be made, if the Bill were passed, under Section 28E of the Education Act. I submit that there is absolutely no need to depart from the present position, where that can be done under Section 13 of the Public Service Appeal Board Act.

If the Bill is passed, it will bring in its train many troubles for teachers in the matter of appeals and, in fact, future appeals will bristle with attendant difficulties and conflicting legal contentions, to which I will refer at a later stage. For the present, I ask, "Why change a completely satisfactory approach in the matter of appeals for one which presents quite extraordinary problems?" There is absolutely no necessity for the change, and the Teachers' Union is opposed to it. The Minister stated that the second effect of the measure, if passed, would be that teachers would have a right of appeal to the Public Service Appeal Board against the Minister's classifications. That would be an innocuous effect, because teachers already have rights of appeal under that Act—rights which have been exercised to the full since 1920 without cavil by either the department or the teachers.

The Minister stated that the third effect of the Bill would be to obviate any further conflict between Section 13 of the Public Service Appeal Board Act and Section 28E of the Education Act. I contend—I am not alone in this, because there is legal advice parallel with my own feeling in the matter —that there is no conflict between the two Acts I have mentioned in regard to classifications, but certainly if the Bill is passed there will be many conflicting contentions and opinions with regard to appeals by teachers. It is felt that, in the case of appeals under the Education Act whereby classifications are made according to regulations, there is a danger that the appeals will be restricted and endangered. It has been stated to me in no uncertain terms by the president of the Teachers' Union that that body is strongly opposed to this measure.

The Minister for Works: Have they had legal advice on it?

Mr. HUTCHINSON: Yes.

The Minister for Works: The Government has had legal advice, too, quite to the contrary.

Mr. HUTCHINSON: During his introduction of the measure, the Minister said, "If he makes his classification under the Public Service Appeal Board Act, the question arises as to whether there can be any appeal by teachers who may feel aggrieved." That, of course, is quite ridiculous. The Minister may not have intended it, but as it stands there is no meaning to that statement at all, because ever since 1920 teachers have had the right of appeal under Section 13 of the Public Service Appeal Board Act. The statement, therefore, does not hold water, and has no foundation whatever.

As I have pointed out, Section 13 of the Public Service Appeal Board Act has been tried and proved as a really satisfactory basis for appeals. Actually, the Minister's statement that the question arises as to whether there can be any appeal by teachers who may feel aggrieved is applicable if this measure is passed and appeals have to be made under the Education Act.

Hon. Sir Ross McLarty: Where is the Minister in charge of the Bill?

The Minister for Works: He has an important engagement in connection with his department.

Hon. Sir Ross McLarty: He has an important engagement here.

The Minister for Works: The Leader of the Opposition is most ungenerous in that statement, because he has no idea where the Minister is. The Minister has visiting Directors of Education in this State at present, and has to attend a function.

Hon. Sir Ross McLarty: We had better postpone this debate.

The Minister for Works: We cannot sit a member down in the middle of his speech.

Mr. HUTCHINSON: The Minister would feel aggrieved if I did not say anything further—

The Minister for Works: Not in the slightest, because I can deal with it adequately at any time.

Mr. HUTCHINSON: The Minister for Works did not deal with matters adequately last time I criticised him.

The Minister for Works: That is a matter of opinion. You have not proved yet what you set out to establish.

Mr. HUTCHINSON: The Public Service Appeal Board Act established for teachers and others certain rights of appeal to the board. The right of appeal that teachers are most concerned about, in relation to this Bill, is that against a classification of salaries made by the Minister for Education. Prior to the 1920 Act, the fixation of teachers' salaries rested with the Governor under Section 22 (8) of the Elementary Education Act, 1871-1893. With the passing of the Public Service Appeal Board Act, the Minister for Education was vested with the power under Section 13, and parallel with that there was the vesting of similar powers in the Public Service Commissioner under Section 12 of the same Act.

When the Public Service Commissioner issues a reclassification, he does it by virtue of the powers given him under Section 12, and not by regulation, as this measure would have teachers' classifications made. Until the 1954 reclassification, which was gazetted as amendments to regulations, the Minister for Education presumably acted under the power conferred by Section 13, because previous reclassifications were published in the "Government Gazette," but not in the form of regulations. There has never been any question that appeals made under those earlier reclassifications were invalid. It is clearly the intention of the Public Service Appeal Board Act to give the Minister power to fix salaries, and equally clear is the intention that teachers should have the right of appeal.

I think it will be agreed that under the Education Act of 1928 it was not intended to abrogate, reduce or alter those powers or rights in any way. To give point to that statement, Subsection (2) of Section 28 of the Education Act which should be read with the relevant clauses in the measure before us, reads as follows:—

> (2) Regulations for the classification of the teaching staff of the department, and the fixing of the salaries and other remuneration to be paid to teachers, shall be subject to the provisions of the Public Service Appeal Board Act, 1920.

Despite this fact, the Minister in his second reading speech indicated that he saw some conflict between the provisions of the Public Service Appeal Board Act and those of the Education Act. If there had been any such conflict at that stage, is it not logical to assume, or, could it not even be expected, that the House in 1928 would have taken steps to repeal the offending sections of the Public Service Appeal Board Act?

So that, far from being conflicting in tone, the relevant provisions regarding the classification of teachers' salaries in the two Acts I have mentioned can be read in complete accord with each other, and, surely does not Subsection (2) of Section 28 of the Education Act tend to clarify the position further? It certainly indicates that at that time there was no intention to repeal Section 13 because of any conflicting ideas.

It is thought that the stimulus to amend the Act by the present Bill has come, possibly, from the Crown Law Department, following argument which involved Section 13 of the Public Service Appeal Board Act in October, 1951, when the union was appealing against a classification made by the Minister for Education in the McLarty-Watts Government. Briefly, the case argued was whether the union had the right of appeal against certain percentage increases in salary. At the time it was called an interim adjustment which had been made in 1950 by the Minister for Education.

The Crown Law officer who represented the Education Department at that time argued that the Minister must publish regulations before an appeal could be competent. I ask the House to note that point. As the percentage increase had not been made by regulation, no appeal could be laid. I would now like to quote a highly relevant extract from the February issue of the "W.A. Teachers' Journal" regarding the appeal made before the appeal board in 1951. It is a fairly lengthy extract, so I crave the indulgence of the House whilst reading it. It is as follows:—

> Section 28 (e) states that the Minister may make regulations for all or any of the following purposes, the classification of teachers, their salaries

and allowances. Mr. Seaton said that he drew the board's attention to the provisions of 28 I (e) as he felt that some misunderstanding of the provisions of that subsection had taken place because it appeared to have been considered that the actual classification must be made in the form of regulations. The Minister has the power to make regulations relating to the classifications in the sense of prescribing methods to be followed but not necessarily to make a regulation embodying a reclassification. He thought if there were any doubt as to the actual meaning, in other words whether Section 28 I (e) provides for the making of regulations embodying a classification or whether it merely provides for regulations relating to the classification, any such doubt would be dispelled by the first two lines of subsection 2 "Regulations for the classification of the teaching staff of the department and the fixing of the salaries . . . " He said that it did not seem to be a consistent result that when such a regulation was made and thereby had the force of law and only when that had been done was there a right of appeal to this Board. Such a procedure was contrary to the general experience and practice and it would require strong language to induce the Board to hold that that was the meaning of the provision. It would be the only instance where a right of appeal against the terms of a regulation was given a body such as this Board.

He submitted that Section 28 I (e) has to be read consistently with Section 13. The reason for his submission was that as Parliament had failed to express the repeal of Section 13, it remains in force. The legal principle is that one statute dealing with a matter only repeals an earlier statute dealing with that matter if they could not be read consistently together—if the language of both was so opposed that there was no other reading possible.

The Education Act gives the Minister power to make regulations for the classification, in other words prescribing matters to be observed in making a classification—perhaps regulations relating to the publication of the classification and matters of that sort—in other words matters relating to the classification, not the actual fixation itself.

On the question of points that can be raised under classification by regulation under the Education Act—which will apply if this measure is made law—I will again quote from the "W.A. Teachers' Journal" and thus show to the House some of the difficulties involved in regard to appeals made under this provision. Before quoting the extract I point out that it concerns statements made by Mr. Walsh, of the Crown Law Department, who was acting for the Education Department, and Mr. Seaton, who was acting for the Teachers' Union. Mr. Walsh completes a statement by saying—

> The Education Regulations, 1949, set out the salaries of various classes of teachers, these were fixed by regulation. Those regulations must be revoked before an appeal was competent and they had been revoked in January, 1951, by a reclassification which was published. The teachers, he understood, were now appealing against the salaries awarded in that classification.

I have read that extract to give point to the statement I will now quote.

> In reply, Mr. Seaton dealt with the respondent's last point first. He had before him, he said, a copy of the "Government Gazette" of February 6, 1951. This contained a reclassification of the teaching staff, but it was not published in the form of regulations.
>
> The fact was, he submitted, that a consideration of the history of the statute shows that the fixation of salaries and of classification of the teaching staff of the Public Service had been the subject of much legislative activity and other activity over many years. The scheme evolved was that the authority in charge of the Public Service or of the teaching staff had the power to fix salaries and these were subject to appeal to this Board. In the Public Service Appeal Board Act there was a section to make this Board's decision as to matters within its jurisdiction final. Section 10: "The decision of the Board shall in each case be reported in writing by the Board to the Governor, and shall be final; and effect shall be given to every such decision." To accept the respondent's submission would be to accept the situation that upon the Board making a decision or coming to a decision varying in any way the classification or other regulations then it would be necessary that a new regulation be made. Those regulations by the express provision of the Education Act have to be laid on the Table of the House. The Minister makes a regulation classifying the teachers and fixing their salaries, an appeal is heard against that but in the meantime Parliament sits and it is open to any member of the Council or Assembly to move that the decision on the appeal be disallowed. Mr. Seaton then said, "Now, Sir, I submit to the Board that for such a strange result to be possible in fact to be required by the Education Act it would require very strong language indeed. This Public Service Appeal Board Act is considered

> to be a landmark by teachers in respect of their rights of classification and fixation of salaries, an Act whereby they can come before an independent Board and have all matters in dispute determined. That view is, by my friend's submission, quite wrong because the Education Act in respect of teachers has removed the guarantee of a final decision from an independent Board.

The Minister for Works: Whose opinion are you quoting now?

Mr. HUTCHINSON: I have already explained to the Minister for Works, but I will tell him again. It is an opinion given by Mr. Seaton, a Queen's Counsellor, who was answering various statements made by Mr. Walsh of the Crown Law Department.

The Minister for Works: That was in 1951, and he lost the appeal.

Mr. HUTCHINSON: The Minister for Works should look it up.

The Minister for Works: I have it here.

Mr. HUTCHINSON: Who won the appeal? The Minister does not even know what happened.

The Minister for Works: His appeal on that point was dismissed; the board decided against it.

Mr. HUTCHINSON: I think the Minister had better have another look.

The Minister for Works: I have it here. That is, if we are referring to the same point. We might be at cross purposes.

Mr. HUTCHINSON: I think the Minister had better check up again.

The Premier: The member for Cottesloe might be wise if he checked up again, too.

Mr. HUTCHINSON: I shall.

Hon. Sir Ross McLarty: You have your Minister here after tea to listen to the debate.

Mr. HUTCHINSON: Continuing with the extract from the "W.A. Teachers' Journal"—

> The Board decision becomes a yes-no matter in the House. It still has to be embodied in the regulation and that regulation can be set aside. If that is to be the position then I submit the Board will require very strong language indeed.

Sitting suspended from 6.15 to 7.30 p.m.

[*The Speaker took the Chair.*]

Mr. HUTCHINSON: Before tea I had finished quoting an extract from the "W.A. Teachers' Journal" and was trying to show how fraught with difficulties the way is when teachers or the Teachers' Union wish to appeal against classifications made by the Minister under the provisions of the Education Act. It has been shown by the extracts quoted that there is a very definite difference of opinion, to say the least. There is another journal from which I will quote later suggesting that there can be no appeal against regulations. Yet that is what the Bill provides for, namely, that appeals must be made under Section 28 of the Education Act. In that way the right of appeal is very restricted; and there was some years ago a legal opinion that there can be no appeal against classifications made under regulations. In face of that, it appears that there is no justification for the Bill. The purpose of the measure is to iron out anomalies and avoid confusion; but its passage will bring about confusion and create anomalies. Let us, therefore, have no truck with it.

I endeavoured to show that there was little, if any, real argument behind the Minister's statement that the Bill would have certain effects if it became law. Presumably it was considered that those effects would be beneficial; otherwise, the Bill would not have been introduced. The first effect it was suggested would be brought about was that the classification of teachers' allowances and salaries would be made only under Section 28E of the Education Act. There is no necessity for this. As I pointed out earlier, there has been no call for it, and it will only bring about confusion. I pointed out, too, that it would appear foolish to change a well tried and completely satisfactory method of approach with regard to appeals.

The second effect the Minister stated the Bill would have was that teachers would have the right of appeal to the Public Service Appeal Board against the Minister's reclassification. In reply to that, I stated that for many years the teachers had had a right of appeal and had exercised it to the full in the years since 1920. The way has been clear, and there exists no need for a change.

The third effect the Minister said the Bill would have was to obviate any further conflict between the relevant sections of the Education Act and the Public Service Appeal Board Act. I deny that, and say that—at least in part—there would be great conflict if this Bill were passed. As to the apparent conflict between Section 13 of the Public Service Appeal Board Act and Section 28 of the Education Act, there is a very grave degree of doubt. I endeavoured in the earlier part of my speech to show they can be read consistently, particularly in regard to Subsection (2) of Section 28 of the Education Act, which states that regulations for the classification of the teaching staff of the department and the fixing of salaries and other remuneration to be paid to teachers, shall be subject to the provisions of the Public Service Appeal Board Act, 1920. I do not want to go into that further, but I thought I would mention these matters again.

As a final and most compelling argument against this Bill in the matter of the extreme doubt whether teachers can appeal at all against classifications made by regulation under the Education Act, I would like to quote from an issue of the "W.A. Teachers' Journal" dated the 14th June, 1927, as it contains a particularly relevant legal point. The extract is headed, "Appeal Board Hearing" and reads as follows:—

> On Monday, May 30th, the Public Service Appeal Board commenced the hearing of the School Teachers' claims.
>
> An important preliminary point raised by the representative of the Teachers' Union (Mr. W. E. Thomas) had to be decided before the Public Service Appeal Board could commence the hearing of school teachers' claims. The argument raised the question of jurisdiction, as between the Minister for Education, on the one hand, and the Board on the other.
>
> It will be recalled that a deadlock was created when the Chairman of the Board, (Mr. Justice Draper) announced that appeals could not be considered owing to the classification having been gazetted in the form of regulations approved by the Governor-in-Council. It was found necessary to re-publish the classification in the "Government Gazette" as a notice, leaving the way open for appeals. These have since been lodged, and when the Board's decisions are reported, the classification will be ready for gazettal.

So it will be seen that there is an opinion which has it that no appeals can be made by the union if classifications are made by regulation. Yet what the Bill endeavours to do is to make provision for classifications of teachers' salaries and allowances under Section 28E of the Education Act, which provides that the Minister may make regulations for certain purposes, including the classification of the salaries and allowances of teachers. Obviously there are going to be difficulties. I know that they can be overcome by notice being given; but the way is fraught with all sorts of difficulties, and the union is sincere in its belief that its right of appeal can be endangered.

As was pointed out to me by the president of the union, the measure can lead to the anomalous position of a decision of the appeal board not being binding. The union feels that the Public Service Appeal Board Act is central to teachers' rights; and as far as the teachers are concerned, I am informed that there is a grave objection to any interference with the Act so far as appeals are concerned. Furthermore, they are particularly aggrieved that they were not consulted beforehand.

I must apologise to the House if I have rambled. I felt it essential to my argument that I should quote at length from several journals. Surely it is clear that we should not jeopardise the rights of appeal by teachers or the union by passing this measure. I strongly urge the Minister to have a deeper look at this; and I trust that the House will defeat the measure.

THE MINISTER FOR WORKS (Hon. J. T. Tonkin—Melville) [7.43]: The House has listened to a most extraordinary speech. The member for Cottesloe, in a manner which now seems to be his custom, has used extravagant language without the slightest justification—

Mr. Hutchinson: I deny that, of course.

The MINISTER FOR WORKS: —and he has imputed to the Government, motives which do not exist at all—

Mr. Hutchinson: What did I say?

The MINISTER FOR WORKS: —in an endeavour to build up a case which might be damaging to the Government. The member for Cottesloe said that this legislation had not been requested by anyone. That is not true. The member for Cottesloe was not in a position to know whether it had been requested by anyone. So that was a statement made with no belief in its truth, because the Bill was requested by someone.

Mr. Hutchinson: By whom?

The MINISTER FOR WORKS: I will tell the hon. member in good time, and will give reasons.

Mr. Hutchinson: By the Crown Law Department?

The MINISTER FOR WORKS: The hon. member said that the Bill will destroy to a great extent what the teachers regard as their Magna Carta given in 1920. That is absolutely absurd, of course.

Mr. Hutchinson: You ask the union.

The MINISTER FOR WORKS: The hon. member went on to say that teachers already have the right of appeal, a right which has been exercised to the full since 1920 without cavil. That is his opinion; but it is not the opinion of the Solicitor General, or of the Director of Education, or of the Assistant Parliamentary Draftsman. They have expressed doubt whether these rights of appeal exist at present if the classification is made in a certain way. Although the member for Cottesloe says, by implication, that this legislation is introduced in order to harrass the teachers, the position is quite the contrary. It was introduced to benefit the teachers.

Hon. A. V. R. Abbott: You consulted the union then, did you?

The MINISTER FOR WORKS: Do not be in a hurry!

Hon. A. V. R. Abbott: Did you consult the union?

Mr. Hutchinson: I said it may have been introduced to benefit the teachers—

The MINISTER FOR WORKS: No.

Mr. Hutchinson —but that it did not have that effect. I said the Minister may have had the best intentions in the world, but he did not go deeply enough into the implications of the Bill.

Hon. L. Thorn: Of course you did. I heard you say it.

The MINISTER FOR WORKS: What the member for Cottesloe said was that it seemed to be in accordance with the policy over here to harrass the teachers.

Mr. Hutchinson: You be very careful how you state that, because I was particularly careful.

The Minister for Works: What did the hon. member say?

Mr. Hutchinson: I knew your bush-lawyer tactics.

Hon. A. V. R. Abbott: You cannot quote that from memory.

The MINISTER FOR WORKS: I have it in front of me.

Hon. A. V. R. Abbott: How can you have it? You are not allowed to quote from it.

The MINISTER FOR WORKS: The fact of the matter is that I have it.

Hon. A. V. R. Abbott: Well, do not read from it.

The MINISTER FOR WORKS: I would not attempt to.

The Minister for Housing: He may refresh his memory.

Hon. A. V. R. Abbott: That is not fair.

The MINISTER FOR WORKS: The member for Mt. Lawley was anxious to know whether the union had been consulted in connection with this. As a matter of fact, both the present Minister and the previous Minister, and I assume the Minister before that, who was Hon. A. F. Watts, took considerable care to see that this proposed legislation was not against the interests of the teachers. When it was first suggested to me that the legislation be introduced, I wrote this message to the Minister for Justice, who, of course, is in charge of the drafting of Bills—

> To enable me to get a clearer understanding of the particular difficulty which it is recommended should be removed by amending legislation, I desire to discuss it with the Solicitor General. Will you please bring this under his notice?

Subsequently the Solicitor General gave me the full story. As I do not wish in the slightest degree to present to the House something in this connection that has not been submitted to the Government, I propose to read the memorandum submitted by the Solicitor General for the advice of the Minister for Education.

Mr. Hutchinson: May I point out to you—

The MINISTER FOR WORKS: The hon. member can point out nothing. He had his opportunity.

Hon. Sir Ross McLarty: You would not allow him to talk. You held the floor for five minutes on end.

The MINISTER FOR WORKS: He had his opportunity, and sat down before his time had expired. This is the memorandum and members opposite know full well that it is going to put the skids under them.

Mr. Hutchinson: On such a narrow basis, you build your objections! You are always the same.

The MINISTER FOR WORKS: The memorandum states—

> 1. The Public Service Appeal Board Act, 1920, includes in the definition of "public servant" a person who is employed on the teaching staff of the Education Dept (S. 2) (i) (b), and by S. 6 confers jurisdiction on the Public Service Appeal Board (the P.S.A.B.) to hear and determine any appeal by any public servant or class of public servants from, inter alia, the Minister of Education in respect of "the classification, re-classification, salary or allowances of such public servant or class of public servants or his or its office or offices." S. 6 (5) then provides that "for the purposes of this section 'classification' means a classification by the Public Service Commissioner or the Minister of Education under the powers conferred by Secs. 12 and 13 of this Act." It is S. 13 which vests in the Minister for Education (subject to appeal to the P.S.A.B.) the classification of the teaching staff of the Education Department. Therefore, unless the classification or re-classification of teachers is made by the Minister under S. 13 of the P.S.A.B. Act, the right of appeal to the P.S.A.B. under that Act does not arise.
>
> 2. In November 1951, the P.S.A.B. heard an appeal by the Teachers' Union against a re-classification made by the Minister otherwise than pursuant to regulations.

I assume that this is the appeal to which the member for Cottesloe referred when he quoted Seaton, Q.C., and when I said the appeal was lost and the member for Cottesloe said it was not lost.

Mr. Hutchinson: I said you had better have another look at it.

The MINISTER FOR WORKS: Has the hon. member had another look at it?

Mr. Hutchinson: No.

The MINISTER FOR WORKS: I was right. The appeal was lost. The memorandum continues—

> The appellant argued therefore that the Minister had acted under S. 13 of the Education Act, and that therefore there was a right of appeal to the Board. The appeal was opposed on the ground that under the Education Act, 1928, S. 28, the Minister could only classify teachers by regulation approved by the Governor, and that therefore the Board had no jurisdiction to entertain the appeal.

Mr. Hutchinson: Because they were not made by regulation.

The MINISTER FOR WORKS: The Board agreed, and dismissed the appeal.

Mr. Hutchinson: Because they were not made by regulation.

The MINISTER FOR WORKS: It does not matter about the reason.

Mr. Hutchinson: Of course it matters. It was a particular occasion.

The MINISTER FOR WORKS: The member for Cottesloe disputed my statement that the appeal was lost.

Mr. Hutchinson: Nothing of the sort.

The MINISTER FOR WORKS: Fortunately it will be recorded in "Hansard" and the hon. member will be able to check it.

Mr. Hutchinson: You will be able to check it.

The MINISTER FOR WORKS: Every member who was present in the Chamber will know whether that is correct or not.

Hon. L. Thorn: He qualified it.

The MINISTER FOR WORKS: What was his qualification?

Hon. L. Thorn: You will read that in "Hansard."

The Premier: The member for Toodyay would not know.

The MINISTER FOR WORKS: The fact remains that on the occasion when Seaton, Q.C., was appearing on behalf of the union, the appeal, as I stated, was lost.

Hon. A. V. R. Abbott: What Government instructed that that formal objection be taken?

The MINISTER FOR WORKS: It was in 1951, so it would be the hon. member's Government.

The Minister for Housing: You cannot take a trick anywhere.

The Premier: Senior counsel for the member for Cottesloe is not helping him.

The MINISTER FOR WORKS: The memorandum continues—

> The Board agreed and dismissed the appeal, and held that the classification of teachers and the fixing of their salaries should be made only by regulations by the Minister for Education under S. 28 (e) of the Education Act. By inference, it is thought the Board also held that an appeal to the P.S.A.B. would be from such regulations, but the Board did not expressly say so.
>
> 3. The present position therefore appears to be:—
>
> (a) that the Minister can no longer act under S. 13 of the P.S.A.B. Act to re-classify teachers, but must make such re-classification **solely** by regulation under S. 28(e) of the Education Act; and
>
> (b) under the P.S.A.B. Act, teachers have no right of appeal against any re-classification, since their only right of appeal under that Act is when the Minister makes a classification under S. 13 of the P.S.A.B. Act; but it may probably be inferred from the Board's finding in 1951 that teachers have a right of appeal from the regulations by virtue of S. 28(2) of the Education Act, 1928.
>
> 4. Despite this judgment of the P.S.A.B. it would still be competent for a future P.S.A.B., differently constituted, to disagree with it, just as the P.S.A.B. in 1927 differed from the P.S.A.B. as constitued in 1921 and 1926. In any event, the existing legislation is conflicting and confusing.

The member for Cottesloe says there is no conflict or confusion.

Mr. Hutchinson: I made my point.

The MINISTER FOR WORKS: The Solicitor General, who advised the Government, said it was conflicting and confusing. The memorandum continues—

> 5. The purposes therefore of the Bill prepared in 1952 to amend the P.S.A.B. Act were—
>
> (a) to confirm that reclassification of teachers could be made only by the Minister by regulations made under the Education Act, 1928;
>
> (b) to confirm that teachers have the right of appeal against the classifications so made;

(c) to repeal S. 13 of the P.S.A.B. Act, which has been held to be inoperative and, while unrepealed, is confusing.

6. The history of the legislation giving rise to this position appears to be as follows:—

1871. The Elementary Education Act, 1871 (amended 1893) provided that the classification of teachers should be made by regulations made by the Governor.

1920. The P.S.A.B. Act, S. 13 vested the classification of teachers in the Minister subject to appeal to the P.S.A.B.

1920-1921. The reclassification of teachers was not effected by the Minister under S. 13 of the 1920 Act but was effected by regulation made by the Governor (presumably under the regulation making power of the 1871 Act) and appeals were made to the P.S.A.B. and dealt with by that Board without query as to the jurisdiction of the Board, or as to the legality of the re-classification having been made by regulation instead of by the Minister.

1926. Re-classification similarly made and dealt with on appeal by the P.S.A.B.

1927. The P.S.A.B. held that—

(a) the Minister alone, subject to appeal, should fix salaries under S.13 of the 1920 Act without any regulations;

(b) it was still competent for the Governor to make regulations under the 1871 Act, and these regulations would override any classification made by the Minister under the 1920 Act; and

(c) regulations so made by the Governor were not subject to any appeal by teachers.

I want to discontinue reading from the memorandum at this stage in order to deal with the argument put forward by the member for Cottesloe. He said that the right of appeal has existed without cavil since 1920. According to the decision of the Appeal Board in 1927 the position was that the Minister should fix the salaries under Section 13 of the 1920 Act without regulations. But it was still competent for the Governor to make regulations under the 1871 Act, which regulations could override the classification made by the Minister, and there would then be no right of appeal.

Mr. Hutchinson: Because they were done by regulation.

The MINISTER FOR WORKS: If we take that judgment as sound, that would be the situation today when the member for Cottesloe says that the right of appeal undoubtedly exists! If this is true, it can be taken away by regulation; yet he says there is no position to be cleared up; there is no confusion or conflict! That is the opinion he has given the House. I will resume this minute which states—

1928. Education Act, 1928, passed, Parliament assuming that it could not enact that a regulation made by the Governor should be subject to any appeal to the P.S.A.B. (It is considered that this assumption was erroneous.)

The Solicitor General advised me that in his opinion that assumption was erroneous. He went on to say—

The 1928 Act repealed the Governor's power to make regulations under the 1871 Act and substituted a power in the Minister to make regulations, but the regulations so made by the Minister were subject to the Governor's approval and were also made "subject to the provisions of the P.S.A.B. Act" (S. 28 (2)).

In summing up, the Solicitor General's advice was—

The question now arose as to whether—

(a) the power of the Governor to make regulations under the 1928 Act was subject to the whole of the provisions of the P.S.A.B. Act and therefore subject to any classification made by the Minister under S.13 of the P.S.A.B. Act without regulations; or

(b) the power to make regulations under the 1928 Act was subject only to the appeal provisions of the P.S.A.B. Act, so that the Minister could not reclassify except by regulations under the 1928 Act but that the teachers would not lose their right of appeal to the P.S.A.B. Act; or

(c) classifications could be made only by regulations, but without a right of appeal to the P.S.A.B.

Mr. Hutchinson: Well!

The MINISTER FOR WORKS: It continues—

1951. The P.S.A.B. held that classification of teachers could only be made by regulation made by the Minister under S.28 (e); but, probably by inference, that teachers could appeal against classifications so made. Unless so made, there could be no appeal.

7. Admittedly, this right of appeal would be against rights conferred by regulations made by the Minister, approved by the Governor, and not disallowed by either House of Parliament, and which regulations would therefore have the force of law. It is considered, nevertheless, that if Parliament expressly so granted the right of appeal, the grant would be valid notwithstanding that the effect of it would be to confer jurisdiction upon the P.S.A.B. to override the classification fixed by such regulations. "Parliament when acting within the limits assigned to it is not in any sense an agent or delegate of the Imperial Parliament, but has, and was intended to have, plenary powers of legislation as much and of the same nature as those of the Imperial Parliament itself" (Per Privy Council in Reg. v. Burah (1878) and Powell v. Apollo Candle Co. Ltd. (1885) 10 A.C. 282). An example of the exercise of this plenary power, including a power to delegate law-making functions, is S.18 of the National Security Act, 1939, of the Commonwealth, which provides as follows:—

> S18. A regulation made under this Act shall, subject to the Acts Interpretation Act, 1901-1937, have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

This section therefore empowered a subordinate body to override any Commonwealth Statute other than the National Security Act. Admittedly, the delegation of authority was to the Governor in Council and that the regulations would have to be tabled; but unless and until disallowed, any regulation so made which purported to repeal another Commonwealth Act would be valid.

Upon receipt of this advice, which indicated very clearly that the situation was one about which the utmost confusion and doubt arose, and upon the recommendation of the Crown Law Department that this doubt ought to be resolved in the interest of the teachers, the Government of the day—that is, the present Government —when I was Minister for Education, agreed that legislation, which had been drafted for the previous Government, would be introduced.

Hon. A. V. R. Abbott: You did not consult the union about it.

The MINISTER FOR WORKS: Hold on!

Hon. A. V. R. Abbott: I just wondered.

The MINISTER FOR WORKS: Before any steps were taken by me to introduce it, the present Minister for Education assumed the portfolio. He wished to be satisfied that everything was in order for him to proceed, and so he addressed the following minute to his director:—

> Providing you are satisfied, and the proposed Bill meets the requirements of the Teachers' Union, I shall arrange for the early printing and introduction of the proposed measure.

He was then advised by his director—

> The proposed amendment is satisfactory to the department and I recommend that the Bill be submitted to Cabinet. It is only a clarifying Bill (one of machinery) and still preserves the union's appeal rights. I do not think the union would be concerned with it.

Mr. Hutchinson: But it is. The president of the Teachers' Union says that there is a grave objection to this, especially without consultation.

The MINISTER FOR WORKS: When the Parliamentary Draftsman was submitting it to the present Minister, he summarised the position as follows:—

> The Bill as now drafted has the effect of providing—
>
> (a) That the classifications of teachers, their salaries and allowances must only be made by the Minister for Education by regulations made under Section 28 (1) (e) of the Education Act, 1928-1952.
>
> (b) That it is clear that teachers have a right of appeal against the Minister's classification, their salaries and allowances so made, to the Public Service Appeal Board.

Mr. Hutchinson: Whose opinion is that?

The MINISTER FOR WORKS: The Assistant Parliamentary Draftsman.

Mr. Hutchinson: I read a legal opinion which said that there could be no appeal against regulations made by the Governor-in-Council.

The MINISTER FOR WORKS: Did not the appeal board itself decide otherwise? This minute continues—

> (c) That Section 13 of the Public Service Appeal Board Act is repealed. This section was in conflict with Section 28 (1) (e) of the Education Act and has been held by some boards to be operative while others held it inoperative. The position of the Minister having the right to classify under two separate Acts was confusing. The repeal of Section 13 clarifies the position.

I think I have made it clear—

Mr. Hutchinson: It is not confusing if you have a look at—

The MINISTER FOR WORKS: The hon. member is the only one who considers it is not. I think I have made it clear that the advice to the Government from the officers of the Crown Law Department, from the Director of Education and in the findings of appeal boards themselves, which have been in conflict and contradictory, shows that there is a situation of confusion and conflict which requires to be clarified. The only reason—and I emphasise this point—why the Minister has brought this legislation before Parliament is to remove the confusion, remove the conflict and preserve to the teachers a right of appeal, the existence of which is in some doubt, according to the way the classification is made. The Government has acted on the advice of its legal officers, who are there to instruct it on matters of this kind.

The Minister for Education did all he was expected to do in asking his administrative head whether it would meet the requirements of the union. The director assumed, apparently because it was a machinery measure and was not taking anything away from the teachers but was giving them something, that they would be bound to want it to go through.

Mr. Hutchinson: Of course, they told me differently.

The MINISTER FOR WORKS: If they think differently about it, and if they are concerned about it, the Government has no wish to take from them something that they have in connection with their rights of appeal. As a result, the Government suggests to them that the president and secretary of the union call on the Crown Law Department and discuss the legislation with the Solicitor General, discuss their difficulties and get his point of view.

Mr. Hutchinson: What a pity that was not done before!

The MINISTER FOR WORKS: Will the heavens fall because it might be done subsequently?

Mr. Hutchinson: It just shows how this could have been obviated by a little thought.

The MINISTER FOR WORKS: I am of the opinion that when they go there and discuss it with the Solicitor General, the member for Cottesloe will have to come here and say, "I am sorry."

Mr. Hutchinson: I am expressing the views of the union, remember.

The MINISTER FOR WORKS: I thought the hon. member knew all about it. That is what he told us.

Hon. Sir Ross McLarty: Then there is no certainty that you will go on with this?

Mr. Hutchinson: There is no doubt the Minister is an astonishing person.

The MINISTER FOR WORKS: When I suggested earlier that the member for Cottesloe did not know a great deal about it, he said that he had a passing knowledge. The Premier suggested that he should have more than a passing knowledge, to which the member for Cottesloe replied, in similar terms to these, that he was being somewhat modest in his claim, and that he really knew all about it.

Mr. Hutchinson: I did not say anything about that at all.

The MINISTER FOR WORKS: Now it transpires that the member for Cottesloe, of his own knowledge, knows very little about it.

Mr. Hutchinson: That is not so. I did not say that.

The MINISTER FOR WORKS: Now he says that all he was presenting to the House was some opinion which was presented to him. Yet, on no stronger basis than that, he got up in his place here, used extravagant language against the Government and made a statement that this Bill would destroy teachers' rights—destroy something which was a Magna Carta to them. It would be difficult to conjure up more extravagant language based upon so little. Now we are told that what the member for Cottesloe said was not his own opinion at all.

Mr. Hutchinson: Of course it was; it was my own opinion based upon research with the union.

The MINISTER FOR WORKS: Now we are told that he was bringing in a case that was handed to him. I submit that the House wants something more than that. It wants not only the opinion expressed which is somebody else's opinion —and the hon. member is quite at liberty to do that—but I think he ought to have some ideas of his own about the subject, based on his knowledge of it—

The Minister for Housing: If any.

The MINISTER FOR WORKS: The member for Cottesloe has, in what he has said here, come directly in conflict with the men who advised the Government.

Mr. Hutchinson: I gave some legal opinions, too.

The MINISTER FOR WORKS: He has come directly in conflict with the legal men who advised the Government and, without exception, these legal men have informed the Government that here is a situation of confusion and doubt which ought to be clarified, and clarified in the interests of the teachers.

Hon. Sir Ross McLarty: Don't you say there is still some doubt in your mind as to whether the Government will proceed with this Bill?

The MINISTER FOR WORKS: Possibly there is.

Mr. Hutchinson: That is a concession.

The MINISTER FOR WORKS: I would hope that the Solicitor General has given such careful consideration to this measure that his advice is sound. If it is, obviously the Bill should be proceeded with. If his advice is unsound and it will do harm to the teachers, then, of course, the Bill will not be proceeded with in this form.

Hon. Sir Ross McLarty: Who will decide whether it is sound or not?

The MINISTER FOR WORKS: But I submit to the House that, in view of the conflict that has existed between appeal boards—one appeal board holding one thing and the other quite the opposite—there must exist a need to do something about it. For the time being, we can disregard the Solicitor General's opinion and that of the Assistant Parliamentary Draftsman and merely take the actual history of it so far as the appeal board is concerned.

Mr. Heal: Did you say this Bill was drafted by the previous Government?

The MINISTER FOR WORKS: Yes, and brought to this House by the previous Government.

Mr. Heal: Why are members opposite worrying about it now?

Mr. Hutchinson: You know that does not necessarily make it right.

The MINISTER FOR WORKS: Did I say it did?

Hon. Sir Ross McLarty: You said the previous Government brought it here.

The MINISTER FOR WORKS: It was introduced in this House by the Leader of the Opposition's Government.

Mr. Hutchinson: I think you are wrong.

The MINISTER FOR WORKS: Let me prove I am not.

The Premier: It was introduced, but not proceeded with.

Hon. Sir Ross McLarty: You are putting a different complexion on it now.

The MINISTER FOR WORKS: I said it was not proceeded with.

Hon. Sir Ross McLarty: You said, introduced by the previous Government; you did not say it was not proceeded with.

The Premier: He is working up to that.

Hon. Sir Ross McLarty: Under your efficient prompting.

The MINISTER FOR WORKS: Surely the Leader of the Opposition is not in the kindergarten stage! If this Bill had been proceeded with and passed, it would have been the law by now.

Hon. Sir Ross McLarty: We know that.

The MINISTER FOR WORKS: Does not that make it obvious that it was not proceeded with?

Hon. A. V. R. Abbott: You might have inquired why.

The MINISTER FOR WORKS: If there was a reason, it might have been put on the file; that is where inquiries are made.

Hon. A. V. R. Abbott: Were not you in the House?

The MINISTER FOR WORKS: There is not a line on this file to suggest other than that it was not proceeded with because there was insufficient time.

Hon. Sir Ross McLarty: The fact remains that it was not proceeded with.

The Premier: Perhaps the Leader of the Opposition can tell us why his Government did not proceed with it.

Hon. J. B. Sleeman: He did not know it was introduced.

The Premier: I will not press the question!

Hon. Sir Ross McLarty: I will not say what I was about to say!

The MINISTER FOR WORKS: This is the advice of the Parliamentary Draftsman, given in May, 1953—

> Reclassification of teachers—their salaries and allowances. I refer to the opinion given by the Solicitor General to be found on pages 1 to 3 of this file, the original of which is also on Education Department File No. 979/49. This opinion was given to the then Minister for Education, Hon. A. F. Watts. I prepared a Bill, a copy of which is to be found on page 14 of this file. The Bill was not reached before the end of the parliamentary session and was therefore not passed.

I suggest that if there was any other reason why this Bill was not proceeded with, that reason should have appeared on this file. In the absence of any other reason, any incoming Minister is entitled to assume that that is the real reason.

Hon. Sir Ross McLarty: You know that on occasions all Governments, when they have not wanted to proceed with Bills, have left them at the bottom of the notice paper.

The MINISTER FOR WORKS: If the Leader of the Opposition has another reason that would assist in arriving at a decision, he should indicate what that other reason was, if it existed, particularly as his side regards this as being of vital importance.

The Minister for Housing: He has not a clue.

Hon. Sir Ross McLarty: It is an extraordinary position that tonight you have been talking all this time on a Bill with which the Government is not sure it will proceed.

The MINISTER FOR WORKS: In view of the remarkable speech made by the member for Cottesloe without justification, it was to be expected that a reply would have to be made from this side of the House, and it was very necessary for me to state in extenso the advice given to the Government on this matter. If the member for Cottesloe had not got up here and given somebody else's opinion—

Mr. Hutchinson: Do not be silly!

The MINISTER FOR WORKS: —and used the extravagant language he did, there would have been no necessity for me to speak in connection with this Bill tonight.

Mr. Hutchinson: Drivel!

The MINISTER FOR WORKS: It is all very well for the hon. member to say that, after all the tripe he put up.

Hon. Sir Ross McLarty: So it is a matter of drivel and tripe; which is it?

Hon. L. Thorn: It is a matter of one teacher against another.

The MINISTER FOR WORKS: Oh, is it? I hope there is considerably more substance in what I have placed before the House than there was in what was presented by the member for Cottesloe when he gave us somebody else's opinion.

Mr. Lawrence: I think you should give him six cuts!

The MINISTER FOR WORKS: To indicate that the Government has no other reason for the introduction of the legislation than the reasons submitted to it by the Crown Law Department, I have made the suggestion that the president and the secretary of the Teachers' Union, if they are in doubt and concerned about the matter, should discuss the legislation with the Solicitor General.

Mr. Hutchinson: With that I wholeheartedly agree; I wish it had been done earlier.

The MINISTER FOR WORKS: If they are then not satisfied, they can make their submission to the Minister for Education who, I have no doubt, will give the fullest consideration to their point of view and will go into the matter again. But I am entitled to assume that the advice so carefully given, was not tendered without adequate study by Crown Law officers, and I would be very surprised indeed if it subsequently proved that the union had any grounds whatever for the fears that have been expressed. If this advice is sound—and I have no reason to believe otherwise, in view of the history of the whole development—then I would expect that the union would be most anxious to have the legislation passed.

Hon. Sir Ross McLarty: We had better adjourn the debate for a month to let you make up your mind.

The MINISTER FOR WORKS: That is a fine thing for the Leader of the Opposition to say, when he was not aware that his Government had introduced the Bill. He ought to talk about making up one's mind! If ever there was a Government that could not make up its mind, it was the Government led by the Leader of the Opposition.

Hon. Sir Ross McLarty: Sez you!

The MINISTER FOR WORKS: That Government vacillated for months on important decisions that should have been made.

Hon. A. V. R. Abbott: That is not fair or accurate; you stick to your argument.

Hon. Sir Ross McLarty: The Government gave you a good start.

Mr. SPEAKER: Order! The Minister has one minute and a half of his time left.

The MINISTER FOR WORKS: That is sufficient time, Sir. The good start to which the Leader of the Opposition referred was a legacy of works and no money with which to do them.

On motion by Mr. Johnson, debate adjourned.

BILL—HEALTH ACT AMENDMENT (No. 2).

Second Reading.

THE MINISTER FOR JUSTICE (Hon. E Nulsen—Eyre) [8.38] in moving the second reading said: This Bill has been drafted as a result of a request from the Commonwealth Minister for Health, following a request to him from State and Commonwealth health representatives who have held conferences on the matter of therapeutic substances. This is another healing Bill. The Commonwealth Government has for some time expressed concern at the quality of and conditions under which certain drugs in use under the Commonwealth pharmaceutical scheme were produced.

The Commonwealth passed a Therapeutic Substances Act in 1937; Britain passed one in 1925. In 1953, the Commonwealth repealed the 1937 Act and passed a new Therapeutic Substances Act, which controls the matter of therapeutic substances to the limits of the Commonwealth constitutional power. The States have been asked to introduce appropriate legislation to fill in the gaps for which the Commonwealth cannot constitutionally legislate. The principal deficiencies in the Commonwealth legislation are the inability of the Commonwealth to license or control the manufacture of therapeutic substances in a particular State and to control the standards of therapeutic substances which have a purely local State sale.

This Bill seeks to be complementary to and in aid of the Commonwealth legislation and to control therapeutic substances within the State of Western Australia. The measure will not come into operation until proclaimed. This will enable regulations, forms, etc., to be prepared in readiness for the commencement of the Act. The interpretation of "drug" in the principal Act has to be amended to include "therapeutic substances." As the provisions in the principal Act which apply to drugs will now apply to therapeutic substances, it is considered desirable to include a physiologist on the advisory committee The attendance fees paid to those on the advisory committee who are not employed by the Government were limited in the Act. An amendment is proposed to allow the fees to be prescribed, i.e., by regulation.

A new division is to be inserted in the principal Act dealing with the manufacture of therapeutic substances. They shall not be manufactured for sale unless manufactured on licensed premises. The Commissioner of Public Health is the licensing authority. An offence against this provision incurs a penalty of £200 and, in the case of a continuing offence, a further fine of £10 for each day or part of a day during which the offence continues.

A licence granted by the commissioner shall—

specify the premises to which it relates;

continue in force for a period of twelve months.

It may be granted subject to conditions. It many be revoked or suspended. There is a right of appeal to a judge. The Governor may make regulations prescribing forms, fees and other matters necessary for the protection of health. The regulations may prescribe a penalty not exceeding £50 for a breach of any regulation. I move—

That the Bill be now read a second time.

On motion by Mr. Court, debate adjourned.

BILL—CONSTITUTION ACTS AMENDMENT.

Second Reading.

Debate resumed from the 9th September.

MR. JAMIESON (Canning) [8.33]: The Leader of the Country Party who seemed to have set himself up on this occasion as the mouthpiece of the Opposition parties—

Mr. Oldfield: You would not take him on if he were here.

Mr. JAMIESON: He could have been here.

Hon. Sir Ross McLarty: He could not be here.

Mr. JAMIESON: The Leader of the Opposition raises a moot point. I can take him on when he is here, too. The Leader of the Country Party remarked that he doubted very much whether the measure would get through because he was sure that nobody on his side of the House would support the Government in giving it the constitutional majority necessary to pass this measure.

Hon. A. V. R. Abbott: Did you hear him say that?

Mr. JAMIESON: Yes, it is on record.

Hon. A. V. R. Abbott: Did you hear him say that?

Mr. JAMIESON: No, but I read it in "Hansard". The point is that he objected on several grounds to this Bill being brought forward, one being that the Government was taking the provision out of the Constitution Acts Amendment Act and another that he did not believe that the qualifications of the electors for the Legislative Council were at present used to their fullest advantage. It is a poor argument to object to the Bill by saying that it will take certain provisions out of the one Act and insert the sections dealing with enrolment for the Legislative Council in some other Act.

The constitution of most bodies governs the persons who shall be qualified as members. However, we cannot accept such a set-up on the high plane of State affairs. There must be a separate Act for the different branches of Government. It would be most unwieldy if all Acts of Parliament were to be incorporated into one in order to get them into line, and say that that Act shall rule a State. That is a very weak argument. Of necessity many Acts must be divided so that they can be more easily used in the government of a country.

The second argument of the Leader of the Country Party was that insufficient use had been made of the present franchise, and that only about 50 per cent. of the people entitled to vote did so. He further suggested that we should examine the position so as to put more people on the rolls in the various areas. It is rather interesting to note that the figures supplied by the Minister for the South Province, which includes the electorate of Stirling, show that there are 1,226 enrolled for the Legislative Council and 5,371 for the Legislative Assembly, or less than one-quarter of the Assembly enrolments. If the Leader of the Country Party wants to do something in that regard he should set an example in his own electorate. From the tenor of his remarks I doubt very much if he has done anything to enrol more persons for the Legislative Council in his district.

There are many difficulties in the way of enrolling more people for the Legislative Council because the person eligible, generally the breadwinner of a household, is away at work all day. He can be contacted only in the evenings or during the week-ends. The only evenings that can be availed of to canvass from door to door are during the summer. In the wintertime it is too dark in some areas for a person to find his way in the evening. The Leader of the Country Party seems to be under this impression, "We will not worry anyway. We do not have to bother. We always seem to get our candidate in without opposition in the South Province."

I notice that about one-sixth of those enrolled for the Legislative Assembly voted for the Council elections. At the last election 48.95 per cent. of those eligible voted in the provinces where the seats were contested. That was not a high figure. some doubt exists in the minds of electors as to whether they are enrolled. I consider that the elimination of Sections 15, 16 and 17 of the Constitution Acts Amendment Act is a good move. It will do away with the confusion which now exists in the minds of electors as to their qualification to vote.

At the present time there are four rolls on which people are entitled to be registered. Very often when people are asked if they are on the Council roll they will reply in the affirmative, thinking that it refers to the local governing body's roll. In order to ascertain the true position it is often necessary to make inquiries at the Electoral Office. The member for Stirling said that in many cases where a woman, who is the owner of a property, was enrolled on the Council roll, her husband was included as the householder.

A close relative of one of the members opposite argued very heatedly that he was not entitled to be on the roll for the Legislative Council. After I had spent some time in convincing him, he signed a claim card and was subsequently enrolled. That person was an accountant, and yet he did not seem to be aware of his entitlement. There is a glaring instance of what happens in the community. The Leader of the Country Party went on to say that because the Legislative Council vote is not compulsory, in his opinion it should be regarded as the negation of democracy. I do not know how he derives the opinion that this particular set of conditions is a negation of democracy.

If people are compelled to live up to their obligations and it is considered to be a negation of democracy, then I venture to say that it is a negation of democracy to compel people to pay their income and other taxes to show their obligation to the community. I do not hear any member of the Opposition putting forward such an argument and saying that it is a negation of democracy to compel people to pay their just taxes and commitments for the government of the country. In my opinion, it is not a very good argument. Some people use the word "democracy" rather loosely. It is defined as coming from the Greek "demos" meaning the people and "Kratos" implying strength or power. I cannot see how the people can exercise either strength or power if their franchise is limited, and that is what the Opposition evidently desires to maintain as long as possible, namely, to deny the people the right to select a democratic Government.

Democracy perhaps may be more clearly defined as that form of government in which the supreme power is vested in the people and exercised by them either directly or indirectly by means of representative institutions. Nobody by any stretch of imagination can claim that the present franchise for the Legislative Council makes for a representative institution. In this regard, there is much to be said for the amendment contained in the Bill.

Section 17 of the Constitution Acts Amendment Act deals with disqualifications. I looked this section up because it struck me as being somewhat severe. It says—

> Every person nevertheless shall be disqualified from being registered as an elector who—
>
> (1) Is of unsound mind or in the receipt of relief from Government or from any charitable institution.

Going back to 1935, I found a report of a Royal Commission consisting of members of both Houses to consider the Electoral Act, the Constitution Acts Amendment Act and any other Acts appertaining to the matter. The commission consisted of the Hons. J. Cornell, C. F. Baxter, G. Fraser, H. S. W. Parker, and A. Thomson representing the Legislative Council and Hons. J. C. Willcock, C. G. Latham and F. J. S. Wise, and Messrs. A. R. G. Hawke and R. R. McDonald.

One of the recommendations relating to Section 18 of the Constitution Acts Amendment Act was that the present disqualification in relation to persons in receipt of sustenance from the State or from any charitable institution should be abolished. Like the reports of most Royal Commissions, this report was shelved and forgotten. At any rate, no action was taken about it. I maintain that that is a very harsh provision when one considers that, if it were rigidly applied, it would greatly limit the number of names that could be placed on the roll. It would disqualify pensioners and anyone receiving relief from the Government even though they possessed the property qualifications.

If ever there was a negation of democracy, it exists in that section of the Act. Dealing with other portions of the Act

which it is desired to repeal, I notice that amongst the qualifications laid down in Section 16 of the Act are the following—

> Where any premises are jointly owned, occupied or held on lease or license within the meaning of the last preceding section, by more persons than one, each of such joint owners, occupiers, leaseholders or licensees not exceeding four, shall be entitled to be registered as an elector.

I should like to see members of the Opposition try to put four persons on the Council roll as householders irrespective of whether they were paying rent to the landlord.

The card would be returned from the electoral office with a query and the people concerned would give it away as a bad job. In many cases this is what happens. An objection which has been stored up by the department is sent to the applicants and they are informed that they no longer possess the qualifications necessary to be on the Council roll. Some persons have filled in cards describing themselves as "owner" instead of "freeholder."

"Owner" is the term that nine out of ten people use, but that is not accepted by the department. Although such people have the requisite qualification, the department has its own ideas and the card must be returned word perfect. Thus many legitimate claims are rejected and people will not bother further because they know that enrolment is not compulsory. Members endeavouring to get people enrolled become fed up after they have been refused in that way. Even though members endeavoured to the best of their ability to get people enrolled for the Council, they would get much less than 50 per cent. of the strength of voters on the Assembly rolls.

It was argued by the Leader of the Country Party that people would be entitled to vote who probably had no desire to do so anyway. Let me refer to the statistics when the Assembly voting was on a voluntary basis, but under an open franchise that enabled every person to know where he stood. On polling day on the 8th April, 1953, the votes recorded in all the Assembly electorates that were contested represented 90.6 per cent. of the enrolments, which is just about equal to what we get now under compulsory voting. At any rate there was not much difference.

At the last election under voluntary voting the percentages of votes recorded to enrolments was 70.13, which is very different from the Legislative Council percentage of about 48 per cent. of the people on the Council roll who voted. The explanation is that, in the main, the issue is confused and people do not know whether they are entitled to vote at that election or not. Because of Press publicity, many people say, "If voting is not compulsory, we do not have to bother to find out whether we are on the roll and we will not go to the poll." This could lead to a candidate's losing an election. I refer to an election where the issue is close and where one candidate might not have the facilities to take his supporters to the poll. In bad weather some people would prefer to stay indoors and thus their votes would be lost to that candidate.

The whole position is unsatisfactory and would necessitate a lot of changes in the set-up before it could be said to be suitable to the people as a democracy, and give them a fair chance of selecting the Government they desire. If ever an amendment to a statute was necessary, an amendment to the Constitution Acts Amendment Act is one that warrants the attention the Government has given it.

On motion by Mr. Norton, debate adjourned.

BILL—LOTTERIES (CONTROL).

Council's Message.

Message from the Council notifying that it had agreed to amendments Nos. 2 and 3 made by the Assembly and had agreed to No. 1 subject to a further amendment now considered.

In Committee.

Mr. Brady in the Chair; the Minister for Housing in charge of the Bill.

No. 1. Clause 4: Page 2, line 26—Add before the word "for" the words "substantially maintained".

The CHAIRMAN: The Council agree to the Assembly's amendment subject to the following further amendment:—

> Delete the word "substantially" and add after the word "maintained" the words "wholly or in part".

The MINISTER FOR HOUSING: I move—

> That the amendment, as amended, be agreed to.

It will be recalled that when the measure was previously being considered in this Chamber the member for Nedlands successfully moved an amendment to insert the words "substantially maintained" in the relevant provision, which then read "any home or institution in the State substantially maintained for the reception of dying or incurable persons in indigent circumstances." Another place seeks to delete the word "substantially" before the word "maintained" and to insert after the word "maintained" the words "wholly or in part."

Mr. COURT: I, also, think we should agree to the amendment made by the Legislative Council, as apparently another place thinks the wording it has suggested is more euphonious.

Question put and passed; the Council's amendment to the Assembly's amendment agreed to.

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

BILL—JURY ACT AMENDMENT.

Council's Amendments.

Schedule of three amendments made by the Council now considered.

In Committee.

Mr. Brady in the Chair; the Minister for Justice in charge of the Bill.

No. 1. Clause 4, page 2—Delete the words "twenty-one" in line 18 and substitute the word "thirty."

The MINISTER FOR JUSTICE: I move—

That the amendment be not agreed to.

It is hard to understand why another place wishes to make this differentiation of nine years between men and women. I believe that a woman of 21 years of age has at least as much stability as a man of the same age.

The Premier: She needs it, at that age.

The MINISTER FOR JUSTICE: In England, in Queensland and in New South Wales women are eligible to serve on juries at 21 years of age. I see no reason to think that women are not the intellectual equals of men and I would remind members that in some parts of the world there are women judges and that we have women justices of the peace, legal practitioners and members of Parliament. I have received two or three phone calls a day, as well as a number of letters from various organisations protesting against this discrimination between men and women.

Mr. Yates: How many women who have approached you have been under the age of 30?

The MINISTER FOR JUSTICE: I do not know, but how many men desire to sit on juries, even at the age of 30?

Hon. A. V. R. Abbott: None. They are not enthusiastic.

The MINISTER FOR JUSTICE: The president of the Women's Service Guild, the president of the Justices' Association and the presidents of the Labour Women's Association and various other women's organisations have approached me to find out why the Legislative Council has adopted such an attitude. The leading article in "The West Australian" this morning asked why such a distinction should be made.

Hon. A. V. R. ABBOTT: We might take more notice if the Minister were more consistent. First of all he said that the Queensland Act was a good one, and I hope he remembers that when we are dealing with the next amendment. The Minister was not consistent when I moved to give women equality with men.

The Minister for Justice: When was that?

Hon. A. V. R. ABBOTT: When I suggested that the property qualifications should be the same for women as for men.

The Minister for Justice: But they are not on an equal basis.

Hon. A. V. R. ABBOTT: Is the Minister prepared to put men and women on exactly the same basis?

The Minister for Justice: Do you mean to wipe out the qualifications for men?

Hon. A. V. R. ABBOTT: We should be consistent.

The Minister for Justice: Do you believe that women are less intelligent than men?

Hon. A. V. R. ABBOTT: No, I do not. If a Bill were introduced to increase a man's qualifying age to 30 before he became eligible to sit on a jury, I do not say that it would not have my support. A jury has an important function to perform. It is a system that requires a good deal of balance. In some States that balance has not existed. There has been a good deal of criticism of the conduct of some juries in the Eastern States. Had the Minister suggested that the minimum age should be 30 for both men and women, I would have given that suggestion some consideration.

Mr. Lawrence: Was that because the age of the juror was under 30?

Hon. A. V. R. ABBOTT: No, I did not say that.

Hon. J. B. Sleeman: You believe that whiskers denote wisdom.

Hon. A. V. R. ABBOTT: Does the hon. member believe that his wisdom has died because he has reached the age of maturity?

Hon. J. B. Sleeman: No, I think it has improved.

Hon. A. V. R. ABBOTT: So do I.

The Premier: The vanity of old age!

Hon. A. V. R. ABBOTT: I believe that the suggestion contained in the amendment is a good one, and I propose to support it. What experience has a girl of 21 had? She will have to deal with criminal and sex cases if she is forced to serve on a jury. Is it a nice thing for young girls, in the fresh bloom of their youth, to serve on juries, when all their thoughts should be of romance? Is it a nice thing for a young girl to be disillusioned and hardened at that age?

Mr. Lawrence: How long is it since you were out with a girl of 21?

Hon. A. V. R. ABBOTT: It is a long time since I took my wife out.

Mr. Cornell: How long is it since he has been out?

Hon. A. V. R. ABBOTT: I do not propose to answer that comment.

The CHAIRMAN: The member for Mt. Lawley has the floor.

Hon. A. V. R. ABBOTT: I agree with you, Mr. Chairman, that this levity is most unseemly in discussing a matter that should be treated with a modicum of seriousness. In returning to a serious note, I do not think that a young girl is fit to adjudicate on unpleasant criminal cases. I admit that she is not forced to serve under this measure, but I challenge any members opposite to say that they would like their daughters to sit on a nasty case. Would they like their daughters to serve? I know that there is not one that would.

The Minister for Housing: They know their onions long before 21.

Hon. A. V. R. ABBOTT: It is very unfortunate if they do.

The CHAIRMAN: I think some of this discussion is well away from the amendment.

The Minister for Housing: Many of them are married before 21.

Hon. A. V. R. ABBOTT: That is not "knowing their onions," is it? I appeal to the Minister to give this question some further consideration. It is not a matter of consistency because the qualifications are not the same. If the Minister is to talk of consistency, he should not argue along that line. As with a man, a woman is more mature at 30 years of age. In fact, I would sooner a man be eligible to sit on a jury at 30 years of age than at 21.

The Minister for Justice: They would really be more mature at 40, would they not?

Hon. A. V. R. ABBOTT: Yes.

The Minister for Housing: What about 90?

Mr. Lawrence: What about girls who follow the nursing profession?

Hon. A. V. R. ABBOTT: That is a very honourable profession which is really a vocation. There are others who take the veil. There is nothing half so nasty in the nursing profession as some dirty cases that frequently have to be adjudicated on in the courts. No nice girl of 21 would want to serve on a jury.

Mr. Lawrence: After listening to you, I think you should have taken the cloth; you would have made a good preacher.

Hon. A. V. R. ABBOTT: The amendment is a good one. It will lead the way to more stability and an opening for women who are more mature to serve on juries.

The MINISTER FOR JUSTICE: I still disagree with the member for Mt. Lawley. He has not raised one reasonable argument to show why I should change my mind. He has not shown why a woman should be 30 before she serves on a jury.

Hon. A. V. R. Abbott: I did not say that.

The MINISTER FOR JUSTICE: The hon. member says that I am inconsistent, but I am not. Generally, a woman does not own property at 21 or even 30 years of age. A woman of that age would never get a vote if she had to have the property qualification. The member for Mt. Lawley is actually telling the women of this State that they are not as intelligent as men.

Hon. A. V. R. Abbott: I am not.

Mr. Heal: You said that they are not mature at 21 years of age.

The MINISTER FOR JUSTICE: Yes, that is what he said.

Hon. A. V. R. Abbott: Yes.

Mr. Heal: Well, what does that mean?

The MINISTER FOR JUSTICE: There has been no argument raised as to why women should not be on the same basis as men. They want equality, and they are entitled to it.

Hon. A. V. R. Abbott: There are some that do not.

The MINISTER FOR JUSTICE: There may be a few, but they are probably as much out of date as members in the Legislative Council. They do not realise that time is marching on. Even in England a woman of 21 is compelled to serve on a jury unless she can prove that she is sick or has some reasonable excuse. Under this Bill a woman can make application to be relieved of her obligations to serve on a jury. I am quite sure that the member for Mt. Lawley was not serious in his remarks because he would not seek for a difference of nine years between a man and a woman who are eligible to sit on a jury.

Question put and passed; the Council's amendment not agreed to.

No. 2. Clause 4—In subsection (1) of proposed new section 5A add a further paragraph to stand as paragraph (c) as follows:—

> (c) notifies in writing the Resident or Police Magistrate of the district in which she resides that she desires to serve as a juror.

The MINISTER FOR JUSTICE: I move—

> That the amendment be not agreed to.

Hon. A. V. R. Abbott: To be consistent, are you going to quote the Queensland Act this time?

The MINISTER FOR JUSTICE: No, I am not. This is our legislation. I only quoted the Queensland and other Acts to show that they do not have that qualification in their legislation. In this case we are providing that a woman can apply to the sheriff in writing if she desires to be

relieved of her obligations to serve on a jury. In England, any female between the ages of 21 and 60 years is qualified to serve on a jury, and she has no option except in the case of sickness, or other such reasonable cause. Women are quite intelligent, and if I were a woman of 21 years of age I would soon realise that I could write in for exemption. There are few women today who cannot read or write and all they have to do is to write in to the sheriff to be relieved of their obligations. How many women would make application to serve as jurors if it were compulsory?

Hon. A. V. R. Abbott: You do not approve of compulsion being applied to women?

The MINISTER FOR JUSTICE: It depends on the circumstances.

Hon. A. V. R. Abbott: You do not believe in compelling women to serve on juries?

The MINISTER FOR JUSTICE: Under this measure we are giving them the option. Surely the option is quite plain and understandable. There is no reason why they should not take advantage of it. I do not feel that we should have serving on juries only those women who desire to serve. There are quite a number of women who would not make application to serve, but who would do so if they were enrolled. They would then consider it was their duty to serve.

Hon. A. V. R. ABBOTT: I do not think the Minister is very consistent. On this occasion he disagrees with the Queensland Act, but previously he was in agreement with it.

Mr. Heal: He has quoted the Queensland Act only in regard to certain clauses.

Hon. A. V. R. ABBOTT: Just because the hon. member is a little simple in some ways, do not let him think other members are. They will understand my argument.

Mr. Johnson: Do you?

Hon. A. V. R. ABBOTT: The Minister quotes the Queensland Act when it is in his favour, but he does not quote it when it does not favour his views.

The Minister for Justice: We do not follow Queensland legislation.

Hon. A. V. R. ABBOTT: Then why quote it as an authority?

The Minister for Housing: He was picking the good points out of it, that was all.

Hon. A. V. R. ABBOTT: That is all right; he did not put it that way. Consider the expense to which the country will be subject by the non-acceptance of this amendment! Imagine having to enrol every woman in the metropolitan area! Then when a jury is to be summoned, anything from 50 to 200 notices will have to be despatched. Ninety-nine per cent. of those summoned will reject service. What will happen? Some unfortunate woman will receive a notice—and many people are terrified by official documents, particularly women—and she will not know whether she has to attend on a jury or not. There is nothing in the measure saying that there shall be notification or explanation.

Mr. Lawrence: Is that why your crowd let women get summonses for eviction? Do you not think that such a notice would terrify them?

Hon. A. V. R. ABBOTT: The hon. member should keep quiet! He is best when he is silent.

Mr. Lawrence: I am sure you are not a Rhodes scholar.

Hon. A. V. R. ABBOTT: The hon. member is all right on a soap box.

The Premier: Well, a soap box is clean.

Hon. A. V. R. ABBOTT: Is the outside clean?

The Premier: Yes.

Hon. A. V. R. ABBOTT: Sometimes the inside is. Is it pleasant for a woman to receive an official document, which she does not understand, summoning her for jury service? Such a woman may have to leave her washing and get someone to look after her babies, tramp in to the sheriff's office, and ask whether she has to serve, only to be told that she does not. This will cost the Government thousands of pounds.

Mr. Lawrence: How many?

Hon. A. V. R. ABBOTT: There will be a waste of money on unnecessary notices. The Minister says he does not want to compel women to serve on juries but only to do so if they desire. Does he want to use undue influence?

The Minister for Justice: Why not let all men express a desire? If that were done, what would happen to our juries?

Hon. A. V. R. ABBOTT: That is different. If the Minister wants to abolish the jury system, well and good; we will consider it. That matter is not now before the Committee. The Minister knows how many times each session he has applications from some of his supporters to get them off juries. But a man has to serve while the jury system is in existence. Under the Government's policy, women are asked to do so only when they desire. Why use undue pressure by putting their names on the jury list and making them lodge an application if they do not wish to serve, thus insinuating that it is their duty to serve, but adding a little note that if they do not want to perform that duty, they may repudiate it? That is the Government's attitude.

The Premier: Not repudiate.

Hon. A. V. R. ABBOTT: Yes. Is not refusing duty repudiating it?

The Premier: No, not if there is discretion.

Hon. A. V. R. ABBOTT: That is what the Governments wants. That was the argument of the Minister. The Minister admits that he wants women to serve only if they so desire. Is it not logical to allow them to express their wish?

The Minister for Justice: Would you make it compulsory for women?

Hon. A. V. R. ABBOTT: No. I would only compel women who desire to serve on juries, and would not try to use any indirect influence on women by putting them on a list, telling them it is their duty to serve, and then forcing them to repudiate such duty. There is no doubt that by putting their names on a list it is suggested that their duty is to serve.

Hon. J. B. Sleeman: So it is.

Hon. A. V. R. ABBOTT: Why not let those who feel that they have the qualifications to serve, and that it is their duty to do so, ask to have their names put on the list? That is much more sensible, and it is what is done in every other State.

Hon. J. B. Sleeman: What about Great Britain?

Hon. A. V. R. ABBOTT: They are compelled to serve there; but the Minister does not agree with that.

Mr. Lawrence: You are insinuating that only a section are fit to serve.

The Minister for Justice: Only the quizzy ones.

Mr. Lawrence: You will not answer.

Hon. A. V. R. ABBOTT: I have answered enough of the hon member's interjections. I will answer the rest in the lobby.

Mr. Lawrence: In the bullring, if you like.

Hon. A. V. R. ABBOTT: The Minister is using what I call undue pressure to get women to serve on juries. He says they do not have to do it; but he does not hesitate to do everything in his power to make them do it. He puts them on the list, and is going to summon them to appear as jurors, and they have to repudiate their duty. Is that putting on the list only those who wish to serve? Of course not! Why does the Minister not admit it? Why not say he would like to put all women on juries, like the member for Fremantle? That is his policy, but he is frightened to do it, and is using indirect pressure to make them serve. I think that only those who feel they have the qualifications and who—out of a sense of duty—desire to serve on juries, should be able to apply.

The Premier: They could be most unsuitable.

Hon. A. V. R. ABBOTT: Any woman could be, and so could any man. That is no argument. Some men are entirely unsuitable. If those who desire to serve enrol, it will not cost the country thousands of pounds.

The Minister for Justice: Would you advocate doing away with juries altogether in order to save expense?

Hon. A. V. R. ABBOTT: In many cases we have done so. I believe in saving expense in government wherever we can. This Government has not too much money; it is always asking for more. Yet it is prepared to throw away thousands of pounds. Of course, provision could have been made for each woman to be written to asking if she desired to serve on a jury; or telling her that she was obliged to, but that if she was not willing to, she could write immediately and say so. But that is not done.

The Minister for Justice: Women are not children.

Hon. A. V. R. ABBOTT: No; but they do not all know the provisions of Acts of Parliament. A good many members do not know many Acts; they do not even understand Bills.

The Minister for Justice: On the other hand, ignorance is no plea.

Hon. A. V. R. ABBOTT: That is the very thing I am pleading. I am appealing on behalf of women who cannot plead ignorance as an excuse. I suggest that many women will be put to inconvenience. With that the Premier will agree; but he says it is necessary, in the interests of the country. I say it is not, and that is where we differ. I hope the amendment will be accepted.

Mr. McCULLOCH: I am surprised at the member for Mt. Lawley. I think he is a poor judge of human nature.

Hon. A. V. R. Abbott: Some of your goldfields members supported the amendment.

Mr. McCULLOCH: I can recall the hon. member saying that it was an honour to serve on a jury. I do not agree with that; but under this amendment, women will have to chase that so-called honour. Would the hon. member go and chase such an honour?

Hon. A. V. R. Abbott: Who suggested that serving on a jury was an honour?

Mr. McCULLOCH: The member for Mt. Lawley suggested it some time time ago, when he was on this side of the House and I requested extra payment for jurors. He said such extra payment was not justified because to serve on a jury was an honour.

The Premier: I think I recall the hon. member saying that.

Hon. A. V. R. Abbott: I said it was a duty.

The Premier: No.

Mr. McCULLOCH: We have to forget the medieval age when women had their hair hanging down their backs. Those days are gone, and women are every bit as intelligent as men at 21. I would say they are more intelligent. My daughter is more intelligent than my son, who is four years older. I do not agree that any person should have to ask to be given an opportunity to do anything of this kind. The Bill provides that if women do not want to serve, they can obtain exemption. Women are being sought as officers in the Australian women's services, and those over 27 are not wanted because they are considered to be past their best. We have been told that women are not mature until they are 30. I disagree with that. My experience is that women are in advance of men. It would be interesting to learn how women students of colleges and universities compare with men in their qualifications.

The Minister for Justice: Women are usually the best students.

Mr. McCULLOCH: Most certainly. Why we have a proposition that women are not capable of serving on juries or giving fair decisions until they are 30, beats me. I saw in the Press, not long ago, that a lady under 30 years of age was admitted to the legal profession, and I understand there are two or three other women in the legal profession in this State. If a woman is capable of conducting a case—whether it be murder or anything else—surely she would be able to sit with eleven others as a jury and arrive at a fair and unbiased decision! I agree with the amendment.

Hon. Sir ROSS McLARTY: I refer the Minister to Clause 4(2) of the Bill as it left this Chamber. When a woman has received a notification that she has to serve on a jury, can she then object and be exempted by notifying the responsible officer that she has no desire to serve?

The Minister for Justice: She can most decidedly be exempted.

Hon. A. V. R. Abbott: When does the exemption cease?

The Minister for Justice: After she has been sworn in. That is in accordance with the amendment I moved, more or less as directed by the Leader of the Opposition.

Hon. Sir ROSS McLARTY: I agree with the view expressed by the Minister, but surely a highly unsatisfactory state of affairs is bound to arise. Hundreds of women may be summoned to serve on juries, and the vast majority of them will refuse.

Hon. J. B. Sleeman: That state of affairs will not last for long.

Hon. Sir ROSS McLARTY: Does the hon. member think they will write in?

Mr. Lawrence: If the position is adequately advertised, they will.

Hon. Sir ROSS McLARTY: I think the position is most unsatisfactory. I agree with the member for Mt. Lawley. Great numbers of notices will be sent out, and the women, up to any stage, can say, "We do not want to sit on the jury," and they become exempt. There is some merit in the proposals of the Legislative Council, because women who do not wish to serve on juries can notify the sheriff that they do not wish to be empanelled and he will know then exactly what women were available. Surely the set-up whereby women, up to the last minute, can say they have no wish to serve on a jury and automatically become exempt, is very unsatisfactory!

Hon. J. B. SLEEMAN: It seems to me we have a very poor opinion of the women of this country.

Hon. Sir Ross McLarty: No.

Hon. J. B. SLEEMAN: Yes. Anyone who listened to the Leader of the Opposition would think they knew nothing.

Hon. Sir Ross McLarty: I do not know how you arrive at that conclusion.

Hon. J. B. SLEEMAN: If this were agreed to, every woman would be entitled to write in and say she did not want to be on the jury. Does the Leader of the Opposition want to tell me that many women who do not want to sit on juries will not have the necessary letter sent in? Of course they will. The position will be known throughout the length and breadth of the country within the first week or two. I will admit that on the first call-up there will be one or two who will not know that they have the right to claim exemption. But the numbers would be small, and after the first lot were caught, not many others would be.

As a matter of fact, I think women should serve on juries as a duty. I would specify certain reasons allowing them exemption. I would say, for instance, that a woman could claim exemption on account of approaching maternity—some women are incapable of having children—or because she was the mother of a young family. We stand for the equality of sexes, and I noticed in the paper that Mr. Watson, M.L.C., said, "Let us have equality of the sexes and vote for this."

Hon. A. V. R. Abbott: Mr. Heenan, of Kalgoorlie, did not vote for it.

Hon. J. B. SLEEMAN: No, but Mr. Watson agreed with the principle of equality of sexes, and most of us agree with it. Under this measure there is not equality, but let us pass the Bill and then, perhaps, we can provide equal terms by bringing down another measure to say

that the property qualifications for men are wiped out and that everyone between the ages of 21 and 60 years is liable to serve on a jury.

The MINISTER FOR JUSTICE: I agree with the argument put forward by the member for Hannans and the member for Fremantle.

Hon. A. V. R. Abbott: You believe in compulsory juries, too.

The MINISTER FOR JUSTICE: I believe in what is in the Bill. I do not want anything extraneous to it. The member for Fremantle has said that he agrees with the Bill.

Hon. A. V. R. Abbott: He says it ought to be compulsory.

The MINISTER FOR JUSTICE: He agrees with the Bill, but he would go further if he had his way. This is not going to involve such a lot of inconvenience, because the percentage of women would probably be small. Some 40 or 50 can be summoned, and only 12 good persons are required. I do not think there will be many objections. I disagree with the amendment.

Question put and passed; the Council's amendment not agreed to.

No. 3. Clause 10, page 4—Delete the word "empanelled" in line 23 and substitute the words "sworn as a juror on the trial."

The MINISTER FOR JUSTICE: I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

Resolutions reported and the report adopted.

A committee consisting of Hon. A. V. R. Abbott, Hon. J. B. Sleeman and the Minister for Justice, drew up reasons for not agreeing to certain of the Council's amendments.

Resolutions adopted and a message accordingly returned to the Council.

House adjourned at 10.5 p.m.

Legislative Council

Wednesday, 15th September, 1954.

CONTENTS.

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

ASSENT TO BILLS.

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

1, State Housing Act Amendment.

2, Government Railways Act Amendment.

QUESTIONS.

GERALDTON SILO SITE.

As to Resumptions and Compensation Payable.

Hon. L. A. LOGAN asked the Chief Secretary:

(1) When is it expected that a commencement will be made on the bulk handling silo in Geraldton?

(2) Is it a fact that there are nine houses on the selected site?

(3) If the answer to No. (2) is in the affirmative, has any notice of resumption been given to the owners?

(4) If not, when will notice be given?

(5) If resumption is to take place, will the Minister arrange for compensation to be made as early as possible, to enable owners to make alternative arrangements?