of years in the metropolitan area and—once again to the best of my knowledge—no-one has finished up in a bankruptcy court as a result of playing bingo, nor has any family gone hungry as a result of the week's wages being wantonly wasted on this form of gambling.

I do not believe there is any danger in playing bingo. I believe it should be controlled as we propose. I believe it may do a lot of good; but at the same time I admire those who are against it for getting up and saying so. I am not against it.

MR. TAYLOR (Cockburn—Minister for Labour) [10.22 p.m.]: I would like to thank all those members on both sides of the House—and there are many of them—who contributed in some small way towards the debate on this small piece of legislation.

Mr. Graham: You are including the interjections?

Mr. TAYLOR: Yes, I include all those who took any part. I wish to cover quickly the comments of the member for Narrogin. He said that I was taking two sides; one on the matter of shop hours, and another on the matter of bingo. I would remind him that the matter of shop hours is my hat, but in regard to this Bill I am wearing the hat of the Chief Secretary.

Mr. O'Neil: I did not think you sounded very enthusiastic.

Mr. TAYLOR: This is not at all a large piece of legislation. It seeks only to tidy up a doubt in the attitude of authority to the playing of bingo. This is a game which is being played, and we all know it is being played. What attitude does authority take? Should we fine those who play? Should we go to extremes and gaol them, or should we somehow or other try to allow the game to be played in a reasonable manner?

Many people played this game under no restrictions at all before they came to this country and they, as well as many Australians, like to play bingo with no intention of making money but rather as an excuse to get together in a congenial atmosphere and to spend an evening in each other's company. It has been suggested by two speakers that this is not always the case, and several instances in other States were quoted. However, to ensure that the playing of bingo does remain as an interesting and enjoyable evening for those who wish to play, the Government has seen fit to legalise it and place it under the control of the Lotteries Commission.

The Bill does include restrictions, and these have been mentioned by the member for Cottesloe. He made the point that the wording of the measure is very tight. I think the only provision which is really tight is the limit of 10c a card. Other requirements are laid down about the number of permits that may be held and the number of hours in which bingo may be played upon obtaining the approval of the Lotteries Commission. I would say the commission will use its powers in the same manner as it uses its powers in connection with lotteries; that it will assess situations as they occur and tighten or ease the restrictions depending on whether or not people abuse the privilege.

Certainly, one of the major points in regard to this game is whether or not it is gambling. We will now have the Lotteries Commission to police matters and see that people do not get out of hand when conducting bingo games. I am sure the commission will control this matter in the same light in which it controls lotteries. There is one difference, of course, and that is that the State receives a return from lotteries, but it is not intended that the State should receive any return from the playing of bingo. As has already been mentioned, the Bill is a short one containing only one clause.

Mr. McPharlin: Will there be a charge for a license?

Mr. TAYLOR: That is not stipulated in the Bill. There may be a small charge, but so far as I am aware there is none at the moment. Certainly it is not the intention of the Government to take a proportion of the proceeds as is the case with lotteries. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

House adjourned at 10.26 p.m.

Legislative Council

Thursday, the 25th November, 1971

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS (8): ON NOTICE

1. RAILWAYS

Transport of Wool to and from Albany

The Hon. S. T. J. THOMPSON, to the Minister for Railways:

(1) How many bales of wool have been railed to Albany since the introduction of a freight subsidy?

(2) How many bales of wool have been shipped from Albany since the commencement of the present season?

(3) (a) Has any wool been railed to Fremantle from Albany for shipment this season; and

(b) if so, how many bales?

The Hon. J. DOLAN replied:

(1) Since introduction of the concession on 1st July and up to 20th November, 1971, 54,236 bales of wool have been railed to Albany from within the concession area.

(2) 12,871 bales of wool have been shipped from Albany since the commencement of the present season and up to the 31st October, 1971.

(3) (a) Yes.

(b) 12,894 bales—during the period 1st July to 20th November, 1971.

2. WATER SUPPLIES

Gascoyne River Dam

The Hon. G. W. BERRY, to the Leader of the House:

Further to my question on the 23rd November, 1971, regarding the feasibility study of damming the Gascoyne River, when does the Government expect to receive the report?

The Hon. W. F. WILLESEE replied:

It is expected the report will be received in February, 1972.

3. COURTHOUSE

Carnarvon

The Hon. S. J. DELLAR, to the Leader of the House:

(1) Have plans and specifications for the new court house at Carnarvon been prepared?

(2) If so, when is it expected that—

(a) tenders will be called;

(b) construction will commence?

The Hon. W. F. WILLESEE replied:

(1) Yes.

(2) (a) Early in New Year.

(b) Six weeks after receipt of tenders.

4. DEPARTMENT OF FUEL

Adminstration

The Hon. CLIVE GRIFFITHS, to the Leader of the House:

Would he please ascertain from the Minister for Fuel—

(a) who is the administrative head of the Department of Fuel;

(b) what is the present total staff complement;

(c) where are the offices situated; and

(d) what fuel does the Department control?

The Hon. W. F. WILLESEE replied:

Appropriate steps are being taken to establish this Department.

5. RAILWAYS

Armadale-Bunbury Line

The Hon. N. McNEILL, to the Minister for Railways:

(1) Is it correct that changes in the location of main line permanent way gangs between Armadale and Bunbury are being contemplated?

(2) If so—

(a) what are the reasons for the changes;

(b) what will be the extent of the re-organisation;

(c) is it anticipated that any gangs, or members of gangs, will become redundant;

(d) what arrangements will be made where alternative accommodation is required; and

(e) when will the re-organisation come into effect for the various gangs?

The Hon. J. DOLAN replied:

(1) No changes of location are involved. Gangs will be disbanded at Mundijong, North Dandalup, Waroona, Harvey.

There will also be reduction in manpower strength of some other gangs.

(2) (a) More economical working brought about by mechanised cyclic maintenance.

(b) A total reduction of 39 men is envisaged.

(c) No. Reduction will be effected by normal wastage or transfer of staff to other localities when gangs are closed.

(d) Married staff are only offered transfer to localities where housing is available.

(e) No date has been fixed for closures at Mundijong and North Dandalup. Closures at Waroona and Harvey are scheduled for June, 1972, subject to the findings of a Cabinet Sub-Committee currently inquiring into all aspects of maintenance of the permanent way by private contract.

6. TRAFFIC

Pedestrian Crossing: St George's Terrace

The Hon. I. G. MEDCALF, to the Minister for Police:

(1) When was the pedestrian crossing in St. George's Terrace near Sherwood Court closed?

(2) How many accidents involving pedestrians have occurred in St. George's Terrace between William Street and Barrack Street since the closure?

(3) Will the Minister give consideration to the question of restoring a crossing somewhere between William Street and Barrack Street of a similar type to the crossing near Pastoral House?

The Hon. J. DOLAN replied:

(1) September, 1963.

(2) 49.

(3) No. Whereas the mid-block facility at Pastoral House features a concentration of pedestrian demand, the demand between Barrack Street and William Street is reasonably evenly distributed over the full length. The provision of a signal site between Barrack Street and William Street would need to be divorced from Sherwood Court and Howard Street and thus impose undue restriction on the pedestrian movements currently being well served by the continuous median.

7. MINING

Shell Deposits: Shark Bay

The Hon. S. J. DELLAR, to the Leader of the House:

(1) Has Seleka Mining Investment Ltd. been granted mineral claims of the shell deposits at Shark Bay, and if so, what is the location and area of each claim?

(2) Does the granting of the leases prohibit local residents from obtaining shell for their own use?

(3) If so, will the Minister ensure that sufficient areas of loose shell and conglomerate shell are set aside for local use, and that such areas as may be set aside will have reasonable access to established roads?

The Hon. W. F. WILLESEE replied:

(1) No. However, negotiations are taking place between the firm of C.W.R. Minerals Pty. Ltd. and the Lands and Surveys Department for a license to remove shellgrit from Lharidon Bight.

(2) and (3) The license, if granted, will reserve the right to the Shire of Shark Bay to authorise local residents to obtain shellgrit for their own use.

8. HOUSING

Interest Rates

The Hon. G. W. BERRY, to the Leader of the House:

(1) Is the rate of housing loan interest influenced by the Long Term Commonwealth Loan Rate?

(2) If so, as the Commonwealth rate has been reduced by 0.3 per cent., when is it anticipated that housing loan interest rates will be reduced?

The Hon. W. F. WILLESEE replied:

(1) It is one of the influencing factors.

(2) Except in respect of funds advanced or guaranteed by the State Government, interest rates on housing loans are not at present determined by the State Government. The determination of an appropriate rate is a matter for the home financing agencies such as building societies, savings banks and insurance companies etc., to make considering the Commonwealth decision and the interest rates sought for savings and other investible funds available in the money market.

CORRIDOR PLAN

Inquiry by Select Committee: Authority to Continue

Debate resumed, from the 18th November, on the following motion by The Hon. F. R. White—

> That in view of the opinion of the Solicitor General dated 8th November, 1971, and referred to The Hon. the President by The Hon. the Premier on the 12th November, 1971, to the effect that this House is not competent to empower a Select Committee to continue its work notwithstanding the prorogation of Parliament, this House now resolves that the Committee appointed to inquire into and report upon the Corridor Plan for Perth was properly constituted and is authorised to continue its inquiries in accordance with the motions agreed to on the 16th September, 1971.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [2.46 p.m.]: The first part of this motion moved by Mr. White refers to the opinion and advice of the Solicitor-General which was referred to you, Mr. President, by the Premier. The second part of his motion is the operative section, and it states "that this House is not competent to empower a Select Committee to continue its work notwithstanding the prorogation of Parliament, this House now resolves that the Committee appointed to inquire into and report upon the Corridor Plan for Perth was properly constituted and is authorised to continue its inquiries in accordance with the motions agreed to on the 16th September, 1971."

When reading the remarks made by Mr. White, one must bear in mind the first portion of his motion and some questions he asked pursuant to it. His questions did not refer specifically to the motion but

nevertheless they were pertinent to it. Mr. White raised the matter of section 36 of the Constitution and expressed doubt that that section empowered the Government to take the action it has recently taken. I think that is a good point, and I am prepared to say that we should consider section 36 and—shall I say—update it to provide for the situation which has been found to exist within the last few weeks.

Nevertheless, the Government has acted on good precedent established over the last 60 years. I will say no more, other than to suggest that we will consider this section of the Constitution with a view to making it more compatible with unexpected problems which may arise within the life of a Parliament.

As the situation stands at present the move to re-establish the Select Committee must be left in the hands of the person who moved to establish it in the first place. It was not possible for me to move to restore to the notice paper anything but Government business. However, it was our intention to restore the notice paper to the point at which it was when Parliament was prorogued, subject to the will of those members who wished their private legislation, Select Committees, or even questions restored to the notice paper.

It seems to me that for the Select Committee to be most effective it should be allowed to continue its inquiries. In view of the decision of the House on the appointment of the Select Committee, I am left with no choice in the matter but to accept that decision which was made on the 16th September, 1971, and to say that I believe this Select Committee—having gone partly through its inquiry—should not be called on to do the same work all over again. It should be empowered to continue its inquiries as though there had not been a prorogation of Parliament.

Furthermore, I believe it is more sensible to allow a Select Committee to proceed with its work at a period when Parliament is not in session than when it is, in view of the restricted amount of time that is available to members of the committee. It has not always been necessary to extend the inquiries beyond the time of the sittings of Parliament, because much depends on the depth of the work involved and the type of situation being investigated by a Select Committee.

I think the motion is a reasonable one, and I have no objection to its being agreed to. It merely seeks to ratify a previous decision of this House.

The Hon. A. F. Griffith: Bearing in mind that Parliament is likely to conclude its session some weeks ahead, what will happen to the Select Committee?

The Hon. W. F. WILLESEE: I believe it can be turned into an Honorary Royal Commission.

The Hon. A. F. Griffith: Is that the Government's intention?

The Hon. W. F. WILLESEE: That is my intention.

Question put and passed.

EDUCATION ACT

Disallowance of Amendment to Regulation 249: Motion

Debate resumed from the 24th November, on the following motion by The Hon. J. M. Thomson:—

> That the amendment to subregulation (4) of regulation 249 made under the Education Act, 1928-1970, published in the *Government Gazette* on the 21st September, 1971, and laid on the Table of the House on the 5th October, 1971, be and is hereby disallowed.

Personal Explanation

The Hon. J. M. THOMSON: Before the resumption of the debate takes place I seek leave to make a statement. While the Minister was speaking yesterday it occurred to me—

The Hon. G. C. MacKinnon: Are you closing the debate?

The Hon. J. M. THOMSON: No, I am rising to give a personal explanation.

The PRESIDENT: Is it a personal explanation?

The Hon. J. M. THOMSON: Yes, Mr. President.

The PRESIDENT: The honourable member may proceed.

The Hon. J. M. THOMSON: It occurred to me from the contribution to the debate by the Minister for Police yesterday that I had quoted a wrong date when I moved the motion, and I wish to correct that. To make sure of the correction I checked with the *Hansard* proof copy of the honourable member's speech, and from its contents it is obvious that a mistake had been made by me.

For the sake of clarification I will read the portion of my speech where the mistake was made. At the time when I moved the motion I said—

> The gentlemen from the technical section of the Education Department informed Mr. Duncan that the reference to 1971 in the July circular was not correct, and he advised me that the date was to be the 31st January, 1970.

It will be noted that the month shown in *Hansard* is January. I have been advised that it should have been December, and that the date was the 31st December, 1970. The Minister has told us that the department had advised Mr. Duncan that the date was the 31st December, 1970.

I thank the House for allowing me to make that correction.

Debate (on motion) Resumed

THE HON. R. J. L. WILLIAMS (Metropolitan) [2.56 p.m.]: Yesterday we were given the circumstances relating to the disallowance and the publication of the regulations in question by the Minister for Police; and he did that very ably.

I wish to preface my remarks by saying this: I thank Mr. Dolan sincerely for his comments. Yesterday evening he accorded me the privilege of examining all the papers that he had used in this debate, and he furnished me with a *Hansard* proof of his speech. This is in keeping with what I regard as the integrity of the honourable member.

Having said that, I think something has escaped the attention of Mr. Dolan, and I know that he will not mind my bringing it up. In his speech yesterday Mr. Dolan said—

> The particular gentleman who claims he would be disadvantaged has, on the contrary, misled the honourable member who has brought his case to the House.

I have before me the 18th edition of Erskine May's *Parliamentary Practice*. I do not think Mr. Jack Thomson should have been misled. In point of fact I suggest—I shall not press the matter or ask for a ruling—that after reading the extract from that book it makes one wonder whether or not some of the undoubted privileges of this House have been breached. I merely draw this matter to the attention of the House. If members are required to present cases or submissions then they must have available to them correct information.

If Mr. Jack Thomson has been misled, then according to what is stated on page 132 of Erskine May's *Parliamentary Practice* contempt has been committed. I quote from that page—

> It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.

I wish to go no further than to draw the matter to the attention of the House, because I know that Mr. Dolan and Mr. Jack Thomson are most anxious to have it on record that the facts they have presented were presented honestly. Anyone who knows either of these honourable members will be aware that they would not present facts to the House in any but an honest manner.

Unfortunately, yesterday Mr. Dolan had to undertake something which was not his *forte*. He was reading out a reply which had been presented by another department for another Minister. I sympathise wholeheartedly with him for having to do that.

Had it been Mr. Dolan's department we would have had a far better explanation and exposition of the position, because he would have gone through it in his usual thorough manner and given us the bare outline, which is what I intend to do as a result of Mr. Dolan's good offices this afternoon; and I will ask members to make up their minds on some uncluttered facts.

Mr. Dolan was forced to give us the explanation he did yesterday. I say that without in any way trying to be at all smart. I admire Mr. Dolan tremendously. Perhaps Mr. Dolan might cast his mind back a few years to an occasion at the Fremantle Boys School when he had my colleague, a member for South-East Province, as one of his students for one week. Such was Mr. Dolan's perspicacity that he realised at once that here was a young Liberal in the making and he kicked him out after one week and sent him to another class! So it is little wonder that I hold Mr. Dolan in the highest regard.

We are dealing with a matter which has arisen between one man and the Education Department. The Education Department is affectionately known by some teachers as the "department of thud and blunder." In this case the department certainly appears to have blundered.

The facts are that the union, which has acted in a very proper manner throughout —and this has been confirmed by a solicitor and by a Queen's Counsel—finds itself in a most unenviable and untenable position. If I may I could do no better than quote from the union's copy of an opinion given to it by Mr. John Dunphy, of Dwyer, Durack & Dunphy. I will only read this opinion in part to give members a catalogue of events. It reads as follows:—

> In the issue of the *Education Circular* published in April, 1970, appeared amongst the notices published on page 71, a list of vacancies. These included, in Category III, a notification that the Officer-in-Charge (Full-Time) of Technical Education Centres Class I at Albany, was available.
>
> When this publication took place, Mr. H. R. Everett was Officer-in-Charge of the Technical Centre at Albany and holding a Class II qualification. He considered the vacancy and, having given his attention to Regulation 249(4) of the Regulations under the Education Act, he lodged an application for the vacancy. As you know, 14 days are allowed after the promulgation of an appointee within which other persons disappointed by the appointment can

> appeal. As a fact, nobody other than Mr. Everett applied for the vacancy, and on the 20th August, 1970, a recommendation was issued under which he was appointed to such vacancy.

As members know, 14 days are allowed after the promulgation of such orders to enable other persons who may be disappointed with the appointment to appeal if they so desire. The opinion states—

> As a fact nobody other than Mr. Everett applied for the vacancy.

That is not true. Mr. Dunphy was misinformed at that time by the union's assistant secretary, Mr. Lloyd. There were other applicants for the position.

The Hon. A. F. Griffith: Do you know who the applicants were?

The Hon. R. J. L. WILLIAMS: If I may I would like to come to that aspect later, because it will spoil the story for the honourable member.

The Hon. G. C. MacKinnon: It will spoil the suspense.

The Hon. R. J. L. WILLIAMS: Oh, yes. To continue—

> In July, 1970, the *Education Circular* included, in page 8, and under the heading, "Amendments to Regulations" notice that early in 1971, Regulation 249(4) would be amended to the effect that the words "For Appointment" at that stage, appearing as the commencing words to the sub-section, would be deleted, and the words "To rate service" would be substituted. From what we are told, Mr. Everett was well aware of this circumstance, but he decided to chance his arm, believing that as the date for the promulgation of the amendment was not defined further than "early in 1971", he would have protection, should he receive the appointment.

Subsequently Mr. Everett was appointed on merit to this position.

Mr. Everett went to the union and brought to the union's notice the possibility of some anomalies and following upon the suggested amendments approached the director-general by letter dated the 30th July. This letter was answered by the Director-General by letter dated the 28th August. To continue—

> Your Union then made known this correspondence, and Mr. Everett, not surprisingly, felt that his position, as the person appointed on the 20th August, was affected by sub-paragraph (b) of the Director-General's letter, and the point was raised by him in a communication with you dated the 16th September.

I do not propose to read it all but I must read the important points, because Mr. Dunphy expresses the matter far better than I am able to and he had also interviewed the interested parties in this dispute. So accordingly it is fair that the House get the best possible evidence upon which to make its opinion. The brief continues—

> We understand that a question has now arisen, and which has been put forward by certain other persons holding status situations not dissimilar to those of Mr. Everett at the time of the original vacancies notice in April, 1970, as to whether, in fact, the latest decision by the Director-General, which clearly benefits Mr. Everett only, has not had an adverse effect upon them for the reason that, had they known of the full circumstances, and, further of the movement which would follow those circumstances, they would have applied, as Mr. Everett did, for the vacancy under Category III.

What has happened is that a man has applied for a position which advances him in status. One or two other people also applied and the director-general said, "The man on merit to get this position is Mr. Everett, there being no other applications." The statutory 14 days was allowed for appeal, should anyone want to appeal but nobody did so excepting one man who changed his mind, as it were, on information given to him by the Superintendent of the Technical Education Federation and decided it was not worth it.

In point of fact, if I remember my figures correctly, the man in question would have lost $150, although he would have been advanced in status. At that time, however, it was felt he would not be advanced in status. It was a gamble as to when this matter was going to be published in the Education Circular. Mr. Dunphy goes on to say—

> I have no doubts in my mind about the validity, the justice, or the propriety of these objections, and I would reject them out of hand. If we take the position *seriatim*—

and I am indebted to my learned colleague Mr. Ian Medcalf for translating that for me—it means one by one: To continue—

> we find in Mr. Everett, a person who, having observed the vacancy notification, gave his mind to the full circumstances of the case, and these circumstances involved not only the provisions of Regulation 249 (4), but the circumstances of Regulation 249 (4) as indicated for amendment. In other words, Mr. Everett took a calculated risk, and when it appeared as though this risk was not going to pay off, the circumstances of his case were such that it was impossible for the Director-General, faced with the situation under which Mr. Everett had done everything proper, should downgrade him by altering the status which he had already achieved.

Mr. Dunphy says—

> In my view, it is clear that all other persons who had the chance which Mr. Everett had, were not prepared to take the chance, and risk the doubtful situation. That he has succeeded, and they have failed is something which they may, perhaps, regret, or live to regret, but they were in no way differently placed to Mr. Everett, they had an ability to go into the matter with their Organisation,—

I interpolate to say that he means the union. To continue—

> —and they decided that what appeared in print did not promise anything sufficient to cause them to involve the status which they then held.
>
> Secondly, if your Union were to take up the case of these disaffected people and advance towards the Director-General on the lines that something should be done to protect them, then you operate on extremely shaky ground. Regulations, Circulars, clear and unmistakable documentary proposition, were all promulgated, and if people now concerned at their failure to move were to have that concern translated into a real status improvement, then vast injustice would follow to the one person who had the courage and the perspicacity to think the matter out thoroughly from the beginning, to take the risk, and then to protect himself as he did.

Later on he says—

> Mr. Everett observed the situation, the situation on the face of it, was quite clear and simple, Mr. Everett took advantage of the situation as could every other person in his category have done, and he has made an investment which has paid off, whilst those others who have stood aside and failed to press their possibilities of improvement, have lost out. Whilst I may regret the latter, I could not possibly advise your Union to reduce the former.

That is a legal opinion on the matter. However, on being pressed by other members the union decided that opinion was not good enough and it sought yet another opinion from Mr. Howard Smith, a Queen's Counsel. I do not wish to go into any details whatsoever but I am prepared to table his findings, dated the 8th July, 1971, in this House if necessary. He has to say pretty much the same as Mr. Dunphy. The astonishing fact is that here are two legal opinions which coincide. They do not commend Mr. Everett in any way. They say only that Mr. Everett was particularly alive in this matter, and has won out. It is quite amazing, but because this opinion did not suit the union it approached a third party for yet another opinion.

This is rather like you, Mr. President, or I, complaining to our doctor of a pain in the chest. If the doctor says that the cause of the pain is a pulled muscle, it might be tempting for an individual to think that he would not make a fuss about that and it must be something else. He then sees a specialist who also says that he has a pulled muscle in the chest. Again, he is not satisfied and wishes to seek another specialist's opinion.

The Hon. A. F. Griffith: By that time the pain has gone.

The Hon. R. J. L. WILLIAMS: Yes, by then the pain has gone and it was not the lung cancer the individual thought it might be or perhaps wanted it to be in the mistaken desire to be seriously ill.

To the best of its ability the union has tried to protect the interests of the member who first brought it to notice. Since then the Education Department has amended the regulation and it has been in and out like a fiddler's elbow. It is impossible to deny that all the circumstances which follow the appeal should, as far as we are concerned, be irrelevant to the case.

It is interesting to note that Mr. Duncan was the other man who was disadvantaged. Also, he had some information which apparently was not available to everyone else. He went to see Mr. Walkington, which is the superintendent's name, and he says—

> I am satisfied after questioning the parties to the dispute that Mr. Duncan was the only person who had any direct knowledge of the director's intention prior to the receipt of this letter and that his informant was Mr. Walkington who had access to departmental documents not available to other parties.

This was not mentioned.

The Hon. G. C. MacKinnon: Wouldn't it be regarded as fairly reprehensible for a group to give one man an advantage like that?

The Hon. R. J. L. WILLIAMS: I would say it was Mr. Duncan's initiative which led him to Mr. Walkington. Others had the opportunity to go to him and ask what the wording in the *Gazette* would be.

The Hon. G. C. MacKinnon: Has Mr. Walkington a moral right to tell everyone? He is a departmental officer.

The Hon. R. J. L. WILLIAMS: He is superintendent in the Technical Education Division.

The Hon. J. Dolan: It is accepted practice.

The Hon. G. C. MacKinnon: Is it accepted practice to tell them if they ask but not otherwise?

The Hon. R. J. L. WILLIAMS: Yes. I shall read the conclusion of Mr. Howard Smith's brief. We should remember that

Mr. Duncan is the man who really is appealing against Mr. Everett. Those who came subsequently did so as an afterthought. He says—

> One can sympathise with Mr. Duncan in the situation in which he now finds himself but it must be remembered that there was no doubt in his mind as to the precise terms of the proposed amendment and that he elected to rely upon information given to him by a person in no way connected with the Union Executive.

I interpolate to say that Mr. Duncan did not go to the union. To continue—

> Further being in possession, as he thought, of accurate information as to the reference date he failed to check with the Executive in order to ascertain whether any other person had access to this source of information and was pressing the Union to take action to rectify the situation.

I think the last paragraph of two sentences puts the whole thing in a nutshell. It says—

> If blame is attributable to anyone in the matter, in my view, it attaches to the draftsman of the July supplement of the Departmental circular.

That is the position. A man is told that he has gained a promotion on merit. The man knows full well he cannot take that as positive from the Education Department, the reason being that there is the question of appeal. However, when there is no appeal within 14 days the man is then entitled to believe the promotion is his. Due to a slip-up in the department, pressure upon a union, and union pressure on the department it is now sought to reverse this.

Mr. Everett wrote to a member in another place about this case. That member received a reply from the then Minister for Education (The Hon. J. T. Tonkin). The letter contains one or two very interesting phrases. It says—

> Mr. Everett, who gained promotion to his present position on the 1st January, 1971, approached the Teachers' Union and, at the strong request of that Union the Department agreed to change the effective date from the 31st December, 1970, to the 1st January, 1971, thus allowing Mr. Everett to maintain the previous status advantage operating prior to 1971.

I repeat that this is a letter from the Minister for Education. It is dated the 15th September, 1971, and the next paragraph mentions a very interesting fact. It says—

> The Teachers' Union was then approached by another member who declared that by thus advantaging Mr. Everett he had been disadvantaged.

There is no mention of the other 30; just the one. The letter continues—

> On examining the matter further the Union concluded that the original date determined by the Department was indeed the correct one to have used and requested me to amend regulation 249 again to return to this original date of the 31st December, 1970. I have acceded to that request and Mr. Everett will be in the same position as all other officers, affected by regulation 249(4)(a) who were appointed after the 31st December, 1970.

The letter is signed, "John T. Tonkin, Minister for Education." I know both Mr. Everett and Mr. Duncan but personalities do not enter into this. The man has been given promotion; all the proper paperwork has been completed; and the regulations have been properly followed.

Here we have the case of a man who has followed a route of promotion out to the country. He has shown perspicacity in the matter and has taken a gamble. His gamble has paid off and we are asked to withhold the award. It is very like a man winning a lottery only to find that some regulation allows the organisers to withdraw the prize because they do not like the look of him or are jealous of him.

I would ask members to move to disallow this regulation so that justice may not only be done but also be seen to be done.

Debate adjourned, on motion by The Hon. F. R. White.

BILLS (3): RECEIPT AND FIRST READING

1. Rights in Water and Irrigation Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. W. F. Willesee (Leader of the House), read a first time.

2. Railway Standardisation Agreement Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. J. Dolan (Minister for Railways), read a first time.

3. Iron Ore (Mount Goldsworthy) Agreement Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. W. F. Willesee (Leader of the House), read a first time.

LAND

Timber Rights: Motion

Debate resumed from the 6th October, on the following motion by The Hon. F. D. Willmott:—

> That this House is of the opinion that as the Government has previously made a decision that all timber on

freehold and conditional purchase land should become the sole property of the land holder as from the 1st February, 1972, and a Ministerial statement having been made to this effect, this decision should be adhered to, and furthermore, this House views with grave concern the evasive and misleading answers given to questions in this Parliament.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [3.25 p.m.]: The motion moved by Mr. Willmott is the second one of this nature, and has been divided into two parts. The first portion of his motion reads—

> That this House is of the opinion that as the Government has previously made a decision that all timber on freehold and conditional purchase land should become the sole property of the land holder as from the 1st February, 1972, and a Ministerial statement having been made to this effect, this decision should be adhered to. . . .

In the course of his speech the honourable member gave a great variety of reasons why this statement and decision should be adhered to. I think I can answer this in a few words by quoting from the departmental file which deals with the particular subject. On the 24th September, 1971, the Minister for Forests wrote to the Conservator of Forests in the following terms—and these are the terms of the actual minute:—

> Thank you for your minutes of September 7th and 21st herein. The lifting of the timber reservation rights should proceed as from the 1st February, 1972.

I feel this is the statement the honourable member has been seeking all along. He wanted a decision he could use publicly. He wanted to give an assurance to the people concerned that they could cut timber as from the 1st February, 1972.

I hope that the honourable member will accept this as a complete and satisfactory answer to the first part of his motion. It clarifies the position in definite terms.

His motion continues as follows:—

> . . . and furthermore, this House views with grave concern the evasive and misleading answers given to questions in this Parliament.

The honourable member quoted the answers to two questions, one which he described as evasive, and one which he described as misleading. The answer given to a question in another place that the matter was still under review at a time after a decision had been made with regard to the timber rights led him to say the answer was evasive. The key word in the reply is "review." This does not mean there would be an acceptance of what had taken place; there was to be a review. Possibly this was an evasive answer from the honourable member's point of view.

The honourable member went on to say the answer should have been elaborated, and he was entitled to think that. However, in the short time I have been answering questions I have found it very easy to say too much. I do not think Ministers should try to embellish replies unless the circumstances demand otherwise.

I turn now to the reply that the honourable member regarded as misleading. The Minister replied to a question as follows:—

> The Government has considered the matter and a decision can soon be expected.

It must be borne in mind that Mr. Willmott is very interested in this subject, and he is keen to have the whole issue clearly defined. He was not getting the replies he wanted. In my experience it is very difficult to get the reply one wants. One usually looks for an answer in the question.

We search for an anticipated answer, but it does not always eventuate. I point out that the people who receive the questions asked by members in this House are the same departmental heads, the same officers, the same authorities, and it is the same structure of Government departments that existed before the change of Government. In most cases questions are submitted by private members regardless of whether they sit on the Government or Opposition side of the House. They endeavour to glean certain information.

The Hon. G. C. MacKinnon: You are not denying that the responsibility remains with the Minister to check?

The Hon. W. F. WILLESEE: I will deal with that aspect also. During the short time I have been a Minister I always deal with the head of the department concerned when a reply to a question is given, and I check the reply to the best of my ability. But already there have been occasions when, after having given an answer to a question, I would have given a different answer a week later; the reason being, of course, that one has the advantage of hindsight. After a period of time, following the publication of reports in the Press and letters written to the editor, one obtains an entirely different impression on a subject than that which was held a week before. Therefore when there is a conflict—as there was in this instance—between two Ministers a mistake can easily occur.

The Hon. G. C. MacKinnon: Is there a possibility of one person trying to gain some political advantage by getting letters out earlier than anybody else?

The Hon. W. F. WILLESEE: That has been the inference drawn from both sides. That was cleared by the unequivocal apology made by Mr. Willmott to the Minister.

I will not say that he acted with a great deal of discretion, but nevertheless I think Mr. Willmott satisfied himself that there was no intent to mislead on the part of the Minister. I am not opposing the thoughts put forward by the honourable member. He has stated his opinion in a manner that is easily understood. I have often been frustrated by replies given to questions.

However, what I am concerned about in the second portion of the motion is that if we pass the motion in this House in my view it will become a condemnation of the system we have for giving replies to questions. I understand that Western Australia is the only State in the Commonwealth that follows the practice of giving a reply to a question the following day wherever it is possible. Rarely is a question held up for more than a day unless it is extremely complicated. I believe this practice should be maintained, because if a member is dissatisfied with a reply he receives he is given an opportunity to ask a further question and a further one again if he so desires—because that is his right—until he obtains the information he is seeking.

Let us give some thought to the man who receives the question for attention. He merely receives a few words on a piece of paper. He is required to supply an answer to the question usually by noon of the day following the day on which the question was asked. The answer has to be typed, processed, and be delivered to the House ready for the Minister to make the reply that afternoon. Therefore such an officer does not have a great deal of time to investigate the questions that are placed before him. We must also bear in mind that on occasions the number of questions asked in both Houses reach 80 a day. The number has been increasing over the years and more questions have been asked this year than ever before, due in the main, I think, to an influx of new members. I think that is a good thing.

However I ask that consideration be given to what will occur if we pass the motion in its present form. I suggest to the honourable member that we have, without doubt, cleared up the first portion of the motion and achieved the result he wanted, and there can be no renunciation of that decision. I am wondering, therefore, if he would be prepared to withdraw his motion in view of the fact that if we pass it the implication, in effect, would be that we in this House are not satisfied with the method used to answer questions and that some other system should be introduced. In view of the remarks I have made, I would ask that the honourable member give serious consideration to withdrawing his motion.

THE HON. G. C. MacKINNON (Lower West) [3.36 p.m.]: In the circumstances I feel obliged to say a few words on the motion because the matter raised by the Leader of the House is quite extraneous to the motion moved by Mr. Willmott. Our system is a strange one. As members will recall I spoke about it the other day, and it is the subject of a great deal of criticism one way or another. The system has one redeeming feature; that it is the best system yet devised at least in an Anglo-Saxon community, and perhaps in one other. I think one should only condemn the system when one can suggest an alternative to it.

I am not suggesting that Mr. Willmott is condemning our system. I am merely using that as an introduction to my remarks. The system, peculiarly enough, thrives, more or less, on many figments of the imagination, if I may put it that way. The very concept of a constitutional monarchy in a country which sees the Crowned Head on rare occasions is peculiar enough, but Mr. Willesee has touched upon one aspect that is important. Questions are not asked of departments but of Ministers, and although the questions may be answered by departmental heads, this is beside the point; the question is asked of the Minister and he is responsible for the answer and must remain so responsible.

I doubt whether any Minister who has survived has allowed questions to get past him without first looking at them, and certainly no Minister who has survived has allowed the answers to those questions to go by without his first looking at them. One of the most important aspects for a Minister to look at on all occasions is that the answer in no way can be the prerogative—from the point of view of responsibility—of any other Minister. This is not always as clear-cut as it appears and I think this is a case where that position applies. However that is something for Mr. Willmott to raise. There are other cases.

A classic chestnut is that everything with regard to liquor comes under the Minister for Justice with the exception of the alcoholic content of whisky, brandy, spirits and the like, which comes under the Minister for Health.

The Hon. W. F. Willesee: I wondered why you put on weight so suddenly.

The Hon. G. C. MacKINNON: However, almost invariably questions are asked of the Minister for Justice. This is an example of how a person can become mixed up —and that may have happened in the case under discussion; I do not know.

I believe that the fiction, if we like, that questions are asked of Ministers must be preserved. It is of vital importance to the system that it be preserved and we must not do anything or appear to do anything to cut across this principle. It is important that the Civil Service is a nebulous body in the background. A question is asked of the Minister; the person responsible is the Minister; and the person answering is the

Minister. Indeed a more notable difference between questions and answers in this House and those asked in most other Parliaments is that in this House questions on notice form by far the bigger part of the questions and are by far the more important. It is understandable that there should be this great difference because Ministers are asked questions and are expected to know the answers—another fiction if we like.

Although I did speak once before on this motion, I rose on this occasion mainly to point out what I believe are very real traditional dangers implicit in the warning Mr. Willesee has given. I think his warning is a genuine belief.

The Hon. W. F. Willesee: I think you misunderstood me. I am talking about the possibility of the time factor.

The Hon. G. C. MacKINNON: I know this is a risk we must always take; and the risk to which Mr. Willesee is referring is one any questioner understands. A Minister must at any time he believes it necessary indicate that he cannot answer the question at that stage because he needs more time to be careful.

Above all a question answered in the House must be honestly answered, and this is historical. It must be true, and it must be obviously true. It is almost unforgiveable if it is not true in every aspect. This is a matter the Minister must consider when he sees an answer. If he is not sure he must delay it until he is sure. He must hold it back. We have all seen this happen—all those who have asked questions and those who have been lucky enough to be in a situation to answer them. This is a right which must always be kept.

Mr. Willesee has made a request to Mr. Willmott. It is now up to Mr. Willmott to do what he desires. However, some dangers do present themselves and I felt that, with some years of experience on both sides of the House, I ought to voice those worries which spring to my mind, because I believe implicitly in our system.

What we are talking about is completely aside from the motion—not so far aside that you should pull me to order, Sir—and the matter is now, of course, left to Mr. Willmott.

Sitting suspended from 3.45 to 4.02 p.m.

THE HON. T. O. PERRY (Lower-Central) [4.02 p.m.]: When the motion moved by Mr. Willmott first appeared on the notice paper it was my intention to support the first part of the motion but oppose the second part. As the Leader of the House has pointed out, the motion has resolved itself into two parts.

I am concerned about the second part of the motion. I am not sure whether it is a censure of departmental officers or a censure of the Ministers of this House. Mr. MacKinnon has said it is the responsibility of Ministers to make sure that answers to questions are correct. As a rather junior member of this House, I would like to say that never, at any time, since I have been here has the Leader of the House attempted to mislead or be evasive in his replies to questions. I would say that all Ministers of this House have been honest and sincere in this respect.

I can remember several occasions, when we were the Government of the day, of a Minister rising to correct a mistake which had been made in the reply to a question. It may not have happened on many occasions but Ministers who are now in Opposition did rise to correct answers to questions that had been asked.

I am concerned that the second part of the motion appears on the notice paper. If this motion is carried it will extend the time involved in supplying answers to questions asked in this House. Many members ask a question one day, hoping to receive the answer the following day, so that the information can be used in a speech to be made on that day. If the replies to questions are likely to be delayed for a week, members will lose that privilege.

Amendment to Motion

For the reasons I have outlined I move an amendment—

That all words after the word "to" in line 9 of the motion be deleted.

THE HON. F. D. WILLMOTT (South-West) [4.06 p.m.]: I am afraid I cannot accept the amendment moved by Mr. Perry. He has said that he is afraid the Leader of the House was being held responsible for answers given to the questions I have asked on previous occasions. I will not go into the ramifications of that aspect again. I made it only too clear when I spoke that I did not hold any Minister in this House responsible for the answers supplied to my questions. I think Mr. Willesee would be clear on that point, because I did my best to clarify the situation.

The Hon. V. J. Ferry: Very plain.

The Hon. F. D. WILLMOTT: Mr. Perry also said there have been occasions during the term of the previous Government when incorrect answers were given. I will not say that is not correct; it possibly is. However, if such were the case then I think it was up to the member concerned to take appropriate action as he saw fit, and that is what I have done in this case.

The Hon. A. F. Griffith: Take appropriate action at the time.

The Hon. F. D. WILLMOTT: Yes, at the time.

The Hon. W. F. Willesee: As one is entitled to.

The Hon. F. D. WILLMOTT: I am prepared to leave the matter to members to decide, but I cannot accept the amendment proposed by Mr. Perry.

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

Ayes—13

Hon. R. F. Claughton	Hon. T. O. Perry
Hon. D. K. Dans	Hon. R. H. C. Stubbs
Hon. S. J. Dellar	Hon. S. T. J. Thompson
Hon. J. Dolan	Hon. J. M. Thomson
Hon. Lyla Elliott	Hon. W. F. Willesee
Hon. J. L. Hunt	Hon. R. Thompson
Hon. R. T. Leeson	*(Teller)*

Noes—13

Hon. C. R. Abbey	Hon. I. G. Medcalf
Hon. N. E. Baxter	Hon. F. R. White
Hon. G. W. Berry	Hon. R. J. L. Williams
Hon. V. J. Ferry	Hon. W. R. Withers
Hon. A. F. Griffith	Hon. D. J. Wordsworth
Hon. Clive Griffiths	Hon. F. D. Willmott
Hon. N. McNeill	*(Teller)*

The PRESIDENT: There is an equality of votes. I give my casting vote to the Ayes.

Amendment thus passed.

Question (motion, as amended) put and passed.

TRAFFIC ACT AMENDMENT BILL

Third Reading

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [4.10 p.m.]: I move—

That the Bill be now read a third time.

THE HON. N. E. BAXTER (Central) [4.11 p.m.]: I would like to say a few words at the third reading stage of this Bill. As far as possible we have at all times, over many years, attempted not to introduce discriminatory legislation. In my humble opinion the Bill with which we are now dealing introduces the principle of discriminatory subordinate legislation. In other words, regulations will be introduced whereby some persons will be committed to certain acts; to wit, the wearing of seat belts. Under the same regulations, other persons will not have to wear seat belts. No person has been given an opportunity to opt out of wearing a seat belt if he has a seat belt installed in the vehicle which he is driving.

I am reminded of an occasion a number of years ago when I introduced a Bill to amend the Licensing Act. The effect of that Bill was to give a police officer the power to make a recommendation to two justices of the peace or to a magistrate to order that certain persons who were suspected of supplying liquor to natives should be prohibited from buying liquor in containers.

The cry which came from the then Labor Opposition was that that would not be British justice and that it was discriminatory. I liken the circumstances of the Bill now before us to what occurred on that occasion, except that my Bill was an attempt to correct an evil which existed at the time, and which still exists to some degree. My proposal was not discriminatory because the order was to be made by a magistrate or two justices of the peace—gentlemen of the judiciary.

I am not concerned with what has been done in the other States of Australia regarding legislation and regulations which apply to the wearing of seat belts. I believe we are introducing discriminatory subordinate legislation. A person who owns a motor vehicle in which a seat belt can be installed can opt out by simply not fitting a seat belt to his car.

I will refer to the Traffic Regulations regarding trailers. Any person who tows a trailer with a car is supposed to conform with the regulations regarding brake lights, tail lights, and whatever else that might apply.

There is no discrimination in regard to trailers. Everybody who tows a trailer behind his motorcar must abide by those regulations. But here we have regulations that say some people must wear seat belts and many people are not required to wear seat belts. If that is not discriminatory legislation I do not know what is.

I believe the Minister and other members should have second thoughts about agreeing to a Bill of this nature. I oppose the third reading.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [4.16 p.m.]: In view of the remarks that have been made by Mr. Baxter, I think I should make some brief comments before the third reading of this Bill is passed. The debate in the House last night surely indicated to the Minister—and I think he privately shares this view—that the decision to make the wearing of seat belts compulsory for some sections of the community and not for others is a difficult one for anybody to make. We are told a person who drives a post-1969 vehicle must wear a seat belt while a person who drives a pre-1969 vehicle need not wear one.

The Hon. J. Dolan: Unless he already has belts fitted to his car.

The Hon. A. F. GRIFFITH: That, of course, makes it more difficult to understand in the eyes of the public. When the Minister made his first Press statement about the wearing of seat belts, I asked a question of him in this House. I have not the question and answer before me but I can remember the basic contents of them. I asked the question, "How many post-1969 vehicles are licensed and how many pre-1969 vehicles are licensed?" The answer was that there were approximately twice as many pre-1969 as post-1969 vehicles licensed. That means there will be twice as many vehicles without

seat belts being driven around the country as there will be vehicles with seat belts which must be compulsorily worn.

One could therefore say Mr. Baxter has made a good point. I think it is a ridiculous situation that a man who has fitted seat belts to his pre-1969 vehicle should be able to release himself from the obligation that would fall upon him under these regulations by removing the seat belts.

The Hon. J. Dolan: I do not think he would do that.

The Hon. A. F. GRIFFITH: We do not know. This regulation could be such an irritant to him that he might decide to do that. I am not sure. Could the Minister tell me what was the purpose in choosing the year 1969?

The Hon. J. Dolan: That was in the legislation that was brought in by your Government.

The Hon. A. F. GRIFFITH: In respect of seat belts?

The Hon. J. Dolan: Yes.

The Hon. A. F. GRIFFITH: We did not bring in any legislation in respect of seat belts.

The Hon. J. Dolan: In the designing of cars it is a law that all cars manufactured after the 1st January, 1969, must be fitted with seat belts.

The Hon. A. F. GRIFFITH: That is so, but there was no compulsion to wear seat belts. The Minister says that in respect of vehicles of that year of manufacture and manufactured subsequently, not only must they be fitted with seat belts but the occupants of them must wear those seat belts. For every person who wears a seat belt there are two who do not. That is the difficulty I see. Therefore, to a considerable extent, I share the view that has been put forward by Mr. Baxter.

I will not oppose the legislation because I indicated last night that I supported it in principle, despite the difficulties I could see were attached to it; but I suggest to the Minister that in framing his regulations he might confer with his department and give serious thought to making them apply to vehicles manufactured some years before 1969. After all, 1969 is only two years ago and many 1968 model vehicles could be regarded as being quite modern; even 1967 models are reasonably modern.

The Hon. S. T. J. Thompson: Until you try to trade them in.

The Hon. A. F. GRIFFITH: I would not necessarily buy one the honourable member had been driving. It would depend upon the quality of that vehicle.

I do not make a big thing of this. I merely suggest that the Minister look at the practicality of bringing in the earlier models and allowing a period within which the owners of those models might be expected to have seat belts fitted. I think there will be trouble in administering these regulations. There are bound to be some difficulties but at least we have had the advantage of the Minister's undertaking to bring the regulations here before Parliament rises so that we shall be able to have a look at them. I hope he will give some serious thought to the suggestion I have made.

THE HON. CLIVE GRIFFITHS (South-East Metropolitan) [4.22 p.m.]: I want to say one or two words at this stage in view of the point Mr. Baxter has raised. I ask the Minister to recall that when I was speaking to the second reading last night I gave him my assurance that I would support him to the end of the line in carrying this legislation, but I also pointed out that I certainly would not give him the assurance that I would not move to disallow the regulations when they were tabled if he persisted in bringing in regulations which compelled only people driving cars registered from 1969 onwards to wear seat belts. I made that point last night and I make it again now.

I could not agree more with Mr. Baxter that this is indeed a discriminatory piece of legislation, as he put it. The Minister said last night that his knowledge of the construction of a motor vehicle led him to believe that motorcars manufactured prior to 1969 could not satisfactorily have seat belts fitted to them. I said then I disagreed with him, and I still disagree with him. That is a fallacious argument for not compelling people to have seat belts fitted in their vehicles.

I simply want to make the point that last night I suggested to the Minister that if he brought in the proposed regulations I would not give any guarantee that I would not move to disallow them immediately they hit the table.

THE HON. R. J. L. WILLIAMS (Metropolitan) [4.24 p.m.]: I want to bring to the Minister's attention a piece of information I read in the paper this morning. An American company has asked that owners of certain types of vehicles should return them to the factory because there is a flaw in the bolt in the anchorage system for the seat belts.

If people decide to fit seat belts to their cars or have some disreputable company fit them, we are virtually condemning such people to death unless the specifications laid down by the Australian Institute of Engineers are followed and rigidly adhered to. I ask the Minister to be sure by regulation in some way or another that the fitting of seat belts is correctly carried out because if an anchorage point gives way at the time of an impact a person could be strangled with a seat belt. With pillar

anchorage, even on a slight impact, the car might not be damaged but the person inside it could be strangled.

I ask the Minister to look at this matter and direct that someone in some department be responsible, if necessary, for inspection after the fitting of seat belts so that many of the citizens of this State are not disadvantaged by the sharks who will appear overnight promising that seat belts will be fitted which may not be up to the required standard.

THE HON J. DOLAN (South-East Metropolitan—Minister for Police) [4.26 p.m.]: I mention first of all the point I mentioned while the Leader of the Opposition was speaking; that is, it became compulsory for all cars manufactured after the 1st January, 1969, to be fitted with seat belts. As time goes on, the older cars will be phased out and all subsequent cars will have seat belts as part of their equipment. It has also been decreed that as from the 1st January, 1970, seat belts must also be fitted to the rear seats of cars. That is uniform throughout Australia and has been accepted by all States as standard design. We must come into line.

I can see tremendous difficuties if we do not fix the time at the 1st January, 1969, when the fitting of seat belts became compulsory. Many cars manufactured prior to that time incorporated provision for the fitting of seat belts. There could be grave danger in trying to make it compulsory to fit seat belts to older types of cars.

It does not matter what date is fixed. If we made it 1965 there would still be cars manufacured before that date which would take seat belts quite safely and others that would not. There is a danger in fitting seat belts to cars that have not been designed for that purpose. If we compelled people to install seat belts in such cars those people would be given a false sense of security. A great danger would exist if they were involved in an accident and the seat belts did not hold because of a weakness in the structure.

The Hon. A. F. Griffith: Can you tell me the difference between the construction of a 1968 model car and a 1969 model car?

The Hon. J. DOLAN: I cannot but the technical people can. The same applies to the fitting of steering locks. Earlier in the year I mentioned this was one way to cut down on car thefts. The latest models of cars have provision for steering locks.

The Hon. Clive Griffiths: That is a different thing altogether.

The Hon. J. DOLAN: The honourable member can contradict me afterwards.

The Hon. A. F. Griffith: He cannot; this is the trouble. You are closing the debate.

The Hon. J. DOLAN: Last night I assured the Leader of the Opposition I would table the regulations before we rose. For the information of members, I gave that undertaking quite sincerely. To demonstrate that I did so, before nine o'clock this morning I was in touch with the three officers who are responsible for drawing up the regulations and I said one of them must bring the regulations to my office so that we could discuss every one of them before they were tabled. That was one of the first things I attended to this morning and I was very busy.

In every other State—and in New Zealand, which is going to follow—the starting point has been fixed as the 1st January, 1969. I think this is worthwhile for the sake of uniformity alone. Uniformity is something which all the States have been trying to achieve in connection with all aspects of traffic and safety, whether referring to motor vehicles, roads, or road signs. The States are endeavouring to achieve standardisation so that all States know exactly where they stand.

The Hon. N. E. Baxter: That will not make the legislation right.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

STAMP ACT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from the 18th November.

THE HON. I. G. MEDCALF (Metropolitan) [4.32 p.m.]: This is a very small Bill which has two purposes. Firstly, it increases the stamp duty on cheques from 5c to 6c; secondly, it increases the stamp duty on share transfers from 20c per $100 of the consideration to 30c per $100. This will affect both the buyer and the seller of shares. Each party will now pay 30c per $100 of the value of the consideration —that is, the price paid for the shares.

Both of these increases are to operate from the 1st January. The estimated value of the increase in stamp duty on cheques is $510,000 a year—as stated by the Leader of the House in his second reading speech —and the value of the increase in stamp duty on share transfers is estimated at $630,000. In other words, the estimated increase in revenue from these two items is over $1,000,000 a year.

I would think that these items have been fairly carefully selected. When the Treasurer looks around for means of increasing revenue no doubt he puts a bracket of suggestions to the Executive, and no doubt the Executive looks at those suggestions fairly critically to see who will be affected by the proposals. The people who have current accounts at banks and

who use cheques will pay an extra 1c under this measure, and the people who engage in the purchase or the sale of shares on the Stock Exchange will also be required to pay extra. Those people need not necessarily engage in the sale of shares on the Stock Exchange; if they sell shares privately and prepare a transfer privately they will still pay at the full rate of 60c per $100 on the basis that if there are not bought and sold notes there is only one document; namely, the transfer.

Perhaps some members of the House will recall that it is not so long ago that the stamp duty on cheques was 2d, and it is now the equivalent of 7d or 6c; so it has increased considerably, in fact 3½ times in a very short span of years. Likewise, the stamp duty on the transfer of shares has increased considerably. Not so long ago it was 10c and now it is 30c per $100.

This, of course, is typical of taxes. They continually rise; I do not know whether it is to take care of inflation, or whether it is simply to raise additional revenue to cover additional expenditure which Governments continually find necessary.

This is a clear taxing measure and it is the most convenient method by which the Government can get further stamp duty at this time. It means, of course, that it contributes—like all taxing measures—to the general increase in costs in the business community. I am not saying that this measure will contribute to costs so much in respect of share transfers because often these are private transactions negotiated by private people. But so far as the business community, generally, is concerned the additional stamp duty on cheques is another impost and it will affect all private individuals who maintain current accounts.

I hope the Government is successful in receiving the estimated tax—and I say this quite honestly—which it believes it will receive from these sources. I notice that the Leader of the House said that the Government had not received the estimated tax from probate duty which it believed it would receive during the last year. Therefore, as a by-product the Government has found it necessary to increase stamp duties. For that reason I hope it will receive the estimated increase from stamp duty; otherwise as a by-product it may be necessary to increase probate duty and so on. This is a most distressing cycle from the point of view of the taxpayers.

Unfortunately the share market is very depressed at the present time and that is why I hope the Government does get the revenue it wants because the number of transactions on the share market is not very great.

The Hon. G. W. Berry: Is not this a discriminatory tax?

The Hon. I. G. MEDCALF: I suppose in a sense all taxes are discriminatory somewhere along the line. Very few taxes are not, and some are more discriminatory than others. This illustrates to me once again how very inadequate are the taxing laws in this country. The States are continually forced to make more and more inroads into stamp duty and into every conceivable manner of receiving additional revenue. There is not a really adequate system of guaranteeing the revenue of the States. The Commonwealth income tax revenue is not adequately shared with the States. One of these days perhaps it will be shared out on a better basis whereby the States will be guaranteed a revenue which does not force them to make continual increases in unsatisfactory forms of duty.

I am not opposed to the Bill although I cannot say that I support it with any gusto. However, I consider it is just another of those things we have to put up with. This measure is in fact part of the Government's Budget and I would not for a moment consider that we should raise any opposition to it. But it is another unsatisfactory Bill—not because it is framed in an unsatisfactory manner, but because it is another indication of the rather futile taxing system under which we are forced to operate.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [4.39 p.m.]: Firstly I would like to thank Mr. Medcalf for supporting the Bill. I know that any form of taxation is unpalatable, and it is unpleasant at any time to bring to Parliament measures which impose taxes. I think Mr. Medcalf hit upon a truth when he said he hoped that the estimate was based on turnover at the present time, rather than at a more buoyant period of six months or one year ago. On the basis of the figures provided to me it is interesting to note what has been lost already due to the prorogation of Parliament.

It was originally intended that this Bill should come into force on the 1st November, but now it has been deferred until the 1st January. For this financial year the estimated revenue from increased stamp duty as from the 1st November was $340,000; and the estimated revenue from the 1st January is $255,000. So there is a loss in anticipated revenue of $89,000.

Referring to share transactions, it was estimated that revenue from the 1st November would be increased by $420,000, and as from the 1st January, by $315,000. That is a consequent loss of revenue of $105,000. This causes me to wonder, because the figures I have quoted appear to me to be very large when we consider the present turnover of the Stock Exchange. The total loss of revenue in stamp duty due to the

prorogation of Parliament is $194,000. I thank Mr. Medcalf for his support of the Bill, and I commend it to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by The Hon. W. F. Willesee (Leader of the House), and passed.

BILLS (2): RECEIPT AND FIRST READING

1. Fisheries Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. R. H. C. Stubbs (Minister for Local Government), read a first time.

2. Land Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. W. F. Willesee (Leader of the House), read a first time.

MOTOR VEHICLE (THIRD PARTY INSURANCE SURCHARGE) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 18th November.

THE HON. L. A. LOGAN (Upper West) [4.46 p.m.]: We were reminded during the previous session of Parliament, and I am sure we will be reminded during the remainder of the present session, of what has been said in the policy speeches. I find no reference in those speeches to an increase in motor vehicle third party insurance surcharge. However, reference to that was made in the Budget speech in another place; therefore it was an increase which we in this House could anticipate.

In the introduction of the second reading the Minister said that as a result of the increase in hospital charges and a few other charges it was necessary to raise the surcharge fee. I would remind members that recently hospital fees were increased by 50 per cent. The original intention of this tax was to enable the hospital expenses arising out of motor accidents to be covered, but that argument does not apply at the present time.

We should bear in mind that the increase in the surcharge fee is to be 150 per cent., and this money will be paid into Consolidated Revenue. I am sure that if motorists become more aware of the fact that the Government is prepared to guarantee funds for private enterprise, as it recently did, they will object to this increase. They might be prepared to have the increase paid into Consolidated Revenue for the purposes of the State, but not to be used for giving guarantees to private enterprise.

In recent times we have experienced other increases besides this one. There has been an increase in the short-term vehicle license charge from 25c to $1; in the transfer fee of motor vehicles from $1 to $2; in learners' permits from 25c to $1; and in the other taxes shown in the schedule of rates applying to motor vehicles. Of course we cannot talk about them at the present time, because they are the subject of legislation.

The responsibility for these increases rests solely with the Government. There is one aspect of this legislation which I have always disliked; that is, this surcharge is tied up with the Third Party Motor Vehicle Insurance Trust. In fact, it has nothing whatever to do with the trust. I know that the surcharge was introduced during the term of office of our Government. It was introduced in that form, because that was the easiest method of collecting the tax. It was a simple method to add the charge to the third party insurance, so that the motorist paid the two charges in the one amount. However, the surcharge has caused a great deal of confusion, and it has nothing to do with the insurance trust. It is purely a tax on vehicles to benefit Consolidated Revenue.

Some means ought to be found to dissociate the surcharge from third party insurance. Really it is a misnomer and has nothing to do with third party insurance.

The Hon. N. E. Baxter: This tax has been applied since 1962.

The Hon. L. A. LOGAN: Whilst we do not like the tax, reference to the increase is contained in the Budget speech and the responsibility for this increase rests with the Government. Although I do not like to agree to steep increases in taxes, we have to accept some increases because they are necessary to the finances of the State. However, the increase in the surcharge from $2 to $5 represents an increase of 150 per cent.

THE HON. D. J. WORDSWORTH (South) [4.51 p.m.]: I draw the attention of the Government to the effect of third party insurance surcharge on the registration of farm tractors, trailers, and other farm vehicles. Previously the farmers did not have to register these, except when they were used on the roads. At a later time it was pointed out that farmers should avail themselves of the protection given under third party insurance. For that reason most farmers licensed their trucks

and vehicles, many of which were not used on the roads at all other than to cross them.

I consider that the proposed sharp increase in the surcharge discriminates against these types of vehicles. If the Government desires to impose an increase, it should exempt farm vehicles. I hope it is prepared to do that.

THE HON. A. F. GRIFFITH (North Metropolitan—Leader of the Opposition) [4.53 p.m.]: I draw the attention of members who support the Government, including the present Ministers, to the fact that when they were on this side of the House they used to ask: "How much more can the motorists stand?" We might well ask the same question at this point of time. The Government has only been in office for a short time, but it has aimed its taxing measures at the motorists, although previously present Government members had complained bitterly about these taxes when they were in Opposition.

Now it seems that the motorist is to be the first target of the Government, when it seeks to raise more money. As Mr. Logan said, the increase in the surcharge is not the only increase in taxes. Although we might not say very much about this particular increase, it should be borne in mind that in terms of a percentage it is a very steep increase.

According to what we have been told this is the first of a series of taxing measures aimed at the motorists. I will not say anything at this juncture about the other measures, except to point out that the opportunity will be given to us to put forward our views when those pieces of legislation are before the Chamber.

The proposed increase in the surcharge will mean that a family which runs one vehicle will pay an increase of $3; but if the family has two vehicles it will pay an increase of $6 in surcharge. All these taxes add to the costs of the motorists. I appreciate the sentiments expressed by Mr. Willesee when he said that Ministers did not like to introduce taxing measures.

THE HON. N. E. BAXTER (Central) [4.54 p.m.]: I have been consistent in my approach to this legislation. In 1962 when the legislation was first introduced to impose third party insurance surcharge, I said it should not be imposed. I am aware that Governments have to raise money for various purposes, but the increase in surcharge is really an imposition on the owners of motor vehicles.

In 1962 when the surcharge was first introduced some farmers owned not one but seven vehicles, and each was subject to this charge; in other words, if a farmer had seven vehicles he was up for $14, and this is to be increased to $35.

This is not a fair method of imposing taxation on people who own more than one vehicle. I recall the arguments which Mr. Wise and I put up against this imposition of the surcharge. The contention of the Government of the day was that if Western Australia did not impose the surcharge it would be penalised by the Grants Commission. I was then, and I am still, of the opinion that the State would not have been penalised by the Grants Commission had it not imposed the tax.

This is a very inequitable type of tax, and the proposed increase is very steep. In 1962 I suggested that a fairer way to raise money would be to impose a tax of 1d. on a daily or a weekly newspaper. If my memory serves me right it was estimated that such a tax would raise £400,000 or $800,000. Within six months of that proposal, the daily newspapers, or I should say *The West Australian*, increased its price by 2c. What does that newspaper cost at the present time? The cost is 7c. Had we imposed a surcharge on newspapers in 1962 instead of a surcharge on motor vehicles, I am sure that *The West Australian* would still be sold at the present price. Raising money by that method would have distributed the impact more evenly and would be less severe than the imposition of a surcharge on motor vehicles.

The principal Act was introduced in 1962, and since that time the tax has been imposed. I deplore the fact that the Government has now seen fit to increase the tax so steeply. Already the costs to the motorists have increased considerably since 1962, and the present increase will place an extra burden on them. I believe that ways and means to raise additional taxation on a much more equitable basis can still be found. I do not intend to oppose the second reading, but I must point out that I do not like this type of tax.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [4.58 p.m.]: I find it difficult to reply to the debate without having to admit that the proposed increase in this tax is a sharp one. I presume that efforts have been made by the experts in the Treasury to impose taxes in the most equitable way and to spread the impact over the whole community, having regard for the methods of taxation available to a State Government.

I think that members who reluctantly supported this measure did so from a sense of duty. The point taken by Mr. Wordsworth is a good one; but I should point out that if we granted any monetary rebate under this measure, it stands to reason that the money lost would have to be found from somewhere else. In essence I heard the same story from my predecessor, when he was sitting on this side of the House.

The fact is that the tax has been levied. There will always be someone who will consider the tax inequitable. As Mr Medcalf said, that would apply to any tax. I do not think it would be possible to find the perfect tax.

I do not want to delay the measure. I thank those members who have spoken to the Bill for their support, even though they might disapprove of the sharp increase in tax which will operate against the motorist.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.02 p.m.]: I move—

That the Bill be now read a third time.

THE HON. D. J. WORDSWORTH (South) [5.03 p.m.]: In reply to Mr Willesee's remarks, I would like to sound a note of warning, because I fear that the whole purpose of third party insurance might be changed by this increase. It is possible that farmers will no longer register their tractors but will run the risk of being caught. This risk is very small; but if some motorist is unfortunate enough to hit a tractor which has no third party cover he will certainly find himself in great difficulty. I think this aspect is most important.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.04 p.m.]: I hope the fears of the honourable member are ill-founded. I know there could be some resistance to increased costs, but I feel sure that any mature or sensible person would not run the risk of being maimed for life and finding there was no third party cover.

In a democratic society avenues are available for recommendations to be made against legislation which is having an adverse effect on a particular section of the community. I suggest to Mr. Wordsworth that would be the line to adopt rather than accept the view which he has suggested which, I hope, is only theoretical.

The Hon. A. F. Griffith: When we have a tax that a taxpayer must pay and the Government says, "We can tax them here because they must pay this," it makes the tax even worse.

The Hon. W. F. WILLESEE: I suppose it does, but it is the same tax that has operated for a number of years.

The Hon. A. F. Griffith: It is not the same tax; it is 150 per cent. more.

The Hon. W. F. WILLESEE: Having regard for the changes in monetary values I think we have done quite well.

Question put and passed.

Bill read a third time and passed.

PARLIAMENTARY COMMISSIONER BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.05 p.m.]: I move—

That the Bill be now read a second time.

This Bill relates to the appointment of an ombudsman or a parliamentary commissioner for investigations.

By way of introduction of this measure I would reiterate what has been stated in another place where His Honour Judge Burt was quoted as stating—

> The problem of legal control of the exercise of executive power could not be solved within the existing law. New institutions and attitudes would have to be created.

His Honour was not at that time a judge but he was a very prominent Queen's Counsel whose opinion was to be respected and the statement emanated from him when giving attention to the growing power of the Executive and the need for some provision to restrain that trend.

It was his very firm opinion that new institutions and attitudes would have to be created and the purpose of this Bill is to create a new institution following upon a new attitude to this question.

In relation to the proposal for the appointment of an ombudsman, we must consider the adequacy or otherwise of the guarantees which are at present available to the public against mistake, negligence or direct abuse of power by public authorities.

This rather unusual word, ombudsman, most probably derived, I should think, from Sweden, which country no less than 162 years ago appointed in 1809 an official carrying that title and there is still an ombudsman functioning in that country. It has taken the rest of the world a long time to realise the advantage which can flow from such an appointment as far as the general public is concerned. Denmark appointed an ombudsman in 1953; Finland appointed one in 1919; Norway in 1962; then followed New Zealand and Great Britain in 1967. So, from the experience and example of Sweden, those other countries have benefited and decided to follow suit by having their own institutions for the purpose of dealing with the grievances of individuals.

As far as can be ascertained—and I am informed that extensive inquiries have been made in this connection—there is not

a single instance anywhere in the world of the office of ombudsman, once having been created being subsequently discontinued.

The Danish Ombudsman, Professor Herwitz, delivered a paper at a seminar in Kandy in 1959. A Minister of the Crown from New Zealand was present at that seminar and after hearing Professor Herwitz he made up his mind that a case had been made out for the appointment of an ombudsman and that he would have one appointed in New Zealand. The Labor Government was defeated at the next elections but the Liberal Government, upon coming into office, appointed an ombudsman.

The Honourable the Premier when introducing this measure in another place, and speaking from memory of an occurrence of some nine or ten years ago, related that he had had the opportunity to speak to a very prominent Liberal member of the New Zealand Parliament who was on a visit to Western Australia and who in the presence of the Leader of the Opposition in this Chamber, who was then the Minister for Justice, expressed the view, in answer to a question asked of him, that the office of ombudsman in New Zealand was "absolutely and unequivocally a success." It was the Premier's pleasure and privilege a few months ago to meet the New Zealand Ombudsman, Sir Guy Powles, who has been such an outstanding success. On the occasion of his visit to Perth there were discussions with him of various aspects of his activities. The Premier was seeking from Sir Guy his views as to what he felt had been the main benefit from his office and whether he could honestly say that the expenditure involved had been worthwhile.

In view of my preceding remarks I believe that members in this Chamber would be surprised were I not to relate that Sir Guy stated that without the slightest doubt the appointment had been of tremendous benefit to many people and many wrongs had been redressed, which would not otherwise have been redressed, as a result of the existence of the office.

Turning to local government, we have an example in Australia of a local authority taking action on its own behalf. The Albert Shire Council in Queensland appointed an ombudsman in 1965 to look after the interests of the ratepayers.

I feel Mr. President that the brief background to the introduction of this measure which I have given members constitutes something of a reassurance as to what is contained in the measure now before the House.

The Bill before members provides for the appointment of an ombudsman whose term of office shall be for five years with the right of renewal. The ombudsman cannot be a member of Parliament, nor may he hold any other occupation. It is necessary to provide that section 34 of the Interpretation Act shall not apply to the power of appointment otherwise there would be limitations to the Government's sphere of activity with regard to this appointment. If members would study section 34 of the Interpretation Act they would see in what way it could be a hindrance. The Public Service Act will not apply to the parliamentary commissioner but the Superannuation Act will apply and the ombudsman who may be—but not necessarily—a person drawn from the Civil Service will be able to contribute to the Superannuation Fund and draw superannuation on his retirement in the ordinary way.

Mr. President, it is proposed that for the guidance of the parliamentary commissioner, rules of Parliament will be made in respect of the policy he will have to follow. The Parliament will determine the basic policy to be followed and will confer the power to be utilised in the investigations he will carry out. These rules will be rules which have been agreed upon by each House of Parliament.

Obviously then, section 36 of the Interpretation Act cannot apply. With regard to the jurisdiction over which the ombudsman will be able to carry out his activities, I advise members that his jurisdiction will include Government departments and other authorities specified in the schedule, plus any additional bodies which may from time to time be declared to come under his jurisdiction.

The ombudsman will not be given jurisdiction over the Supreme Court, a district court or any other court, for obvious reasons; nor will he be given jurisdiction over any judge, the Auditor-General, the Parliament, or the Parliamentary Privileges Act. Those will be completely outside the jurisdiction of the ombudsman and a little thought will show members why that is so. The matters which will be subject to his investigation will be any decision or recommendation which has been made or any act done or omitted to be done relating to a matter of administration and which affects any person or body or persons in his or their personal capacity.

The ombudsman is not authorised to investigate a decision of Cabinet or a decision of a Minister of the Crown. He is not authorised to question the merits of any decision of Cabinet or any decision of a Minister. Whether the decision of Cabinet or of a Minister be right or wrong, the place for it to be questioned is in Parliament itself and it is not necessary nor would it be desirable to provide that the ombudsman should be a person to question such a decision.

For instance a policy matter implemented by a Minister through a particular department which is mentioned in the schedule could involve the ombudsman in

inquiries into the administration. Parliament is to be the last word so that if there is anything wrong with the conduct of a Minister he may be questioned and called to book in Parliament. Therefore, it is unnecessary and undesirable that the ombudsman should on his own behalf or on behalf of any person outside Parliament question decisions of Parliament or of a Minister of the Crown.

On the other hand, the recommendations of a departmental officer to his Minister are an administrative matter and if recommendations are carried out by administrative officers, then the result of that administration may be inquired into by the ombudsman.

The ombudsman will not be authorised to take any action in respect of which a method or avenue of appeal is already existing. That is the general rule and I will mention the exceptions shortly. For instance, where a tribunal has been provided by law to which a person who feels aggrieved can apply, one would expect a person who has a grievance to take the ordinary course and follow procedures already laid down. But if the commissioner feels that despite the provision or the existence of an avenue of appeal he should hold an inquiry then the way is open for him to do so, even were the tribunal presided over by a judge. The commissioner would not be questioning the judge—he would he inquiring into a decision, if he felt there was a need. Obviously he would exercise this jurisdiction very carefully indeed. However, it is desirable that the power should be available for him to exercise the jurisdiction should he feel strongly that he should do so.

The question is: How are these inquiries to be initiated? Either House of Parliament by resolution may call upon the ombudsman to investigate a matter of complaint. Any committee of either House may also do so. Supposing a Select Committee were set up by this House and the recommendation of the committee was that the ombudsman should be called upon to make inquiries into the matter then in those circumstances the commissioner is empowered to carry out the inquiry. He may be activated as a result of a letter received from any person or body of persons. It is necessary to make provision for the case of an aggrieved person who becomes deceased before any communication can be made to the ombudsman. In that case the personal representative of the deceased is empowered to make representation to the ombudsman to initiate the inquiry. Power is given to the commissioner in his discretion to refuse to investigate any complaint made to him.

The commissioner will be given all the powers of a Royal Commissioner. Where he makes recommendations he may if he should think fit send a copy of his report and recommendations to the Premier of the day. Where he does that he then may, should he so wish, lay before each House of the Parliament a copy of such report. He has discretions in this matter. If he believes that the matter should be brought before the notice of the Premier—for example it could be a matter in which he has failed to get the redress from a department which he feels he should get and the Minister concerned will not make a move even though the matter has been brought to his notice—the ombudsman is given the power in his discretion to make a recommendation to the Premier. He is also given the discretion to make a report to Parliament if he sees fit. So there is the added safeguard against the case of a department or a Minister refusing to take action.

The departmental head or the Minister will be aware of the fact that they cannot just sit on a question and do nothing because the possibility is there that the matter will be reported to the Premier and also to the Parliament. These are safeguards against any possibility of the requests of the commissioner being ignored.

In any event there shall be an annual report of the ombudsman placed before Parliament. In that report he will deal with the number of cases which have been referred to him, those in which he felt it was necessary to conduct an investigation, and those in regard to which he felt there was insufficient justification for further inquiry. All this information on the activities of the commissioner will be supplied to Parliament annually.

Having covered the essential features of the Bill, I would reiterate in this House what was expressed in another; namely, that there was no doubt whatever that if Parliament passed this Bill and we succeeded in getting a suitable and competent person to fill the office, then no attempt will be made by any Government of the future to discontinue the office.

In other words we shall experience the same satisfaction that has occurred in other places, having a guarantee to members of the public that genuine complaints will be properly investigated and as far as is possible redress obtained. I suggest the Bill has everything which should commend it to members.

Several minor amendments moved by the Deputy Leader of the Opposition were accepted in the Legislative Assembly.

One of these affecting clause 17 changed the word "may" to "shall" as related to complaints made under the Act. The intention here I would think was rather to ensure that a complaint, if made, would

require to be in writing and not the determination that a complaint must be made in any event.

Another amendment required the commissioner, if making in any report any comment adverse to any person fairly to set out that person's defence in the matter. That is in clause 25.

Two amendments in clause 30 deprive the commissioner of the protection of the Act as a consequence of any act of negligence.

An amendment moved by the former Minister for Education (The Hon. E. H. M. Lewis) resulted in the Western Australian Institute of Technology and the University of Western Australia being added to the list of Government departments and other authorities in the schedule to which the Act is to apply.

Debate adjourned, on motion by The Hon. I. G. Medcalf.

PRISONS ACT AMENDMENT BILL

Second Reading

THE HON. R. H. C. STUBBS (South-East—Chief Secretary) [5.19 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to amend the Prisons Act 1903-1969 to allow for the change of the title of Comptroller-General of Prisons to Director of the Department of Corrections.

In recent years a number of reforms have been inaugurated in the field of corrections in Western Australia such as work release, temporary leave, and the establishment of a remand and assessment unit.

The aim has been to amalgamate several areas in the formation of an Adult Corrections Department. Another move has been the transfer of the forensic division of the Mental Health Services to Prisons Administration.

Recently, it was agreed that in keeping with other States in Australia and in many other countries in the world, the name of the Prisons Department in this State be changed to the Department of Corrections and this has been done.

To bring the Prisons Act into line with these changes the nomenclature of the office of Comptroller-General mentioned in the Prisons Act is to be changed to that of Director of the Department of Corrections.

Such a step will be in keeping with the successful reforms already established in Western Australia in prison reform. I commend the Bill to the House.

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

MARKETING OF LAMB BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.21 p.m.]: I move—

That the Bill be now read a second time.

Lamb producers in Western Australia have understandably expressed dissatisfaction with lamb prices and incidentally also other aspects of lamb marketing in recent years.

In particular they have been concerned with the prices obtained for lambs from sale to sale and even at different periods during the same sale. Producers have questioned whether the existing marketing system is the most expeditious one for today's needs and whether it is in the producer's best interests. Similar concern exists in other States.

The lamb marketing scheme which is the subject of the Bill originated in proposals of the Farmers' Union, which has expressed strong support for statutory marketing of lamb. Proposals of the Farmers' Union for a reform in lamb marketing were submitted to State Cabinet in August, 1970, and were studied by a subcommittee of Cabinet. It was decided at that time that a poll of lamb producers should be held to determine the degree of support for the proposed marketing scheme.

For the purpose of this poll a lamb producer was defined as "A person carrying on the busines of farming and, as such, produced 100 or more lambs of any breed, suitable for slaughter in any one of the years 1966, 1967, 1968, 1969 or 1970." At this time the Farmers' Union conducted a number of meetings at country centres to explain the operation of the proposed board. The poll was held in December, 1970, and the proposal was supported by a large majority of those voting. A total of 2,466 producers applied for enrolment on the roll of electors, and 2,028 voted with the following result:—

For	1,760
Against	228
Informal	40
Total	2,028

Producers of less than 100 lambs will not be excluded, but they were not given a vote entitlement. The Pastoralists and Graziers Association is opposed to the establishment of a marketing board for lamb, partly because the association foresees danger in having the lamb industry in Western Australia operating differently from the industry in other States.

After the referendum it was necessary for the proposals to be developed in detail and the responsibility for this rested with the Farmers' Union. In this the union was assisted by officers of the Department

of Agriculture and consequent to discussion more specific proposals were developed. The Government then decided that draft legislation be prepared to create a lamb marketing board to acquire lambs for slaughter in Western Australia.

The Bill proposes that the board be subject to the Minister for Agriculture and have the power to register abattoirs to act as its agents for the receival of lambs. All abattoirs in the State which slaughter lambs will be required to supply such statistics as the board may require.

Furthermore, the board will acquire all lambs offered for slaughter at all abattoirs throughout Western Australia. Thus there would no longer be any auction sales of lambs intended for slaughter, but auctions will continue for store lambs. Apart from certain exemptions—for example, for farmers' rations—no lambs may be slaughtered unless, at the time of slaughter, the lambs were the property of the board. The board will arrange for their slaughter and sale on a weight and grade basis—with the exception of those lambs rejected for human consumption—to wholesalers, exporters, or direct to the retail trade. The board will also have the power to export and trade in lambs and lamb meat on its own account.

Under the proposed marketing arrangements the board will set the wholesale price per pound, including current killing charges, at which it will sell lamb of various grades for specified periods. The net return of the sale of lambs on export markets is usually less than that obtained for lambs of similar quality sold on the home market. Producers will be paid an equalised price within prescribed grades, being a composite of the wholesale price and the export price for specified periods for a particular grade, less authorised deductions to cover the board's handling and administration charges. All producers delivering lambs to the board will receive the equalised price for a particular grade, irrespective of whether the lambs delivered were actually all or partly exported or consumed on the local market.

Payments to producers will consist of a first advance followed by one or more supplementary payments, and will also include payment for skins. The board will grade or classify skins and pay producers the amount it receives from their sale. The payment for skins will be quite separate from the pooling procedure for local and export sales of lamb meat products.

The board will require the power to borrow, in particular to finance returns to growers for lambs received, so that prompt payment can be made and appropriative provision is made in this Bill.

The board will have the power to regulate and control deliveries of lambs to abattoirs in any period and will negotiate with abattoirs for its required killing space. This will require that producers give notice to the board of their expected deliveries. The board will be required to accept delivery of lambs in all cases where delivery is in accordance with its regulations and where the board's approval had been obtained for the delivery of a specified number of lambs in any period.

On the other hand, the board will not be obliged to accept delivery of lambs where the delivery or proposed delivery is not in accordance with its regulations—in particular, if lambs be diseased, in dirty condition, or if it should appear that the carcase would be below the minimum weight acceptable under the board's grading system.

Measures will be necessary to ensure that any lamb supplied by the board and designated export lamb is, in fact, exported and not sold on the domestic market.

The board may, in lieu of selling offal, enter into arrangements whereby the offal is disposed of to other interests without payment being made to the board, if the disposal of the offal results in a commensurate adjustment in the slaughtering and treatment charges.

There are two areas in which the Bill departs from the proposal submitted to Cabinet in June. Firstly, it is now proposed that the board consist of five members instead of four as previously intended. The revised composition is a chairman, two representatives of producers, one representative of the meat trade, and the manager of the board, which would be an *ex officio* appointment. As the lamb marketing board would be a trading organisation it is considered there is merit in having the manager as a member of the board. The Farmers' Union agrees with this change.

The two representatives of producers would be elected by producers; the representative of the meat trade and the chairman would be nominated by the Minister. The chairman would be appointed for a term of five years and the other members for a term of three years, except that in the first two years of operation there is a provision to enable the phasing in and out of members to prevent the terms of several members expiring in the same year.

The second alteration to the previous proposal is that it was considered earlier that the board might exempt certain abattoirs from the requirement that abattoirs be registered as agents of the board. The intention was that it may have been desirable for the board, for administrative convenience, to exclude certain country abattoirs, in particular those with a low throughput of lambs supplying local needs. If this had been possible the board may have then required a levy to be placed on lambs delivered to exempted abattoirs; the levy would have been based at a level which

was designed to bring the net price for lambs delivered to exempted abattoirs in line with the equalised price for lamb.

However, subsequent legal advice was that, for the legislation to be valid, it would be necessary for the board to acquire all lambs. Thus all abattoirs would be required to register with the board, and the levy arrangement considered earlier would not apply.

The Bill also provides that the lamb marketing board be given the authority to deal in sheep other than lambs. Subject to ministerial approval the board may declare that during certain periods it will accept the delivery of sheep.

The board would not be required to accept any sheep except where it had given prior approval to a producer to deliver sheep, and the sheep were delivered in accordance with the board's requirements. There would not, of course, be any compulsion on producers to deliver sheep for slaughter to the board; but sheep consigned to the board would be handled, and the sheep products marketed, in essentially the same manner as lambs. However, it is expected that the board's dealings in sheep would be mainly for export markets.

A major reason for the reluctance to introduce lamb marketing boards in other States is that problems would arise through the movement of lamb across State borders, thereby avoiding acquisition by a marketing board. This is a real problem in the Eastern States; however, in Western Australia the distance between major consuming centres in Western Australia and major producing centres in other States gives Western Australia a degree of protection from imports of lambs from other States. However, the possibility of imports into Western Australia does exist and will need to be considered by the board in its pricing policy.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. F. D. Willmott.

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Second Reading

THE HON. R. H. C. STUBBS (South-East—Minister for Local Government) [5.31 p.m.] I move—

That the Bill be now read a second time.

This Bill comprises six clauses and is to bring up to date the penalties prescribed in various sections of the Act and, more appropriately, to present-day values. The changes have been based on the variation in the average earnings as supplied by the Bureau of Census and Statistics indicating that between 1959-1960 and 1970-1971 wages doubled.

The Bill provides for amendments to sections 4, 10, 28, and 33 to double the maximum penalties prescribed.

There is also provision for an amendment to subsection (1) of section 3 to correct a reference to the Workers' Compensation Act, 1912-1941. When this section was originally enacted it was correct in its reference to section 10 of the Workers' Compensation Act. However, in a subsequent reprint of the Workers' Compensation Act, section 10 became section 13 and this Bill is designed to make the corresponding adjustment.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. L. A. Logan.

SUPREME COURT ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.33 p.m.]: I move—

That the Bill be now read a second time.

There is contained in this Bill a measure for the protection of certain goods from seizure by the sheriff, the subject of a Bill introduced in 1964 by the present Attorney-General.

The protection is as follows—

> Wearing apparel of such defendant or other person to the value of fifty pounds and of his wife to the value of fifty pounds and of his family to the value of twenty-five pounds for each member thereof dependent on him; furniture and effects (including beds and bedding) used for domestic purpose to a value not exceeding in the aggregate two hundred and fifty pounds; implements of trade to the value of fifty pounds; family photographs and portraits.

Having regard for the inflation which has taken place since 1964, it is now proposed that the amounts be increased by 50 per cent. in each case, making the protection more in line with present-day values.

Section 142 (2) provides that local courts' judgments, where the amount of the debt or claim allowed exceeds $200, carry interest at the same rate as that for judgments of the Supreme Court. This amount of $200 was inserted in the Act in 1930. It is proposed to raise this amount to $750, having regard for changes in money value.

The remaining provisions in this amending legislation are designed to give effect to recommendations of the Chief Justice. Court proceedings are reviewed from time to time to ensure that they meet the changed conditions which inevitably occur under the prevailing system of justice. It is interesting to note that the principal Act has not been amended since 1964.

The time is now opportune to give further consideration to updating the procedures to meet the requirements of the community. Provision is to be made for acting judges and for commissioners to complete the hearing of causes and matters which they had commenced but not concluded at the time their appointments lapsed. There is already power for judges who retire to conclude any business they had commenced before reaching the statutory retiring age of 70 years.

Section 17 of the principal Act is to be repealed, as the court derives its power to deal with admiralty matters from the Colonial Court of Admiralty Act, 1890—an Imperial Statute.

It is considered that the court should have power to sit at any time and at any place. For this reason it is thought undesirable that sittings should be fixed by the rules of court as it might be argued that the court must sit at the places and times prescribed. It is proposed to allow the Chief Justice discretion in determining the sittings of the court outside the metropolitan area.

At present, criminal court sittings are not held in Perth during the month of January. The Chief Justice is to be empowered to direct that sittings be held to deal with matters which he considers fit. These would not involve jury trials, but would be matters such as pleas of guilty, breaches of probation, and other similar business. The holding of jury trials would cause inconvenience to prospective jurors in view of the wide-spread practice in trade and commerce of requiring employees to take annual leave following the Christmas period.

The vacation judge under the existing provisions is limited to dealing only with urgent applications. The judges have agreed with the request of the Law Society that all applications which are required to be heard during the vacation period should be heard.

Circuit Court sittings are held regularly in the four principal towns of Albany, Bunbury, Geraldton and Kalgoorlie. At the present time there is no need to provide for regular sittings at the remaining five circuit towns of Broome, Carnarvon, Derby, Port Hedland, and Wyndham. An amendment is proposed to enable rules of court to delegate to the Chief Justice the power to fix circuit sittings where not fixed by rule. It is intended that a better service will be available to these towns.

Although stipendiary magistrates may be appointed as commissioners there is no authority to appoint District Court judges. This anomaly is to be removed by an appropriate amendment.

The court or a judge is to be empowered to make orders without limitation referring assessments of damages to the master for trial. Section 167 (1) (c) enables rules to be made for prescribing what part of the business that may be transacted by a judge in chambers can also be undertaken by the master. However, it is doubtful whether this power can apply to orders which require issues of and questions of fact to be dealt with by the master in open court. The procedure is desirable to enable court business to be transacted as expeditiously as possible.

It is proposed to resolve any doubt that the Full Court can sit in two divisions at the same court. The amount of business now coming before the Full Court makes it desirable that the position be clarified.

Every judgment debt carries interest at the rate of 5 per cent. per annum from the time of entering of judgment until satisfied. The rate is low by present-day standards as a result of which defendants often seek to delay payment by fruitless appeals. It is reasonable that the rate should be reviewed from time to time and therefore the Treasurer will be authorised to fix the rate as required.

Section 159, providing for the protection of the sheriff and his officers in selling goods under execution without notice of the interests of a third party, is to be repealed and re-enacted in the interests of greater clarity.

Although justices of the peace are allowed to take affidavits without restriction in the fields of bankruptcy and divorce—these being within Commonwealth jurisdiction—they are not permitted to swear affidavits relating to matters being dealt with under State laws where there is a commissioner for affidavits resident and present within three miles of the Supreme Court, other than probate jurisdiction. There is no reason why all matters being dealt with by the court should not be subject to the same requirements. It is proposed to remove this anomaly.

The Bill contains some amendments required as a consequence of the enactment of other legislation and is commended to members.

Debate adjourned, on motion by The Hon. I. G. Medcalf.

ADMINISTRATION ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.40 p.m.]: I move—

That the Bill be now read a second time.

This Bill is consequential to the amendment of section 176 of the Supreme Court Act referred to in clause 19. If that measure is passed there would be no need for section 138 of the Administration Act

for the reason that affidavits for the purpose of any matter before the Supreme Court could be sworn before justices of the peace without restriction.

Section 138 of the Administration Act reads as follows:—

> Any affidavit required by this Act to be sworn before a commissioner for affidavits may be sworn before a justice of the peace where the deponent resides more than ten miles from the residence or place of business of the nearest commissioner for affidavits.

This provision applies only to affidavits which have to be sworn and probably have effect within the jurisdiction of the Supreme Court. By clause 19 of the Supreme Court Act Amendment Bill it is sought to clothe justices with the authority of the Supreme Court; and therefore section 139 of the Administration Act will become inappropriate. For that reason it is desirable that the section be repealed.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. I. G. Medcalf.

EVIDENCE ACT AMENDMENT BILL

Second Reading

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.42 p.m.]: I move—

> That the Bill be now read a second time.

This Bill is consequential to the intended repeal of section 176 of the Supreme Court Act. It proposes to repeal section 106A of the Evidence Act, the marginal note of which mentions: "Swearing of an affidavit before a Justice of the Peace in the absence of a commissioner."

The full provision, which is quite lengthy, affects section 176 of the Supreme Court Act only, making it competent for justices of the peace in certain circumstances to swear affidavits and only in those instances relating to matters within the jurisdiction of the Supreme Court.

Current proposed amendments to the Supreme Court Act will remove the restrictions placed on justices of the peace in taking affidavits for the purpose of matters to be dealt with by the Supreme Court.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. I. G. Medcalf.

TRAFFIC ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. J. DOLAN (South-East Metropolitan—Minister for Police) [5.44 p.m.]: I move—

> That the Bill be now read a second time.

One of the matters dealt with in this Bill is a redrafting involving sections 9, 10 and 10A of the Act relating to the licensing of vehicles.

Section 9 relates to the licensing of vehicles in country areas. Section 10 relates to the licensing of vehicles in the metropolitan area by the Commissioner of Police and section 10A applies to both country and metropolitan licensing authorities.

The main difference between sections 9 and 10 is that licensing in the country districts was previously on a quarterly basis, whereas in the metropolitan area provision was made for the staggering of expiry dates. At the request of the Country Shire Councils Association the Act was amended in 1970 to provide for staggering of licenses in country districts.

It will be found that clause 4 of the Bill amalgamates these sections into a new section which will be section 9.

Opportunity is also taken to provide a common basis for assessing short-term fees. These fees are at present calculated on the basis of one-twelfth of the fee for each complete month or part thereof. This basis differs from that used in calculating third party insurance under the Motor Vehicle (Third Party Insurance) Act of 1943.

The measure now before members makes provision for the calculation of short term fees on a common basis of one-third of a month or part thereof.

Under the present wording of sections 9 and 10 in relation to the return of number plates and as affecting the continuity of licensing periods, an impression is conveyed that 15 days of grace apply after the expiry of the license. This principle has been accepted departmentally and prosecutions avoided for the use of unlicensed vehicles during the 15-day period. A legal doubt exists, however, in the matter and this is to be resolved by amendment to section 5 of the principal Act by allowing the use of the vehicle within the period of 15 days next succeeding the day of expiry of the license. Section 9 has been redrafted, however, to prevent persons taking advantage of late renewal to extend the period of the license.

This Bill also includes some amendments as affecting fees which emanate from the Budget. The short term fee is to be increased from 25c to $1. The learner's permit for a motor driver's license is also to be increased from 25c to $1. A fee of $2 will be payable on transfer of a vehicle license. At the present time the transfer fee is $2 for any motor vehicle other than a motor cycle, motor carrier, caravan—trailer type—and trailer—other than plant—where the fee is $1.

There has been no adjustment to these fees for many years and, apart from budgetary considerations, it is considered that an adjustment to bring the fees into line with present day costs is necessary.

A further budgetary measure not involving an increase in fees—

The Hon. J. Heitman: That is unusual; what happened there?

The Hon. J. DOLAN: That jumped out and hit me. I will repeat it because I get a great deal of pleasure from it.

A further budgetary measure not involving an increase in fees is the provision for the retention by the Commissioner of Police—where he is the licensing authority in the metropolitan area and in certain country districts—of the sum of $3 from license fees for each vehicle on the register at the 31st December in each year. At present the amounts retained are $4 in respect of each vehicle up to and including 1,000 vehicles and $3 in respect of each motor vehicle in excess of that number licensed outside the metropolitan area, and also an amount of $1.50 in respect of each motor vehicle licensed in the metropolitan area. There will be no adjustment of the amounts to be retained by country local authorities, but where the Commissioner of Police has taken over the control of traffic and licensing in a country area, the flat amount of $3 will apply.

Because of the budgetary measures contained in the Bill and their effect on State finances there is some urgency in the matter.

I would mention for the information of members that the Bill does not contain any measures relating to proposals for the repeal of the Road Maintenance (Contribution) Act or for the takeover of traffic control and licensing from country authorities. Such measures will be brought before the House as separate pieces of legislation.

The Hon. A. F. Griffith: Separate shockers no doubt!

Debate adjourned, on motion by The Hon. R. J. L. Williams.

House adjourned at 5.49 p.m.

Legislative Assembly

Thursday, the 25th November, 1971

The SPEAKER (Mr. Norton) took the Chair at 11.00 a.m., and read prayers.

RIGHTS IN WATER AND IRRIGATION ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by Mr. Jamieson (Minister for Water Supplies), and transmitted to the Council.

ENVIRONMENTAL PROTECTION BILL

In Committee

Resumed from the 24th November. The Chairman of Committees (Mr. Bateman) in the Chair; Mr. J. T. Tonkin (Premier) in charge of the Bill.

Progress was reported after clause 54 had been agreed to.

Clauses 55 and 56 put and passed.

Clause 57: General referral—

Mr. COURT: I have an amendment on the notice paper and I have taken the unusual precaution of putting an alternative amendment on the notice paper also. No doubt the Premier has studied these amendments and has formulated a broad idea of what is intended. I am not greatly concerned as to whether one or the other amendment is considered, but I believe one or the other deserves consideration and should be adopted. At the moment I do not propose to move either one of the amendments. I wish merely to obtain the reaction of the Premier.

My first amendment seeks to insert after the word "practicable" in line 31 on page 33, the following words:—

> and the authority shall report to the Minister on the matter when and as often as the Minister requires;

Members will see that the marginal note to this clause is "General referral," and I also draw their attention to subclause (1), which reads as follows:—

> (1) Where it comes to the notice of a Minister of the Crown that a proposed development, project, industry, or other thing, may have a detrimental effect on the environment he shall so advise the Authority and shall thereafter in relation to that matter furnish to the Authority and to the Council all such aid, information and facilities as are practicable.

If the words I have suggested are inserted it will mean that not only does the Minister do this, but also he will retain a degree of control. I am not suggesting that he retain control over the minds and thoughts of the members of the authority in the council, but at least he should be placed in a position to ensure that the matter is not deferred continuously, because he can say that reports shall be submitted to him at intervals. For instance he can say, "I want an interim report in a month and a final report in three months." If the matter is of greater import, he might say, "I want a report every three months and finality in 12 months." That is the type of thing I have in mind. The amendment does not intend to place the Minister in the role of a dictator over the authority, but at least he can get an answer. Most of us