

to intrude into the field of the mutual companies and eventually absorb the whole of the life assurance business. I support the amendment.

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

| | |
|------------------|----|
| Ayes | 17 |
| Noes | 18 |
| Majority against | 1 |

Ayes.

| | |
|------------------------|------------------|
| Mr. Abbott | Sir Ross McLarty |
| Mr. Ackland | Mr. Nalder |
| Dame F. Cardell-Oliver | Mr. North |
| Mr. Court | Mr. Oldfield |
| Mr. Doney | Mr. Owen |
| Mr. Hearman | Mr. Watts |
| Mr. Hill | Mr. Yates |
| Mr. Hutchinson | Mr. Bovell |
| Mr. Manning | |

(Teller.)

Noes.

| | |
|---------------|---------------|
| Mr. Brady | Mr. McCulloch |
| Mr. Graham | Mr. Molr |
| Mr. Hawke | Mr. Norton |
| Mr. Heal | Mr. Nulsen |
| Mr. W. Hegney | Mr. Rhatigan |
| Mr. Jamieson | Mr. Sleeman |
| Mr. Johnson | Mr. Styants |
| Mr. Lapham | Mr. Tonkin |
| Mr. Lawrence | Mr. Sewell |

(Teller.)

Amendment thus negatived.

Progress reported.

House adjourned at 11 p.m.

Legislative Assembly

Thursday, 5th November, 1953.

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The SPEAKER took the Chair at 2.15 p.m., and read prayers.

PERSONAL EXPLANATION.

Hon. C. F. J. North and Western Australian Defence Motion.

Hon. C. F. J. NORTH: With your permission, Mr. Speaker, I would like to make a personal explanation concerning a report in this morning's issue of "The West Australian" dealing with the debate on my motion regarding the defence of the Western Australian coast. The report stated that a motion had been moved by me to the effect that the House request the Federal Government to have proper provision made for the defence of the western coastline. That, however, was the amendment moved by the Minister for Education. My motion was as follows:—

That this House supports the Federal member for Canning in his move at Canberra to have proper provision made for the defence of our western coastline.

The amendment and the motion were two different things. The amendment was to request the Federal Government to do

something, while the motion was to the effect that we should support the Federal member for Canning in his move. In his amendment the Minister for Education asked the House to recommend that the Federal Government assist the State Government in the opening up of Cockburn Sound. In this connection, in my speech I mentioned that the Minister for Navy and Air had said that—

As resources grew, proposals for a naval base—whether at Cockburn Sound, Albany or elsewhere—would be considered.

QUESTIONS.

LANDS.

(a) As to Applications for Dairying Areas.

Mr. BOVELL asked the Minister for Lands:

(1) Is he aware that a number of applications for Crown land in the dairying districts have been declined on the ground that the area concerned is said to be required for war service land settlement?

(2) In view of his recent statement that applications for dairy farms under war service land settlement conditions have been almost satisfied, has the Government any proposals for the release of Crown land in dairying districts to applicants who do not come within the terms and conditions of the war service land settlement scheme?

(3) If so, what areas of land in dairying districts are to be made available to outside applicants?

(4) If not, will immediate action be taken to permit such applicants to secure land for agricultural purposes, especially in the Karridale district?

The MINISTER replied:

(1) Two blocks of Crown land in the South Blackwood area are being held for land settlement projects should a scheme for civilian or migrant settlement eventually be.

(2) to (4) Blocks in the Cowaramup-Yallingup and Northcliffe areas have been released for general settlement as inquiries are received.

Blocks west of the Chapman Brook and west of the Blackwood can be released subject to forestry requirements.

The policy is to release blocks adjacent to established settlement rather than isolated blocks involving the provision of roads and other public utilities.

(b) As to Position on Death of Ex-Serviceman.

Hon. A. F. WATTS asked the Minister for Lands:

(1) On the death of a war service land settler by accident or otherwise while the holder of a perpetual lease of his war service property, is his widow entitled to

carry on the property and receive the benefit of the lease in the place of her husband?

(2) If so, what procedure should the widow take to obtain her rights?

(3) Is the position affected where the widow is also executrix or administratrix?

The MINISTER replied:

(1) Yes.

(2) and (3) Applications for transfer by normal legal process. Clause J of the lease reads, "That in the event of the death of the lessee within the first 10 years of this lease the holding may be transferred to the lawful beneficiary of the lessee entitled in distribution in intestacy or named in the last will and testament of the lessee."

(c) As to Disposal of Subiaco Lots.

Hon. Dame FLORENCE CARDELL-OLIVER asked the Minister for Lands:

(1) With regard to lots 215, 216 and 418 at Subiaco, on which it had been intended to erect flats, is it true that this land is to be sold or leased to a private syndicate?

(2) If so, what persons comprise such syndicate?

(3) What is to be the purchase price of the land, or the terms of the lease?

(4) Does he know whether the purchaser intends to erect flats on this land, or of any other intention?

(5) As this land was reserved for school site purposes on the 15th December, 1916, and has since that date remained a school site reserve, is he satisfied that the Crown has the power to dispose of this land without the approval of Parliament?

The MINISTER replied:

(1) These lots have been transferred to the State Housing Commission.

(2), (3) and (4) These questions should be directed to the Minister for Housing.

(5) Yes.

SUPERPHOSPHATE.

As to Return of Excess Equalisation Payments.

Hon. A. F. WATTS asked the Minister for Agriculture:

(1) Why is a committee (as stated in "The West Australian" of the 31st October) necessary to determine the repayment of moneys over-collected under the super-phosphate equalisation fund?

(2) What amount is on hand for distribution?

(3) On what basis was the collection made?

(4) Were not the actual payments to the fund initially charged in distributors' accounts to purchase and, through the Transport Board and the Railway Department, paid to a fund at the Treasury?

(5) Why is it necessary, therefore, as stated in the Press, to provide forms for individual application for a refund?

(6) Is retention of some part of the fund contemplated to meet errors and omissions, as also reported? If so, why?

The MINISTER replied:

(1) Regulations provide that disbursements from trust funds may be made only on receipt of claims. The committee referred to is the same committee representative of all interests which submitted the original proposals for the equalisation fund and has been re-assembled to allow those interested to express their views and submit recommendations to overcome the cumbersome delays which would be involved in asking for individual farmers to submit claims and further conference to make recommendations regarding the basis on which refunds would be made.

(2) £169,748 0s. 1d.

(3) Up to 40 miles from works 2s. 6d. per ton, then progressively increasing to the maximum of 16s. 3d. per ton at 95 miles.

(4) Payments on superphosphate forwarded by rail were paid by the Railways commission direct to the equalisation fund at the Treasury. In respect of road deliveries, distributors paid the amounts to the same fund through the Department of Agriculture.

(5) As indicated in the reply to No. (1), regulations provide that disbursements from trust funds may be made only on receipt of claims. It is hoped to overcome this difficulty.

(6) Yes. A small amount is considered necessary to deal with contingencies. When dealing with many thousands of items at least a few inaccuracies are considered unavoidable.

RAILWAYS.

(a) *As to Recommendations by Town Planning Consultant.*

Mr. J. HEGNEY asked the Minister for Works:

(1) Did Professor Stephenson, town planning consultant to the Government, submit an interim report to the Government when he advised in connection with the placement—

(a) of a railway goods yard at Burswood Island;

(b) of a railway line to connect Bellevue, Cannington and Kwinana?

(2) Did he recommend the amended chord railway proposal which will traverse the Swan River embankment and join the

railway lines at the Belmont racecourse and Rivervale, or is this proposal the recommendation of the engineers, Messrs. Dumas and Brisbane?

(3) Can the report be laid on the Table for a short period for the scrutiny of members?

The MINISTER FOR HOUSING replied:

This question has been addressed to the wrong Minister. On behalf of the Chief Secretary, the replies are—

(1) No.

(2) No. The proposal is contained in the report submitted by Messrs. Dumas and Brisbane.

(3) A copy of the Dumas-Brisbane report will be made available as requested.

Incidentally, the report was laid on the Table of the House a few minutes ago.

(b) *As to Coaching Traffic Losses.*

Mr. HEARMAN (without notice) asked the Minister for Railways:

In reply to a question asked by me on the 22nd September regarding metropolitan-suburban trains and their losses, I was advised that the information was not immediately available, but would be presented in due course. When does the Minister expect to have the answers?

The MINISTER replied:

A letter containing the information required was prepared in my office today and signed by me.

BRIDGES.

As to Construction, Murray River, Pinjarra.

Hon. Sir ROSS McLARTY asked the Minister for Works:

(1) Is it correct that an amount of £29,000 is to be provided to erect a new bridge over the Murray River at Pinjarra?

(2) In view of the fact that this bridge will have to carry all the heavy and increasing traffic between the South-West and the metropolitan area, does he consider that a timber bridge, costing £29,000, will be a suitable structure?

(3) Over what period would a wooden structure compare with the life of a steel and concrete bridge?

(4) Would not the maintenance of a timber bridge be much more costly than that of a steel and concrete bridge?

The MINISTER replied:

(1) Yes.

(2) Yes.

(3) 40-50 years.

(4) Yes.

POLICE.*As to Supervision of River.*

Mr. COURT (without notice) asked the Minister for Police:

(1) Has the water police launch "Cygnet" been permanently withdrawn from service?

(2) If so, has the water police section of the W.A. Police Force been disbanded?

(3) Is it the intention of the Government to arrange some form of water police supervision of the river during this summer season, either by the provision of a police-owned launch, the hire of a private launch or co-operation with one of the defence services?

The MINISTER replied:

The hon. member intimated that he was going to ask the questions and I have been able to obtain the following answers:—

(1) Yes.

(2) No.

(3) Police duties on the river and at river resorts will continue to be carried out during the forthcoming summer season by the use of a vessel made available to the Police Department by arrangement with the Harbour and Light Department.

BILLS (2)—FIRST READING.

1. Entertainments Tax Act Amendment (No. 2).

2. Entertainments Tax Assessment Act Amendment (No. 2).

Introduced by the Premier and read a first time.

BILLS (2)—THIRD READING.

1. Administration Act Amendment.

2. Declarations and Attestations Act Amendment.

Transmitted to the Council.

BILL—RETURNED SERVICEMEN'S BADGES.

Report of Committee adopted.

BILL—ENTERTAINMENTS TAX ACT AMENDMENT (No. 1).

Order Discharged.

On motion by the Premier, Order discharged.

BILL—STATE GOVERNMENT INSURANCE OFFICE ACT AMENDMENT.

In Committee.

Resumed from the previous day. Mr. J. Hegney in the Chair; the Minister for Labour in charge of the Bill.

Clause 4—Section 4 amended (partly considered):

Hon. A. V. R. ABBOTT: I move an amendment—

That after the word "business" in line 8 of paragraph (b) of proposed new Subsection (1) the words "or to undertake and carry on general business of insurance in such manner and form and according to such procedure as the general manager considers necessary or desirable" be struck out.

The second portion of this paragraph is in conflict with the first, because the first part provides that the general manager or the office shall be entitled to carry on insurance business in the ordinary manner of companies which usually carry on this business, but the second part says that in any case the general manager can carry on the business in any way he likes. All through the debate, the Minister in charge of the Bill has emphasised that the State office is to carry on business in the ordinary commercial way—there is to be free competition; the State office is not going to take advantage of other companies; it is to comprise an additional office carrying on competitively with the mutual life offices and the fire offices.

I cannot see the necessity for the second portion of the paragraph. Surely the first part is wide enough, if the Minister really means what he says. If the Minister wants the general manager to carry on just as he likes, then let us delete the earlier words; but I do not want that, of course. I want to accept the Minister's word that this office will carry on in the ordinary manner. We do not desire any extraordinary activities outside of ordinary business methods.

The MINISTER FOR LABOUR: The fears of the member for Mt. Lawley are unfounded. If he reads the paragraph again, I think he will agree there is no substance in his contention that it will allow the manager free rein to do something diabolical at some future date in order to extend the activities of the office with respect to some form of general insurance. All the second portion of the paragraph seeks to do is to provide that, in the event of the office deciding to undertake any business in the future, there will be no necessity to bring down another amendment of the Act. The general manager must be a responsible person.

There are many managers of State concerns and, within the jurisdiction of their respective statutes, each is given free rein to carry on his business. I think the wording of the Bill should be retained and I hope the Committee will reject the amendment.

Mr. HUTCHINSON: This provision could constitute a potential danger to the private insurance companies because some Government in the future might desire to create a form of monopoly to the detri-

ment of the private offices and that could be done under the power contained in this part of the measure.

Hon. A. V. R. ABBOTT: The Minister says that the wording of the paragraph is what he wanted the draftsman to put in, but why include a sop and follow it up by something with an entirely different meaning? The first portion means that the State Insurance Office is to carry on business like any other office according to accepted methods, and the next says that the general manager can do anything he damned well likes. Is that reasonable?

Amendment put and negatived.

Hon. A. V. R. ABBOTT: I move an amendment—

That paragraph (c) of proposed new Subclause (1) be struck out.

I do not think the State Insurance Office should act as agent for any other State or Commonwealth organisation. Do we want the Queensland Government insurance office carrying on business here through the State Insurance Office as its agent? The Queensland office is at present operating in life assurance and I do not think the Minister intended that our State Insurance Office should act as its agent.

The MINISTER FOR LABOUR: People travelling interstate might have property lost or damaged and desire to lodge claims, in which case the State Insurance Office should be empowered to act as agent for those persons. It would be convenient for travellers from other States to Western Australia to be able to approach the State Insurance Office to act as agent for the company or firm with which the insurance policy had been taken out.

The member for Mt. Lawley was hesitant when putting forward his amendment. I would remind him that a similar provision has been in the State Government Insurance Office Act for eight years and the definition of "insurance business" was altered and extended in 1945. It states—

By adding at the end of the definition of "insurance business" a paragraph as follows:—

(d) The term also includes acting as agent in this State for and on behalf of any State insurance office or department of any other State of the Commonwealth being carried on as an activity or undertaking of such other State under the laws thereof, when requested so to do by such insurance office or department in connection with any of the insurance business carried on by that insurance office or department.

Hon. A. V. R. Abbott: But you are not deleting that.

The MINISTER FOR LABOUR: No, but the hon. member is trying to sabotage the provisions of the Bill. This measure seeks to confirm the provision I read out so I hope the Committee will reject the amendment.

Mr. BOVELL: The Minister said that this provision has been in the Act for eight years, but I would remind the Committee that the Bill before us seeks to widen the scope of the State Insurance Office and will enable it to conduct life assurance business. That alters the whole complexion of the functions of the State office and I do not think it is desirable to have other States or the Commonwealth indulging in life assurance activities in Western Australia. I support the amendment.

Amendment put and negatived.

Hon. A. V. R. ABBOTT: This clause also seeks to bring employees of the State Insurance Office under the provisions of the Public Service Act. At present, as I understand it, the only person in the State Insurance Office who comes under the provisions of the Public Service Act is the manager. Recently the Minister for Lands introduced a Bill dealing with bank employees and I think I am right in saying that he said bank employees who had had branch experience and so on should have a right to promotion without any competition from people in the Public Service who might be senior to them. So I suggest that the Minister keep that in mind when dealing with State Insurance Office employees. This is not a matter of policy but one of administration, and some consideration should be given to it.

Clause put and passed.

Hon. A. V. R. ABBOTT: I have an amendment on the notice paper and I stood up to move the amendment, which deals with one of the provisions in Clause 4.

The CHAIRMAN: The hon. member will resume his seat. No amendment was moved but the hon. member discussed a particular point with regard to employees of the State office and the Minister did not reply to it.

Hon. A. V. R. Abbott: That is so.

The CHAIRMAN: Then I put the question. I am only the Chairman of Committees and I cannot move the amendment for the hon. member. The member for Mt. Lawley did not rise in his seat when I put the question that Clause 4 be agreed to.

Hon. A. V. R. Abbott: I was on my feet.

The CHAIRMAN: That is not so. The clause was put and passed.

Hon. A. V. R. ABBOTT: I do not propose to dispute your point of view, Mr. Chairman, but as these clauses are long I have to look at my notice paper and then look up. If the questions are put

too quickly, I cannot cope with the amendments I have. It would be most helpful if the clerk could draw your attention to the amendments.

The CHAIRMAN: The hon. member, if he wants to move any further amendments to Clause 4, will have to move that the Bill be recommitted at a later stage.

Hon. A. V. R. ABBOTT: Very well.

Clauses 5 to 7—agreed to.

Clause 8—New Section 7A added:

Hon. A. V. R. ABBOTT: This clause, too, does not deal with a question of policy. Although at present the State Insurance Office acts as agent for the Government with regard to its fire insurance business, it has no authority to handle that type of insurance. Once it is given power to do so, I do not see any reason why it should continue to act as an agent for the Government because it could handle the Government's fire insurance in the normal way. Therefore, I think the whole clause could be deleted and I ask the Minister to give that suggestion some consideration.

The Minister for Labour: You mean not now, but afterwards?

Hon. A. V. R. ABBOTT: Yes; the Minister may decide to adopt my suggestion and after discussing it with the manager of the State Insurance Office, he might arrange that the clause be deleted in another place.

Clause put and passed.

Clauses 9 and 10—agreed to.

Clause 11—New Section 7D added:

Hon. A. V. R. ABBOTT: I move an amendment—

That Subsection (2) of proposed new Section 7D be struck out.

The MINISTER FOR LABOUR: I accept the amendment. I noticed that in 1946 and 1947 there was some objection to this provision, which aims at amending the schedule by regulation instead of bringing it before Parliament.

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

Clause 12—New Section 7E added:

Hon. A. V. R. ABBOTT: The proposed new section provides that the State Insurance Office shall pay an equivalent amount of income tax to the Treasurer as would be paid by a private insurance company. As the Minister has said he desires the State Insurance Office to function on a competitive basis, I intend to move that Subsection (1) of proposed new Section 7E be struck out, with a view to inserting other words, as contained in my amendment on the notice paper. If my amendment is agreed to, Parliament would then be able to see in the Public Accounts relating to the State Insurance Office how that office was progressing, compared with any other insurance company.

The other amendment I intend to move deals with the payment of rates and taxes to local authorities. If I recollect correctly, the State office pays rates now to the local authority, and it is not unreasonable that it should do as any other business of a like nature does. I have already extended the principle inserted in the Bill which would place the State office on a competitive basis with any other business. I move an amendment—

That Subsection (1) of proposed new Section 7E be struck out with a view to inserting in lieu the following words:—

"The office shall from time to time pay to the Treasurer such sums as the Commissioner of Taxation deems to be the equivalent of the amounts which would be payable by the office by way of income tax, payroll tax, social services contributions and other taxes under the provisions of any Act whether of the State or the Commonwealth as the office would become liable to pay if it were a public company liable to pay taxation or make contributions under such Acts."

The MINISTER FOR LABOUR: I cannot accept the amendment as outlined by the hon. member. The clause is clear and should convey to members that the State Insurance Office will be required to pay certain taxes payable by other companies. I accept the deletion of the proposed new subsection, but instead of the words which the hon. member wishes to add in lieu, I propose to move for other words to be added. They are as follows:—

The office shall from time to time pay to the Treasurer such sums as the Commissioner of Taxation deems to be the equivalent of the amounts which would be payable by the office if it were liable as an insurance company and in respect of its life assurance business if it were liable as a mutual assurance company for payments of income tax and other taxes under the provisions of any Act whether of the State or of the Commonwealth.

This will place the State Insurance Office on the same footing as other firms doing similar business and it will have to pay to the Treasury similar sums as would be paid by those bodies.

Hon. A. V. R. ABBOTT: I think the Minister has in different language more or less adopted my suggestion. The amendment refers to income and other taxes and I do not know whether we should have that. The law is that when we say "other", it refers to others of a like nature.

Amendment (to strike out words) put and passed.

The MINISTER FOR LABOUR: I move an amendment—

That in lieu of the words struck out, the following words be inserted:—

“The office shall from time to time pay to the Treasurer such sums as the Commissioner of Taxation deems to be the equivalent of the amounts which would be payable by the office if it were liable as an insurance company and in respect of its life assurance business if it were liable as a mutual assurance company for payments of income tax and other taxes under the provisions of any Act whether of the State or of the Commonwealth.”

Amendment (to insert words) put and passed.

Hon. A. V. R. ABBOTT: I move an amendment—

That a new subsection be inserted as follows:—

“(1A) The office shall be liable for and shall pay to any local government or other authority all rates, taxes and other outgoings which would be charged to or payable by the office as if it were an insurance company carrying on the same business.”

The MINISTER FOR LABOUR: We are only too happy to be on a reasonable footing with the private insurance companies. Actually the State Insurance Office is already paying rates to local authorities and we have no objection to this amendment, which I accept.

Amendment put and passed.

The MINISTER FOR LABOUR: I move an amendment—

That in lines 1 and 2 of Subsection (4) of proposed new Section 7E, the figures and parenthesis (3), (4) and (5) be struck out and the figures and parenthesis (1), (2) and (3) inserted in lieu.

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

Clause 13—New Section 7F added:

Hon. A. V. R. ABBOTT: I oppose the proposed new section. The powers contained therein are a little too wide, and there is no necessity for the provision. If the manager is liable, then the office becomes liable, because all he has to say is that he intended that the contract entered into will be within the scope of the Act, and he will receive full protection.

If a contract is entered into in good faith for the purpose of the Act, he is protected. The manager may not be carrying out the provisions of the Act at all, but if the court considers the act was done in good faith, then the manager is relieved of responsibility.

The proposed new section goes too far and I suggest that the protection suggested be limited in respect of action

taken, to the fact that such matter, or entering into such contract, was not authorised by the Act. If a person has a right of action, then the manager, who is the normal defendant, should be responsible. If the manager exceeds his power, it is ultra vires his authority, but if the action taken was in good faith, neither he nor his office would be responsible. The Minister might agree with me to delete the clause. Is it desired to protect the office if a contract entered into by the manager is ultra vires the Act? Although the office may not be legally responsible, the manager may be responsible, but naturally the office would have to indemnify him.

The MINISTER FOR LABOUR: I support the proposed new section. It merely affords the usual protection to officers who conduct business in the normal course of their duties. I refer members to the wording of the provision.

Hon. A. V. R. ABBOTT: It says “anything”.

The MINISTER FOR LABOUR: I would not like to be the manager of a concern, without the protection of such a provision. If a manager, in the execution of his duty, finds himself personally liable, then no one with the requisite ability would accept such a position. There would be difficulty in finding applicants to enter the service of the Government or a firm without this safeguard.

The provision is not without precedent, and the member for Mt. Lawley knows more about it than I do. By searching through Acts of Parliament, similar sections will be found. I can quote no better example than the Workers' Compensation Act, which the member for Mt. Lawley was instrumental in amending in 1951. His amendment, which was agreed to unanimously, was Section 21A, which refers to the appointment of a medical board and the setting up of a register. The second paragraph reads—

No action shall be maintained or brought against the Medical Board or any member thereof by reason of anything done or omitted in good faith in the discharge of the duties imposed by the last preceding subsection.

The clause has been inserted to safeguard the responsible officers in the conduct of the business to which they are assigned, and they should not be personally liable in regard to the performance of their duties when they act in good faith.

Hon. A. V. R. ABBOTT: Perhaps I have not made myself clear. If the Minister or the manager, or the manager at the instigation of the Minister, enters into a contract in good faith in connection with the State Insurance Office and it is ultra vires the Act—in other words it is something which the Act does not give him authority to do—the contractor will have no redress against anyone at all. He will

be at an entire loss because the State office will not be liable. Normally the manager or the Minister would be personally liable. But by this clause being agreed to, absolute protection will be given to the manager or the Minister, and the unfortunate contractor will have none.

If it were a question of tort, I would want to give protection to the manager, but it is abundantly clear that if the manager acted in good faith the Government would not repudiate responsibility. Surely we could rely on the Government to protect the manager when he acted in good faith, believing that he had authority to do what he did. But if he is liable because he personally contracts in excess of the authority given by the Act, why should not the contractor have protection? The provision should be redrafted to give the contractor some protection. I have no objection to the general manager being protected, and I assume he always would be, but I do not want some contractor to be left in the lurch with no redress against anyone.

Mr. HUTCHINSON: This provision should be deleted. There is no need for such a clause in a Bill which already gives very wide powers. The clause provides complete coverage for any action that might be taken.

The Minister for Labour: If done in good faith.

Mr. HUTCHINSON: That could be construed in any manner. The provision in the Workers' Compensation Act to which the Minister referred is not at all similar in meaning to the one in this Bill. The two are as different as chalk and cheese. Does the insertion of this provision mean that certain dubious actions are contemplated by the Government? It could be so construed. Imagine a provision of this kind being included in a measure having application to a private company! Imagine the hot criticism that would come from members opposite! The strongest possible opposition should be offered to the clause.

The MINISTER FOR LABOUR: The two provisions referred to are somewhat similar. They are designed to give protection to responsible officers and, in this instance, to the Minister. If they do anything in good faith, those individuals will be protected. Provisions which are practically word for word with this one appear in similar Acts in Queensland and New South Wales, and have operated for quite a long time. I cannot make out why suspicion should have been aroused, especially on the part of the member for Cottesloe. As the marginal note indicates, the provision is designed to protect the Minister and officers from liability.

Mr. Hutchinson: It is the possibilities behind the provision with which I am concerned.

The MINISTER FOR LABOUR: Hypothetical cases of that kind cannot be submitted. This is a simple clause put into the Act to absolve Ministers and responsible officers from liability when they act in good faith in accordance with the provisions of the Act. If I thought there was any substance in the criticism offered, I would have the clause re-examined, but I cannot see the necessity for tampering with the proposed new section.

Hon. A. V. R. ABBOTT: There is necessity for striking out this proposal. I have no objection to the Minister or the manager, when acting in good faith, being relieved of liability, but if a contract is entered into, somebody must be responsible. If the Minister would agree to the responsibility being borne by the State office, I would be satisfied. If the Minister did something outside his contractual powers, I think he would ensure that there was no repudiation and that the contractor was not left in the lurch. In that event, the Government might make an ex gratia payment, but the point is that the contractor should be able to obtain redress against the office.

Hon. A. F. WATTS: My objection is based on slightly different grounds. As worded, the proposed new section means that no contract entered into by the Minister shall subject him to any liability.

Hon. A. V. R. ABBOTT: That is so.

Hon. A. F. WATTS: I have no objection to extending indemnity from personal liability to the Minister or manager in matters done in good faith, but the proposal goes further than even the Minister in his wildest moments realises. Until that aspect has been clarified by a responsible authority, there is nothing I can do but offer opposition to the proposal in its present form. I feel sure that the Minister's intention will not be met by this provision because, if he were released from liability in this way, he could not be required to pay for damage done to a house that was burnt down, even though he had accepted premiums from the owner for years. The Minister should re-examine the provision.

Sitting suspended from 3.47 to 4.5 p.m.

Hon. A. F. WATTS: In conclusion, I express the hope that the Minister will have another look at this clause before attempting to finalise it, so that what I regard as a very serious objection to its phraseology may be given further consideration.

The MINISTER FOR LABOUR: In view of the remarks of the member for Stirling, he apparently has some misgivings in this regard and so as to put the minds of members at rest, I will undertake to give the matter further consideration. Any alterations that may be necessary can be effected in another place.

Clause put and passed.

Clauses 14 and 15—agreed to.

Schedule:

Hon. A. V. R. ABBOTT: I desire to refer to paragraph 3 (b) of the schedule, which provides that at the request of the general manager and with the concurrence of the Public Service Commissioner, any clerk of courts, clerk of petty sessions or mining registrar appointed under the Public Service Act, 1904-50, and any other State officer appointed under that Act may be appointed agent within his district. I do not think that is advisable on general principles. A clerk of courts acts in a somewhat judicial capacity and is the taxing master of the court. He has certain judicial functions to perform, as has also a mining registrar. Most clerks of courts already have as much work as they can do.

It might be argued that the Public Service Commissioner would not give his consent if he thought the priority duties of the officer concerned would suffer, but he might not always be fully informed in that regard. It is not right that every clerk of courts in the land should become the agent of the State Insurance Office, nor do I think the Minister desires that. This provision may have been copied from the Queensland legislation and I wish to point out that in that State many people do not think it is desirable. Surely the State Insurance Office could appoint its own agents, and that would put it on a business footing in the community.

I am not keen on the State carrying on business, even as a corporate body. If civil servants and the State Insurance Office are to be linked together so that one is a servant of the other, it is bringing the business of the State into contact with business of a commercial nature. Should clerks of courts act as agents for the State Saw Mills or the State Brick Works? That has not been suggested, and I do not think the Minister in charge would have a bar of it. So I suggest that the Minister permit subparagraph (b) to be deleted and, if the State Insurance Office requires agents, it can appoint them in the normal way.

I had some experience when clerks of courts also carried out the duties of electoral officers. That course was not a success because they regarded the electoral work as of secondary importance, which was only right from their point of view, and on a number of occasions they did not have time to do it. The Chief Electoral Officer did not blame them, because he realised the situation. I think a commercial concern such as the State Insurance Office should use commercial avenues for carrying on its business. Would it be desirable for a clerk of courts to approach someone who was in the court about taking out a policy with the State Insurance Office? I do not think that

would happen, but it could. Although the Minister shakes his head, and I realise that it is not likely to happen—

Mr. Hutchinson: Why not?

Hon. A. V. R. ABBOTT: Because I have too much respect for clerks of courts. There might be an action in the court against the State Insurance Office.

The Minister for Labour: But the clerk is not the magistrate.

Hon. A. V. R. ABBOTT: Of course not, but the clerk would have to do a lot of work in connection with the action, and at the same time he would be an agent for the State Insurance Office. That is not right. Therefore, I move an amendment—

That subparagraph (b) of paragraph (3) be struck out.

If this amendment is successful, I will move to strike out subparagraph (c).

The MINISTER FOR LABOUR: I cannot agree to this amendment. The hon. member's arguments as regards clerks of court acting as agents for the State office and at the same time coming into close contact with people who are perhaps engaged in litigation against the State office does not hold water. It is the magistrate who hears the case and not the clerk of courts.

Hon. A. V. R. Abbott: That is so.

The MINISTER FOR LABOUR: I know the member for Mt. Lawley is antagonistic towards any extension of State trading concerns, and as a result we must discount a good deal of his argument.

Hon. A. V. R. Abbott: You are right in your argument.

The MINISTER FOR LABOUR: It seems that the member for Mt. Lawley is very anxious to ensure that everything in the interests of the community generally be struck out of the Bill.

Hon. A. V. R. Abbott: No.

The MINISTER FOR LABOUR: This State has an area of 976,000 square miles, and Wyndham is about 2,300 miles from Perth. In these outer areas there are places such as Wyndham, Marble Bar, Nullagine, Port Hedland and so on. I suggest that, provided the Public Service Commissioner agrees, the mining registrar in Marble Bar and the clerk of courts in Port Hedland would be the best people to act as agents for the State Insurance Office in those two towns.

Hon. A. V. R. Abbott: Would you allow them to act for private companies in the same way?

The MINISTER FOR LABOUR: All that this part of the schedule seeks to do is to empower the classes of officers mentioned to act as agents for the State office.

Mr. Hutchinson: They will sell insurance.

The MINISTER FOR LABOUR: They will act as agents if the general manager requests them so to do, and the Public Service Commissioner agrees. The member for Mt. Lawley suggested that the Public Service Commissioner would not know everything that was going on, but I should say that he would be in touch with the Crown Law Department with regard to clerks of courts. The Public Service Commissioner would know whether it was practicable for a particular clerk to accept the duty of acting as agent for the State Insurance Office. When I was member for Pilbara, Dr. Vickers used to fly over from Cloncurry in Queensland to Pilbara to act as district medical officer and also as the local magistrate. Dr. Dicks, too, acted in both capacities when he was there. He was a medical officer one day and acted in a legal capacity the next.

Hon. A. V. R. Abbott: And as a business man the next.

The MINISTER FOR LABOUR: At present, clerks of courts act as agents for the Public Trustee and have done so for quite some time. The office of the Public Trustee is actually a business concern.

Hon. A. V. R. Abbott: No, it is not.

The MINISTER FOR LABOUR: It is similar.

Hon. A. V. R. Abbott: Oh, no.

The MINISTER FOR LABOUR: It is a concern that involves the appointment of certain people to act as agents for it and the clerks of courts act accordingly. In Queensland officers in the Public Service carry out duties similar to our clerks of courts and they are appointed as agents for Government instrumentalities. From inquiries I have made it would appear that the system in Queensland is working very satisfactorily.

Mr. Hutchinson: Will any commission be paid to those officers who act as agents?

The MINISTER FOR LABOUR: That would be a matter of administration. A clerk of courts might be in some far flung portion of Western Australia where the State Insurance Office could not be justified in appointing a man to act as agent for it in that capacity alone, and therefore a man could be appointed to the position of clerk of courts at a salary which also included a commission for acting as agent for the State Insurance Office. At present clerks of courts act as agents for the Electoral Department and they are also appointed as mining registrars. Such conditions exist in many centres.

Hon. Dame Florence Cardell-Oliver: The additional duties would not be part of his every-day work.

The MINISTER FOR LABOUR: At Marble Bar the mining registrar is also the clerk of courts and he can be deputed by the Public Service Commissioner to

act as agent for any other State department that has interests in the district. The Committee will be doing the State a service if it rejects the amendment moved by the member for Mt. Lawley.

Mr. HUTCHINSON: I have followed the reasons given by the Minister as to why the amendment should be rejected and no doubt they are fairly sound in view of the fact that in the Bill provision has been made for certain public requirements in some fields of insurance. I wonder what reactions there will be to a clerk of courts, a clerk of petty sessions or a mining registrar acting as agent for the State Insurance Office.

Hon. A. F. Watts: There is no provision for the clerk of courts to refuse the appointment, and that is most important.

Mr. HUTCHINSON: I think such an appointment would cause great embarrassment to those officers. Some people would view the appointment merely as a means to supplement the salary already received by such officers. A position might possibly arise where the office of a clerk of courts would not be complete without several chairs and tables in it and with a box of cigars on a table which the clerk of courts could hand to a prospective client who was considering taking out a policy with the State Insurance Office. To those that are inclined that way, there will be an opportunity to make a good thing out of it, and it is possible that the normal duties performed by a clerk of courts may suffer. To introduce into the Public Service a state of affairs such as that is highly undesirable. Therefore, I hope the Committee will agree to the amendment.

[Mr. Moir took the Chair.]

Mr. WILD: I think the Minister should give the amendment some further consideration. It is not only the member for Mt. Lawley who is bitterly opposed to any extension of State activities.

The Minister for Labour: Who established the Shannon mill?

Mr. WILD: If the Government is to force an extension of State trading activities, let us look at every clause of the Bill and give it due consideration. I speak now with the viewpoint of an ex-Minister for Housing because I often came in contact with many of the officers mentioned in the schedule. Many of these fellows have already got more to do than they can handle. The Minister mentioned places in the far North. I have never been there so I cannot speak of Nullagine, but if we look at the electoral rolls I imagine we will find that there are small towns with few people. The member for Stirling has pointed out that there is no provision in the Bill enabling a man to refuse the job if he is appointed.

We should look closer home and I would refer to the clerks at Albany, Bunbury and Collie. They are the three with whom I had much to do. The member for Collie knows that on occasions, when we had conferences at Collie, the clerk of courts was acting for the State Housing Commission. He had so much to do that he was not able to cope with it and frequently complaints were received from people that their housing requests were not being attended to. Now the Minister wants to put more work on these people.

I think the principle is wrong. The clerk of courts or of petty sessions in any town must be an individual who is divorced to some degree from the activities of the town, because he has some unpleasant things to do in the course of his duties. If we accept the provision contained in this subparagraph of the schedule, then the officers concerned will not be able to work in the best interests of State insurance. I think we should get somebody divorced from the position of clerk of petty sessions and give him a chance of earning a few shillings; it would be an incentive for him to do so. I support the amendment.

Mr. HEARMAN: I am not clear as to why the State Insurance Office should have these special facilities. As I have already said, it will not make for efficiency. General insurance business requires some detailed study particularly if life policies are included, and companies generally have properly appointed agents. It is undesirable to appoint a clerk of courts as the agent. In a number of towns the local policeman is the clerk of courts and he certainly has enough responsibility already. At the moment he acts for the Government Statistician and collects information for him. He also attends to problems of child welfare, to mention but a few of his duties. I do not think it is reasonable to expect such a man to carry out these tasks and also require him to study the business of a general insurance agency. In ordinary business operations fire or accident insurance companies have their own agents and life assurance companies have theirs. When a company combines these activities, the different types of insurance function in separate departments under separate agents. If the proposition in the Bill is accepted it will make for inefficiency. Why should not the State Insurance Office act in the same way as any other company and look for a reputable agent sufficiently qualified to give the necessary service. I think we will find that the local policeman will have to become the agent for the State Insurance Company.

The Minister for Housing: The police constable would not be appointed an agent because he is not under the Public Service Act.

Mr. HEARMAN: A clerk of courts is a very busy man. It might be all very fine for people in electorates such as East Perth to say these folk are not busy. The State Insurance Office should appoint a qualified agent for this type of work.

The Minister for Housing: And then you complain of the number of people on the public payroll!

Mr. HEARMAN: Of course I do. But these do not have to go on the public payroll. Why cannot they be paid a commission? Surely that is a logical and reasonable way to obtain sound representation in the country! If we want the service we should be prepared to pay for it.

The Minister for Housing: You will want the Government land agent to receive commission next.

Mr. HEARMAN: It is a matter of getting a sound man and giving him an incentive to work. I do not think we will always get a suitable man under the set-up proposed in the Bill.

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

| | | | | | |
|-------|------|------|------|------|----|
| Ayes | | | | | 18 |
| Noes | | | | | 18 |
| A tie | | | | | 0 |

Ayes.

| | |
|------------------------|----------------|
| Mr. Abbott | Mr. Nimmo |
| Mr. Ackland | Mr. North |
| Dame F. Cardell-Oliver | Mr. Oldfield |
| Mr. Court | Mr. Owen |
| Mr. Doney | Mr. Thorn |
| Mr. Hearman | Mr. Watts |
| Mr. Hill | Mr. Wild |
| Mr. Manning | Mr. Yates |
| Sir Ross McLarty | Mr. Hutchinson |

(Teller.)

Noes.

| | |
|---------------|---------------|
| Mr. Andrew | Mr. Johnson |
| Mr. Brady | Mr. Lawrence |
| Mr. Graham | Mr. McCulloch |
| Mr. Hawke | Mr. Rhatigan |
| Mr. Heal | Mr. Sewell |
| Mr. J. Hegney | Mr. Sleeman |
| Mr. W. Hegney | Mr. Styants |
| Mr. Hoar | Mr. Tonkin |
| Mr. Jamieson | Mr. May |

(Teller.)

Pairs.

| Ayes. | Noes. |
|-------------|-------------|
| Mr. Brand | Mr. Nulsen |
| Mr. Perkins | Mr. Norton |
| Mr. Bovell | Mr. Guthrie |
| Mr. Nalder | Mr. O'Brien |
| Mr. Mann | Mr. Kelly |
| Mr. Yates | Mr. Lapham |

The CHAIRMAN: The voting being equal, I give my casting vote with the "Noes."

Amendment thus negatived.

Hon. A. V. R. ABBOTT: With reference to paragraph (7) of the schedule, as members know, premiums are fixed by the Premium Rates Committee, and the manager of the State Insurance Office should be bound by those rates, just the same as a private insurance company. For that reason, I have put on the notice

paper an amendment the effect of which is that the determination of premiums by the general manager shall be "subject to the provisions of the Workers' Compensation Act, 1912-1952." This would give the manager a discretion, but subject to the provisions of the Workers' Compensation Act. I move an amendment—

That at the beginning of paragraph 7, the following words be inserted:—

"Subject to the provisions of the Workers' Compensation Act, 1912-52."

The **MINISTER FOR LABOUR**: The additional words are redundant, and the member for Mt. Lawley has supplied the reason when he said that compensation premiums were subject to the determination of the Premium Rates Committee.

Hon. A. V. R. Abbott: Maximum rates.

The **MINISTER FOR LABOUR**: In that case, there is no necessity for the addition of these words. In practice, the State Insurance Office could not charge more than the rates set down by the Premium Rates Committee; if it did, it would not get any business. In many cases the State Insurance Office premiums are lower than the rates charged by private companies. Consequently, the loading of the schedule with a provision of this nature is quite unnecessary. The proposed paragraph is quite clear.

Hon. A. V. R. Abbott: Why do you say that?

The **MINISTER FOR LABOUR**: The Premium Rates Committee decides the rates. It is quite clear from the provisions of the Workers' Compensation Act what rates are charged. The provision here gives the general manager a discretion to charge lower rates.

Hon. A. V. R. ABBOTT: It is a question of interpretation. When a court interprets two statutes which are in conflict, the later statute to be enacted, everything being equal, is deemed to be the correct one. The proposed Act sets out that the manager of the State Insurance Office can charge what premium he likes; that is to say, it will over-ride the Workers' Compensation Act. It clearly says the determination of the manager is final. I agree with the Minister when he says that the manager of the State Insurance Office would not try to charge higher rates. I do not for a minute think he would. But we do not want a provision in this measure that would enable him to fix what rates he liked. I think the point I have raised is one that has escaped the notice of the Crown Law Department. There would be no harm in including the words, which would clarify the meaning.

Amendment put and negatived.

Schedule put and passed.

Title—agreed to.

Bill reported with amendments.

BILL—BANK HOLIDAYS ACT AMENDMENT.

Second Reading.

Debate resumed from the 3rd November.

HON. L. THORN (Toodyay) [4.53]: I should not think that there would be any opposition to this Bill, because it provides for a reasonable and sensible amendment to the Act making provision for the Governor to alter holidays fixed for special occasions.

It will be remembered that when the Royal visit was first mooted, provision was made for special holidays. The visit did not take place, but no provision had been made for an alteration of the holiday dates, and I brought along an amending Bill to cancel the holidays that had been arranged but were no longer necessary on account of the Royal visit not taking place. Under the Act, provision can be made for special holidays, but there is no provision to cancel such holidays if occasion arises. This Bill sets out to correct that anomaly, and I support the second reading.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—INDUSTRIAL DEVELOPMENT (RESUMPTION OF LAND) ACT AMENDMENT.

Second Reading.

Debate resumed from the 3rd November.

HON. A. F. WATTS (Stirling) [4.57]: I think it can be said that this Bill is like the curate's egg, good in parts. Therefore, it is obvious that there are parts of it I would willingly support, but parts that I hope the House will very carefully examine before deciding to put them into the law of this country. Perhaps I had better start at the parts I feel are desirable.

In my opinion, there can be no objection to the proposal that where the Minister believes a person who has obtained land under the Act, has developed or used it for the purpose for which it was obtained by him, so as to warrant his being exempt from the provisions of the Act in relation to that land, the Minister can grant that exemption. I think it is desirable that the Minister should be given that discretion.

Nor do I believe there is any reason why we should doubt the desirability of the next clause in the Bill, which provides for a sale by a mortgagee, and, in the event of that sale, of the land being released from any restrictions imposed on it under the Act. For it must be remembered that land of that character can be mortgaged under the principal Act only with the con-

sent of the Minister; and we have adopted the same principle as appears in the clause in regard to other enactments of a similar kind, it being quite obvious that where a mortgagee under a mortgage that has received the Minister's consent is obliged, in order to recover his debts, to exercise his power of sale, not only would his prospects of recovering his money be minimised but the prospects of the mortgagor receiving the equity to which he might recently be entitled, would also be minimised if the land could only be sold subject to the restricted conditions which were imposed in the first instance under the parent Act.

A similar provision was freely recognised to be desirable when the measure dealing with the special resumptions in the Kwinana area was before both Houses, but it was apparently not thought of until the present time with regard to the older enactment dealing with the resumption of land for industry in any part of the State where the provisions of the Act were made to apply. So, in fairness to the mortgagee and mortgagor in the circumstances of a forced sale, it is desirable, the Minister having given his consent to the mortgage and therefore being satisfied as to the transaction, that on a forced sale the land should be exempted from the restrictions imposed by the parent Act.

The last provision in the Bill is, I think, in a similar category. It provides that, on the recommendation of the industrial committee set up by the parent Act, the Minister may set apart and use any land that has been reserved under Section 9 or dedicated under Section 11 of the parent Act for the purpose of providing or causing to be provided roads or reserves. One can readily imagine that occasions will arise when it will be desirable to take out of the land set apart or dedicated for industrial purposes areas required to give access to the land, or for recreation or other purposes, by way of reserves. I suggest, therefore, that those three provisions of the Bill are quite desirable and should receive the approval of every member. As they appeal to me I offer my support to the second reading.

As to the rest of the measure—I am now reverting to the earlier clauses—I feel there are grave doubts as to the desirability of altering the present law, notwithstanding the magisterial decision and the Crown Law opinion to which the Premier, in moving the second reading, made some reference. I believe I have a clear recollection of the circumstances in which the difficulty arose. If my memory serves me rightly, the magisterial decision was given prior to the end of last year and therefore at a time when the Act was creating a degree of interest.

It is true that the parent Act provides that the land with which the Act is concerned is under the control of the Minister for Lands, with the support of the Pre-

mier of the State. In other words, the first recommendation for its acquisition, after due inquiry by the industrial committee set up by the parent Act, is made by the Minister for Lands. The recommendation is forwarded to the Premier, as Treasurer, and, so far as the Government is concerned, the job is complete, but there remains an appeal to a resident magistrate, both if the decision is favourable to the Government and if it is unfavourable to the Government for having refused to grant the land.

In the case under review, I understand that a certain well-established and comparatively wealthy firm, already having substantial premises in the metropolitan area, decided that it wished to acquire the land adjoining, owned by a small businessman. The firm was not prepared to pay what he considered to be a fair price, and decided to take action under the Act. The owner of the adjoining premises took advantage of the Act by way of appeal. In the net result, the magistrate held that, because the words in the Act were, as the Premier stated, "for the establishment and carrying on," the use of the word "and" between the words "establishment" and "carrying" placed the application outside the purview of the Act, and therefore he allowed the appeal.

On that decision, we can merely reason from the particular to the general. In that instance, I believe that the large business firm would have had no real difficulty in acquiring the property next door had it been prepared to make a reasonable offer to the owner and, after having taken into consideration all the circumstances of the case, I am satisfied that the firm was financially well able to do so. But it was disinclined to take that action, and did not take it, and in the net result sought the protection of this Act.

When this legislation came before Parliament in 1949, I do not recollect offering any opposition to the principles that were contained therein. I understood at that time—and I do now—that the intention of the legislation was to enable new industries to be established, and not to make it easy for a well-established business firm, with considerable financial resources, to seek assistance in order to deprive a person with adjacent property of his premises on the ground that the big business was ready for expansion; and at the same time without making, in my opinion, a genuine effort to secure the premises at a figure which would be reasonably attractive to the adjoining owner.

If we pass the amendments in the earlier clauses of the Bill we shall not be making the provisions of the Act available only to persons who are going to establish new businesses, as I believe was the original intention, and as I believe the

magistrate's decision proves, but to all and sundry, whether they be well-established concerns desiring to expand, or newly-established businesses, as I believe the parent Act intended. We will be opening too wide, in my opinion, the way for the resumption of land for industrial purposes.

The courts will say, "Parliament amended this. Obviously, therefore, Parliament wanted us to give our decision in favour of the resumption of land even for those who are well equipped to acquire by other means land which is necessary for their businesses." In short, it will become, in my opinion, an Act for the benefit of the big fellow to the detriment of the little fellow. I do not think we ought to subscribe to that policy.

We ought to stick to what the Act, as I understand it, provides for, and what the magistrate's decision indicates, namely, the right for land to be acquired for the establishment of new industries where suitable land cannot otherwise be obtained. If we hold to that principle, we will go as far as we are reasonably entitled to do. As a matter of fact, the whole business of the resumption of land, both for public purposes and for purposes such as these, must be handled with the utmost care.

One cannot deny the Crown the right to resume land for public works. To do that would be to negative the possibility, in many cases, of public works being carried out. But as the years have gone on, the demand for the resumption of land has become greater and greater, and while, I suppose, every resumption that has been made can be justified on some substantial ground or other, they have greatly increased in numbers in recent years, and have, particularly in view of the changing times, imposed upon many people greater inconvenience than I think was originally envisaged.

I well recollect, when dealing with land resumptions on one or two occasions, sending the applications back to the departments to ascertain just what the needs were. Once or twice, because I was trying to apply the sentiments I have just expressed, I declined to proceed further in the particular matters, although, as I have said, I freely recognise the necessity for the Crown to have the right to resume land for public purposes.

As a result of the 1945 legislation, and the proposed amendment we are now discussing, Parliament has agreed, subject to certain definite restrictions and conditions, to the resumption, in effect, of land by private persons for the establishment and the carrying on of new industries. We are now asked to agree to an amendment to allow of land resumption, under similar conditions, being made by private persons for the carrying on of existing and well-

established businesses. I cannot bring myself to agree that that new principle should be incorporated in the Act. I do not disagree with the magistrate's decision; I think he was right.

It was suggested to me, shortly after the decision was given, that an amendment to the Act was desirable, but I feel that we are going too far with this amendment and that the net result of it might very well be to throw upon the little landholder or businessman an imposition which could be avoided by these well-established and financial institutions using the ordinary means of contract.

I therefore propose to oppose these clauses, but for the reasons I gave at the beginning concerning the other clauses, I shall support the second reading and shall deal with the real problem in Committee.

THE MINISTER FOR INDUSTRIAL DEVELOPMENT (Hon. A. R. G. Hawke—Northam—in reply) [5.18]: I could agree with much of the objection raised by the Leader of the Country Party to the portion of the Bill to which he drew attention, if the Act with which we are concerned was on much the same lines as the legislation under which the Public Works Department resumes land. If the power of resuming land for industrial purposes rested entirely in the hands of the Government, then the case put forward by the Leader of the Country Party would be a strong one indeed.

However, the hon. gentleman knows, as well as I do, the set-up of the Industrial Development (Resumption of Land) Act. He knows that when Parliament originally approved the Act, several safeguards were incorporated in it—

Hon. A. F. Watts: I think that before you came in, I had recited them.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: —to prevent from occurring the very things about which the hon. member expressed fears and doubts. Not only has the applicant for land for industrial purposes to satisfy a committee, but even if he succeeds in that, he then has to run the risk of an appeal to a magistrate. So it is not, as the Leader of the Country Party would have members believe, a question of big firms depriving small businessmen of their land. No big business firm is enabled to do that as the result of this legislation.

It is not a question of any businessman or firm depriving anybody of land, because no business person or company has any legal right to do that. The only way in which any business person or firm is able to have land resumed under this legislation for industrial purposes is for the committee to be satisfied and approve the application made to it and then for a

magistrate, if an appeal is made against the finding of the committee, to consider all the circumstances and facts and make a decision which, in his opinion, seems fair and just in the situation placed before him.

All the objections raised by the Leader of the Country Party, it seems to me, fall to the ground, because they were not well-based but were supported by arguments that are not valid when compared with the construction of the Act and with its construction as it would be if the Bill now before us were approved by both Houses of Parliament. The overall purpose of the legislation, as mentioned by the hon. member, is to allow opportunities for industrial expansion, which present themselves, to be availed of, so that industrial development will take place where otherwise that might not be possible.

We all know that Western Australia is now in a period of considerable industrial development and we know of the great industrial projects that are already under way. It is certain that their development will automatically create opportunities for the development of others and for the expansion of industries already established in this State. The Leader of the Country Party well knows—and I think would admit—that there has been considerable expansion of our existing industries during the last three or four years.

Surely the probability of expansion of existing industry is not to be prejudiced and perhaps even prevented by virtue of the fact that an industry which is established and which has outgrown the space available to it is not to be given a reasonable and just opportunity of obtaining land, perhaps vacant, which is next-door to it! Surely there can be no objection to that!

Hon. A. V. R. Abbott: The land might not be vacant.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: I will come to that point presently but at the moment I am saying that the land all around an industry might be held and not available. I know of instances of that in this metropolitan area and I am sure the member for Mt. Lawley knows of such things also. There may be vacant land round about an industry, owned by people who might be holding it and waiting until the Government and a lot of private individuals spend a great deal of money in the area, with the result that the value of the land goes up and the persons holding it are enabled to reap a great deal of unearned increment, in relation to the creation of which they have done exactly nothing.

The member for Mt. Lawley raised the point that the adjacent land might be already occupied, but I would say the

legislation provides adequate safeguards to protect the legitimate interests of the owner of land which some business concern wishes to resume for the purpose of expanding its industry or establishing a new one. I repeat that the safeguards are adequate.

Hon. A. V. R. Abbott: But it would be a bit tough, all the same.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: We know it could be tough, but it would not be so of necessity. It might be a perfectly right and progressive thing to do. In circumstances where it could be tough, the owner of the land has the right of appeal to a magistrate and surely no one in this House—except the Leader of the Country Party—would argue that a magistrate would be on the side of the big businessman or firm and would sacrifice the interests of the small man or firm which legitimately held the land!

Hon. A. F. Watts: If we pass this measure, the magistrate will have no alternative, whereas up till now he has had the alternative and has used it.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: When appealed to a magistrate always has the alternative of saying "yes" or "no" and there is nothing in this measure to bind him to say that the applicant must always win.

Hon. A. V. R. Abbott: He is there to carry out the objects of the Act.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: And to carry out the law and judge the merits of every appeal that comes before him. Magistrates and judges are appointed for that purpose and are doing that all the time. We have to rely on their judgment and sense of justice in matters much more important than this.

Hon. A. V. R. Abbott: A magistrate must not allow any sentiment to enter into his judgment.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: No one has suggested that he should.

Hon. A. V. R. Abbott: I suggest that he should. Let us consider the case of a widow who has passed all her life in her house and who, in her last years, finds that someone wants her property for industry. That has happened.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: It could conceivably happen.

Hon. A. V. R. Abbott: It is tough.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: It might be tough in one instance out of 100, but how can we provide against that except by leaving it to the magistrate? Lots of things happen

which are tough. Judges and magistrates are regularly making decisions that are tough on someone or other.

Hon. A. V. R. Abbott: Do you not think that an industrial concern can usually afford to pay a sum that will tempt the owner to sell, even if it is a bit too much?

The MINISTER FOR INDUSTRIAL DEVELOPMENT: It might be a lot too much. We know there are people in the community, who if they knew a particular firm wanted to buy their land or had to have it, would ask a fantastic price for it. We all know of instances of that. I know of such happenings in my own country town. Once the person who owns land knows that someone is after it, the price asked becomes fantastic. In fact, I know of instances where businesses have been lost to a community because a person owning land which has been sought has asked far too much for it.

Hon. A. V. R. Abbott: Does that matter? They go elsewhere.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: They cannot go elsewhere in the same community. They do not go there at all.

Hon. A. V. R. Abbott: They would go somewhere else in the same State of Western Australia.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: They do not. In any event, should we encourage people to exploit a situation for their own personal benefit, when the development, if it were able to take place, would be of great value to the community? If an industry expands it means that production is increased, more people are employed, the particular area progresses and the State generally benefits as a result of that progress.

Hon. A. F. Watts: That is mainly for the establishment of new industries.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: Not necessarily.

Hon. A. F. Watts: Mainly.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: It might have equal application or more application to an industry that wished to expand.

Hon. A. F. Watts: Not very frequently.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: Of course it could. I might wish to establish a new industry on a small scale and, to continue the example, the Leader of the Country Party might already be in an industry in a big way. He might have established himself 20 years ago and at that time the land he obtained appeared to be more than ample for his requirements for the next 50 years. But as a result of development in the area and of the great growth in the

State's population, he might find that the area of land which he now had was not half big enough and his development, if it were able to take place might be 10 times or 50 times more than mine, even though I was about to establish a small-scale new industry.

Therefore the case put up by the Leader of the Country Party does not apply in the way which he led us to believe it would, because there are safeguards in the Act that would prevent from happening, in the way he said they would, the things to which he referred. So it seems to me that members should support the second reading of the Bill because the interests of everyone concerned, particularly the landholders, will be safeguarded, and safeguarded solidly in the final result, by a magistrate in a court. If any member has any doubt about what I am saying, I suggest that he read the Act from beginning to end.

Hon. A. V. R. Abbott: Have you read the files on the question?

The MINISTER FOR INDUSTRIAL DEVELOPMENT: Yes.

Hon. A. V. R. Abbott: There are some pretty difficult cases.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: If any member has any doubts, I suggest that he read the Act from end to end, and if he does so he will realise how difficult it is to resume land for industrial purposes under the provisions of this Act. The measure is heavily loaded, and I think rightly so, in favour of a person already owning land which someone desires to have resumed for industrial purposes. I think the Act should be loaded in that way and that the person who desires to have land resumed for industrial purposes should be compelled to prove, beyond any shadow of doubt, that the resumption is in the best interests of the firm concerned and also, to some extent, in the interests of the community.

Question put and passed.

Bill read a second time.

In Committee.

Mr. J. Hegney in the Chair; the Minister for Industrial Development in charge of the Bill.

Clause 1—agreed to.

Clause 2—Section 6 amended:

Hon. A. F. WATTS: This is the clause in the Bill which will substitute for the words "for the establishment and carrying on" as in the parent Act, the words "to establish or carry on." Under the Parent Act, as it has existed since 1945, several resumptions have been approved and in some cases appeals have been

made to the resident magistrates and the magistrates have upheld the decisions. But in no case, as far as I am aware, did the magistrates anticipate or allow for anything but the establishment of a new industry or industries, as contemplated by the parent Act.

As I understand the position in the case to which I referred during the second reading, the application for resumption was approved by the committee, the Minister for Lands and the Treasurer, but when it reached the magistrate on appeal, it was turned down. When the Premier introduced the measure and referred to the decision of the magistrate in that case, he said—

The words upon which the decision was based were these: "to establish or carry on." The magistrate said that if those words had been used in the Act instead of those which do appear there, namely, "for the establishment and carrying on," he would have decided in favour of the firm concerned, and he added that if Parliament had intended that land could be resumed for industrial purposes to allow the extension of the existing business or industry, the words it would have put into the Act would have been, "to establish or carry on" instead of "for the establishment and carrying on."

Therefore the magistrate said that if the words that this Bill proposes to place in the parent Act had been in the Act when he made his decision, he would have decided in favour of the large firm concerned.

That is what I tried to say by interjection—that he would, in my opinion, have had no alternative but to grant the application if those words had been in the parent Act. Fortunately, they were not there. The Bill seeks to place them there. In the magistrate's view, Parliament did not intend him to approve of circumstances such as these that are referred to although, as I understand the position, everybody concerned earlier in the carrying out of the safeguards provided in the parent Act, had come to the conclusion that the land ought to be granted to the applicant.

In his remarks, the Minister referred to the possibility that if land could not be obtained by an existing and well-established firm for the carrying on and extension of its business, it would be sure to come to an end. Has this firm, which was refused land by the magistrate a year or two ago, not succeeded in extending its business? I understand it has made provision for itself elsewhere. I believe that if these words which the Bill seeks to put into the Act are not put into the legislation, precisely the same thing will happen in similar cases.

Of course these big firms will apply for the land next door irrespective of the nuisance they make of themselves to the smaller business already there. If they could not acquire that land at a reasonable figure, they would secure some elsewhere to extend their operations without imposing upon the little man next door a situation that would be embarrassing to him because Parliament chooses to extend the Act in a manner that will give the magistrate no alternative when making a decision.

My view of the matter is: "Let well alone." In the past justice has been done under the parent Act with regard to resumptions of land for new industries, but now the proposition is put to Parliament, "Alter the law so that in any future similar application that comes before the magistrate, he will be induced to say, 'Yes, we will confirm this order for the resumption of the land.'" I ask the Committee to agree with me when I say that I do not think this is a fair proposition. I do not propose to move an amendment because that would serve no useful purpose and I shall vote against the clause.

Mr. BRADY: I must speak to the clause because of my experience when I was first elected as member for the Guildford-Midland electorate. On more than one occasion I was asked to attend public protest meetings at Bassendean because local residents were concerned about the fumes and gases that were being ejected into the air from a superphosphate works in the vicinity. Those people also knew that the company concerned was likely to expand its operations and they desired to prevent that if possible. The company's representative who attended those meetings did not deny that his company was looking forward to expansion. I do not think that firms operating industries that have a nuisance value should be encouraged, but no doubt they will take advantage of this amendment in the Bill, if it is agreed to.

It has been said that magistrates are impartial, but I am inclined to think that sometimes they unconsciously err in siding with the party that has the most money. No doubt they are sometimes influenced by the alleged progress of the firm concerned and what it has done for the State and are also influenced by the strong legal argument put forward by the company's solicitor. On the other hand, the party that is opposing the firm seeking resumption of land is often not very affluent and cannot afford strong legal representation and therefore is no match for the firm that desires to expand.

I remember a case that occurred when I was a member of a municipal council. The council received an application from a company for permission to establish a certain industry. A representative of the

company was asked whether there would be any smoke and he said "No." He was asked if there would be any dust and he said "No." He was asked if there would be any noise and he again said "No." I supported the application by the company because I thought that the establishment of the industry would be of benefit to the district.

Although it creates no dust, causes no smoke nuisance nor are its operations accompanied by noise, from the company's works there emanates a white material that settles on the houses, roads and elsewhere, which gives the area in the vicinity a dirty appearance. That company is likely to expand, but I certainly would not like to see any extension of its activities in Midland Junction.

Then again, I recollect having read in the paper some years ago about a small meat company trying to secure possession of a private residence next door to its premises in order to expand its business in Mt. Lawley. I do not think the magistrate decided in favour of that company. Under this amendment, that company could probably re-apply and get the property from that private owner. We should not encourage this sort of thing as considerable inconvenience might be caused to the individual affected. We know that very often meat is not always a hundred per cent. in quality and we do not want to encourage the expansion of that class of industry in the centre of the city.

For too long now secondary industries have been allowed to expand in the metropolitan area, and I think we should start pushing them to the outer parts of the city, in order that some appropriate advances can be made. I am not happy about this amendment. The only way to be fair to the people who might lose their properties is to give them more than the normal compensation. If it is so vital for an industry to expand, it should be prepared to pay double the value of a property and not that fixed by a valuator.

As the hon. member has mentioned, why should a widow, or a widower for that matter, who has lived in a certain area for 25 years be forced out of it on the eve of life because some small company wants to expand in the middle of the city or in the closer suburbs. There is plenty of room to establish industry on the outer fringes of the metropolitan area. Many members stand for decentralisation, and this is the way to indicate their views in that respect.

THE MINISTER FOR INDUSTRIAL DEVELOPMENT: The Leader of the Country Party seems to tie up most of his arguments to a case decided by a magistrate some time ago, on appeal.

Hon. A. F. Watts: It gave rise to the suggested amendment.

THE MINISTER FOR INDUSTRIAL DEVELOPMENT: The point the hon. member seems to overlook is that the magistrate made a decision which said, in effect, that he had to uphold the appeal because the Act did not permit the land in question to be resumed by the firm concerned.

Hon. A. F. Watts: I want the Act to stay like that.

THE MINISTER FOR INDUSTRIAL DEVELOPMENT: The magistrate was not in a position to make any other decision, on the law, and that is why this amending Bill has been introduced. It has been introduced to extend the law to cover the expansion of existing and newly-established industries.

Hon. L. Thorn: Do not you think it is a good thing that the small man should be protected?

THE MINISTER FOR INDUSTRIAL DEVELOPMENT: He will still have the right to appeal. To listen to the Leader of the Country Party and the member for Toodyay would lead one to believe that only the little man owned land that might be required for the expansion of industry. In most cases it would probably be found that it is not the little man who owns the land. The Leader of the Country Party talked about the big man getting at the man next door, but that is two-way traffic. At times, the man next door tries to get at the other man. The important point is that the expansion of existing industries is just as important and, on some occasions more important, than the expansion of new industries.

The Leader of the Country Party seems to think that if an industry is established here and, through growth of business and population, more space is needed, all that firm has to do is to go five miles away and buy land, and the problem is solved. That is not so at all. If a firm did that, it would probably have to pull up everything by the roots and shift the whole establishment the necessary distance and rebuild at considerable expense. That would greatly add to the capital cost of the industry and hence to the cost of producing goods.

So the solution offered by the Leader of the Country Party is no solution at all. In a number of instances it will be financially, and probably physically, impracticable. That sort of thing might happen with some firms, but it cannot possibly happen with all of them. This legislation is not designed to help big companies any more than small companies. Not all companies engaged in business are large. As a matter of fact, because of the fillip the war gave to manufacturing in this State, a number of small men went into industry.

Perhaps some tradesmen took others as partners and developed a small industry and established themselves in a small way. Because they produced quality goods at reasonable prices, the demand for their products increased, and the need for expansion arose. They might not have the money needed to do all the Leader of the Country Party suggests, pull up their industries and move somewhere else. This Bill makes the resumption of land for industrial purposes difficult, not easy.

Hon. A. V. R. Abbott: I have one objection to the Act; not necessarily to the Bill. It is that the resumption is on the same basis as applies to land for public use. It does not even give extra rights which are provided by the Bill relating to the railway line.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: That may be so, but it has nothing to do with the Bill, which proposes to allow land to be resumed for industrial expansion by existing firms. They have to prove a case to the committee; local authorities have the right to raise objections; town planning authorities have that right; and finally the owner of the land has the right of appeal to a magistrate. It is not easy to resume land under this Act; it is intensely difficult. No other Act in this State dealing with resumption of land contains more difficult provisions, so I hope members of the Committee will pass this clause.

Hon. A. F. WATTS: The Minister has put up a reasonable case from his point of view, though I noticed that he was not as enthusiastic as usual, because, in my opinion, he had some mental reservations. If the Bill is passed, resumption of land for this purpose will be made easier, and more and more land will be resumed. In my opinion, and I hope it is the opinion of the Committee, both these courses are undesirable.

In the instance of the appeal before the magistrate some time ago, he said in his judgment that had the words that are in the Bill been in the Act, he would have given a different decision. I have no hesitation in stressing that the inclusion of these words in the legislation will result in the resumption of land being made simpler, and more land being resumed. That is a state of affairs we ought to avoid.

The parent Act already contains provision for resumptions for new industries, and we ought to leave the situation well alone and stick to the existing act. The net result of this legislation will only be the simplification of the resumption of land and will indicate to magistrates hearing appeals that Parliament wants to make land resumption easier.

There is not the slightest detriment to anybody who is well established and who wants land adjacent to his undertaking.

He can find some other means of achieving his purpose. There are more ways of acquiring what is required than by buying land five miles away for the purpose of expanding established premises. In a great number of instances people build more substantial properties on the same land. People can also acquire adjacent land other than by the ordinary means. What will happen if the Bill is passed is that there will be more applications for resumption and anybody who thinks of expanding his business will make application to resume the land next door. There is no provision for assessing the true value of the land to be resumed; it has not to be submitted to public auction which would be a good way of finding out the true value; and a lot of hardship will be caused to owners of land. For those reasons I must oppose the clause.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: The Leader of the Country Party now resorts to misrepresentation.

Hon. A. F. Watts: I did not know that.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: There is no doubt that he did, though I think it was not deliberate. He stated that if this Bill became law it would simplify the resumption of land for industrial purposes. It will do nothing of the kind. It will not alter the procedure relating to the resuming of land. I hope the Leader of the Country Party agrees with that, because it is absolutely true. The Bill does not aim at altering the procedure respecting land resumption by firms for industrial purposes. All it does is to add one more basis upon which land may be resumed for industrial purposes, thus enabling a firm, already carrying on in industry, to expand its premises.

We could argue for a long time about the original intention of Parliament. As far as I have been able to find out, when the legislation was first brought down in 1945, it was introduced for the purpose of assisting the expansion of industry in this State. The legislation is State-wide in its operation and does not apply only to the metropolitan area. When it was originally introduced, it was believed that it would enable land to be resumed for the purpose of allowing an industry already in existence to expand or to permit of the establishment of an entirely new industry. It happens that words included in the original Act have now been interpreted by a magistrate in a manner that was not contemplated when the Bill was originally framed and passed by Parliament.

This measure, if passed, will not simplify the procedure in any shape or form but will leave it exactly as at present. It will not, as the Leader of the Country Party said, make it easy for land to be

resumed for industrial purposes. That will still be as difficult as it has been all the way through. The Leader of the Country Party said there would be more applications for land to be resumed under the provisions of the Act. There might be. Would that be a bad thing?

Hon. A. F. Watts: I think it would be.

Hon. Dame Florence Cardell-Oliver: Sometimes.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: Occasionally it might be; but by and large, would it be a bad thing for us to know that, as a result of applications under the provisions of this Act, industry was doing well and progressing and was producing more wealth and employing more people? Surely that would not be bad!

Hon. Dame Florence Cardell-Oliver: It creates hardship for some people who happen to live next door.

The MINISTER FOR INDUSTRIAL DEVELOPMENT: Hardship is being created every minute of the day. It is part of the price of progress. As far as it is reasonably possible to do so, we should protect individuals from suffering hardship; and it seems to me that the provisions of this Act are so extensive in regard to their protective sections that there is much more protection in this legislation than in any other measure of which I can think at the moment. I doubt whether the member for Mt. Lawley or the Leader of the Country Party, both of whom are lawyers, could name any Act which gives more protection than this one.

Hon. A. V. R. Abbott: In one respect; but in another it does not. I realise that we are not dealing with the Act at the moment but it is hard not to take the Act into consideration. If you had gone a little further in your amendments—

The MINISTER FOR INDUSTRIAL DEVELOPMENT: I am prepared to have a look at the angle mentioned by the hon. member. I thoroughly agree that no business firm which is doing so well that it has to extend, and no firm that proposes to establish a new industry, should be able to have land compulsorily resumed for its purposes under the Act at a price that is not entirely reasonable and to some extent generous with regard to the person from whom the land is being resumed. I would thoroughly agree with that point of view; but that is not included in this Bill, which deals with matters entirely apart from that.

Now the hon. member has raised the question whether more generous provisions should not be put into the parent Act concerning the price that would have to be paid for land resumed, I will go into the matter. I think there is a lot of merit

in the point raised. So far as I know, the question has not previously been brought under my notice; and evidently it was not brought under the notice of the previous Minister either. If it had been, I am sure he would have had a close look at it and probably brought down amending legislation.

Progress reported.

House adjourned at 6.13 p.m.

Legislative Council

Tuesday, 10th November, 1953.

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

QUESTION.

LANDS.

As to Resumptions and Claims.

Hon. Sir CHARLES LATHAM asked the Chief Secretary:

- (1) What number of claims for resumption of land, if any, remain unpaid?
- (2) What is the total amount of such claims?

The CHIEF SECRETARY replied:

- (1) Approximately 300.
- (2) Approximately £980,000.