and other officers to avoid his being brought into contact with many of the people who would be involved in such problems.

Whilst some of these may come before the Minister, most cases are dealt with—and rightly so—by departmental officers acting on behalf of the Minister. So I would say that the member who had been in Parliament for nearly 16 years would be well qualified to judge whether one achieved all that one set out to achieve. I agree with the member for Boulder-Dundas that there can be nothing more frustrating to a member of Parliament when he realises a person has a grievance against the Administration, but he cannot go far enough to have the grievance corrected. The member of Parliament is unable to see the file in the department and he cannot obtain the last piece of information because—and reasonably so, I suppose—the administration protects itself. An ombudsman, of course, would have access to this last line of action and would be able to report on what has taken place and what should be done.

There is nothing wrong with the appointment of an ombudsman, but there is a great deal wrong with the suggestion that we should constitute courts of appeal. Such courts do not appeal to me as bodies that would act on behalf of the citizen. If it is considered that the cost of appointing an ombudsman would be too great, courts of appeal, or administration courts, as they are called, would be even more expensive to run than the courts we now have, including the Minister for Industrial Development. However, time and time again there has been argument put forward for the appointment of an ombudsman.

I have also noticed that in recent times when a Gallup poll has been taken on the question of whether an ombudsman should be appointed, a substantial majority of the people questioned were in support of such an appointment. But are we to deny, as the Parliament, the wish of the people? Surely the wish of the people is paramount and far above the ideas we hold. As members of Parliament we can remedy this, that, or something else.

Of course, we can remedy many anomalies, or solve various problems. If people have no other place to go we have no alternative. We cannot say to them they have recourse to law. In some instances a member of Parliament realises that a person, at law, has only half a case. Further, he cannot say that the case should be placed in the hands of a solicitor, because the member concerned knows full well that the person with whom he is dealing is not financial enough to take his case through the courts, because if he did happen to lose it he would be worse off than he was before.

All members of Parliament try to assist such people who are in need. The member for Mirrabooka is not an orphan in this regard. As I have said, all members do their best when a person approaches them with a problem, but some do their best better than others. This varies with the individual and his attitude towards his own electorate.

In the future we will see—perhaps not in the time of this Parliament, because it seems that the forces of the Government are welded together to oppose the appointment of an ombudsman at this stage—an ombudsman being appointed, because I am sure a clamour will arise from the rank and file members of the Government who will say, "It is about time we had a say on this question. We debate the subject, and we support the proposition and therefore we should get some satisfaction through the legislature, because what we have already proposed should not be completely disregarded." I support the motion.

Debate adjourned, on motion by Mr. McPharlin.

House adjourned at 9.40 p.m.

Legislative Council

Thursday, the 5th September, 1968

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

QUESTIONS (2): ON NOTICE

CULTURAL CENTRE

Postponement

1. The Hon. R. F. CLAUGHTON asked the Minister for Mines:
   (1) As no reference was made in His Excellency's Speech to the proposed cultural centre to replace the existing Museum, Art Gallery buildings, has the Government decided to postpone this work indefinitely?
   (2) If not, when is it proposed to commence work on the project?

   The Hon. A. F. GRIFFITH replied:
   (1) and (2) Of the 19 acres which will be necessary for the centre, over 11 acres now belong to the Government and it continues to buy land to enable the eventual plan of the centre to be implemented. Considerable detailed design planning for the cultural centre is necessary and this is proceeding. However, commencement of construction will depend on availability of capital funds to meet the cost of proposed new buildings.
2. *This question was postponed.*

POISONS ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. L. A. Logan (Minister for Local Government), and read a first time.

ESPERANCE PORT AUTHORITY BILL

Second Reading

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [2.37 p.m.]: I move—

That the Bill be now read a second time.

Before submitting to members the provisions contained in this measure, I feel it might be helpful if I present a short resume of the history of the Port of Esperance. The history of this port illustrates a growth of activities which has brought the port to the stage of development where it is desirable that a separate authority for its control be constituted.

The first public jetty was built at Esperance in 1895 and lengthened in 1897. This jetty met the port requirements until 1935, when it was found necessary to construct a new timber jetty, which comprised a neck section of 2,350 feet and a berthing head of 557 feet. In that year, 13 vessels, representing 19,740 gross tons, entered the port.

With the introduction of new farming methods and an inflow of American and Eastern States capital, the development of the district gained momentum during the 1950s and by 1960, 30 ships representing a gross tonnage of 258,091 used the port. Existing facilities were fast becoming inadequate at the Port of Esperance, and, in 1962, construction was commenced of completely new port facilities, including dredged approaches and turning basin, land-backed berth, breakwater, port cargo yard and transit shed, administrative buildings, and ancillaries.

The total cost of developing the new port was $3,010,994. At its present stage of development, the port facilities comprise two berths at the timber jetty for tanker vessels and a land-backed berth, 634 feet long. This is a composite steel and concrete structure with a 72 feet wide deck, 12 feet above low water mark, and provides for general shipping, including bulk cargo carriers.

The total port area comprises 78.5 acres, of which 43.95 acres are required for the existing and future berths with road, rail, and other services. Fourteen acres have been leased for bulk handling facilities for mineral and grain cargoes. There remain 20.75 acres available for leasing or port authority facilities.

Co-operative Bulk Handling Ltd. has constructed concrete cells with a total capacity of 600,000 bushels and is currently planning for increased storage capacity. Western Mining Corporation has established bulk storage facilities for nickel concentrates, and proposals for developing stockpile areas for salt and other mineral exports are under consideration.

During the year ended the 30th June, 1962, the total cargo handled was 39,515 tons, including imports of bulk fuel and general cargo, and exports of gypsum, copper and wheat. Thirty-five ships, representing 339,118 gross tons, were involved in that year's trade. With progressive development in the ensuing years, we find that the total cargo handled during the last financial year rose to 223,419 tons. The principal imports were rock phosphate and sulphur, and the principal exports, grain, nickel, copper, and salt. This trade was handled by 49 ships, representing 410,561 gross tons.

The provisions in this Bill for setting up the new Esperance port authority are almost identical with those under which the Fremantle Port Authority, the Bunbury Port Authority, and the Albany Port Authority are constituted and operated.

The control of the port is to be vested in five members appointed by the Governor. They will hold office for three years and will be eligible for reappointment. The members will not represent any particular section of the community nor be responsible to any organisation for their decisions. The Government will endeavour to select those members whose special knowledge and experience will be valuable to the authority and to the State.

The authority will have full borrowing powers, subject to the Governor's approval, and will also be given consideration for any allocation of funds from the Treasury.

The control of the harbour master will remain with the Harbour and Light Department, as is the case at Bunbury and Albany.

In commending this Bill to members, I would state that the expansion of trade through the port has been spectacular and lends weight to the view that the time has now arrived when a properly constituted authority should be set up to control the port's activities and plan for its future development.

Debate adjourned, on motion by The Hon. R. H. C. Stubbs.

ARTIFICIAL BREEDING BOARD ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [2.42 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to make provision for the financial year and the year of operations of the Artificial Breeding

Board to end on the 31st December, instead of, as at present, on the 30th June, in each year. This latter requirement is contained in subsection (1) of section 17 of the Act.

This amendment is being made at the request of the board because its main activities, which are of a seasonal nature, reach their peak during the months of June and July each year; and it is felt that the procedure now proposed will be more in keeping with the seasonal trends in the board's operations.

If the amendment is agreed to, it is proposed that the initial financial year, under the new arrangement, will commence on the 1st January next. The Bill, therefore makes provision for submission by the board of a report in respect of the intervening six months' period from the end of the last financial year to cover this eventuality.

Debate adjourned, on motion by The Hon. N. McNeill.

COMMONWEALTH AND STATE HOUSING AGREEMENT ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [2.43 p.m.]: I move—

That the Bill be now read a second time.

This Bill is introduced for the purpose of removing from the Commonwealth and State Housing Agreement Act a provision which tends to restrict the borrowing of funds from private sources by permanent building societies. Thus one more step is being taken by the Government to contend with the housing shortage being currently experienced.

There has been a rapid growth in the building society movement in this State during the past 10 years. There were seven permanent and nine terminating societies operating at the end of the 1959 financial year, with total assets approximating $15,000,000. At a similar date this year, there were 14 permanent and no fewer than 219 terminating societies and one Star Bowkett society operating, with total assets estimated at $86,000,000. By comparison, one can well envisage the decided increase in the availability of houses from this source now, as compared with 1959.

For instance, funds advanced in 1958-59 to home purchasers amounted to but $4,468,000 as compared with an estimated $22,300,000 in 1967-68, representing an increase of nearly 400 per cent. The Government strongly supports the building society movement. The number of families assisted to the 30th June, 1959, from funds made available to societies under Commonwealth and State Housing agreements, amounted to 880. It is expected that, including those to be assisted under the 1968-69 allocation of $3,923,000, the total should be approximately 4,060. In addition to this, families assisted by funds borrowed by societies and guaranteed by the State, add a further 2,079 to that total.

Building society finance comes from three main sources. Firstly, from loan allocations from the home builders' account under the Commonwealth and State Housing Agreement. The amounts made available from that source now total $26,362,000. Secondly, from loans from financial institutions, such as banks, insurance companies, superannuation funds, trust funds, trading companies, and the like; and thirdly, in the case of permanent building societies, the finance comes from personal savings of people.

When a society accepts an advance from the home builders' account, a loan agreement is entered into between the State and the society. These agreements create a statutory floating charge over the whole of the present and future assets of the society to secure the advance under the Act. The requirement of this charge tends to inhibit the private borrowings of the permanent building societies because the State has first charge over the total assets, including those created by private borrowings. Terminating societies do not experience this problem since they are quite different in character from permanent societies.

This amending Bill provides that the existing floating charge will remain except where a society finds its existence inhibits private borrowing. In those cases, the Treasurer, on the recommendation of the Minister for Housing, will be authorised to agree to the lifting of the floating charge and its replacement with a specific or limited charge over so much of the society's assets as will secure the advances made by the State to the society.

The Bill provides, as an alternative, that where it is not practicable to take a specific or limited charge over a definable part of a society's assets, part of the assets may be released from the statutory floating charge.

These provisions are achieved by the addition of two sections—6A and 6B—to the Commonwealth and State Housing Agreement Act of 1956; and these amendments are commended to members.

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

STATE TRADING CONCERNS ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [2.49 p.m.]: I move—

That the Bill be now read a second time.

This measure is introduced to permit the West Australian Meat Export Works to borrow funds from outside Treasury sources.

The increasing requirement of the West Australian Meat Export Works for capital funds is influenced by the requirements of the Department of Primary Industry and the Public Health Department in respect of meat handling hygiene. This financial year, the works envisage an expenditure of $628,000 upon these requirements, together with other works directed at improving efficiency of operation.

Works now in progress include extensions to the mutton floor and the installation of chillers and refrigeration plant. New works required to be provided include a new plant and machinery room, a mechanised offal disposal system, together with extensions to the Government Institutions Department, which necessitate the transfer and rebuilding of the canteen.

Of the amount of capital expenditure previously indicated, the Treasury has estimated $341,000 as being inescapable and, of this figure, only $121,000 can be provided from internal funds.

It is desired that the remaining $220,000, which cannot be accommodated in the current loan programme, be raised from funds other than Treasury sources. The objective of this Bill is therefore to provide the necessary statutory borrowing power to this instrumentality to raise these funds from other sources of finance.

Debate adjourned, on motion by The Hon. R. Thompson.

LIQUID PETROLEUM GAS ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [2.50 p.m.]: I move—

That the Bill be now read a second time.

Up to the present, liquid petroleum gas has been used in this State solely as a fuel. The State Electricity Commission, in the interests of safety, and as required by the Act, ensures that a distinctive odour agent is added to the gas for distribution for public use as a fuel. Recently, it has been found that this gas is suitable as a propellant in some aerosol packs; and further, it has been established that to add this particular agent to some aerosol packs would be detrimental to their content.

These packs are manufactured here and the propellant that has been used here, up to the present, has been mainly methane-type gases sold under various trade names. Similar packs are being imported from the Eastern States now in which liquid petroleum gas in the form of butane is being used as the propellant. This type of gas is less expensive than the methane-type, and it has been found the new imported packs are pricing the local product out of the market.

Because of the local requirement that liquid petroleum gas must have an odour, when used as a fuel, as a protection to the public, local manufacturers are being placed at a distinct disadvantage in the rapidly expanding market for aerosol packed spray goods because it is not practicable to use the odorised gas for this purpose.

Since the Act precludes the sale of odourless gas, and as this provision was introduced for a specific purpose, it is desirable in the light of this new development in industry to amend the Act to permit gas being sold without an odour for some industrial and commercial uses. That is the purpose of this Bill which has been framed to cover all uses for this type of gas in industry.

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

CRIMINAL CODE AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [2.53 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to tidy up the law in respect of three main categories of offences. The first of these with which I shall deal is associated with demands for property by written threats, attempts at extortion by threats, and the procuring of the execution of deeds by threats. The sections of the Criminal Code involved are 397, 398, and 399.

Section 397 provides a sentence of imprisonment with hard labour for 14 years, but limits prosecutions to written threats. Where no written threats are made, action is taken under section 396 for demanding property with intent to steal. The maximum penalty under this section is fixed at imprisonment with hard labour for three years. Yet members will agree that an oral threat can be of an equally serious nature as extortion by a written demand. I recall one case not so long ago in a country town where a man was so treated by two women in collaboration.

With a view to strengthening the law here in the matter of extortion by oral threat, the law as existing in England was examined, and also that applying in the State of Queensland. The amendment, which appears in this Bill, was influenced by the Queensland Code, which provides a similar penalty of imprisonment with hard labour for 14 years in respect of both written and oral extortion.

Furthermore, it is considered that victims of these crimes are reluctant to come forward because of fear of publicity. It is

policy to encourage such persons to report offenders. They will be protected by an appropriate amendment requiring that, in these cases, there shall be no publicity, without the order of a judge, either of the proceedings or of the fact that such proceedings have been initiated under any of the appropriate sections of the Criminal Code.

The next amendment I shall deal with refers to peculiarities in the drafting of section 403, covering the breaking and entering of different types of buildings. As presently drafted, the section creates a difficulty in framing an indictment because, for one reason, there are new types of buildings these days, such as drive-in theatres, which possibly may not fall within the types mentioned in the section. It is required that the type of building be clearly defined in the indictment.

Therefore, clauses 5 and 6 provide for the offence of breaking and entering of any building. Although this covers a dwelling house dealt with in section 401, it is only breaking and entering a dwelling house at night which attracts a greater penalty. Another amendment repeals sections 405 and 406, which cover the breaking and entering of churches. These offences will now be covered by new sections 403 and 404.

The next amendment deals with false pretences. Section 408 defines the offence of false pretence which relates only to matters past or present. So the definition does not cover a false promise—that is, something to happen in the future. As it appears that false promises are becoming more prevalent now than false pretences, it is considered necessary to define a "false promise."

By way of explanation I would add that the limitation, placed by the requirement that the false representation must be a matter of fact which is either past or present, has led to offenders limiting their false pretences to future conduct. Victims of false pretences are just as effectively deceived by such promises and, therefore, an amendment along the lines of section 426 of the Queensland Code is considered desirable and in the interests of the community. With the changing pattern of commerce, the obtaining of credit is as often the case as obtaining actual goods and our present provisions do not adequately cover this situation.

The next amendment deals with indictable offences which may be dealt with summarily. I would mention that I share some concern as to the application of the law with respect to stock stealing and sought the preparation of comprehensive legislation dealing with stock stealing and other matters covering stock stealing. For instance, where the value of property does not exceed $100, persons charged with certain indictable offences may elect to be dealt with summarily, in which case the penalty may be imprisonment with hard labour for six months or a fine of $100. It has been recommended to me that, having regard to the increase in monetary values since the amounts provided at present were fixed, a figure of $300 would be more appropriate.

In the case of stock stealing, many offences might not be established within six months, so section 426 of the Code is being amended to extend the period in which a complaint may be brought, and but for this extension, many cases would have to be heard in the Supreme Court. It follows the amendment will enable more such offences to be dealt with summarily and members will find a consequential amendment in clause 2 of the Bill, but the thing stolen must be worth more than $300 to attract the higher penalty. The increased penalty, of course, would not be confined to stock stealing.

Several of the following clauses in the Bill are consequential. Sections 429, 430, and 431 cover offences analogous to stealing and the view is taken that each of them should provide a like punishment. The reason for this lies in the fact that these sections are not related to the stealing offence in a matter of degree, but rather to a step in the enterprise that would culminate in the offence of stealing and, for this reason, there should be no differentiation.

The next amendment I shall explain deals with persons not liable to civil proceedings. Section 468 contains unusual provisions excluding civil actions where a fine has been paid, as provided by section 465, or conversely, excluding prosecution where civil proceedings have been brought. As there is no provision for the fine to be paid to an owner of damaged, killed, or maimed property, the force of this section is hard to see and it is to be repealed.

Finally, clause 17, paragraph (b), is a consequential amendment to the repeal in clause 16. The main amendment in clause 17 provides for a circumstance where a jury is unable to say whether a person stole or received, knowing it to be stolen. Under this amendment, if the jury finds the person charged has done one or other of these things, he may be convicted of the offence carrying the lesser punishment. At present if the jury cannot say which of the two offences the person is guilty of, he is acquitted.

In commending this Bill to members, I would comment that its main provisions are aimed at removing some serious disabilities, which have arisen in recent years, in the administration of justice and concerning several types of crimes and offences which, to deal with equitably, have become troublesome.

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

JUSTICES ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [3.3 p.m.]: I move—

That the Bill be now read a second time.

This amending Bill makes certain new provisions, and opportunity has been taken to tidy up some of the outmoded references which appear in the parent Act.

I shall deal with these latter first. Since the Stipendiary Magistrates Act was enacted, in 1957, all appointments to the magistracy have been, and will continue to be made under the provisions of that Act. The opportunity is taken to make consequential amendments to various sections of the Justices Act, where duties or powers are given to magistrates, so that all references will be to stipendiary magistrates and not to officers such as resident and police magistrates.

Furthermore, section 4 of the Justices Act defines the duties of clerks of petty sessions but does not provide for their appointment to that office. Some minor amendment is therefore desired to obviate any doubts which might arise with respect to the validity of any duty undertaken by these officers.

The Bill proposes that warrants of execution or commitment shall not issue, except with the leave of a magistrate, where a period of 12 months has expired since the final date of hearing of cases. This amendment has been submitted by stipendiary magistrates, who consider that, in such instances, complainants should show cause why the issue of the warrants was delayed and reasons for their enforcement at the later stage. Members will appreciate that, unless a complainant is required to seek leave to issue a warrant, there could be complaint that the threat of its issue was being held over the head of a person as a threat.

Following the recent mass escape of prisoners from the Supreme Court, consideration has been given to providing better security over persons awaiting appearance before the court. It has been the procedure for all persons on bail to surrender, in accordance with their recognisances, on the first day of each criminal session. In many cases, a date for their trial has to be set by the trial judge and agreed to by counsel. It is proposed, in such cases, that the recognisance given these persons will only require them to surrender on the day fixed for the trial. Approval of this proposal will reduce the number of persons required to be held in custody on the opening days of each criminal session..

The next amendment with which I shall deal, relates to proceedings against young persons. The amendment will validate hearings where complaints are heard against juveniles in the belief that, at the material time, the offender was over the age of 18 years.

The Child Welfare Act, in relation to most of such cases, provides that a children's court has exclusive jurisdiction and, therefore, the conviction by a court of petty sessions is beyond jurisdiction and any sentence or penalty imposed is unlawful.

There are several reasons for juveniles mis-stating their age. These include a wish to avoid their parents knowing of the offence, avoiding disclosure of their proper ages to co-offenders, or to avoid appearing before a children's court, before which they have appeared previously and been informed that future offences would be treated seriously.

At present when an error in age admission is discovered, it becomes necessary to treat the conviction as void, to remit the penalties imposed, and to commence fresh proceedings in the children's court. This is not always possible as not infrequently the correct age is not discovered until a period of six months has elapsed from the date of the commission of the offence so that, for a simple offence, it is not possible to remit the matter.

The proposed amendment will enable a court of petty sessions to set aside such convictions and order rehearings when considered necessary.

In the matter of rectification of certain orders by justices, there has been a considerable increase in recent years in the number of statutory provisions which call for fixed minimum penalties. These vary, depending on whether the offence is for a first or subsequent one. This has resulted in a number of cases where sentences or penalties have been imposed, which are contrary to, or not authorised by, law.

Under existing law, the irregularity can be corrected only by an application to a Supreme Court judge for an order to review. This procedure is cumbersome, costly, and also inappropriate, where the only question is the correctness of the penalty or sentence.

It is proposed that a court which imposes a sentence not permitted by law, may, either of its own motion or, on the motion of either party to the case, review the penalty by imposing a correct penalty in lieu of the penalty previously imposed.

The proposed amendment, concerning the scale of imprisonment for non-payment of money, is required to remedy defects, by allowing justices imposing penalties to order that any sentences in default of payments may be served cumulatively with any other penalties, which defendants may be serving, or, at the times of conviction, are liable to serve.

There is an apparent anomaly whereby a default of three days is provided where a warrant is under $4, but, in other cases, the default is one day for each $2. Therefore, if the amount of the warrant is under $4, default is three days, but only a term of two days is required to be served if the warrant is exactly $4. It is proposed to delete the provision requiring three days to be served where the warrant is under $4.

And, finally, a completely new concept is incorporated in the re-enacted section 135 to obviate the necessity of hundreds of police officers milling around to give evidence in traffic cases, only to find defendants plead guilty or fail to appear when called.

This amendment will permit police evidence to be made by affidavit. Evidence by affidavit will be admissible only in the absence of the defendant. If the defendant appears and pleads not guilty, the case will be adjourned to enable the police officer to appear; for the Bill only provides that, in the absence of the defendant, the court may accept evidence in writing submitted by the police. This new procedure will greatly benefit the more efficient running of the Police Force, by drastically curtailing the amount of time wasted at present by police officers being present under statutory requirement, when there is no certainty that the person charged will put in an appearance in court to plead his case.

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

SUPERANNUATION AND FAMILY BENEFITS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 4th September.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [3.12 p.m.]: This Bill, which was introduced yesterday, has for its purpose the use of the funds of the Superannuation Board to increase the number of houses which the Government Employees' Housing Authority provides. This will add to the powers of investment of the Superannuation Board, and money will be made available by it to the authority for the purchase of houses in the country.

We have been advised that the Superannuation Board is in agreement with this proposal, and is willing to make such money available. One can assume that the board has looked into this question, and on the basis of making money available has ensured that its funds are protected as regards the advantages of such investment; and that it will not make money available if it can be invested to greater advantage in some other directions. That is the only point in the Bill on which I might have some inherent doubts. However, the fact that the Superannuation Board is aware of what is to take place—and the legislation before us is the machinery to enable it to move in an operative way—is some indication that there are no undue fears in that direction.

In his introductory speech the Minister gave a considerable number of figures to illustrate the activities of the Government Employees' Housing Authority since its inception, which was not very long ago. I think it has been in operation only since 1965, and it has been operating on a somewhat limited budget in view of the demands which are placed upon it to provide housing.

In the 1967 report of that housing authority, some of the problems from a financial aspect which have confronted it are detailed. On page 6 of the report the following appears:—

> Suitable land for building in some areas has not been readily available and this has caused a delay in the Building Programme in certain instances. Generally land is provided by the State Housing Commission, but where this is not possible the Authority seeks land through the Lands Department, Public Works Department or on the open market with a view to obtaining suitable sites as quickly as possible.

It is interesting to note that apparently there is some difficulty in obtaining building land readily. One hopes this housing authority will not experience the situation where the price of land increases to such a level as to prevent it from doing as much as it would like with the money available.

The report makes a very interesting comment with regard to accommodation in the north-west and other parts of the State. On page 6 the following also appears:—

> With the continuing development of the North West the demand for accommodation in this area has greatly increased, and the Authority has given special consideration to these requirements.
>
> The need for single employee accommodation has been emphasised, particularly for teachers, when Departmental requirements were submitted early this year. The Building Programme has been framed to give maximum possible assistance in this direction and single accommodation has been planned for the following centres — Merredin, Northampton, Goomalling, Williams, Gnowangerup, Carnarvon, Derby, Port Hedland and Marble Bar. Construction has already commenced on some of these projects and it is anticipated that the majority

will be available for occupation by the commencement of the school year in 1968.

In some instances the Authority has specified a conventional house which could house four single persons if necessary. Houses have been planned where the number of teachers is three, and where six or more are concerned, duplex units have been selected. Use of a house for small numbers of single teachers allows for flexibility because if necessary, through Staff movements, re-allocation could be made to married personnel. Complete basic furniture for both houses and duplex units will be provided where used for single accommodation. The tenants will pay a separate furniture rent.

That would indicate the Government Employees' Housing Authority is very much aware of the problems confronting it, and it has moved as fast as its finances would allow it to move in an effort to overtake the gap in housing for Government employees. The Minister also drew attention to the fact that a scheme exists under which local authorities are encouraged to build houses. There is a paragraph in the report I have mentioned dealing with the use of local authority loan funds for the provision of houses. I do not think it is necessary for me to go into that aspect, because the Minister has already mentioned it. This shows there is another avenue through which houses can be built and so assist the housing problem to be overcome.

On the basis that the Bill before us endeavours to move forward in the right direction by providing houses for people who are not housed, I can only support it with enthusiasm. I hope that in the course of time this housing authority will be able to overcome its problems.

THE HON. V. J. FERRY (South-West) [3.20 p.m.]: I rise to support the Bill. I realise the measure is designed to expand the activities of the Government Employees' Housing Authority, and I wish to pass a few remarks in regard to the work the authority has done since its establishment. As I see it, I believe the authority will be doing a lot more work in the future.

I am sure we all realise, and particularly those of us who represent country electorates, the very real need for a reasonable standard of housing for all people, and this includes Government employees. I commend the Government's action in extending this avenue to improve the lot of those employed by Government departments.

Several times I have had occasion to get in touch with the authority in regard to housing in certain country areas, and in all cases I have found that it has been most sympathetic to the problems raised and has done its best to relieve the situation to the best of its ability. When I say that I mean not only its financial ability, but also I have in mind the shortage of reliable contractors in some country areas.

The main handicap of the authority in the past, as we all realise, has been lack of financial resources. As it has been in existence for some time now, the authority is well placed to move into what I suggest would be top gear to upgrade within a reasonable time all the dwellings occupied by Government employees throughout Western Australia. I realise this cannot be done with the stroke of a pen. The authority has a tremendous responsibility in this regard, but as I have said, I believe it is well placed now to make some real progress to overcome the existing lag.

I have personally inspected several houses occupied by Government employees in country areas and I know the problems acknowledged by the authority. I am happy to say that as the result of my representations, the authority has made improvements as and when it could, with a good deal of expediency; and I am grateful for this.

I would like to mention the liaison which is being encouraged between the Government Employees' Housing Authority and local authorities in country areas. I believe that all sections of the community should work together for the common purpose of improving the lot of country people. Local authorities are charged with a very real responsibility in their local communities in this respect. I am happy to be able to say that in my opinion some shires have proceeded along quite sound lines to relieve the housing shortage.

However, I well remember that last year I made representations to the Manjimup Shire for it to undertake the building in Pemberton of a residence for a married school teacher. I was very fortunate and grateful to have the assistance of the Minister for Education and also the Director-General of Education who provided me with written evidence that guaranteed occupancy of such a house if it were built within the town by the local shire. They guaranteed that the home would be occupied by a married school teacher and therefore the rental was assured.

I am very sorry to have to report that at that particular time the shire felt it could not undertake this type of project. I was particularly disappointed because the Manjimup Shire is one in which a decrease in population has occurred over the years, for various reasons, and I felt it rather odd that the local authority should decline to assist in establishing another permanent family within its boundaries. But this was the case.

I am glad that other shires are, in fact, moving into this field, and maybe the Shire of Manjimup will yet reconsider its decision to help its own community.

I fully realise the value of having married school teachers in country towns. I feel that their presence gives stability to the schools and creates an additional family in the community. Such married school teachers also help in the cultural activities of a community, and, very frequently, give a lead in the social life of the community.

I think school teachers contribute very much in a general way throughout the State, particularly in the rural areas. I realise, of course, that this Bill is designed to assist not only school teachers, but also all other employees of Government departments.

I support the Bill, and feel sure the authority will go forward to greater achievements.

THE HON. C. R. ABBEY (West) [3.26 p.m.]: Like the previous speaker I have pleasure in supporting this Bill and, in fact, I applaud it as a means of providing larger sums of money for the Government Emloyees' Housing Authority for its very worth-while objective.

As was mentioned by Mr. Ferry, shires can play an important part in this scheme and I, too, have tried personally to encourage shires to participate and use their borrowing powers for this purpose. I would bring to the Minister's notice the fact that some shires are having difficulty in obtaining long term loans. I believe they need a term of something like 30 to 36 years for a project such as this and they are experiencing some difficulty in finding avenues for borrowing over this term. The Minister may be prepared to have a look at the problem they are facing because I feel shires are interested in the project and will support it not only in connection with school teachers, but also in connection with Government employees generally.

School teacher accommodation, and particularly that for single teachers, has been a problem in country communities for a long time. It has exercised the minds of those in the local authorities to a very great degree. Some shires, I am happy to say, have provided suitable accommodation for single teachers and are thus overcoming what was quite a serious problem.

Cases have occurred where single school teachers have been prepared to put up with very low-standard accommodation because of its cheapness. They have lived in groups and have stayed in the country towns only from Monday morning to Friday afternoon. On Friday afternoon they all use the car of one member of the teaching staff to come to the metropolitan area for the weekend. This is, as we all realise, an undersirable practice and was, I suppose, brought about in some cases by lack of accommodation. I know this has taken place, but it is years since I investigated such a case. Such a practice is not to the credit of the teachers themselves or to the credit of the community concerned. I hope there is now a change of attitude on the part of some of our young teachers.

The Hon. R. F. Claughton: Their sweethearts are often in the city, you know.

The Hon. C. R. ABBEY: I realise that, but nevertheless the attitude is not desirable. The means now being employed to house Government employees, including teachers, is certainly overcoming the problem. It is very refreshing to see it happen, because teachers as a body are of a very high standard of education and, as Mr. Ferry pointed out, they are often leaders in the community. Consequently they need to have the conditions which will encourage them to stay in the country towns.

The large sums of money mentioned in the Bill will surely enable a great deal of progress to be made, and perhaps we will overcome some of our difficulties as a Government. The Press has been somewhat critical of the situation and has backed up claims from the various unions, of course. It is quite commendable that the Press should have done this, but I feel that in the very near future we will reach a stage where the main problems are being overcome and the objections will pass into the limbo of forgotten things. It does, of course, give a very good avenue of investment for the board's funds, too.

With those few words and, in particular, with my reference to the difficulties of shires in obtaining loan money to likewise support the project, I support the Bill.

Debate adjourned, on motion by The Hon. H. C. Strickland.

LOCAL GOVERNMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the 4th September.

THE HON. J. HEITMAN (Upper West) [3.33 p.m.]: I listened last night while Mr. Willesee said a few words on the measure and I must say that I agree with him in most of what he said. Possibly I have quite a bit more to do with local authorities or country shire councils than Mr. Willesee. With the exception of perhaps two of the amendments in the Bill which affect local authorities under the Local Government Association, most of the other amendments affect country shires, which have considered them and I know they are in favour of them.

Firstly, clause 2 simply alters from the 1st January to the 15th January the date shires will be advised of any alterations to the local government roll. Possibly this will be better and it will be easier for the shire clerks to prepare their rolls, because mostly they are not at home on New Year's Day which, of course, is the 1st January. It

is often found that when people go to the office to submit their names for the roll they need some advice. I think the alteration of the date to the 15th January is a step in the right direction. It will be a help to most people who want to vote at local government elections and who previously have not had much advice on the subject.

I call the next clause the gravel clause. It deletes from section 281 the reference to a distance of one mile from a property where repair work can be carried out by a shire by means of gravel taken from a pit or soil from a property. I know this has been quite a contentious subject in most country areas. Firstly, the chap who owns the gravel does not like his ground being torn up and holes left in his paddocks. He does not like to think that he is going to give his gravel away for nothing—and mostly this is how it applies—in order to fix up roads and help the rest of the ratepayers. Personally I feel this is a rather weak way of looking at things. We should realise that we all use the roads. However, if this attitude is taken, I think it would be a better idea to sell the land to the shire which can then take what gravel it wants.

There is a stipulation that if the paddock is in crop, or if there is a garden and plants are growing in it, the shire cannot go in and destroy them. That is quite right. However, I consider it might be better if the Act were amended to enable different gravel pit sites to be more or less resumed. If they were paid for at a given price it would save a lot of worry to the landowners who have to try to put a price on every load of gravel that is taken. In this way, settlement would be made at the beginning and the landowners would not have to worry about it on future occasions.

The next amendment refers to altering the level of the streets. In the past this has always been a bit of a problem. If a shire did alter the level of a street or road, it has been a difficult job for an individual to get compensation if the shire flooded his paddock, homesite, or anything like that. Under this amendment, the shires would have to pay compensation if they altered the street or road levels.

I can remember a number of occasions when shires have lifted a road through a salt affected part. They have banked back the water and turned many acres into salt-affected land. Here again, if a farmer wanted to get compensation for this sort of thing, it meant months of litigation and possibly, quite a bit of out-of-pocket expense before any compensation was paid. The amendment will be a help in this direction. If the shire does alter the street or road level, it will know very well that it has to safeguard the people concerned. It will tend to make the shires much more careful.

The next two amendments do not affect country shire councils to any great extent; consequently I will pass over those amendments. The next amendment concerns the increase in the maximum rate from 7.5c in the dollar to 15.5c in the dollar.

The Hon. L. A. Logan: It is 15c.

The Hon. J. HEITMAN: This has been caused mainly through valuations on farming or other properties. I know that it takes a long while in the country to get a revaluation under the present method of valuations. I think some better and quicker method of valuing properties throughout the State would be of great advantage to the shires; because many of them have not been revalued for some years and as a consequence, the shires have to lift their rates by approximately 7.5c in the dollar.

I have always felt that an increase of 7.5c in the dollar is pretty steep. I know this type of rating was used on those properties which were revalued over the last couple of years. There will be a tremendous number of complaints from those paying this amount. In the areas where valuations have not been lifted for the last 20 years, an increase of 7.5c in the dollar would not be extortionate. However, I think that the problem should have been attacked from another angle whereby valuations were carried out more frequently. If this had been done, there would not have been any need to lift the value from 7.5c to 15c in the dollar.

The other amendments in the Bill are designed to correct printing errors and deal with the question of arbitration. This small amending Bill overcomes these problems and should be supported. I cannot imagine anybody not supporting it because it could not upset any local authority. I give the measure my support.

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [3.41 p.m.]: Only one question was raised by Mr. Willesee and that was in regard to the first amendment. I think if the honourable member looks at section 45, subsections (3), (6), and (9) of the parent Act he will find that the persons covered by those subsections have to apply by the 1st January to have their names placed on the roll. However, if he turns to section 46 he will find that ratepayers and occupiers who want to be on the roll have to make application by the 15th January. The amendment in the Bill is to bring both provisions into line and to set the date at the 15th January.

I think Mr. Heitman may have misread the provision dealing with the increase from 7½c to 15c. This increase is not necessarily caused by revaluation. It is to cover a local authority which wants to use the unimproved capital value system of rating for all of its area. Such a local

authority may find that because of the very low valuations in the townsite areas it cannot use the unimproved value overall and, under the present provisions in the Act, it has to adopt the annual overall value system. However, if the authority wants to maintain the unimproved capital value system of rating throughout its district the only way to do it is to increase the rate from 7½ per cent. to 15 per cent. Admittedly the local authority could cover the position at the moment by using the annual value system of rating but if it does not want to do that, and wants to use the same system throughout its area, the amendment in the Bill will enable it to do so. It can be done only with the concurrence of the Minister, in any case, and so there is a safeguard.

The Hon. S. T. J. Thompson: This is in the central ward?

The Hon. L. A. LOGAN: Yes, in the townsite areas.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Sitting suspended from 3.45 to 4.2 p.m.

RURAL AND INDUSTRIES BANK ACT AMENDMENT BILL

Second Reading

Debate resumed from the 4th September.

THE HON. F. J. S. WISE (North) [4.2 p.m.]: The main provision in this Bill which seeks to assist in the financing of a greater number of houses in any one year by the Rural and Industries Bank is, I think, most commendable. There are only three provisions in the measure, and this is an opportunity to become enthusiastic about what is happening in this State, in the financial sector of the State's economy, as a result of the activities of the institution known as the R. & I. Bank. We all know its importance to the community today.

I would first like to deal specifically with the Bill. In the 1966 legislation Parliament approved that 100 houses be the limit for which the R. & I. Bank could call tenders; that was the number of houses it could arrange to construct and sell.

This was developed by having a revolving fund and under the bank's guidance the scheme has proved to be most successful with only a small financial obligation to the bank. It has been the means of readily providing a large number of homes at a wholesale price.

From the success that has been achieved it is obvious that the enthusiastic comments made on the Bill in another place were well warranted. Since 1966, 131 homes have been built and handed over by this institution. The bank takes no profit on the actual construction of the homes.

I think it is likely this institution will figure largely in assisting home building in many directions if, by the passing of this legislation, we remove the stricture which at present exists in section 19 of the Act.

The other provision in the Bill has come about as a result of the attention of the commissioners being drawn by the Auditor-General to a certain part of the Statute that is not used and has not been used in this and similar legislation dating back to the old Agricultural Bank Act.

Since this suggestion was made by the Auditor-General there is no necessity for the provision and it should be removed from the Statute. In short I think the passing of this Bill will assist in some measure, and eventually in a great measure, to alleviate the housing position in the State.

In speaking to a Bill of this kind I hope I may be pardoned if I give the House some indication of how important this institution has become to the State. There was a time when, if asked, I could recite any or all of the sections of the Act. It is now 24 years, this month, since I introduced the Rural and Industries Bank Bill into the Legislative Assembly, after several attempts by me to have my Premier approve the introduction of such a measure. Therefore, not only have I a knowledge of the present situation, but also I have a knowledge of its background.

I think you are aware, Sir, that I have been asked to place on record what happened in the three years prior to the introduction of the Bill to which I have referred, and which eventually became a very important Act in this State.

It could truly be said that the establishment of the R. & I. Bank was an historic landmark in banking practice. It was a bank founded with no liquid cash, but with over $19,500,000 worth of debts—money owing to it and which constituted its capital.

The amount of cash placed in the tellers' boxes on the day of opening in October, 1945, was $100,000. I think I must accept the responsibility for the non-euphonious name of Rural and Industries Bank—it is very hard to say, unless one pauses at the word rural.

The Hon. L. A. Logan: It is easier to say R. & I.

The Hon. F. J. S. WISE: But it was on my minute to Cabinet that the name was selected and I am sure members will agree it has become a great name for a great institution.

It is interesting to observe that when the old Agricultural Bank was about to be liquidated—when it had £9,000,000, at that time, of debts owing to it, with no

fresh money advanced since 1935—it was obvious that every year millions of pounds of assets were passing to other institutions, because they had the normal facilities for banking as a healthy proposition.

At the end of the first week of the life of the R. & I. Bank, and following the $100,000 being available, there was held in tellers' cash a sum of $25,467. In cash at the bank there was $109,538, and the total liquid assets of this institution on the 8th October, 1945, amounted to $135,005. After 12 months the total advances of the institution were $8,142,037, and its assets had grown to $10,965,233. Its profit in that year—its first year of operation—was $11,045. That $11,045 became the first of the reserves of this bank.

That was at the 30th September, 1946. The deposits at that time had grown from nil to $747,737—that is in the first year of achievement—in spite of the forebodings expressed in this Chamber and in the financial world of St. George's Terrace that it would be in liquidation within six months.

What has happened in the intervening 23 years? Let us compare the figures I have given with those of the 31st March, 1968, contained in the 22nd annual report of which all members will have a copy. From nil in 1945 to the 31st March this year the deposits and general savings have grown to $106,076,264, and advances have grown to $53,664,271. The assets are now $146,213,410, and the profits in the last year were $597,485. The reserves, as stated in the balance sheet, are $3,178,597.

This is something of which we can now be justly proud. The R. & I. has become the third largest savings bank in the State, in spite of the fact that it had a very late start—it was years behind other institutions in this respect, including the Commonwealth Bank. It is now the fourth institution in strength in the State.

In passing a very simple Bill of this kind I think Parliament can be assured that the alternatives in housing finance which it is making available will go towards assisting this very worthy institution in carrying out its obligations.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.14 p.m.]: I would like briefly to thank Mr. Wise for his remarks. I fully appreciate and understand the sentiments he has expressed in regard to the R. & I. Bank. I recall being present at the opening of the new building in Barrack Street. The honourable member also attended that night.

I can appreciate the honourable member's feelings in relation to the formation of the bank and the progress it has made over the years. It must be of intense satisfaction to Mr. Wise to see the bank do so well and profit so well with only a few years trading.

I think this is due somewhat to the fact that Governments from year to year have continued to support the bank in its outlook and growth, and the bank in turn has been conscious of the need to support the various projects of the State.

As far as the Bill is concerned, as Mr. Wise remarked, there were some forebodings in the debate a couple of years ago in respect of the bank's entrance into the field of home construction. It was by way of trial that the number of houses the bank should contract to build, or arrange to have built, be limited to 100 a year; but I think after two years it can be seen that the arrangement entered into then was most satisfactory and that greater scope should be given to the bank in its operations in this respect.

The Hon. F. R. H. Lavery: Is it true that the bank financially supported the Empire Games Village?

The Hon. A. F. **GRIFFITH**: The bank supplied £1,000,000 in order to build homes at the village, so the answer is, "Yes." I had some forebodings at the time, as the honourable member is well aware. It is an inappropriate time to speak about that subject while dealing with the amendment before the House. However, all is well that ends well. The houses in that particular place are now regarded by the owners—whatever their description was at the time of erection—as an excellent asset.

In respect of the land the Government has made available to the bank, I think the result will be similar. The houses are of a good type which are built—as the second reading notes recorded—in varying forms. Some of the land is sold to private individuals who have their own creative ideas, and houses are built in small groups of up to 12 or 13 at a time. The passing of this Bill will enable the bank to go further and provide more homes for the people of Western Australia. I conclude my remarks by thanking Mr. Wise for his support of the measure.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

ROAD AND AIR TRANSPORT COMMISSION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 4th September.

THE HON. J. DOLAN (South-East Metropolitan) [4.19 p.m.]: This Bill proposes to amend the Road and Air Transport Commission Act in order to provide an alternative method of assessing the license fees for omnibuses and for aerial services.

Under the present method, the fees are assessed on a basis of a maximum of 6 per cent. of the gross earnings. This, of course, involves operators in submitting monthly returns of earnings and the fees that are payable. The larger operators are not particularly worried about this because, in most instances, they maintain a full accounting system, but the smaller operator finds it most inconvenient to have to prepare monthly returns and submit a statement to the commission. At the same time, too, the Transport Commission is involved in checking statements, accounts, and fees; and I feel that any Bill which simplifies these matters and also effects economics is worth supporting.

The alternative scheme provides that in place of the percentage on gross earnings, the operators of omnibuses will be charged a fee which does not exceed $10 per annum for each unit of the maximum number of passengers the vehicle is licensed to carry at any one time. That means, for example, if an omnibus is licensed to carry any number between 30 and 36 passengers, the annual fee payable would be a maximum somewhere between $300 and $360. This has the advantage, of course, that an operator will know at the beginning of the year just what he is up for by way of fees, just as we know what we will have to pay when we go to license our cars.

In his second reading speech, the Minister gave an example in which he compared the present scheme with the alternative method; and by using figures showed—at least to his satisfaction; and I wish to ask him some questions about this later on—that the alternative scheme was a much better proposition than the original one.

Worked out on the average cost of operating a bus at 35c a mile it was estimated that in order to obtain a reasonable profit, the return would have to be approximately 38c a mile. The figures were worked out on the basis of a bus travelling 500 miles a week, which is regarded as an economic distance or number of miles. On the basis of 38c a mile the gross earnings approximated $9,500 per annum—actually I checked the figures and it came to a little more—and with the maximum of 6 per cent. it represents a fee of $570. These calculations have been based on a bus licensed to carry 36 passengers.

The alternative of paying $10 for each of the 36 passengers involves the company in $360 as a license fee for a year. As compared with the gross earnings fee of $570, there would be a considerable saving.

The first point I wish to raise with the Minister is this: In considering the capacity of a bus several matters are involved; one is the seating available, as compared with the number of passengers which a bus is licensed to carry. This is a different figure from the seating capacity of a bus. A bus which is licensed to carry a maximum of 30 passengers would have seating accommodation for only 20 passengers. I think the basis contained in the regulations is a seat for every 1½ licensed passengers; so the number would be only 20. If the license is worked out at $10 for the seated passengers, that is only $200; whereas if it is worked out on the maximum licensed figure, it amounts to $300.

It is possible this does not apply in many country centres. There may be exemptions of various kinds and consequently, it is one of the things I want the Minister, if possible, to let us know when he is replying to the debate.

The other group concerned operate aerial services. Their present licensing fees are 6 per cent. of the gross earnings, and any subsidies that are provided are not taken into account. The alternative scheme is just a little different from that of the omnibuses. Aerial services are charged 10c for each pound of permissible take-off weight. If a certain take-off weight is fixed, the fee can be assessed at 10c for each pound of permissible take-off weight.

The Minister, I think, gave two examples, but it is my intention to refer to one only. He mentioned a Cessna 182 which is licensed to carry three passengers—

The Hon. A. F. Griffith: No standing passengers.

The Hon. J. DOLAN: I would not think so, unless on occasions a few fellows may have been taken up to practise parachute jumping and they would stand so as to pass through the door, unless they went out head first! Assessed on a take-off weight of 2,650 lb.—the economic base is 200 flying hours—with estimated earnings approximately $32 an hour, simple arithmetic shows that on the annual gross earnings, the amount earned would be $6,400, and a fee of 6 per cent. would represent $384 per annum.

The alternative fee, calculated on 2,650 lb. permissible weight at 10c for each pound amounts to $265 per annum. So members can see there is quite a substantial difference between $384, under the present system, and $265 under the alternative system.

Here is another question I would ask of the Minister: Who decides which assessment method will be used? I understand the Commissioner is happy with the set-up at present; that is, charging a fee based on gross earnings. If there is to be any change, it is possible operators may feel they are badly done by if they are forced to take one method of assessment while others taken the alternative.

It was suggested in another place that the Bill should be amended to provide for only one method of assessment. It was felt in some cases a loss of revenue might be involved; and it was suggested that the

variable fee of between $1 and $10 could be increased to $12 in the case of operators who were making good profits, and reduced accordingly where the operators were having a bit of a struggle. The Minister promised he would discuss the proposition with his department and, arising out of that discussion, if he thought it necessary, he would have an amendment to the Bill introduced in this House.

I notice there is no proposed amendment to the Bill so I inquired from the member, who suggested one method only, if the Minister had acquainted him of the results of the discussion with the department. However, the member concerned informed me that the Minister had had no discussion whatever with him, although he had promised to do so. As those discussions have not taken place—it is quite possible that they may have taken place since—I would like the Minister to indicate whether there is any possibility of an amendment being made to the Bill to provide for only one form of assessment.

The Minister, when he quoted his examples of earnings and likely profits, and so on, made his calculations, I think, on the assumption that in all cases there would be a maximum of receipts. For example, in the case of a bus licensed for 30 passengers, it would always carry the maximum number of passengers; and, in the case of an aeroplane, it would always have a full payload, or permissible load, at take-off. I would like the Minister to reconcile the figures he has used, seeing that all these cases are hypothetical.

I do not want to be difficult because I feel the Bill commends itself. Any Bill which makes it simpler for people to understand the Act, and benefits the operators and the commission by making it unnecessary to keep accounts of small transactions, must be acceptable. The small operators can work out their license fees in advance without an involved system of bookkeeping.

Those are the only points I can see to discuss. I do not know whether the debate should be adjourned so that the Minister can have another look at the Bill and report back to the House, but I feel that should be done. Apart from what I have said, I support the measure.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.37 p.m.]: I am somewhat at a disadvantage. I thank the honourable member for his co-operative attitude. He will recall that my colleague, Mr. MacKinnon, introduced the second reading of this Bill. However, at present, he is attending a ministerial conference in Canberra and, therefore, I have not the answer which the honourable member seeks. However, I would like to suggest that the passage of the second reading of the Bill be agreed to and I will then ask the House to take the Committee stage at a later sitting. In the meantime, inquiries will be made and the answers given to the honourable member at that time.

The Hon. J. Dolan: That is quite all right.

Question put and passed.

Bill read a second time.

DRIED FRUITS ACT AMENDMENT BILL

Second Reading.

Debate resumed from the 4th September.

THE HON. N. E. BAXTER (Central) [4.38 p.m.]: In making a few comments on this Bill I would first like to say that the levy on the growers of dried fruits has not been increased since 1947. The Dried Fruits Act was re-enacted in that year, and the old Act of 1926 was repealed. The Dried Fruits Board consists of five members, and the original appointments were made by the Governor. One of the members was to be the chairman and was to be nominated by the Minister. The board appointed under the 1947 legislation carried on from the old Dried Fruits Board, and the 1947 Bill provided that there should be elections when the first members retired on the 31st December, 1948. I believe there has been only one election since then.

When the legislation was re-enacted in 1947 provision was made for the election of representatives. Those provisions were taken out of the Act in 1967, and others providing for the election of representatives of the growers to the board were prescribed. I quoted the provisions in 1967 when dealing with the amendment.

In his second reading speech the Minister pointed out that over the last couple of years the Dried Fruits Board had shown a deficit in its operations of $701 for 1966, and for 1967 a further excess of expenditure over revenue of $697. This, of course, is understandable to a certain extent, but when one looks at the reports of those two years one sees that the contributions by the growers have risen. The revenue received in 1965 was $2,422, and in 1966 it was $1,415. The increase in contributions by the growers in 1967 amounted to $1,692.94. One can understand what is happening, in regard to the deficit, in this direction.

Another item has contributed, to some extent, to this deficit. The 1966 balance sheet shows an inspection fee costs of $540 which rose to $826 in 1967. That means an increase of slightly under $300 which accounts for some of the deficit. There was also a considerable decrease in the income from 1965 to 1966, and this could have been brought about, of course, by several factors. These could include a bad season for dried fruit production, and bad weather conditions during the growing season and during the drying period.

As members may know, a grower might have a reasonably good crop, but he might strike a particularly bad drying season. His product could very easily be ruined during the drying season and then, of course, instead of his crop being available to the market, it is of poor quality and some of it is not worth marketing. It is a very risky business for the growers in the dried fruit industry.

The increase in the levy is not a large one, per pound of fruit. When one considers that it will be 84c a ton, that will mean, perhaps, .02c a pound. I do not think that would disturb growers greatly. To my knowledge, the growers have, over the years, had full confidence in the board and at no time have I heard them grizzle about the levy. The growers appreciate the difficulties associated with marketing dried fruits in some seasons, and they appreciate the good work the board has done to try to keep the industry on a stable basis.

If the growers were left to do their own marketing through private enterprise, or even through their co-op, they might not have been so successful. I doubt whether they would have received the prices which they have received over the past few years. Even though the prices have not been wonderful, they have given a return commensurate with what the growers would have obtained had they worked on an open market.

Perhaps one cannot condemn the board for its financial operations because we all know that costs have risen in all directions. The increase in inspection fees is probably commensurate with wage rises over the past few years. As I said, the increase in fees accounted for about $300 of the deficit.

I feel the House can safely support this measure because it is in the interests of the growers to see that the board has sufficient finance to carry out its operations. If it is found necessary to levy the full amount allowed under the legislation, then that will be done. With those remarks, I support the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

TRUSTEES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 4th September.

THE HON. F. J. S. WISE (North) [4.44 p.m.]: This very short Bill has already brought forth a wide divergence of opinion with regard to what it really means, and what it is proposed to achieve. There are certain parts of the Bill with which I can find myself wholly in agreement. But there are other parts with which I think the House must continue to be unsatisfied unless there is more clarity not only as to the purpose of the amendment, but also as to what the amendment does differently from what is now provided for in the Statute.

I think the Minister, in his opening remarks, clarified one issue because one amendment in the Bill permits common trust funds of a trustee corporation to be included in the list of authorised trust investments.

The responsibility of public trustees are very great, and it is proper that this should be so. In many sections the Trustees Act explicitly lays down the many responsibilities which public companies have to accept when they deal with the assets of other people, because they have, within their administration, the ability to make a profit from the handling of estates.

I think the second provision in the Bill is intended to clarify a situation and, indeed, it will clarify the situation where a trustee is also a beneficiary in a trust. By the Bill he will be relieved of the obligation to serve notice on himself where he is one of the people concerned, and the Bill completely safeguards the position as it applies to such a person. The position is safeguarded in that all such actions have to be approved by order of the court. As a matter of fact, right through the Act it is obvious that the intention of those who drafted the measure, and of those Governments responsible for its administration, was that the court should safeguard all interests. That is a good thing and it is the position which obtains today.

Not only must a trustee, whether it be a private person, a corporate body, a company, or indeed the Public Trustee himself, prove to the court the validity of all documents submitted, but also he has to be able to show that all accounts and charges are properly presented and validly expressed.

However, it is in regard to the latter part of the Bill that I am dissatisfied with the explanations given and the deductions that have been drawn. I refer to what is provided for in clause 4, which proposes to amend section 98 by repealing two subsections and re-enacting them in another form.

Considerable discussion took place in this Chamber last evening on the difference between the greatest gross value and the gross value. Although it appears to me in the ultimate that the greatest gross value is a term used as a variation of the term "gross value" in the Statute, the objective is that the commission may be charged on what was the peak value of the asset during the period of the administration of the trust; that is to say, where

an asset value has diminished by distribution, or by the cancelling out of some obligation, the contention is held that this legislation properly gives to an approved trustee company the right to levy the commission approved on the highest value, at any stage, of the assets under the responsibility of the company.

Therefore, during the administration of a trust, whether the assets be a block of flats, a farm, or any other property, the highest value of the asset, at any point, is the amount upon which the trustee company may levy commission.

The Hon. N. E. Baxter: Any trustee?

The Hon. F. J. S. WISE: That is as I read it.

The Hon. N. E. Baxter: Any trustee?

The Hon. F. J. S. WISE: Yes, any trustee. I think the point upon which there will continue to be considerable variance is whether the gross value, which includes all considerations within the trust, should be the proper sum upon which to levy commission. I took very careful note of what Mr. Medcalf said last evening at that point where he made this statement—

> I do not know that there is any difference between the greatest gross value and any other gross value. In my view there is only one gross value, and that is the entire value of all the assets, without taking into consideration any liabilities or deductions.

Those words are the opposite to other comments made by the honourable gentleman in a later part of his speech; because, in answer to an interjection by Mr. Syd Thompson, I think it was, he said that it did not include, as a gross value, debts such as a bank overdraft and, therefore, commission was not imposed or levied on such part of the asset.

The Hon. I. G. Medcalf: Because they are not assets.

The Hon. F. J. S. WISE: Let us think about that for a moment. Let us take the case of a farm left by a deceased person to certain beneficiaries, and to be operated in trust by one of our trustee companies.

The Hon. A. F. Griffith: Under their own Acts?

The Hon. F. J. S. WISE: Yes. Let us say that the farm had a hypothetical value of $50,000—it certainly would not be a very big farm these days, would it? If the property were sold for $50,000 let us assume there were also debts in money owing to the bank, $20,000, and to other creditors, $10,000. The person who has sold the farm will pay his debts from the money received from selling the farm and therefore the net asset is the difference between what he owes and the total money received for the property. In short, his asset is the amount ultimately handed to him as the net proceeds.

The Hon. N. E. Baxter: That would be $20,000.

The Hon. F. J. S. WISE: In assessing the value of an asset held in trust, I understand—and I have consulted authorities on this subject today—all the items I have mentioned, including the debt to a bank are included in the value of the property on the grounds that the total value of the asset being administered by the trustee should be the amount upon which commission should be levied; and in the long term, no matter what may be said to the contrary, that includes liabilities and deductions.

I made certain inquiries today in regard to this matter but I would say in passing that a lay member has not much time between the introduction of a Bill and the resumption of the debate to undertake the necessary inquiries and studies to enable him to speak adequately to it. Nevertheless, I am advised that if the base were in any way altered regarding what constitutes the method upon which trustee companies obtain their income they could not function—that is, unless what is in the Statute still remains the rule and commission is charged on the gross value of the asset.

I listened very intently to the speech made by Mr. Medcalf and one could clearly understand what he meant. Also, one must respect his views because, after all, he has had experience in the work, procedures, and practices of a trustee company. However, I am more concerned not with the abilities of a public company to function at a profit but with the assets of the individual, be he humble or wealthy.

The Hon. E. C. House: So true.

The Hon. F. J. S. WISE: For example, I have in my hand the annual report and balance sheet of a trustee company, and also I have a letter written by a trustee company, a copy of which was sent to the Stock Exchange of Perth on the 22nd August, 1968. This discloses that a trustee company of this city will, on the 24th September, recommend a final ordinary dividend of 6 per cent. on new issued ordinary capital, together with the interim dividend of 8 per cent. on the old capital; and it discloses that, subject to final audit, the net profit for the year was $86,481 after provision for depreciation and taxation of $53,246.

Companies which are obliged to list their shares on the Stock Exchange, but are not subject to the whim of speculative investors, such as may obtain with other companies, but are subject only to investors who invest in something sound and solid, are well sought after. Trustee companies are held in high regard on the Stock Exchange and I noticed in this morning's

paper where a sale of shares took place on the Perth Stock Exchange yesterday and the price paid was $2.50 a share for the shares in one of our local trustee companies.

In the normal business sense, if the objective were only to make a profit from dealing in merchandise and other wares, the profit incentive would have a very important place, as indeed it has when one is dealing in, and making a profit from, the administration of other people's estates. I repeat, I am greatly concerned —without saying anything derogatory against the trustee companies—about the residual value of an estate of a person who has left his assets to members of his family or other beneficiaries, and if by any remote chance this Bill is designed in any way to add to the profits of a shareholding company as a result of administering such an estate, I am not interested in such a proposal.

The Hon. I. G. Medcalf: The Bill applies to private trustees.

The Hon. F. J. S. WISE: It applies to corporate bodies, too.

The Hon. I. G. Medcalf: They have their own scales and their own Acts.

The Hon. F. J. S. WISE: That is right, but there is nothing wrong or incorrect in what I am saying.

The Hon. I. G. Medcalf: It is not appropriate, though.

The Hon. F. J. S. WISE: I think it is wholly appropriate.

The Hon. A. F. Griffith: Whatever is done under this legislation will not affect private trustee companies because they operate under their own Acts.

The Hon. F. J. S. WISE: That is right, but there is a definite analogy between this provision and the profits that are made and what happens in the operations of a trustee company. I submit that the Minister and the only other speaker in support of the Bill have not yet clarified what will be the effect of inserting the words, "greatest gross value."

The Hon. A. F. Griffith: They will merely clarify the law.

The Hon. F. J. S. WISE: But will they? If they are to clarify the law let us leave it as it is without this amendment.

The Hon. I. G. Medcalf: That already applies the greatest gross value.

The Hon. F. J. S. WISE: Let us have, following those two proposed new subsections, a definition of what "greatest gross value" means.

The Hon. I. G. Medcalf: Let us say that it means net value, for instance?

The Hon. F. J. S. WISE: Let us have that value defined.

The Hon. I. G. Medcalf: Would you say that the greatest gross value should mean the net value?

The Hon. F. J. S. WISE: I did not say that.

The Hon. I. G. Medcalf: I am suggesting that that is the only way you can overcome your problem.

The Hon. F. J. S. WISE: If that is so, and it is desired to retain the words "greatest gross value" in the clause I am discussing, for the benefit of those who are not satisfied with the clarity of the words expressed, a definition should be inserted at the end of the proposed new subsections to show what they do mean. If they mean something objectionable that is a matter that can be considered.

I now return to my starting point; that is, if the provision does mean there will be an added impost on the assets of a deceased person's estate—which, in short, and in most cases, would mean a probate valuation; that is, a valuation of the asset—which in turn would place a greater burden on the residue, I would be opposed to the clause. Therefore this House requires to be assured that with the alteration of this verbiage, and the taking out of a section a provision that has obtained for so many years, there will be no added burden on the estate.

I am wondering whether there has been any conflict in the court over the use of these words. If there has been, we have not been told. Has there been any inability on the part of the court to determine what is the greatest gross value upon which commission—

The Hon. I. G. Medcalf: Never, as far as I have heard.

The Hon. F. J. S. WISE: No, and that is why I am wondering from what source the pressure came to have these words altered. It did not come from the Law Society.

The Hon. A. F. Griffith: Pardon me!

The Hon. F. J. S. WISE: The first amending provisions in the Bill have no doubt been suggested by the Law Society, because I have read the Minister's notes very carefully. Unless I am very much mistaken, the Law Society has recommended the first part of the measure permitting the common trust to be used as a trustee investment, but the Minister gave no indication in his speech that the provision I am now discussing was suggested by the Law Society. If it was, let us have the proof.

The Hon. A. F. Griffith: I certainly did give such an indication in the first four lines of my speech.

The Hon. F. J. S. WISE: The Minister certainly did, but if he will read them very carefully—

The Hon. A. F. Griffith: I have just reread them—"The Bill has been drafted in response to a recommendation of the Law Reform Committee of the Law Society, to

amend the existing trustee legislation in three respects," and you are dealing with the third one.

The Hon. F. J. S. WISE: Yes. On that point I take it that the Minister views my interpretation as being incorrect, but if the Minister will turn to page 2 of his notes he will see an extended reference to what the Law Society recommended. I think this House is entitled to know more than what has been mentioned in only one passage of his speech about the source of the recommendation, and who has requested the amendment.

The Hon. I. G. Medcalf: I gave the reasons in my speech last night.

The Hon. F. J. S. WISE: I was referring to the Minister's speech, because the Minister introduced the Bill. The honourable member spoke to it and elaborated on the points the Minister made in explanation of the measure, but the Minister is the one I hold responsible for what he said, and therefore I cannot take notice of anything any other honourable member has said on this point.

I am endeavouring to point out that in matters such as this the House must be satisfied, without doubt, in regard to the reasons for the change of verbiage and a better explanation should be made than has been so far put forward. If we presume that the trustee companies cannot function if the net value figure were used to work out the commission—

The Hon. I. G. Medcalf: We are talking about trustees, not companies.

The Hon. F. J. S. WISE: I am talking about companies.

The Hon. I. G. Medcalf: The Act refers to trustees.

The Hon. F. J. S. WISE: The Act or the Bill?

The Hon. I. G. Medcalf: Both.

The Hon. F. J. S. WISE: There is a great deal of room for more elucidation of the meaning of clause 4. Until I am satisfied—and I am speaking only for myself—I will certainly be opposing that clause.

THE HON. E. C. HOUSE (South) [5.9 p.m.]: We have before us a Bill to amend the Trustees Act. It is small in content and not many words are contained in it, and yet I believe we have no more serious task than to examine carefully any legislation which affects the trusteeship of properties coming within deceased persons' estates, for the simple reason that in a period of time practically every person possessing any property must be affected in some way by this legislation. The Act is applied to all persons who may own flats, farming properties, or any general assets.

It is only prudent, therefore, that we should be absolutely certain that all clauses, and even the wording of those clauses, satisfy us completely; that we should be assured this is not an attempt, in some way, to increase the profits of companies or individuals derived from the administration of deceased persons' estates. There is probably quite a difference between the administration of city property under a deceased person's estate and the administration of a farming property, which forms part of an estate. Personally I think farming properties are just as important as any other property in an estate.

In view of the fact that there are probably about 20,000 or 30,000 farming properties in this State, in the course of time each and every one of them must pass through the hands of private trustees or trustee companies. Quite a few confusing statements have been made in regard to what the Bill means, and therefore one must have some doubt about its general intent. It has been pointed out that the measure relates only to private trustees, and yet if we examine the legislation governing the activities of trustee companies, such as the Perpetual Executors, Trustees & Agency Co. (W.A.) Ltd., and those of the Public Trustee, it will be seen that when any amendment is made to one Statute, amendments to other similar Statutes quickly follow.

Therefore there is no doubt in my mind —because there is proof in all the amending Acts that have been passed over the years—that it has become a practice, immediately an amendment is made to one Act governing the activities of trustees, amendments to relative Statutes immediately follow. At this stage I would point out that, in 1966-67, the Public Trustee handled approximately $14,000,000, representing the gross value of deceased persons' estates which came under the administration of that office. The commission of 5 per cent. on that figure represents approximately $700,000. In all legislation relating to trustees, one has the legal right to take 4 per cent. of the gross value of the estate as commission. In addition, one has the legal right to charge 5 per cent. on the gross income.

Taking the position a step further, all trustee companies make a charge for every service they render. For instance, the West Australian Trustee Executor and Agency Company Limited, after taking its initial commission, charges a commission on gross income—not the net income—and this is followed by charges for the submission of income tax returns; keeping the books and accounts; preparing a balance sheet and profit and loss account; inspection of reports and properties, and the arrangement of all insurance.

In addition to all these charges, a trustee company can even charge another ½ per cent. on the book value of the assets employed by them. The trustee companies

charge for the drawing up of wills, for the general management and inspection of estates and, in fact, there is hardly anything upon which a charge is not made. Yet, before any commencement is made to administer any estate, a trustee company and the Public Trustee can charge 4 per cent. on the greatest gross value of the estate. Then they charge 5 per cent. on the gross income, as well as all the other fees. Furthermore, the estate has to bear probate duty.

It seems to me that not very much is left of an estate—especially one consisting of a farming property—after all those deductions have been made. If a sizeable debt is included in the gross value of an estate, there will not be much left over for the beneficiaries. Surely it is the intention of the person who makes a will in all good faith to leave something to his beneficiaries. I know the contents of wills are supposed to be explained to those making them, but sometimes they forget about the huge increase in land values and in their other assets. They forget that such increased values do not increase their income to any great extent.

If we look at the profit and loss accounts of the West Australian Trustee Executor and Agency Company Limited and the Perpetual Executors, Trustee and Agency Company Limited, we will see that in one case a profit of approximately $40,000 and in the other $50,000 was made. We should bear in mind that sizeable amounts have been deducted from their earnings as allowances for depreciation, superannuation, long service leave, and income tax. The West Australian Trustee Company, which made $50,000, paid $24,000 in income tax. The Perpetual Trustee Company paid a dividend, according to its balance sheet, of 11 per cent.; while the West Australian Trustee Company paid a dividend of 14 per cent.

As I look through the amendments of the various Acts, no doubt is left in my mind that when an increase in charges is made in one case it is applied to the others. The profit and loss accounts show that these companies are operating in a way very far removed from what the Minister has referred to as a labour of love. It proves there is a lot of money to be made in the administration of estates.

In looking through the Bill before us I have come to the conclusion that the greatest gross value must include mortgages and all other liabilities of an estate. With the ever-increasing need for farmers to borrow money in order to survive, and with the ever-increasing rise in costs and land values, many estates comprising farming properties have to be sold. The people who have built up such farming properties did so with the hope that after they had passed away the work would be carried on. With the various charges which are imposed by trustee companies we find that the amount left to the beneficiaries from many estates is very little. Very often we find that estates are benefiting people who have not had anything to do with the creation of the assets.

As we have seen from past experience, and from a study of the relevant Acts, only a few years pass before there is a claim for a higher percentage of commission. In the case of an estate which does not bear a debt, the position which I have been explaining could apply in reverse. The trustee could invest the funds of the estate on the Stock Exchange and make a lucrative income out of such investment. In many cases the people themselves draw up wills, and in other cases lawyers are entrusted to do so. In my opinion there is some obligation to ensure that the administration of estates does not become a money-grabbing device by the trustees; the benefit should accrue to the beneficiaries.

It does not always happen that estates are administered in the true sense of the word and with any degree of good management. Sometimes they are grossly mishandled, but there is no redress except through a court of law. It is not everyone who can afford to challenge these companies in a court, and in many cases there is no redress for the beneficiaries. The trustees are the people who have sole jurisdiction over what transpires, whether the estate is to be sold, whether it makes a profit, whether it is well managed, or whether it is mismanaged.

Although I do not disagree with the first two amendments of the Bill—I can see no harm in them—I am not happy about the "greatest gross value" provision. One can see how cloudy this is and how it can be twisted and turned to mean anything. Personally I could not, under any circumstances, support the last clause in this Bill.

THE HON. C. E. GRIFFITHS (South-East Metropolitan) [5.23 p.m.]: I am entering this debate only because of the confusion that apparently exists in relation to clause 4 of the Bill. I agree with all previous speakers that the present sections in the Act are straightforward and very acceptable, indeed. Various speakers have offered differing explanations of clause 4. To me the clause seems to say in very simple terms that the commission will be paid on the greatest gross value of the estate. As far as I am concerned there is nothing confusing in that statement; and I would go further and say that section 98 of the parent Act—from which the confusion has apparently arisen—is equally straightforward. The section states, "the gross value of the trust property at the time the application for commission or percentage is made."

When those words were incorporated in the parent Act, I believe they meant that the sum on which the commission was to

be worked out was the gross value of the estate and not the net value of the estate. I think it is as simple as that.

I agree with Mr. Medcalf that the gross value cannot be the net value; and, if the new provision will eliminate any confusion that may now exist, then I cannot see anything wrong with its remaining in the Bill. I intend to inquire from someone who should know, what happens now: Is it the gross value of the estate on which people are being paid commission? If it is, and bearing in mind there is to be no confusion as to what the gross value is, then clause 4 of the Bill leaves absolutely no doubt. I hope the Minister or somebody else will be able to answer my question before I make up my mind whether or not in the present circumstances, the commission is being paid on the gross value of the estate. If it is not, we should amend clause 4 of the Bill to make the net value of the estate apply. To my mind it is as simple as that.

After the shortest speech I have made, for the moment I will support the Bill.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.28 p.m.]: Mr. President, I suppose there are things which displease you in life; and one that displeases me is to have it said about things I do that there is a basis for suspicion. I want Mr. House to know there is no basis for suspicion.

The Hon. E. C. House: It was not meant personally.

The Hon. A. F. GRIFFITH: I took it personally, because I am the one responsible for this action; and I repeat: The honourable member can be assured there is no basis for suspicion.

If any member in this House has made a will, he has done one of a number of things: He has appointed a lawyer as his trustee; he has appointed the Public Trustee; he has appointed a private trustee; he has appointed the Perpetual Executors, Trustees and Agency Company (W.A.) Limited; he has appointed the West Australian Trustee Executor and Agency Company Limited; or he has appointed somebody else. Whatever he has done, if he is mentally sound, he has done of his own free will and accord.

The Hon. N. E. Baxter: Sometimes at the instigation of a lawyer.

The Hon. A. F. GRIFFITH: Surely it would be of his own free will and accord.

The Hon. E. C. House: I said it in all good faith.

The Hon. A. F. GRIFFITH: The honourable member also suggested that I said this was a labour of love. I never said anything of the kind. It would be quite stupid for me to stand here and suggest to the House that a trustee, whether it be a trustee company, a lawyer, or a private trustee would do this as a labour of love. Of course, it could be a labour of love. There are many trusts that are—

The Hon. S. T. J. Thompson: Many of these are.

The Hon. A. F. GRIFFITH: —administered as labours of love; and, in that case, no commission would be payable. Now, eliminating the five trustees whom I said could be appointed, there is another one. A person could appoint his wife as his trustee.

The Hon. R. F. Hutchison: That is the way!

The Hon. A. F. GRIFFITH: Depending on how good a trustee she may be, I agree that may be a good way, and to my knowledge husbands and wives do this sort of thing; they appoint each other as trustees.

The Hon. E. C. House: Could she claim the greatest gross value, then?

The Hon. A. F. GRIFFITH: Yes, she could. But no commission would be payable. I happen to have picked up the legislation concerning the Perpetual Executors, Trustees and Agency Company. If a will was made and this company was appointed the trustee, it would not operate under the Trustees Act. It would operate under its own Act. Is that not correct, Mr. Medcalf?

The Hon. I. G. Medcalf: Yes, so far as its commission is concerned.

The Hon. A. F. GRIFFITH: If members look at the Act concerning this company they will find the commission is stipulated. It refers to the commission payable on the gross value of an estate. I do not have a copy of the Acts concerning the other private companies, but I assume that the same provision would apply in them. So much for that. I do not think we have any need to take that matter any further.

The Hon. E. C. House: Are you suggesting there is no need for the Bill at all?

The Hon. A. F. GRIFFITH: Is the honourable member serious? After all, I have introduced the Bill. Obviously, he is not serious.

I receive many suggestions from the Law Reform Committee of the Law Society in respect of reforming the law in one way or another. When making his maiden speech, Mr. Medcalf gave us an idea of the number of occasions on which the Law Society, through its Law Reform Committee, has made suggestions to the Government of the day in relation to the manner in which the law could be amended, because of one set of circumstances or another.

As I indicated in my second reading speech, on this occasion the Law Society asked me to study three things. Before dealing further with that aspect, I would like to point out to Mr. Baxter that the Administration Act was amended, in fact,

by the Trustees Act, because some time ago we consolidated eight Acts into one. Therefore that Act did amend the Administration Act because the whole matter was consolidated.

The Hon. N. E. Baxter: Section 143 was repealed.

The Hon. A. F. GRIFFITH: Yes. It was repealed by the consolidation.

The Hon. N. E. Baxter: By No. 80 of 1962?

The Hon. F. J. S. Wise: No, by No. 78 of 1962.

The Hon. A. F. GRIFFITH: That is right, Mr. Wise. Section 143 of the Administration Act was amended by the consolidation of the trustees legislation.

The Hon. N. E. Baxter: That was not stated in the schedule to the Trustees Act.

The Hon. A. F. GRIFFITH: I do not think that matters, really. We do agree that section 143 of the Administration Act is no longer there, do we?

The Hon. N. E. Baxter: Yes, but I—

The Hon. A. F. GRIFFITH: Surely that is sufficient to say it is no longer there, and because of that we put it into the Trustees Act.

The Hon. I. G. Medcalf: It was done in one complex.

The Hon. A. F. GRIFFITH: Yes. Six or eight measures were brought together. I did that in 1962.

The Hon. N. E. Baxter: That should be in the schedule to the Trustees Act.

The Hon. I. G. Medcalf: Not all of them; it was a complex.

The Hon. A. F. GRIFFITH: The President of the Law Society wrote as follows:—

> Broadly stated, the subsection provides that the aggregate commission allowable to trustees is 5 per cent. of the gross value of the trust property at the time the application for commission is made.
>
> Gross value may possibly be assessed by adding to the value of assets remaining the value of any which have been disbursed in payment of debts, liabilities.
>
> On the other hand, gross value might be regarded as the value of only those assets which the trustee has in hand at the time of the application.
>
> If the latter interpretation should be correct, the trustee who by diligent management of a large estate encumbered by heavy debts has paid the debts and then applied for his commission could not be allowed more than the 5 per cent. of the value of what remains, even though the assets realised to pay the debts greatly exceed the worth of this remainder.
>
> In view of the apparent ambiguity, I am requested by the council to ask if you will give consideration to having the subsection amended to make the position clear.

We did not act quickly on this. The Public Trustee said to me—

> The Law Reform Committee of the Law Society has directed attention to the apparent ambiguity of the provisions of section 98(2) of the Trustees Act and requested consideration to an amendment to clarify the position.
>
> The matter has been discussed with the Master of the Supreme Court who is unaware that, to date, the claims of any trustee have been prejudiced by the rate of commission allowed by the court.
>
> It does appear that the section can be open to different interpretation, but having regard to the opinion of the Master the question of amending legislation could be left in abeyance until other matters require attention.

I left it in abeyance until the other two requests, in connection with the first two amendments, were submitted by the Law Society, and sponsored also by the two trustee companies. Surely I have made it clear from where the requests emanated!

The Hon. E. C. House: Why is the Law Society so interested? Is there any reason?

The Hon. A. F. GRIFFITH: The honourable member is not trying to have me on, is he?

The Hon. E. C. House: No.

The Hon. A. F. GRIFFITH: It almost sounded like a joke!

The Hon. E. C. House: It was not a joke.

The Hon. A. F. GRIFFITH: The Law Reform Committee of the Law Society is interested in the law, and if there are any ambiguities or if there are any improvements which can be made to the law, then that committee regards it as its responsibility to point these out to the Government of the day.

The Hon. F. J. S. Wise: It is, in continuity, considering all things.

The Hon. A. F. GRIFFITH: That is right. I would point out to Mr. House that this has been the procedure for a long time. Occasions will arise when I will not do as the Law Society requests; but this appeared to me to be a reasonable request, and we left it until such time as there should be other amendments to be made.

The first two amendments, surely, are quite important, because they authorise another form of trustee investment of which the trustee companies can take advantage in the interests of the estates with which they are dealing. Therefore, I

have brought this little Bill along, but I did not realise it would cause such a lot of suspicion.

The Hon. N. E. Baxter: What a shock you got!

The Hon. A. F. GRIFFITH: I certainly did not expect it would cause such a lot of suspicion, and when I listened to members trying to relate this amendment to the private Acts under which the trustee companies operate—

The Hon. F. J. S. Wise: I am afraid that statement is not quite in line with fact, you know. All members did not regard it with suspicion.

The Hon. A. F. GRIFFITH: Some members were doing both.

The Hon. F. J. S. Wise: Not all regarded it with suspicion.

The Hon. A. F. GRIFFITH: All right; but some were doing a little of each. I am glad to have a little support from Mr. Wise on this point.

Now, can I just say this finally: The need to tidy the matter up appears to me to be obvious. No difficulty has been experienced, but surely we do not necessarily wait until we get into a difficulty before we tidy something up legally!

The Hon. F. J. S. Wise: Would it be right to say there has been no difficulty up to the present time?

The Hon. A. F. GRIFFITH: I have just read the minute from one of my officers, which stated that the Master of the Supreme Court knows of no difficulty. The opinion is that it is a good idea to tidy up the apparent ambiguity. I really cannot work out why there is opposition to this.

The Hon. R. F. Claughton: There must be some confusion; gross value is gross value. There cannot be a greatest gross value.

The PRESIDENT: Order!

The Hon. A. F. GRIFFITH: I listened to Mr. Medcalf last night, and I thought that Mr. Claughton did also. Mr. Medcalf pointed out, loud and clear, what I had attempted to do. The provision is purely to clarify the situation as it exists, and as it has been practised. The Master of the Supreme Court tells me he does not know of any case where the maximum of 5 per cent. has been permitted. I understand the trustee has to present his account and have it passed, and the rate of commission is set by the court.

The Hon. N. E. Baxter: Has anyone claimed that he has been unjustly remunerated?

The Hon. A. F. GRIFFITH: Not that I am aware of, and I think the point is hardly valid; that is, that no-one has complained. The Law Reform Committee of the Law Society has pointed out that there may be some difficulty in the interpretation. What is happening, as I understand the position, is that estates are being administered and trustees are being paid on the greatest gross value—even if that expression is one which is not liked.

The Hon. I. G. Medcalf: The only variation I see from the present practice is that from time to time the court may allow such portion of the aggregate commission, or percentage allowable under this provision, as it thinks fit.

The Hon. A. F. GRIFFITH: The commission is being paid on the gross value, at the moment. The Act at present states—and Mr. Baxter made some play on this—that the account must be finalised before the trustee can receive his commission, but there is a proviso, "unless the court otherwise orders." The reason for that, of course, is obvious. As Mr. Medcalf explained last night, a trust may go on for a long time and the trustee might find himself in the position where he is financing the whole operation. If he could not get some relief the trustee could find himself in that position.

I have endeavoured to satisfy members on this point, and I assure them, again, that there is no purpose in imagining that I am doing anything that I should not do. There is no occasion to treat this move with suspicion. The Bill will not give a trustee any more than he is receiving at the moment. It will simply clarify the law which is now considered by lawyers to be ambiguous. If members accept the Bill in those terms we will pass the second reading but, if members will not accept it then no doubt we will discuss the matter further during the Committee stage. With your permission, Mr. President, I do not propose to do that this afternoon.

Question put and passed.

Bill read a second time.

House adjourned at 5.45 p.m.

Legislative Assembly

Thursday, the 5th September, 1968

The DEPUTY SPEAKER (Mr. W. A. Manning) took the Chair at 2.15 p.m., and read prayers.

QUESTIONS (16): ON NOTICE

ROAD HAULAGE

Government Competition

1. Mr. BATEMAN asked the Minister for Transport:

   Does the Government own and use heavy haulage vehicles in opposition to private hauliers supplying the north-west towns