Legislative Council

Wednesday, the 21st September, 1966

CONTENTS

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (14): ON NOTICE

TRAFFIC LIGHTS

Scarborough Beach Road-Main Street and William Street-Walcott Street: Delay in Installation

1. The Hon. H. R. ROBINSON asked the Minister for Mines:

   What is the reason for the delay in the installation of traffic lights at the following:—

   (a) corner Scarborough Beach Road and Main Street; and

   (b) junction of William Street and Walcott Street?

   The Hon. A. F. GRIFFITH replied:

   (a) Considerable delay has been experienced by the Main Roads Department in the installation of these lights owing to the difficulty of obtaining the necessary land from private owners. However, this has now been finalised and the installation of traffic lights will proceed immediately work is completed at the William Street-Walcott Street intersection.

   (b) Some delay was also experienced at this intersection because of resumption problems. Recently a further delay was caused by minor technical difficulties. All these problems have now been resolved and the installation of the traffic lights is proceeding as quickly as possible.

2. *This question was postponed.*

LAND RESUMPTION

Property of Mr. Markavich at Kewdale

3. The Hon. C. E. GRIFFITHS asked the Minister for Town Planning:

   Further to my question on Wednesday the 14th September, 1966, relating to the purchase of a property at Kewdale from Mr. Markavich, will the Minister advise how the total sum of $35,700 paid was apportioned under the following headings:—

   (a) Land;

   (b) Residence;

   (c) Outbuildings;

   (d) Tennis court; and

   (e) Reticulation system and gardens?

   The Hon. L. A. LOGAN replied:

   (a) $11,000.

   (b) $12,975.

   (c) $9,725.

   (d) Nil.

   (e) $1,000.

   (f) $1,000 was allowed to cover disturbance, removal of furniture, plant, and equipment.

FORESTRY REGULATION No. 18

Timber Rights, and Definition of "Improvements"

4. The Hon. F. D. WILLMOTT asked the Minister for Mines:

   (1) Does forestry regulation 18, as published in the *Government Gazette* on the 21st October, 1958, page 2687, give a landholder on whose land timber rights are reserved to the Crown, the right to refuse a permit holder entry for the purpose of removing timber, on the grounds that such entry will be across permanent pasture, or that it will interfere with permanent fencing?

   (2) Will the Minister define what constitutes "improvements" in the said regulation?

   The Hon. A. F. GRIFFITH replied:

   (1) No.

   (2) "Improvements" are as referred to in section 140 of the Land Act, 1933-1965.

5. *This question was postponed.*

WATER SUPPLIES AT SALMON GUMS

Geological Survey

6. The Hon. J. J. GARRIGAN (for The Hon. R. H. C. Stubbs) asked the Minister for Mines:

With reference to the reply to my question on Tuesday, the 2nd August, 1966, relating to water supplies in the Salmon Gums district, will the Minister advise whether the geological survey will extend to, and cover the Salmon Gums district, and, if so, when is it anticipated that it will be done?

The Hon. A. F. GRIFFITH replied:

The geological survey at present in progress will extend to and cover the Salmon Gums district, probably within the next six months.

SCHOOL GROUNDS

Improvements by Parents and Citizens' Associations

7. The Hon. R. THOMPSON asked the Minister for Mines:

(1) Is the Minister aware that parents and citizens' associations who wish to improve school grounds with grassed areas, are required under the regulations to—
   (a) provide a grassed area prior to making application for a subsidy to sink a bore for water reticulation of school grounds, ovals, etc.; and
   (b) pay the full contract price of bores, etc., before they can recoup the subsidy from the department, thus restricting some schools who cannot raise these large sums of money for this development?

(2) Would the Minister accept responsibility for payment to the contractor if the parents and citizens' associations lodge their share of the contract price with the department prior to commencement of works?

The Hon. A. F. GRIFFITH replied:

(1) The regulations only provide for the works for which a subsidy is provided and the amount payable.
   (a) No.
   (b) No. Progress payments may be made on production of receipts.

(2) No, as prices can vary during the course of the contract.

TOTALISATOR AGENCY BOARD

Meetings and Remuneration

8. The Hon. J. DOLAN asked the Minister for Mines:

(1) How many meetings of the Totalisator Agency Board were held in the year ended the 30th June, 1966?

(2) What remuneration was paid to each member per meeting?

The Hon. A. F. GRIFFITH replied:

(1) Fifteen meetings during the year ended the 31st July, 1966.

(2) Board members, other than the chairman, received the standard remuneration allowance of $624 per annum and deputy members a sitting fee of $12 for each meeting attended. In addition, both members and deputy members received car mileage and travelling allowance, where applicable, in accordance with the Public Service scales.

9. *This question was postponed.*

FEMALE SCHOOL TEACHERS

Bond, and Permanent Employment after Marriage

10. The Hon. R. THOMPSON asked the Minister for Mines:

(1) What is the position of female school teachers who are under bond to the Education Department if they marry in their—
   (a) first year of teaching;
   (b) second year of teaching; and
   (c) third year of teaching?

(2) Are they required to resign from the department and reapply to be put on supply?

(3) If the answer to (2) is "Yes", will the Minister give consideration to allowing female teachers who marry, to continue with the department on a permanent basis, in view of the shortage of teachers in Western Australia?

The Hon. A. F. GRIFFITH replied:

(1) (a) to (c) The sum of all allowances received as a student in training is divided by the number of months for which the student was bound to teach. One-half of the resultant quotient is payable monthly for each month of default until the expiration of the time she is required to serve. From the date of the natural birth of a child no further claims are made for repayment of these monthly amounts.

(2) At present teachers who marry are required to resign from the department and reapply to be put on supply. During service as a supply teacher the monthly repayments are suspended and any full-time service is counted as service towards the repayment of allowances.

(3) As from the 1st January, 1967, women teachers who marry whilst under contract will not be required

to resign but will be continued on the permanent staff until the expiration of the time in the contract.

TRAFFIC

Electronic Control: Introduction

11. The Hon. G. E. D. BRAND asked the Minister for Mines:

(1) Has any effort previously been made to introduce electronic control of traffic in this State?

(2) If so, when?

The Hon. A. F. GRIFFITH replied:

(1) The present traffic light equipment is partly electronically operated. However, the introduction of refined electronic equipment such as closed television circuits is not considered necessary.

(2) Answered by (1).

CANNINGTON SCHOOL

Accommodation

12. The Hon. J. DOLAN asked the Minister for Mines:

Further to my question of the 3rd August, 1966, as at February, 1967, will there be sufficient accommodation (excluding the staff room) available at Cannington Primary School for the children who will be attending there?

The Hon. A. F. GRIFFITH replied:

Present indications are that the existing accommodation will be sufficient.

CRAYFISH ADVISORY COMMITTEE

Formation, Meetings, and Recommendations

13. The Hon. R. THOMPSON asked the Minister for Fisheries and Fauna:

(1) When was the Fisheries Crayfish Advisory Committee formed?

(2) How many meetings have been held?

(3) What has been the nature of its recommendations to date?

The Hon. G. C. MacKINNON replied:

(1) The 1st January, 1966.

(2) Two. Meetings at Geraldton, Jurien Bay, and Lancelin are scheduled for October, 1966. A meeting at Fremantle also will be held before the crayfish season opens in November.

(3) The first meeting dealt largely with procedural matters. At the second, questions relating to ministerial policies concerning limitation of boats and gear in the crayfisheries; expenditure of moneys from the Fisheries Research and Development Fund; use of freezer-boats in the crayfish industry; and the desirability of communicating research findings to industry, were discussed.

ONIONS

Mildew: Losses, and Methods of Prevention

14. The Hon. R. THOMPSON asked the Minister for Local Government:

(1) What is the estimated annual loss of onions, in tons, due to mildew disease, in the Hamilton Hill, Spearwood, and South Coogee areas?

(2) Is mildew a prevalent disease in onion crops in these areas?

(3) Has the Department of Agriculture carried out any tests to combat this disease in onion crops at—

(a) Medina Research Station; or

(b) any other research station?

(4) If so—

(a) what were the findings; and

(b) would it be an economical proposition for onion growers to apply these methods of prevention?

The Hon. L. A. LOGAN replied:

(1) The annual loss is not known but could be considerable where weather conditions are conducive to the disease and control measures had not been applied.

(2) Yes.

(3) Yes.

(4) (a) The findings and recommended control measures are published in two Department of Agriculture bulletins, Nos. 2333 and 2792.

(b) Yes.

The papers were tabled.

UNDERWATER BLASTING IN COCKBURN SOUND

Inquiry into Damage to Property: Motion

THE HON. R. THOMPSON (South Metropolitan) [4.46 p.m.]: I move—

That in the opinion of this House, in view of the damage allegedly caused by underwater blasting operations in Cockburn Sound to private property and public buildings in the Naval Base-Medina-Calista area and further, as the dredging company concerned denies liability for the damage, we consider that—

(a) the Government should arrange for an independent and expert investigation to ascertain whether or not the damage is in fact due to this public works project; and

(b) if the result of the investigation reveals that the damage

is due to the blasting operations, the Government should provide compensation for such damage.

In moving this motion standing in my name on the notice paper, I would like to point out that I am not doing so on my own behalf but at the request of the Kwinana Shire Council. Since early this year that council has been concerned—and frustrated to an extent—because it has not been able to get any clear answers or decisions as to who was to be responsible for the damage caused by the underwater blasting which has been taking place for the major portion of this year in Cockburn Sound.

So that members will have a full appreciation of the situation I will read a letter which I received from the Kwinana Shire Council. The letter is dated the 30th August, and reads as follows:—

> Re Underwater Blasting—Cockburn Sound.
>
> Thank you for forwarding copies of questions asked and replies received in the House relative to the above matter.
>
> At my Council Meeting held on Wednesday evening last it was resolved to ask you to introduce a Motion in Parliament seeking a full investigation into alleged damage to properties within the Kwinana Shire resulting from the underwater blasting in Cockburn Sound.
>
> Council will leave framing of the proposed Motion to you, however, if you feel I could assist in any way please do not hesitate to contact me.
>
> With kind regards,
>
> Yours faithfully,
>
> F. W. Morgan,
>
> Shire Clerk.

Following the receipt of that letter I had discussions with Mr. Morgan and we arrived at the wording of this motion. The question might be asked, "Why is it necessary to move a motion of this nature in Parliament?" The reason is so that justice can be done to those whose property has suffered damage.

Precedent has been set in this Parliament, and during the reign of the present Government of Western Australia. When the standard gauge railway was being constructed in the Toodyay area, pressure was brought to bear by members of the district, and by Opposition Leader Hawke so that people affected were compensated by various departments.

The circumstances which existed then and those which exist in this instance are practically the same. In the first instance, in the Toodyay area vibrograph tests were taken and the liability for damage was denied by the companies concerned. In the case of the dredging which is taking place in Cockburn Sound, the company is also denying responsibility for the damage caused.

The letter which I am about to read, I believe, is general; and according to what I have been told by the shire council, the same letter has been received by all persons who have lodged claims with Dredging Industries (Aust.) Pty. Ltd. I am relying on the word of the council for that information. This letter is addressed to one of the persons who made a claim and is dated the 30th June, 1966. It is from Dredging Industries (Aust.) Pty. Ltd. of Pacific Highway, Killara, New South Wales and reads as follows:—

> Reference is made to your letter of 19th May, 1966, in which you complain of damage to your property, etc. In reply, we would advise that the utmost care is being observed in connection with our blasting operations in Cockburn Sound. In order to determine the extent of vibrations caused by blasting we made arrangements with the Department of Mines to conduct a series of checks with a sensitive vibrograph, this being the instrument used to record the amplitude of vibrations. These checks were made in a number of locations within an extensive radius of the point of discharge.
>
> In every instance without exception the amplitude was found to be substantially below that at which damage would occur to a reasonably well built structure. In view of the foregoing, we are unable to accept any liability for the alleged damage to which you refer.
>
> Yours faithfully,
>
> Dredging Industries
>
> (Aust.) Pty. Ltd.
>
> G. E. Jorgensen,
>
> Joint Managing Director.

I believe that that is the usual reply which has been sent to some 39 persons who have lodged complaints about damage being done to their dwellings—that number excludes complaints which could be made, or which have been made, in regard to public buildings in Kwinana and Medina.

During the debate on the Supply Bill, earlier this year, I told the House of visits that had been made to the police station, which was badly damaged, and the shire offices, which are only a few years old but which, as a result of the blasting, have sustained some damage. I also visited several homes throughout the area; some of these places had been damaged to a minor degree and some had been damaged seriously.

I suppose some members will say that most people have their properties insured and, therefore, the insurance companies would be liable for any damage sustained, whether the fault lay with the dredging

company, the Public Works Department, or the Fremantle Port Authority.

The Hon. H. K. Watson: It would have to be public risk insurance. A fire insurance policy or earthquake insurance would not cover such a risk.

The Hon. R. THOMPSON: No. One person in particular who has built a house in Medina Avenue, Medina, with State Housing Commission finance, and who, therefore, insures with the State Government Insurance Office through the State Housing Commission, has written several letters on the subject to different authorities. He wrote to the State Housing Commission and this is the answer he received, dated the 26th July, 1966—

> Dear Sir,
>
> Re: Damage to property caused by blasting in Cockburn Sound.
>
> In response to your letter of the 10th instant, I contacted the insurers of your property (The State Government Insurance Office).
>
> They advise me that the insurance cover existing over your property does not cover damage sustained from this blasting.
>
> They, however, suggest that you contact Messrs. N. P. Stehn & Co., Insurance Assessors, of 959 Wellington Street, Perth, who are acting on behalf of Dredging Industries, the contractors blasting in the Cockburn Sound area.
>
> You should report the damage to them and claim against Dredging Industries for this damage through the Offices of N. P. Stehn & Co.
>
> Yours faithfully,
>
> R. B. MacKenzie,
> General Manager.

This gentleman replied to that letter on the same day that he received it, as follows:—

> I am somewhat surprised that the insurance policy on the property covered by the State Government Insurance Office, should so easily shelve the responsibility of claims in this matter on to the owners. I understand from other persons in the area that their insurance companies are taking action on their behalf.

From those letters members can see that full coverage for the type of damage to which I have referred is not available under all insurance policies. The same gentleman then wrote to the insurance assessors concerned, as follows:—

> I am writing to you on the advice of, the General Manager, State Housing Commission, and through him, the State Government Insurance Office.
>
> In view of the fact that my house was built with a "State Loan" I am obligated to report damage to the property to these two Departments.
>
> I would refer you to the attached copy of my letter to the Manager, S.H.C., which is self explanatory. In anticipation that you will wish to visit my house to inspect the damage, I would be obliged if you could give me some notice in order that I may be in attendance when you call.

I have received no further copies of letters which have been sent to or received by this gentleman, but I am led to believe that in this instance, as in the other cases, liability has been denied by the company.

Also, the Kwinana Shire is frustrated because its officers lodged their first complaint, if my memory serves me correctly, on the 28th January; and, in addition, telephonic complaints have been made to various Government departments. A letter was also forwarded to The Hon. A. F. Griffith, Minister for Mines, on the 13th May, and I, too, sent a letter at a later date to the Minister and we had a discussion about the matter. As a result of that discussion I asked questions in Parliament in an effort to pin down the responsibility for this damage. At that stage it was not at all clear who was actually responsible.

I asked a question whether the Public Works Department was responsible for the letting of the contract, and for the resultant damage, and the answer I received was as follows:—

> No; it is the Fremantle Port Authority.

The answer then went on to state that it was the responsibiliy of the dredging company, through its insurers, to make good any damage to dwellings that might have resulted from the underwater blasting. So we have now reached a stalemate and it appears that 39 people have no redress whatever unless they take civil action.

On the 3rd June I received a letter from the Kwinana Shire Council in which the council thanked me for what I had been doing, and the relevant paragraph of the letter reads as follows:—

> The position is most difficult at the moment particularly in the light of most recent comments of the State Mining Engineer, Mr. E. E. Brisbane, namely, "That no damage to structures is likely to result."

The department did send down a seismograph to test the vibrations from the blasting, and the Minister referred to the matter during the Address-in-Reply debate on Tuesday, the 23rd August. He said then that a determination had been made of the amount of explosive that could be used with safety, and he also stated that BP Refinery were concerned that damage could be done to the company's high-speed machines and delicate instruments, but that it was satisfied with the charges that were being used in the area.

The department may be satisfied, but I am not satisfied; nor are the shire clerk or the residents of Kwinana satisfied. Although the BP Refinery may be within one mile, or one and a half miles of the blasting, it probably sits on white or yellow sand without any rock formation beneath it. However, in Medina, Naval Base, Calista, and the Kwinana beach areas we find that there is a limestone foundation; apart from which these areas are more elevated than the refinery and the factories which are adjacent. The result is that any property that is situated four miles away is subject to intense vibration from these blasts; every door in the building rattles, and the damage is quite apparent, because the bricks under the windowsills and above the doorways have perpendicular cracks running through the mortar.

The position around Kwinana is very similar to that which obtained in Toodyay when tests were being carried out in that area; and when reasons were given, and it was said the tests proved that damage could not be caused in the Toodyay area. Kwinana is in a very similar position. But even though liability was not accepted in the Toodyay area, compensation was paid. The insurance companies, however, are not prepared to accept liability for the damage caused in the Kwinana district.

From the amount of running around the Kwinana Shire Council officers have had to do it is obvious no Government department is prepared to assist the home owners in that area. I think this is quite wrong, particularly when 39 persons have lodged complaints about the matter; and there are probably others who have not lodged complaints about the damage that has been caused to their properties.

In regard to the State housing area, where there are approximately 750 homes, we have been given conflicting answers to questions that have been asked. One of the answers was repudiated by the building surveyor of the Kwinana Shire Council. I must admit that the Minister did have the grace to correct the matter in the House. There is nothing specific as to the type of investigation or examination that has been carried out on the State Housing Commission homes in the Kwinana or the Calista areas with a view to seeing what damage has been caused by the blasting referred to.

This is a very big matter so far as the taxpayers of Australia are concerned, because it is their money which is invested in the State Housing Commission homes. Apart from this, private home owners are also involved. I will now read brief extracts from some of the complaints that have been received. I will give the address from which the complaint emanated, but I will not read the whole letter. If any member wishes me to read the whole letter I will be pleased to make it available. The following communication is dated the 12th May, and is from 32 Weston Street, Naval Base. The last paragraph states—

> Please note that I am not the only one complaining, if the charges were restricted and properly supervised there would be no cause for alarm.

I have another letter which comes from 48 Macedonia Street, Naval Base, which states—

> I wish to draw your attention to channel blasting in Cockburn Sound, you are aware of the nuisance caused by the reverberations, and in my opinion they are steadily getting worse, and definitely more frequent, every window in my home rattles, with possible breakages, also there are cracks evident on the outside wall, facing the Sound.

A further letter comes from 46 Macedonia Street, Naval Base, and reads as follows:—

> I would like to bring to your attention the disturbance which the blasting for the channel has caused in my home. The Council has expressed concern in regards to the damage which may be caused in Medina, but I feel sure Naval Base could be regarded as equally if not closer. Also how would one stand in regard to damages claims as the fluorescent tube has blown and the TV has developed the shakes both since the commencement of the blasting and I feel that a window is also in danger of being cracked.

Here is a letter from 26 Macedonia Street, Naval Base, which reads—

> I wish to bring to your notice that blasting out at sea is having repercussions in my home. I notice a number of cracks are appearing down the plasterboard and you can inspect any time you like. I want to know if I have any redress for compensation of damage done by blasting.

The next letter is from 20 Brownell Crescent, Medina. It states—

> Twice in the last three months I have had to have the cornices replastered where they have broken away from the ceiling.
>
> Three walls have cracked and a brick layer employed to fill the cracks. These are now opening up again.
>
> While blasting operations are in progress the whole house shakes and windows and doors rattle.
>
> Can the Council give any assistance, as I am not the only one affected in this area.

That is in the centre of the Housing Commission area, and it is why I disbelieve the answers given me by the State Housing Commission to the effect that it considered the investigation proved no structural damage had been caused to its homes.

I also received a letter from 16 Barwell Road, Medina, which reads as follows:—

> I would like to bring to your attention that the premises occupied by myself have developed cracks in the walls. In view of blasting operations being carried out in this area, I feel that shock waves may be responsible.
>
> The west wall of the dwelling appears to be the main area concerned. A large crack has appeared over the meter box and has extended through the door frame to the interior wall. The entire west wall of the main bedroom shows a distinct opening along the moulding.
>
> Two tiles have been replaced on the roof, in both instances the tiles were completely broken in half.

A letter dated the 25th May, 1966, from 34 Macedonia Street, Naval Base, reads—

> Relevant Blasting in Cockburn Sound
>
> Several Ratepayers in the Naval Base Ward have complained to me recently, alleging damage to their homes.
>
> 1: 13th May. Alleged that toilet pedestal pan cracked at base.
> 2: 13th May. Alleged cracks in Plasterboard.
> 3: 17th May. Alleged cracks in Plasterboard.
> 4: 18th May. I was requested to look at this house in which cracks were alleged to have been caused by Blasting in the Sound.
>
> I advised all these Ratepayers to report the matter to Shire Council.
>
> The vibrations, due to blasting, have increased in intensity this week. While being well aware that the job has to be done, surely these people and any others affected should be compensated in any damage resulting from this blasting.

There is a further letter from 8 Lionel Street, Naval Base, which states—

> As I have not received any reply to my letter of May 9th and because I am at this moment experiencing very great vibrations from the explosions which you are responsible for I demand once again to be told what you intend to do to compensate me for the damage you have done to my property.
>
> My house is open for you to inspect at any time, I would prefer you to come during the time that your agents are using explosives.

The Hon. J. J. Garrigan: What kind of explosives are they using?

The Hon. R. THOMPSON: A composition explosive is being used. It is contained in a plastic bag, and 350 lb. to 400 lb. shots are being used at a time. Even the Minister said, when replying to a previous debate, that sometimes one shot may not go off, and when the next shot is detonated there could be a double explosion. I am told that at times three or four shots may not go off, and then it is possible to get a king-size detonation of 1,600 lb. of explosive. To continue quoting from the letters, I have one from 16 Brownell Crescent, Medina, which reads—

> As a home owner in this area I am perturbed at the effect the blasting in Cockburn Sound is having on it. The blasts on the 19th and 20th May, being particularly severe. Cracks are appearing in the cement drive, fine cracks in the plaster in the lounge, bedroom and bathroom, plaster is flaking off the hall.
>
> The whole house shudders each time a blast occurs and I feel should the blasting continue for long the foundations could crack.

I have many more letters which I do not think it is necessary for me to read to the House. They are all in the same vein. It may be as well for me, however, to read this letter which, I think, is worth recording. The gentleman says—

> I have a house on the corner of Macedonia Street and Rockingham Road, on the opposite corner to the Post Office; some friends of mine are now in residence.
>
> Last week they telephoned to say that the blasting going on, in Cockburn Sound, had opened up a number of cracks in the walls and ceilings of this house, in fact each time a blast goes off it makes the china rattle.
>
> Several months ago the S.E.C. inspected my house before carrying out a series of test blasts to see if any cracks were apparent. Both before and after their experiments the house was found to be in first class order.
>
> I shall be glad to hear from you regarding this matter.

Here we have a house on which tests had been carried out several months previously, but as soon as blasting was stepped-up in Cockburn Sound, damage resulted. I would like to read a further letter from a person in 26 Macedonia Street, Naval Base, in which is set out in detail the damage caused to each of the rooms. It reads as follows:—

> Bedroom (Main).
>
> A. Loosening of door frames.
> B. Loosening of window frames.
> C. Cracks in ceiling and all corners of plasterboard joins in centres.
>
> Lounge.
>
> A. Door frames loose and joins opening.
> B. Above window frames cracked.
> C. Ceilings joins opening.
> D. Corners of plasterboard all opening.

2nd Bedroom.

A. Corners and seams of plasterboard all opening.
B. Window frames loosening.

3rd Bedroom.

A. Door frames loosening.
B. Cracks in two corners of plasterboard appearing.
C. Ceiling—some cracks.

Drawing Room.

A. Door frames loosening.
B. Plasterboard badly cracked and paint falling.
C. Corners opening, plaster falling. This room is badly damaged.

Kitchen.

A. Paint falling.
B. Cracks appearing in asbestos and door frames.

The last letter from which I will quote is from Rockingham Road, South Coogee. This is not in the Kwinana area, but in the Cockburn Shire area and, to my knowledge, it is the only letter received from that area. It states—

> I wish to draw your attention re blasting carried on in your Shire. Damage has been caused to my residence and as my home is one of the largest and most expensive built in my district I am both annoyed and upset.
>
> I have been informed by my insurance Company to lodge a claim against your Shire as blasting is carried on in an area under your Shire jurisdiction and contractors who are carrying on such work must have approval by your Shire to do such work.
>
> I am having damage assessed before carrying out repairs and would like to hear from you or contractors' insurance regarding same.
>
> Today after a lull of several weeks blasting was most severe. Cannot something be done about it?

So the letters go on and on. In this whole business we have had a continual process of buck-passing. I say that, with all due respect to the Government departments which have been contacted.

Several weeks ago I had occasion to speak to the Under-Secretary for Works (Mr. McConnell), who is also the Chairman of the Fremantle Port Authority. Mr. Morgan also had a talk with Mr. McConnell but he got exactly nowhere. Not one of the ratepayers has got anywhere because everyone is passing the buck. This is not good enough.

Proof is contained in the file I have here that tests were made in the Toodyay area. On that occasion the Railways Department and the Mines Department claimed the same as they have claimed in connection with the damage in the Kwinana district. They say that the charges and the vibrations were still within the safety limits and no damage should have resulted.

However, in connection with the Toodyay damage, the Railways Department, through the Minister, and after a great deal of letter writing and complaints, eventually met the claims. The file I have here is only a portion of the one which is kept on this matter. If the departmental files were produced each of them would probably be three or four times as big as this one because of the 39 complaints which have been lodged.

On the 17th September, 1963, an article appeared in *The West Australian* in connection with the Toodyay claims. The Minister for Railways was speaking about the matter and the article reads—

> He said the Government had been close to the question for months to ensure a fair deal for all parties involved—including those whose properties might be affected.
>
> Detailed checks of blast vibrations had been made to assure that they were substantially below recognised safe levels for buildings. The advice of the Agriculture Department had been sought on the effect of blasting on stock, especially sheep during lambing.
>
> People who felt they had a genuine claim for damage could be sure of quick and sympathetic consideration. The procedure for making claims was simple.

That is not the case in connection with the damage in the Kwinana area. An assurance has not been given that the claims would be met by the Government or the Public Works Department. On the contrary it has not been possible to ascertain who is responsible. There is a most interesting sidelight to this matter. Although an assessment was made several months ago by the insurance company for Dredging Industries, the assessor told some of the complainants that the company was no longer intending to insure for any work performed by Dredging Industries in Cockburn Sound.

The Hon. A. F. Griffith: Did I not tell you by way of answer to a question on one occasion that Dredging Industries would consider any claims made to it?

The Hon. R. THOMPSON: Yes, I think that is correct; but according to the letters which have been sent to those whose homes have been inspected—and I mentioned this earlier, probably when the Minister was not in the House—

The Hon. A. F. Griffith: Unfortunately I had to take a phone call.

The Hon. R. THOMPSON: I appreciate that. I said that the Kwinana shire clerk has informed me that all those who have lodged a complaint have received a letter from Dredging Industries. This letter gave the reasons the tests had been carried out and then continued—

> In view of the foregoing we are unable to accept any liability for the alleged damage to which you refer.

That was sent by the joint managing director.

The Hon. A. F. Griffith: Do you know whether any of the complainants intend to sue the company?

The Hon. R. THOMPSON: I have no knowledge of any civil action to be taken. The shire council has received 39 written complaints and the complainants have confidence in their shire council and have asked it to take the matter up on their behalf, as ratepayers. Some insurance companies, including the State Government Insurance Office, are denying liability for these damages, claiming that the policies do not cover them. Therefore these people have left the matter in the hands of the shire council.

I think the Minister heard me say that this motion has been introduced as a result of a request from the Kwinana Shire Council. The council seeks justice and desires action to be taken as was taken in connection with the damage which occurred in the Toodyay area during the standard gauge railway construction. On that occasion 35 claims were submitted and the following letter was written to Mr. Hawke by the Minister for Railways on the 15th October, 1965:—

> I refer to our previous correspondence in which I promised to let you have details of the settlement of claims resulting from blasting in the Toodyay area, when this information was available.
>
> Notices of acceptance of the claims were despatched on July 28 and claimants were informed that when these had been signed and returned cheques would be forwarded by the Department.
>
> Considerable delay occurred in the return of the "Form of Discharge" and by the 31st August only eleven had been lodged at the Public Works Department. Rather than delay these any longer it was decided to make the payments, and cheques were despatched by the Railway Department on September 6.
>
> Since the 6th September only five further acceptances have been received and cheques will be forwarded in the next few days to these claimants.
>
> There are still four claims outstanding but in view of the failure of the claimants to return the "Form of Discharge" it appears that they are not prepared to accept the offer made by the Government and their counter proposals are awaited.

Members must realise from that letter the Government did take action on that occasion, and rightly so. If I went through the many notes I have made on this file, I could prove without doubt that pressures had to be brought to bear by the Minister for Railways and by Maunsell & Partners on the contractors who were doing the work. Eventually the Railways Department guaranteed that it would meet all claims submitted to it; and that is exactly what happened. In this motion we are asking—

> That in the opinion of this House, in view of the damage allegedly caused by underwater blasting operations in Cockburn Sound to private property and public buildings in the Naval Base-Medina-Calista area and, further, as the dredging company concerned denies liability for the damage, we consider that—
>
> (a) the Government should arrange for an independent and expert investigation to ascertain whether or not the damage is in fact due to this public works project;

That is fair. We are not accusing the Government or anyone else. I have no proof, and neither has the shire council, that these cracks and damage—one man's bore has fallen in—were caused by the blasting. Only an expert can tell us this. The motion continues—

> and
>
> (b) if the result of the investigation reveals that the damage is due to the blasting operations, the Government should provide compensation for such damage.

Compensation was paid to those whose property was damaged by the standard gauge railway construction in the Toodyay area, and therefore precedent has been established. I have no doubt that dozens of other projects have involved compensation claims which have been met, also. However, I compare the claims of those in the Cockburn area with those in the Toodyay area. On both occasions the Mines Department carried out tests and on both occasions the department said that no damage should result if the charges were within the safety limits. Yet, although on both occasions damage did occur, in one case compensation was paid, but in this case no compensation has been paid and liability has not been accepted.

It is only fair and reasonable to ask the House to agree to this motion. These people are home owners and ratepayers. The State Housing Commission has a stake in this also, because any investigation would have to cover the commission's homes in the area. I cannot see why the State Housing Commission should miss out if its houses have been affected, and an investigation reveals that the damage has been caused by the blasting.

I have much pleasure in commending the motion to members, and I sincerely trust they will agree to it. It is only justice to those whose homes have been damaged and who will suffer severe financial loss as a result. If Parliament—and this House in particular—does not agree to the motion, it will be responsible for the

injustice which results. These people have legitimate claims and ask only that an investigation be made.

Debate adjourned, on motion by The Hon. A. F. Griffith (Minister for Mines).

BUILDERS' REGISTRATION ACT AMENDMENT BILL

Third Reading

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [5.28 p.m.]: I move—

That the Bill be now read a third time.

THE HON. E. C. HOUSE (South) [5.29 p.m.]: I studied very carefully the speeches made by the Minister for Local Government and Mr. Syd Thompson on this Bill, and I agree entirely with Mr. Syd Thompson that the State Housing Commission is erecting some very good houses in the country. Even though it is using unregistered builders and takes the lowest tender, I feel this is made possible because it is such a large organisation. Because of its size, it can supervise very capably the work that is being done, and virtually it can turn itself into both organiser and builder.

In his speech Mr. Syd Thompson mentioned block groups of houses. These facilitate supervision and allow for more constant and closer checking and, in fact, a very reasonable job does eventuate. In general, group contracting cheapens the work.

When the Builders' Registration Act was brought into being in 1939, I think the whole purpose of its introduction was to protect the public. At least, that was the main object and the general purpose of its introduction. In many ways it does seem that it has been allowed to become very weak and there are many loopholes in it.

Many remarks were passed by members in reply to that portion of my speech when I said the main purpose of this amendment was to protect Government departments, especially in the country areas, rather than to protect the public, and the latter was virtually intended by this Act in the first place. I am absolutely certain that builders generally who live in country towns do a very good job and provide a good service. I have no criticism of these builders. They have lived for practically all their lives in the country and, if their work was not of a reasonable standard, they simply would not be given contracts.

At no stage do I suggest that builders should be made suddenly to pass stiff examinations, in order to be registered. There are other ways to effect the registration of country builders without making them pass stiff tests.

Although this is a fairly recent happening, there are speculators, and persons whose usual vocation is not that of building, who have commenced operating in the country areas and, because there are no restrictions at all, it is estimated that they carry out approximately 20 per cent. of the building work under construction in the country. In fact, I believe this percentage is increasing.

Many of these people have very few liquid assets and rely mainly upon manipulating through subcontractors. They are not capable of applying the proper supervision that is warranted. Many of them are absent from jobs when the construction work is carried out and this is a very unsatisfactory situation.

It is also possible for an unregistered builder to join the Master Builders Association. I think most of the public would look on a master builder as one who should be a specialist in his field and would consider that, if a person was calling himself a master builder, he should have reached the top bracket and be a specialist on all aspects of the trade. However, it is possible for unregistered builders to join the Master Builders Association and, in fact, this is happening.

It is also possible for a company of non-builders, or speculators, to allow a $2 share —or one of a similar amount—to be held by a registered builder. This builder does not participate in the work but allows the company to use his registration and term itself "registered builders." Thus, the company becomes a member of the Master Builders Association and this misleads the public into thinking that the builders concerned are registered, have passed examinations, or are capable builders. This does not always apply.

Usually a person builds only one home in a lifetime. It takes a great deal of financing and he is very proud of it. Therefore it is very important that the public should have some redress if a job is not satisfactory, and it will not be satisfactory if we allow unregistered builders to undertake these contracts.

I would suggest that the Act is not sufficiently powerful and that it offers very little protection to the public, especially in the country areas. Protection from the unscrupulous builder should be the very intention of the Builders' Registration Act.

Times have changed considerably since 1939 when the parent Act was first introduced. At that time it was never thought that building in the country areas would reach the magnitude it has today.

With these few remarks, I voice my dissatisfaction at the situation which exists today, and I only hope some effort will be made to revise the Act completely, and not just to amend it. Amendments are not always satisfactory; in fact, I would even go so far as to say that the Act serves very little useful purpose in its present form.

Question put and passed.

Bill read a third time and returned to the Assembly with an amendment.

PLANT DISEASES ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Health), and passed.

BILLS (4): RETURNED

1. Evidence Act Amendment Bill.
2. Debt Collectors Licensing Act Amendment Bill.
3. Legal Practitioners Act Amendment Bill.
4. Cemeteries Act Amendment Bill.

Bills returned from the Assembly without amendment.

PUBLIC WORKS ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Upper West —Minister for Local Government) [5.40 p.m.]: I move—

That the Bill be now read a second time.

This amendment to the Public Works Act affects only those aspects of the Act dealing with land taken or otherwise acquired, and including claims and payment of compensation. I think it desirable to explain the purpose of these amendments, clause by clause, as they occur.

In section 23 of the Act, there are set out proceedings for registering land taken when not under the Transfer of Land Act, and when already under the Transfer of Land Act. In subsection (3) it is provided that any person in possession of any deed, certificate, or other instrument evidencing the title to such land, and refusing or neglecting to deliver the same to the registrar for complete or partial cancellation, and upon receiving notice to do so, shall be liable to a penalty not exceeding £50. The amendment contained in clause 2 is purely for the purpose of converting this penalty to decimal currency.

The amendment in clause 3 affects section 29 in which is set out the present rights of former owners to repurchase. This section was repealed and re-enacted in 1955 and, since that time, it has been found that the obligation on the Minister to grant options to repurchase can give rise to undesirable and difficult circumstances in various aspects, for the reason that the provisions are very broad in their implications.

With a view to avoiding these undesirable results, it is proposed to remove this ministerial obligation to grant options to repurchase in certain circumstances which I shall explain. The amendment contained in the first part of this clause has reference to a remnant of land which does not comply with the requirements of the town planning and development Acts.

I might mention that, under paragraph (c) of subsection (3) of section 29, the Minister is obliged to grant an option to purchase to a former owner when he is satisfied that the person immediately prior to the taking or resumption, had an estate in fee simple in the land; that is, in the case of a person having applied for an option within the prescribed period of three months after publication in the *Government Gazette*.

It has been found in practice that it is futile in many instances for the Minister to be obliged to grant an option for repurchase of a remnant of land which does not comply with the requirements of the town planning and development Acts, unless the applicant owns adjoining land with which it can be amalgamated to comply with those Acts. In point of fact, but for the existing statutory direction in the Public Works Act, such a course would be palpably illegal as contravening the town planning Acts. Also, such an option cannot be properly implemented because the supporting plan would not meet the approval of the Town Planning Board.

Subparagraph (ii) provides that the Minister shall not be bound to grant an option in respect of land taken or resumed because it would have been severed by a public work, such as a railway or a controlled-access road, from the remainder of the owner's land.

It is submitted it does not seem logical that the owner should have an almost immediate and continuing right to repurchase such land. In negotiating settlement of claims for compensation in respect of such pieces of land, it is the objective of the resuming authority to arrange for the inclusion of some severed areas in adjoining holdings, with a view to effecting a reasonable adjustment of boundaries to conform with the work in hand. Such processes of their nature are the cause of some delay but they could be stultified entirely should the former owner, without sound reason, insist on his right to repurchase.

Compensation would be paid as a matter of course but, if the owner has good reason to repurchase, the Minister could still grant him an option. There is nothing contained in the amendment set out in paragraph (ca) to prevent the Minister from granting an option. The relative passage merely states the Minister shall not be bound to grant it.

The next amendment, that appearing in subparagraph (iii), has reference to the principle of maintaining, as far as is possible, the entity of the holding. The purpose of this amendment is to give the Minister discretion in the resale of a piece of land taken or resumed which cannot be added to other land owned by the person otherwise qualified to apply for the option by reason of that person having disposed of, or subdivided for disposal,

the remainder, or any part of the remainder, of the land from which the first-mentioned land was taken or resumed.

I think it would be generally agreed that when portion of a holding is resumed and becomes available for disposal, the circumstances could be such that the land should be reincluded in the holding, irrespective of changes in ownership in the interim. The Minister should not be obliged to retransfer such areas to a former owner who has disposed of his remaining land. He should be free to consider the interests of the current owner of the holding.

An application was made recently to the department to compensate the current owner of such remaining lands, following retransfer of the resumed portion to the former owner in accordance with the Act as it now stands.

The amendment contained in paragraph (ca) (iv) has been drafted to function in respect of minor excisions, such as for corner truncations, perimeter road widening or straightening, drainage sumps, sewerage and electricity substations, etc., which are later found to be necessary when construction of major works, such as schools, hospitals, and so forth are being planned for erection on resumed sites. The purpose of this amendment is to permit such adjustments to be made without recourse to the former owner.

The next amendment—it is contained in paragraph (cb)—provides a right of appeal to the Supreme Court against the Minister's refusal to grant an option in respect of lands covered by the provisions contained in paragraph (ca). The following amendment, which is contained in paragraph (b) of the clause, is important because it removes the finality of a ministerial decision made under paragraph (c), where such decision is made by virtue of the new provisions to be inserted under paragraph (ca).

Paragraph (c) of clause 3 amends the existing paragraph (f) which deals with the grant of an option to a legal representative of a deceased person, who had an estate in fee simple in land immediately prior to resumption. A legal representative enjoys this entitlement at the present time, however, only if he has power to purchase the land in his representative capacity. It is considered that this restriction is too narrow in its application and the amendment contained in paragraph (c) of the clause provides for such legal representatives to qualify for an option following the death of the former owner, even though they might have to seek authority to repurchase.

The purpose of the amendment contained in paragraph (d) of clause 3 is to enunciate a general principle that when there are no rights to repurchase land resumed or purchased for public works, which has become surplus to requirements, or where such rights have expired, the land should, at the discretion of the Minister, be first offered for sale to the former owner or the current owner of the residue of the holding from which the land was taken. The passing of this amendment would reinforce the existing departmental policy of considering the interests of these parties in disposal of such land.

Clauses 4 and 5 merely convert pounds to dollars.

Clause 6 repeals and re-enacts subsection (3) of section 46. The section obliges the resuming authority to examine a claim within 90 days of its receipt if the title is not disputed, and subsection (3) makes it obligatory for the resuming authority, as soon as practicable after making an offer of compensation, to pay the claimant, by way of an advance or interim payment on account of the compensation, an amount equivalent to two-thirds of the amount of the offer. Such payment may be received and retained by the claimant without prejudice to his rights under section 47 or any other provision in the Act.

The amendment in clause 6 seeks to clarify the subsection by authorising the department to offer and make advance payments of compensation as he sees fit, while retaining the obligation to pay two-thirds of the amount offered if required by the claimant. Claimants often require more than two-thirds of the departmental assessment of compensation to enable them to re-establish themselves pending settlement, and even before they have submitted a claim. The respondent's authority to extend advance payments beyond the two-thirds now quoted in the Act is not clear.

Clauses 7 and 8 merely convert pounds to dollars.

Clause 9 amends section 63 comprising the principles under which compensation be estimated for land taken. By amendment to section 63 it is proposed to fix the date for valuation as at the date of gazettal of resumption or, as at present, the date of prior entry for construction of the work and, in the case of an agreement to purchase under section 26, as at the date of such agreement or as provided therein.

The main date for valuation at present is as at the sixtieth day preceding the notice of intention to resume, and this could date back more than 12 months prior to the actual taking by gazettal of resumption. This will be agreed, I suggest, as being quite inequitable in face of the prevailing rising values. Such was not intended and the department has exercised considerable discretion in this respect. A court would, however, be bound by the legislation.

Now, it is proposed to fix the valuation as at the date the land is actually taken; that is, on agreement to take, which invariably covers some payment to the owner,

on gazettal of resumption, or on prior entry for construction, when the owner is physically dispossessed. The exception to this must be in resumption for railways which must be authorised by special Acts of Parliament, so the date for valuation in these cases will remain practically as at present; namely, the first day of the session of Parliament in which the Act be introduced.

In fixing the main date for valuation as in the gazettal of resumption, and bearing in mind that prior notices of intention to resume or construct are issued, it is considered advisable, through the amendment in paragraph (d)(ii) of clause 9, to seek to avoid any transactions by the claimant in the interim designed to affect the value of the land taken or compensation payable therefor. Further, the amendment is framed to avoid abrogating any *bona fide* transactions of any kind.

The amendment in paragraph (f) of clause 9 has to do with the elements to be taken into account in the assessment of compensation. Inquiries reveal that the provisions of the Public Works Act in this State, and their application, compare favourably with similar legislation and practice in other parts of Australia and in England. It is felt, nevertheless, that provision should be made to authorise additional payments to meet the special circumstances of a case to ensure that the compensation paid is adequate for the compulsory taking.

A great deal of consideration was given to the framing of this amendment. At first glance it may not appear as specific as some members would desire, but I am advised it has been found impracticable to legislate more specifically in this respect.

Recently, it was conceded that injurious affection to the claimant's remaining adjoining lands, by reason of a proposal to carry out work, is now compensable, but it is considered that only such net injurious affection should be allowed, and it is proposed, in paragraph (e), to set off any enhancement in value of such lands arising from the proposed work.

It will be noticed in this amendment that this betterment is to be set off against the injurious affection arising from the work only, and not in reduction of compensation otherwise assessed, although similar legislation elsewhere sets it off generally in the assessment of compensation. Excessive amounts of interest are accruing on compensation payments now that the bank overdraft rate is in the vicinity of 7 per cent. per annum, and it has been found that some claimants are not interested in settlement because of this handsome return—free of outgoings—on land which, but for resumption, was unproductive.

Members may be interested to know that officers of the Public Works Department have been advised by their counterparts in the Eastern States to reduce the interest rates on compensation. We in this State, however, take a different view and feel that any reduction in interest rates would not be equitable in the usual circumstances surrounding the taking of property. Paragraph (h) of clause 9 amends subparagraph (iii) of paragraph (e) by substituting a new subparagraph.

Under the existing paragraph provision is made for abatement of interest according to advance payments made, and it is proposed to extend this abatement of interest to advance payments offered under section 46 (3)—as proposed in this Bill—but not accepted by the claimant. It is considered this will induce claimants to accept advance payments offered and, in addition to relieving the resuming authority from excessive payments of interest, might remove the reluctance of some claimants to consider final settlement.

From the foregoing, it will be appreciated by members that the Bill now being presented has five main purposes. Firstly, it seeks to rationalise the incidence of section 29 which gives former owners rights to repurchase resumed land surplus to requirements. Secondly, it seeks to clarify section 46, which provides for advance payments of compensation. Thirdly, it seeks to provide for payment of additional compensation under section 63 to meet the special circumstances of any resumption, and for other alterations in the assessment of compensation. Fourthly, it seeks to avoid excessive payments of interest under section 63 (d) and (e); and finally, opportunity is taken to convert monetary references from pounds to dollars.

I hope and trust the amendments to the Act proposed by this Bill will be regarded favourably by members of the House.

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

EASTERN GOLDFIELDS TRANSPORT BOARD ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [5.56 p.m.]: I move—

That the Bill be now read a second time.

The provisions in this measure, which has been passed in another place, were requested by the Eastern Goldfields Transport Board and they involve some alteration to the domestic arrangements within the board.

Under the parent Act at present, the board is required to work according to a fiscal year, terminating on the 30th November. This Bill, when it passes into an Act, will come into operation on the 1st January 1967, and after that date the accounts of the board will be made up to

the 30th June. This is set out in subsection (2) of the re-enacted section 42 appearing in clause 11.

In clause 6 it is provided that, subject to certain provisions as set out in the Bill, every member of the board who takes up his duties shall hold office until the 30th June instead of the 30th November, as currently provided for in section 12 of the parent Act. In the matter of election of council representation, now regulated for November, there is also to be a change to the month of June.

In accordance with these provisions, therefore, the present year's accounts will be balanced at the end of November and audited in December. The following accounting period will then be seven months, ending on the 30th June 1967, and thereafter accounts will be finalised every 12 months.

The amendment in clause 3 makes no change in representation of itself but merely tidies up local authority references.

Clause 4 repeals section 8 and re-enacts it to provide that the board shall consist of six members, elected as provided by section 22 of the Act, and also a chairman appointed by the Governor from a panel of three names submitted by the three local authorities jointly. The name of the person who is a member of the council of one of the local authorities shall not be included in the panel of names submitted.

Clause 5 I have already dealt with. It provides for a board member to take up his duties on the 1st July instead of on the 1st December.

I have already made reference to some of the provisions in clause 6 concerning the duration of office of members and provision is made in this Bill to cover the transition period so that members who take up duties at the end of a calendar year shall hold office until the 30th June, 1968.

Clause 7, deals with remuneration of the board. When the principal Act was introduced in 1946, section 19, which is amended by clause 7, limited the remuneration of the chairman to £25 per annum and payment to members to £12 10s. per annum. Those figures still remain, notwithstanding substantial increases in wages and values during the interim. The amendment in this clause therefore proposes to leave the decision to the discretion of the Governor without any limitation as to the amount. This is in conformity with the provisions in relation to other boards appointed under various statutes.

Section 20, amended by clause 8, at present disqualifies from membership of the board, persons who would be disqualified from membership of municipal councils under appropriate Acts. In repealing and re-enacting section 20, clause 8 merely brings references up to date and makes no material alteration.

Section 21 is being repealed completely by clause 9, for the reason that its provisions related only to the election of the first board members by the three local authorities concerned when the board was originally inaugurated. This was an interim provision necessary only until such time as the provisions contained in section 22 prescribing procedure for elections could be implemented. Section 21 is therefore of no further effect and is being deleted.

The only material alteration to section 22, amended by clause 10, is the change of date of elections, enabling them to be organised in conjunction with local government elections which take place in May. This will avoid the expense of conducting two separate elections.

I made earlier reference to the proposed change in accounting date. Clause 11 has reference in this regard; it amends section 42, providing for the auditor or auditors to be appointed in July, and for the accounts to be made up to the 30th June and audited in August each year.

Consequently, the amendment in clause 12 to section 44 makes provision for the auditor's report to be furnished to each of the three local authorities concerned in September instead of in January each year.

Clause 13 refers to section 48, which makes provision for the board to grant certain people free passes for travel on its buses. The date of expiry of these passes is now stipulated as the 30th November, and this date is altered in a complementary manner to tie in with earlier amendments.

Section 50 of the Act absolves the board from liability for the payment of municipal rates, and the redraft contained in clause 14 is consequential upon the passing of the Local Government Act.

I repeat that this Bill is a product of a request from the Eastern Goldfields Transport Board, and for this and the other reasons I commend it to the House.

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

Sitting suspended from 6.3 to 7.30 p.m.

TOTALISATOR AGENCY BOARD BETTING ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [7.32 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend the Totalisator Agency Board Betting Act along the following lines:—

To establish agencies on racecourses.

To adjust on-course totalisator dividends on Eastern States events.
To adjust the formula of distribution of the board's surplus between racing and trotting interests.
To increase the penalties for illegal betting.
To extend to five years the limitation imposed under the Justices Act against action being taken in retrospect for a longer period than six months; and finally
Conversion to decimal currency.

The first amendment refers to section 20 of the Act, which does not allow for the establishment of totalisator agencies on racecourses. This Bill proposes to permit this to be done, but only with the consent of the club concerned, and that point is specified in the Bill; and only for the purpose of accepting bets on horse races conducted outside of the State.

At present the board conducts certain quinella, and doubles betting on Eastern States' events not always available on racecourses within the State. Whilst the board has nothing definite in mind on this matter, the passing of the amendment will mean that, with the consent of the racing club conducting the meeting, similar betting can be provided for the benefit of the on-course patrons.

It will be a local totalisator pool and the closing time before the event will be approximately 10 minutes. There are licensed bookmakers operating on the course who handle win and place betting only on Eastern States' events; and, if an agency is established, it will not offer this type of betting, but will restrict its activities to quinella and doubles betting.

The second amendment is to paragraph (a) of subsection (2) of section 22 of the Act. The Bill proposes to allow the board, when acting as a bookmaker on Eastern States' events, to adjust the appropriate on-course totalisator dividends either upwards or downwards.

The board acts as a bookmaker when it receives investments on, say, an Eastern States' racing event, and it is unable to transfer this investment to the on-course totalisator. Despite this, the board pays out its dividends on winning bets at the same rate as the on-course totalisator. Therefore, it is acting as a bookmaker.

The only matters likely to be given early consideration, should this amendment be accepted, are the fixing of limits for win and place betting on horse races held outside of the State, and the establishing of a minimum dividend of 55c. This part of the Bill will, I believe, at least guarantee a 5c win for those investors who take out their tickets on a very hot favourite. In the past they may have received only their money in return, without any winnings.

The fixing of limits is considered to be essential by the board. Since the establishment of totalisator agency boards in Victoria and New South Wales, the on-course dividends have, on many occasions, been greatly inflated by the relatively low investment on comparative outsiders. This has substantially increased the risk undertaken by the board in settling bets on Eastern States' events at the on-course totalisator odds.

On one occasion last year the board had to pay a winner at odds of 570 to 1. Paying dividends of this magnitude, without limits, could result in the board facing a payout that would be extremely difficult to finance. Thus, the fixing of reasonable limits on win and place betting is considered to be justified. Of course, it might be thought by some members who have a knowledge of this problem that the solution would be to conduct our own tote pools on all Eastern States' events. We do this to a certain extent at the present time.

A similar protection is at present provided for licensed off-course bookmakers, where limits of 50 to 1 for a win and 12 to 1 for a place now apply. However, the proposal now submitted by the board, when acting as a bookmaker on Eastern States' events, will provide substantially higher limits which will be not less than 100 to 1 for a win and 25 to 1 for a place.

The board is gradually increasing the number of win and place local tote pools conducted on Eastern States' events and is thus progressively reducing the risks involved. However, as the board is likely always to continue to discharge bets on at least some of such events at the on-course totalisator odds, particularly on big races such as the Melbourne Cup, the granting of the amendment sought is warranted.

The third amendment is to section 28 of the Act. There it is proposed to vary the formula for the distribution of the board's surplus to the racing and trotting bodies. This explanation may become very involved, so I will try to make it as clear and concise as possible.

At the present time, the primary distribution between racing and trotting is on a turnover basis. The racing clubs receive the benefit of the off-course betting turnover on horse races held within the State and the trotting clubs the benefit from trotting events held within the State. Of the off-course betting turnover derived from events conducted outside of the State, the racing clubs receive the benefit of 75 per cent., and the trotting clubs 25 per cent.

Though there are very few Eastern States' trotting events that are handled by the board, of the total turnover of the board no less than 49 per cent. is on Eastern States' racing. Therefore it can be seen that this is quite a considerable part of the board's operations. When we

consider that the turnover last year was something like $36,000,000 we realise how much money is invested on Eastern States' events.

The annual report of the board was tabled recently. If any honourable member desires a copy I shall be glad to obtain one for him. It is considered that should this formula continue to apply, then the racing clubs would enjoy about 61.5 per cent., and the trotting clubs about 38.5 per cent. of the board's surplus.

Of the amount due to the racing clubs, the W.A. Turf Club is permitted to retain 80 per cent. for its own purposes, and the other 20 per cent. is distributed amongst the country clubs on the basis of stakes paid for the previous year.

Of the amount due to the trotting clubs, the W.A. Trotting Association shares 85 per cent. with the Fremantle Trotting Club, and pays over the remaining 15 per cent. to the country trotting clubs, which is again shared between the country clubs on the basis of stakes paid.

When the T.A.B. legislation was being framed in 1960, it was believed that, under the existing distribution formula, the trotting bodies would receive 33.48 per cent. of the board's surplus and the racing bodies 66.52 per cent. Since then, mainly due to increases in turnover on country night trotting events, the position of the trotting clubs has improved at the expense of the racing clubs.

Figures showing the percentage of the turnover for both trotting clubs and racing clubs are interesting. The percentages which I will give for the trotting clubs are those arrived at after taking into account their 25 per cent. share of Eastern States investments on racing. The figures are as follows:—

Year	Trotting Clubs Per Cent.	Racing Clubs Per Cent.
1962	35.78	64.22
1963	37.21	62.79
1964	37.73	62.27
1965	38.57	61.43
1966	38.82	61.18

From the foregoing it is evident that there has been a gradual increase in the turnover of Western Australian trotting; whereas, on the other hand, there has been a gradual decrease in the percentage of the turnover of racing clubs. It is expected that, for the current year, due to a slight rise in the Eastern States' turnover, 75 per cent. of which is credited to racing, the trotting clubs will receive about 38.5 per cent. and the racing clubs 61.5 per cent. of the board's surplus.

The position, therefore, so far as the percentage of turnover is concerned has been fairly stable over the last two years, and will be for the ensuing year. On this basis, as the Act now stands, the respective percentages of those concerned would be—

	Per Cent.
W.A. Turf Club	49.20
Country racing clubs	12.30
Total racing	61.50
W.A. Trotting Association (about)	26.50
Fremantle Trotting Club (about)	6.45
Country trotting clubs	5.55
Total trotting	38.50

The Bill proposes to amend the formula so that the distribution as from the 1st August, 1966, will be on a fixed basis with 60 per cent. going to the racing clubs and 40 per cent. to the trotting clubs. The country clubs, both racing and trotting, are to receive 20 per cent. of the amounts received by their respective parent bodies to be shared as at present; that is, on the basis of stakes paid for the previous year.

It is proposed to increase the percentage of the country trotting clubs from 15 per cent. to 20 per cent., which is in line with that received by the country racing clubs.

If the amendment is accepted, the new percentages to the total turnover will be—

	Per Cent.
W.A. Turf Club (which is a drop of 1.2 per cent. on the present basis of distribution).	48
Country racing clubs (which is a drop of 0.3 per cent. on the same basis).	12
W.A. Trotting Association (which is a drop of 1.5 per cent. on the same basis).	25
Fremantle Trotting Club (which is a gain of 0.55 per cent. on the same basis).	7
Country trotting clubs (which is a gain of 2.45 per cent. on the same basis).	8

As the application of the amendment in clause 5(e) may not be apparent, I would put it this way: If we regard the 40 per cent. of the distribution which is made to trotting as the full distribution received by the association—full in the sense of being 100 per cent.—then this is further distribution as follows:—Clause 5 (d) country trotting, 20 per cent.; clause 5 (e) association, 62½ per cent.; Fremantle Trotting Club, 17½ per cent.; total 100 per cent. of the 40 per cent. which is distributed to trotting.

Based on an annual surplus of $1,200,000 to be distributed by the board, it has been calculated that the Fremantle Trotting Club will gain $6,600, and the country trotting clubs $29,400 per annum, so the

gains total $36,000 per annum. The losers will be—

W.A. Turf Club	$14,400
Country racing clubs	$3,600
Total racing loss	$18,000
W.A. Trotting Association	$18,000
Total losses	$36,000

This is only an estimate based on the fixing of the percentage—that is 60/40, and this is based on the amount available for surplus. This is what the figures would realise monetarily.

The board's decision to recommend an amendment to the distribution formula arose mainly out of a request made on behalf of the country clubs for a greater share in the surplus. The Minister for Police had received numerous requests, and deputations were brought from the Country Trotting Association asking that something be done to increase its percentage. On each occasion, Mr. Craig said he thought that was a domestic matter which should be resolved within the association itself. However, the matter came to the stage where the Minister referred it to the board, which consists of the racing and trotting interests; and, as a result, this recommendation came forward.

For the year ended the 31st July, 1966, the board's turnover on country trotting meetings represented 20.45 per cent. of the total trotting turnover. Thus there does not appear to be any good reason why the country trotting clubs, like the country racing clubs, should not receive 20 per cent. of the amount paid over to the parent body.

The increase in trotting turnover within the State has been due mainly to the increase in night trotting in the country. In 1962, the percentage of night trotting turnover to the total was 6 per cent., but it has gradually risen to the figure of 20 per cent., and this strengthens the claim of the Country Trotting Association for an increase.

A slight gain to the Fremantle Trotting Club is also recommended. In arranging for the Fremantle Trotting Club to receive 7 per cent. of the board's surplus in lieu of sharing an amount with the W.A. Trotting Association on the basis of stakes paid for the previous year, some protection is afforded to the Fremantle Trotting Club against a drop in revenue caused by the W.A. Trotting Association paying increased stakes that could not be matched by the Fremantle Trotting Club.

The expected gain to the country trotting clubs and the Fremantle Trotting Club is $36,000, of which $18,000 will come from the racing clubs and a similar amount from the W.A. Trotting Association.

It is submitted that in fixing the primary distribution between racing and trotting—60 per cent. to racing and 40 per cent. to trotting—and completely ignoring the betting turnover, racing and trotting representatives on the board, in considering board matters, will be more inclined to consider what is best for the board, and racing and trotting interests as a whole, rather than how board decisions will affect their respective bodies. This is one of the reasons for the formation of the board in the first place.

The proposed new formula is based on turnover over the past few years, but, should there be any substantial variation in actual turnover in the future, it will of course be necessary for the position to be reviewed again and adjustments made accordingly.

The fourth amendment proposed is the doubling of the pecuniary penalties for illegal betting—first offences—under sections 45 and 46 of the Act. The present penalties are—

(a) For illegal bookmaking—a minimum of $500 and a maximum of $1,000, or a gaol sentence not exceeding two months; and

(b) for an illegal backer—minimum $100, maximum $500, or a gaol sentence not exceeding one month.

Experience has shown that magistrates mostly fix the minimum penalty. As the existing penalties do not appear to be a sufficient deterrent, it is proposed to double the pecuniary penalties only. In addition, as illegal bookmakers have become so expert in avoiding detection, it is felt that when one is caught the penalties should be severe. The new penalties are—

(a) For an illegal bookmaker—a minimum of $1,000 and a maximum of $2,000;

(b) For an illegal backer—a minimum of $200 and a maximum of $1,000; with no increase in the penal provisions.

The fifth amendment is also to section 45. As already mentioned, it has been found most difficult to detect the expert illegal operator. In the past, what might have constituted sufficient evidence to secure a conviction in two or three cases, had such evidence been available in time, could not be used because section 51 of the Justices Act requires that the complaint must be made within six months of the offence having been committed. The further amendment to section 45 proposes to remove complaints for offences under this section from the ambit of the Justices Act so that a complaint for an offence under section 45 of the Totalisator Agency Board Betting Act may be made at any time within five years from the date the offence is committed.

In time, as the period gradually extends from the existing six months up to five

years, this amendment could well prove to be a strong deterrent to illegal betting. It is intended that this be retrospective. Though no figures are possible to substantiate this, the board is aware of the extent of illegal bookmaking.

The sixth and final amendment is merely to convert, where necessary, amounts of money into their corresponding amounts in decimal currency.

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

STOCK DISEASES ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [7.53 p.m.]: I move—

That the Bill be now read a second time.

This small Bill to amend the Stock Diseases Act comprises six clauses, five of which substitute decimal equivalents for monetary references in the Act. The remaining clause, which is clause 2, inserts into the Act an interpretation of the word "poultry", and it will be seen upon reference to this definition that the word "poultry", as applicable under the Stock Diseases Act, means any poultry, poultry products, the carcase or any portion of the carcase of any poultry, newly hatched chickens, or the eggs of any poultry for hatching purposes or for food purposes.

The need for the insertion of this definition into the Act arose some little time ago when, in the preparation of a proclamation necessitated through the prevalence of a local virus, it became apparent that poultry was not clearly defined in the Act.

The incidence of this virus led to something of a scare earlier in the year when it was thought that a disease called Newcastle disease had broken out in Australia. Much concern in this regard was felt here and steps were taken immediately under the Act to prevent the entry of the disease into Western Australia.

Newcastle disease, which affects chickens, is characterised mainly by a type of pneumonia and severe signs of a central nervous system disease. As a consequence of surveys and testing then carried out, it was concluded that although an extremely mild virus having some of the properties of Newcastle disease virus was probably present in some poultry flocks in this State, it was without detrimental effect of any kind.

The ban, which had prevented the importation of chickens from the Eastern States for several weeks, was then lifted. The ban itself was made by proclamation under the Stock Diseases Act, and it was on this occasion that the need for a satisfactory definition of "poultry" in the Act was established.

In the normal course of events, it is not considered that the word "poultry" would include "eggs", and for the reason that some poultry diseases, including Newcastle disease, can be introduced in an egg, the drafting of a suitable proclamation entailed, in the absence of a proper definition of poultry, some considerable ingenuity.

It was fortunate, in actual fact, that the causes of the scare proved of little consequence. Nevertheless, the confusion over interpretation of the Act could have had a quite different result had the virus detected in other States—Queensland and N.S.W. in particular—been a typically virulent one.

This Bill, which has been framed in the main for the purpose of defining "poultry", and which, incidentally, brings monetary references up to date, is commended to members; and in respect of the former, it is expected that the definition in clause 2 will ensure that there would be no difficulty in the drafting of a suitable proclamation should the need arise in future. The Bill is commended to the House.

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

BREAD ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [7.57 p.m.]: I move—

That the Bill be now read a second time.

This Bill has been passed in another place and has, as its main purpose, the alteration of certain hours for the sale and delivery of bread.

Members, particularly those representing electorates in the metropolitan area, will doubtless recall that quite recently, for the first time in 12 years, fresh bread was available on a Monday holiday to metropolitan housewives. That was on Monday, the 6th June, 1966. Whilst, admittedly, there was no door-to-door delivery, fresh bread could be obtained in certain classes of shops. This welcome development resulted from a consent agreement between the bread manufacturers and the Bakers' Union.

The Act, at present, prescribes that bread shall be made or baked for sale only during the hours specified in the award covering the areas comprising a radius of 28 miles from the G.P.O., Perth, and a radius of eight miles from the principal Post Office at Kalgoorlie.

As a result of amendments to the Bakers' (Metropolitan) Award on the 10th May, 1966, the time for commencing the baking of bread in these areas has advanced from 3 a.m. to 1 a.m. on Mondays, and from 4 a.m. to 2 a.m. on Tuesdays to Thursdays. This alteration, which resulted from the consent agreement be-

tween the manufacturers and the union, was aimed at allowing more time in which to make, cool, slice, and wrap bread, and also to allow the full range of different types of bread being produced for loading into vehicles making the first delivery of the morning from bakehouses.

It is accordingly necessary that deliveries of bread should not now commence by vehicles leaving the bakehouse at any time earlier than that which had prevailed before the award was amended. It has therefore been requested by the master bakers, the Bakers' Union, and the Transport Workers Union, that arrangements be made to amend the Bread Act to preserve these delivery hours.

The Act at present provides for delivery to commence at 6 a.m. on Mondays to Fridays, and 5 a.m. on Saturdays; but these times of commencing delivery are modified by a section of the Act which prohibits the delivery at any time within three hours of the time fixed in the award for commencing baking.

Under the award prior to amendment, the effect of the section of the Act was to make the times of delivery not earlier than 6 a.m. on Mondays, 7 a.m. on Tuesdays, Wednesdays, and Thursdays, 6 a.m. on Fridays, and 5 a.m. on Saturdays. The hours of delivery prevailing before the amendment have been retained through the exercise of the power of the Minister under the Act to grant authority to observe substituted hours other than those prescribed for the delivery of bread.

This course can be regarded only as a temporary expediency pending the alterations proposed in this Bill to the hours at present specified, so incorporating in the Act provision that delivery of bread shall commence by vehicles leaving the respective yards or depots on Mondays and Fridays not earlier than 6 a.m., on Tuesdays, Wednesdays, and Thursdays, not earlier than 7 a.m., and on Saturdays not earlier than 5 a.m. Bread delivery, incidentally, will cease at 7 p.m. on each of these days.

Other amendments merely delete obsolete references and bring monetary references up to date. I commend the Bill to the House.

Debate adjourned, on motion by The Hon. F. R. H. Lavery.

PERTH MEDICAL CENTRE BILL

Second Reading: Dissent from President's Ruling

Debate resumed, from the 20th September, on the motion by The Hon. G. C. MacKinnon (Minister for Health) to dissent from the President's ruling that the Bill was not in order.

The Hon. F. J. S. WISE: The motion before the House is a very serious one, questioning as it does the ruling of the President on a very vital issue. It is not in any way a matter involving the merits of the Bill, insofar as the principles it contains are concerned; or whether the Bill and its proposals are in the public interest. It is not a question whether it is desirable for a Minister in this House to introduce measures associated with his own department, or whether he should be anxious so to do. It may happen, that they have to be introduced in the other Chamber, and it has happened on many occasions where it is not possible, in conforming strictly to parliamentary procedure, to have Ministers in this Chamber, or any Upper House in the British Commonwealth for that matter, introducing Bills that are money Bills. It is a question of whether this Bill can conform to parliamentary procedure, and stand the tests which must be applied in regard to constitutional practice and requirements.

There are rules of procedure which cannot rightfully be ignored, and must be adhered to if we support and believe in the proper functioning of Parliament. Some practices and rules of procedure are governed by our Standing Orders, but some are determined by the Constitution Acts Amendment Act. In addition, the works of Erskine May on parliamentary procedure bring to us an undisputed authority on parliamentary practices and procedure. We have that authority, and the authority of the Standing Orders of the British House of Commons, if our Standing Orders are silent on a subject.

Until we had responsible Government in this State, the Standing Orders of the Legislative Council included a provision which made it clear—it was Standing Order 1, and this obtained until the 1912 reprint of the Legislative Council Standing Orders—that where our Standing Orders were silent the Standing Orders of the House of Commons prevailed. That still obtains and it is still the first Standing Order of the Legislative Assembly and governs the parliamentary procedure necessary in regard to money Bills where the Constitution Acts do not provide the answer.

Standing Order 1 of the Legislative Assembly reads—

> In all cases not provided for hereinafter, or by Sessional or other Orders, resort shall be had to the rules, forms, and practice of the Commons House of the Imperial Parliament of Great Britain and Northern Ireland, which shall be followed as far as they can be applied to the proceedings of this House.

We have, therefore, in all British Commonwealth Parliaments the Standing Orders of the Mother of Parliaments to guide us. This is a case where our Standing Orders are silent, but the authority of the Constitution Act first prevails and, on the issue before us, it is very clear in my view.

Some of the rules of procedure are obviously of high constitutional importance. For instance, the Standing Orders of the House of Commons, on which our procedures are based, provide that no new expenditure can be involved without the recommendation of the Queen. That is the sort of rule we were dealing with when I raised the point whether the Bill was in order.

One reason for the obvious necessity of such a rule is that no private member can impose a charge on the Crown by way of a Bill, and the Government and its Ministers are the only people who are able to have a Message from the Governor to approve expenditure within a Bill. That matter was determined as early as the year 1712, and it is fully recorded, not only in the works of Erskine May but also in vol. 2 of Todd's *Parliamentary Procedure and Government*. The rulings in that publication were widely read and used prior to the advent of the works of Erskine May.

If we turn to the Constitution of this State, in its printed form, and refer in particular to the sections to which I referred when I asked for your ruling, Sir, we find, in section 46 subsection (8)—and this will be found on page 167 of our book of Standing Orders—that it clearly states in the first paragraph—

> Bills appropriating revenue or moneys or imposing taxation, shall not originate in the Legislative Council . . .

In that same paragraph it deals with the sort of Bills that can be taken as not appropriating moneys; but this Bill is not one of that kind. Then, in subsection (8), we find the words quoted by you, Sir—

> A vote, resolution, or Bill for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by Message of the Governor to the Legislative Assembly.

If we examine the Bill we find very clearly set out the principles underlying the proposal, and which require expenditure. I refer firstly to clause 13, subclause (3), paragraph (b), on page 7 of the Bill, wherein it will be seen that—

> The Treasurer on behalf of the State is authorised to guarantee, on such terms and conditions as he thinks fit, repayment of any money borrowed by the Trust under this subsection and the payment of interest thereon.

It is idle to assume, or to presume, that that does not impose a charge, as I will show the House in a few moments. Subclause (4) of the same clause is very interesting. It provides that—

> The Trust is empowered to employ in developing, controlling and managing the reserve any sums provided for those purposes by Parliament . . . .

Those two particulars, Mr. President, form the basis of the arrangement for financing this gigantic proposal which, in the ultimate, will involve the expenditure of $33,000,000. That is the plan in the Bill; it is the plan which was extolled by the Premier in his newspaper article of Thursday, two weeks ago. The Premier had a special column dealing with the advantages which would accrue to the State in later years because of the expenditure of $33,000,000 provided for in the plan outlined by Mr. MacKinnon when he introduced his Bill. That will be found in the newspaper article.

The Hon. G. C. MacKinnon: You know, that is not right. This $33,000,000 is loan funds. It is for running the 70 acres of land. It has nothing to do with the hospitals.

The Hon. F. J. S. WISE: The Minister can argue for as long as he wishes that the $33,000,000 has nothing to do with this Bill. This Bill provides for the plan.

The Hon. G. C. MacKinnon: It has nothing to do with that clause. The trust does not build the hospitals.

The Hon. F. J. S. WISE: I am aware of that point, and I am referring entirely to the capital required to give effect to the proposal.

The Hon. G. C. MacKinnon: Right. That is not raised under Clause 13 (4).

The Hon. F. J. S. WISE: Let us get back to the point I was dealing with before I was interrupted by the Minister. It is clear, by subclauses (3) and (4) of clause 13, that provision must be made by the Treasurer to finance the trust to carry out the repayment of money borrowed by the trust. Those are the words in the Bill—

> The Trust is empowered to employ in developing, controlling and managing the reserve any sums provided for those purposes by Parliament . . .

What is the development of the reserve? Is it its beautification—

The Hon. G. C. MacKinnon: Yes.

The Hon. F. J. S. WISE: —or is it the whole scheme of which we have a model in the foyer of the House?

The Hon. G. C. MacKinnon: No. Insofar as the trust is concerned, it is not.

The Hon. F. J. S. WISE: If the Minister's contention on that point is correct, so far as the trust is concerned it is authorised, in developing the reserve, to employ funds provided by Parliament. Therefore it is idle to suggest that this Bill does not plan, or propose to provide for expenditure.

On these points we have direct guidance from Erskine May. Some members present who were recently elected to this Chamber have not had experience of the question of what constitutes a money Bill. One

member who is present in the Chamber this evening asked me what has Erskine May to do with this. As we know, of course, *May* has everything to do with this. *May* is a complete authority, and might I read from the preface to the 17th edition—the most recent of the works associated with parliamentary practice procedure—the following words:—

> It was not long after the passing of the first great reform of Parliament in 1832 that *Erskine May's Parliamentary Practice* was originally published, and since then this excellent work has become firmly established as the undisputed authority on this vast and vital subject. It provides an erudite and entirely reliable source of information covering the whole field of the law and custom of Parliament, and is used as a standard reference book by those concerned with the Work of Parliament not only at Westminster, but also throughout the Commonwealth.

It is the undisputed authority in so far as the work of Parliament is concerned, not only in Westminster but also throughout the Commonwealth. This recent volume deals with all kinds of parliamentary practice procedure, even from the point of an election to Parliament to anything that has ever arisen in which there may be contention, and where guidance is required. This will be found particularly from page 713 onwards. It sets out the details associated with the general rules of financial procedure in Parliament.

In that chapter will be found discussions on charges upon the public revenue; charges against the people; charges against public funds; and, in addition, it progressively analyses all the ancient usages and customs by which parliamentary practices are directed, and through which direction is given in the conduct of parliamentary affairs.

As we proceed through that chapter we find it provides general rules of financial procedure; we find such words as these in the paragraphs—

> The rules of financial procedure whether based on practice or upon the Standing Orders are unquestionably observed by the House of Commons; and any disregard of them would not only be due to misunderstanding of their applicability in a particular case, or to inadvertence. Questions of interpretation are decided by the Speaker, or if they arise in Committee, by the Chairman.

Following through that chapter we find references to the legal authorisation of expenditure, particularly matters which may be handled in Committee of Supply, right through to the point where the subchapter found on page 781 of this edition deals with matters requiring the Queen's recommendation.

It is not approached in any detached way; it is not approached in any way that makes the findings incidental. It is approached in a most conclusive and specific manner. At the top of page 782 will be found a most interesting paragraph which deals with the manner in which the sanctioning of expenditure is permissible. It concludes with the words that in a technical sense such Bills involving financial procedures could not be brought before the House of Commons without the recommendation of the Crown. On that page we find clearly set out the references to charges on the Consolidated Revenue Fund. It states, *inter alia*—

> The following examples may be given which require the Queen's recommendation:
>
> Contingent or prospective charges on the Consolidated Fund (such as might arise from a Treasury guarantee).

These are the very words used in paragraph (b), subclause (3) of clause 13.

The Hon. H. K. Watson: Have you read the illustration he gives?

The Hon. F. J. S. WISE: Yes, and it clearly shows the following examples which may be given on such charges which require the Queen's recommendation.

The paragraph I have just read is so explicit, and so related to the principles of this Bill that it requires no further illustration. Let us proceed to paragraph (4) on page 782 which reads—

> The making of advances out of the Consolidated Fund to be repaid out of moneys provided by Parliament.

To me those words clearly determine what we may or may not do in such connection as this. No other proof is necessary. This remarkable work, to which I have referred as the undisputed authority, shows without any doubt what we may or may not do.

There are many references in that chapter which are inevitable in considering such specific matters associated with money Bills. In my view paragraphs (2) and (4) on page 782—to borrow the Minister's phrase—prove in crystal-clear fashion that this Bill prepares for and imposes a charge.

May I refer on that very subject to the Third Edition, Volume 7, of *Halsbury's Laws of England*. On page 238 of that edition, in section 512, will be found these words on constitutional law—

> Introduction of money bills. It is a constitutional principle that no bill creating a charge upon the public revenue, whether payable out of the Consolidated Fund or out of money to be provided by Parliament, shall be introduced in the Commons except upon the recommendation of the Crown expressed through a member of the ministry.

That is the situation that has always existed. *Halsbury's Laws of England*, on constitutional practice, is very explicit as to what may be done constitutionally in Parliament. This, I would like to say, is a very different matter from the question raised a few years ago, when I attempted in this Chamber to insert in the fluoridation Bill a provision for a referendum.

It will be recalled that the Minister in charge of the House raised the question as to whether the amendment was in order. It was ruled in order on the ground that the cost of the referendum would not be an added charge, as any cost associated with it would have been approved in the unrestricted financial authority for the costs of an election.

This proposition is a very different matter from that; and speaking very deliberately as a person always anxious to uphold the rights of this House, or of the other House, I would say that we are bound to follow the constitutional requirements when dealing with procedural matters in Parliament.

When speaking to this motion last evening the Minister said that almost everything introduced into Parliament imposes a charge on the Crown. He gave as an illustration the fact that even the printing of a Bill imposed a charge. I would draw the Minister's attention to the fact that whatever charges are associated with the printing of a Bill, whether it be for a private member, or for a Minister who is in charge of the Bill, it is covered and approved long before the Bill is printed; and long before it reaches Parliament.

The Hon. G. C. MacKinnon: It is provided in a separate Act, the same as any moneys for this Bill.

The Hon. F. J. S. WISE: Nothing of the kind. That argument is a very flimsy one. Let us examine what happens on the introduction of a Supply Bill. When a Supply Bill passes through all its stages—basically for the protection of the public—it must find provision through the Committees of Supply and of Ways and Means. The words in the Bill introduced this session will be found in the motion of the Treasurer in the Legislative Assembly. It is contained in the *Votes and Proceedings* for the 2nd August of this year, when the Treasurer moved—

> That there be granted to her Majesty on account of the services of the year ending 30th June, 1967, a sum not exceeding $61,000,000.

In the Committee of Ways and Means the Treasurer moved—

> That the House do now resolve itself into a Committee of Ways and Means for raising the supply granted to Her Majesty.

Members who are interested in financial procedures in another place will find, with fascination I suggest, how age old is the protection which Parliament has, through the years, given to the public before finances may be approved.

Every department involved in public expenditure, including the Government Printer or the Crown Law Department, had its expenditure approved on the passing of the Supply Bill.

The Hon. A. F. Griffith: Are you looking to me for inspiration?

The Hon. F. J. S. WISE: I was thinking that the Minister might interject.

The Hon. A. F. Griffith: I was merely watching you.

The Hon. F. J. S. WISE: Well, have a good look. I find myself at a great disadvantage now in only being able to see the back of the Minister's head, because when I faced him I could see his expression very clearly. I said earlier that if this Bill were properly introduced; if it were introduced in accordance with constitutional requirements, it would have a speedy passage. The Minister must realise that he will not be a Minister for only five minutes, and that he must overcome this ambition to introduce schemes which are evolved by him, or by the Government, into this Chamber, particularly if they are introduced as money Bills.

Thousands of Ministers have had that experience because this is not the place for the introduction of those Bills. I would hope that this Bill is enabled to be passed in proper form, and if members will look at Standing Orders 177, 178, 120, and 121 they will find it very clearly set out that this Bill is not defeated so far as this session or any other session is concerned if this motion to disagree with your ruling, Sir, is defeated.

The Hon. H. K. Watson: Does 177 have any relation to the Constitution?

The Hon. F. J. S. WISE: Yes. My point is that this Bill will be dealt with neither in the affirmative nor the negative. It will be set aside and not dealt with because of a constitutional frailty. If members will read Standing Order 120 they will find the Bill may be restored providing we repeal what has passed. That is what I would like to see occur, for many reasons apart from the reasons I have already given. It is quite idle to suggest that this House has assumed greater responsibility because it is now subject to adult franchise.

The Hon. G. C. MacKinnon: No-one suggested that. I suggested we should assume our proper responsibility, and this Bill is our proper responsibility.

The Hon. F. R. H. Lavery: That is not what the President thought.

The PRESIDENT: Order!

The Hon. F. J. S. WISE: That is the opinion of the Minister.

The Hon. G. C. MacKinnon: And of Erskine May!

The Hon. F. J. S. WISE: There is one very important thing to learn when a member has a ministerial position. Without any presumption I would say that he cannot always expect to have his own way according to his own desires, and to override the requirements in procedural matters.

The Hon. G. C. MacKinnon: I have no desire to do so.

The Hon. F. J. S. WISE: I am simply endeavouring, in a very kindly fashion, to suggest a way in which this matter could be expedited, beyond all doubt.

The Hon. G. C. MacKinnon: I thank the honourable member for doing so.

The Hon. F. J. S. WISE: If any uncertainty exists, there is no doubt whatever as to the course we must take. I recall very clearly that in 1950 a Bill covering several measures had to be introduced into the Legislative Assembly because the Opposition of that day questioned them, and upon examination it was found they required Messages. The debate concerning that episode will be found in *Hansard* of 1950, and the Bill was introduced by Mr. Val Abbott.

At that time I was Leader of the Opposition in the Legislative Assembly, and we had pleaded with the Attorney-General of that day to realise that the Bills he had introduced required Messages. Finally he introduced a Bill to validate the measures about which the question had been raised.

The Hon. H. K. Watson: And was then advised afterwards that it was quite unnecessary anyhow.

The Hon. F. J. S. WISE: As the honourable member will know, perhaps, when speaking on that subject I raised the point as to whether in fact that Bill would have the effect of validating the position. Does the honourable member recall my remarks on that subject?

The Hon. H. K. Watson: Yes.

The Hon. F. J. S. WISE: The question was, how did we overcome the constitutional requirements? How did we avoid the responsibilities of section 46 simply by approving a Bill which was faulty in its presentation? It was obvious then that Parliament was not in a position to ratify something which was introduced and passed *ultra vires* the Constitution. That debate is clearly set out in volume 2 of *Hansard* of 1950. At the conclusion of the debate Mr. Abbott said that the validity of each of those Bills was open to challenge. Although it is slightly extraneous to this argument—but it has some relevance —a great need exists for a serious look at section 46.

The Hon. H. K. Watson: Hear, hear!

The Hon. F. J. S. WISE: This need is not on the grounds that the electors for this House are adults; because so far only 50 per cent. of us have been elected on an adult franchise, the remaining 50 per cent. still requiring to be so elected. However, when that time comes very serious consideration should be given to the restrictive character of section 46 in order to avoid any prospect at all of doubts arising in regard to money Bills. Whatever may be our common right in the future, it is my view that at this point we have no right to introduce, without a Message, a Bill permitting expenditure.

I have said that when this Bill passes it will approve the appointment of a trust and the authorities vested in it. A guarantee must be real at that point or it could not begin to be exercised. I think it is more than passing strange that the University legislation of 1957, which dealt only with the provision of a guarantee for funds to be borrowed by the University, was regarded by the Crown Law Department as requiring a Message. Two Bills introduced during the life of the Government of that day, and containing the same principles, required Messages, and, of course, there is no room for a risk to be taken in a matter such as this.

Without wearying the House by speaking too long to the debate challenging your ruling, Mr. President, I would say that section 46 of the Constitution is sufficiently explicit to prove that this Bill is a money Bill. The mention in clause 13 of the two provisions is, without doubt, if not complete evidence—

The Hon. H. K. Watson: You treat them both parallel?

The Hon. F. J. S. WISE: No. I introduce them both as matters that impinge on the requirement of a Message. I do not say this on my authority but base my remarks completely on the statement on page 782 of the Seventeenth Edition of *May*.

If there is any doubt, the House should make sure this Bill is in order as the Constitution Act and its amendments would be specific on this point; and, if in the view of others—and I gather from the remarks of Mr. Watson that there are others who differ from me on this point—

The Hon. H. K. Watson: Up to date, yes.

The Hon. F. J. S. WISE: If there is a doubt this House should make sure that the position can be put in order by defeating the motion. In my view, May's *Parliamentary Practice* is very definite and conclusive in requiring that the provisions of this Bill need a Message from the Governor; and that the Message from the Governor cannot be obtained in any case to introduce a money Bill into this Chamber. Therefore we have no alternative but to have this Bill set aside by motion in the manner I have outlined. The way would then be paved for its introduction in another place in a proper form.

In any case, it is a very serious matter to defeat a President's ruling in connection with a decision as to whether a Bill requires a Message. I have belonged to more than one Parliament. Thirty-five sessions of Parliament have been my experience, with five years of that period as President of a Legislative Council; and I know of no case where a President's or a Speaker's ruling has been given on matters affecting the requirements of a money Bill in regard to a Message, on being challenged, being decided against that President or that Speaker.

I think it has been tested many times, and it is a fact to state that there is no recorded case where Mr. Speaker's or Mr. President's ruling in that regard has been defeated by a vote in Parliament. I hope that again, on this occasion, Parliament will do the right thing and leave no shadow of doubt as to whether this Bill is properly in order. I support your ruling, Sir.

The Hon. A. F. GRIFFITH: I think it is revelant to say that there is a considerable difference between a Bill being introduced into the Legislative Assembly with a Message and one that is required to be introduced into the Assembly with a Message. I will take that point a little further as I proceed with my remarks. At the outset, I want to say that it is with reluctance that any member of this Chamber disagrees with a decision that you, Sir, make when you are asked to give a ruling on a matter.

However, with respect, I make no personal excuse for doing so because, it is a fact, the Standing Orders provide that if it is desired your ruling may be disagreed with, or if it is thought by some member of this Chamber your ruling should be debated, then there is that undoubted right in those Standing Orders. I am sure, Mr. President, you agree with that.

I feel the introduction of this Bill into the Legislative Council was not done merely to satisfy the personal whim of the Minister for Health. Through you, Sir, I must now address the members of this House, because you have told us your opinion in regard to the introduction of this Bill. Whilst I respect your opinion, I reserve to myself the right to question it.

I wish to tell members, through you, Sir, that when the Government made a decision, not so very long ago, to increase the size of the Cabinet in this State from 10 to 12, I personally became very conscious of the fact that because there would be three Ministers in this House, more legislation would originate here. I conveyed to the parliamentary draftsmen the fact that I would like them to be over-diligent and over-careful in seeing they gave to us Bills that were competent to be introduced in this House.

Not only am I aware that we have the people who search for this sort of thing—and quite rightly so—in the Legislative Council, but also we have people who watch just as closely in the Legislative Assembly. This, of course, is the duty of members, and I do not cavil at all with the point Mr. Wise has raised in asking for your consideration of the matter, and standing in his seat, as he has done tonight, and arguing the matter.

I repeat: This Bill has not been introduced in this House merely to satisfy the personal whim of Mr. MacKinnon. I think it is only natural, if a Minister is working upon some project, that he likes to be able to explain the matter to Parliament as part of his ministerial duties. However, so far as I am concerned, together with my requests to the Crown Law Department, this matter is either right or it is wrong.

The draftsmen use infinite care in their advice to the Government of the day upon matters such as this. Proof of this is that there are scores of Bills introduced into the Legislative Assembly, with and without Messages, before they come here; and the introduction of this particular Bill into the Legislative Council was done after the Minister himself questioned his right to do so, and after a considered legal opinion was given that it was in order.

I venture to suggest to members that the legal officers do not lightly advise Governments in matters of this nature, because an important Bill of this kind, if found to be out of order, has to go down to another place to be introduced. So it is natural that the officers of the Crown Law Department would be careful in a matter such as this.

The basis of introducing legislation into either House of Parliament is, I suggest, to be found in section 46 (5) of the Constitution Acts Amendment Act which states—

> Except as provided in this section, the Legislative Council shall have equal power with the Legislative Assembly in respect of all Bills.

As we know, the exceptions are those that deal with money. In this particular case you, Mr. President, gave as part of your reasoning the fact that Bills similar to this were introduced into the Legislative Assembly with Messages, and you quoted them to us. This prompted me to say, and I repeat: All Bills introduced into the Legislative Assembly with Messages need not necessarily require them, but it has perhaps been regarded as safer to do it in some instances. However, where it is done, it does not necessarily mean that two wrongs make a right.

A great deal has been said about what this Bill purports to do. I have just heard Mr. Wise say that "it is going to build a medical centre," and this will involve $33,000,000.

The Hon. F. J. S. Wise: I did not say that. My exact words were that it in-

volves a plan associated with the construction of a medical centre, and the spending of $33,000,000.

The Hon. A. F. GRIFFITH: I will agree with the honourable member on the last few words; $33,000,000 could be spent without this Bill. One could tear the Bill up because $33,000,000 will be spent over a period of 10 to 15 years, and that amount will come out of loan funds.

The building of the Albany hospital did not require a special Bill; that hospital was built by the Government of the day from loan funds. The hospital at Geraldton was financed from loan funds by the Government of the day. The hospital at Bunbury was similarly built by the Government of the day.

Clause 13 (1) of the Bill reads as follows:—

> The functions of the Trust are to undertake the development, control and management of the reserve before and after the establishment thereon of a medical centre.

If that clause was taken out of the Bill, and the Treasurer's guarantee was removed, the idea of the medical centre would not be destroyed. We could carry on with the building of the medical centre without those words in the Bill. I think it is "off the ball"—that is the kindest way I can say it—to suggest this Bill has any connection with the spending of the money. The money will be appropriated by the Appropriation Bill.

The Hon. H. K. Watson: By the Loan Bill!

The Hon. A. F. GRIFFITH: I meant by the Loan Bill, as it comes forward each year; and when we have the money to spend on the centre it will be covered by the Appropriation Bill.

This Bill purely and simply gives the trust a say in the scheme of things, because the medical centre will be built on University ground. The only right the trust has in a monetary sense is to borrow some money within the limitations that the Treasurer permits. If and when the Treasurer is called upon to meet the guarantee, he will have to appropriate that money at the time. This may never be.

The whole situation in respect of this Bill appears to me to resolve itself into the question of a charge: Is there a charge to be made? Is this a Bill which the Legislative Council can properly deal with? Can this Bill be introduced into this Chamber? I repeat: As far as I am concerned, personally it is either right or wrong. The people who draft the Bills receive legal advice as to whether a Bill must come into this Chamber or into another Chamber, and I am always prepared to be guided by them. Members must appreciate that those people do not give snap decisions. They give us considered legal opinions to the effect that this Bill is in order here or some other Bill should originate in another place.

The point on which I can find agreement with Mr. Wise is, perhaps, in regard to section 46 of the Constitution. In the years that I have been in this Chamber—and I think my view will be shared by people who have been here a lot longer than I have—I have constantly heard this question argued. I can well remember varying opinions being put forward. With the greatest respect, Mr. President, you are not always consistent yourself. Last year we had the Road Maintenance (Contribution) Bill before us in this Chamber and it was challenged by Mr. Wise. You, Mr. President, found that Bill in order. Your viewpoint on that occasion was that the Bill did not impose a tax; and with that view I agreed. However, on this occasion I cannot find myself in as ready agreement as I did on that occasion.

The PRESIDENT: Unfortunately!

The Hon. A. F. GRIFFITH: I will only be able to tell you that as the discussion proceeds; perhaps in the course of the evening.

The Hon. R. Thompson: Perhaps it is your turn to be wrong.

The Hon. A. F. GRIFFITH: It is always good to be wrong at times, Mr. Thompson, and it is better to admit one is wrong because it is from mistakes that we learn. I do agree, Mr. President, that it is about time section 46 of the Constitution was examined closely. I would counsel members to look at that section, and I would suggest that the Standing Orders Committee of this House should have a look at the question. The members of that committee would do well to examine the section and seek some legal advice on the interpretations before bringing their views to the House for our consideration.

If section 46 of the Constitution, with all its ramifications in its nine subsections, can be sorted out so that when Bills of this nature are introduced here, or in another place, it is abundantly clear they are in order, then we will all be placed in a better position.

I believe that you, Mr. President, have assessed this matter in the manner you think fit and proper. This I respect. But with respect, also, I think it is competent for this Bill to be introduced here for the reasons that have been given by the Minister responsible for it. I can see no other way but that a free debate be allowed on matters of this nature in order that the various points of view can be ventilated so that we may think more clearly, perhaps, on matters such as this in the future. Until section 46 of the Constitution is written in plainer language we will continue to have the difficulty which, I can recall, has been the case over the years that I have been here.

The Hon. H. K. WATSON: With much respect and regret I find myself in dis-

agreement with your ruling, Mr. President, and for reasons which I will indicate I feel impelled to challenge that ruling. I might say, too, that I have no pleasure whatever in finding myself in disagreement with a great and experienced parliamentarian in the person of Mr. Wise. However, this is a very serious question and it impinges upon the rights and privileges of the members of this House.

Briefly, my reasons for supporting the motion for the dissent from the ruling are these: The plain wording of the Act makes no appropriation. I agree with 90 per cent.—or 95 per cent.—of what Mr. Wise said in respect of Bills which appropriate money. I agree entirely. But my point is that upon the plain wording of this Bill, it does not appropriate money. Then we go on to the consequential result. I suggest it would wrongly, needlessly, and seriously impair the efficiency and the rights and privileges of the members of this House.

I suggest it would really make a mockery of that very first function of the Leader of this House on the opening day of every session of Parliament when, in order to protect the undoubted rights and privileges of this House, and to assert its right to initiate legislation, he moves the Privilege Bill.

In my opinion, Sir, it would also consequently clog the smooth working of Parliament and would necessitate almost all Bills being introduced in the Legislative Assembly, instead of a reasonable proportion of them being originated there and a reasonable proportion being originated in this Chamber.

In addition, it would deprive the three Ministers in this House from initiating in this Chamber those Bills which relate to the respective departments which they administer.

In passing, Sir, I may mention—and I would commend this point for the consideration of the Leader of the House, and the Leader of the Opposition—that our rights, our privileges, and our practices ought not to be dissimilar to, or any less than, those of the Senate in the Commonwealth Parliament. I understand that, as a matter of honour, no member of the Senate—regardless of what Government is in power, and regardless of whether he is on the Government side or on the Opposition side—would ever think of raising a technical question which would stop consideration of a Bill by the Senate. So far as the Commonwealth Parliament is concerned, the days of Nelson are not altogether a matter of non-existence.

Numerous Acts which appear on the Commonwealth Statute book today are Acts authorising guarantees which have been introduced in the Senate without Messages, and which have been passed into law. Today, these Acts would not be challenged because, once a Bill has passed through both Houses and been signed by the Governor, the courts have held that it is not their duty to go behind the Act into the proceedings of Parliament.

Section 46 is concerned primarily with the rights and privileges of both Houses and with the internal working of Parliament, arising from the days when rights and privileges were a very live subject. Therefore, there is not the same fear of unconstitutionality even if a Bill ought to have a Message but does not. Once it has passed through both Houses and has been assented to, the courts start with the Act. They do not go back into the doings of Parliament; the doings of Parliament are exclusively the prerogative of Parliament itself.

The Hon. N. E. Baxter: I do not agree with that one; that is not the intention of the Act.

The Hon. H. K. WATSON: The Act is intended to govern the dealings between both Houses. Particularly these days, when it is desirable that legislation should be introduced in both Houses, I feel the practice of the Federal Parliament can well be taken as a precedent for a practice of this Parliament.

Returning to the Bill and to your ruling, Sir, the position in my opinion is that the Bill does not make any appropriation. On the other hand, I suggest that this Bill has been carefully and consciously designed and drafted so as not to make any appropriation. I repeat, it has been carefully designed and drafted so as not to make any appropriation and so as to avoid any challenge to its introduction in this House on the grounds that it requires a Message and has no Message. Even in respect of the question of a Message, Sir, all that section 46 states is that no Bill which appropriates money shall be passed by Parliament unless, during that session, a Message has been received in the Legislative Assembly.

There is no requirement that the Message must be attached to the Bill before it comes down. So long as a Message has been received by the Legislative Assembly before the Bill is passed by Parliament, there is no question as to the validity of the Bill. The presentation of this Message can be arranged internally between the Leaders of both Houses.

I have said that this Bill does not appropriate money and I think the Minister for Health, in moving his motion to dissent, made it very clear—just as the Leader of the House did this evening—that the Bill simply empowers certain persons to do certain things, and that whether it be an appropriation of loan moneys to build a medical centre, or whether it be the meeting of a guarantee which becomes due in the event of the University repudiating, or being unable to fulfil, its obligations—which, indeed, would

be rather remote—the Bill merely contains power to authorise these things.

When Parliament appropriates, it appropriates directly and specifically and, unless it appropriates directly and specifically, there is no appropriation at all. One does not appropriate by implication; one appropriates by express words.

For example, in the traditional section in the Loan Bill with which we deal each year it is stated—

> The principal moneys, and interest thereon, raised under the authority of this Act shall rank *pari passu* with the principal moneys and interest raised and secured by the Stock created and sold under the Loan Act, 1891, and all subsequent Loan Acts, and are hereby charged upon and shall be payable out of the Consolidated Revenue Fund and Assets of the Government of Western Australia.

They are the charging and appropriating words, and in the absence of words such as those in an Act of Parliament there is not an appropriation.

A Bill may give a Minister power to construct roads or build bridges. If your ruling were correct, Sir, that would also carry an implication of spending money on constructing roads and building bridges; but we all know that the mere passing of a Bill to construct roads or build bridges does not authorise the expenditure of money on those undertakings. That has to be dealt with in appropriation, one way or the other. Similarly, I cite the illustration raised by Mr. Wise himself; namely, the fluoride referendum which he proposed two sessions ago.

In that instance the honourable member endeavoured to move an amendment to the Bill to provide that a referendum should be held and, as we all know, referendums cost money. However, that did not appropriate money. Had that referendum been held money would have had to be appropriated for it. The only Bills which require Messages are those actually appropriating revenue from the Consolidated Revenue Fund, and unless the Act contains that express appropriation, it is not an appropriation.

That has clearly been the aim and object of the draftsman of this Bill. One can clearly understand when it is stated it is sophisticated drafting, inasmuch as you stated in your ruling, Mr. President—

> The purpose of a guarantee by the Treasurer is to remove any financial hazard a would-be lender may fear, and in this connection I have reasoned that unless the guarantee given by the Treasurer is binding on the State, then it is worthless, and that if further reference to Parliament was necessary to authorise a repayment on behalf of the trust, then it is not in effect a firm guarantee.

That is the true position; it is not a firm guarantee. In the circumstances it could well be, and in these circumstances probably would be, correct that the guarantee is not worth the paper it is written on. But you, Sir, may say that something is missing from the Bill that should be there. There may be a *casus omissus*. It may be missing, but I have yet to learn that if a Bill were introduced in this House in the form this Bill has been introduced, it is not beyond the power of the Legislative Assembly to move an amendment containing an appropriation clause with the words, "and for the purposes of this Act the Consolidated Revenue is appropriated accordingly."

The Hon. G. C. MacKinnon: That is normal procedure in many Parliaments.

The Hon. H. K. WATSON: Yes. Also, if this guarantee were not worth the paper it is written on it would not be the first time the Treasurer of Western Australia had given a guarantee that was not worth the paper it was written on. I would remind you, Mr. President, of Canterbury Court. Under the Industry (Advances) Act the Treasurer offered a guarantee to an insurance company that was making a loan to Canterbury Court. The insurance company pointed out that the guarantee was not according to the precise terms of the Act and therefore was not worth the paper it was written on. So it became the duty of this Parliament to pass an amending Act to declare that the guarantee was worth something.

So one simply takes the words of the legislation as they are written, regardless of what one might think should be in the legislation. Maybe the Bill should have gone on to state that the guarantee is worth 20s. in the pound. As the Bill stands at the moment it is not, but we have to deal with the Bill as it is and not as we think it should be. We take the words of the Bill and we ask: Does it appropriate revenue? In my opinion it does not.

We have been discussing paragraph (b) of subclause (3) of clause 13 on page 7 of the Bill. If members will direct their attention to subclause (4) on the same page, it will be remembered that Mr. Wise quoted both the provisions in subclauses (3) and (4) to demonstrate that this was a Bill appropriating money. Subclause (4), by the very words contained in it, serves to illustrate my point even more clearly, because it reads—

> The Trust is empowered to employ in developing, controlling and managing the reserve any sums provided for those purposes by Parliament

That clearly presupposes that Parliament, if it is to make any funds available, will do so by specific appropriation at some future time, or by appropriation in the actual Appropriation Act. To my mind nothing could be clearer. This Bill does not appropriate money. Subclause (4) and

subclause (3) no less than subclause (4), do not appropriate or charge the Consolidated Fund for anything.

In his discussions Mr. Wise referred to *May* at page 782 and explained to us that *May* says—

> The following examples may be given of such charges which require the Queen's recommendation:

He then went to paragraph (2) which states—

> Contingent or prospective charges on the Consolidated Fund (such as might arise from a Treasury guarantee).

Let me read that again, so that there will be no misunderstanding, because Mr. Wise and I both rely on the very same words to prove our respective points. They are as follows:—

> The following examples may be given of such charges which require the Queen's recommendation:
>
> Contingent or prospective charges on the Consolidated Fund (such as might arise from a Treasury guarantee).

This is not a conclusive statement. It is a statement more in the nature of a marginal note to a section of an Act. We have the marginal note as a guide, and then we have the section and we see just what it does say.

In like manner, having made that statement, *May* proceeds to give numerous illustrations explaining what he means, and what he implies in the statement he has made concerning contingent or prospective charges on the Consolidated Fund. The point I wish to make is that all the illustrations cited by *May* are in the journals of the House of Commons. We have not got them in this House, but they are available in the Public Library. If we read the House of Commons journals to which *May* indicates a reference, we will find that every one of them differs in form from the Bill before the House; as is the case with the two University Acts of 1955 and 1957 to which you, Sir, referred. You will find that all of them contain an expressed declaration that they are guaranteed and are a charge upon and shall be paid out of the Consolidated Revenue Fund.

That is the big distinction. All the Bills cited by *May* in the House of Commons journals expressly declare that they shall be a charge upon Consolidated Revenue. The University Acts of 1955 and 1957 contained provisions similar to those which are contained in paragraph (b) of subclause (3) of clause 13 of this Bill. But in each case, like all the cases cited by *May*, they contain a further provision, to this effect—to the extent necessary to enable the Treasurer to pay to the University the respective amounts as required by subsection (4) of section 3 of the Act, and the Consolidated Revenue Fund is, by virtue of this Act, appropriated.

That is the whole essence of the distinction in the Bill now before the House. If the Bill were an appropriation Bill, I would agree entirely with what Mr. Wise has said. It would require a Message. But I hope I have made it clear that the Bill before us differs from the two Acts which you, Sir, have mentioned; it differs from all the illustrations cited by Erskine May.

Those Acts to which I referred contain the express provision that they are a charge upon and shall be paid out of Consolidated Revenue. There is no charge on the Consolidated Revenue Fund here, and until it is appropriated it is not appropriated.

The Hon. G. C. MacKinnon: Also it is crystal-clear.

The Hon. H. K. WATSON: I must say that it only became crystal-clear to me when I read the House of Commons journals cited by *May;* and that is why I inquired of Mr. Wise whether he had actually read the House of Commons journals available at the library. Unaided by an actual study of the cases mentioned by *May*, we could be misled by *May's* opening sentence. I freely confess that when I took his bald statement on page 782 I had considerable doubt as to the correctness of the view which I had formed at the outset; a commonsense view on my own reasoning.

As I say, I freely confess that taking the statement baldly I was inclined to agree that there was something in the view expressed by Mr. Wise; but upon reading the substance of all the illustrations which *May* gives to supplement and explain his bald statement, it became very clear to me that my original thinking was pretty sound; to my own satisfaction anyway.

It is really begging the question to say that the guarantee, as it stands at the moment, would be worthless. We are not concerned with that. We are concerned with the question as to whether the Bill appropriates money from the Consolidated Revenue Fund and, as I say, the measure seems to have been very carefully drafted by the draftsman to make it quite clear that it merely authorises these things to be done; to leave the appropriation to some future occasion if and when it becomes necessary to make any payment under the provisions of the Bill.

I have a more general reason for supporting the motion, because I do feel that if it were not carried, it would, as I have explained, stultify, or at any rate seriously diminish, the rights and privileges of this House and would impede the reasonable and speedy working of Parliament.

Knowing your zeal on other occasions, Mr. President, in upholding at all times the rights and privileges of this House, I am comforted by the fact, or by a sneaking feeling that—although I am disagreeing

with your ruling—even if this motion to dissent from your ruling be carried you will not lose a night's sleep over it.

I will close on this note, and in particular I ask members to bear this in mind: It is the right of every man to cut his own throat, so long as he makes a success of it. In the same way it is the right of this Chamber to tie its hands behind its back to reduce its rights and privileges. For my part I will have none of that.

The Hon. E. M. HEENAN: I cannot agree with a number of the arguments advanced by Mr. Watson, and in particular I cannot agree with his last statement that if this motion is carried it will seriously diminish the rights and privileges of this House. If the House approaches this very interesting and somewhat complex question with that motive in view it would be an entirely wrong approach.

This motion involves very interesting arguments and questions. I think it was the Minister who first said that it was very crystal-clear to him that the ruling which you, Mr. President, gave was an untenable one. On the other hand, Mr. Wise, in referring to what the Minister had said, stated it was crystal-clear to him that you were perfectly right in your ruling. In the course of his remarks Mr. Watson said the issue was very clear to him, but he was not quite so positive as the two other speakers I mentioned.

The Hon. L. A. Logan: He did not want to repeat what had been said.

The Hon. E. M. HEENAN: I want to say at the outset that in my view there is no crystal-clear answer to this question. I think the question is whether an authority to the Treasurer to guarantee money —as contained in this Bill—is an appropriation of public moneys, and whether it is in conflict with the provisions of section 46 of the Constitution Acts Amendment Act. The question is open to considerable argument, and the answer is a doubtful one. I think it can only be argued by analogy.

I wish to quote briefly from a book entitled, *English Constitutional History*, the author being Taswell-Langmead. This book was first published in 1875 and has reached 10 editions. The one I am quoting from is the 10th edition, published in 1946. Those facts indicate it is a book of some quality and standing. I came across an interesting paragraph on page 208 which reads as follows:—

> In 1407 a proceeding took place which is interesting both as the first instance of a collision between the two Houses, and as the earliest authority for what are now two well-known axioms of parliamentary law, viz. (1) That all money Bills must originate in the House of Commons, and (2) that the king ought not to take notice of matters debated in parliament until a decision be come to by both Houses.

It was in the year 1407 when those two well-known axioms were first established. one of them being that money Bills must originate in the House of Commons. From my reading, it has been a cardinal principle of parliamentary laws and practices through the ensuing centuries that the right to initiate money Bills is sacredly the sphere of the lower House.

In 1889 the Constitution Act of Western Australia was passed; then in 1899 our Constitution Acts Amendment Act was passed. They both followed largely on the English Acts and adopted almost the selfsame practices and procedure. Mr. President, I think members should have a very close look at section 46 of the Constitution Acts Amendment Act, because it lays it down, very conclusively in my view, that both Houses, with one exception, are equal. In subsection (5) it says—

> Except as provided in this section, the Legislative Council shall have equal power with the Legislative Assembly in respect of all Bills.

So we are equal with the Assembly in all respects except this one, which was first initiated way back in the fourteenth century with respect to money Bills.

I made this note of a quotation from the sixteenth edition of May's *Parliamentary Practice:* The long-established and strictly observed rule of procedure which expresses a principle of the highest constitutional importance that no public charge can be incurred except on the initiative of the Crown—and so it goes on.

I repeat: The long-established and strictly observed rule. So looking at the long-established and strictly observed rule which has been jealously safeguarded, and which has been laid down in section 46 of the Constitution Acts Amendment Act, we have to have a very careful look at the provisions of this Bill; and, in doing so, we find that subclause (3) (b) provides as follows:—

> The Treasurer on behalf of the State is authorised to guarantee, on such terms and conditions as he thinks fit, repayment of any money borrowed by the Trust under this subsection and the payment of interest thereon.

If we pass this Bill, the Treasurer will be empowered to guarantee the repayment of unspecified amounts regarding which we have no idea or indication. Mr. Watson, I think, said that the Treasurer's guarantee may not be worth the paper on which it is written. That, to me, seems to be an astonishing statement.

The Hon. G. C. MacKinnon: The Treasurer's guarantee with regard to the parking lot was not worth the paper it was written on.

The Hon. E. M. HEENAN: Are we sincere about this? Do we intend it to be binding?

The Hon. G. C. MacKinnon: Subject to an Appropriation Bill.

The Hon. E. M. HEENAN: Do we intend to authorise the Treasurer to guarantee any figures he likes without reference to the Parliament?

The Hon. G. C. MacKinnon: Subject to an Appropriation Bill. That is why it is written that way.

The Hon. E. M. HEENAN: The Appropriation Bill will eventually come along: that is all that will be done. We are going to authorise the Treasurer to guarantee money borrowed by the trust. Are we going to do it straightforwardly and properly, and abide by it, or are we going to do it with our tongues in our cheeks, with the possibility that it will not be worth the paper it is written on?

The Hon. G. C. MacKinnon: I gave two examples where the same thing was done by the Federal Government, neither of which was introduced by a Message.

The Hon. E. M. HEENAN: Eventually the amount which the Treasurer guarantees on behalf of the State, and which the State eventually may have to pay, might possibly be some figure which will astonish us all; and then an Appropriation Bill will be drawn up and we will just pass it. I do not think that is the correct approach.

Mr. Watson has argued that this is not an appropriation. He did not say much more than that except to repeat, a number of times, that a guarantee is not an appropriation. He might be right; and he might be wrong. It is not crystal-clear to me, but he says it is very clear. The Minister also says it is crystal-clear.

I have not yet heard an exact definition of what an Appropriation Bill is, but the Treasurer is going to be empowered by us to guarantee money; and once money is guaranteed there is a very strong probability it will eventually have to be paid out.

The Hon. R. F. Hutchison: We are not allowed to do that.

The Hon. E. M. HEENAN: I had a reference in *May* which I wanted to quote, but to the best of my recollection it states that sometimes a doubt exists as to what is and what is not a money Bill; but if there is a doubt the Bill should be introduced in the lower House. He goes on to say that if a Bill is of any great public interest, it also should be introduced in the lower House.

In life we have certain principles which are our guiding stars in our laws and in our conduct, and that is the way to approach this Bill, rather than to get ourselves confused with a lot of learned expositions by constitutional writers and others. The guiding principle for centuries past has been that if revenue or money is to be expended, and the Crown will have to pay up, the relevant Bill must be initiated in the lower House.

There is considerable doubt about this Bill. My view is that it does amount to an appropriation. I have some doubt about it, but all the banks do in many cases is to guarantee money. When a person guarantees money there is a very strong probability that he will pay it; and it seems fairly clear to me that if the Treasurer guarantees the money that is to be involved in part, at any rate, in this big scheme, the final situation will be that the State will have to pay the bill.

I think, Mr. President, you have approached this question wisely. If you have erred at all, it is on the safe side. I am sure the Crown Law Department has done its best, but the Crown Law Department is not always right.

The Hon. J. Dolan: Of course it is not.

The Hon. E. M. HEENAN: It has been pointed out that you are not always right. Who is there in our midst who is always right? Sometimes Governments have passed measures which have been tested and found to be unconstitutional. Suppose someone did test this one? Suppose we passed this Bill and someone interested tested the constitutionality of it in respect of section 46, what then?

The Hon. G. C. MacKinnon: It would be perfectly constitutional if passed by both Houses.

The Hon. E. M. HEENAN: There again, the Minister is crystal-clear. I am not.

The Hon. G. C. MacKinnon: Mr. Watson explained that. I am only giving you his words.

The Hon. E. M. HEENAN: Why must we necessarily take this doubtful step? As my friend, Mr. Wise, pointed out, it is so simple to do it in a way that we will leave no doubt in anyone's mind.

The Hon. G. C. MacKinnon: It is obvious that if it was necessary it would have been done.

The Hon. E. M. HEENAN: Mr. Wise and the rest of us are here to point out these things to the best of our ability. We do not want to assume rights and privileges in this House which are not correctly due to us.

The Hon. G. C. MacKinnon: And neither does anyone else.

The Hon. E. M. HEENAN: We do not want to give anything away, and yet we do not wish to take anything which long-established parliamentary procedure and practice has restricted to another Chamber. I am therefore going to support your ruling, Sir.

Sitting suspended from 9.56 to 10.16 p.m.

The Hon. N. E. BAXTER: I listened with great interest to the reasons which you, Mr. President, gave in detail with regard to your ruling. Tonight I have also listened to various speeches agreeing and disagreeing with your ruling. Many quotations have been made from May's

Parliamentary Practice, and other sources, but I want to deal with this matter rather simply.

Firstly, the Minister, in his speech last evening said that the spirit of the Constitution was crystal-clear, and that we in this House were not able to introduce a Bill which directly appropriates revenue. In using the words, "crystal-clear", I do not know whether the Minister implied he is a believer in fortune tellers and their gazing into the crystal ball, or whether he is just very optimistic about this particular subclause (1) of clause 13; but that is by the by.

The Minister did use the words that we are not able to introduce a Bill which directly appropriates revenue, meaning that this Bill, in clause 13, did not directly appropriate revenue. I refer members to the words contained in subsection (1) of section 46 of the Constitution Acts Amendment Act. The words have been read to the House and I do not think I should repeat them because everybody is familiar with them. However, in no place in this section of the Constitution Acts Amendment Act can I find the word "directly" used.

The section does provide a clear indication of the Bills which are outside the scope of the section which gives this House the right to introduce Bills to appropriate revenue by specifically stating—and I will read this from section 46 (1) of the Constitution Acts Amendment Act—

> Bills appropriating revenue or moneys or imposing taxation, shall not originate in the Legislative Council; but a Bill shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand of payment or appropriation of fees for licenses, or fees for registration or other services under the Bill.

Therefore, I maintain that section 46 is very clear in its intention as to what this Chamber is excluded from doing in relation to money Bills. The exclusions are laid down definitely and clearly, and to use the Minister's words, it is "crystal-clear" what the exclusions are.

As I said before, section 46 does not use the word "directly." Section 46 can mean and, in fact, in the past it has been taken to mean "directly or indirectly."

The Hon. E. M. Heenan: That is so.

The Hon. N. E. BAXTER: Therefore at this point we must consider what is the meaning of "appropriation."

The Hon. G. C. MacKinnon: Did I say that section 46 used the word "directly"?

The Hon. N. E. BAXTER: The words of the Minister were, "We in this House are not able to introduce a Bill which directly appropriates revenue."

The Hon. G. C. MacKinnon: Then I did not say that section 46 contained the word "directly."

The Hon. N. E. BAXTER: The Minister did not specifically state that but, for the Minister's edification, I will repeat what he said: "The spirit of the Constitution is also crystal-clear." In referring to the Constitution, the Minister would be referring to section 46.

The Hon. G. C. MacKinnon: I was referring to the spirit of the Constitution.

The Hon. N. E. BAXTER: It is the Constitution Acts Amendment Act with which we are dealing, and I think the Minister is quibbling in this respect.

The Hon. G. C. MacKinnon: I am not twisting words; you are, because you are on your feet.

The Hon. N. E. BAXTER: This takes us to a consideration of the meaning of the word "appropriation." This matter was raised by Mr. Heenan previously. If one checks the dictionary on this word, one finds the meaning given in respect of this word is—

> Appropriation: The clause in a money Bill by which Parliament assigns revenue for a specific purpose.

The Hon. G. C. MacKinnon: Would you read that out again, please?

The Hon. N. E. BAXTER: Yes. It reads—

> Appropriation: The clause in a money Bill by which Parliament assigns revenue for a specific purpose.

The Hon. A. F. Griffith: Where is the specific purpose in this Bill?

The Hon. N. E. BAXTER: To guarantee money borrowed by the trust.

The Hon. A. F. Griffith: Where is the clause that does so?

The Hon. N. E. BAXTER: As the Minister knows, the clause to which we are referring, and in which this is intimated is clause 13 subclause (3) (b).

The Hon. A. F. Griffith: How much money does that appropriate?

The Hon. N. E. BAXTER: I think we will come to that argument later on.

The Hon. A. F. Griffith: Why not deal with it now while we are on the point?

The Hon. G. C. MacKinnon: And while we have your dictionary definition.

The PRESIDENT: Order!

The Hon. N. E. BAXTER: I want to proceed but I will deal with some of the Ministers' questions towards the end of my speech. I have given the House a definition of what "appropriation" means in relation to matters of this nature in Parliament. The argument then resolves itself into a consideration of the meaning of the word "assign." According to the dictionary, the definition given is—

> Assign: Allot, fix, specify, or designate.

That is, "assign" means any one of those words.

In clause 13 subclause (3) (b), this Bill most definitely specifies—

> The Treasurer on behalf of the State is authorised to guarantee on such terms and conditions as he thinks fit, repayment of any money borrowed by the Trust under this subsection and the payment of interest thereon.

The Hon. A. F. Griffith: Where does it say the Treasurer is able to appropriate it?

The Hon. N. E. BAXTER: I did not mention the word "appropriate."

The Hon. A. F. Griffith: I know you didn't; that is the point.

The Hon. N. E. BAXTER: I used the words "authorised to guarantee"—

The Hon. A. F. Griffith: I know what you said.

The Hon. N. E. BAXTER: —which are the words contained in the clause. Subclause (3) (b) of clause 13 gives the Treasurer the right to appropriate revenue—

The Hon. A. F. Griffith: The Auditor-General would not buy that one.

The Hon. N. E. BAXTER: —without reference to Parliament. How can that be reconciled with subsection (8) of section 46 of the Constitution Acts Amendment Act? When I say that this gives the Treasurer the right to appropriate revenue without the authorisation of Parliament—the clause definitely states this—in effect, Parliament, by this Bill, is saying to the Treasurer, "We authorise you to guarantee a loan raised by the trust and repay that loan if the trust does not meet it." In other words, this Bill permits the Treasurer of the future to repay this loan out of Consolidated Revenue if it is not met by the trust.

The Hon. A. F. Griffith: Let us say the Treasurer had to pay £50,000 because of the defalcation of the trust: Where would that money appear in the Public Accounts?

The Hon. N. E. BAXTER: The Minister knows the answer to that question as well as anyone else.

The Hon. A. F. Griffith: I am asking you; I know the answer.

The Hon. N. E. BAXTER: Under this Bill the State has authorised the Treasurer—

The Hon. F. J. S. Wise: Do not tell the Minister.

The Hon. N. E. BAXTER: Perhaps the Minister should find this out.

The Hon. A. F. Griffith: Mr. Wise has taken on a great innocence.

The Hon. N. E. BAXTER: Where it appears in the Public Accounts will be the responsibility of the Treasurer of the day; if it is not the Treasurer of today it will be the responsibility of the Treasurer of tomorrow. It will appear where the Treasurer decides it will appear.

The Hon. A. F. Griffith: Don't you think the Auditor-General will have something to say about this?

The Hon. N. E. BAXTER: Quite possibly he will have a lot to say—at least, I presume he will.

The Hon. F. R. H. Lavery: Reference is made to the Auditor-General in subclause (5) of clause 15.

The Hon. N. E. BAXTER: Mr. President, the Bill sets out the purpose of future appropriation and I am firmly of the opinion that the measure would have to be recommended by a Message from the Governor to the Legislative Assembly. When one enters into a guarantee for a money loan, the repayment is as much the responsibility of the guarantor as it is of the person who borrows. All those who have entered into a guarantee would know that this is so. For instance, how does a bank manager regard a guarantor? The bank manager would regard the guarantor who has guaranteed equal responsibility for the repayment of the money loaned to someone else as the person who has borrowed. I should think that no-one would know this better than Mr. Ferry, with his banking experience.

The Hon. V. J. Ferry: I will explain that later.

The Hon. N. E. BAXTER: One can explain these points away but, to my mind, the attitude of the banks in this respect is "crystal-clear"—to use the words of the Minister. If anyone in this Chamber has guaranteed somebody, he knows what the bank manager said to him about the guarantee he entered into.

I refer now to the passing of the Constitution Acts Amendment Act in 1950, which added a subsection (9) to section 46, as follows:—

> No infringement or non-observance of any provision of this section shall be held to affect the validity of any Act assented to by the Governor at any time prior to the thirty-first day of January, 1951.

This was introduced in 1950 and is still in the Constitution Acts Amendment Act, although it is redundant because it refers to Bills passed before the 31st January, 1951. The Hon. A. V. R. Abbott, who was then Attorney-General, introduced this amendment. Naturally, as Attorney-General, he was a solicitor. This was introduced on the advice of the Crown Law Department and, I would say, on his own judgment as a solicitor. It was necessary to introduce this amendment in order to cover those Bills which had been introduced without Messages. He stated in the *Hansard* of that day; that is, vol. 2 of 1950 at page 2510—

Yes, even though assented to by the Governor. The Solicitor General has informed me that should any court of law agree with the view of the Constitution Act in regard to Messages accepted by the Speaker then in all probability quite a number of the Acts of Western Australia could be attacked as having had no Messages from the Governor to Parliament as provided for by the Constitution Act, and at my request he has named a few of such Acts—e.g., the State Transport Co-ordination Act Amendment Act, 1946, the Plant Diseases Act Amendment Act, 1946, the Industries Assistance Act Continuance Act, 1946, and the Farmers' Debts Adjustment Act Amendment Act, 1946. There is no doubt there are many Acts passed before and after the ones I have mentioned in respect of which no Messages were received, at the time of their passing.

The Hon. G. C. MacKinnon: I think you will find that that has since been authoritatively contradicted.

The Hon. N. E. BAXTER: The Minister says that that has since been authoritatively contradicted, but that was the opinion of the Solicitor-General in 1950. However, perhaps the Solicitor-General of today places another interpretation on the situation in the same way as we in this House hold different opinions on whether this Bill has been properly introduced into this Chamber.

In the same debate in that year, on page 2519 of vol. 2 of the 1950 *Parliamentary Debates*, The Hon. A. F. Watts, who was later Attorney-General for the State, and who was also a solicitor of no mean attainment, supported the Constitution Acts Amendment Bill (No. 4) that was being debated at that time with the contention that it would be very risky to pass Bills appropriating money without a Message, and it was very necessary to introduce the Bill in question so that there could be no doubt about Acts passed by Parliament.

You, Mr. President, other members of this Chamber, and myself, would not in any way try to waive the rights and privileges of this House. But that is not the point in question. The point in question is whether, under section 46 of the Constitution Acts Amendment Act, we have the right to have a Bill introduced into this House. I am convinced that the Bill now before us does not comply with that section and therefore has no right to be introduced into this House.

The fact that Parliament is authorising not only the Treasurer of the day but also the Treasurers of the future to guarantee a loan by moneys to be taken from the Consolidated Revenue Fund means that the Bill will appropriate money, and therefore, with respect, I disagree with the motion for a dissent from your ruling.

The Hon. F. D. WILLMOTT: Reluctantly and respectfully I rise to disagree with your ruling, Sir. During the evening we have heard a great deal of debate on the value of the guarantee proposed under this Bill, but I submit it has not been in any way related to the question before the House. The question before the House is contained in section 46 of the Constitution Acts Amendment Act, which other members have quoted and which, quite plainly, reads—

> Bills appropriating revenue or moneys or imposing taxation, shall not originate in the Legislative Council;

I have no quibble with that. I agree with it and I agree with those members who say that section should be observed by this House. But nowhere in the Bill can I find any reference to appropriation of money or to the imposition of taxation. Such words do not appear in the measure.

The question of a guarantee is not the point at issue. You, yourself, Sir, highlighted this with the very Acts you quoted in your ruling. Mr. Watson referred to the University Medical School Act and to the words contained in it which definitely make an appropriation. Those words are—

> To the extent necessary to enable the Treasurer to pay to the University the respective amounts as required by subsection (4) of section three of this Act, the Consolidated Revenue Fund is, by virtue of this Act, appropriated.

Because of those words that Bill was introduced into the Legislative Assembly with a Message, and rightly so. The other Bill quoted in your ruling, Sir, was the University of Western Australia Act, No. 25 of 1957. This was a definite appropriation question, but the Act certainly concludes with different wording. That wording reads—

> The due payment of money payable by the Treasurer under a guarantee given by him under the authority of this section
>
> (a) is hereby guaranteed by the State; and
>
> (b) shall be paid out of the money referred to in section four of the Audit Act, 1904 as "Public moneys".

Again, that is definite appropriation. To make myself perfectly clear on that, I checked the definition of "public moneys" in the Audit Act of 1904, and it reads—

> "Public moneys" includes all revenue, loan, trust, and other moneys whatsoever received for or on account of the State, or referred to in this Act;

So in the University of Western Australia Act, No. 25 of 1957, which you quoted,

it was a definite appropriation of money. That legislation was introduced in the Legislative Assembly with a Message, and again I say, rightly so, because there was a definite appropriation. However, I submit there is nothing in this Bill appropriating any money. The value or validity of the guarantee proposed here has nothing to do with the question we are debating. To my way of thinking the question before us is whether the Bill does or does not appropriate funds, and on my certain understanding of it the Bill definitely does not appropriate funds. Therefore, I must support the Minister's motion to disagree with your ruling.

The Hon. J. G. HISLOP: I have no intention of reviewing all the discussion that has taken place this evening. We have had varying views placed before us and it is quite clear there are some members for and some against the motion to dissent from your ruling, Mr. President. I have neither the knowledge nor the rhetoric of either Mr. Frank Wise or Mr. Keith Watson. I realise they have a deep sense of the sanctity of the House when delving into the question that is now before us.

However, even though I have not the knowledge that those two members have, I am still just as concerned as they are over the sanctity and conduct of this House. I have been here for a long time and I have heard a number of similar discussions on questions on which the President made rulings, but I cannot recall any occasion when the ruling of the President on whether a Bill was a money Bill or not has been negatived.

I had hoped that we could come to some conclusion which might suit all points of view. It is difficult at times to make certain that what one section believes is any more honest than the belief of another section. Accordingly I think we must come to some arrangement which is acceptable.

I would not like to see the President's ruling disagreed with; and I know the Minister would not like to see his Bill lost. The question arises, therefore, that we are more or less divided as a House. During the 25 years in which I have been here it has always been the custom that if there is a lingering doubt as to whether a Bill is a money Bill or not, no risk should be taken.

There have been quite a number of differences of opinion on a President's ruling when it was a matter of the interpretation of one or other of the provisions of an Act under which we live; but when it comes to a question as to whether a Bill is safe or unsafe, it has always been the custom of his House to play safe.

Let us hope that we can play safe on this occasion. I do not want to see this measure manhandled in any way; nor do I wish to see it rendered useless, because it is one which will prove of vital importance to the public in years to come. The difficulty that has arisen here is whether we are appropriating money under this Bill.

I cannot imagine that there can be any other view than the one that it is appropriating money; because there is no doubt whatever in my mind that when a loan is granted to the trust, the trust will probably at some time want some sense of security, as will the Treasury or the people who make the loan.

Another very sad aspect which occurs to me is that in my opinion we are acting rather foolishly when we try to convert one of our Standing Orders to suit the future, and then allow the future view to take charge of what has happened today.

The Hon. G. C. MacKinnon: I cannot follow that.

The Hon. J. G. HISLOP: I think it is quite clear. This has been pre-eminent in everything that has been said by certain of the speakers. They have told us that one of the Standing Orders should be widened for the sake of Parliament; that if we do not do this we will stultify everything. It is on this basis that we are apparently going to act.

The Hon. G. C. MacKinnon: I think you are being unfair. I authorised the introduction of this Bill, and that idea never entered my head. I thought the Bill was perfectly all right to introduce, and that is why it was introduced.

The Hon. J. G. HISLOP: Would the Minister like to make a speech? I have sat quietly all the evening while the Minister has consistently interjected.

The Hon. G. C. MacKinnon: I certainly have not insulted you, anyway.

The PRESIDENT: Order!

The Hon. J. G. HISLOP: I have not insulted anyone. I have spoken the truth. I merely repeated something that was said. This to me is the danger signal. We should rely on what we have done in the past, and say that if there is any doubt about the matter we should not accept it. Having considered the viewpoint that the Standing Orders should be widened, and that alterations should be made, let me go further and explain that almost with the introduction of the Bill the Minister said, in effect, that he had pride in introducing his own measures. I agree that he should. But I cannot agree that he should extend the Standing Order to obtain that objective.

Then again, early today we found that the Minister for Mines was quick on his feet to emphasise that that was not in the mind of the Minister who introduced the Bill. So it would seem that we are at variance. Let us try to obtain some solution to this problem.

The Hon. A. F. Griffith: I said that Bills were not introduced here without judgment being shown.

The Hon. J. G. HISLOP: I am emphasising the fact that there is an expanding viewpoint of this Standing Order.

The Hon. G. C. MacKinnon: I thought there was ample evidence that the Bill does not come into the category to which you refer.

The Hon. F. J. S. Wise: I stressed that amply to the contrary.

The PRESIDENT: Order; I would direct the Minister's attention to the fact that he has interjected consistently this evening, and I would like Dr. Hislop to be permitted to make his speech without interruption.

The Hon. G. C. MacKinnon: Certainly, Sir.

The Hon. J. G. HISLOP: I am surprised at the Minister's action. I would like to see the status of the President maintained, and I would also like to see the Minister achieve what he desires. I suggest that we agree to the Minister's views on the ground that he remove the contentious points that we have been discussing, and which are to be found on page 7 of the Bill. I think we might then get somewhere. If the Minister is prepared to have a look at subclause (3) (b) and subclause (4) of clause 13, and is prepared to bring in an appropriation Bill in the proper manner, none of us would have any objection to the measure. We object to this because it is altering section 46 of the Constitution Acts Amendment Act. I think that subclause (3) (a) of clause 13 is harmless, and it could be left; but paragraph (b) of subclause (3) of clause 13, and subclause (4) of clause 13 are contentious provisions, and they should be removed.

The Hon. L. A. Logan: How can they be taken out?

The Hon. J. G. HISLOP: The Minister can give us an undertaking that he will eliminate these provisions. It would be simple to do, and it would place everybody on the same footing. Later on in the Bill we can make proper provision in regard to the money obtained from the various sources.

As the Bill stands at the moment I am prepared to stick by what I have done for the last 25 years, which is to be guided by section 46 of the Constitution Acts Amendment Act, particularly if there is any doubt as to whether a Bill is a money Bill or not. I therefore ask the Minister to give us an undertaking that he will eliminate subclauses (3) (b) and (4) of clause 13.

The Hon. A. F. Griffith: The only way to do this would be for the Minister to undertake to delete those provisions during the Committee stage. That would be six of one and half a dozen of the other.

The Hon. F. J. S. Wise: That is a matter of opinion. It would be much better to withdraw the Bill.

The Hon. A. F. Griffith: That is also a matter of opinion.

The Hon. J. G. HISLOP: I am only making a suggestion; if it is not of any use let it go. I am determined not to vote for this measure as it is, believing as I do that we must stick to section 46 of the Constitution Acts Amendment Act, unless the matter is clear beyond doubt.

The Hon. J. DOLAN: I went through all kinds of authorities to see if I could resolve an opinion in my mind as to the merits or demerits of the arguments which have been put forward. In going through rulings of a similar nature to that given by you, Mr. President, on this occasion, I discovered one comment which is worth quoting. I would regard the holder of those views as being in accord with my sentiments, and I quote them now, just as if I were putting them forward myself. Those views were—

> The rulings of Speakers and Presidents are given with a view to their being obeyed without question. I would be sorry to see it become a practice in this House for every ruling given by the President to be disagreed with, simply because it did not suit someone's desire or purpose. We should all subscribe to the general principle that when a ruling is given by the President it should be accepted and obeyed. There may be exceptional cases when the President errs; in such cases the remedy is with this House. I submit the present case is not one of those.

I subscribe fully to those views which are recorded on page 693 of the 1960 *Hansard*. They were put forward by none other than Mr. Watson.

The Hon. W. F. WILLESEE: I begin by thanking Mr. Watson for pointing out to us the very close harmony that exists in the Senate. I was not aware of such a form of conduct in that House, and on the occasions that I have turned on the radio to listen to the debates the noises which eminated from the set have not indicated that I was listening to a symphony.

With regard to the merits of the ruling which you, Mr. President, gave, I am wholeheartedly in accord with what you said, and I support it. We have debated at great length this matter which surrounds a simple issue involving the provisions in clause 13 (3) and (4) of the Bill. Authorities have been quoted at length, but it is generally the case when authorities are quoted at length that there exists a difference of opinion, depending on the way we read and interpret those authorities.

There are within the Standing Orders of this House many features which have been written in by members of Parliament over

the years, and under which the business of the House must be conducted. The point raised by Mr. Wise was taken for the express purpose of clarification by you, Mr. President, of the relationship of section 46 of the Constitution Acts Amendment Act to the contentious clause I referred to. The fact that the Minister sought to disagree with your ruling has produced this lengthy debate. I agree with the remarks of Dr. Hislop that section 46 must be treated on its merits, as the Constitution stands at the moment; anything that might prevail in the future is a matter for the future.

I have great regard for the rights of Ministers to introduce their own legislation wherever that is possible, and I am prepared to agree to the widening of those rights; but the point at issue is related to the Standing Orders of this House and is covered by the rulings which have been given over the years, and, in particular, by the profound ruling which you have given on this occasion.

So far as I am concerned I have heard nothing in the debate on this point, despite the emphasis by various speakers on their points of view, which would indicate to me that I should change my mind in supporting your ruling.

The Hon. V. J. FERRY: I rise with some misgiving to support the motion of the Minister to disagree with the ruling which you, Mr. President, gave, because I have the highest regard for the position which you hold in this House. Nevertheless, I wish to exercise my privilege as a member to express my views as an elected member.

I refer to the wording of the Bill, and particularly to the offending provision, if I might use that expression. Clause 13 (3) (b) relates to the guarantee of the Treasurer, and states that the Treasurer on behalf of the State is authorised to guarantee. In my view this does not specifically appropriate funds; it is merely a guarantee, and is not specifically designated as a definite guarantee. I place my interpretation on it as being an unsecured guarantee. It is unsecured, according to the wording of clause 13 (4) on page 7. In my view it means that before any payment can be made under the guarantee, the appropriation must be referred to Parliament. This Bill does not specifically appropriate any sum of money. I think the guarantee is purely a nominal and an unsecured guarantee, and if anyone wishes to act under such a guarantee it is quite in order. It is common practice in business to accept unsecured guarantees.

The Hon. L. A. Logan: I have given guarantees, but they have not resulted in the appropriation of any money.

The Hon. V. J. FERRY: The guarantee is a contingent liability which might not occur. If people care to do business in that way, it is quite in order. I say the wording in the Bill does not appropriate funds. It is purely a conditional agreement between two parties that certain things are to take place, but there is no specific mention of funds being appropriated by the State. They will not be appropriated until they are sanctioned by Parliament.

The Hon. H. C. STRICKLAND: I support the ruling which you, Mr. President, have given. I have listened very carefully to the debate for and against the motion. I feel that misconception has been placed on some of the points which have been raised in opposition to your ruling.

I noticed that the Minister, in his speech, referred to Acts of the United Kingdom, of the Federal Government, and of our own Parliament; and in each case those particular Acts did have Messages. You, Sir, pointed out in your ruling that two very similar guarantee Bills, which were passed in a previous Parliament in Western Australia, according to the Crown Law Department, required Messages for their introduction, which had to be in the Legislative Assembly.

It has been argued by two of the speakers tonight that those two Acts contained provision for a specific appropriation. That is the opinion of those members who spoke along those lines. Mr. Watson quoted the 1955 University Medical School Act and he read where mention is made of the Consolidated Revenue Fund. No mention is made of the Consolidated Revenue Fund in the 1957 University of Western Australia Act Amendment Bill, but Mr. Willmott drew attention to the fact that section 4 of the Audit Act is mentioned; and both of these members claimed the sections they mentioned provided for specific appropriations. In my opinion, they do not; they simply refer to the funds from which the moneys will be paid.

As regards the wording in connection with the guarantee, the two Acts are almost word for word. Subsection (2) of the University of Western Australia Act reads as follows:—

> Where the University proposes to raise a loan for any purpose and desires the Treasurer of the State to guarantee repayment of the amount of the proposed loan and payment of interest thereon, the Senate shall cause particulars of the proposed loan to be submitted to the Treasurer for presentation to the Governor.

The University of Western Australia Act and the Bill before us provide for the same thing, the only difference being that the University Act of Western Australia deals with it in one subsection, whereas the Bill before us deals with it in three provisions—in clause 13, subclause (3) (a) and (b), and subclause 4. Subclause (3) (a) says—

> The Trust is empowered with the approval of the Governor to borrow

money on such terms and conditions as the Treasurer approves for the purposes of giving effect to this Act.

Subclause (3) (b) reads as follows—

> The Treasurer on behalf of the State is authorised to guarantee, on such terms and conditions as he thinks fit, repayment of any money borrowed by the Trust under this subsection and the payment of interest thereon.

Subclause (4) says, "The Trust is empowered to employ in developing, controlling, and managing", and so on. Paragraphs (a) and (b) are the vital ones; and there is not the slightest doubt that these paragraphs would not be in the Bill if it were not proposed to use public moneys. Just because the Consolidated Revenue Fund and the Audit Act are not specifically mentioned in this Bill does not mean that public moneys are not going to be used.

The Treasurer is not going to pay the money out of his own pocket, or guarantee it out of his own pocket. He must use public funds. He is the Treasurer of the Public Accounts. Where else would he go for money? Nowhere else.

To say that the guarantee is not worth the paper it is written on, or that the guarantee is unconditional, seems weird to me. Why put it in the Bill at all? Would those members who suggested that the guarantee is worthless—and the Minister in charge of the House suggested it would not matter if the provision were not in the measure; the money would come along just the same—also suggest that loans raised by the State Electricity Commission and underwritten by the Treasurer as guarantor are useless? It is too ridiculous for words.

I have not the slightest doubt in my mind that your ruling, Sir, is correct, and, accordingly, I am going to support it. The Minister for Mines did make reference to subsection (5) of section 46 of the Constitution Acts Amendment Act. I feel the Minister was, perhaps, attempting to disillusion the House when he quoted this subsection as follows:—

> Except as provided in this section, the Legislative Council shall have equal power with the Legislative Assembly in respect of all Bills.

He did not say what was excepted; and what is excepted is the type of legislation now before us being introduced into this Chamber; it must go to the Legislative Assembly and must be accompanied by a Message. That is specific. There is no doubt about it; and, if we hedge and find ways and means around the Constitution, or our Standing Orders, we are, in my opinion, doing the wrong thing.

If we desire to have more power in this Chamber, our duty is to alter the Constitution and not dodge around it. My colleague (Mr. Wise) suggested that when the other half of the members of this Chamber are elected under the full adult franchise, some consideration should be given to the question. I also feel that Mr. Watson was perhaps doing a little bit of sidetracking when he referred to subsection (8) of section 46 of the Constitution Acts Amendment Act, which reads as follows:—

> A vote, resolution, or Bill for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by Message of the Governor to the Legislative Assembly.

Mr. Watson claimed the purposes of the appropriation are not specifically mentioned in the Bill. They rarely are in any Bill. They are not specifically mentioned in the University of Western Australia Act. That Act does not say what the money must be spent on; but this Bill refers more directly to expenditure because it mentions the control and management of reserves, wages for employment, and so on. The trust has to raise money somewhere, and somebody has to guarantee it. The Treasurer will guarantee it; and whether the Audit Act, or the Consolidated Revenue Fund are mentioned or not, does not matter. The Treasurer is in control of State moneys and that is where the money will come from.

The Hon. J. M. THOMSON: At this late hour I will not delay the House for any length of time. Like every other member who has spoken to this motion, I realise the importance of the measure and also the responsibility we, as elected members of this House, have to ensure that the rights and privileges of this House are maintained.

It is not necessary for me to go over the whole story again, but we must be bound by section 46 of the Constitution Acts Amendment Act; and, if *May's* procedure is to be the authority for us, as it has been over the years, we can do nothing but treat this motion in a very cautious manner. As the Treasurer of the State is authorised to guarantee repayment of any money borrowed by the trust, that constitutes a doubt in my mind.

The Hon. L. A. Logan: Can you tell me what money is being appropriated by this Bill?

The Hon. J. M. THOMSON: No money is mentioned here—

The Hon. L. A. Logan: No.

The Hon. J. M. THOMSON: —but the fact remains—

Several members interjected.

The PRESIDENT: Order!

The Hon. J. M. THOMSON: If you will allow me to continue, Mr. President, I have not at my disposal *May's* references, but I

endeavoured to obtain some guide on this matter. I procured a copy of the second edition of *A Parliamentary Dictionary* by Abraham and Hawtrey, and, in connection with this matter, on page 91, is the following:—

> The importance attached by the House of Commons to the granting of money to the Crown is shown by certain rules which must be observed in all proceedings involving the authorization of public expenditure.
>
> The first of these is that any business which has in view the expenditure of money from the Exchequer may only be entered upon when the Queen's recommendation has been signified.

That, I take it, is by way of Message to the House of Commons or, in this case, to the Legislative Assembly.

The Hon. G. C. MacKinnon: And, as we have all said, with that we all agree.

The Hon. J. M. THOMSON: I am glad we agree on this point; but I disagree that we can afford to treat this measure as anything but one which involves the authorised guarantee of moneys which will come, of course, to Parliament at a later time. I have a doubt in my mind; and we must play safe. Therefore I propose to vote against the dissent and to support your ruling, Sir.

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

Ayes—12

Hon. C. R. Abbey	Hon. L. A. Logan
Hon. G. E. D. Brand	Hon. G. C. MacKinnon
Hon. V. J. Ferry	Hon. N. McNeill
Hon. A. F. Griffith	Hon. H. K. Watson
Hon. C. E. Griffiths	Hon. F. D. Willmott
Hon. J. Heitman	Hon. H. R. Robinson
	(Teller)

Noes—15

Hon. N. E. Baxter	Hon. A. R. Jones
Hon. J. Dolan	Hon. F. R. H. Lavery
Hon. J. J. Garrigan	Hon. T. O. Perry
Hon. E. M. Heenan	Hon. R. Thompson
Hon. J. G. Hislop	Hon. J. M. Thomson
Hon. E. C. House	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
	Hon. H. C. Strickland
	(Teller)

Pair

Aye	No
Hon. S. T. J. Thompson	Hon. R. H. C. Stubbs

Question thus negatived.

Bill ruled out.

House adjourned at 11.17 p.m.

Legislative Assembly

Wednesday, the 21st September, 1966

CONTENTS

The SPEAKER (Mr. Hearman) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (22): ON NOTICE

LOCAL GOVERNMENT

Loans: Notification of Members of Parliament

1. Mr. BICKERTON asked the Treasurer:

   (1) When a member is notified that a loan has been granted to a shire