No. 8.

Clause 10, page 5, line 2—To add after the word "chairman" the words "or vice chairman."

Mr. WATTS: I move—

That the Council's amendments be agreed to.

It will be remembered that when this Bill was previously in Committee the member for Warren raised a point as to certain provision being made for the position of vice-chairman of the board. I agreed that the matter should be examined; and that examination revealed that, for clarity, it might be better to have the amendments inserted. Accordingly the amendments were prepared and inserted in another place. The amendments deal only with the words necessary to clear up the position of the vice-chairman and his appointment. It is my desire that these amendments be agreed to.

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

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

House adjourned at 1.4 a.m. (Wednesday).

Legislative Council

Wednesday, the 9th September, 1959

CONTENTS

The DEPUTY PRESIDENT (the Hon. W. R. Hall) took the Chair at 4.30 p.m., and read prayers.

GOVERNMENT RAILWAYS ACT AMENDMENT BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

QUESTION ON NOTICE

TRANSPORT BOARD

Restrictions North of the 26th Parallel

1. The Hon. H. C. STRICKLAND asked the Minister for Mines:

   Will the Minister detail Transport Board regulations and restrictions applicable to the area north of the 26th parallel as at the 17th March, 1959?

   The Hon. A. F. GRIFFITH replied:

   The Transport Board in exercise of its powers under the State Transport Co-ordination Act has exempted the transport of goods within the area north of the 26th parallel from the licensing provisions of the Act. In respect of such transport it therefore now retains only its powers to act in an advisory and investigatory capacity.

   The Transport Board still retains its full jurisdiction as licensing advisory and investigating authority in respect of the transport of passengers by omnibus and aircraft in the area.

   The powers and duties of the Transport Board are set out in the State Transport Co-ordination Act and the transport regulations, 1934, and the amendments thereof.

LEAVE OF ABSENCE

On motion by the Hon. J. M. Thomson, leave of absence for six consecutive sittings granted to the Hon. L. C. Diver (Central) on the ground of private business.

BILLS (3)—THIRD READING

1. Art Gallery.
   Returned to the Assembly with amendments.
2. Judges' Salaries and Pensions Act Amendment.
3. Traffic Act Amendment.
   Passed.

FILLED MILK BILL

Report

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [4.40]: I move—

That the report of the Committee be adopted.

THE HON. R. C. MATTISKE (Metropolitan) [4.41]: Clause 4 provides that the Minister may from time to time publish in the *Government Gazette* certain items as being exempt from the provisions of this measure. I have been asked by the Produce Merchants' Association to seek an assurance from the Minister that skimmed milk or butter-milk to which vita meal or other things are added, for use as calf's food, will be included in the list of items which will be exempt from the provisions of the legislation.

THE HON. A. F. GRIFFITH: (Suburban —Minister for Mines—in reply) [4.42]: Subclause (1) of clause 4 states—

> The provisions of this Act do not apply with respect to any product specified by the Minister in a notice published in the *Government Gazette* as being exempt from the provisions.

I think that is all the honourable member requires.

I would like also to take this opportunity of answering the question raised by Mr. Loton last night, in connection with subclause (3) of clause 7. The reason why these words have been included in the Bill is mainly because they are contained in the Victorian Act, which was the first such statute introduced. They were evidently included in the Victorian measure in case some State subsequently repealed its legislation. Whether that would be likely to happen, or not, I do not know; but this gives effect, as Mr. Watson said yesterday, to section 92 of the Constitution.

The Hon. F. J. S. Wise: It would not be varied, unless the Agricultural Council decided so.

The Hon. A. F. GRIFFITH: One would not think so, as the decision was made at that high level. In view of the Constitution the provision is probably redundant; but, in the circumstances, I think it is probably not worth while to delete it from the Bill.

Question put and passed.

Report adopted.

FIRE BRIGADES ACT AMENDMENT BILL

Report

Report of Committee adopted.

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Town Planning) [4.45] in moving the second reading said: Before actually introducing this measure, I advise members that I have, for their benefit, produced a plan which has been hung on the wall of this Chamber. I thought it would be to the advantage of members if they could refresh their memories in regard to the Stephenson Plan. It is now some two years since we were able to look at the total plan.

We still have the maps in the booklet presented to us when the Stephenson Plan first came before Parliament; but it is easier to follow the scheme if one can see the plan as a whole, rather than in bits and pieces. For that reason I have had this map prepared and exhibited in the Chamber. Alongside that map there is a smaller sketch, giving the breakup of the road districts into the various areas in which they combine to have one representative on the authority from each area.

This legislation consists of two Bills; the main one dealing with the implementation of the metropolitan region authority, and the smaller one imposing the necessary rate of tax required to implement the provisions of the larger Bill. This Bill provides for the setting up of a metropolitan regional planning authority to finalise, obtain approval for, and administer a statutory plan for the metropolitan region of Perth and Fremantle.

The Bill has been designed to be part 5 of the existing Town Planning and Development Act. Several small necessary amendments have also been made to the relevant portions of part 1 of the principal Act. It is provided that in order to allow time for the actual setting up of the proposed authority, certain sections shall be proclaimed prior to the main proclamation.

A brief history of the events leading up to this Bill would assist in its explanation. It will be recalled that following Professor Stephenson's appointment as planning consultant under the McLarty-Watts Government, the regional plan in its printed form was made available to the public late in 1955. Copies were sent to all members of Parliament, and to all local authorities in the region at that time. The Government of the day appointed a town planning advisory committee, composed of members from Government, Opposition and local government, to consider and report on the proposals in the report and plan.

This committee sat between August, 1955 and November, 1955, during which time—

(a) It approved the plan in principle.

(b) It recommended to the Government some of the major proposals.

(c) It supported the proposed public exhibition of the plan.

(d) It gave extensive consideration to draft legislation, but finally was only able to recommend interim development legislation at that stage.

Since then some of the major proposals recommended have been adopted by the Government. The public exhibition of the

plan has been held on three occasions, and these have been well attended. The interim development legislation was introduced and first passed at the 1955 Parliamentary session.

The committee discussed at some length several of the matters referred to in this Bill; notably the composition of a regional planning authority and the provision of finance for operating the plan. The committee were not able to come to any final conclusion at that time. In drafting the Bill, however, we have had regard to the minutes of the advisory committee and the discussions which took place.

The first metropolitan region interim development order was gazetted in September, 1956, for a period of one year, with the object of holding the position until such time as a statutory regional plan came into force. It has subsequently been necessary to regazette the interim development order three times; the current gazettal expires on the 12th December, 1959.

In the three years of interim development control, the Town Planning Board has administered this order, and has handled many applications requiring decisions reflecting upon the final plan. Some of the decisions made by the Town Planning Board have necessitated the purchase by the Government of the land included in the application. All these decisions, together with a considerable amount of other planning work done, have assisted in bringing a statutory regional plan nearer to completion.

The time has now been reached when it is essential not only to appoint an authority to carry the plan through to fruition as a statutory plan, but also to give that authority the status and financial backing to carry through this important work. I think I can say, without fear of contradiction, that everyone agrees with the fundamental principle of the statutory plan for the metropolitan region. The need for it has been apparent for many years; and, indeed, most local authorities have found it almost impossible to finalise a positive plan for their districts without the overall framework of the regional plan to guide them.

In many ways the Town Planning Board, with limited staff and no finance for the purpose, has been acting as the regional authority and has been able to ensure that local schemes, by-laws, and subdivisions fit broadly into the regional pattern as conceived by Professor Stephenson. This state of affairs cannot continue much longer because of the increasing need to commence the development of the regional roads—which are beyond the responsibility of the Main Roads Department—and regional parks, and to continue with the regional planning work now urgently needed to be carried out.

Not everyone will agree with all the details of a regional plan, but this is only to be expected. It will be found that we have made ample provision for consideration of the plan and the objections to it. One of the main purposes of a plan and planning authority for a region is coordination and guidance of major development functions, so as to produce the most satisfactory total result. It is no longer adequate for these functions to proceed relatively independently.

It is important to differentiate between regional and local functions. There appears to be some feeling that the regional plan will usurp the planning powers of the local authorities, but this is far from being the case. The regional plan lays down the broad pattern of regional development: Major roads and railways; major open spaces; major shopping centres; industrial zones; and other broad zoning requirements on which depend the provision of public supply services, transport facilities, and other needs.

The local authority has an equally important part to play in laying down the local development pattern or filling in the framework of the regional scheme, both in detail and programming; and to help it in this task it is proposed that planning advice and assistance will be made available from the proposed authority. We have now reached the position where, if the immense amount of work which has already been put into the advisory plan for the metropolitan region and in the subsequent planning during the interim development order control period, is not to be lost, a permanent planning authority with the necessary powers to finalise the plan must be set up.

The decision on the composition of an authority was not an easy one, and was only arrived at after considering the composition, function, and achievements of existing authorities of similar character in Sydney and Melbourne. Because in Western Australia the Government is heavily involved in development functions within the metropolitan region, it is clear that it must be well represented on the authority. This is not the case in Melbourne, where for many years the local authorities, as represented by the Melbourne and Metropolitan Board of Works, control such works as water supply, sewerage, town planning, metropolitan road construction, traffic control, foreshore design and river control; and so the Government of Victoria is not directly represented on that authority.

There are 29 local authorities in the metropolitan region, and to represent them all would make an unwieldy authority which could operate only through subcommittees. As a compromise it is proposed to call representatives of all the 29 local authorities and group them into

five district committees. The local authority representation in each district committee will be as follows:—

Group A.—Fremantle, East and North Fremantle municipalities; and Cockburn, Kwinana, Melville, and Rockingham road boards.

Group B.—Claremont, Cottesloe, Nedlands, and Subiaco municipalities; and Mosman Park, Perth, Peppermint Grove, and Wanneroo road districts.

Group C.—South Perth municipality; and Armadale-Kelmscott, Belmont Park, Canning, Gosnells, and Serpentine-Jarrahdale road districts.

Group D.—Guildford and Midland Junction municipalities; and Bayswater, Bassendean, Darling Range, Mundaring, and Swan road districts.

Group E.—City of Perth (Town Planning Committee).

The five district planning committees will be represented by one member each on the regional authority. These five local authority members will be associated with five members representing the five major developing Government departments, which are as follows:—

1. Main Roads Department.
2. Railways Department.
3. Public Works Department.
4. Lands and Surveys Department.
5. Town Planning Department.

The chairman of the authority will be a non-representative member, and will be directly appointed by the Governor. He must be a person of high standing in the community, and should be skilled and experienced in the fields of town planning, local government and land development.

Possibly any permutation of local authorities in this way is subject to some criticism, but it is considered that the arrangement proposed will provide the most balanced arrangement between local authority and the Government. The authority's composition is illustrated graphically in the plan hanging on the wall of the Chamber.

Terms of office would be for three years at a time; and there are the usual provisions for an authority of this nature, including provision for the appointment of deputy members where required, and the payment of fees and expenses.

The authority is charged with—

(a) finalising a regional plan, having regard to the recommendations in the published report and atlas on the metropolitan region plan for Perth and Fremantle; and to the interim development order;

(b) taking over from the Town Planning Board at a date to be fixed, the operation of the interim development order until such time as the plan is finalised;

(c) submitting the plan for approval as provided for in the Bill;

(d) administering the plan after its approval;

(e) keeping the plan under review; and, in any case, reviewing it every five years;

(f) generally, doing all things for the furtherance of planning in the metropolitan region.

It is the intention of this Bill that the administrative and technical work required by the authority shall be carried out as required from within existing Government departments. The secretary, and possibly the administrative staff, together with staff necessary to do technical work, will be provided by the Town Planning Department. Other functions of the authority—such as valuations and resumptions—will be carried out by other appropriate State departments.

Because of the importance of the plan, it has been arranged that it shall not be approved in quite the same way as under the present Town Planning Act. The proposed procedure is:—

(a) The plan when finalised is submitted to the Minister for preliminary approval to advertise.

(b) Copies of the plan are then deposited at the offices of the Town Planning Department at Perth, Fremantle, and three other places in the region; and notices are inserted at least three times in the *Gazette*, and one Sunday and two daily newspapers advising this fact and inviting inspection and objection. Three months are allowed for inspection and objection. In addition, the authority can take further action by exhibition and other means to acquaint the public with the proposals.

(c) The authority consider all objections, and must give the opportunity of a hearing unless it is proposed to allow the objection.

(d) The plan, with or without amendments, is submitted to the Minister. The Minister shall then submit the plan for approval by the Governor who may also amend. After this approval, it is published in the *Gazette* and becomes law.

(e) Before submission to the Governor, the Minister may, if he sees fit, order the plan to be re-exhibited in order that any amendments or alterations brought about by consideration of objections may be brought to the notice of the public, in order to give them the opportunity for further objection. However, objections will only be received on the portions altered.

(f) It is laid before both Houses of Parliament with a written report on all objections for 21 sitting days, during which time it can be revoked by a resolution of either House.

For the information of members, this is very broadly the procedure which has been operating in Melbourne. Quite clearly, the plan, when finally approved, must override local planning schemes if it comes in conflict with them. A further provision of the Bill is that within one year of the plan being approved, all local authorities in the region must either amend their existing town planning schemes to conform with the plan; or where they have no scheme, they must prepare one—if necessary with the assistance of the authority's staff. This seems a most necessary and not unduly onerous provision if the development pattern for the region is to be completed.

The compensation provisions of the Bill are the same as those existing under the present Town Planning Act, which were recently brought up to date by Parliament. Provision is, however, made for the authority to acquire land as an alternative to paying compensation for injurious affection. This provision is made because in many of the regional proposals such compensation could well amount to the full value of the land.

The authority is given power to purchase land but not to resume land until the plan is approved, and then only as a result of the approved plan. If land is acquired by the authority under an interim development order, or the plan, it may be leased or otherwise used until it is required for the purpose for which it was acquired.

Land within the plan area which had already been resumed for some public purpose may be used for any purpose within the approved scheme. No regional planning authority will be effective without finance to carry out the plan.

It is, therefore, proposed to adopt the suggestion made in the report on the metropolitan region, and provide for an additional land tax on properties in the metropolitan region only, but excluding improved agricultural properties.

Local authority rates are not considered suitable for this purpose, which is regional in character, and the proposed land tax has the following advantages:—

(a) It is a tax which affects the average property holder only slightly.
(b) It is assessed on a uniform basis.
(c) It is simple to collect as the machinery exists.
(d) It automatically reflects any increase in values arising from the benefits of the plan, and therefore provides a form of betterment tax.
(e) The exclusion of agricultural properties will not only encourage the retention of important market gardening and orcharding properties so necessary for a capital city, but will assist in maintaining a degree of relatively open country in and adjoining the built-up area.

It is proposed to levy a tax of ½d. in the pound which, on present assessments, would produce about £140,000 per annum, or thereabouts. This by itself would probably be insufficient for the authority's purpose; and, therefore, provision is made for the authority to borrow money from the Government on repayment of principal and interest; and, if necessary, to raise loans from other sources on Government guarantee.

Proceeds of the proposed tax, and any loans and other monies, will be paid into a metropolitan region improvement fund, to be established at the Treasury; and all payments for purchases and compensation by the authority will be paid out of this Fund.

Finally, the usual administrative provisions provide for the making of regulations where necessary, and for penalties for disregard of the Act or the plan, when operative, with provision for a recurring offence. The plan, when approved, will bind the Crown.

I must stress that planning is a continuous proceeding. It is important that, having reached the present stage in a regional plan, we do not throw away the opportunity, that is offered, to continue. It will be necessary, therefore, to continue the interim development order until such time as a statutory plan can take its place; as it will be towards the end of this year or early next year, before the proposed authority could be set up; and, further, as there is at least twelve months' work ahead of the authority's staff before a plan can be presented for approval after all the objections are heard and amendments made. The Bill provides that the existing interim development order, due to expire on the 12th December, 1959, shall be extended for two years until the 12th December, 1961. I therefore move—

That the Bill be now read a second time.

THE HON. F. J. S. WISE (North) [5.5]: I intend to take the course of speaking to the second reading debate at this stage. We are dealing with a Bill which involves a plan for the metropolitan region of Perth and Fremantle, based on the Stephenson report of 1955. There are many members—indeed I would say most members of this House—who by actual contact with local governing districts and with local governing authorities have made a study of the import of this legislation, and its impact on the whole community.

The Stephenson Plan—one of those remarkable documents which during a debate one is rarely privileged to possess—is full of ideas and examples of how, for the betterment of the city of Perth and its operation, such a plan should work.

In chapter II of the Stephenson report, in regard to the implementation of the plan, very important words are pronounced; and sentiments relative to the points raised by the Minister are expressed. On page 239 of the report, Professor Stephenson said—

> During the preparation of this Report, the need for guidance at a regional level has been made abundantly clear by all local authorities, business men, industrialists and private persons, who have been consulted on the matter. Indeed it can be said that there is general agreement on the objectives and principles of planning and the need for a co-ordinated Plan for the Metropolitan Region, even though there may not be complete agreement on some details.
>
> However, it is one thing to prepare a Plan and quite another to carry it out. It involves an immense amount of co-operation and understanding between Government and local government authorities on the one hand and the public on the other.

I suggest that the objections, being so succinctly put, cannot be contradicted. Although I disagree with some provisions in the Bill and strongly disapprove of some of the ideas within it, if the Bill can be moulded to meet the circumstances—those associated with my Leader on this side of the House believe this can be done—it should have a speedy passage. There are points in it which I shall raise shortly; and they may temporarily hold up the Bill in an endeavour to have it introduced in a proper form.

I agree absolutely with one part of the Minister's speech, a copy of which was furnished to me, which is as follows:—

> I think I can say, without fear of contradiction that everyone agrees with the fundamental principle of the statutory plan for the metropolitan region.

He is right in that contention. The Bill follows fairly closely the lines of the Bill introduced in 1957; but not wholly. It differs in form and in some principles. In the Bill before us, there are some differences, for example, in the composition of the board; and there are other differences.

I suggest that the Bill, as now presented, could be a difficult one for Parliament to deal with. I point out, for instance, that clause 6 which extends from page 3 to page 29—26 pages for the one clause—appears in a quite unnecessary form for submission to Parliament. In those 26 pages there are submitted to us for approval 42 new sections proposed to be inserted in the Act. In my Parliamentary experience I have not seen a Bill presented in that form.

The Hon. J. G. Hislop: The tendency is growing.

The Hon. F. J. S. WISE: Those 42 new sections—Nos. 36 to 77 inclusive—contain all the principles which, under the proposed law, will affect the regional plan. I suggest it will be necessary for the Chairman of Committees and his deputy to be very watchful during the Committee stage; furthermore, the Bill will impose a severe burden on the clerks when amendments, proposals, and debate on the 42 new sections in the one clause take place. It should be made possible for the proposed new sections to be taken *seriatim*, and put individually.

The Hon. G. C. MacKinnon: It is an insulting disregard for the machinery work of the Committee.

The Hon. F. J. S. WISE: It stands out as a difficult proposition for the Committee to control. I hope that what I have proposed will be followed in dealing with the proposed new sections, to enable the Chairman or Deputy Chairman to put each proposed new section separately.

The Hon. H. K. Watson: Virtually the whole Bill is contained in one clause.

The Hon. F. J. S. WISE: Exactly. Although the majority of members in this House, and the majority in the Committee stage, will be in support of the major portion of those sections, they will vigorously oppose some of the new sections, either as individuals or as a majority.

In my view there are two vital provisions in clause 6, quite apart from the machinery aspect, which were so adequately presented by the Minister. They relate to the methods to be adopted by the authorities, whose interests will be dovetailed with and correlated to Government interests, in the sponsoring and giving effect to this plan. One of the two vital provisions appears in proposed new section 54. That section contravenes and contracts out of the Constitution Act; that is something which cannot be done.

The second important point is to be found in the proposed new division VI which takes in proposed new sections 70 to 73. In the light of all circumstances, they should come out of the Bill. To deal with the second point first, the taxing proposals which are in essence a land tax for the metropolitan area, are entirely at variance with the attitude expressed by supporters and members of the present Government, when land tax considerations were formerly before Parliament. The then Government was deprived of approximatly £300,000 of revenue by their actions which, I admit, were quite valid, as the matter had to be determined by Parliament. The proposals were ruled out because they received no support.

In addition to that, we find that in the provision to impose a levy—a special tax—to provide funds for the operation of this authority, all land in the metropolitan area—or land circumscribed by the regional plan—is to be specifically taxed for the purpose of the operation of this Bill when it becomes law.

That is in contradistinction to the attitude of the Premier, in regard to land tax, when he claimed in his policy speech that there was no necessity for land tax and that he would, in fact, effect a reduction of it. I have the actual Press paragraph of his remarks here. What he said then is entirely opposed to his announcement that there would be a reduction in probate duty; and a review of, with the object of a reduction in, entertainments tax.

I emphasise the point—because it will be raised against me by the Minister—that I am quite conscious of what the 1957 Bill contained. But the then Government introduced and supported a land tax measure; but the sponsors of this Bill opposed it; decried it; and by public statement at election time—and since—again opposed it.

Worse than that, however, is the fact that this will be a sectional tax. I strongly believe that the financing operations of this authority should come from one source only—Consolidated Revenue. I do not believe that there should be a sectional tax levied upon the metropolitan area. The financing is to be done by medium of a land tax; but surely the interests of the city affect the whole State! The figure of £140,000 has been mentioned as being necessary for putting the Bill into operation. But, in the Minister's own words, that sum will fall short of the required amount.

The Hon. L. A. Logan: By far.

The Hon. F. J. S. WISE: And it will immediately fall short. So if we allow in this legislation, and in the sister Bill to follow, the right to impose a sectional land tax for carrying out the purpose of the measure, it will not be long before half a million pounds will be required; and authority will be given to collect that sum. I, therefore, reaffirm my statement that the striking of a special land tax for this purpose is not the right way to go about raising the money.

I hope that this House, in debating that aspect of the measure, will be able to see how much more just it would be —however unpalatable to country interests—if the money were raised by taxing the whole State. We hear of how important certain portions of the city are to all the State. But there is no qualification to the statement, in my view, that this city, being the heart and pulse of the business of the State, is of interest to all sections of the community, wherever they may be resident. Therefore the proper course to take, surely, is for the financing of the scheme, in a cost sense, to be done from Consolidated Revenue.

We certainly cannot reconcile what is proposed here, with the statements of members of the Government, and of the Premier himself when he hinted not only at lower State taxes, but specified those which should be reduced; and one of those so specified was the land tax. Therefore, if Consolidated Revenue can stand the impact of a review of land tax and a reduction in probate—I think £1,300,000 annually is collected from probate—and if it can stand a reduction in entertainments tax, then it can stand the initial and future impact of this legislation. It can bear that impact, not only through management of State finance, but by proper representations being made to the right quarter for a reimbursement.

If it is the will of the Government, approved by a majority of this House to have the financing done in a taxing manner, then I say that while I have the greatest sympathy for the man on the land, I think he must be brought into this; and that is something fair and reasonble.

The Hon. L. A. Logan: He is paying his just dues; don't worry about that.

The Hon. F. J. S. WISE: Everyone is paying his just dues.

The Hon. L. A. Logan: He will be paying them under this scheme.

The Hon. F. J. S. WISE: There is nothing singular in the fact that the man on the land is paying his just dues. I emphasise the point that the man on the land has had—and still has—a remarkable service from successive Governments of this State. The Department of Agriculture, which devotes its whole service to the man on the land, costs nearly £1,000,000 a year. Therefore I think there should be, of necessity, a little bit of give and take in regard to the benefits that the entire community receives from Consolidated Revenue. The Department of Agriculture renders a great service to the man on the land.

If members have a look at clause 6—it is a voluminous one—they will find that certain lands in the metropolitan area are to be granted an exemption. It is not a question of persons such as pensioners being exempted from these provisions.

The Hon. L. A. Logan: You know they are.

The Hon. F. J. S. WISE: I do not.

The Hon. L. A. Logan: Of course you do!

The Hon. F. J. S. WISE: If the financial division of the Bill is to remain, I hope to amend it to make sure that they will be exempted.

The Hon. L. A. Logan: You know it does not apply to pensioners.

The Hon. F. J. S. WISE: I do not. The Minister is using obliquely the argument that the Taxation Department and the circumstances of the land tax do not come into it. But this is a separate Bill.

The Hon. L. A. Logan: Are the pensioners included in the 1957 Bill?

The Hon. F. J. S. WISE: No.

The Hon. L. A. Logan: And they are not in this one.

The Hon. F. J. S. WISE: We should make sure that they are not included. I draw attention to the types of industries that are to be exempted. At page 27 of the Bill we find that if a person has very little income, or if he has a few beehives or a poultry farm—big or small, and it provides his subsistence—or if the area of land he owns is used principally for the purpose of agricultural, pastoral, horticultural, apicultural, viticultural, grazing, pig-raising or poultry-farming business, he may be exempted. I cannot see the logic in that.

The Hon. L. A. Logan: There is a lot of logic in it; and you ought to know it.

The Hon. H. K. Watson: There would be a lot of logic in it if it exempted the residents of Mounts Bay Road.

The Hon. F. J. S. WISE: I think that is absolutely related; yes.

The Hon. J. M. A. Cunningham: If a man had a couple of fowls in his backyard, would he be exempted?

The Hon. F. J. S. WISE: The provision refers to improved land used solely or principally for the purpose of certain specified industries. I draw attention to the fact that that is the only exemption provision in clause 6; but I do persist with the point that, in the light of the policy of the Government as distinct from the policy of the previous Government which introduced the previous Bill, the taxing provisions are untenable and not defensible at all. I hope that the whole of proposed division 6 is taken out of the Bill.

The Hon. L. A. Logan: You want to kill the Bill, do you?

The Hon. F. J. S. WISE: No.

The Hon. L. A. Logan: You are going the right way about it.

The Hon. F. J. S. WISE: I do not want to kill the Bill at all. I want the Minister to be tolerant in this; and to believe me when I say that in what I am about to state there is no intention to kill the Bill, but only a desire to ensure that it is properly before the House; that it is properly debated; and that it is properly amended. The Minister cannot take umbrage at that. I refer to the validity of proposed new section 54. Because of this provision, I ask whether the Bill is in order before this House? If it is not in order, then now is the time to put it in order so that the very desirable features of it may become law.

If members will look at proposed new section 54 they will find it contains provision for members of Parliament to accept office on this authority; and it states that such office shall be deemed not to be an office of profit from the Crown. That is to say, we will, by this proposed section, be amending the Constitution Acts Amendment Act, and the Constitution Act itself. In addition, we will be overriding our own Standing Order—I think it is Standing Order No. 242—in this connection.

The Constitution Act which appears in our Standing Orders, shows clearly what may or may not be done in regard to contracts with the Crown. The provision in the Act is put there specifically so that members may know where they have, and where they have not, protection in accepting certain offices. The Constitution Act has been amended to provide specifically, for example, that the office of an approved pharmaceutical chemist under the Commonwealth Pharmaceutical Benefits Act shall not be an office of profit. The Pharmaceutical Benefits Act makes provision for people to receive payments from the Commonwealth; and, because certain people were involved, our Constitution Act was amended by this Parliament.

In addition, a gentleman holding a high office in this House would have been involved because of certain war loan and other activities in which he was engaged. He received an exemption and exoneration from the Constitution Act through an amendment that was passed by Parliament.

At times some doubts have been raised in connection with matters of this kind. On one occasion when the Government was adamant, and would not listen to reason, an amending Bill was hastily brought before Parliament in order to provide the protection that was necessary. My point, therefore, is that if there is any doubt whatever, there is only one course for Parliament to take—to ensure that the Bill is, without doubt, properly before the House.

If we look at the Constitution Act on page 117 of our Standing Orders we find the following:—

> It shall not be lawful to present to the Governor for Her Majesty's assent any Bill by which any change in the Constitution of the Legislative Council or of the Legislative Assembly shall be affected, unless the second and third readings of such Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly respectively.

This Bill was passed by a simple majority in the Legislative Assembly, and it affects the Constitution in the specific terms to which I have already drawn attention. Under our own Standing Orders this measure, because it affects the Constitution, requires an absolute majority before it may be proceeded with in this Chamber. That is my view of the position.

The Hon. H. K. Watson: I don't think you took the same view on the Cancer Council Act last year. There is a precedent in that Act for what is done in this Bill.

The Hon. F. J. S. WISE: That is quite so, but I draw the honourable member's attention to the fact that the same principle was in the Swan River Conservation Bill; and when introducing that measure I had grave doubts as to the validity of allowing it to proceed.

The Hon. L. A. Logan: But you proceeded with it.

The Hon. F. J. S. WISE: The point was never raised, except by me.

The Hon. L. A. Logan: But you still proceeded with it.

The Hon. F. J. S. WISE: Exactly; but that does not absolve Parliament from the responsibility in this instance; because people are guided by what Parliament does in this regard. If the Swan River Conservation Bill was out of order, the Constitution Acts Amendment Act should have been amended to provide for the position so that no-one would be running a risk.

Even if Bills have been passed, and doubts have not been raised—as Mr. Watson mentioned—it does not make it right that we should proceed in that manner now; and it does not make it wrong for us to make absolutely sure that there is no doubt that the persons who are likely to be affected are given absolute protection. Surely it is an important point; and as an absolute majority is required to amend the Constitution of either House, it is not right to introduce a Bill and have it passed by a simple majority if, in its provisions, it alters the Constitution!

I suggest it is not sufficient to say that other Bills have been passed with similar provisions. I re-emphasise that in the remarks I am making I am not being in any way hostile to the Bill. But, as a unit of this Council, I desire to make sure that the legislation is in order before we proceed with it. We do not want to have an amending Bill brought forward later, because there are doubts as to whether legislation we agreed to was properly before the House.

The Hon. H. K. Watson: I think there is a lot of force in your argument.

The Hon. F. J. S. WISE: What would it mean if the Government accepted these points of view? It would simply mean the reintroduction of the Bill; because its passing is guaranteed. I could not guarantee it on my own account, but I am using that word because of the vote taken on the Bill in another place. It will become law—effective law—and wholly in order.

Within the Bill there is provision for payments to members of the committee; that will be found in proposed new section 45 where the remuneration and travelling expenses, etc., of members of the committee are provided for. Therefore it is correlated to proposed new section 54, which specifies who shall or may be the members of the advisory committee. As these members are to receive a payment, the position is open to doubt; and as there is a likelihood of the position having to be rectified, it should be rectified now.

It might be expedient to pass the Bill as it stands; but it is not really necessary to pass it in its present form, because we have the time to have it reconsidered and have it put properly in order.

The Hon. J. G. Hislop: Why the necessity for the clause at all?

The Hon. F. J. S. WISE: That was raised in another place. I think it emphasises that there is a need to exempt those who may be members of Parliament, or of local authorities, from the provisions of the Constitution Act. If that is so, and there must be some doubt, because of the provisions of the Bill, let us pass it with an absolute majority; and then those provisions can stay in the legislation. Surely that is not an unfriendly attitude!

If my contention is right, and the Bill is not properly before this House; and if it is desired that the provisions to which I have referred shall remain in the legislation, the Bill should be resubmitted to the other Chamber and passed with an absolute majority at the second and third reading stages.

The Hon. H. K. Watson: It would be more logical to amend the Constitution Act.

The Hon. F. J. S. WISE: Quite. As the Bill was not passed in the Legislative Assembly by an absolute majority, I wish to submit a question to you, Mr. Deputy President. I ask you, Sir, to give a ruling on the point as to whether the Bill is in order on the grounds that since the Bill was not passed in the Legislative Assembly with an absolute majority it, in consequence, contravenes the provisions of sections 32 to 35 of the Constitution Acts Amendment Act, and section 73 of the Constitution Act, together with Standing Order No. 242 of this House.

The DEPUTY PRESIDENT (the Hon. W. R. Hall): As the matter raised by the honourable member will require careful consideration, I will give a ruling on Tuesday, the 15th September.

On motion by the Hon. R. C. Mattiske, debate adjourned.

MUSEUM BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

BILLS (2)—RETURNED

1. Child Welfare Act Amendment.
2. Road Districts Act Amendment.

Without amendment.

BILLS (2)—FIRST READING

1. Main Roads Act (Funds Appropriation) Act Amendment.
2. Tourist.

Received from the Assembly; and, on motions by the Hon. A. F. Griffith (Minister for Mines), read a first time.

RAILWAYS CLASSIFICATION BOARD ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [5.45] in moving the second reading said: The purpose of this Bill is to give statutory effect to practices which have been in operation for a number of years. Section 15 (1) (a) of the principal Act empowers the Railways Classification Board to classify all salaried positions in the Railway Department, with the exception of those of heads and subheads of branches. The Bill seeks to make an exception also of all professional positions. Professional officers are dealt with under an award of the Commonwealth Conciliation and Arbitration Commission, and therefore, do not come within the ambit of the Railways Classification Board.

The next amendment provides the board with the right to hear and determine any application by the Railways Commission in respect to the classification, reclassification, or salary of any officer or class of officer. It is natural that from time to time changes in duties and responsibilities might necessitate a reclassification of the salary of an officer or of a group of officers. The classification board has always dealt with such matters, and its doing so has never been challenged. It is advisable, nevertheless, to have this power in the Act.

Another amendment is designed to make it clear that the board has the power to make awards in respect to classifications of salaries, appeals, and alterations of salaries. Section 21 provides that an award may be varied at any time after the expiration of six months from the making of the award, and may be again varied after a further six months. The intention in the Bill is to ensure salaries can be altered on appeal or reclassification without waiting for the six months to pass. This amendment is necessary because the board first considers and makes an award on matters other than classification of officers, and merely includes the existing classification in the new award.

Following the issue of the award, officers and the department may then lodge applications for reclassification of positions; and the board, after hearing them, amends the award; often prior to the expiration of the first six months after the issue of the main award. Such an event is likely to occur this year in respect of a new award which became effective as from the 4th July, 1959. The next amendment, that to section 21 of the Act, is consequential on the one I have just explained. It empowers the board, after agreeing to an appeal, or, to an application for reclassification, to vary the award as soon as practicable.

The last amendment seeks to repeal and re-enact section 22B of the principal Act, so as to simplify the wording of the section and to bring it into conformity with actual practice. This section enables the W.A. Railway Officers' Union to apply to the board for the enforcement of any provision of an award or decision of the board with which the Railways Commission may not be complying. The Bill is really a small one. Mr. Strickland, as the former Minister for Railways, is, I believe, well acquainted with the necessity for the introduction of the measure. I move—

> That the Bill be now read a second time.

THE HON. H. C. STRICKLAND (North) [5.49]: As the Minister has explained, the Bill has been brought down as a result of some uncertainty, and because of an unsatisfactory condition in the Act as it now stands. The Railway Officers' Union has raised the question of introducing amendments to the Act to overcome the unsatisfactory provisions which were considered by the Railways Commission, and the Railways Officers' Union; to require amendment.

The Minister has defined in detail, and very clearly, what exactly each of the amendments in this Bill proposes to do. The measure has the full support of the W.A. Railway Officers' Union; and it also has—or did have during my time as Minister—the support of the Railways Commission. It no doubt still has the support of the Commission, because it has been introduced by the present Minister. I see no reason at all for the House to raise any objection to the provisions in the measure.

The Railways Classification Board Act is one that has been in existence for nearly 40 years, and it has been amended on only a few occasions. I think this will be the third or fourth occasion on which it

will have been amended. The previous amendments were really machinery amendments. When the tramways were separated from the railways, the Act required amending to alter the wording from "Railway and Tramway Officers' Union" to "The W.A. Railway Officers' Union." There have been amendments of a similar nature changing "Commissioner" to "Commission," and so on.

When an industrial measure can stand the test of time for some 39 years—the Act is now in its 40th year—it is something about which both the Parliament of Western Australia and the officers governed by the provisions of the legislation can be justly proud. There have been no serious disputes in connection with the operation of this legislation; but, as the Minister explained, there have been some doubts as to the validity of the existing Act to cover the practices in recent years in regard to some of the findings and decisions of the classification board. The Bill is intended to clear away any doubts that might exist, and to lay down quite clearly just what the authority and jurisdiction of the Railways Classification Board is. I support the second redaing.

Question put and passed.

Bill read a second time.

In Committee

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

NURSES REGISTRATION ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [5.52] in moving the second reading said: The present Act provides for the registration of persons trained in mental nursing, provided they pass examinations conducted by the Nurses' Registration Board. This provision was inserted in the Act in 1944, and it provided for the registration of persons who had previously obtained a certificate from a hospital training school, if they applied for registration within two years.

As this amendment took effect at the height of the difficult war years, its provisions were overlooked or not appreciated by many people to whom it applied. As a result, the two years passed and many nurses did not avail themselves of the opportunity for registration. At this time—in 1944, during the war years—when medical, administrative, and nursing staff were at a low ebb numerically, there were apparently misunderstandings, misinterpretations, and faulty explanations of the significance of the amendment.

This Bill corrects and remedies a situation in regard to the registration of mental nurses which arose out of an inadequate implementation of the 1944 amendment. The mental services have been subjected to close scrutiny by Dr. Moynagh. He has found that approximately 150 members of his trained staff possess hospital training certificates, but have not been registered. Some of these obtained their hospital certificates after 1946; two years after the Act.

It is now appreciated that the Nurses Registration Act grants preference in employment in Government hospitals to registered nurses. This presents a difficulty in promoting policy respecting those qualified mental nurses who are not registered. Furthermore, registration has a great advantage for mental nurses in so far as it enables reciprocity in service between this State, and other States and countries. In addition, recognised registration, it is held, will enhance the nurse's individual and collective status. The amendment permits all mental nurses now in possession of training school certificates, and those who are nearing the end of their training, to register up to the end of 1960. From then, only those mental nurses who pass the examination of the registration board will be eligible for registration. This amending Bill repeals the relevant section of the Act and re-enacts a new section which will now give general satisfaction. I move—

That the Bill be now read a second time.

THE HON. J. G. HISLOP (Metropolitan) [5.56]: This is purely a Committee Bill. What I can make out of it, after listening to the Minister's introduction, makes me wonder why it is necessary for these people to have to write in and ask to be registered. I would have thought that anybody who passed an examination should be automatically registered. I can see no reason for this provision at all.

The Hon. L. A. Logan: They have not been.

The Hon. J. G. HISLOP: Why not notify them and register them?

The Hon. L. A. Logan: If you register them now, it would not conform to the Act.

The Hon. J. G. HISLOP: We could alter this clause and make it more workable by striking out the words, "and upon application in writing signed by him, and made on or before the thirty-first day of December one thousand nine hundred and sixty," and making it read, "they shall be deemed to be qualified under this Act as mental nurses, and shall be registered as such." Some of them will not know the amendment is there; and unless we write to these people, they will have no chance of acquiring any knowledge of it.

The Hon. L. A. Logan: I think they all know now. They missed the opportunity once, but they would not miss it again.

The Hon. J. G. HISLOP: But why is it necessary for them to ask to be registered if they have passed the examination? I do not have to write to the University to be registered after passing an examination. I am required to register to practice, but I do not have to ask for a diploma or a degree to be granted to me. As soon as the need for it arises, the people should be put on the register and notified that they are registered nurses.

The Hon. L. A. Logan: We can still do that.

The Hon. J. G. HISLOP: I would rather take out the necessity for them to write in, and simply put the onus on the authority to notify them.

THE HON. J. D. TEAHAN (North-East) [6.0]: I am pleased this measure has been brought forward if the nurses are suffering any disability. It appears that a similar amendment was placed on the statute book in 1944. We can understand, with the turmoil that existed at the time, and with all the activity centered around the war effort, that registration became a minor matter and was not attended to.

When those nurses travelled to the other States, they probably found themselves faced with disabilities because registered nurses were receiving preference. I think that has been one of the main factors which has made this Bill a necessity. I trust that the measure will be passed, and that the nurses can become registered so as to enjoy the privileges of registration when they travel in the other States. Their status will then be the same as that of any other registered nurse.

I have given some thought to the fact that it could be said that if these nurses did not apply in 1954, they may not apply now. I assume that they have learned one lesson. However, it should not be too much for the Health Department to inform the nurse concerned, either by means of its notice board or through the *Gazette*. If the Bill becomes law, I hope it will enable the nurses to be fully registered, and that it will correct a situation that needs to be amended. I trust the House will accept the Bill. I support the second reading.

THE HON. G. BENNETTS (South-East) [6.2]: I intend to support this measure. I agree with Dr. Hislop that a person who is qualified should not have to write to the department and ask for a certificate. When railway workers and ambulance workers qualify, they receive their certificates immediately. Therefore, why require nurses to apply for the certificates which they have gained? I support the Bill.

THE HON. L. A. LOGAN (Midland—Minister for Local Government—in reply) [6.3]: I appreciate the point raised by Dr. Hislop. Actually the wording in this Bill is the same as was contained in the Act previously. Probably no consideration was given to the matter of writing to these people. I do not think the Minister for Health would have any objection to this course being adopted. I suggest that the Committee stage be held over until the next sitting of the House, so that I may get advice on the matter.

Question put and passed.

Bill read a second time.

HEALTH ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [6.4] in moving the second reading said: This Bill will provide a long-needed health reform in the matter of the provision of septic tank installations in certain schools; and it fulfils a pre-election promise made by this Government. It does not require any stretch of imagination to recall the extent to which the previous Government was criticised by the then Opposition in regard to its failure to provide septic tank installations at schools which were served only by a pan system of nightsoil disposal.

Many questions were asked, both inside and outside Parliament, on this subject. There were many letters to the Government; to members generally; and to the Press, all stressing the fact that the then Government should have begun the work of replacing the old unhygienic pan system operating at many schools, with the more modern septic tank installations. It should, therefore, be a matter of considerable public satisfaction to know that this Government is taking active steps to implement this health reform in schools.

When I say that in approximately 40 schools it has been found necessary, for one reason or another, to employ teachers and/or pupils to dispose of sanitary pan contents, members will realise how desirable it is that there should be a conversion to a more modern sewerage scheme. It gives me further pleasure to be able to inform the House that the Government's proposal to install septic systems in schools by means of loans raised by local authorities, is already under way. During the latter part of last month, approximately 20 schools were listed as having buildings suitable for conversion, and as having a satisfactory water supply.

Estimates of costs have been submitted; and all that remains to be done is for agreement to be reached between the local authority and the Government. When agreement is reached, tenders will be called for the work. At this stage I would like to say that the Minister for Education has been extremely helpful and co-operative in expediting the whole proposal. So much for the Bill in general terms. I should now like to refer to its provisions more specifically.

The Health Act has, for many years, conferred power on local authorities to install septic tanks in the premises of private householders; and to enter into agreements with the householders for recovery of the cost, under the deferred payment arrangement. This power did not extend to properties of the Crown. To enable local authorities to enter into an agreement with the Government so that septic tank systems may be installed in Crown properties, it was necessary for some of the provisions in the Health Act to be altered. The passing of this Bill will mean that schools in the territory of municipal councils may be provided with septic tanks, whereas at present only schools in road board areas may be incorporated in the scheme.

The Crown will be empowered to enter into an agreement with the local authority to meet the cost of the installation under a deferred payment arrangement. I point out that the local authority will raise the loan for the work; and, under an agreement the Government will repay the loan with interest over periods up to 15 years. Although the loan will be raised under the loan-raising powers of the local authorities, it will not cost them anything at all. They will just be using their loan-raising powers to enable them to do the work. Tenders will be called for the work when plans and specifications are ready.

The enabling of local authorities to provide ablutionary facilities in connection with any septic tank installation constructed under such an agreement, is part of the programme. Even though it may have been important to provide an ablution block with the pan system, I think it is just as important with a septic installation. By that method our health standards will be brought up to date. A circular has already been forwarded to local authorities throughout the State informing them of the procedure to be adopted; and I am sure many of them will take the opportunity of applying for this provision to be incorporated, so that septic tanks can be introduced into their schools.

An unsatisfactory set-up exists in one small country town known to me. The township is sewered, but the school and the school quarters are not. Despite the fact that we have endeavoured to get the Education Department to sewer the school and the school quarters, it has refused point-blank to do it. This Bill will give those people an opportunity of having the premises sewered to the satisfaction of everybody concerned.

The Bill actually seeks to amend section 100 of the Health Act. The existing power conferred by the Health Act may be exercised subject to certain limitations as to the ages of the properties concerned. It is not desired that this provision shall apply to Crown properties. Paragraph (a), therefore, exempts Crown properties from this provision.

Clause 2 (b), amends section 100 (3). Where an owner is liable for the cost of work done by the local authority under the existing provisions of the Act, any amount outstanding is a charge on the land. Recovery from the Crown of any outstanding amounts, as an action for payment of debt, can be taken in any court of competent jurisdiction.

Clause 2 (c), creates a new subsection (4) to section 100 of the Act. The new subsection provides that a local authority may install not only a septic tank and the necessary works associated with it, but also ablutionary facilities. It further provides that the references to the Crown in this Bill do not imply that the Crown is bound by any other provisions of the Health Act. I move—

That the Bill be now read a second time.

On motion by the Hon. J. M. Thomson, debate adjourned.

LAND AGENTS ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [6.12] in moving the second reading said: This Bill is submitted mainly to provide that the Land Agents' Supervisory Committee may apply for an order for the freezing of the trust account of a land agent. The need for this arose as a consequence of the default of a certain land agent. An application was made by the Land Agents' Supervisory Committee for the cancellation of his license after it had been reported by the auditor that it was apparent there were insufficient funds in his trust account to meet his obligations.

Subsequently, two writs were issued out of the Supreme Court against the land agent, and the creditors obtained temporary injunctions to restrain the bank from allowing operations on the trust account. However, the position at present is that it would be possible for the land agent to pay the creditors who had obtained the injunctions, whereupon the injunctions would cease to operate and the bank would be forced to honour any cheque drawn by the land agent.

Subsection (3) of section 8 of the parent Act states that moneys paid by a land agent into a trust account should not be available for the payment of the debt of any other creditor. Discussions with the Official Receiver under the Federal Bankruptcy Act in this State make it clear that, on the bankruptcy of a land agent, the Official Receiver would not concern himself with the bankrupt's trust account; so that even if the land agent in question were made bankrupt, the position would not be satisfactory to the person whose money was in the trust account.

In the present circumstances, the proper remedy of the creditor in such a case is to make application under the Trustees Act, 1900, for the appointment of a new trustee in relation to the trust money; and that trustee could then apply to the court for directions as to the disposal of the money. It is not thought, however, that that is a very satisfactory position in which to place anyone. It would be more satisfactory for any distribution of a defaulting land agent's trust account to be made after consideration by a judge of the Supreme Court.

To afford far greater protection to the public, there is an apparent need for the supervisory committee, which is responsible for the audit of land agents' accounts, to have power, on showing cause to a judge, to obtain an order to freeze the bank account of the land agent. The Bill, therefore, provides that where the committee, on an application made to a judge, shows, by evidence on affidavit, to the judge's satisfaction that there is reasonable ground for believing there is a deficiency in the trust account; or that there has been undue or unreasonable neglect, or refusal, or delay, on the part of the land agent in paying money due out of that account, the judge may, if he thinks fit, make an order that the manager or other officer for the time being in charge of the bank, be restrained, until the order is made absolute or discharged, from paying out, transferring, or otherwise dealing with any money standing to the land agent's credit at the bank.

Sitting suspended from 6.15 to 7.30 p.m.

The Hon. A. F. GRIFFITH: Prior to tea, I was explaining the reason for the introduction of the Bill to amend the Land Agents Act; and, with your permission, Mr. Deputy President, I propose to proceed. The Bill specifies that such an order may contain terms and conditions as the judge thinks fit; and may relate to all or any of the trust or other accounts of the land agent, as the judge may determine. It is provided, in the first instance, that an order may be made *ex parte*, without notice to the land agent, as an order to show cause only; and unless the land agent shows to a judge, within the time specified in the order, sufficient cause to the contrary, the order—on proof that it has been served—may be made absolute.

The Bill further provides that the committee, as soon as practicable, shall serve a copy of the order on the bank and on the land agent concerned; and it will be an offence to fail to obey that order.

The Bill also indemnifies the bank concerned for its part in carrying out the order. The measure provides, further, that when the bank is served with a copy of the order, it shall disclose in writing to the committee, particulars of all accounts kept in the land agent's name, including any account which the bank reasonably suspects is held or kept at the bank for the benefit of the land agent; and it permits the committee, or its authorised officer, to inspect and take copies of any books or documents.

The Bill also provides that the judge may, on the application of the committee, the Treasurer of the State, or the land agent, make further orders directing that any money in any account affected by an order shall be paid to the Treasurer by the bank on such terms and conditions as the judge thinks fit; and the Treasurer, on receiving such money under that order, shall pay it into a separate account at the Treasury; and he may prepare a scheme for distributing the money as compensation to each person who claims it at any time within six months, and who proves he has sustained loss through any act or omission of the land agent; and, if the moneys are not sufficient to pay all the proved claims in full, he may apportion the money among the claimants.

It is apparent that circumstances can arise in which the deficiency will be of so considerable an amount that it will be impracticable to pay all the claims of those who might be looking to the land agent for their money; and equally impracticable in the majority of cases, if not in every case, to ascertain exactly whose money it is that is missing, because, naturally, the whole of the money will be in the one bank account, and if one-tenth of it has been misappropriated it cannot be said to which one-tenth of the creditors it belonged. Therefore it might be necessary to make a distribution on a proportionate basis. In such circumstances, the Treasurer is, therefore, authorised to draw up a scheme for such a purpose; but he cannot carry that scheme into effect without application to a judge for approval of the scheme. The judge may also give directions in respect to the disbursements of the moneys held at the Treasury.

It will be clear to members that the whole of the powers contained in the Bill are based on orders to be made by a judge of the Supreme Court who, of course, will be at liberty to make, or not to make, an order as he thinks fit; or, having power to make the order subject to conditions, may be satisfied that those conditions should enable the land agent to have some authority to operate upon one or more of his accounts. That would depend on the judge's view of the circumstances of the case.

The whole proposal is based on the belief that circumstances which have already arisen in connection with the land agent mentioned earlier, may arise in other cases; and it is quite clear that, as the moneys of a number of persons will be deposited in the trust account at the time when the audit discloses a deficiency, it is desirable that some authority should have the right to determine, in the

light of the facts, just what should be done to protect to the utmost extent possible the persons concerned.

I feel this is a Bill which will receive the support of members in this House, because in it, the Government is intending to do one particular thing; and that is to afford a greater means of protection to those people who, in certain circumstances, entrust their moneys to a land agent. Whilst I think it could be truthfully and faithfully said that the great majority of those people who are members of the Real Estate Institute, and who practise as land agents are trustworthy, we do know that there have been breaches in this regard; and, in order to try to protect perhaps what might be the life savings of some particular individual, it is the Government's desire to add a further amendment to the Act which will afford such protection. I move—

That the Bill be now read a second time.

On motion by the Hon. G. E. Jeffery, debate adjourned.

INDUSTRY (ADVANCES) ACT AMENDMENT BILL

Second Reading

Debate resumed from the previous day.

THE HON. F. J. S. WISE (North) [7.37]: I must confess that I could hardly believe my ears when I listened last evening to the Minister introducing a Bill to ratify an arrangement which would enable the Prudential Assurance Company to finance Canterbury Court under guarantee from the Government. I think other members, too, might have been equally affected and surprised.

This Bill, which was dealt with rather trenchantly last year—or a Bill very similar to it—provoked heated debate both from its sponsor and its critics.

The Hon. A. F. Griffith: More particularly from its sponsor, if I remember correctly.

The Hon. F. J. S. WISE: He had the responsibility of replying to five separate opinions; and if the odds are 5 to 1 against a person in any fight he is of necessity inclined to be a bit vigorous. That was the position I was in. Of course, it was a losing fight. There were five speakers all of whom opposed it. There were two, as the Minister said in his introductory speech, who would have been prepared to support it, in order to have it amended in Committee. However, only one of the members of the then Opposition supported the Bill at the second reading to enable it to be amended in Committee. There was only one, and that was Mr. Mattiske. That being the situation, it was, of course, only pretence when suggestions were made that the Bill might be supported to enable it to be amended in Committee. It did not get into the Committee stage at all, although Mr. Mattiske helped us to try to achieve that object.

The Hon. G. E. Jeffery: Queer twist of fate!

The Hon. L. A. Logan: Must have had some shares in Canterbury Court, I think.

The Hon. F. J. S. WISE: This Government has obviously realised the merit in the good faith expressed by the then Government, which was trenchantly criticised at the time. It was not a question of sponsoring something that was a worthy industry or objective. It was something entirely opposed to the spirit and intent of the parent Act; and, although I argued that the word "industry" in its context was all-embracing—primary, secondary and tertiary industries to be included—that contention was not acceptable.

I know that you, Mr. Deputy President, would not allow me to refer to a debate that took place in another Chamber on this matter, but if I were allowed, I would say that the Premier advanced entirely different arguments and produced different figures from those submitted by the Minister in this House.

The Hon. A. F. Griffith: I hope I can get away with that one a little later.

The Hon. F. J. S. WISE: Very great discrepancies were disclosed in the figures quoted. It could be typographical, or even typists', errors—I do not know. However, there is a vast difference between £14,000 and £40,000, although, phonetically of course they may be somewhat similar. It was suggested by the Minister when introducing the Bill that the contractor had been involved in expenditure of £14,000 which was something which had to be taken into consideration when weighing up the situation. The figure, as I understand it—and which appears in *Hansard*—is £40,000; and this is a matter of material importance as it is one of the reasons for the Bill. The Prudential Assurance Company, which I criticised last year when sponsoring the Bill, certainly takes no risks at all.

The Hon. L. A. Logan: None at all.

The Hon. F. J. S. WISE: I recall that last year Mr. Watson, by interjection, said that the company, judging by its name, must be prudent. It certainly does not do anything in regard to any sort of estate business, unless it is 100 per cent. protected. It wanted to be covered entirely by a Government guarantee, both before and after the passing of a Bill to enable the Government, under the Industry (Advances) Act and through the Rural and Industries Bank agency section, to deal with the matter. It was not taking any risks at all. Like most assurance companies, it did not intend to take a risk on this occasion, even with this Bill.

It is obvious that the company had to approve of this Bill. The Minister said something along those lines—I think in the last sentence of his speech; and I take it, therefore, that the Bill now before us, or a different Bill, was sent to the company in Sydney for its approval. One thing I would like to know, is whether the Bill before us is the measure which the Crown Solicitor's office suggested would be sufficient to meet the company's needs. I would like to know that.

The Hon. A. F. Griffith: You mean the needs of the Prudential Assurance Co.?

The Hon. F. J. S. WISE: Yes. Is this Bill something of its creation? This is important. I argued last year that "industry," in its context in the title of this Bill, had to be accepted as industry with no limitation at all. Mr. Watson dealt very trenchantly with that point of view; and I would therefore draw attention to a comparison of the Bill of this year with that of last year, in regard to what the long title presented then and what it presents now—if this is to be the amending form—in the word "industry."

In the parent Act, "industry" includes industries of a primary, secondary and tertiary kind. It does not limit; it includes them. It does not mean them alone; it means all other forms of industry, and includes those. The Minister, who voted against allowing the Bill to go into Committee last year, had the pleasure of introducing it this time—

The Hon. A. F. Griffith: For a different reason, of course.

The Hon. F. J. S. WISE: For the same reason; with some ancillary reasons, as well. The Minister said this time that legal opinion did not unanimously support the assurance company's contention that the project was not covered by the principal Act. I raised that point last year, in almost identical words; and that is why the Bill was introduced; to satisfy the assurance company that its legal opinion was insisted upon.

The Government could not be left holding the baby, having given its word that the finance would be made available through that Act—

The Hon. A. F. Griffith: You are forgetting something important. It is in the speech of which I gave you a copy. This was the result of an undertaking given by all Parties prior to the election.

The Hon. F. J. S. WISE: I have not finished yet. I have most copious notes here. I acknowledge that by arrangement, and on an understanding and an approach between the Parties—as was said by the Minister—it was agreed that a Bill ratifying the transaction would be introduced.

The Hon. L. A. Logan: Not unanimously.

The Hon. F. J. S. WISE: I can imagine that it would not be unanimous. I can imagine that it would be a job to get unanimity in the Government on that point; but the Prudential Assurance Co., after a temporary guarantee given by the Commonwealth Bank for £250,000 to tide over the working operations on the building, with a six months' limit, I think, to the guarantee—provided the Prudential Assurance Co. or the Government took up the responsibility at the end of six months —agreed to the arrangement. What I have quoted the Minister as having said on this occasion, that legal opinion did not unanimously support the assurance company's contention, was not believed by the Minister last year, although I emphasised it.

I think it is very important to compare the objectionable words of last year with the non-objectionable words of this year; and, quite apart from the trappings in clause 3 of the Bill on this occasion, which I think might be the child of the assurance company rather than of the Crown Law Department, we have in the second clause of the measure something different from the alteration to the long title in the Bill of last year. I will recite it. "The long title to the principal Act is amended" —this is last year's Bill—"by adding after the word 'industry' in line 4 the words 'or in any other activity'," which obviously was intended to so broaden the long title as to bring in any other activity.

The Hon. H. K. Watson: Bookmakers' shops, or anything at all.

The Hon. F. J. S. WISE: The honourable member drew on his imagination last year, in saying it could be in support of a lolly shop or a barber shop; and I think that was not improperly raised by Mr. Watson on this occasion. But comparing that verbiage with the new verbiage, last year it was, "or in any other activity"; and now we have this year's clause, "The long title to the principal Act is amended by adding after the word 'industry' in line 4 the words 'or in a particular building activity'."

The Hon. H. K. Watson: Not necessarily this particular building activity!

The Hon. F. J. S. WISE: No. It could be a memorial to the Hon. H. K. Watson, in marble; and it would not be a white elephant, either! So we have, in the comparison of the clause of the same number last year, with that of this year, a distinction that—although in the context in my view there was no limitation on the basis of what "industry" meant—this year instead of having "any other activity" we have "or in a particular building activity."

Does not this widen the scope; quite distinct from the needs of Canterbury Court and of the Prudential Assurance Co.? The assurance company which dominates this Bill and which has dictated these terms in regard to the requirements for coverage, with no risk whatever to its

interests; and not satisfied with Government guarantees, which even the humblest would accept—

The Hon. H. K. Watson: Why didn't you send it about its business in the first place?

The Hon. F. J. S. WISE: I do not know why the Government did not. I do not know.

The Hon. L. A. Logan: It should never have made the agreement.

The Hon. F. J. S. WISE: The Government last year was very anxious, as I said, to have developed this or any other industry which would keep people in employment; but on this occasion the Government and its Ministers—last year they violently and vigorously opposed both the contention that the assurance company needed the guarantee and the principle that Canterbury Court should be so financed—have re-introduced a similar principle.

I would like to know the relationship between the clause dealing with the long title and the operative clause of the Bill—the next clause in it. I know, from my own knowledge, that the Privy Council has already made a decision on such a matter as this. If the relationship between the long title and the operative clause of the Bill is to be amended, the alteration of the long title will leave it wide open so that in the future any other particular building activity can be financed from a source which was wholly objectionable to the present Government and its supporters last year.

If that is the position, it is a very strange turn-about-face on the part of the Government, irrespective of the agreement which was previously reached; and I am referring to the terms which are in this Bill to make it as broad as the amendment to the long title suggests it may be—

The Hon. A. F. Griffith: If your Party had continued to be the Government this year, you would have re-introduced the Bill.

The Hon. F. J. S. WISE: I would think so.

The Hon. A. F. Griffith: We are honouring an undertaking which you got the State into.

The Hon. F. J. S. WISE: That is almost as foolish as it is fallacious; because, as units of a Government the members of which so vigorously opposed the Bill last year, it is surely more than passing strange that you should now find adequate thought, reasons and arguments for the sponsorship of it in this form; otherwise you opposed it last year for the sake of opposing it. I am not opposing the Bill; because I think there is no option but to have it passed.

The Hon. L. A. Logan: In an amended form.

The Hon. F. J. S. WISE: I am not objecting to the widening of last year's meaning of "industry."

The Hon. A. F. Griffith: The honourable member is enjoying recounting a little history.

The Hon. F. J. S. WISE: One would be a very peculiar sort of political partisan if one did not take advantage of such an incongruous situation.

The Hon. A. L. Loton: The opportunity does not occur every day.

The Hon. F. J. S. WISE: No; but I have stated the facts. The Minister will agree with that.

The Hon. A. F. Griffith: I like to see the honourable member doing it so good-naturedly.

The Hon. F. J. S. WISE: I am always good natured. It is a disadvantage of my manner of speech that I may appear to be hostile when I am so very friendly.

The Hon. J. G. Hislop: Is the reverse also true?

The Hon. F. J. S. WISE: The Bill will pass, I think. I do not want to inspire opposition to it—but it could have been an Act nine months ago and could have given effect to the requirements of the Prudential Assurance Company—but there are certain aspects of it at the moment which I do not like. Why, if the Government is in earnest in spite of the agreement made before, is the long title amendment now sought not consistent with the Government's attitude last year? And, in addition, I would like to know just how much of this Bill is the Bill which the Crown Law Department thought would meet the requirements of the Prudential Assurance Company; and let us see what the company is demanding, which the Crown Law Department thought was not necessary. I support the Bill.

THE HON. H. K. WATSON (Metropolitan) [7.58]: I have listened with interest to Mr. Wise endeavouring—I do not want to do him an injustice—to make some capital out of the situation; capital which he is not entitled to make and criticism which he is not entitled to offer against the Minister. The Minister is of age, and can speak for himself—

The Hon. A. F. Griffith: And will.

The Hon. H. K. WATSON: I suggest to Mr. Wise and to the House that the introduction of this Bill proves nothing; except that the previous Government pooled this State and the present Government into an arrangement which, in my opinion, cannot be described other than as extraordinary. That is the position. The Government apparently found, when it entered office, that, notwithstanding the attitude of this House last year in this regard, the Treasurer, by virtue of the peculiar power vested in him under the

principal Act, had, contrary in my opinion to the general purport of the Act, committed this State to a guarantee of a cool quarter of a million pounds.

The Hon. L. A. Logan: To a company which could buy and sell it.

The Hon. H. K. WATSON: Not necessarily a company that could buy and sell it, if the Minister is referring to the Prudential Assurance Company. It was to assist in the construction of a speculative venture which, if it were to be erected, ought to have been erected by private finance; and, if the company wanted assistance from an assurance company, on a basis whereby that assistance ought to have been given on its merits and on the strength and solidarity of the security that was offered.

The whole scheme, in my opinion, was a complete departure from the spirit and intention of the Industry (Advances) Act, and for all practical purposes it constituted a breach of that Act. So far as I am concerned, what was wrong in 1958 is also wrong in 1959; and, as I opposed a similar Bill last year, so I intend to oppose this measure tonight.

There is much force in the argument Mr. Wise advanced on the points regarding the amendment to the long title of the Bill. This measure not only proposes to validate the Canterbury Court fiasco, but also, instead of closing the gate—instead of clarifying the Act so that future abuses of it by a Treasurer of the State cannot take place—proposes to remove any doubt that the Treasurer can, willy-nilly, guarantee any proposition of any kind.

During my speech on the Address-in-reply I referred to the principal Act, and to the position which was disclosed last year when a Bill similar to this was introduced. I requested the Minister at that time to convey to the Government the suggestion that, inasmuch as the Industry (Advances) Act needed clarifying, one way or the other, it should have a close look at the legislation to clear up the position so that there would be no room for argument as to what the existing Act intended; and that we should know whether or not its provisions were to be confined to industry as we understand it—that is the farming industry, the mining industry, and secondary industry—because the whole basis of the Act had its genesis in the Industries Assistance Act, and its real purport was to assist industries in this State and to encourage new ones to come here.

When I talk of industries in that vein, I do not think there is any doubt as to what the Act means. When I suggested to the Minister that the Act should be amended and clarified, I meant that if it were, on the one hand, to apply to industries in the true sense of the word, it should be so applied; but if it were to embrace such projects as the Canterbury Court undertaking today, and the London Court project the day after, or if its provisions were to include assistance being granted to Bill Smith for a betting shop guarantee, then the legislation should so provide. But, whatever we do, let us remove the doubt that exists.

When I say that we should clarify the position one way or the other, I do not want to leave any room for doubt as to where I stand in the matter. I consider it is no part of a State Treasurer's activities to guarantee, willy-nilly, any undertaking that he may think of. In my opinion, the Act should be amended to make clear what type of industry is to be assisted and to what exent. Apart from the Chamberlain Industries undertaking—the Treasurer, who introduced a Bill similar to this last year started off those industries and landed the State into a liability of a couple of million pounds—we find that over the last six years, under the Industry (Advances) Act, there were 72 advances made, amounting to a total of £1,000,000, which suggests that each of the advances was within reasonable bounds.

This advance, however, is for a cool £250,000. If the Treasurer finds he can get away with guaranteeing such a proposition as this, we may find that in a fortnight's time the State will be committed for another one which may amount to £5,000,000. I very much regret that, although I drew the Minister's attention to these possibilities during the Address-in-reply debate, I find that this Bill has not only been brought down to validate the Canterbury Court project, but that it will leave the whole dangerous question unanswered and open for exploitation.

Whilst I have no doubt that the present Treasurer would not be guilty of exploiting the position that is presented under the Act as it now stands, I am not at all satisfied—in the light of experience—as to what the position may be under another Treasurer. At the moment there is encouragement offering in the Act for the Treasurer to act in a manner that could not be described as *bona fide*. There is a section in the Act which reads as follows:—

> A certificate in the prescribed form under the hand of the Treasurer stating that a person specified in the certificate is entitled to financial assistance under this Act and purporting to contain a direction or delegation to the Bank under this Act shall be conclusive evidence of the facts therein stated, and of the authority of the Bank to make any advance or to give any guarantee as mentioned in the certificate.

It is pretty clear that what happened in this case is that the Treasurer said to himself, "This proposition is right outside the Act, but my certificate can override the

Act, so here goes my certificate." We have concrete evidence that the Treasurer has given a guarantee to a scheme that was never intended to come within the provisions of the Act. I do not think there is much room for doubt about that.

It will be found that having been done once, it could well be done again with even greater justification than in the case of Canterbury Court. In future, the Treasurer can say, "I have a precedent The previous Treasurer advanced money for the building of Canterbury Court. There seemed to be a little doubt about it afterwards, but Parliament passed a validating Act. There was a *fait accompli* and we knew it was wrong, but we put up a sob story to Parliament about the building being half erected and Parliament had to agree."

We are the custodians of the State's funds, and for my part I will not stand idly by and see a Bill passed which distorts the real intention of the present Act by seeking to validate the scheme mentioned in the Bill.

On motion by the Hon. R. C. Mattiske, debate adjourned.

ADJOURNMENT—SPECIAL

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines): I move—

That the House at its rising adjourn till the 15th September.

Question put and passed.

House adjourned at 8.12 p.m.

Legislative Assembly

Wednesday, the 9th September, 1959

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

GOVERNMENT RAILWAYS ACT AMENDMENT BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

QUESTIONS ON NOTICE

HIGH SCHOOLS

Number Built and Under Construction

1. Mr. W. HEGNEY asked the Minister for Education:

   (1) How many State high schools were built or were in course of construction in—

   (a) the metropolitan area;

   (b) other parts of the State between March, 1947, and the end of December, 1952?