(Commonwealth and State Arrangement) Act"—rather a simple, abbreviated title of the Bill.

Apparently the draftsman decided he should alter that title but he did not proceed as far as he should in that direction if he thought the title should run along those lines, because in the schedule to this Act the arrangement is described as follows:—

> AN ARRANGEMENT made pursuant to section 5 of the Tuberculosis Act 1948 of the Commonwealth of Australia between HIS EXCELLENCY THE GOVERNOR-GENERAL OF THE COMMONWEALTH OF AUSTRALIA, acting with the advice of the Federal Executive Council, and HIS EXCELLENCY THE GOVERNOR OF THE STATE OF WESTERN AUSTRALIA, acting with the advice of the Executive Council of the State.

Therefore, if the draftsman wanted to proceed as far as he has done with the title, why did he not refer to this as being pursuant to section 5 of the Tuberculosis Act—

The Hon. G. C. MacKinnon: You wouldn't like to suggest we put the whole schedule in?

The Hon. N. E. BAXTER: —of the Commonwealth of Australia and place the responsibility for the Bill jointly, not only on the Governor-General but also on the Executive Council of the Federal Government; and not only on the Governor of this State, but also on the Executive Council of this State? We have had a previous long title referring to this legislation and it describes it fully, and therefore I feel I must support Mr. Wise.

The Hon. J. G. HISLOP: I have only one or two small doubts about this matter of having the long titles include all arrangements between the Commonwealth and the States. I think some thought should be given to it. I think the new title rather clouds the interest that lies in this Bill. It is difficult enough now in all conscience to identify Bills, and if this system were adopted it could be considerably more difficult.

The Hon. G. C. MacKinnon: Since when did you identify Bills through their long titles?

The Hon. J. G. HISLOP: We do not; but most of us are not skilled draftsmen, and the easier it is made the better. If I am wrong I will stand corrected.

Amendment put and passed.

Title, as amended, put and passed.

Bill reported with an amendment to the title.

House adjourned at 6.13 p.m.

Legislative Assembly

Wednesday, the 25th August, 1965

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CONTENTS—*continued*

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

QUESTIONS (14): ON NOTICE

EGGS

Commercial Producers: Definition under Commonwealth Regulations

1. Mr. HART asked the Minister for Agriculture:

   (1) Is it correct that under the Commonwealth Egg Marketing Regulations the definition of a commercial egg producer in Western Australia is a producer who has over 20 hens and sells or deals in eggs?

   (2) Is this same definition used in the other States of Australia?

   (3) If not, what is the basis of definition in each of the other States?

   (4) If the basis is not uniform, how does the Commonwealth Act apply in various States?

   Mr. LEWIS (for Mr. Nalder) replied:

   (1) The Commonwealth Poultry Industry Levy Act, 1965, which has Australia-wide application, imposes a levy on the owners of hens, except those kept for broiler production, over the age of six months in flocks in excess of 20 kept for commercial purposes.

   (2) to (4) Answered by (1).

ROAD BETWEEN HOLT ROCK AND RAVENSTHORPE

Upgrading, and Use for Transport of Grain

2. Mr. HART asked the Minister for Works:

   (1) Has a decision been made to send all grain by road transport from the Holt Rock, Lake King, and Ravensthorpe area to the new shipping facilities at Esperance this coming harvest?

   (2) What steps are being taken to upgrade the road between Holt Rock and Ravensthorpe?

   (3) Will the road be of the same standard as the Pingrup to Albany Road?

   (4) As over one million bushels can be expected this year from these areas for Esperance, what amount of upgrading will be done this year?

   Mr. ROSS HUTCHINSON replied:

   (1) Yes.

   (2) The section of this road between Holt Rock and Lake King is reported to be in excellent condition. £3,400 has been set aside on the department's current programme for maintenance work. The unsealed section between Lake King and Ravensthorpe—a distance of about 25 miles—will be completely reconstructed with funds provided on the department's current programme of works.

   (3) No.

   (4) Substantial reconstruction of the section between Lake King and Ravensthorpe and regular maintenance on the Holt Rock-Lake King section.

HIGH SCHOOL AT BALCATTA

Establishment, Size, and Cost

3. Mr. GRAHAM asked the Minister for Education:

   (1) When is it proposed to commence and complete respectively the erection of a high school at Balcatta?

   (2) What will be the size of the school—

      (a) initially;

      (b) when completed, if to be built in stages?

   (3) What number of students will be accommodated under heading (a) and (b) above?

   (4) What is the estimated cost of the land and the buildings respectively?

   Mr. LEWIS replied:

   (1) Subject to loan funds being available, it is proposed to commence the first stage of the school building in approximately the middle of 1966. In this case the first stage will be completed by February, 1967, and the whole school to the end of the third stage by February, 1969.

   (2) (a) Initial erection—first unit of 11 teaching rooms.

      (b) Completion—three units comprising 31 teaching rooms.

   (3) Students in—

      (a) above—300;

      (b) above—900-1,000.

   (4) Total estimated cost of site and buildings—£300,000 to £400,000, including, I understand, £17,700 for the site.

ASSOCIATIONS INCORPORATION ACT

Use of the Word "Incorporated"

4. Mr. SEWELL asked the Minister representing the Minister for Justice:

As the answers to the questions in No. 4 on the notice paper of Thursday, the 19th August, 1965, were "Yes," does he not agree that this would indicate that there is scope for conflict between the practice of the Registrar of Companies under section 6 subsection (1) of the Associations Incorporation Act in allowing the use of the word "Incorporated" or the abbreviation "Inc." to be optional in the registered name of an association and the practice of the Titles Office as outlined in (2) of No. 4? What steps does he propose to take to avoid conflict actually arising?

Mr. COURT replied:

There are conflicting views as to the interpretation of the phrase "adding thereto the word 'incorporated' or the abbreviation 'Inc.' " in section 6 (1) of the Associations Incorporation Act.

Consideration will be given to the question of amending the Act to clarify the meaning of section 6.

RAILWAY CROSSING FUND ACCOUNT, 1964-65

Revenue, Expenditure, and Nature of Work

5. Mr. GRAHAM asked the Minister for Traffic:

(1) What amount was paid into the Metropolitan Area Railway Crossing Fund Account in the financial year 1964-65?

(2) On what crossings was money spent from the fund during that year, what was the nature of the work, and what was the amount in each case?

(3) What sum is in the fund at the present time?

Mr. CRAIG replied:

(1) £38,841.

(2)

	£
West Road overbridge repairs	879
Swanbourne overbridge repairs	361
Various overbridges minor repairs	23
Purchase of equipment, flashing lights, and boom gates	50,000
Supervision	120
	£31,383

In addition, moneys allocated but not spent were—

	£
Barrack Street bridge repairs	2,000
William Street bridge repairs	1,170
Jewell Street boom gate equipment	7,800
Rivervale crossing boom gates and channelisation	6,900
Wellard Road and Austin Avenue flashing lights installation	3,600
	£21,470

(3) £153,755.

ORD RIVER SCHEME

Parliamentary Committee: Appointment

6. Mr. RHATIGAN asked the Premier:

(1) On account of the delay in decision for the granting of funds for the completion of the Ord River Dam scheme, will he appoint a parliamentary committee similar to that appointed in 1955, which was successful in its approach to the Prime Minister in the granting of the first two and a half million pounds to this scheme?

(2) If so, will he take immediate steps to appoint this committee?

(3) If not, will he give his reasons in detail for not appointing such a committee?

Mr. BRAND replied:

(1) to (3) The Prime Minister has given the following reasons for the deferment of Commonwealth financial assistance for the second phase of the Ord River project—

(a) the economics of the scheme as a whole;

(b) the problem of insect infestation;

(c) doubts regarding the consistency of the soil after intensive cropping.

The Government is confident that it can provide satisfactory answers to these questions, and will make its submissions to the Commonwealth Government at the conclusion of the present cotton growing season.

Under these circumstances, it is considered that no useful purpose would be served by the appointment of a further parliamentary committee.

THIRD PARTY INSURANCE

Motor Vehicle Insurance Trust: Maximum Liability

7. Mr. HALL asked the Minister representing the Minister for Local Government:

What is the maximum amount of liability of the Motor Vehicle Trust, respective of each passenger, if a vehicle registered and insured under Class 1A of (A) of the schedule, when a motorcar so registered is involved in an accident, negligence proven, and is operating under circumstances falling within the description of a vehicle as Class 3 (B) of the schedule?

Mr. LEWIS replied:

Class 1A of the schedule of third party insurance premiums refers to any motorcar used for private or business purposes. Class 3 (b) (hire vehicle) of the schedule refers to any motor vehicle other than a taxicab or a "Hire and Drive Yourself" vehicle licensed under the Traffic Act to carry eight or more persons principally operating on routes, the major portion of which is outside the 25 mile radius of the G.P.O., Perth. Section 6 (2) of the Motor Vehicle (Third Party Insurance) Act provides that the liability of the trust is limited to £6,000 in respect of any claim made by or in respect of any passenger—other than a passenger in a vehicle licensed under the Traffic Act, 1919, for carriage of passengers for hire and reward—carried in the vehicle mentioned in the policy and to £60,000 in respect of all claims made by or in respect of any number of passengers so carried. If it can be assumed from the question that the vehicle is registered as a private car under the Traffic Act and insured in Class 1A of the schedule of third party premiums, the limit of liability of the trust would be £6,000 per passenger and £60,000 for all passengers irrespective of what circumstances the vehicle may be operating under.

The liability of the trust for passengers in an insured vehicle is limited to £6,000 in all cases, unless the vehicle in which they were passengers is licensed under the Traffic Act for hire and reward for the carriage of passengers.

NEW ZEALAND WHITE RABBITS: BREEDING

Licenses Issued

8. Mr. HALL asked the Minister for Agriculture:

(1) How many licenses are still held in this State for the breeding of New Zealand white rabbits?

(2) How many licenses were issued in this State for the breeding of New Zealand white rabbits and in what years were they issued and for what towns or city areas were they issued?

(3) Were licenses issued for a five-year trial period and, if so, when does or did the five-year period expire?

Cancellation of Licenses, and Compensation

(4) On cancellation of licenses for breeding of New Zealand white rabbits, did the Government in any way compensate commercial rabbit breeders on termination of same?

Mr. LEWIS (for Mr. Nalder) replied:

(1) One.

(2) Eleven licenses were issued in 1961 for Mt. Pleasant, Riverton, Gosnells, Kalamunda, Queen's Park (2), Canning Vale, Morley, Lesmurdie, Claremont, and Albany.

(3) No. The licenses issued were renewable annually till their final expiry on the 30th June, 1966.

(4) No license has been cancelled by the Government.

LEGISLATIVE ASSEMBLY DISTRICTS: REDISTRIBUTION

Crown Law Department Advice: Tabling

9. Mr. TONKIN asked the Premier:

(1) Has the view of the Crown Law Department, which was expressed in the Supreme Court on the occasion of the action of a declamatory judgment in connection with the Electoral Districts Act and which was that upon the receipt by the Minister of a report from the Chief Electoral Officer that not less than five seats were out of balance there would be an immediate duty upon the Governor to issue a proclamation ordering a redistribution of seats, been changed since that time?

(2) If "Yes," in what way does the present view of the position differ from that previously held?

(3) Will he table a copy of the latest advice received from Crown Law on the matter of redistribution and the Government's duty with regard thereto?

Mr. BRAND replied:

(1) The view expressed in the question was not at any time the view of the Crown Law Department and, furthermore, was not so expressed in the Supreme Court. The honourable member has taken out of context a few words used by counsel in the course of argument and attributed to them a meaning different from that which in the context they were intended to bear.

(2) Not applicable.

(3) Advice received by a Government from its law officers is confidential.

TRAFFIC BRIDGE AT EAST FREMANTLE

Resumptions, and Commencement Date

10. Mr. FLETCHER asked the Minister for Works:

(1) Is he aware that East Fremantle Town Council ratepayers owning property immediately east of East Street are reluctant to improve property likely to be involved in resumption associated with a traffic bridge planned for this area?

(2) Has any commencement date for such a bridge been arrived at?

(3) If so, what is the date?

Mr. ROSS HUTCHINSON replied:

(1) I understand that this could be so.

(2) No.

(3) Answered by (2).

EAST FREMANTLE RIVERSIDE DRIVE

Industrial Establishment: Removal

11. Mr. FLETCHER asked the Minister for Works:

(1) Is he aware that East Fremantle Riverside Drive boat-building and other establishments are causing concern to the local town council by continuing to exist—

(a) as industrial establishments in a residential area;

(b) as substandard buildings with substandard amenities?

(2) Are these sites in a "non-conforming" area?

(3) Is he further aware that owing to pending development of Riverside Drive and foreshore, owners of such businesses, owing to insecurity of tenure, are naturally reluctant to outlay finance on improvements?

(4) When is this foreshore development planned to commence?

(5) As the Government offers financial and other encouragement to attract bigger local and overseas industries to become established in the Fremantle area, will the Government, through the Department of Industrial Development, meet costs associated with the displacement and re-establishment at new sites of these local self-developed undertakings?

Mr. ROSS HUTCHINSON replied:

(1) I believe some concern has been expressed.

(2) Presumably the buildings in question have been approved by the local authority. I understand that the future zoning of the sites is being considered under a new town planning scheme.

(3) I understand that this could be so.

(4) No firm decision has been taken.

(5) Fair prices will be paid for resumed properties.

PINE TREES

Plantations: Acreages and Future Plantings

12. Mr. RUNCIMAN asked the Minister for Forests:

(1) How many acres of pine trees have been planted by the Forests Department?

(2) What acreage was planted in 1964?

(3) What plans has the department for future plantings?

Mr. CRAIG (for Mr. Bovell) replied:

(1) 42,418 acres.

(2) 3,500 acres.

(3) The Forests Department's annual pine planting target is an average of 3,000 acres per year. If proposals at present being sponsored by the Australian Forestry Council meet with Commonwealth Government support, it is hoped to raise this to 6,000 acres per year.

Seedlings: Sale by Department, and Private Plantings

13. Mr. RUNCIMAN asked the Minister for Forests:

(1) Does the Forests Department sell pine tree seedlings to private persons?

(2) If so—

(a) how many were sold during 1964;

(b) what was the price per hundred?

(3) Does the department advise or encourage private citizens in the planting of pine trees?

Mr. CRAIG (for Mr. Bovell) replied:

(1) Yes.

(2) (a) 137,260.

(b) £1 10s. per hundred, including packing.

£7 10s. per thousand, including packing.

(3) The department is prepared to advise private citizens on request but would only encourage planting of pine trees if satisfied that the soil, site, and rainfall were suitable.

POLICE QUARTERS AT DERBY

Tenders: Calling

14. Mr. RHATIGAN asked the Minister for Works:

(1) Have tenders been called for the new police quarters at Derby?

(2) If not, when will these tenders be called?

Mr. ROSS HUTCHINSON replied:

(1) and (2) Tenders close on the 6th September for married man's quarters, and it is anticipated that tenders for quarters for single men will be called in about one month.

BILLS (8): THIRD READING

1. Education Act Amendment Bill.

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

2. Western Australian Marine Act Amendment Bill.

Bill read a third time, on motion by Mr. Ross Hutchinson (Minister for Works), and transmitted to the Council.

3. Bush Fires Act Amendment Bill.

Bill read a third time, on motion by Mr. Craig (Chief Secretary), and transmitted to the Council.

4. Bunbury Harbour Board Act Amendment Bill.

5. Albany Harbour Board Act Amendment Bill.

Bills read a third time, on motions by Mr. Ross Hutchinson (Minister for Works), and transmitted to the Council.

6. Spear-guns Control Act Amendment Bill.

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

7. State Government Insurance Office Act Amendment Bill.

Bill read a third time, on motion by Mr. O'Neil (Minister for Labour), and transmitted to the Council.

8. Registration of Births, Deaths and Marriages Act Amendment Bill.

Bill read a third time, on motion by Mr. Craig (Chief Secretary), and transmitted to the Council.

ELECTORAL ACT AMENDMENT BILL

Second Reading

MR. BICKERTON (Pilbara) [4.50 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend the Electoral Act. The two main objects are, firstly, to prohibit the distribution of any type of political propaganda on election day, including how-to-vote cards; and, secondly, to have the party designations placed on the ballot paper alongside the names of the candidates. It will be clearly seen that if the first object is achieved, then the second object becomes most essential.

The Bill might appear to be a little bulky in order to achieve those two objects. It may on first perusal appear to be somewhat complex. However, the purpose of the machinery in the Bill is to enable political parties to be registered, so that when they require their party designations to be placed on the ballot paper, those designations are protected by registration. It would be fairly obvious to members that unless parties could register their political designations it would be possible for people who wished to mislead the voters to request that a party designation very similar to the designation of another party, be placed on the ballot paper, and so defeat the whole object of party designations appearing against the names of candidates on the ballot paper.

I am sure all members are aware that from time to time rather unjust dealings are handed out to the voters on election day. We know that all parties and all candidates are equally enthusiastic; and, as a result, the space within 20 feet of pollings booths is considerably cluttered up on election days. If anything, that adds to the confusion of the elector on most occasions, rather than assists him.

This is most noticeable during by-elections, when all parties have little difficulty in obtaining adequate workers to man the polling booths. We see the situation where four candidates are contesting a seat, and there may be as many as three helpers to each candidate at a polling booth, who are there to hand out the how-to-vote cards.

Mr. O'Connor: Did that happen in Pilbara?

Mr. BICKERTON: We did not have a by-election. I was not opposed. It is, of course, confusing when voters are handed half a dozen how-to-vote cards, whether or not they wish to have them, before they reach the polling booth to cast their vote. Members will realise that in these days a minimum period of three weeks is available for campaigning before election day, and sometimes it develops into a much longer period. With improved

organs of publicity—such as television, radio, and adequate newspaper distribution—it is reasonable to assume that by election day all the parties will have got over to the electors what the parties propose to do, without the need to worry the voters on election day.

This Bill seeks to prevent the issue of political propaganda of any description on election day; and to further clarify the position in the case of an elector who might not have watched television, listened to the radio, or read the newspapers up to election day, he would have the advantage of the party designations being placed against the names on the ballot paper.

Mr. W. A. Manning: How would an Independent get on?

Mr. BICKERTON: There is machinery in the Bill to cover that, and I shall deal with it later. An Independent would have the word "Independent" placed against his name. In order to protect the party designation it is necessary for a party to become registered, and that is the reason for the bulkiness of the Bill before us.

It sets out the machinery in a proposed new section, section 77A, to provide for a party of 20 people or more to register as a political party; in other words, a party of 20 people or more may, if they so desire, apply for registration as a political party. One might ask how the number 20 was arrived at. I suppose we have to hit on some figure, and I shall not argue against the number being 19 or 21.

I should imagine if a candidate thought he had a chance of winning an election he would at least be able to find 20 supporters who could form themselves into a registered party; if he could not find 20 supporters I suggest he could not win, and my advice would be for him to give it away. I do not think 20 is a restrictive figure.

The Bill sets out very clearly the procedure for registration. Twenty persons, after having decided to form themselves into a political party, may make application to the Chief Electoral Officer for registration. The Bill provides that the application shall include the name of the party, the particulars of address, and the office bearers of the party who are authorised to make endorsements—the reason for that is obvious—and that the application shall be signed by the chief administrative officer of the party seeking registration.

On receipt of the application for registration, the Chief Electoral Officer—provided, in his opinion, the name is not similar to that of some other party name already registered and is not likely to cause confusion, and provided that the name applied for is of such length that it could be printed on a ballot paper—will cause the machinery to be put into operation to register that party. The machinery, which is outlined in the Bill, provides that the Chief Electoral Officer, after satisfying himself on the points I have mentioned, shall cause notice of registration to be printed in the *Government Gazette* for a period of 14 days. If after that period no objections had been raised to the registration, then the Chief Electoral Officer would register the party and forward a record of registration to all returning officers in the State.

The Bill provides that at nomination time a candidate when nominating may request that his party designation be placed after his name, and there is provision in the Bill for a separate form attached to the nomination form for the particulars of the party concerned. The endorsement would be signed by the Chief Administrative Officer of that registered party. So the reason the record of the registration of the party is forwarded to the returning officer is so that he can, on the close of nominations, compare the application with the record of registration and so cause to be placed alongside the name of that candidate the registered political party's name. That would be the actual procedure for registration.

However, there is machinery in the Bill to allow for objections and appeals, and this again is necessary if this measure is to operate effectively. I have studied this matter for quite a while. In fact, it was my object originally to introduce it in 1962. From time to time since then I have discussed with the Parliamentary Draftsman the possibility of perhaps doing away with some of the machinery in connection with registration; but he has convinced me—and I feel quite sure he is right—that there seems to be no other way than the way this Bill is drafted at present, because allowance must be made for objections and appeals regarding registration.

I have dealt up to date in particular with the case of where a party has applied for registration, the registration has been advertised, there have been no objections and the party has been registered.

Mr. Guthrie: What grounds would there be for objection?

Mr. BICKERTON: It could be that a name applied for was similar to a name already registered. That would be one reason I would think.

Mr. Graham: Just ask the Country Party about that!

Mr. Guthrie: You indicate to the magistrate what he is to accept as a ground?

Mr. BICKERTON: If the member for Subiaco will give me a chance I will explain. We have not got to the point where we have an objection. Everything is going along swimmingly and we have registered a few parties; but now we have

reached a stage where an objection is lodged during the period of 14 days. In that case the objector must serve notice of objection upon the Chief Electoral Officer and the applicant, setting out his reasons for the objection. That having been done, the Chief Electoral Officer will cause machinery which exists in this Bill to be set into operation which enables that objection to be heard by a magistrate, and if the magistrate is satisfied that the objection is on just ground, he will hear the objection and give his decision, that decision being final.

That, I think, clearly indicates that an objection must be heard by a magistrate, and the machinery in the Bill provides for it. The objector must place his case before the magistrate and, of course, the applicant at the same time. There is also the proposition that the Chief Electoral Officer in the first place when an application is made may consider that the name is too similar to one already registered. We will say, for example, that there was the Australian Liberal Party and someone applied for the registration of the Austral Liberal Party. I think the Chief Electoral Officer would, in that case, be within his rights to say, "In my opinion that name is too similar to another one and therefore I refuse to register it."

If the Chief Electoral Officer does that, there is in the Bill machinery to enable the applicant to appeal against that initial opinion of the Chief Electoral Officer in this regard, and the Chief Electoral Officer is bound under this Bill to set in operation machinery to have the appeal heard before a magistrate, in which case again the decision of the magistrate is final.

Therefore members will realise that that is actually the procedure in both cases for the registration of a party, and the appeals against non-registration or appeals against the refusal by the Chief Electoral Officer to set the machinery in operation for registration.

It must be realised that this procedure will take a certain period of time, and it would have to be done at a date prior to an election which enabled this machinery to operate. In other words, we could not expect to register a political party three weeks before an election, when there would not perhaps be time, if objections or appeals were made, to enable the machinery to operate in that regard. So to enable the time for gazettal; lodging of objections, if any; and of appeals, if any, there is provision in the Bill to prevent the Chief Electoral Officer from accepting an application received by him during the period commencing on the day of the issue of the writ and ending on the day of the return of the writ. I think it would be obvious to members why that provision is included. The machinery prevents the acceptance of the application unless there is time for the full procedure to operate prior to the day of the issue of the writ. If this is not possible, the application for registration automatically lapses under this Bill.

There is provision also in the Bill for alteration to registration. A party may from time to time wish to change its name, and provision is made for that. The same procedure as I have outlined for the registration of a new party would take place in the case of alterations. The Bill provides for renewal of registrations every three years, and I believe that is fair enough. I do not think that a party, having been registered, should be registered for all time. The registration could be renewed from time to time. In the case, of course, of a party not renewing, or if in the opinion of the Chief Electoral Officer a party which has been registered has become defunct, then he has the authority to cancel the registration and notify the returning officers concerned.

Mr. Guthrie: Would you mind telling me whether you think there would be a valid objection to the name "Democratic Labor Party"?

Mr. BICKERTON: I do not think so, because it is an exsiting party and it has been known for a long time. I think it would be a matter for, firstly, the Chief Electoral Officer to decide subject to appeal and then finally a magistrate. It would be for these people to decide.

Mr. Graham: The Country Party might object to the Liberal and Country League being registered.

Mr. BICKERTON: A few objections amongst friends are no problem, but there are many more matters more important than those which are left for the magistrates to decide, and I think it is safe to leave the decision to them on this matter.

Mr. Guthrie: What if the Australian Labor Party could not be registered but the Democratic Labor Party was registered?

Mr. BICKERTON: That is purely hypothetical.

Mr. Guthrie: No. It is quite real.

Mr. BICKERTON: I am surprised the Speaker allowed it. I think we will face that issue when we come to it.

Mr. Guthrie: I don't know.

Mr. BICKERTON: If he does adopt that attitude, I think you are going to be in strife with the Liberal and Country League and all the rest; but personally I cannot see that situation arising. If it worries the member for Subiaco, I do not think he should let it. I am not worried.

Mr. Guthrie: What about a Hawke Labor Party and a Chamberlain Labor Party? How would you get on with that one?

Mr. Graham: You are wishing.

Mr. Guthrie: I am only stating what I read in the Press.

Mr. Graham: You can read? You are bragging, of course!

Several members interjected.

The SPEAKER (Mr. Hearman): Order!

Mr. BICKERTON: Apparently the member for Subiaco has not had time to study the Bill.

Mr. Hawke: He has had the time.

Mr. BICKERTON: Whatever the set of circumstances, the machinery is there to cover the interjection the honourable member made.

Mr. Guthrie: Yes. It is all left to a magistrate.

Mr. Hawke: He has had the time to study it. It is not the time he lacks.

Mr. BICKERTON: As I mentioned in reply to an interjection earlier, provision is made to avoid confusion to the elector which could be brought about by a name appearing on a ballot paper without any party name appearing after it. For example, suppose there were six candidates and three were of recognised registered parties and three had no designation at all. It is possible, although perhaps highly improbable, that some confusion could exist in the minds of the electors as to whether or not these other three were from the same parties and had been left off the ballot paper, and also whether they belonged in the order of the names appearing with certain registered parties. To avoid any possibility of confusion, the Bill states that in the case of a candidate not applying for a registered party designation, the returning officer will cause to be placed after his name on the paper the word "Independent".

Mr. W. A. Manning: What if a party seeks registration as an Independent Party?

Mr. BICKERTON: We will leave that to the magistrate to decide. I think that the word "independent" in Australian politics—and for that matter in British politics also—has been connected with a person who is a non-party candidate, and we should take it for granted that everyone would look upon an independent as being that type of person. To apply for the registration of a party known as the Independent Party would not be any advantage to the party or the candidate.

Apart from the clauses dealing with registration, etc., the Bill provides for amendments to sections 86, 113, and 187 of the principal Act; but these are purely machinery amendments to enable the new section 77A to operate under the Act. The Bill, in addition, repeals the existing section 192 and re-enacts the section to allow for the prohibition on the day of polling of the distribution of any electoral advertisement, notice, handbill, pamphlet, or card. The new section also prohibits the publishing in any newspaper distributed in the State of any advertisement relating to any candidate, political party, or any matter or comment relating to any question or issue of the election campaign. I think my earlier remarks covered this.

As I said previously, campaigns go on for a long time, and whilst it is the job of candidates prior to election day to take the initiative as far as an election is concerned, I do believe that from midnight on the day preceding the actual polling day political propaganda should cease. That is the electors' day, surely. If they have not made up their minds then, they still have the ballot paper with the party designations on it. I think that in most cases electors would have made up their minds by that time. Surely they should be allowed to make their choice without being molested outside polling booths and without being worried by political propaganda of any description, whether in a newspaper or otherwise being thrown at them on that particular day.

Mr. Rowberry: What are the present enactments with regard to limiting advertising in the Press prior to an election?

Mr. BICKERTON: The present Act says that no material can be handed out any closer than 20 feet from the polling booth, and there is nothing in the Act to prevent advertising in newspapers on election day. In fact, there were some very good examples during the last election not only of paid advertisements, but also of over-enthusiastic editors having a pretty good hit on a particular polling day. However, that did not in any way influence me with regard to this Bill.

The Tasmanian Act has similar provisions, and I think it is fair enough to have polling days set aside and free from any political interference whatsoever. It would be fair to all parties, and I think that the public generally would be appreciative of the fact that they would not be set upon by enthusiastic party supporters when they approached the polling booth.

I think that covers the explanation and purpose of this Bill. I apologise to members for the legal machinery which is necessary within the Bill; but I think that if the measure is studied it will be found that there is no other way to get around the matter and still safeguard the rights of the public.

I am not going to be adamant in any way as far as proposed amendments to the Bill are concerned. I put the measure forward for the views of members of this House. I recommend it to members because I think it is a step in the right direction, but I am quite prepared to listen to any amendment which might improve it and make it easier to implement. As I said, I am not going to be adamant that the Bill should become law in its present form, but I would request that if there are any major amendments put forward, I be given some notice of them.

Mr. Guthrie: You need not worry: it won't get passed.

Mr. BICKERTON: The member for Subiaco has made a statement. I will allow him to hang on to it, and he can work out later whether or not he was pleased he made it. What he has said could be right; I am not the one to judge. It is up to the members of this House.

Mr. Hawke: A new dictator has arisen: the member for Subiaco.

Mr. BICKERTON: As I was saying, should the Bill reach the Committee stage and should there be amendments to the legal machinery, it would be necessary for me to get legal advice on them so that they do not clash with some other section of the Electoral Act.

Mr. Ross Hutchinson: Referring to the section regarding no canvassing on the day of polling, do you think this has value without the first proposal you made as to party designation?

Mr. BICKERTON: What the Minister is saying is that there should be no issue of political propaganda?

Mr. Ross Hutchinson: And no party designation on the ballot paper. What do you think?

Mr. BICKERTON: I think that would be unwise for this reason: We do not know to just what extent people do rely on the how-to-vote cards which they obtain outside polling booths. Surely it is the object at election time to enable a person to vote with the least amount of confusion possible. In other words, to clarify the position we should cut down to an absolute minimum the possibility of informal voting. I would say that the whole purpose of the Electoral Act is to do that. Therefore, if a procedure which has been used for years, of people relying on the cards issued to them outside polling booths is to be discontinued it is essential that the party designation should appear on the ballot paper. In fact, I think it would be a move in the wrong direction if we stopped one, without introducing the other.

Mr. Guthrie: What about how-to-vote cards without the party designation on them?

Mr. BICKERTON: That system did operate in Tasmania, but I am not sure whether it is still in the Act. I think a section of the Electoral Act was repealed in connection with that.

That concludes what I have to put before the House relating to this Bill. I sincerely hope that the member for Subiaco is completely wrong in his predictions. I do not think he had any authority to make that statement, but we will see when the matter is discussed by members. It is purely for this House to decide; certainly not for me alone. I commend the measure to the House.

Debate adjourned, on motion by Mr. Court (Minister for Industrial Development).

LOCAL GOVERNMENT ACT AMENDMENT BILL

Second Reading

MR. GRAHAM (Balcatta) [5.23 p.m.]: I move—

> That the Bill be now read a second time.

This Bill seeks to correct what in my mind is an obvious error or oversight which was made in 1960 when this Parliament passed the Local Government Act. Amongst other provisions, the Bill—a very large Bill—which was considered by Parliament, included a section which makes provision for any local authority to be able to embark upon a plan of parking facilities. With that, I, and obviously other members who were present at the time, have no quarrel. However, the provisions of the Local Government Act are in conflict with the City of Perth Parking Facilities Act which was agreed to by Parliament in 1956.

The conflict is in respect of a most important principle, and one which received considerable emphasis when the legislation initiated for the first time a system of parking meters and parking stations to ensue from the passing of the City of Perth Parking Facilities Act. That was to ensure that all of the revenue received on account of parking should go back into a fund to be used exclusively for the purpose of providing further parking facilities.

I might quote from the City of Perth Parking Facilities Act because, in a few lines, it makes the position perfectly clear. Section 7, subsection (2), reads as follows:—

> All revenue received by the Council and all charges, fines and other penalties paid or recovered under or pursuant to this Act shall be paid into the Fund or to the Council to be credited to that Fund.

Members will note the words "all revenue." So it will be appreciated that Parliament agreed to that principle in that form. Subsection (3) reads as follows:—

> The Council shall utilise the moneys in the Fund—
>
> (a) for the administration of such departments and the remuneration of such inspectors and other officers as the Council considers necessary for the purpose of exercising its powers and functions under this Act;
>
> (b) for the purchase, acquisition, maintenance, alteration, and improvement of land, buildings and other structures, parking meters and other mechancial devices, signs and other accessories, equipment

and appliances for the establishment and provision of parking stations, parking facilities, metered zones and metered spaces and for the regulation and control of the parking and standing of vehicles within any parking region in accordance with the provisions of this Act;

(c) for the establishment, provision, extension, the maintenance in good order and condition and operation of parking stations, parking facilities, metered zones and metered spaces in accordance with the provisions of this Act;

(d) for the installation, and the regulation of the use of parking meters in accordance with the provisions of this Act;

(e) for the provision, conduct and control of such services as are deemed under the provisions of this Act to be parking facilities;

And other items are listed which are all appropriate to the main purpose and to ensure that moneys coming into the hands of the Perth City Council, derived from charges imposed upon motorists for the parking of their vehicles, should go into the fund; and, over and above administration and working expenses, should be used exclusively for the development of further parking facilities.

When the Minister for Transport of the day, who happened to be myself, introduced the Bill he emphasised this point, which was accepted by Parliament, by the Royal Automobile Club, and by the public generally. I quote from some of the words of wisdom expressed by the Minister for Tranpsort of the day. Before doing so, I would observe that I noticed in reading through the records of only nine years ago that there was considerable opposition to the measure on principle; and unlike the trained armies which we have today behind the Government, I note that two-thirds of the opposition, as expressed in the divisions—and about 99 per cent. expressed vocally—came from those who were supporters of the Government of which I was proud to be a member.

Mr. Lewis: It must have been crook legislation.

Mr. GRAHAM: The member for Moore—or his predecessor—agreed with it, as did the overwhelming majority of the Liberal Party and Country Party members then on the Opposition benches. The present Government, which has been in office six and a half years too long, has taken no steps whatever to repeal the legislation, and therefore it is logical to assume that Government members now think the same as they did in Opposition at that time. However, I will quote the then Minister from page 2870 of the 1956 *Parliamentary Debates* as follows:—

> One objection that is invariably raised upon mention being made of this matter in Parliament, if it agreed to the proposition, would be opening the flood gates, as it were, to the Perth City Council to enable it to fill its coffers at the expense of the motorist. I hasten to assure members that nothing of the kind will be possible. There is a provision in the Bill for the formation of a parking fund. Into that fund will be paid moneys that are borrowed for parking purposes. Any of the fees or charges that are collected, and any fines or other penalties that are paid and collected will be paid into that fund, which is separate and distinct altogether from the normal funds of the Perth City Council.
>
> From that fund will be paid out the expenses of administration . . .

and here let me add, the other items which I enumerated earlier. To continue—

> So it will be appreciated that there is no possibility of a leakage of money from the motorist to the ordinary purposes of the Perth City Council.

The then member for North Perth (Mr. Lapham) quoted from a publication of the Royal Automobile Club; and at page 3174 of the *Parliamentary Debates* for the same session, in quoting from that journal, he said—

> The essential safeguard is a statutory requirement that surplus revenue from parking meters over and above maintenance costs should be used for developing ancillary parking areas. The R.A.C. submitted its views in this regard to the Minister who has advised the R.A.C. of his acceptance of the proposals.

When the Bill reached the Legislative Council, Mr. Logan, who today is a Minister of the Crown, expressed some concern regarding the matter; and at page 3574 of the same volume of the *Parliamentary Debates* he observed—

> If one looks at the revenue received from those already installed, one realises that they are being ordered not to improve parking facilities but to boost up the finances of the local authority.

Later on he said—

> I wonder what will happen when the revenue from the meters is sufficient to pay interest and capital on the borrowed money and show a surplus. I assume it will go into the general revenue of the City of Perth soon after that stage is reached. The City Council will have to make some use of the surplus.

The Minister for Railways interjected—

It cannot go into their general revenue.

So it will be appreciated that in both Houses there was a desire that the net proceeds from parking facilities should be ploughed back into the provision of further parking facilities for motorists, and that parking charges should not be regarded as a source of revenue to bolster the finances of a local authority; and I am assuming that that principle, which was endorsed by Parliament, still holds.

Under the Local Government Act, which was passed in 1960—and here let me get out from under by saying that, unfortunately, owing to health reasons I was not in attendance at Parliament whilst the measure was under consideration; but I add that on account of the voluminous nature of the Bill no doubt I would have missed some of the finer points, as has obviously been done by other members—there is no such requirement that moneys so obtained should be used for the specific purpose of providing additional parking facilities.

Therefore, if this Bill is not passed we could have a contradictory state of affairs in the metropolitan area. It has particular emphasis here; but, of course, it would apply equally elsewhere not only in respect of one local government authority versus another but one street versus another, and separate propositions applying to one side of the street as against the other side.

Mr. Craig: Are you implying that some of this revenue is going into the City Council's general fund?

Mr. GRAHAM: Perhaps I had better come to the point. The Perth City Council, as I understand the position, is observing the law as laid down by Parliament.

Mr. Craig: That is so.

Mr. GRAHAM: I do not think there is any question about that.

Mr. Craig: That is so.

Mr. GRAHAM: But under the Local Government Act, where there is no requirement to use the money so obtained for parking facilities, certain local authorities —and I refer in particular to the Fremantle City Council, which to my knowledge has proposals advanced to some stage in this regard and it desires to introduce parking meters and other parking facilities—could install parking facilities, and as their installation and operation will come under the Local Government Act there is no guarantee to us as Parliament that the funds will be used for parking purposes only.

I do not desire to be unfair. I think the Fremantle City Council, with the best intention in the world will, up to a point, endeavour to conform with the terms and the spirit of the City of Perth Parking Facilities Act, but not necessarily so; and if it does not, there is nothing to prevent it from even going to excesses. I understand, among other things, the City of Fremantle desires to acquire properties for the purpose of demolishing buildings to enable road widening to take place which, in the ultimate, will provide additional parking space.

But let us be fair and honest about it: I think we could all stretch almost any roadworks to connect them with the fact that directly or indirectly such works would be providing better facilities for parking, even to the point of access to parking areas. This, of course, would be totally wrong; and that, I believe, is what the City of Fremantle intends to do. If it is wrong for that to be done in the City of Perth, then it is wrong for it to be done in Fremantle, Subiaco, or anywhere else. There is a principle that should be applied, and uniformally applied. A local authority which received the approval of the Minister to implement a parking scheme could use the net proceeds to build a new town hall, a swimming pool, or anything else, because the moneys received from the parking charges would go into the general funds of the local authority. They would not be separately identified and, as I have just said, they could be used for any purpose whatever.

Mr. Craig: Do you think the Minister would approve of such a proposal?

Mr. GRAHAM: No; but the Minister would not have any control over it.

Mr. Craig: I understood he would have.

Mr. GRAHAM: No, because if the Minister studies the Local Government Act he will find that by-laws which are to be adopted by any local authority must be approved by the Minister, and the by-laws would provide for charges and conditions under which people parked and so on. But there is no need for a by-law in respect of the funds. They would be charges and in another section of the Act it is provided that all charges under various headings go into the general funds of the local authority.

It is not my desire to introduce any new or novel idea but merely to place in the Local Government Act as nearly as possible the precise wording which is used in the City of Perth Parking Facilities Act. If they are not in unison we could have the situation under which Subiaco, which adjoins the City of Perth, could have an entirely different system, with the money from parking facilities on its side of Thomas Street going into general revenue while money from the other side of Thomas Street, in the Perth City Council area, has to be used for providing further parking facilities.

The place I had in mind was the intersection of Beaufort Street and Walcott Street in Mt. Lawley, which happens to be the boundary of the City of Perth and the

Shire of Perth. Motorists who park their vehicles on the south side of Walcott Street could be assured, because the legislation lays it down, that every penny they paid for parking purposes would go into a parking fund to meet expenses and to develop further parking facilities. But on the north side of the same street, which is in the territory of the Shire of Perth, the money would go into the general revenue of the local authority concerned and could be used for any purpose whatever.

I do not want it to be thought for one moment that I suggest there is an air of irresponsibility about local authorities; but we are aware that from time to time many local authorities are hard pressed to find new sources of revenue, and on many occasions they demur at the thought of increasing rates which are hitting their own people. However, when motorists are assailed, whilst it is true that some local people are involved, it involves those who are from other areas as well.

So if we can imagine the City of Fremantle in a playful mood, or a down to earth mood, depending on which way a person cared to look at it, this could be the position: Parking space in the heart of the city is at a premium, and an ever-increasing premium, because of the growth in volume of motor vehicles, the enlarging of business premises, and so on, and this inevitably has the effect of attracting more people to the heart of the city, or the business centre. Many people must get to the city, irrespective of the cost, anl so instead of being charged 6d. for half an hour it could gradually be increased to 2s. for half an hour, not because it was necessary, but for the purpose of raising additional funds and thereby obviating the necessity of putting another ½d. in the pound on the rates imposed on local properties.

That is what could be done, and I am using what I would call exaggerated cases to indicate to members that under the present set-up, if we accept the Local Government Act, there is no formula or direction laid down by Parliament; and even if the interjection of the Minister for Police were in accord with fact. surely in a matter such as this it is Parliament which should lay down a principle. That applying in the City of Perth is either right or wrong. I have not heard any criticism of it from any source whatever and I am entitled to assume the principle as agreed to by this Parliament is correct because it has continued in operation. Therefore the position should be uniform throughout.

Mr. Craig: The report is tabled every 12 months and from it you could gather how the revenue was being used.

Mr. GRAHAM: That is so; and I repeat: I have no doubt whatever that the City of Perth is playing the game in all respects. But I am endeavouring to make the point that it should not be left to the Minister, whoever he might be, to decide, in respect of local authorities A, B, C, or D, whether they should be able to do this or do that, or do something else and devote the money so received to some other purpose. I think that using as a taxing measure parking space—whether it be on the Queen's Highway, or in public parking areas provided by a local authority—is wrong and the moneys should be channelled in the same direction as is set out in the City of Perth Parking Facilities Act.

The Royal Automobile Club has been expressing some concern regarding the situation at Fremantle—and here let me say I do not want it to be thought that there is a declared or undeclared war between the R.A.C. and the Fremantle City Council, or that I am seeking to declare war against that local authority, because I am not. However, it so happens that some time ago a statement emanated from the Fremantle City Council regarding its intention to develop parking facilities and install parking meters and so on, and I wondered how that could be done. Knowing that a special Act was necessary to enable the City of Perth to do that I got in touch with the Local Government Department and for the first time I became aware that there were sections in the Local Government Act which permitted local authorities, under certain circumstances, to develop parking facilities, including meters, in their territories.

I learned something of it because of an article I read in *The Road Patrol*, which is the official organ of the Royal Automobile Club of Western Australia. Perhaps I had better quote from it. There are one or two quotes I would like to make, after which I will conclude my speech. The following is taken from the March issue, 1965; and under the heading "The Fremantle Parking Plan" we find this—

> The Fremantle City Council has recently announced its intention of installing parking meters.
>
> When this proposal was first publicised early last year the R.A.C. approached the Council suggesting that the development of off-street parking areas was a pre-requisite to installing meters and that when meters were introduced the net surplus revenue therefrom should be applied solely to the provision of further off-street facilities.
>
> The Council undertook to consider the R.A.C's views and this was followed by the Press announcement of the building of a multi-storey parking station and a smaller car park. It was stated then that the Council planned to introduce metered parking after the station was operating.
>
> The R.A.C. then sought an assurance from the Council that net surplus revenue from the operation of the

overall parking plan would be used only for the development of further parking facilities.

The Council declined to give an assurance about the disposal of any surplus revenue from the station but indicated that consideration could be given to this surplus being used to provide added facilities and for road improvements.

Now the Council has apparently decided to introduce meters before the station is operating and to reserve the right to deal with surplus revenue other than in the manner adopted by the Perth City Council.

The R.A.C. has again urged that surplus revenue from meters and the parking station be used only to provide more parking facilities. At the time of going to press no reply had been received from the Council.

I appreciate that is an *ex parte* statement. When I say that, I am not reflecting, I trust, on the Royal Automobile Club; but I think the City of Fremantle has a point of view which differs in some particulars from that expressed in this journal, *The Road Patrol*. However, the broad principle does remain; and, I repeat, the City of Fremantle is, as I understand the situation, quite sincere in its desire to do the best it possibly can in the way of providing parking facilities for motorists. But naturally there would be concern on the part of the motorists, and the Royal Automobile Club on their behalf, if there were no statutory requirements obliging the local authority to operate on the same basis as the Perth City Council.

It is for that reason I have introduced the Bill, and I hope and trust it will receive the sympathetic consideration of the Government. I cannot see anything party political about this, and I trust members will exercise their judgment. Here with a certain measure of pride—and this does not happen very often—may I quote from a subleader in *The Road Patrol* of August, 1965. It is headed, "A Lead for the Government." I think it is too good to miss, and it should go down on the permanent records.

Mr. Brand: Did you write it?

Mr. GRAHAM: I did not. I do not think I could have done as well; my natural modesty would have overcome me. I did not have a copy of this; it was the member for Warren who first passed it to me. Under the heading of, "A Lead to the Government" we find the following:—

> The R.A.C. commends the announced intention of the Hon. H. E. Graham, M.L.A., to introduce a private member's Bill to restrict the use of vehicle parking revenue to the provision of further parking facilities.
>
> This special provision in the City of Perth Parking Facilities Act is largely the result of the strong case made by the R.A.C. when the city parking plan was under consideration. Latterly the Club has endeavoured, so far unsuccessfully, to obtain an assurance from the Fremantle City Council that this practice will be followed in that area.
>
> The Cabinet would be well advised to adopt Mr. Graham's Bill as a Government measure and ensure that it receives the support it deserves.

With those words I commend the Bill to the House.

Mr. Guthrie: Before you sit down: When you introduced the Bill in 1956 what was the attitude of the R.A.C. to the City of Perth Parking Facilities Act? Did the club favour it?

Mr. GRAHAM: Yes, generally speaking. It did not relish the additional charges being levied on motorists for the use of the road, albeit for parking on roads, and that is why the R.A.C. has at all times emphasised the necessity for off-street parking. Provided steps were taken to install off-street parking simultaneously with or in anticipation of the installation of parking meters, it regarded parking meters as a necessary evil, perhaps, but nevertheless as a reasonably fair way of measuring and allocating time where there is such a demand for a parking space.

Mr. Guthrie: Their view is that the time will come when there is no parking on major roads at all.

Mr. GRAHAM: It is nine years ago, and I am a little uncertain at this stage, but I fancy the R.A.C. is more inclined to favour parking on the streets if that were possible; but, being realistic and considering the growth of traffic, it bowed to the inevitable.

Perhaps I should quote something from the Royal Automobile Club as quoted by Mr. Lapham, the member for North Perth in 1956. It is apparently an editorial in *The Road Patrol* which appeared about the time that this proposition was announced. I will read it, and the member for Subiaco, and others, can judge whether it actually meets the point. It reads as follows:—

> The Minister for Metropolitan Traffic (Mr. H. E. Graham, M.L.A.) favours the introduction of parking meters in Perth and it can be assumed, therefore, that provision for their installation and operation will be embodied in forthcoming traffic legislation. Automobile clubs all over the world have at one time or another opposed the introduction of the "one-armed bandits" on the score that they reduce rather than increase kerb

parking space and that the glittering take from the meters usually finds its way into general revenue.

The Standing Joint Committee of the R.A.C. and A.A. London has issued a paper condemning parking meters principally because of the effect on the motorist's pocket and on the grounds that the parking meter does not increase parking space or limit parking. It is only a means of collecting a fee.

In conceding the force of the arguments advanced against meters, the R.A.C. of W.A. cannot ignore the clear evidence from cities in Australia and overseas that the parking meter has demonstrated itself as an effective means of obtaining rapid turnover and rationing of limited kerb space.

The R.A.C. stands four-square in its protection of the interests of motorists but it does not overlook the fact that there is now approximately one car to every four persons and that a 10 per cent. increase in registrations is occurring each year. The introduction of parking meters must be viewed merely as one step in a composite plan designed to meet a situation that can no longer be ignored.

The next paragraph I have quoted before. It reads—

The essential safeguard is a statutory requirement that surplus revenue from parking meters over and above maintenance costs should be used for developing ancillary parking areas. The R.A.C. submitted its views in this regard to the Minister who has advised the R.A.C. of his acceptance of the proposals.

So it will be seen that this editorial was written before the legislation had seen the light of day, and the Bill did in fact embody the principle which was sought by the R.A.C. One further paragraph, to conclude my quotations, reads as follows:—

Under the proposed plan, kerb space will be available for the motorist who is prepared to pay the necessary fee. Others with less necessity to use kerb space may inexpensively park their cars in inner and outer fringe areas.

Mr. Guthrie: Thank you.

Mr. GRAHAM: Apart from any other factor—not that we have to be guided exclusively by an organisation—it will be seen that what I propose is to put parking schemes—and no doubt in time there will be scores of them both in the metropolitan area and in the country areas—on the same basis, and by Statute, so that there will be an assurance to all motorists that there is no chance or prospect of any local authority using moneys for other than parking facilities.

Even if any local authority now, or in the future, had any intention of departing from what is laid down by legislation in the City of Perth Parking Facilities Act, there would no doubt be many motorists and other people who would be sceptical of the belief that local authorities were diverting moneys that should be properly used for parking purposes. Indeed, even up to recent times in my own experience, there are people who have made such allegations against the City of Perth. But when it can be explained to them that that is not possible because of the provisions of the controlling legislation, and also because a statement must be submitted to the Minister and in turn to Parliament each year, they realise that that is their guarantee that parking charges are not being used for taxation purposes. Again I commend the Bill to the House.

Debate adjourned, on motion by Mr. Craig (Chief Secretary).

BILLS (4): RECEIPT AND FIRST READING

1. Coal Mine Workers (Pensions) Act Amendment Bill.

   Bill received from the Council; and, on motion by Mr. Bovell (Minister for Lands), read a first time.

2. Stipendiary Magistrates Act Amendment Bill.

   Bill received from the Council; and, on motion by Mr. Court (Minister for Industrial Development), read a first time.

3. Health Act Amendment Bill.

   Bill received from the Council; and, on motion by Mr. Ross Hutchinson (Minister for Works), read a first time.

4. Metropolitan Region Town Planning Scheme Act Amendment Bill.

   Bill received from the Council; and, on motion by Mr. Lewis (Minister for Education), read a first time.

APPOINTMENT OF A PARLIAMENTARY COMMISSIONER

Introduction of Legislation: Motion

Debate resumed, from the 18th August, on the following motion by Mr. Tonkin (Deputy Leader of the Opposition):—

That the effectiveness and undoubted success of Parliamentary Commissioners (Ombudsmen) having been clearly established in all countries where they have been appointed, it is recommended to the Government that steps be taken, as early as possible, to establish the office in this State so that our citizens may not continue to be denied the benefits which the existence of an ombudsman confers.

MR. COURT (Nedlands—Minister for Industrial Development) [6.3 p.m.]: The Deputy Leader of the Opposition, in putting forward his motion on this occasion, advanced nothing new on what he explained to this Chamber in 1963 and 1964. I should say, at this early stage, the Government, after studying the position further, has no reason to change its views. It is not unusual, of course, when a matter is put forward by an honourable member on several occasions that he cannot enlarge to any great extent on the arguments he originally advanced. The particular honourable member who moved this motion does a lot of research in his subjects, and in putting forward this subject originally he gave us the maximum information he could find. Subsequently, he did obtain some more information when he put forward the motion in 1964, but it was in fact only a minor variation of the original arguments advanced, if it was a variation at all. Likewise there is not very much new I can advance from the Government's point of view in opposition to this motion.

There is, of course, a completely changed set of circumstances in which we consider the motion this time, compared with 1963 and 1964, because there has been an election; and during the election campaign one of the stated and published policy points that the Labor Party undertook to implement if it became the Government was to try to induce Parliament to agree that there should be an ombudsman. The views of the Government were very well known before and during the election. I have taken the precaution of asking the Premier whether this matter was ever an issue at public meetings at which he was present and addressing as part of the election campaign. There are two cases he can recall. In my own case, there was only one public meeting at which the issue was raised. In each case the answer was clearly stated, and we reiterated the attitude of the Government as expressed in this Parliament; namely, that we could not see any need in the system under which we operate in Western Australia, particularly, for such an institution.

The honourable member, in putting forward his case, has relied heavily on all occasions—I refer to 1963, 1964, and now 1965—on the fact that an ombudsman was created in Sweden back in 1809. I have endeavoured on previous occasions to make some comments on this. He has also placed emphasis on the fact that the neighbouring countries of Finland, Denmark, and Norway have, at different times, introduced the ombudsman into their system. It is important I reiterate what I have said on previous occasions: that the circumstances surrounding the appointment of an ombudsman in Sweden in 1809 were quite peculiar, and far from being for the benefit of the poor people—or the average person, or whatever name one might use to refer to a particular group of people. It was rather to protect the privileged.

It was the noblemen, and the like, of the country who were being victimised; and they felt harshly treated by the monarch. I will not go into the details of his peculiar characteristics as an individual, his personality, his ways, and so on; but there was a good reason why they wanted protection from what in their minds, was a certain amount of tyranny. In their case, the ombudsman was appointed in 1809. This date is significant; and, as I have said the appointment was not made to protect the average man in the street who might feel he was having a raw deal from a Minister, a Government servant, or anyone else for that matter.

The next dates are significant. The appointment in Finland was made in 1919, and I remind members that this was just after the Great War when many countries were in a state of turmoil and endeavouring to rehabilitate themselves. At this time some legislation and administrative acts were undertaken which might not normally be undertaken. However, it was not until 1919—110 years after the Swedish appointment—that the Finnish people, for one reason or another, decided to have an ombudsman. I have not been able to trace the reasons why they decided in this way; and I do not know whether it was related to the Swedish reasons or whether it was for local reasons.

It was not until 1955 that Denmark had an ombudsman: and not until 1961 that Norway followed suit. I have not been able to obtain a lot of information in my research about the particular methods employed in each of these cases, but we will assume for all practical purposes that they follow the same principle as in connection with the Swedish Ombudsman.

The important thing is that from 1809 until 1919 these neighbouring States—which are not widely separated as we are from South Australia and other parts of Australia—where there is free intercourse of trade and commerce between them, did not see fit to make any move for 110 years—and Denmark waited even longer. One can only assume there was no great excitement in any of these countries about this institution during the tremendous period that elapsed; and I think it is probably the greatest weakness rather than the strength in the case the honourable member has put forward in respect of an ombudsman, especially when we study the reasons behind the original Swedish appointment.

Some might say that even if it took 100 years in one case and over 150 years in another case, they did eventually take the step. Therefore they saw nothing bad in it even if they saw no good. That is a fair statement to make; but I submit to members of this House—who are used to

the type of public opinion, and public pressure that crops up from time to time—that because something exists in one place or country some people think it must be a good thing for us to have, when sometimes it is a jolly good thing not to have.

I can imagine there are some people who feel strongly about this—possibly a small minority—who keep agitating for this institution; for an ombudsman to be established. However, once an appointment like this is established, and human nature being what it is, we could not expect the incumbent in the office to say (a) the position is redundant; or and (b) it is ineffective. Therefore I read with some caution—not suspicion—the public comments of people who either hold or have held this office because, let us face it, they get a vested interest in the position. We have seen it in boards, committees, and various trusts that have been established; and we know the vigour and tenacity with which some people will fight to preserve their position, even though the original concept has long since disappeared.

For that reason I view with some caution —not suspicion—the published comments of some of the incumbents of these offices, particularly the more recent ones, where they are trying to establish for themselves a favourable opinion in the minds of the public, of parliamentarians, and particularly the Press. So far as these existing appointments are concerned, I think there could also be an attitude amongst the lawmakers of these countries that while the position is not doing much harm, why stir up trouble and make a move to change it? In my own experience—and I suppose in the experience of other members— I find that rarely does the incumbent objectively face up to his own elimination and say, "I am redundant" or, "I am not fulfilling my function; you can do without me." It is just not human nature.

It is important in considering the proposition placed before us to study the exact situation that exists in Western Australia. I know of no place where there is less need for an ombudsman than Western Australia, even if a case could be made out—and I am not saying one could be—because here we have a population of fewer than 1,000,000 people—800,000. We have a disproportionately high number of members of Parliament related to our big State —that is, big in terms of distance and dispersion. Therefore we find we have a State Parliament of 80 members for approximately 800,000 men, women, and children; and on top of that we have Federal representatives of two Houses—the House of Representatives and the Senate. Still on top of that we have well over 100 local authorities all performing public duties.

Then we have a host of organisations that are undertaking public responsibilities in the field of culture: parents and citizens' associations; church bodies; and sporting bodies—to name but a few—all of which have a voice in a free country such as we have and all of which have interests which they do not hesitate to protect whenever they feel they are being hurt.

What are the media available to members of Parliament, local authorities, and these various organisations?

Sitting suspended from 6.15 to 7.30 p.m.

Mr. COURT: I was commenting on the machinery available in this State for citizens and others to have their problems aired and redressed. I have referred to members of Parliament—both State and Federal—local authorities, and interested bodies, in a number of fields all of which do a very good job for us in this community. And then, of course, there is the Press. I have never known our Press to be reluctant in coming forward on some issue which it feels is not quite right; and whether we agree or whether we do not agree with them, we acknowledge this right of the Press as part of our way of life.

I think the situation of our State Parliament is unique, because a very large proportion of the session is given over to opportunities for private members—on both Government and Opposition sides— to express their views and bring forward grievances and complaints. There has been no reluctance to do this, because we have a very special privilege in our Parliament. That privilege is that we are protected from people who might otherwise take action, or intimidate if it were not for that special protection enjoyed by a member of Parliament.

There is the Address-in-Reply; there is the right of members to move motions; there is a special day set aside for most of our session for private members' business so that it will not be ignored. Governments of all political colours have endeavoured to give private members a reasonable chance to have business dealt with on private members' day. Even after Standing Orders are suspended in most cases, there is opportunity, if a private member so desires, for his matter to be dealt with during the session. And then we get the Estimates; and we get questions by the dozen—questions with and without notice. That is part of our institution.

All this machinery is available to members. If a problem or a set of circumstances cannot be dealt with in this way there is something lacking. Either a member does not want to make an issue of this or that problem which is brought to him, or he feels that the person complaining has no cause for complaint.

If we measure these things in absolute terms I think it is fair to say that the number of people who would be dissatisfied in our community would be comparatively small. I would say that we do not

want anyone to be dissatisfied. But there is no utopian state—ombudsman or not—where everybody is satisfied. I say, with due respect to those who advocate this appointment, that if there were set up such a person the majority of the people who went to him and were told that they had no genuine complaint would still be unhappy. Their complaint would have been relayed to another person for a while. There would be some relief; but after a while, when they did not get what they wanted, they would be back again. It would be like the person who goes from one doctor to another. He wants a diagnosis to suit himself.

Mr. Rowberry: At least there is a doctor.

Mr. COURT: If they go to a doctor and do not get the diagnosis they want they go to someone else. Some people will never be satisfied.

There is, of course, another approach to this problem and a bigger question that has to be taken into account, quite apart from the fact that I think if there were an ombudsman members of Parliament would be sidestepping their responsibilities. There is a bigger issue involved, and that is the relationship of Parliament and the public in our system of government. We have to be very careful that we do not set up wittingly, or unwittingly an institution which, in effect, could place itself above Parliament. Now the honourable member, when introducing his motion, dealt with the question of "the rule of no-law"—for want of a better phrase. That term was used by Mr. Wickham when he presented a paper.

I have had a chance to read his paper quickly—not thoroughly, but quickly—to try to find out the main burden of his argument. I do not think his was a case for an ombudsman at all. He was trying, as I understand his paper, to put the position as he saw it in the modern State, where, due to the onward march of the welfare state in many countries, a new situation had developed and there was need for Parliaments to reappraise the type of legislation and the type of power that should be given to courts.

I do not know that at any stage he suggested we should invest this power in an ombudsman, because if we took the logical conclusion we are saying that if there was a dispute between a member of the public and a Government department or a Government instrumentality, and after due consideration the argument were decided by the Government Minister, or the head of the department, whoever he might be, against the complainant, he could then go to another party who might say that he had had a raw deal. Although the Government or the department concerned might have acted within the law and within the powers given by Parliament, if an ombudsman could say that something else could be done for this person, and that were effective, surely that ombudsman has been given the power to write matters into the law which Parliament was not prepared to write into it.

I think it is a great danger and something that members will have to look at very closely. It might full well be that somebody will get some temporary relief when sent to an ombudsman. However, after a while, if there is no power to resolve the problems the Ombudsman will find himself in exactly the same position as a member of Parliament or other body handling the complaint. We should not give this power now which, in the past, Parliament has not been prepared to give. In my experience most of these complaints do not usually involve a misinterpretation of the law; because, if they do, there is a right of redress and Parliament has laid down that right of redress. Most of them come down to a question of whether a person feels he has been harshly dealt with, regardless of whether he has been properly dealt with or not under the law; and does it not amount to this: If the law is harsh, or if the law is unfair, or if the law does not give the necessary right of redress in these cases then surely it is up to us to alter the law? That is what Parliament is for. We are amending laws session after session; introducing Bills by the dozen to amend laws because the administration has found that those laws did not do exactly what Parliament, the Government, or whoever was concerned with it thought they were going to do.

They may be matters of interpretation of the law, matters of principle, and so on; nevertheless, we bring those amendments here. Sometimes as a result of representations that are made to it the Government finds that something is harsh, unfair, or does not do exactly what was intended, and sometimes it is the other way round—the Government has not been given the power it thought it should have to achieve a certain end in the public interest; and to overcome this the Government comes back to Parliament and seeks this power.

I have listed here a number of questions that I think should be searchingly examined by those who are considering this question of the advisability of appointing an ombudsman. The first question is: Should our State, with a population of less than one million people, take such a step? I have already dealt with this question; and I believe we are adequately covered with the number of members of Parliament, the number of local authorities, and the number of organisations we have, plus a free Press, and the adequate machinery available within Parliament for members of Parliament to bring forward their own as well as their constituents' grievances.

The second question is: Will it mean the parliamentary commissioner, or ombudsman, will be interposed between the Government and the people? This is something, surely, that a Parliament in a country like Australia could not tolerate; and there are many references one could make, applying to all political persuasions, including those on the other side of the House, where this very point has been the subject of great argument in the Parliaments of Australia, when efforts have been made to preserve the position and prevent somebody coming between the people and Parliament.

In fact, if members look at the debates in this House in 1945 and 1946, when members of the then Opposition were of the same political colour as the present Government, they will see that motions were moved for the appointment of a public works committee. The then Minister for Works, now the Leader of the Opposition (Mr. Hawke), on behalf of his Government, strongly opposed the motions on two occasions; but from my reading of the debates at least one member of the then Government side supported the proposals. The motions were moved, if I remember rightly, by the late Mr. Mann; and I think it was Mr. Needham, who was sitting on the then Government side, who supported the motions in 1945 and 1946. However, the fact remains that the Government of that day—a Labor Government—very strongly resisted the proposal; and the reasons given were that the Government must be responsible for its actions, and it must be responsible to the people.

I think this is a very important feature, because Governments which govern harshly, or are capricious in their decisions and careless in their duties and responsibilities, do not last very long. The Government which gets lazy or one-sided in its administration, or inconsiderate in any way, does not last long. In our type of community that sort of conduct has a habit of registering with the people very quickly, and Australians do not like it. Therefore Governments do not deliberately go out of their way to offend the people.

Members of the front bench of the Opposition have been Ministers and they know, as all Governments know, that on occasions it is necessary to pull up some civil servants who may feel that a matter should be handled in one particular way. In fact it is one of the roles of a Minister to consider complaints of that type with a degree of commonsense as well as an understanding of the legal situation that exists in regard to a particular transaction. How many times has the mover of this motion, when he was a Minister and I had discussions with him, said, "I don't think that is quite fair" and he has decided in favour of the member of the public who has had his case brought to the Minister by his member for the district?

The third question I have here is: Is there a danger that a Minister would shirk his duty and encourage complaints to be made to, and be investigated by, the ombudsman rather than that he should satisfy himself in regard to such complaints by personal investigation within his department? I know this might sound a little strange, but it is a question that has to be posed, because over a period of years Ministers are many in number.

Some of the decisions one has to make as a Minister are quite tough, and one has to sit in judgment on these matters and make sure that what one does is the best thing to do in all the circumstances. A Minister has to be careful that he does not let his prejudices, passions, or emotions run away with him when he is deliberating on these problems. One might find that they have to be put aside for some days to avoid a decision in an emotional atmosphere. I think that is one of the responsibilities of being a Minister—one has to make a decision on some very tough problems, and if a man is not prepared to accept the responsibility involved as a Minister then he should not be one. No member of Parliament should escape his duties behind the back of an ombudsman.

Mr. Bickerton: They just set up committees nowadays.

Mr. COURT: The next question arises from a report of a 1962 conference in Canberra, and the question is: Would it not be an "abnormal interference with the administrative machinery"? I have quoted those words because they were the words used by the delegate from Pakistan to the United Nations seminar in Canberra in 1962. He considered it would be, and he expressed the view that a degree of caution was necessary; and I agree with him. To take away a responsibility from somebody—it could be from an individual Minister or from a Government—is, I think, wrong, because in these days it is more important than ever that people should face up to their responsibilities.

We hear enough about this from the Opposition—about how the law should be obeyed; how people should accept their responsibilities; and so on; and if we try to appoint a third person in between Parliament and the people, we are asking people to sidestep their responsibilities and pass them over to the ombudsman to find a way around them. What sort of a state of affairs is that?

Another query I have here is: Are not Ministers and public servants in general as conscientious and fairminded as other sections of the community? I posed this question deliberately, because if we listen to the arguments put up in favour of an

ombudsman we get the idea that every civil servant, every head of a big concern, every Minister, and in fact every person in authority is a less conscientious and fairminded person than somebody without authority; and I do not think that is fair or true. Somebody has to pose this question on behalf of the people I mentioned, and it is up to us to face up to it and not be led along by what might be a little bit of public appeal about the need for an ombudsman.

Still another question is: Would it diminish the authority of Parliament? If the matter is carried to its logical conclusion, and this man can find solutions which the Minister cannot, or the head of a department cannot, because of some problem of the law, then we are putting him beyond Parliament itself, no matter how minor might be the power that is given to him. But if it is suggested that this man would be able to solve these problems, and he cannot do so, what is the use of having him?

It is on this particular point that I think Mr. Wickham advocated a careful look at the change in the social structure so far as the law was concerned, not with a view to appointing an ombudsman with this power with which he could bend the law and could read something into it to meet the situation in hand. I must confess that I have not had the opportunity to study his paper in the way that one would normally study a paper such as this, but my understanding of his paper from a quick reading of it was that if this power was to be given to anybody, it should be given to some other authority such as a properly trained tribunal formed by more than one person and drawn from people who were trained in this work by profession all their lives.

Therefore, if anyone were to get the power, it would have to be vested in someone such as that and not in someone who is an amateur, which was the expression Mr. Wickham used. I would not like that to be taken as being the actual word used by Mr. Wickham, but somewhere along the line he referred to an "amateur" as distinct from the "professional."

The next question is: Are the existing devices for protecting the liberty and rights of the individual inadequate? I dealt with this in some detail earlier and I do not propose to repeat what I have already said, beyond saying that I think we have adequate facilities here; and I have never yet seen any member of Parliament glad to yield to an ombudsman the heavy burden of his constituents' grievances. If members did, would the traditional avenue for the ventilation of grievances through members of Parliament diminish in effectiveness, and would the functions of a parliamentary commissioner detract from their responsibilities?

This is a very weighty question to pose in a House of Parliament, because, as is well known, under the traditional Australian method of parliamentary representation it is customary for constituents to approach their local parliamentary member. I understand from people who come from abroad that there is more freedom of access to members of Parliament in Australia than in other countries, and I am quite sure that this expression of opinion applies to Ministers as well as to ordinary members.

There are parts of the world where one finds that some people have never met their local member of Parliament. Members of Parliament in those countries represent much bigger constituencies—in numbers of electors—than do members in Australia; there is more of an impersonal approach; and, as a result, it is quite a business for a person to arrange for an interview with his local member. One can naturally understand that people in those countries, when trying to approach their local member or Minister, do so with a certain amount of awe. That is not so in our country, and the more one travels the more one is convinced that our system is by far the best because of its greater freedom for the individual.

I wish to refer to one other matter before I conclude; namely, the problem of setting somebody up in a position who would eventually become a tyrant, using the word "tyrant" for want of a better name. Such a person may not intend to become a tyrant, but he does so because he relies on the threat of disclosure. I think it is unfortunate that some of the advocates who have written on the appointment of an ombudsman have made an issue of this threat of disclosure. Stripped of all of its niceties this is a form of straightout blackmail and something which we must be careful not to introduce into our legislation.

Somebody could come along and say, "You don't have to do this under the law, but if you don't do this you will be disclosed." If the person concerned is in the right he should immediately say, of course, "You disclose it"; but, unfortunately, this danger exists all the time when there is a person holding a position such as ombudsman. Immediately there is created an element of fear which, over the years, we have tried to keep out of our community. If ever there was a community free of fear it is this one of ours.

Mr. Jamieson: There are many times when it is introduced.

Mr. COURT: There are many people who will use it; it has been used by the Labor Party.

Mr. Jamieson: You want to read tonight's *Daily News* editorial.

Mr. COURT: There are many people who will use anying to achieve their purpose, and it is not everyone who has

either the moral or the physical strength to resist some of these threats. I pose this question as a very serious and real one when considering this appointment. I return to the basic issue of whether we want to do anything that will free the Government of its full responsibility to the people, because, in the final analysis, it is the people who have the say, through their respective members of Parliament, against any action of the Government. I oppose the motion.

MR. EVANS (Kalgoorlie) [7.56 p.m.]: This evening it was reported that the Prime Minister, in opening the Commonwealth Law Convention in Sydney, said that that particular event was a most timely one because it had happened when the rule of law was so much in challenge. I hope to show that the rule of law in Western Australia, despite the cogent remarks made by the Minister for Industrial Development, is definitely in a state of challenge. I regret the remarks that have been made by the Minister, and I also regret that his Government, once again, will use its numbers to defeat this motion, which has for its object the very desirable appointment of a parliamentary commissioner, under the Scandinavian title of ombudsman.

The phrase "the rule of law" contrasts the supremacy of law with the supremacy of arbitrary power. In a purely formal sense the rule of law means no more than organised public power, and it is in that sense I will use the term "rule of law". I think we must all concede that Government intervention in the community is inevitable. If we concede this, we must then search for a workable solution; we must search for an ideal of democracy. I suggest that there is such an ideal which is established on the three foundations of equality, liberty, and the ultimate control of the Government by the people.

As to equality, it is clear that there are numerous inevitable inequalities in terms of status and function between a private citizen and a Government official. As to liberty, a true democratic ideal would demand that certain rights of personal freedom should be secure from the undue interference of Government and Government instrumentalities. Personal liberties and individual rights have little constitutional guarantee in either the British or the Australian system of Government.

This is in strong contrast to the American system, where certain constitutional checks to guard against undue infringement of an individual's freedom and rights have been incorporated in a written and extremely rigid Constitution. Undue infringement of personal rights can arise as a serious problem of administrative justice; and this can arise from the action of tribunals exercising delegated powers—powers delegated by the supreme Legislature of the State.

Such a problem can also arise from the exercise of discretion by bodies other than these tribunals. Experience would seem to indicate that it is primarily where these tribunals, or action by these tribunals, is not involved that the citizen is found to require most protection; and it is in this field that least protection has been afforded, and where least has been done to attempt to give the ordinary citizen such protection.

I would like to draw the attention of members to a series of lectures, or I might term them more colloquially broadcast talks, given only a few weeks ago over the Australian Broadcasting Commission by Professor E. K. Braybrooke of our Western Australian Law School. Professor Braybrooke titled these talks—which were spread over several weeks, and were given one a week—"Understanding Our Law."

In one of these talks, which was the third in his series under the title of "The Rule of Law," he spoke of the matters I have attempted to sketch in the few moments I have been speaking. The professor posed the question: What can be done about this? He then said, "First there is a possibility of strengthening the constitutional checks on the Government." I pointed out that the American Constitution is a written one; and, partly because of that, it is a rigid one. But that Constitution does contain constitutional checks which have been incorporated therein.

But we in Australia have very few constitutional checks. Section 116 of the Federal Constitution is the only one that I can suggest that occurs in the Australian Federal Constitution; though there are several in the American Constitution. The professor suggests, first, that there is a possibility of strengthening constitutional checks on the Government. He then goes on to say—

> Secondly there is the possibility of providing for appeal to the ordinary courts of the land, or (if it were thought that this would burden them with litigation and cause congestion in the courts) to a special administrative court from any decision of the Government or of a Government agency affecting the rights or the property of an individual.

The professor then culminates his remarks by suggesting a third possibility as follows:—

> The third possibility, and the one which I most strongly favour, would be the widespread adoption of the institution of the ombudsman, or Parliamentry Commission for Investigations. To such a person would come every complaint from persons aggrieved by Government decisions. His process of investigation would prove cheaper, and in many cases quicker, than ordinary court processes in this

field. Moreover, in many cases he would find that a decision had been made according to law, but nevertheless, that it contained an element of unfairness which called for review or revision. Experience in the Scandinavian countries, and in New Zealand, suggests that such a person, by wise and tactful negotiation, even if behind the scenes, can do a great deal to soften and mitigate the impact of administrative decisions—

I would draw the Minister's attention to the continuing part of this which reads—

> —which though strictly in accordance with law, yet appear to infringe the spirit of the ideals summed up in the phrase which I chose for the title of this talk: 'The Rule of Law'.

Mr. Court: What worries me is how any person could act on that if the parties have made their decision based on the law. I am surprised at you.

Mr. EVANS: I can answer that.

Mr. Court: I cannot.

Mr. EVANS: There is such a thing as the letter of the law, and there is the spirit of the law. Courts often take notice of both those aspects—the spirit and the letter of the law. I believe that the Minister in dealing with the Electoral Districts Act now feels that even though the letter of the law says that a proclamation shall be issued, the spirit of the law—having cognisance of various other factors and circumstances to be regarded—suggests that not so much attention should be paid to the letter of the law as to the spirit of the law.

Mr. Court: You are getting away from the main point you made. You are getting right away from it. For instance, if the department and the Minister do decide strictly in accordance with the law—

Mr. EVANS: With the letter of the law or with the spirit of the law?

Mr. Court: When you get to dealing with money, the Auditor-General does not allow much spirit. And if the Auditor-General has anything to say, you know what a tongue bashing we get from your deputy leader.

Mr. EVANS: I will quote an article which appears in *The Australian Law Journal*, vol. 27, No. 10. I feel that the comments here made will not only allay the Minister's fears, but will answer most of his objections. Under the heading, "The Ombudsman in Practice" we find the following under date, the 27th February, 1964—

> The establishment in New Zealand of the office of Parliamentary Commissioner (Ombudsman) was discussed at 37 A.L.J. 170. The first incumbent of that important and novel office, Sir Guy Powles, responded to the invitation to deliver a paper for the Royal Institute of Public Administration at its recent conference in Canberra, and not a few Australian lawyers had the very pleasing and rewarding experience of seeing and listening to him, both there and at other gatherings at which he was persuaded to speak.

The Minister, when commenting upon persons who have held such office, remarked that one must consider their comments with some caution, even with suspicion. I emphasise here that this article suggests that the incumbent of the New Zealand office had to be persuaded to speak. To continue—

> Sir Guy furnished us with interesting facts concerning his office. He has no power to make anything in the nature of an executive order or decision, but has power to make a recommendation as to any matter of administration and he can if necessary (no such necessity has yet arisen) have that recommendation placed before Parliament. His jurisdiction extends to the acts (and omissions) of certain specific departments and organizations only, but these include practically all the Government administrative departments and agencies. His task involves tangling with dichotomy between matters of administration and matters of policy, the latter being beyond his purview.
>
> In the first year of his office he received 780 complaints. Of these, 339 were declined for want of jurisdiction . . .

That would answer the point raised by the Minister for Industrial Development. If a decision was made strictly in accordance with the law and some person felt aggrieved, the ombudsman would be powerless to act where, on investigation, he found the facts were such that he had no jurisdiction to go any further. To continue—

> . . . and 311 were investigated during the year. Of those investigations 68 were determined to be justified for one reason or another. As he pointed out, this is a significantly higher percentage. Of those 68, about one-half were rectified simply and quickly on reference to senior officers of the departments concerned. The others, one gathers, required a degree more of persuasion. Although the figures are comparatively modest, Sir Guy feels that the results achieved, both in individual cases and generally with regard to administrative procedures, and more particularly, in official attitude, have even in the first year amply justified the establishment of the office. With this conclusion we think there can be no quarrel.

> Having in mind also the report of the Whyatt Committee (see 36 A.L.J. 90), there seems at least to have been a case made out for considering the institution of a similar office in the Australian States, and, perhaps in the Commonwealth also.

Before I conclude I draw the attention of members to an article which appeared in the *Weekend News* of the 8th May, 1965. It is as follows:—

> Are We Over-Governed?
>
> Are West Australians being over-governed by zealous public servants? Is there too big a gap (and an ever-widening one) between government and people?
>
> An accusation of State "dictatorship" was made recently by Cottesloe Mayor G. L. Harvey at a meeting of the Local Government Association.
>
> The remark was prompted by the statement of a councillor (a representative on the Metropolitan Water Board) that he could give no future board reports. They would be released in future only by the board's publicity officer.
>
> The government's secretiveness about its decision to build an oil-fired power station at Kwinana and the price at which furnace oil will be supplied have also come under fire.
>
> Once it was possible for ordinary people to have relatively easy access to a minister of the crown. Now he is shielded by every device known to private secretaries and public relations men, who sidetrack the visitor.

Having given this motion my voice, I also intend to give it my vote.

MR. GRAYDEN (South Perth) [8.14 p.m.]: During the campaign which preceded the last State general elections, the Premier went before the people of Western Australia and made it quite clear that if the Government was returned it would not appoint an ombudsman. In those circumstances the Government is perfectly entitled to oppose the motion which has been moved by the Deputy Leader of the Opposition.

I think every member on this side of the House, in the circumstances in which he was elected—on the basis that he was a Government supporter—is equally bound to support the decision of the Government to oppose the motion. Whilst it is my intention to do just that, I am extremely disappointed that the Government has not reconsidered its stand on this point and that it will continue to oppose the appointment of the kind we are discussing.

In *The West Australian* of the 23rd August appeared a letter written by Mr. H. K. Watson, M.L.C., in which he said—

> Mr. Hawke refers to the danger in the power and authority of parliament declining—with a corresponding increase in the power of the executive government—through the circumstance that parliamentary majorities in the various parliaments usually decide their course of action at previously-held party meetings.
>
> I earnestly endorse his remarks that "it is a travesty of the true spirit of parliamentary government to see legislative proposals brought into parliament by the dozen by a government with its parliamentary majority already pledged to support the proposals and quite frequently remaining completely silent during the debates."

Those remarks arose from some comments which had been made by the Leader of the Opposition a few days previously, and which appeared in the weekly column of the Labor Party in *The West Australian*. In that column the Leader of the Opposition had this to say—

> Members of the public cannot be expected to know of all the dangers which exist when the power of the executive government increases and the authority of parliament is correspondingly reduced.
>
> That danger would not be as real or as extensive but for the fact that the party system these days ensures to a big extent that legislative decisions made by the executive government are rubber-stamped with approval by the government's majority in parliament.
>
> It is a travesty of the true spirit of parliamentary government to see legislative proposals brought into parliament by the dozen by the government with its parliamentary majority already pledged to support the proposals and quite frequently remaining completely silent during the debates.

I want to say at once that I wholeheartedly support the sentiments which have been expressed by Mr. Watson and by the Leader of the Opposition. I can assure members of this House that those sentiments are completely in line with the constitution of the Liberal Party. I do not know how they would fit in with the constitution of the Country Party, or that of the Labor Party, but, as I have said, they are completely in line with the provisions which appear in the Liberal Party constitution.

In that regard I wish to quote briefly one or two planks of our party platform which bear out what I have just said. One of the planks of the Liberal Party is—

> To maintain honour and integrity in public and private life.

To elect to Parliament representatives who will uphold the traditions of a free British deliberative assembly and so that all Members of Parliament shall be directly and solely responsible to the people.

To use every constitutional means to restore the sovereign rights of the State and of the individual and to prevent any further encroachment thereof and to take steps for a satisfactory rearrangement of the financial relationship between the States and the Commonwealth.

These are lofty sentiments, but they are ones with which we would all agree. The point is that in this House the rights of members are, without question, being constantly whittled away. The Minister for Industrial Development has stated that in this Parliament we have privileges which are possibly unequalled in Australia. I do not disagree with that statement. We certainly have many rights, and we can ask questions in the House, but if the Minister concerned does not choose to give the information which a member seeks then he has no means of obtaining the information. If a member were to move a motion for the papers to be laid on the Table of the House the Government, of course, would use its majority to defeat such a move.

So a member can go only so far. He can request information, but he cannot ensure that he gets it. This is where an ombudsman comes in, because an ombudsman has the right to go to a department and make a request for papers. That is the big difference between what an ombudsman can do and what a member of Parliament can do; and it is something that was glossed over by the Minister for Industrial Development.

In this House, the rights of members have been constantly whittled away. Members do not like to ask questions which embarrass the Government; and if members of the Opposition raise issues, what they say is immediately labelled as being political and is discounted. Even on this issue we cannot have a free deliberative vote, because that would not be possible. If the Premier had made it quite clear to members of this House that they could do what they liked on this issue, what would have been the position? Members of the Opposition would have voted *en bloc;* and if sufficient members on the Government side crossed the floor, it would mean that this motion would be carried. However, that would not have been a free deliberative vote; because both parties would not be exercising their opinions on this particular issue.

Under the circumstances, when this sort of thing applies, it could be readily said that what is happening in this State at the present time is the very negation of democracy and is quite contrary to the original concept of Parliament when it was first instituted in this country. If this be so, surely every member of this House should be looking around for ways and means to restore the rights of members and to ensure that individuals in the State have the maximum of protection from faulty administration in Government departments or by the executive.

I suggest we can achieve this by the appointment of an ombudsman. This is something which this Government could readily implement. It is not a party matter.

Mr. J. Hegney: Hear, hear!

Mr. GRAYDEN: One of the members opposite introduced this motion, but in New Zealand in 1962 it was the Nationalist Government—a non-Labor Government—that introduced the principle and it was the Labor Party that was very reticent about such an appointment. Here the situation is in reverse; but this is not a political matter.

The position in New Zealand is very much akin to that which applies in Western Australia. There we have a people who live very similarly to those of our State. They have a similar parliamentary institution, and yet they saw fit to appoint an ombudsman. When they did it, they did it in the spirit which is embodied in the opening remarks of the Attorney-General in his second reading speech when introducing the Bill implementing the appointment of a parliamentary commissioner. Over there they call him a parliamentary commissioner rather than an ombudsman, because that met the wishes of the Labor Party of that country.

When the Attorney-General, on the 25th July, 1962 or 1963, introduced the Bill, he said, "This was not a new venture in the realm of constitutional law; it was a conviction of the National Party that there could be no good government in a democracy unless the people had confidence that the decisions of the administration were fair and reasonable; and as part of its election policy the present Government promised to establish an authority responsible only to Parliament to which citizens could appeal against administrative decisions and the executive. This Bill was designed to further that promise." They were the sentiments expressed by the Attorney-General of New Zealand when he introduced the Bill.

When the Minister for Industrial Development was speaking he posed a number of questions and put forward a number of arguments; and I find myself in complete disagreement with almost every one of them. I am convinced that if he framed the questions he posed and devised the arguments he put forward, then he is not aware of the true nature of the duties of an ombudsman. If somebody else did all this for him, particularly the

questions, I am quite certain that person was not aware of the true nature and duties of an ombudsman. In these circumstances, and even at the risk of boring the House—

Mr. Fletcher: You are doing a good job.

Mr. GRAYDEN: —I would like to quote from an article which summarises the legislation which was introduced in New Zealand. I think this will be the briefest way to examine the duties and limitations of an ombudsman. I am quoting from a booklet called *The Ombudsman* published by the Melbourne University Press, and written by Mr. Geoffrey Sawer. As I have said, he has summarised the New Zealand legislation and put it under brief headings. His first heading is "Tenure." He states—

> The Ombudsman is appointed by the Governor-General on the recommendation of Parliament, and is an officer of Parliament. A fresh appointment is made in the first or second session of each triennial Parliament, and until that appointment the existing incumbent continues in office; the same man can be appointed for successive terms. He is to hold no other office or employment, and can be removed during his term only on address of Parliament for disability, misconduct, etc. His salary is fixed by the Government. He is to have such staffs as the Prime Minister approves, and neither he nor his staff come under the Public Service Act.

So much for tenure. Now for the functions of that Ombudsman—

> In the words of the Act, the principal function of the Commissioner shall be to investigate any decision or recommendation made (including any recommendation made to a Minister of the Crown), or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any of the Departments or organisations named in the Schedule to this Act, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment.

So much for functions. He is expressly excluded from inquiring into certain cases; and, on that point, I quote—

> Expressly excluded are decisions, etc., in respect of which there is a right of appeal, objection or review to a court or to an administrative tribunal *on the merits of the case*, whether this appeal has been exercised or not and whether it is time-barred or not. Also excluded are Crown Law Office functions, and questions in the armed services as to conditions of service and as to disciplinary matters. Local government authorities are not covered by the Schedules nor are some central authorities—namely trading or semi-trading, such as the government broadcasting authority and airways.

Then we go further and deal with his discretion to exclude certain cases. On that point this is what the booklet has to say—

> The Ombudsman may in his discretion refuse to investigate a complaint or cease investigations if there is another adequate remedy, legal or administrative, other than the right to petition Parliament; if further investigation becomes necessary; if the complaint is trivial, frivolous, vexatious or not made in good faith; or if the complainant has insufficient personal interest.

Then, in respect of procedure, let us have a look at what the New Zealand legislation contains. It reads—

> Complaints must be in writing and a fee of £1 paid; there is discretion to waive the fee. On receipt of the written complaint, the Ombudsman considers it to see if it is on its face within his power and not fit for discretionary rejection; he then sends it to the permanent head of the relevant department or organisation for his comments. This often leads to immediate remedial action. If it does not, the Ombudsman obtains relevant files, interrogates any officials he thinks fit, obtains any further information he needs from complainant and sees the latter's documents and, if relevant, witnesses, and can at any time consult a relevant Minister. He has power to summon witnesses compulsorily and examine on oath. No government documents or information can be kept from him unless disclosure is certified by the Attorney-General to be prejudicial to security, defence, international relations or police detection, or would disclose Cabinet or Cabinet Committee deliberations or proceedings. Investigations are private. There is no general right on the part of anyone to be heard by the Ombudsman, but before making any report or recommendation injurious to any department, organisation or individual he must give the affected department, etc., a hearing.

Let us get on to the power of action of the ombudsman. In that respect we have this—

> The Ombudsman has no power to reverse, quash or alter any decision, to award damages or give any other form of remedy, or to amend any law or regulation. His power is restricted to making recommendations, in the first place to the department or organisation concerned and to any relevant Minister. He can make such

recommendations if he thinks that the matter investigated was "contrary to law," "unreasonable, unjust, oppressive, or improperly discriminatory," "based wholly or partly on a mistake of law or fact," or—simply—"wrong." In the case of discretionary powers, he can act if of opinion that the discretion was exercised "for an improper purpose or on irrelevant grounds or on the taking into account of irrelevant considerations," or if he considers that "in the case of a decision made in the exercise of any discretionary power, reasons should have been given for the decision." If the matter complained of was done in pursuance of a *law or practice* which he considers "unreasonable, unjust, oppressive, or improperly discriminatory," he can make a recommendation that the law or practice itself be amended.

Now let me quote just one more point from this booklet, and it is under the heading "Sanction" as follows:—

> If a recommendation by the Ombudsman is not given effect to within a reasonable time, he is required to report his recommendation and consequent happenings to the complainant, and may report the circumstances to the Prime Minister and to Parliament. He also gives a half-yearly report to Parliament on his work generally.

There we have a summary of the position which exists in respect of the New Zealand legislation, and I think it explains very adequately the functions of an ombudsman and his limitations. It also indicates, up to a point, the value he would be in a community such as ours.

The member for Kalgoorlie, who just spoke, quoted the results achieved by the New Zealand Ombudsman in his first year. In order to refresh the memories of members I will also just briefly quote one or two facts in respect of it, as follows:—

> During his first year of office, Sir Guy Powles received about eight hundred complaints. He investigated about three hundred of these, the remainder being excluded from jurisdiction or declined on the discretionary grounds. He found that sixty-eight of the cases investigated deserved remedial action; about a half of them were attended to by the relevant department or organisation as soon as he suggested action, another quarter required stronger pressure but were attended to in a reasonable time to his satisfaction, and another quarter were past remedying as far as complainant was concerned but recommendations to ensure more satisfactory performance in the future were accepted.

Then it goes on, but I am not going to continue to quote because I am only unduly taking up the time of the House. However those facts that I have given are sufficient to indicate that in his first year of office the New Zealand Ombudsman was highly successful in his efforts. Indeed, when he came over here, as the Deputy Leader of the Opposition said, he replied, "Wonderfully", or words to that effect, to a question as to how he was going.

Mr. O'Neil: That was not the Ombudsman here.

Mr. GRAYDEN: I am sorry. I was wrong. The Minister for Industrial Development in his speech said that he was inclined to discount the glowing statements which emanated from incumbents of this office; and up to a point I agree with him. However, I want to tell him that the same thing works in reverse. I discount the protestations of civil servants who, of course, do not want their actions subjected to investigation by a person such as an ombudsman.

The same applies to a Minister of the Government in this State or in any other State or in the Commonwealth. He would not want to have an ombudsman querying actions in the departments which he administers—indirectly querying his own decisions. Therefore, when the Minister says that of the ombudsman and discounts what he has said, I emphasise the point that the same thing works in reverse.

Consequently we will get the same attitude from any Government in office, unless a Government in an election campaign makes it quite clear that it will support such an appointment.

Mr. Davies: It did not become an issue, did it?

Mr. GRAYDEN: No; but the Premier made it quite clear that if returned to power the Government would not appoint an ombudsman. In those circumstances the Government is quite entitled to oppose this motion. What I am doing is asking that the Government members, and the Government, too, retain this matter in front of them. I ask this in the hope that when more consideration is given to the matter and the Government members have acquainted themselves with the facts—and I am quite certain members have not done that—some time in the future such an appointment will be made.

I emphasise again that I disagree entirely with the Minister on the question of members being able to do a tremendous amount in this House, because the powers of a member are strictly limited. He can ask questions and he can move for the appointment of a Select Committee, but would he have any chance of its being appointed? Of course not—not if the Government was against it. Therefore members are, without any question at all, handicapped; and, with this

increasing reliance on the party system, they will be even more so in the future—if that is possible.

I have had a rather amazing experience in the last few weeks. I came up against a couple of problems and contacted certain people concerning them, but I got nowhere. I then referred those same problems to the *Daily News* Ombudsman who contacted the same people and, to my astonishment, he was successful.

Mr. O'Neil: Were they in Government departments?

Mr. GRAYDEN: No. They were matters which, were we to introduce legislation along the lines of that introduced in New Zealand, would be excluded; but, of course, there is no reason why we should not go a bit further, as has been done elsewhere. In some places the local Government is included in the jurisdiction of an ombudsman, but that is not the case in New Zealand. These two cases certainly were not, but I could quote some pretty glaring cases that are, and I think I will.

Firstly, I will give an instance which I regard as a classic. Before I do so, might I say that one of the functions of an ombudsman is to investigate cases where departments have acted within the law but in a manner which has been most unjust to individuals. That is one of the primary functions; and imagine what a member of Parliament would be able to achieve in the circumstances I am about to relate! When a department concerned points out that it has done exactly the right thing, a member of Parliament cannot go beyond that. However, an ombudsman can.

Last year, in 1964, the Town Planner went to South Perth and attended a closed meeting of the South Perth City Council. The public and Press were excluded. A proposition was put to the council to allow one individual to build a 15-storey block of flats in an area zoned for three-storey flats. It was to be done in a way which would deprive every citizen in the vicinity of the normal safeguards which they were entitled to under town planning regulations.

Now the proposal put forward by the Town Planner was that a permit could not be granted for a 15-storey block of flats because the area was zoned for three-storey flats. He suggested that the person concerned should apply for a permit and the permit should be refused. He should then be sent to the Minister for Local Government; and if the Minister approved, that would be it. That individual would be permitted to build the 15-storey block of flats in an area zoned for three-storey flats. He was to get around all the regulations under the Town Planning Act. This is a typical case for an ombudsman. That man was within the law. It was a loophole in the Act.

Mr. O'Neil: Did the flats eventuate?

Mr. GRAYDEN: No. I had to take up a petition and do all sorts of things and make myself unpopular with the South Perth City Council to have it stopped. The Minister, or the town planning committee, was within the law; but it was rank injustice to all the people who live in the vicinity of the proposed block of flats. They were to be deprived of their rights.

Under the town planning regulations it is necessary for the scheme to be adopted by the Minister to be advertised so that the people in the vicinity can have objections to the scheme heard, and so on. All these things were going to be got around by this backdoor method. That was one case.

To show how New Zealand would have covered that particular point, I quote from the *Journal of the Parliaments of the Commonwealth*, which summarises that New Zealand legislation. It reads as follows:—

> Ministerial responsibility:
>
> One difference between the provisions of this Bill and the Danish legislation was that they were excluding Ministers from the Commissioner's jurisdiction. They were giving him the right to consult Ministers at any stage and he had the duty to do so where the recommendation of a Minister was involved or where a Minister wished it. Ministerial responsibility to Parliament was a fundamental principle of their constitution, and the Government believed that to include Ministers directly would seriously impair this principle. Moreover, Ministers by and large dealt with questions of policy rather than of administration, and under this legislation it was with administrative decisions that the Commissioner would be concerned.
>
> To reconcile the preservation of ministerial responsibility with the aim of giving a remedy to the citizen, the Bill expressly provided that the Commissioner could look into recommendations made by a department to a Minister. The Commissioner could call for the departmental file which could contain not only the department's recommendations, but usually also the Minister's decision. If the Minister followed the recommendation, any criticism by the Commissioner would, in fact, be a criticism of the Minister's decision. In addition, and this was important, Parliament would have the opportunity of calling on the Minister to justify his action, and Members would then be armed with the Commissioner's recommendation.

Could anything be more explicit? Just see how the position in New Zealand would have operated in the case I have quoted. In this case the Town Planner made a recommendation to the Minister, and I

had no opportunity, as is provided for a New Zealand member, of having access to that information. However, an ombudsman would have had that access. He could have called for the Town Planner's recommendation; and, indirectly, in the way that has been described from what I have quoted, could have obtained the Minister's decision and all the facts relating to it. Then he could have placed it before Parliament and there would have been opportunity to debate it. So, indirectly, it gives the member power in respect of the Minister's decision. So much for that one classic case.

Let me quote another instance. I will deal with the question of iron ore. When the Commonwealth Government lifted the embargo on the export of iron ore, the State Government announced that it would take certain action and made it clear that people could search for iron ore and later peg certain deposits. A lot of people took advantage of the Government's decision; and at Mt. Gibson, not far from Wubin, an individual whom I know personally and for whom I have the highest regard, pegged a deposit. I well remember reading a half-page article describing how this person sat on a hill and worked out where a deposit would emerge and then pegged that area. The article appeared in the *Daily News*, and I have seen the event mentioned in other articles since then.

As soon as the State Government gave notice that people would be able to peg iron ore leases, a certain party went to Mt. Gibson, surveyed deposits, then went across to the deposit pegged by the individual to whom I have referred, looked at the deposit, and decided that it was a quite reasonable one—only because of its proximity to the railway line—and pegged the area. Then the Government announced that the Mt. Gibson deposit was going to be reserved. So the members of the party I mentioned did the right thing and did not apply for the area. They left their pegs in the ground and came back to Perth, but did not apply for the deposit.

Six months or so later the individual to whom I have referred went up to Mt. Gibson; pegged the deposit; and, for some extraordinary reason, he was allowed to peg it notwithstanding that the area had been declared a reserve. Here the department was completely within the law relative to this situation. It was acting within the Mining Act. But what an invidious situation for those persons who pegged it and walked off because the Government had declared it a reserve! How does a member of Parliament overcome that situation?

Mr. Jamieson: It is a pity the Minister could not speak again; he would be able to tell us.

Mr. GRAYDEN: This is an illustration of where the ombudsman could come in and ensure justice. Let us go further. Many years ago we had a Mr. Middleton in charge of the Native Welfare Department; and on one occasion he decided he would separate the children in the Warburton Ranges area from their mothers, send the children into Laverton, and have them boarded there while they attended school, and the mothers would be 400 miles away in the Warburton Ranges. That was a part of his policy. Subsequently, of course, all sorts of moves were made and this proposal was not proceeded with. The native mothers were distraught at the thought of being separated from their children under these circumstances, and the children, too, were equally upset about it.

That is the sort of situation where an ombudsman would be of great value; and so we could go on citing cases, but I do not want to do so because I would only embarrass the Government.

Mr. Rowberry: What are you doing now?

Mr. GRAYDEN: Briefly let me mention the question of caravans, particularly along the beach at Scarborough. This is an issue that has existed for months, and indeed years. In this instance there are several people ensconced in business in the area and they have operated those businesses for years, fulfilling a great community need. These business people have letters from many country people who have been going there year after year during the holidays. They have, with their children, stayed at the caravan parks because they have found them to be ideal places for their children to have a holiday, as there is no fear of the children damaging anything, as there might be if they were to rent flats or homes for the holiday period. Even if flats or homes were available, they would probably be too expensive for family people to rent at that time of the year.

Then the Government comes along with a regulation, or in support of a regulation, which is designed to put these people out of business. While it is supporting a regulation like that it is helping local authorities all over the State to establish caravan parks! That is the sort of thing which could be investigated by an ombudsman. I do not say that he should investigate or inquire into a Minister's decision; that would be excluded from his jurisdiction if we based our legislation on the New Zealand legislation.

However, in many cases the action taken emanates from the report of a departmental officer, and the ombudsman could call for the report and then, if necessary, if he could not obtain some satisfaction for the people concerned, he could refer the matter to Parliament.

In those circumstances Parliament would place much more reliance on a report from an impartial adjudicator, such as an ombudsman, than it would on the report from some person whom it might be thought had an axe to grind. So I could go on quoting cases but I do not intend

to do so, because I would be quoting some which to my mind would be embarrassing, and I am not going to do that.

One of the points in favour of an ombudsman is the salutary effect such an appointment would have. It is not merely what the ombudsman would achieve but the effect his appointment would have on officers in various departments. I do not want to criticise Government officers, because our Civil Service is the equal of any in Australia, and possibly the equal of any in the world; but the fact remains that in some cases officials are overworked, in other cases they are sick, or for a myriad reasons they sometimes make decisions which are unjust and harsh on the individuals concerned, and those individuals have no remedy.

However, if a departmental officer knows there is in existence an ombudsman who can investigate his decisions he will be more careful when he makes them. In this regard I should like to quote one instance. In the Commonwealth sphere there is what is known as a Public Accounts Committee, and when the idea of its appointment was first mooted we can all appreciate the hostility Ministers had towards it. They did not want departments within their jurisdiction investigated. We can imagine the Commonwealth public servants throwing up their hands in horror at the thought of a parliamentary committee going through their departments, investigating their costs, and so on. But that Public Accounts Committee was formed, notwithstanding the criticism about it, and it has become an institution on the Federal scene and has had a wonderful effect.

The committee has gone into departments and found instance after instance of gross waste and it has been able to effect tremendous savings for the public. That situation is comparable to the one we are now discussing. We are suggesting that we appoint an ombudsman who would have the power to demand official papers from various Government departments and who would be answerable directly to Parliament. So it could fairly be assumed that his work would have the same salutary effect as the Public Accounts Committee is having in the Federal sphere.

Finally might I say that one of the strongest arguments in favour of the appointment of an ombudsman is that it strengthens the structure of Parliament. There is an old adage, which I think the member for Perth mentioned the other night, to the effect that it is important not only that justice should be done but also that it should appear to be done. That is precisely the position with an ombudsman. Whether he achieves anything or not is not of much consequence, but at least he will investigate the cases submitted to him: and the people will gain confidence in the knowledge that if they are treated harshly by a Government department they have some redress. So we can discount the Minister's statement when he said—

Mr. Rowberry: That an ombudsman would be doing parliamentarians' duties?

Mr. GRAYDEN: No, something to the effect that he would come between Parliament and the public.

Before I conclude may I briefly discuss one or two of the arguments put forward by the Minister. Firstly, he said that he doubted whether, in a State of 1,000,000 people, an ombudsman was necessary. I would like to point out to him that there are only 2,000,000 people in New Zealand.

Mr. O'Connor: There are 2,500,000.

Mr. GRAYDEN: Yet they have found their ombudsman to be a wonderful success. He then said that the Government must be responsible to the people. I entirely agree with that; the Government should be responsible to the people; but how can we indicate that fact to the people any better than by the appointment of an ombudsman? That indicates to the people that the Government is not afraid of an investigation into any of its dealings or any decision which it might make.

Then the Minister said: Is there a danger that a Minister would shirk his duty and leave such matters to an ombudsman if he were appointed? In all fairness to the Minister I suggest that is a terribly weak argument, and it is contradictory, because on the one hand we have the Minister saying what a terrible thing it would be if an ombudsman were appointed because it is not necessary to have one, and in the next breath he is saying that if one were appointed one of the objections to his appointment would be that Ministers would pile the work on to him.

That, of course, would not happen; and every Minister in this House, I am sure, would go out of his way to ensure that no matters arose in the departments under his control which could be legitimately referred to an ombudsman.

Then the Minister went on to pose the question whether the appointment would be an abnormal interference with the administrative machinery. Again I suggest that is a very weak argument and I would refer once more to the Public Accounts Committee in the Commonwealth sphere. One could ask whether that committee is abnormally interfering with administrative machinery; and the question would be rejected out of hand, as it surely must be in the instance we are now discussing.

The Minister then asked were not civil servants as fair-minded as other members of the community. No-one would argue about that. Of course they are; but, as I indicated, some civil servants are grossly overworked, others are sick, and others

have problems on their minds. They have a myriad reasons for occasionally making a serious mistake. Human nature is not infallible. Once in a while a mistake inevitably must be made by someone, and sometimes such mistakes are serious. An ombudsman, of course, could rectify these mistakes.

The Minister for Industrial Development then posed the question: Might not such appointment diminish the authority of Parliament? How could the strength of this structure be increased to a greater extent other than by the appointment of an ombudsman? When a person is not frightened of what he has done, he makes all information relevant to such action available for everyone to see, and when a department is not frightened of its actions it would do likewise; and the same would apply to any authority. Therefore the appointment of an ombudsman could only strengthen our structure of Parliament and give the people of Western Australia greater confidence in it.

Then the Minister went on to ask: Is the machinery used to protect the rights of individuals adequate? I have already quoted instances of where it is not adequate, and one could go on to quote a host of such instances. Such instances must be well within the knowledge of members of this House to prove that the machinery to protect the rights of the individual is not adequate. To quote one instance: If a Minister does not wish to give any information to a member, that is the end of the matter; but in the Commonwealth Parliament the member can go a little further. On the motion for the adjournment of the House any member has the right to get up and speak on anything under the sun, and I think this practice should be incorporated in the procedure of this Parliament.

In the Commonwealth Parliament, when the adjournment of the House is moved, a member can get up and speak for 10 minutes on any matter he wishes. As this privilege does not apply in our Houses of Parliament, that is one way by which we could add to the rights of members in this House. If a member in this House asks a Minister a question concerning a matter relating to his constituency and does not get satisfaction, he then has to wait, perhaps, until the Estimates are introduced before he can speak on the matter; and by that time weeks have elapsed and the question he has raised fades into insignificance. Further, if a member on the Government side asks a question the assumption is that he is doing so to assist the Government, and if a member on the other side of the House asks a question it is assumed he is putting it forward for political reasons.

The Minister went on to say that if an ombudsman were appointed it would detract from the responsibility of members. I disagree with him. Members of Parliament in this House are a conscientious group, and I am certain they will continue to attend to the matters they attend to at present. My contention is that those matters which were brought to the attention of a Government member and which, if referred to a Minister, may embarrass the Government, could properly be referred to an ombudsman; and, if a member of the Opposition was interested in some matter and it was considered that he was raising it for political reasons, he could refer it to an ombudsman.

The Minister went on to ask: If we appoint an ombudsman, is there not the danger of appointing someone who would ultimately become a tyrant? I cannot see how such an eventuality would arise, because an ombudsman would be directly responsible to Parliament; he would be an officer of Parliament, and his tenure of office would be for only three years—the triennial term of Parliament. Therefore the situation that has been raised by the Minister simply could not arise and, to my mind, should not have been raised by him.

Finally, the Minister posed a question: Would the appointment of an ombudsman do anything that would divorce the Government from its responsibility? In answer to that I suggest that if there is one way to make the Government measure up to its responsibility it would be to appoint an ombudsman. Such an appointment is directly in line with Liberal Party policy, and I have no doubt it is in line with the policy of the Country Party. As far as I know it could well be in line with Labor Party policy.

Ombudsmen have already been appointed in many countries. The appointee in New Zealand has been highly successful in his activities, and I believe the appointment of an ombudsman in this State would strengthen our parliamentary structure and would give to individuals the right of redress against harsh and unjust decisions of administration which they do not possess at present.

I hope the Government and Government members will give this matter serious consideration, because I am perfectly convinced that inevitably an ombudsman must be appointed in this State at some time in the future, and therefore, if this is to be so, let us have one appointed as soon as possible. I repeat: As night follows day an ombudsman must eventually be appointed in this State.

MR. ROWBERRY (Warren) [9.6 p.m.]: I want to express my opinion on the motion before the House; that is, the desirability of appointing a parliamentary commissioner, or ombudsman, as he has been described. I do so for three reasons. Firstly, because I listened to what the Minister for Industrial Development had to say; and I am sorry I was denied the

pleasure of listening to the remarks made by the Deputy Leader of the Opposition when he introduced the motion. Secondly, such an appointment is desirable from what one has seen in the *Daily News* of recent months; and, thirdly, because of the opinion expressed by legal practitioners in this House.

At the outset I will deal with one or two matters that were raised by the Minister. I will not deal with all the matters he raised, because the Deputy Leader of the Opposition can deal with the others more effectively, no doubt, than I can.

I was interested to hear the Minister for Industrial Development say that the appointment of an ombudsman would probably cause a member of Parliament to disregard his responsibilities and obligations to the people who appointed him, and to the people of the State as a whole. He also said that a member of Parliament had the right to do certain things, such as moving for the appointment of a Select Committee. I hope that after establishing that that principle is enjoyed by a member of Parliament, he will abide by it and that the member who has just resumed his seat will not suffer any repercussions or have any action taken against him in the future.

Mr. Court: We have a certain amount of freedom that you do not have on your side. We have seen what happens to you fellows if you talk out of line!

Mr. ROWBERRY: Judging by the various side glances and the obvious irritability that has been displayed by members sitting on the Government front bench in recent days, I should think that one of the causes of that irritability is that their are some people on the Government side who are kicking over the traces; and I hope that in exercising that principle or right, which has been established by the Minister for Industrial Development, they will be permitted to continue without fear.

Mr. Court: I know how you would get on at the next election if you kicked over the traces!

Mr. ROWBERRY: The Minister gives himself away by implication. He says he does not know how I would get on if I kicked over the traces. Obviously, what he is implying is that exactly the same would happen to members on his side of the House. The Minister tells us that by the indiscreet announcement he makes. It would be better if he held his tongue.

Mr. Hawke: Impossible.

Mr. Court: Some things have got to be said.

Mr. ROWBERRY: One of the things the Minister said was that the appointment of an ombudsman would bring about fear of disclosure. I ask: Fear of disclosure of what? What can one fear from disclosure? What can an honest person fear from disclosure? An honest person should welcome disclosure because that would establish his honesty; it would establish it more completely. But the Minister made a mistake by implying that the appointment of an ombudsman would bring fear of disclosure, and he added that this would be a species of blackmail. The Minister forgot that by using that argument he was indeed appealing to fear and not to logic. He was appealing to the fears of members, of the Ministers, and of the Government that there would be disclosures if an ombudsman were appointed.

By his indiscreet utterances the Minister conveys impressions that he would wish to have kept secret. The Minister also said that members of Parliament had responsibilities to their constituents; that if an ombudsman were appointed it is probable that members would disregard their responsibilities; that Ministers would disregard their responsibilities. How many cases do members come up against where they find they have not the legal knowledge and the legal experience to deal with the situation! They can only advise their electors—or whoever makes the complaint to them—to take legal advice.

In recent months, some people have been writing to the Ombudsman in the *Daily News;* and it will be noticed that there is never a day during which this paper is published that there are not some cases reported in respect of which the ombudsman has given advice. In many cases he has, by his interposition, been able to bring about a satisfactory state of affairs for the people who have appealed to him; and this only because he is an ombudsman. The people themselves have been trying to accomplish something that the companies—and some of them very shady companies—and Parliament have refused to do anything about.

I would remind the Minister that he said Parliament should be paramount. We made appeals to the Government two or three years ago to do something about these unsatisfactory salesmen who have brought about some of the situations in which people who appeal to the ombudsman find themselves. Nothing was done by the Government and, accordingly, the *Daily News*, by appointing an ombudsman of its own, had to do the job the Government refused to do.

There is, however, one significant feature about the *Daily News* Ombudsman, and that is to my knowledge he has not dealt with anything that has relation to Government policy or Government departments. I do not know whether this is the policy of the paper, or whether it is the policy of the Ombudsman himself, but he will not deal with these things; he accordingly merely advises the people who apply to him.

Mr. Davies: He went to the State Electricity Commission but it would not deal with him.

Mr. ROWBERRY: The significant point about the newspaper Ombudsman is that there appears to be a continuing stream of people who have complaints against certain organisations—trade and others—who cannot find a satisfactory way of having them dealt with. They cannot, in fact, get any justice.

Mr. Court: Do you say the *Daily News* Ombudsman does not deal with the Government departments?

Mr. ROWBERRY: I said to my knowledge he does not. His general policy appears to be to avoid dealing with matters appertaining to Government departments.

Mr. Court: The Government must have a very good record, because he is always making inquiries.

Mr. Fletcher: He did not get far with the S.E.C.

Mr. Lewis: I had one inquiry in my department, but the result was not published because they had no case.

Mr. ROWBERRY: I am satisfied from what the Minister has said that there are very few cases in which the Ombudsman has tried to deal with the Government departments. I will give a case in point. I asked a simple question of a high civil servant at a meeting in Manjimup, and the civil servant told the meeting, and the chairman, that the member for Warren was embarrassing him, and he did not think he could answer the question. He was trying to make political capital out of an ordinary meeting.

I have brought this up in the House before. I asked questions in the House, and the questions I asked were referred to the person of whom I asked the question previously and, accordingly, I got the same reply again. One finds oneself up against a brick wall. It is in cases like this that an ombudsman would be able to use his moral force—not any statutory powers or legal powers that would be invested in him, but moral force.

Mr. Lewis: Do you mean he would make a thorough search of the file and give more wisdom to the decision than anyone else?

Mr. ROWBERRY: He might be able to make a more thorough search of the file—if the files were accessible to him—than the ordinary member of Parliament, because he would have the legal training and would know the necessary steps to take to solve the difficulty, or to suggest a solution of the problem. That would be the main part of his function. It would not be to dictate to Parliament at all.

I was dealing with the fact that the Minister said the ombudsman would interpose an influence between the Parliament and the people. The moment Parliament enacts legislation there is a body of people in the community who are interposed between Parliament and the people. I refer, of course, to the judiciary, who implement the laws of this Parliament. Once Parliament has made a law it becomes the law of the country, and it becomes the property of the judiciary.

One of the main points in my opinion is that the appointment of an ombudsman would save considerable legal costs to the members of the community. As we all know, the costs of legal proceedings are sometimes prohibitive, and there are occasions when people have to do with less than justice because they do not possess the wherewithal to pay for justice. I would refer the House to the *Daily News* of today in which there are large headlines titled "The Cost of Justice—Why is it beyond most of us?"

Why is it? The member for Perth dealt with this aspect in the course of a very thoughtful speech during the debate on the Address-in-Reply. He talked about the cost of justice and appealed to the Government to set aside funds, so that people who could not otherwise obtain justice by instituting legal proceedings would be assisted to do so. I refer to his comments, which appear on page 189 of this year's *Hansard*. He said—

> There is a constant increase in the activities of Governments and in the laws and regulations which are being made and there is, more and more, a demand by the ordinary citizen for expert legal advice and assistance.

Parliament having made the law, its administration is passed over to the judiciary. From then on neither Parliament nor members of Parliament can interfere, unless legislation is introduced in Parliament to amend the law. The member for Perth went on to say—

> The ordinary citizen is limited in that respect in obtaining advice from two sources. Firstly, there is a great deal of legislation in this State—for some reason or other, unfortunately—which restricts the right of legal representation of the ordinary citizen before various tribunals. That, I feel strongly, is quite contrary to principle, and quite contrary to the rights of the ordinary citizen, who has to have expert guidance when he is rubbing shoulders with any agency that is administering any aspect of law or regulation.

Mr. Court: You agree with that, because it is in accordance with Labor policy.

Mr. ROWBERRY: He went on to say—

> The other limiting factor—and I suppose it is even a much greater one—is that of cost.

The honourable member appealed to the Government to make available funds for the payment of costs to the ordinary citizen for obtaining legal and just satisfaction.

Even the member for Subiaco supports the idea in his usual roundabout way. He is one of those two-handed lawyers to whom the Leader of the Opposition has made reference. He says on the one hand it is so and so, and on the other hand it is so and so; and if the member for Subiaco had one hand he would probably give a sincere opinion. In 1964, when speaking on the motion for the appointment of an ombudsman, he had this to say, as recorded on page 1706 of the 1964 *Hansard*—

> I would agree with one statement made by the honourable member for Beeloo: that some day sooner or later we will see something done in regard to this subject; but I have very grave doubts whether ultimately we will come down on the side of an ombudsman.

The honourable member gave the impression in that and in other speeches that if he had as much moral courage as has the member for South Perth we might be able to find another rebel on the Government side.

I have a further legal opinion on the desirability of the appointment of an ombudsman, but before going on to that I would remind the Minister for Industrial Development that the laws and Statutes which govern English-speaking countries were not all made by Parliament. Statutory law did not come into existence until the 13th century, and Parliaments did not begin to make statutory law until then.

A vast volume of law which governs English-speaking people is that of custom and usage; and this has been in the hands of the judiciary down the ages. I refer to a booklet entitled, *The English Legal System*, and for the benefit of the Minister for Industrial Development—who thinks that Parliament makes all the laws, and therefore an ombudsman will come between Parliament and the people—I quote the following passage—

> Common Law:
>
> The common law of England evolved from spontaneously observed rules and practices, shaped and formalised by judicial decisions made by judges pronouncing the law in relation to the particular facts before them. In the Anglo-Saxon period the principles applied in local courts broadly reflected the customs of local communities as declared by the freemen of those communities, who were the judges of the courts. After the Norman conquest the King's judges gradually welded the many and varied local customs into a single body of general principles which they applied uniformly, first during their periodic circuits through the shires and later at their meetings in London to hear cases at the royal courts. In order to achieve consistency, the judges placed great reliance on previous judgments given in similar cases—a practice which gave rise to the decline of judicial precedent upon which all law in England, other than statute law, is based.

There are other matters which affect the ordinary individual, and for which this Parliament is in no way responsible. The booklet to which I have just referred goes on to describe Statute law, and states—

> Statute Law:
>
> Statute law comprises law made by, or by the authority of, the legislature: such laws may be Acts of Parliament, or Orders in Council made under statutory authority or by virtue of the royal prerogative, or rules, orders and regulations made by a Minister of the Crown under the authority of Parliament, or by-laws made by local government or other authorities exercising powers conferred on them by Parliament.

Further on it states—

> Law-making by Parliament did not begin until the thirteenth century, and it was not until the sixteenth century that legislative Acts took the form in which they are cast today.

So we are still bound by the rules, practices, and procedures which were adopted through the ages, and which lie within the jurisdiction of the judges.

Professor E. K. Braybrooke, Professor of Jurisprudence in the University of Western Australia, has been mentioned earlier this evening. I wish to refer to parts of a lecture which he gave at the University recently. The subject was the ombudsman, law, and society. The report states—

> "The function of law", said Professor Braybrooke, "is to protect us from aggression". It is an aspect of law that often seems to be forgotten by law-makers and administrators alike, but in Dicey's analysis of the rule of law in England the two fundamentals are:
>
> The principle that no-one can be caused to suffer unless authorized by law in a normal court, and then only as punishment for breaking the rules of law.
>
> The absolute supremacy of Parliament.

> In other words, the law has been built up in order to protect us from incursions on our freedom by our fellows, from aggression in any form except that of a "normal court". It is hard to find this function of law in many local government by-laws.

He then goes on to describe local government by-laws and the powers of local government to make by-laws, and says that in some of the local government by-laws there is a diminution or complete restriction of freedom against the individual. However, he says that fortunately the members of these local governments do not know that the restriction of freedom against the individual is there.

He has something very interesting to say in regard to what safeguards there are against these incursions into the liberty of the subject, and what we can do about it. He says—

> How can we appeal against such decisions? By . . . questions in Parliament, letters to the Minister concerned (!) and petitions. But since the former two appeals are usually referred back to the officer in question, chances of a reversal of a decision or of an admission of error are poor indeed.

I could not agree with the professor more. He said further—

> So it is here that the ombudsman is especially valuable. He is the little man's attorney, who can act in government departments on subjects outside the law. Ideally, as in Sweden and New Zealand, he has the expertise of a lawyer, the tact of a diplomat, and the respect of the community. He must be free from any political ties or connections with government departments. He must be able to inspect any files, to obtain any information, and to question anyone. All he may do—apart from persuasion—is to write a report, but his power is his moral force.

It means that the mere fact he is there is the power—the power the Minister mentioned in the first place: the fear of disclosure. Does he not know that the fear of disclosure—the fear of publicity—is one of the foundations on which democracy is built? It is the fear that keeps the Minister in order; it is the fear that keeps the Government from doing things it might otherwise do. I might say this Government has succeeded in doing things which are outside the law; things which I mean to mention at some time. However, it is not the time to mention them now.

There is the question of dealing with land that belongs to the State of Western Australia and the giving of it away to people for private exploitation. Land which could have been dedicated to the people of the State has been sold or leased for the purpose of profit and exploitation to the detriment of the people of the State.

I could give facts and figures like the member for South Perth, but will leave that until a later time. I say there is a very great need for the appointment of a person such as an ombudsman. I will finish on this note: The concept of "protection from aggression" is part of our society, and men are available in this State to act as the little man's attorney. I support the motion.

MR. DAVIES (Victoria Park) [9.35 p.m.]: A feature of the debate this evening has been that the further it has gone the less the Government has been left with to justify the attitude it has adopted towards this motion. Indeed, I think at the present stage, it is left without any justification at all for not supporting the motion moved by the Deputy Leader of the Opposition. On this matter the Government is quite out of touch with public opinion. I think the latest Gallup poll showed that 56 out of every 100 persons interviewed were in favour of the appointment of a parliamentary commissioner or ombudsman.

Mr. Bovell: The State poll did not indicate that.

Mr. Court: The State election did not indicate that; and that is the final arbiter.

Mr. DAVIES: The State election?

Mr. Court: That is the thing that decides.

Mr. DAVIES: If the Government would be prepared to go to the people solely on the appointment of an ombudsman, I think the result would be quite different from the last occasion an appeal was made to the electorate. I am sure I have the full authority of the Leader and Deputy Leader of the Opposition to challenge the Government to go to the people solely on the appointment of an ombudsman.

Mr. Court: If we were that silly the people would be entitled to throw us out.

Mr. DAVIES: It is no good interjecting tonight, because through a slight disability resulting from our tour of the standard gauge I am deaf in one ear and cannot hear. However, to get back to the point: The Government is without a leg to stand on as far as its attitude to this motion goes. The reasons I got up to speak were, firstly, that I have advocated this appointment for a long time; and I feel I am required to support it vocally. Secondly, I feel I should let the member for South Perth—unfortunately he is not in his seat—know that it is a feature contained in the objects of

the Australian Labor Party. I will quote them from (a) to (e). They are as follows:—

(a) Social justice and economic security.

(b) Freedom of speech, education, assembly, organisation and religion.

(c) The right of the development of the human personality protected from arbitary invasion by the State.

(d) Free election under universal adult and secret franchise, with government by the majority, with recognition for the rights of minorities.

(e) The rule of law to be the right of all.

I do not think that expresses it in quite the flowery manner as does the Liberal Party constitution. Unfortunately I have never been able to get a copy of the Liberal Party constitution and was interested to see the member for South Perth quoting from one tonight. Perhaps he would let me have a look at it some time. However, our constitution does not sound flowery, but this is because we have always been a more straightforward party; and exactly what is expressed there is inherent in the motion that is before the House tonight.

It is interesting to note that there have been more speakers on this occasion than when a similar motion has been before the House on other occasions. Many have expressed concern with regard to the power of the Executive. I am pleased to see this, because it is a matter that has been expressed in newspapers throughout the country for some considerable time. Possibly one of the most forceful editorials on this subject was one which appeared in *The Australian* of the 24th August, last year, and it reads as follows:—

> THE VICTORIAN Liberal Member of Parliament, Mr. Frank Davis, last week drew attention again to the decline in the authority of Parliament. Authority, he said, was slipping away from Parliament to the Executive.
>
> He was right to raise this issue, but his tense was wrong. Power HAS slipped away from Parliament almost entirely.
>
> The Executive controls Parliament through party discipline, the Prime Minister (or State Premier) controls the Executive in a similar manner, and in the background are the shadowy figures of senior civil servants who are answerable to Ministers, and who refuse to defend their policies in public.

Of course, this happens time and time again. We must agree it is perfectly true, as we have all experienced it. I continue to quote from the editorial—

> The result is public disillusion with Parliament, virtually untrammelled power to the Executive, and power without question to the senior civil service.

Now we do not propose that an ombudsman should have power to deal only with the Civil Service. However, a feeling of hopelessness is growing throughout the community with regard to the Civil Service. Members of the public get to a certain stage when they generally come to their members of Parliament, who find out that the matter has been considered on several occasions.

Often the citizen concerned has taken the matter as far as the Minister whose attitude to the particular problem is established. For fear of being held up to ridicule and because, possibly, they are not big enough to alter their opinion once they have formed it, the Ministers will not alter it; and it is quite hopeless for a member of Parliament to take the same problem back to a Minister because that Minister is going to say that his mind is made up already and he has no intention of altering it.

Mr. O'Neil: Has that always been your experience?

Mr. DAVIES: No, not with Ministers. Let us not suppose that this is always the experience. Let us not suppose we are living in a community that is wholly governed by civil servants who have opinions we cannot change at any time. Everyone realises that is not so. However, it is the exception we must provide for and it is the exception we hope to provide for by the appointment of an ombudsman. It would be an injustice to anyone who has anything to do with Government to say that at all times that person is wrong. However, I repeat it is the exception we must watch.

I do not know why the Government is afraid to appoint an ombudsman. Does not the Government want an ombudsman to inquire into any of its policies? Does it not want him to inquire into any of its actions or the actions of civil servants? If it has nothing to be afraid of, why does it not appoint an ombudsman? If the Government supposes that an ombudsman is not necessary, why not appoint him and let him have nothing to do? The ideal community will be proved to exist only when a man such as an ombudsman has nothing to do. We would know then that we had arrived at as good a community as we could ever hope to live in.

However, of course, we will never reach that stage no matter what form of Government we have, and therefore I say that, unless the Government has something to be

afraid of, let it appoint an ombudsman. Possibly some members of the Government do not want their actions inquired into.

I recall that recently the Commonwealth Government said it was going to inquire into the price of iron ore. It did not seem to like the arrangements that had been arrived at between the State Government and the contractors. What did the Minister for Industrial Developemnt say? He said he was sick of all the sniping going on. That sort of remark immediately puts people on guard. If he has nothing to be afraid of, why not let the Commonwealth inquire into the prices we are getting for our iron ore? Would not the Minister come out stronger then? Surely to goodness there are times like this when to put the mind of the community at rest inquiries should be made!

Mention has been made of the fact that we could move in this House for the appointment of Select Committees or Royal Commissions. Some time in April—I think it was about the 14th—the report of the Royal Commission on boat safety came out, and goodness knows why the Government had to hold it for nearly six months before it revealed the contents to the public. I remember that at the time some criticism was made of the Fisheries Department by the Royal Commissioner and the Minister for Fisheries at the time (Mr. Ross Hutchinson) said, "Surely the commissioner does not mean what he says!"

The commissioner had been sitting for six months considering all the evidence, reports of which were made in the Press; but the Minister said, "Surely the commissioner does not mean what he says!" That remark was reported in the paper, and obviously that Royal Commission is going to get the wipe-off. We can see the attitude at the present time.

If the Government is not afraid of anything, why is it afraid to appoint an ombudsman? There is mounting evidence all the time that more and more people are in favour of it. Earlier in my address I said that 56 out of every 100 Australians interviewed in a recent Gallup poll were in favour of the appointment of an ombudsman and only 27 were against it. That information was contained in some Gallup poll figures I received earlier this year, and was also contained in an article on the *Daily News* Ombudsman published in the *West Australian Newspapers Limited Quarterly Bulletin* a copy of which all members receive. It is an excellent bulletin and is better than their newspaper. In the short article concerning the Ombudsman, some of the points made are very pertinent, and if members have not read the article I hope they will. The following is an extract from this publication:—

> In its short existence so far the service has helped a man to recover £800 that had been withheld, cleared up many misunderstandings about guarantees, warranties and hire purchase, provided warnings about trashy goods, suggested improvements in garment washing instructions, revealed loopholes in door-to-door sales legislation, stimulated action on parking and traffic situations, and exposed one case of false pretences on which a C.I.B. move followed.

The article then states that two senior journalists are employed full time on this work. The *Daily News* Ombudsman has accomplished all that without any statutory power whatever. The only thing he can do is to try to persuade the people concerned, or those who have committed supposed wrongs to consider the matter. He can talk to them and find out if a wrong has been committed and, if so, try to persuade them to remedy it. The Ombudsman has had a remarkable amount of success although his powers are limited.

As the member for Warren said earlier, the S.E.C. refused to have anything to do with the Ombudsman. He has mentioned this on several occasions, and I referred to it during my speech on the Address-in-Reply if I remember rightly. Of course, if a Government department or an individual will have nothing to do with the *Daily News* Ombudsman he can do nothing further.

The obvious need for an ombudsman has been proved to the Government and yet it refuses to appoint one who would have the necessary statutory power. I say there is mounting evidence all the time. I have cuttings here from newspapers all over Australia. Members are aware, of course, that the Prime Minister of Great Britain (Mr. Harold Wilson) has appointed an ombudsman.

Mr. J. Hegney: An ombudswoman.

Mr. DAVIES: I am informed it was an ombudswoman. That was one of the matters they went to the people on. I do not know that the Premier suggests that this is the one matter on which they won the election. That, of course, is ridiculous. I do not remember the Premier at any stage saying most definitely that he would not appoint an ombudsman.

Mr. Brand: I certainly did say so.

Mr. DAVIES: You did?

Mr. Brand: I said so at several meetings.

Mr. DAVIES: I do not remember your having said it.

Mr. Brand: I made that quite clear.

Mr. DAVIES: If the Premier says he certainly did say so, I will believe him. In Victoria, of course, the State Liberal Party executive has asked for the appointment of an ombudsman. Also in Victoria the Chamber of Commerce is seeking the appointment of such a person. Mr. Phillip

Lynch is the national vice-president for Victoria and I might say he is certainly not of my politics. I know him quite well and he is a very fine fellow, but not of my politics. He is reported in *The Australian* as follows:—

> He said the courts had many disadvantages. They could not act of their own accord and required a specific action to be brought before them; also costs were high and there were considerable delays in obtaining a decision.
>
> "The powers contained in many Acts are worded so broadly that it is difficult for the courts to uphold that any powers have been exceeded," Mr. Lynch said.
>
> Much of this was necessary by the complexity and scope of modern government.
>
> "But there are many examples in recent years where individuals could have been better protected against arbitrary or bureaucratic actions had there been an ombudsman," he added.

This, of course, is generally agreed and generally appreciated. One of the more recent references to an ombudsman was in *The Australian* of Friday last when Douglas Brass dealt with politics in New Zealand and the attitude to the Tasman trade agreement; that is the attitude of the people and the Government. Indeed, there seem to be more laws in New Zealand than anywhere else in the world. There are laws in New Zealand to protect and control every human activity from the cot to the coffin. I have heard it expressed better, but I know what it means. To quote from *The Australian*, Douglas Brass says—

> I am in no way jeering at the succession of liberal reforms which the conservatives, taking the torch from the socialists, have written into the statute book. So many admirable things have been done, all the way from censorship reform to the abolition of the death penalty and the Upper House and the establishment of an ombudsman that Australia looks positively backward by comparison.

It goes on to point out the success achieved by the New Zealand Ombudsman but I do not propose to weary the House with further debate on that, because it has been very successfully put this evening by other members from both sides of the House. I think that if the Government has nothing to be afraid of, it should welcome the opportunity to appoint a parliamentary commissioner. As I said earlier, the ideal situation would be where we had an ombudsman with nothing to do. We would then reach as near a perfect community as possible.

MR. TONKIN (Melville—Deputy Leader of the Opposition) [9.53 p.m.]: Five members have spoken in this debate, three from the Opposition side, and two from the Government side. Only one member has argued against the proposition, and that suggests that there is not very much argument against it; and such argument as was advanced, I believe the member for South Perth completely demolished. Seldom has a member who is faced with the task of speaking in rebuttal had an easier task than I have just now. Try as he would, the sole speaker in opposition to the motion was at his wit's end to find an argument.

I heard some of the most remarkable statements from the Minister. One suggestion was that the ombudsman, who would be a servant of Parliament, could become a tyrant. I cannot imagine a bigger tyrant that the gentleman who said it.

Mr. Bovell: That is unkind and cruel.

Mr. TONKIN: That is not unkind; it is my opinion, and I cannot imagine a bigger tyrant. It is too absurd to suggest that an officer who is appointed by Parliament, and who can only report to Parliament, and who has no final function other than to report his findings, could ever become superior to Parliament. However, that was a proposition that the Minister for Industrial Development submitted, and I say it is a puerile idea.

The Minister for Industrial Development sought to make an argument out of the fact that, firstly, in Sweden, the ombudsman was appointed to look after noblemen and protect them. What is wrong with that, if they are suffering injustice as a result of tyranny?

Mr. Jamieson: That is what the Magna Charta was for.

Mr. TONKIN: What is wrong with protecting noblemen, or anybody else who might be suffering under tyrannies? It does not weigh with me in the slightest to say that it took a very long time before any other Scandinavian country followed suit, because I would point out that we think Christianity is the best religion in the world. It has taken a long time for some people to adopt it, but that is no argument against Christianity. It takes some people a long time to wake up to the advantages to be derived from suggestions being made.

The Minister said he knows of no place where there could be less need for an ombudsman than in Western Australia. The member for Victoria Park quoted from an excellent publication called the *Quarterly Bulletin*. I have a copy here, and

I will quote what it thinks of the need for an ombudsman in Western Australia—

> The *Daily News* Ombudsman wields no power except the power of inquiry . . . The service has shown conclusively that it was wanted. It has produced a bigger volume of mail than any feature the *Daily News* has ever run.

Now, does that suggest there is no need for an ombudsman in Western Australia? The Minister for Education protested by way of interjection that the ombudsman of the *Daily News* had made an inquiry of his department and found out there was no basis for complaint, and the complaint was not published. That does not prove anything. If the Minister had had time to read this article he would have found the reason.

Mr. Lewis: There is not much complaint against the department.

Mr. TONKIN: The *Quarterly Bulletin* quotes further—

> Some of the letters are about situations that have no general application or interest, and these are answered only by mail. Those that have general interest—about two-thirds of the total—are published in the *Daily News* with the results of the Ombudsman's investigations.

The Minister would know his circumstances better than I, because I know nothing about the particular case to which he referred, but I assume it was not of general interest to the community.

Mr. Lewis: It would have been if we had been in the wrong.

Mr. TONKIN: But the Minister was not in the wrong, and that is why it was not published.

Mr. Lewis: If we had been in the wrong it would have been published.

Mr. TONKIN: Then it would have been of general interest. The point is different, and apparently the Minister cannot appreciate the point.

Mr. Lewis: The *Daily News* could not get anything out of that complaint.

Mr. TONKIN: I refuse to believe that the *Daily News*, in running this ombudsman feature, is out to get evidence against the Government, and will only publish those complaints which enable it to show the Government in a bad light. I will not accept that at all.

Mr. Lewis: I am not suggesting it.

Mr. TONKIN: Well, your answer suggested it to me. I believe that this feature has been introduced with a genuine desire to help people; and, what is more, it has undoubtedly done just that. The member for Victoria Park quoted a case which is mentioned here—

> In its short existence so far the service has helped a man to recover £800 that had been withheld, cleared up many misunderstandings about guarantees, warrantees and hire purchase, provided warnings about trashy goods, suggested improvements in garment washing instructions, revealed loopholes in door-to-door sales legislation, stimulated action on parking and traffic situations, and exposed one case of false pretences on which a C.I.B. move followed.

This service is carried out at considerable expense to the paper and the response which it has brought is evidence, I submit, that there does exist in this community in Western Australia a real need for an ombudsman.

The Minister was in some doubt as to whether Mr. Wickham had really stated deliberately that an ombudsman should be appointed. The Minister qualified his answer by saying he had not had much time to read the article. If he had had that time he would not have made the statement he did.

Mr. Court: Which was that? I am sorry I did not catch what you said about my statement in regard to Mr. Wickham.

Mr. TONKIN: The Minister indicated that Mr. Wickham did not go straight out in his advocacy for an ombudsman but that he was dealing with a situation which was termed a situation of the rule of no-law, and which really did not call for an ombudsman.

Mr. Court: If you read page 21 of his paper you will see that he summarises what he was after.

Mr. TONKIN: I will read what he is reported to have said—

> To cope with problems at those levels an ombudsman was necessary. The existence of an administrative tribunal in this State would enable an ombudsman in appropriate cases to lay a complaint before the administrative tribunal. Many problems at the ombudsman level would be solved by the mere fact that he existed. The occasions for drastic action would probably be few.

I can come to no other conclusion than that Mr. Wickham believes in the appointment of an ombudsman.

Mr. Court: I think you had better read the whole of his paper because you cannot take text out of context and if the Speaker will allow me I will read from the paper what he did say. He said—

> It is difficult to see the objection to a system of administrative law being developed providing it is under the rule of law and providing that the two

streams of administrative law and common law meet in the Supreme Court.

Mr. TONKIN: This question is obviously one of simple solution: Either Mr. Wickham believes in an ombudsman or he does not, and I find it hard to believe that a man who says what I have just read is arguing against the appointment of an ombudsman. Therefore, I am obliged to read it again—

> To cope with problems at those levels an ombudsman was necessary.

Mr. Fletcher: Not unnecessary but necessary.

Mr. TONKIN: He continued—

> The existence of an administrative tribunal in this State would enable an ombudsman in appropriate cases to lay a complaint before the administrative tribunal. Many problems at the ombudsman level would be solved by the mere fact that he existed. The occasions for drastic action would probably be few.

If that is an argument against the appointment of an ombudsman I cannot understand plain English.

Mr. Court: You have to take the whole of his paper in its complete context before you take one phrase out of it. In fact he is arguing against it.

Mr. TONKIN: At the 14th parliamentary course held in Great Britain in 1965 this was reported as having been said about the need or otherwise for an ombudsman—and I quote from page 187 of the summary of proceedings, and you, Mr. Speaker, would know something firsthand about this—and the speaker was Mr. Rhodes James—

> Perhaps the most disturbing development of all was the enormous increase in delegated legislation which had occurred since the war. Parliament was incessantly passing Acts giving Ministers powers to make orders or regulations on some subject or other. No real limit was set on Ministers' exercise of these powers, and it might happen that at some time after the passing of the Act the powers were used in circumstances under which they were not originally intended to be applied. This, no doubt, was a highly convenient and efficient way of running government but the vast quantity of delegated legislation made close parliamentary supervision almost impossible. This situation underlined Parliament's fundamental dilemma between efficient government and effective parliamentary control.
>
> Mr. Rhodes James drew attention to another matter which had recently been receiving critical attention. One of the oldest duties of Parliament had been the redress of individual grievances. In a sense, this was the cause of Parliament's existence. Mr. Rhodes James said that he knew that the proposal for a "parliamentary commissioner" had been challenged and suspected by many people, and admitted that he had himself been hostile to the idea at first, because he had been worried by the risk of taking away the traditional right of the individual backbencher to raise the grievances of his Constituents in the House. Mr. Rhodes James said that he had now altered his view, for if such a "parliamentary commissioner" was closely linked to a Committee of Members of the House of Commons—and this was a vital condition—then the idea had a great deal to commend it. Now that Government power extended far into the lives of everyone, it was essential to make sure that the rights of individual grievance were not impaired.

I think that is a complete answer to the argument the Minister advanced about members of Parliament being able to get satisfaction for their constituents by asking questions in the House.

The Minister said that little or nothing new had been introduced by me in presenting this motion to Parliament. I would remind him that two very important things were new. Firstly we had a visit from a New Zealand Liberal member of Parliament, The Hon. Blair Tennant, who is the Chairman of the Commonwealth Parliamentary Association, and in the presence of The Hon. A. F. Griffith (Minister for Justice) I asked him for his frank and candid opinion of the Ombudsman in New Zealand, and his reply was "Absolutely and unequivocally a success."

Mr. Court: What does that prove?

Mr. TONKIN: It proves that a Liberal member of Parliament in New Zealand is a mile ahead of a Liberal member in Western Australia.

Mr. Court: We will take a risk.

Mr. Brand: A Liberal Government appointed the Ombudsman over there and you would not expect him to say anything else.

Mr. TONKIN: To show how much the Liberals in this State are out of step with public opinion let me quote something from a Queensland paper, *The Courier Mail*, of the 16th June, 1965. It reads as follows:—

> LIBS. FAVOUR MORE ALDERMEN
>
> The Toowoomba City Council will be asked to take action to increase aldermanic representation on the council from eight to 10.
>
> The request will come from the East Toowoomba branch of the Liberal Party.

A recent branch meeting agreed to urge the council to take the action.

The branch points out that Toowoomba had eight aldermen when the population was 10,000 and this number had not been increased despite the fact that the population was now 53,000.

The East Toowoomba branch will continue to press the Government to appoint an ombudsman. Two other branches have also asked for such an appointment in resolutions to go before the State Liberal Party Convention in Surfers Paradise from June 24 to 27.

Unfortunately I do not know what happened to the motions when they got to that convention. I do not know whether they were approved, but I would like to know. Nevertheless, that ideal shows that Liberal thought elsewhere is in support of this office and is not opposed to it.

I was highly amused at the suggestion of the Minister that, because we proposed the appointment of an ombudsman during the elections and the Government was opposed to it, that was complete justification for the Government not to go on with it, and the member for Victoria Park posed the very question I had in mind to pose myself. That was: Would the Government be game, at the next election, to fight the election on the sole issue of the appointment of an ombudsman?

Mr. Court: I hope the State has something else to worry about more important than the appointment of an ombudsman as a sole issue at an election.

Mr. TONKIN: Here is the usual answer to any issue that is raised: when one does not have an answer to a question, dodge it!

Mr. Court: We have not dodged it.

Mr. TONKIN: That is the answer to every question. Would you, Mr. Speaker, be prepared to fight the next election on the sole issue of the appointment of an ombudsman?

Mr. Court: If you made that the sole issue at the next election the people would toss you out because they would think you were out of your mind.

Mr. TONKIN: It would not be the first time that an election had been fought on a single issue. I can remember an election being fought in this State on a crossword puzzle issue, and, what is more, the election was lost on that issue: I suggest that the importance of this issue far transcends the importance of a crossword puzzle.

Mr. Bovell: I think your imagination is somewhat fertile when you say that the election was lost on a crossword puzzle.

Mr. TONKIN: Oh yes it was!

Mr. Bovell: Oh no it was not! This was the 1933 election.

Mr. TONKIN: It was lost on that issue and the Minister who was charged with making the decision in connection with it lost his own seat.

Mr. Bovell: And at that time every other Government in Australia was defeated.

Mr. Brand: Yes, every Government in Australia was changed.

Mr. Bovell: Including the Labor Government in New South Wales.

Mr. TONKIN: So it would not be unreasonable to test the issue at an election. But of course the Government would not risk that! It would find all the arguments in the world to show why it could not be done because it knows full well that on such an issue it could not survive, and because it is completely out of touch.

I have to thank the member for South Perth for what he did to the argument put forward by the Minister for Industrial Development. I can appreciate that the whips were cracked and therefore that honourable member has to vote against his wishes. However, he went to some length to express great sympathy for the people who are to be denied the benefits that would accrue from the appointment of an ombudsman. His attitude reminds me of a saying I heard many years ago. It is—

To offer sympathy without relief,
Is like giving a man mustard without beef.

It should go down on record that this decision could not possibly be won on argument. It is being won on a party vote which I had hoped would not be called for, because it is not a party matter. When it is considered that Liberal branches all over the Commonwealth have advocated this appointment; when it is considered that such an appointment has been made by a National Conservative Government in New Zealand; and when it is considered that the decision to make the appointment has been made in Great Britain, one can rightly say that this idea is not confined to any particular class of political thought. So why should it be made a party question?

It is a question that should have been determined on its merits, and I have yet to find anybody who has studied this question and who has any prestige, who is in a position to advance solid and valid arguments against this appointment. One could take the arguments of the Minister for Industrial Development completely apart. There is not one that could stand up to analysis—not one of them! In fact, he was forced to such nonsense as to suggest that an ombudsman could become a tyrant. A man who is going to be a servant of Parliament, who depends on

Parliament every three years for his reappointment, we are told is likely to become a tyrant!

Mr. Court: Tyranny can take various forms.

Mr. TONKIN: The Minister then spoke of an ombudsman interposing himself between the people and the Parliament, but this would occur no more than the judges now interposing themselves between the people and Parliament.

Mr. Court: The judges interpret the law.

Mr. Hawke: The Minister takes no notice of their interpretation unless it suits him.

Mr. TONKIN: The ombudsman is an advocate and, as such, and because he is clothed with certain parliamentary authority, he has access to papers and files which the people themselves, without his assistance, could never see. Such interposition is not a handicap; it is an advantage, and it is no argument against the appointment of an ombudsman, but an argument in favour of it.

Mr. Court: How do you contemplate dealing with the situation raised by the member for Kalgoorlie? You are one who is always saying to the Government: You must obey the law!

Mr. TONKIN: That is right! One must obey the law, and so long as the law is being obeyed I have no argument. However, the ombudsman is able to come in when there is a harsh interpretation of the law which may not be in strict accordance with the law, and if the Minister thinks of the case I mentioned when I introduced this motion, he will see that. It is the case of the Commissioner of Taxation, whereby, although the law was being obeyed, there were features about it of which neither the commissioner nor the applicant was aware. When the ombudsman drew attention to these features the result was to obtain redress for the person concerned.

Mr. Court: But I am not thinking of a case such as that; apparently they had power to do that within the Statute.

Mr. TONKIN: The point is they would never have done it if it had been left to members of Parliament and the individuals. It was only because there was an ombudsman there and he was able to interpose. This was the case, and I do not propose to read it all. It was against the commissioner's refusal to accept a late objection that the complaint was made to the ombudsman. During his investigation it became clear that the full story had not been known either to the complainant or to the commissioner. When the full facts were taken into account the commissioner, on receipt of a further formal submission supported by new evidence, decided to accept a late objection to the extent that it related to the merits of the assessment of tax on the profits arising from the sale of the land concerned. The complainant was satisfied with this decision.

Mr. Court: They are dealing within the law there. You missed my point. The member for Kalgoorlie was speaking of a case where the law had been obeyed but the ombudsman would be of opinion that there had been hardship in the matter, and to relieve that he has to create a law of his own.

Mr. TONKIN: No, he has not.

Mr. Court: You cannot have it both ways.

Mr. TONKIN: In such a case as that mentioned by the Minister the ombudsman, being a lawyer and a man skilled in this sort of thing, would say, "Well, you have no case; this is a fair decision in accordance with the law."

But if he felt an injustice had been done because the position was not fully understood, he would be entitled to make representation which might succeed; or he might be satisfied with the explanation. But the outstanding thing in this matter is with regard to the Ombudsman in New Zealand, and it is of his work that I have most knowledge, and as far as I can gather from the report it has not been necessary for the Ombudsman in one single case to make a report to Parliament. All matters have been satisfactorily adjusted upon representation; some at the first approach, others requiring a little more pressure. But not one had to be finally reported to Parliament.

Mr. Court: Have you studied the list of complaints that he has dealt with?

Mr. TONKIN: I have.

Mr. Court: It is a pretty poor list.

Mr. TONKIN: I do not agree.

Mr. Court: It deals with lost lottery tickets and so on; and with people wanting to get in against the migration laws.

Mr. TONKIN: There were many cases in which the Ombudsman declined to take any action; many of them—more than half I think.

Mr. Court: When you look at the list you can see why.

Mr. TONKIN: That does not detract from the efficiency of the man. That only adds to his efficiency, because it shows he will not waste the time of the departments on trivial cases. But the criterion in this matter is the number of cases where he thought it was necessary to take some action; and the proportion of such cases where he succeeded; and, unfortuately, the number of cases where remedial action was justified but it was too late to do anything. The value in that is that it was not likely that those cases would be repeated. Without an ombudsman they

might be repeated, but with an ombudsman in existence there was a deterrent, and it was less likely that in future there would be cases where no redress was possible.

Mr. Brand: In the event of his not giving satisfaction, as would be inevitable at some time or the other, would he be the subject of attack in Parliament?

Mr. TONKIN: Of course not. If it were not possible to do anything to obtain redress because it was too late, what on earth could be done by anybody? It would just not be practicable to do anything. But I assume the Ombudsman would have reported to Parliament in cases where he felt redress should have been obtained, but where some departments refused to grant it.

Nothing is to be gained by continuing to argue something which apparently is a foregone conclusion. I cannot do otherwise than express my very great regret that the Government has regarded this as a party issue and cracked the whip. But I make this forecast with the greatest possible confidence: that the day will come when there will not only be an ombudsman in the other States of Australia, but there will be one in Western Australia. As sure as night follows day there will be one, and these arguments upon which the Minister has relied this evening will be like chaff in the wind, when the people come to appreciate the benefits which are being derived in various parts of the world.

It is a strange thing indeed that if there is nothing in this submission; if an ombudsman would be an encumbrance, and was likely to be a tyrant there is a strong move in the United States of America for the appointment of such an officer.

So we find one after another of the democracies deciding that this officer is well worth while, and agreeing to his appointment. Whilst we have to accept the decision for the time being, this might easily be another case like Saturday closing for banks, where the Liberal Government opposed it every time it was introduced by a Labor member; when it used all the arguments in the world against it, and finally ended up by doing it itself. It is possible that history will repeat itself with regard to this.

Mr. Brand: Who knows?

Mr. Court: I hope you do not suffer the same fate as the advocate for that.

Mr. TONKIN: I commend the motion to the House.

Question put and a division called for.

Bells rung and the House divided.

Remarks During Division

The SPEAKER (Mr. Hearman): The vote of the member for Cockburn is to be recorded with the Ayes.

Result of Division

Division resulted as follows:—

Ayes—18

Mr. Bickerton	Mr. W. Hegney
Mr. Brady	Mr. Jamieson
Mr. Curran	Mr. Kelly
Mr. Davies	Mr. Moir
Mr. Evans	Mr. Rhatigan
Mr. Fletcher	Mr. Rowberry
Mr. Hall	Mr. Toms
Mr. Hawke	Mr. Tonkin
Mr. J. Hegney	Mr. Norton
	(Teller)

Noes—24

Mr. Bovell	Mr. Hutchinson
Mr. Brand	Mr. Lewis
Mr. Burt	Mr. W. A. Manning
Mr. Court	Mr. Marshall
Mr. Craig	Mr. Mitchell
Mr. Crommelin	Mr. Nimmo
Mr. Dunn	Mr. O'Connor
Mr. Elliott	Mr. O'Neil
Mr. Gayfer	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Guthrie	Mr. Williams
Dr. Henn	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. May	Mr. Nalder
Mr. Graham	Mr. Durack
Mr. Sewell	Mr. Hart

Majority against—6.

Question thus negatived.

Motion defeated.

House adjourned at 10.32 p.m.

Legislative Council

Thursday, the 26th August, 1965

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