Legislative Assembly,

Tuesday, 26th October, 1937.

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

IMPRISONMENT OF FRANK EVANS SELECT COMMITTEE.

Extension of Time.

On motion by Mr. Boyle the time for bringing up the report was extended to the 9th November.

BILL—COLLIE HOSPITAL AGREEMENT.

Second Reading.

THE MINISTER FOR HEALTH (Hon. S. W. Munsie—Hannans) [4.35] in moving the second reading said: This is a small Bill for the purpose of ratifying an agreement that has been made between the Collie Municipal Council and the Collie Road Board in connection with the erection of the Collie hospital. At the outset the two local authorities with others agreed to find half the money. Then the Government agreed to find the whole of the money on condition that the authorities repaid half. That arrangement was for some time quite all right. Then, when the depression came, there were various changes and the Collie Municipal Council eventually found themselves in difficulties with regard to keeping up the payments. Considerable negotiation has taken place between the Health Department and the two local authorities with a view to reaching some terms as to the quota for which each was liable. Eventually both agreed to abide by the decision of Mr. Wallwork, the local magistrate, as arbitrator. He heard the whole of the argument and came to a decision to which both local authorities agreed. That, of course, is only voluntary unless the agreement is ratified. The Bill contains merely three clauses all told, with the agreement as the schedule. I do not want to go into details as to the proportion each local authority will pay. It is all set out in the schedule. Both parties have agreed to it and it has been signed by them and the Treasurer, and I am introducing the Bill for the purpose of ratifying that agreement that has been arrived at by the two local authorities and the Treasurer and signed by all. I move—

That the Bill be read a second time.

On motion by Hon. C. G. Latham debate adjourned.

BILL—INCOME TAX ASSESSMENT.

Second Reading.

THE PREMIER (Hon. J. C. Willcock—Geraldton) [4.37] in moving the second reading said: This Bill is the Western Australian contribution to the Australia-wide attempt to reach a measure of uniformity in taxation legislation for the benefit of taxpayers to whom, in the past, the differing provisions of the laws of the Commonwealth and of each State have been something of a nightmare. Hon. members will no doubt be aware that in all the States there have been assessment measures all of which have provided different provisions. While in many instances they mean the same thing, the provisions have been couched in different language and spread out in different parts of the Act. To one who has an Australia-wide business the finding out of what the various provisions of the Assessment Acts are has been a real nightmare and quite a labour. There was a public agitation for some remedy of this position and this reached its zenith in 1932 when the Commonwealth Government appointed a Royal Commission to inquire into the matter and try to evolve a solution of the problem. The State Governments vested the Royal Commission with the necessary powers to make all inquiries to ascertain what the position was in the various States, and the Commission, after sitting for some months, brought down a report. The personnel of the Commission consisted of Sir David Ferguson, a former judge of the Supreme Court of New South Wales, and Mr. E. V. Nixon, C.M.G. a practising accountant of Melbourne who supplied the accountancy part of the report of the Commission. Eventually the report of the Royal Commission was issued and conferences were held at which all State Commissioners of Taxation were present. These were fol-

lowed by conferences of the State Treasurers. As a result of the conferences, uniform provisions were agreed upon for adoption by all the Governments concerned. The Commonwealth and all the States except Western Australia have since passed the measures necessary to bring about the uniformity agreed upon. While there may be one or two comparatively small points that are a little at variance with the uniform Bill—and there is that very slight disparity in all the legislation in all the States—generally and in the main, and I suppose up to 95 per cent. or even more, this Bill is uniform with what has been introduced in every Parliament of Australia. In order to secure the uniformity which taxpayers have so long desired, the Bill is introduced for the purpose of giving this Parliament an opportunity to pass it, thus being the last State to come into line with the plan of making uniform the Assessment Acts throughout the Commonwealth. A confusing element of taxation law in the past has been that while many of the laws meant the same thing, they were expressed in entirely different words, and before one could get an idea as to whether there was any variation of the assessment laws of the different States, considerable research had to be undertaken and all the assessment laws of all the States had to be scrutinised in order that the inquirer might know exactly what the position was in dealing with taxation on a Commonwealth and a State basis throughout the Federation. With the passing of the Bill all income tax assessment laws throughout Australia will, as far as possible, use the same language when expressing the same idea. Another important feature is the position in which any particular provision appears in the various Bills. A provision dealing with one aspect of taxation appears in the beginning of some Acts. The same provision appears at the end of another Act, couched in different language, and all this has led to confusion. This uniform taxation Bill deals with the question of assessment and the different aspects of assessment and in rotation it will be found that the provisions will be the same in every State of the Commonwealth. This means that it will be a great convenience for people who deal with taxation in various States, for they will be able to lay their hands on the relevant provision in the different Acts throughout the Commonwealth. Much of this Bill represents a re-expression of the existing law in language that is common to all the Acts now in operation throughout the rest of Australia and so far as the Commonwealth law is concerned in Western Australia. If members compare this measure with our existing Act considerable differences of verbiage will be found, but the object is to attain uniformity. It has been recognised through all discussions upon the subject that complete uniformity was difficult of achievement because of differences of policy and revenue requirements of the various Governments. It was easy, however, to secure some definition of what is termed "net income" for the purposes of taxation. By that term is meant the ascertainment of the gross or assessable income and the deductions of necessary expenditure in collecting that income. Thereafter come such matters as the statutory exemption, concessional deductions and rates of tax, and in these matters it has been conceded that each Government must be free to act independently in accordance with its policy and revenue requirements. The only qualification is that where Governments do agree upon such matters, they should express their ideas in the same language. I do not want members to think that this means we are going to have uniform taxation right through Australia. That would be impossible of achievement, but so far as assessment goes and the ascertaining of net income and the deductions to be made, these matters will be dealt with similarly in all the States, and it will be left to the States to fix the rates according to the amount of revenue required. There are differences between the statutory exemptions in the various States. Those differences will continue to exist, but the outstanding principles in regard to assessment will be uniformly observed. The Bill appears to be of formidable size, and it is certainly much more comprehensive than is our existing Act. That, however, will be an advantage, because, when certain aspects of tax assessment are not expressed clearly, endless argument results between taxpayers and the Commissioner of Taxation as to what should be the assessable income and what deductions should be allowed. These matters will in future be set out in the Act rather than being left to determination by argument, quarrel or ex-

tended negotiation between taxpayers and the Commissioner of Taxation.

Hon. C. G. Latham: I am glad you are obviating that, anyhow.

The PREMIER: We have endeavoured to provide for each contingency that is likely to arise. Parliament should lay down the exact provisions rather than express its intentions in varied terms, leaving it to Commissioners of Taxation to issue rulings according to their interpretations. Often disputes between the Commissioner of Taxation and taxpayers have to be settled by process of law in the Supreme Court and some cases have even been taken to the High Court. Instead of a lack of clarity and explanation due to insufficient provision to cover possible eventualities, the measure will indicate to taxpayers exactly where they stand. That will be of tremendous benefit to people in business, who will be able definitely to determine what amount of income is assessable and what deductions they are entitled to claim. This Bill is presented as a complete and indivisable whole. It provides for many concessions not allowed under existing legislation, but there are other provisions that will bring under taxation people who have not previously paid tax in the particular way this Bill seeks to apply it. I do not want members to think that we shall retain all the exemptions that have been enjoyed in the past and secure a lot of new exemptions, without our imposing anything additional. If that were done we should be departing from the spirit of uniformity, and the measure would become one to relieve people of taxation. That is not the purpose of the Bill. When we desire to ease taxation, definite proposals to that end must be introduced. As I have indicated, the liability of some taxpayers will be increased, while the liability of others will be reduced. Unless the Bill be passed substantially in the form in which it has been introduced so as to preserve the principle of uniformity, it will not be satisfactory and we shall not be prepared to proceed with it. In many instances taxation will be given away; in other instances additional taxation will be received, but in the interests of uniformity, there is no reason why we should adopt a different method of assessing taxation as compared with the other States. We cannot expect to retain all the advantages under the existing Act without accepting some of the disadvantages necessitated by the passing of this Bill. I repeat that we cannot embark upon a campaign of tax reduction at present. If, in Committee, members seek to secure a considerable reduction of taxation, I impress upon them that this is not the time for such action and the Government could not agree to it. At the same time I do not say that the measure is cast-iron. If a good case is presented for one or two small alterations, it can be considered, but if the House desires uniformity, the Bill must be adopted mainly as introduced or it will not be acceptable to the Government. The Bill is, by its very nature, largely a Committee measure, and it would be impracticable at this stage to deal comprehensively with all its provisions. Still, it is desirable to refer to the more important matters of principle involving alterations to the existng law. The provisions of the Bill will operate as from the 30th June last, that is, for the assessment of taxation for the present financial year. The Bill introduces exemptions new to the State income tax law in respect of the remuneration paid by a Government to a non-resident of Australia for expert advice or as a member of a Royal Commission. Experts are brought from other parts of the world to make inquiries into aspects of governmental administration or to advise Governments, and under the existing law they must pay income tax on the amount received by them while in the State. Having done work for the benefit of the State they will, in future, be exempt from the payment of income tax. Another new exemption is the income for a non-resident who is visiting the State for the purpose of assisting a Government in the settlement and development of Australia, and a third exemption will be the salaries and directors' fees of a non-resident visiting the branch of a business or a mine or a station if the visit does not exceed six months. People with capital invested here might wish to examine the business into which they have put their money. They might be here only a very short period, and the imposition of taxation on those people has been the cause of a considerable amount of irritation. In future they will be exempt if the visit does not exceed six months. These exemptions have been included chiefly in the interests of uniformity and will have little effect on the revenue. As to the assessment of dividends, under the present law, companies are taxed on their profits, and

when those profits are distributed as dividends, they are not taken into account in the assessment of the recipient unless that person's rate of tax is so high as to exceed the rate paid by the company on its profits. At present this amount is £2,895. I think the rate of tax is 1s. 5¼d., and a taxpayer would need an income of £2,895 before becoming liable to pay that rate in the pound. The Bill provides that dividends from all companies shall be included in the assessments of residents of the State with a rebate of tax on the dividend so included calculated at the rate of tax paid by the company or the shareholder, whichever is the lesser. I hope that will appeal to hon. members. I had to read the relevant clause repeatedly.

Hon. C. G. Latham: I wish the lawyers would draft their Bills a little more understandably.

The PREMIER: This Bill was drafted by the combined activities of all the draftsmen in Australia. However, when one is drafting legislation one should make sure that there is no ambiguity about it. I often think that I could express the same thing in much clearer language, but when legislation comes to the courts for interpretation there are often found to be all sorts of loopholes. While not liking verbosity—if I may so term it—I recognise the necessity for drafting in this manner for the purpose of securing clarity. The rates of income tax increase progressively, so that the effect of the new provision is that in all cases the dividend income of a taxpayer will be used to determine the rate of tax that will be payable on the taxpayer's general income apart from dividends, while in the case of large shareholders there will also be a liability, as under the present law, to taxation upon the dividends themselves to the extent that the personal rate of tax applying in the case of such shareholders exceeds the company rate. If a man receives an amount of dividends taxed at a particular rate, his receipts from dividends will come into his income for the purpose of assessment. I felt that hon. members would have some difficulty in fully understanding certain provisions of the Bill, and therefore I have had a statement prepared showing the effects of the various proposed amendments. Copies of the statement will be distributed to hon. members, so that they can study the explanations at their leisure. With reference to dividends, these provisions will remove anomalies which arise under the existing treatment of this type of income. Now with regard to profits on the sale of property acquired for profit-making by sale. The scheme of the present law is to tax income. Various classes have been specifically described, but income not so described is required to be ascertained by the application of general principles. The general principle which was applied in the case of a profit made on the realisation of property was that if the property was acquired for the purpose of profit-making by sale, the profit was income, and that in any other case it was capital. Ultimately it was found that the existing law was ineffective as far as taxing such profits was concerned. Therefore the tax on income of this character, although collected under the Federal Act under a special provision, has been lost to the State revenue for some years. The Bill now specifically authorises the taxation of such profits, and allows any corresponding losses, which, under the present law, are not allowable. It simply means that if one goes into the business of buying property for resale, the resulting profit shall be taxed, but if, on the other hand, a loss is incurred, then a corresponding deduction may be made. I now turn to annuities. Persons receiving annuities are at present liable on the total amount received each year, but the Bill makes provision for the exemption of that part of the annuity which represents the purchase price. The Bill provides that if a man purchases an annuity costing him, say, £1,000, and he has other sources of income making his total income an aggregate of £2,000, that part of the money which he has paid for the annuity shall be treated as a deduction; but the rest coming back to him by way of profit is subject to income tax. With regard to assessment of resident employees and directors temporarily absent from the State, I have to point out that taxpayers such as business managers and directors of companies who visit the other States or travel oversea on business are, under the present Act, exempt from taxation in respect of their remuneration while away. I do not know that many people have been aware that that is so. Under the present Act a man working in Western Australia who goes to one of the Eastern States on business would be allowed exemption from income tax here during the period of his absence. However, during that

period of absence he would be earning money, which would not be available for assessment in Western Australia. The Bill proposes that unless such a taxpayer can prove that he was subject to income taxation elsewhere, he shall be liable to the corresponding tax here. That is only just. However, as I have said, the existing provision was not well known; and very few people have ever claimed deduction under it. If a State member of Parliament, for instance, were away from Western Australia a couple of months for the purpose of making investigations, he could claim exemption here for that period.

Mr. Sleeman: Not many members knew that.

The PREMIER: No. The Bill causes all residents of the State to be assessed on their remuneration wherever earned, and provides for a rebate of tax if part of the remuneration is taxed elsewhere. All other States have adopted a similar provision. The clause relating to taxpayer's option of bringing livestock values into line with Federal values will be interesting to members of the Country Party. Owing to the various provisions of past State and Federal Acts relating to the method of valuing livestock for assessment purposes, the value of livestock on hand at the time this Bill comes into force must in most cases be different for Federal and State purposes. In order to bring the values into line without prejudicing the taxpayer or either the State or the Commonwealth, it is necessary to formulate an arbitrary provision. This has been done in the Bill by allowing the taxpayer himself to decide which of the two values, Federal or State, he desires to retain. If people desire to retain their present system with regard to stock, they will be perfectly at liberty to do so. The Bill also provides for any consequential adjustments to income, brought about by changing from one set of values to another, to be spread over a period not exceeding five years. These provisions of the Bill are not compulsory, but are left to the option of the taxpayer. If he prefers to continue under the present arrangement, whereby both he and the Taxation Department are bound to keep two sets of livestock accounts for Commonwealth and State purposes, he is at liberty to do so. The onus is placed entirely on the taxpayer to decide whether he wants simplification and uniformity in his return by adopting one set of figures. Now I deal with profits made on the sale of land or interests in land in the State acquired for profit-making by sale when the sale is made outside the State. It is rather a peculiar position that people may have land or a mine or some business in the State and that if someone makes a contract for the sale of the mine or business outside the State, then because the contract was not made here the people are not altogether liable for taxation in certain circumstances. If a profit is made within this State out of a mine or by the sale of property within the State, then that profit should be taxable by this State. Considerable dealings in Western Australian mining properties and other forms of realty are effected by contracts executed outside the State, and disputes continually arise as to where the resultant profits are derived. This provision will obviate a great many disputes and much discord, and even litigation. The proposed amendments remove existing ambiguities. Next as to deductions for rates and taxes. The Bill discontinues the allowance of a deduction for Federal income tax. That is a deduction which no other State allows. The Bill also restricts the present unqualified allowance of rates to those payable in respect of property held for the purpose of producing assessable income. The States were the first to enter the field of income taxation, and at the outset levied tax on incomes which were not then subject to Federal tax. It is considered that the subsequent entry of the Commonwealth Government into the field of income taxation should not prejudice the pre-existing right of the States to tax incomes without any deduction for Federal income tax paid out of such income.

Hon. C. G. Latham: But one should not pay taxation on a tax.

The PREMIER: The Federal tax is not collected on State tax.

Hon. C. G. Latham: The State has increased its rate of income tax.

The PREMIER: It may have done so over the long term of years income taxation has been imposed here. I want hon. members to understand clearly that under the Bill the State deduction for Federal income tax will be discontinued. It is the obligation of the Federal Government to provide for any

allowance which may be necessary in view of dual taxation of the same income. This result is, in fact, achieved by the provision in the Commonwealth Act to allow a deduction for State income taxes and to charge the Federal tax only upon the balance then remaining. The Federal people duplicated the field of taxation and invaded an avenue that should have been left to this State. That was largely due to considerations arising out of the war.

Hon. C. G. Latham: That is entirely a Treasurer's point of view, not that of the taxpayer.

The PREMIER: I do not think the hon. member objects to paying the Federal tax.

Hon. C. G. Latham: I object to paying income tax on the Federal tax, and that is what this will amount to.

The PREMIER: If the hon. member lived in any other State, he would have to submit to what he contends is an absolute injustice. We wish to arrive at uniformity, although this will cost some people a little more by way of taxation. When I read some of the exemptions, the hon. member will perhaps be more satisfied.

Hon. C. G. Latham: It will increase the rate of tax, and that is what I object to.

The PREMIER: It will not mean much from that standpoint. This will have a very small effect on the rate of the tax.

Hon. C. G. Latham: But it may increase the rate.

The PREMIER: Very little. The increase will be at the rate of .007d. in the pound, and on £100 of taxation that would be less than ¾d. in the pound.

Hon. C. G. Latham: Yes, but over the whole income.

The PREMIER: Yes. If people have a large income, an increase at the rate of ¾d. would not make much difference to them. Perhaps the Leader of the Opposition will derive some comfort from the list of miscellaneous new deductions. Provision is made in the Bill for the following deductions which were not previously allowable:—

(1) Expenses of borrowing money used in the production of assessable income.

Hon. C. G. Latham: That is no good, because you cannot borrow new money.

The PREMIER: When we repeal the Mortgagees' Rights Restriction Act and other legislation in due course, new mortgages will be issued and then this deduction will have effect, and people will be allowed to deduct amounts that have not been allowed as such in the past. The next deduction is—

(2) Expenses incurred in the preparation, registration, and stamping of leases of property used to produce assessable income.

No such deductions have been allowed previously. These deductions, of course, will refer to properties that produce the assessable income, and will not apply to money involved in buying new houses.

(3) Losses through embezzlement by an employee.

An employer might be robbed by an employee of £1,000, but under the existing law he would have to pay tax on his full income. Where such claims are legitimate, the taxpayer will be permitted to deduct the amounts involved from his taxable income.

(4) Membership subscriptions to trade unions or business or professional associations, not exceeding £10 10s.

Hon. C. G. Latham: We will require an interpretation of "trade union." Will that cover the Primary Producers' Association?

The PREMIER: I should say so, because the exemption refers to "professional associations." This has been included to deal more with architects, lawyers, and so on. Many business organisations subscribe to trade gazettes and in some businesses much money is expended in that direction. This will also include subscriptions for publications, and will allow those who pay for such information or protection to claim such expenditure as deductions for taxation purposes. The Bill also deals with gifts and voluntary payments, and allows new deductions in respect of—

(a) Gifts to residential educational institutions affiliated with a public university.

(b) Gifts to a public fund for the construction and maintenance of a war memorial.

I do not suppose we will do much in that direction in the future. Such a provision has been included in assessment Acts in other parts of Australia, and for the sake of uniformity we have included it in the Bill.

Mr. Marshall: I like the Premier's optimism! The way we are going now suggests that we will soon be into another war.

The PREMIER: If that is so, then perhaps we may require another memorial.

Mr. Marshall: When that time comes—

Hon. C. G. Latham: We can adjourn that debate at this stage.

The PREMIER: Another new deduction under this heading is—

(c) Sums which are voluntarily paid for pensions and retiring allowances to employees.

I may point out that compulsory payments of this description are allowable under both the present Act and the proposed new legislation. Under the existing law, gifts in kind were not allowed, but these will be allowed in future, subject to certain conditions. The Bill will discontinue the deductions previously allowed for payments to trustees of a public park or reserve, public school, library, art gallery, or museum. The next deduction has reference to medical expenses. Medical expenses are at present allowed without limitation as to the amount if the taxpayer's income does not exceed £350. If the income exceeds that amount, no matter how much a person may have spent in medical expenses, he is not able to secure a deduction on that account. This has caused considerable hardship to some people. I can quote my own experience, for during the last 12 months I have had to spend a lot of money for medical attention; but because my income exceeded £350, I was not permitted to secure any deduction on that account. Of course I am not complaining; I merely cite my own experience as an example. The Bill proposes to vary that provision by removing the income limitation and providing in lieu a limitation of amount, namely, £50. The limitation of the maximum allowance to £50 per annum will deprive few, if any, persons of small incomes of any deduction to which they are now entitled, but will provide a desirable limit to the claims of some persons having higher incomes who may become entitled to a deduction under the new uniform provision. I think that is fair and reasonable because it will afford relief to the section of the community most requiring it. It will at the same time not give much latitude to others to spend a tremendous amount of money on medical expenses. If such people choose to spend, say, £300 or £400 in that direction in future, they may do so, but they will not be allowed to claim a deduction, in common with everyone else, of an amount greater than £50. The next deduction will not interest hon. members very much. It refers to funeral or cremation expenses. A deduction will be allowed for the first time in respect of payments up to £20 for funeral or cremation expenses of the taxpayer's spouse or children to the extent that the expense is not recouped by any association or society.

Mr. Marshall: You are quite right; that does not interest any of us very much.

The PREMIER: But members may have relatives to whom it may be a matter of interest.

Mr. Marshall: If a man's carcase is frizzling, it will not worry him very much what is happening to it.

The PREMIER: That may be so. This means that the individual will not receive the benefit of funeral expenses twice.

Mr. Sleeman: But he will have to pay just the same.

The PREMIER: No. The man who contributes towards a fund with a society or association is allowed to include that as a deduction now, but when he receives a refund from that society on account of funeral or cremation expenses, he will not be allowed to include that expense again as a deduction under this measure. The next point refers to life insurance premiums and contributions to superannuation funds. The Bill will extend the deduction previously allowed for life insurance premiums so as to include contributions to superannuation funds. The maximum aggregate allowance remains as before at £50. We are departing slightly from uniformity there, because we are adhering to our present deduction of £50.

Hon. C. G. Latham: Then that provides us with a loophole, enabling us to make a few alterations in the Bill.

The PREMIER: I want to be quite frank and tell the hon. member all that is in the Bill. There is no nigger in the woodpile anywhere. Next there is provision for deductions for past losses. The present law allows to individuals, business and prospecting losses incurred in the current and two preceding years, and to companies, losses of livestock due to drought in the same period. The Bill extends the deduction to all taxpayers and allows all losses incurred in the three years preceding the year of income. The extensions of the deduction will operate in regard to losses suffered after the Act comes into operation. We are adhering to the two-year provision for this year, but the provision will be retrospective thereafter to the three-year period, and that will bring about uniformity. Here again is an instance of our desire to cut out a deduction. I refer to sums up to £50 expended in repairs to a

taxpayer's dwelling. The Bill does not provide for the continuance of this deduction. It appears that the deduction was first made when a similar allowance was provided under the Federal Act at a time when that Act taxed a percentage of the capital value of a residence. The Federal Act was shortly afterwards amended to delete both the provision that taxed the percentage and that which allowed the deduction. The deduction was inserted in the State Act originally in the interests of uniformity, which now require its removal. Neither the present nor the proposed State laws charge tax upon a percentage of the capital value of the taxpayer's own residence.

Hon. C. G. Latham: I think you remember when that provision was inserted in our Act.

The PREMIER: Yes, and I voted for it.

Hon. C. G. Latham: But you were on this side of the House then.

The PREMIER: I do not think so; but I voted for it. Now, as Treasurer, I must act in accordance with a full sense of responsibility, and there is no reason for the continuance of the provision in the Act.

Hon. C. G. Latham: Such a provision encourages work.

The PREMIER: Everything a taxpayer does encourages work. Every penny spent on the purchase of food provides work for someone else, but that expenditure is not allowed as a deduction. This particular deduction is not allowed in any other State. The next provision refers to deductions for contributions to dependants. In order to remove anomalies and to facilitate administration, a variation of practice regarding deductions for dependants has been provided for. Every person contributing towards the support of a dependant, as defined in the measure, will receive a deduction of the actual amount contributed, with a maximum of £40 per annum. The existing provision for allowing the "married" statutory exemption, under certain conditions, to single persons with a dependant will be discontinued. If a single man contributed £26 towards the maintenance of a dependant, he was allowed the deductions to which a married man was entitled, and would not pay income tax until his salary exceeded £200, whereas the single man without a dependant would be entitled to no such deductions. We think it fair that the individual should be allowed to deduct whatever he pays on account of his dependant and not, merely because he contributes, say, £26, receive the benefit of an additional £100 on account of the statutory exemption. Coming to the taxation of the income of deceased persons, at present there is power to assess only the last complete year prior to death. In future, tax will be payable in respect of all complete years not assessed and paid at the date of death and, in addition, the income of the part of the year ending on the date of death will be subject to assessment. A man might die two days before the year ended and might have earned £2,000 during that year. Yet under the existing system, his estate would not have to pay income tax for the incomplete year. Under this Bill, whatever he would have paid in income taxation had he lived, his estate will have to pay as income tax for the year.

Hon. C. G. Latham: You continue the income tax up to the time of his death.

The PREMIER: That is so, and that is where we are going to get some additional revenue. A doctor or an architect might die and he may have been dead three or four months before his accounts are sent out. Such accounts in future will go into the income tax assessment for that year. Cases sometimes occur where taxpayers include each year in their returns a proportion only of their business profits in ratio to the cash actually received in that year. Examples of this class are persons who sell land and buildings on extended terms in the course of a business. There are others, too, such as professional men who compile their returns on what is known as a cash basis, that is on the basis of fees actually received. Under the Bill it is provided that where an executor receives any amount which is in the nature of corpus in his hands, but which would have been income in the hands of the deceased had he lived, such amount shall be subject to tax. Examples are (1) instalments of the sale price of a property in the case of a speculative builder or land vendor. (2) Outstanding fees due to a deceased professional man and earned prior to his death. As to leases, at present premiums received by a freeholder for the grant of a lease are assessed as income in the year of receipt. This practice will be continued, but a form of averaging will be applied in view of the fact that when several years rent is commuted into a large single premium, it imposes hardship on the taxpayer to pay at the higher graduated rate of tax upon that amount as though it were the normal year's

income. In the case of amounts paid as consideration for the assignment or transfer of leases the Bill provides for a deduction to the payor spread over the term of the lease, while the consideration will be included in the income of the recipient in the year of receipt with a form of averaging similar to that applied to premiums on the granting of the lease. A man paying £50 per week for a hotel might also have paid £5,000 as ingoing. If the owner of the premises received £5,000 in one month and died, probate would have to be paid on the £5,000, but under the Bill income tax would be charged on the £5,000. A distinct hardship was imposed under the old system.

Hon. C. G. Latham: You had to make provision for it.

The PREMIER: No, we did not.

Hon. C. G. Latham: It is rather dangerous to make that provision, to tax on the amount he earned during the year.

The PREMIER: Yes, he would have to pay tax on the earnings of the year, but spread over three years. He would only be charged on the full amount of £1,000 at a lesser rate. It is really giving relief.

Hon. C. G. Latham: Is that uniform throughout Australia?

The PREMIER: Yes. I should say that all contained in the Bill is uniform, except one or two minor points. Leaseholds from the Crown occupied for the purposes of primary production are excluded from the type of leases to which the Bill applies. Other Crown leaseholds, including mining leases, will, however, be subject to its provisions. In another part of the Bill bona fide prospectors are protected from taxation on the sales of their gold mining leases. The present Act provides for a deduction to a lessee spread over the term of the lease in respect of the value of improvements effected under covenant, and correspondingly the lessor should be assessed on the benefit received by him. This has been done in the Bill. Apart from reasons of equity, which justify the alteration, it has been found that the absence of such a provision opens the way for evasion through lessors arranging schemes to avoid tax by diverting what would otherwise be rental income into capital improvements. There have been schemes among various people to dodge taxation of this sort, but this amendment will make the law definitely clear. The present practice of assessing partners on their individual interests in a partnership will be continued as a general rule. However, the existing Act contains no provision to prevent loss of revenue due to the formation of fictitious family partnerships primarily for the avoidance of taxation. The Bill remedies this by providing for the assessment of a partnership at the rate of tax payable by the dominant partner in those cases where the other partners do not have the real and effective control of their shares of the partnership income. It may be that a man has a business bringing in £5,000 a year profit, on which he has to pay tax at the rate of 2s. 6d. in the pound. If there were four members of his family in the partnership, they would have only £1,000 each, on which they would pay income tax at a much lower rate. If the partnership were not really a legitimate one, the provisions of the Bill would apply.

Hon. C. G. Latham: Who is going to determine that? That is where argument starts between the taxpayer and the Commissioner of Taxation.

The PREMIER: Still, they should not be allowed to execute deeds of partnership by which they can defraud the State and pay only one-quarter of the rate of tax that they would legitimately pay. A man may have two or three children and take them into partnership with him and so reduce the rate of income tax payable. He is really getting relief at the expense of other taxpayers. We want to cut that out. Dealing with trusts, the present Act provides for the assessment of the beneficiaries if they are entitled to the income of the trust, and for the assessment of the trustees to the extent that no one is presently entitled. These trusts are, however, sometimes used as a device for the avoidance of tax. The Bill continues the existing practice in regard to the generality of trusts, but provides for the assessment of the trust income to the settlor if the trust is revocable or if the trust is in favour of infant children and the settlor is still living. A lot of this sort of thing is done for the purpose of dodging income taxation. They settle an amount on their children and are in a position to revoke it after three or four years. They have been receiving income all the time, yet because they executed a deed of trust, the amount of money in the trust is not subject to taxation. That position is entirely illogical and unfair, and people should not be allowed to do this kind of thing and get away with it. If it is a genuine settlement, it is all right, but they will have to prove that to the satisfaction of

the Commissioner of Taxation. It is considered that no person by the device of creating a trust should be able to avoid taxation as he chooses by retaining a power of revocation over the income-producing property claimed to have been transferred. The new provision does not interfere with the right of any person to create such trusts, but merely prevents a diminution of his income tax liability by this form of family provision which is only open to those who have sufficient property to enable it to be done. The arrangement in regard to the assessment of the income of banks was made some 32 or 33 years ago. It turned out to be inequitable to the State, and of course banking conditions are now entirely different from what they were in those days. Banks are companies, and as such are at present assessable under the Dividend Duties Act on profits made in this State. In addition to the usual deductions allowed to companies, the banks under an agreement made many years ago by a previous Treasurer are allowed a deduction for the estimated cost to the bank of borrowed money raised outside the State and employed here. The agreed-upon basis for the estimate is now quite unrelated to present-day conditions. The Bill provides that the net Australian taxable income shall be apportioned in ratio to the assets in each State. This arrangement was accepted by the banks at a conference with the Australian Commissioners of Taxation and has been adopted by all States. There is no reason why the banks in Western Australia should be subject to considerably less taxation than in other parts of Australia. They used to allow 3.7 per cent. per pound of money advanced to the State. That was the rate at which they were borrowing money to lend. The banks do not do business on those lines now. A considerable portion of the money they lend is money deposited at current account. We were allowing as a deduction 3.75 pounds per cent. on any moneys they advanced in this State, even though they were not paying any interest upon it. I think it worked out very well under the conditions that existed some 35 years ago, but is entirely inapplicable to-day. Under this new arrangement banks would have to pay more income tax, but it is a fair and reasonable method of apportionment, which has been agreed to by all the States in which this legislation has been passed. With respect to life insurance companies, these have been assessed on the income from investments excluding rents, and no tax has been charged in respect of premiums received on policies. In place of these provisions the Bill will cause to be included as income derived in this State an apportioned amount of the company's net Australian investment income. This amount will be determined by the ratio which the amount assured by policy holders in this State bears to the sum assured by Australian policy holders. Investment income will now include rents as well as interest, and other income from property. There is a proviso that no tax shall be payable until the assets of the company exceed its liabilities. This is very simple, but in the language contained in the Bill it is not quite so easy to grasp at once. The A.M.P., for instance, would be affected. They have a large building and from the offices in it they receive rentals. The new C.M.L. building also brings in rents to the company concerned. Under the existing law all the moneys these companies receive from rent are not subject to income tax. By bringing this matter into line with the rest of Australia we will obtain additional revenue. The other States receive revenue from the same companies operating in the same business. This State should get its share.

Mr. Sampson: Do you say they do not pay taxation on rents received?

The PREMIER: They have not been charged income tax on moneys received as rents.

Mr. Sampson: That is remarkable.

The PREMIER: Insurance companies other than life at present pay tax on an arbitrary amount of 2.3 per cent. of the premiums received. Under the provisions of the Bill they will be treated as ordinary companies, and taxed on the actual profits made. That is a fair and reasonable method of taxation.

Mr. Marshall: Whatever you do, do not be too hard upon them.

Hon. C. G. Latham: I would expect you to be a friend of theirs.

The PREMIER: We are not being hard upon them, but we shall get more money from them than we have had in the past.

Mr. Marshall: Do as the Opposition did, tax the sustenance worker.

Hon. C. G. Latham: If we had taxed them as much as you have we would be ashamed of ourselves. Put them in gaol too because they asked for a job!

The PREMIER: I think the hon. member's time is up. A good deal of Western Australian business is controlled from outside the State. I remember the member for Guildford-Midland (Hon. W. D. Johnson) introducing this matter some seven or eight years ago by way of a motion. He gave some startling information to the House as to what was happening. It is a fact that this State has not the means of taxing on all profits that are earned in this State. Many of those profits go to the other States, where of course taxation is paid, although the profits were earned here. The Bill seeks to remedy that. This part of the Bill relates to branches of overseas businesses and to local companies in which practically all the shares are held by a parent company which supplies the goods offered for sale here. Experience has shown that profits made in this State have been depressed by the inflation of the price at which goods are charged to the branch or local company. Goods that a firm would sell in its own shop in another State at a shilling come here to be sold for 1s. 6d., although they still cost the firm the same amount to produce. The existing Act gave the Commissioner power to assess such companies on a percentage of turnover if he was dissatisfied with the profits as shown by the accounts of the branch or local company. This power has, however, become ineffective, because of the practice of interposing more than one company between the producing and the selling companies. One company may hold shares in another company, and the profits made by one may be transferred to another. The Act has been an awkward one to administer in that respect. The Bill provides that where a business is controlled by non-residents, and the Commissioner is of opinion that the profit disclosed is less than might be expected to arise from the business, the taxpayer shall be liable to assessment on such amount of the total receipts as the Commissioner determines. There we have the Commissioner again.

Hon. C. G. Latham: I can see a nice argument brewing there.

The PREMIER: It is time we did argue the point with people who have made profits in this State and have been dodging their just obligations.

Hon. C. G. Latham: I agree, but there should be some formula.

The PREMIER: There will be. With regard to film businesses controlled abroad, a practice has grown up of forming an Australian company to distribute the films produced in other countries, the Australian company paying to the producing company a percentage of hire, or a percentage of the theatre takings according to the terms of the contract with the exhibitor. In the case of an interstate business which has branches in all States the business of the whole company will be assessed, and the profits apportioned on the proportion of business done in each State.

Hon. C. G. Latham: I do not like the wording.

The PREMIER: I do not like handing myself over body and soul to the Commissioner of Taxation.

Hon. C. G. Latham: He never seems to have any friends.

The PREMIER: As Treasurer I have a warm spot in my heart for the Commissioner, but as a taxpayer I may be a little antagonistic towards him. I am, however, prepared to trust him to do justice to all. This method has worked out all right in its application. Whilst the Commissioner is anxious to get all that is his due I do not think he wants to rob the taxpayers, although we may sometimes feel we have been robbed when we have paid certain taxation. As a contract between the producing and the distributing companies is made outside Australia the profits derived by the former must, in the absence of some specific provision to the contrary, be regarded as derived outside Australia, thus escaping local income tax. The terms of the contract between these companies are invariably arranged so that little, if any, remains to be taxed in the hands of the Australian distributing company. The real profit is made overseas, and very little taxation is obtainable in this State. This has been a matter for negotiation between the Commonwealth Government and the other States for many years. It is considered that the large profits made by the foreign producing companies as a result of the exhibition of their films in Western Australia should not escape income tax. The Bill therefore provides for the imposition of tax on 30 per cent. of the gross income payable to the overseas company. Power is also given to the Commissioner to vary the percentage if it is proved to his satisfaction that this

course should be followed. It is a reasonable assumption that a profit is made out of the exhibition of films.

Hon. C. G. Latham: If companies can make a profit now they can still further reduce profits.

The PREMIER: The 30 per cent. of the amount collected for the exhibition of films will be deemed to be income and profit, and income tax will be collected on the 30 per cent. A matter of 70 per cent. will be allowed for manufacturing costs.

Hon. C. G. Latham: Are you referring to the exhibitors?

The PREMIER: To the film distributors. They come here and distribute films and do so without making a profit at all.

Hon. C. G. Latham: What is to be derived by imposing a 30 per cent. taxation on non-existent profits?

The PREMIER: The 30 per cent. will be on the amount that is charged for the film. It is estimated that 30 per cent. of the total turnover in this class of business represents profit, and the companies will be taxed on that 30 per cent. The method that will be adopted, while not satisfactory to those concerned, is recognised as a fair and equitable method in the circumstances, and is now the law practically throughout Australia. Provisions have been included in the Bill, with respect to insurances effected with non-residents, with the object of ensuring that where Western Australian property is insured the premiums shall be subject to tax in this State. Under the present Act non-residents who have been securing insurance business on property in this State through the medium of resident insurance agents or brokers have been able to avoid Western Australian income tax. The Bill contains provisions for collecting tax in these cases on an arbitrary basis, where the actual profit on such transactions cannot be ascertained. Insurance contracts covered by the new provisions do not include those of life-insurance. If it can be shown that no profit is made the Commissioner can then make whatever allowance he likes. Those people who make a profit will have to pay, and those who can show by documentary evidence that they have not made a profit, can be charged at the lesser rate if the Commissioner is satisfied.

Mr. Marshall: What about all the money that goes into their pockets through lapsed policies?

The PREMIER: This refers to fire insurance.

Mr. Marshall: If you answer the questions of the member for Victoria Park with regard to the totalisator you will hear of amounts that you can very well tax.

The PREMIER: The answers will be given to-morrow. I now wish to refer to the limitation of time for the amendment of assessments. Under the present Land and Income Tax Assessment Act there is no limit of time with respect to the power of the Commissioner to amend assessments to ensure their completeness and accuracy. The Dividend Duties Act gives no expressed power of re-assessment. Under the Bill companies will be treated like individual taxpayers, but various restrictions have been imposed on the Commissioner's power to make retrospective assessments. Amendments to assessments may be divided into three classes (1) where there is fraud or evasion—the period allowed for amendment will be unlimited, (2) where there has been a full and true disclosure by the taxpayer of all the facts, the period will be limited to three years, (3) where there has not been a full and true disclosure of all the facts but there is insufficient evidence to prove fraud or evasion—the period for re-opening assessments will be limited to six years. It was unlimited before. The Commissioner in any case will be debarred from re-opening an assessment for the purpose of applying a fresh interpretation of the law, except, of course, as the result of the determination of an objection lodged by the taxpayer. Under the present Act banks and companies paying interest are assessable only as agents, and are not assessable on interest paid on debentures. These provisions are not always effective because, if the interest-bearing deposit is withdrawn before the issue of an assessment, the tax is lost, as the bank or company are not liable until after notice of assessment. It is now proposed to make the banks and companies liable for the tax with a right of recoup from the depositor. Sometimes foreigners leave amounts behind, perhaps £50, £100 or even more, invested in debentures or on fixed deposit. If they happen to be short before the time of the assessment, they might release the money and so the tax would be lost. The provision in the Bill will make the bank the collecting agency.

Hon. C. G. Latham: On fixed deposits, too?

The PREMIER: Yes. Take companies, for instance. A company might have £100,000 to invest as the result of a sale. This money would earn a lot of income. If they withdrew it before the banks were assessed for the interest, the company might get away without paying tax on the income derived from the investment.

Hon. C. G. Latham: Only so long as it remains with the bank would the tax be collected.

The PREMIER: That is so. With regard to covenants in mortgages with the object of shifting the burden of income tax, the provisions of the Bill void covenants or stipulations in mortgages which have, or purport to have, the effect of transferring in any way the burden of the income tax on the interest from the mortgagee to the mortgagor. I shall be able to give some examples of what has happened when the Bill reaches the Committee stage. The Bill also provides for the registration as a taxation agent of every person, other than a solicitor, who charges fees for preparing returns or acting as taxation agents. If an agent derives less than £10 annually as fees he will be exempt from registration. For the purpose of registration, it is proposed to appoint a board consisting of the Commissioner, the Under Treasurer—or their substitutes—and a public accountant. The functions of the board will be to examine applications for registration, and to register such persons as are considered fit and qualified to act as taxation agents. The board will be empowered to cancel the registration of an agent for preparing false returns or for his persistent neglect of his principal's business. If a penalty becomes chargeable against a taxpayer through the neglect of a registered agent, the penalty may be recovered from the agent by the principal by process of law. Sometimes taxation agents make out income tax returns in a way that the taxpayer himself becomes liable to a penalty. In that case the taxpayer should have the right to sue the agent for the mistake made. There is provision for the cancellation of the agent's registration for a mistake that may be made. This will not affect small people, but only those who make a business of it will be liable to a penalty. With regard to the release of taxpayers from liability in cases of hardship, the present form of relief is limited to the dependants of a deceased taxpayer who are in such circumstances that the exaction of the tax would entail serious hardship. The Bill extends the relief to any case where a taxpayer has suffered such a loss or is in such circumstances that payment of the tax would involve serious hardship. It is provided that applications for relief will be decided by a board consisting of the Commissioner, the Under Treasurer and the Auditor General or their substitutes. If the amount of the tax is £20 or less, the powers of the board will be exercised by the Commissioner. I get numerous applications from people who are not in a position to pay income tax, and I may be hard or I may be generous towards them. Of course there is always the Commissioner of Taxation to advise, and effect is given to whatever he recommends. Instead of the matter being dealt with by the Treasurer it is now proposed that the board to which I have just referred shall deal with the application and whatever the board may decide, after having considered all the circumstances, the decision will be acted on. The Bill combines provisions for the assessment and collection of tax on the incomes of companies as well as individuals. Hitherto individuals have been dealt with under the Land and Income Tax Assessment Act, and companies under the Dividend Duties Act. Generally speaking, the scheme of the Bill is to make alterations to bring assessment on a uniform basis, but it will have the effect also of bringing in a certain amount of increased revenue. Most of this will come from companies operating outside the State, and from banks and insurance companies which for many years past have been subject to less taxation in this State than in other States, for exactly the same business. There is no reason why that should be so. It is very difficult to make an estimate of how revenue will be affected as there are so many factors involved, and so many remissions. It is not expected there will be any great change in income tax collections, but over the whole field of income tax and dividend duty we estimate that the effect of the passing of the Bill will be to increase revenue to the extent of between £15,000 and £20,000, principally, as I have said, from banks, insurance companies and companies

operating outside the State which in the past have withheld from the State its rightful proportion of profits made. The estimate is a mere hazard, but I think it can be said that we shall get something like the figures I have stated as a result of the passing of the Bill. I think I have dealt with all the matters of importance covered by the Bill. There are other aspects that can be discussed in Committee, and when that stage is reached, I shall be pleased to give whatever information may be sought by members. The Bill is somewhat complicated and covers a wide range of subjects. Because of that I am prepared to agree to an adjournment of the debate for a week, so that members may have time to acquire an understanding of its provisions. So as to assist members, I have had prepared a memorandum which is attached to the Bill, setting out to some extent the present position and how it will be affected by the new proposals. This, together with what I have said in explanation, should enable members to get a very good knowledge of the provisions of the measure. Although I am agreeing to an adjournment for a week, I would like members to bear in mind that at the expiration of that time I would like the Bill dealt with as expeditiously as possible, because until it is passed, the Bill to fix the rates of income tax and land tax cannot be brought forward, nor can the Taxation Department proceed with assessments. Therefore I trust that the Bill will be disposed of in a comparatively short space of time. I move—

That the Bill be now read a second time.

On motion by Hon. C. G. Latham, debate adjourned.

Sitting suspended from 6.15 to 7.30 p.m.

BILL—FINANCIAL EMERGENCY TAX ASSESSMENT ACT AMENDMENT.

Second Reading.

Debate resumed from the 14th October.

THE PREMIER (Hon. J. C. Willcock—Geraldton—in reply) [7.30]: I wish to reply to one or two statements made by the Leader of the Opposition when the Bill was introduced. The first objection raised to the Bill by the Leader of the Opposition was that it would create difficulties for the man in the country with two or three employees, because he would not know the basic wage. I shall be very pleased if that is the most serious objection taken to the Bill. But everyone employing people on the basic wage necessarily has to know what it is and, knowing what it is, can make the deduction.

Hon. C. G. Latham: The Premier knows that the basic wage does not apply to a lot of industries.

The PREMIER: Even if it does not, everybody knows what the basic wage is.

Hon. C. G. Latham: He has to collect the tax on the amount of the basic wage.

Mr. SPEAKER: Order!

The PREMIER: We cannot be expected to scrap an important principle because a few people might be uninformed as to what is really occurring. It is just as logical to say that we should not have a basic wage at all as to say that we should not have this principle in taxation because people do not know what is the basic wage provided. Everybody has to pay taxation and all have to inform themselves as to the principles of taxation. They have to ascertain what the basic wage is, and can make arrangements accordingly. In any case, the objection of the Leader of the Opposition would not affect many people.

Hon. C. G. Latham: It leaves the employer liable.

The PREMIER: The employer would know the basic wage.

Hon. C. G. Latham: All right I will accept the Premier's explanation.

The PREMIER: The Leader of the Opposition complained that there is discrimination between the wage-earner and the income-earner in that the basic wage is exempt, as it may change from time to time, whereas the basic income has to be determined at a definite date, that chosen being the 30th June preceding the tax. That would not make very much difference to many people. Even if the basic wage is altered, to the extent of £2 or £3 a year, or even £4, it is only people earning incomes between £195 and £199 who will be affected by the alteration. They would be a little worse off than the man on the basic wage when the basic wage was going up, but that would be balanced if the basic wage went down. The basic wage fluctuations are generally of a very small amount, and would only affect an infinitesimal number of people.

Hon. C. G. Latham: It affects the rate over the whole period.

The PREMIER: I know it affects the rate to an extent, but there are only a few people it could affect at all, because it is only people earning between what the basic wage was at the 30th June and what it may be nine months hence, when there may be an alteration of 1s., which is £2 difference a year, who would be affected. I do not know that there are many people who have an income between £195 and £197 a year that it would affect. In the long run, I suppose the whole thing would cancel out. The Leader of the Opposition also made reference to the provision extending to three years the term during which prosecutions can be lodged for offences against the Act. I can only repeat what I said in introducing the Bill. This principle is used in the Land and Income Tax Assessment Act, and it is just as well to secure uniformity by including it in this Act. The provision will only be used where fraudulent evasion of the tax has taken place. It will not be utilised in ordinary circumstances. We have not a tremendous staff of inspectors going around dealing with the financial emergency tax. There are comparatively only a few, and those few would not be able to go all over the State in six months. That would not be possible unless we put on an army of inspectors, and we do not want to do that. We only want the inspectors there as a check. It is often from eight to 12 months before the inspectors can make a check throughout the various portions of the State. If, during that inspection, they find evidence of something being wrong, the Leader of the Opposition surely would not want to debar the State from collecting what is due to it. This is the law in regard to income tax assessment. In matters of a fraudulent nature or deliberate evasion, if the discovery of the wrong-doing is ascertained in a comparatively short time, the matter should be rectified and the correct amount due should be collected. If it were thought that there were a large number of evasions taking place, we would put on additional inspectors, and would not require such a length of time in which to make prosecutions; but there are only comparatively few people concerned, and we do not want to waste money in checking up on those by appointing more inspectors in order to launch prosecutions within a shorter period. The very fact that there are inspectors appointed who are likely to drop in on anybody polices the Bill to such an extent that there is not much evasion; but if there were no inspectors there might be deliberate evasion by many people. We do not want to overdo the thing by having dozens of inspectors appointed to police the Act. I think a case has been made out for the longer period. The member for West Perth (Mr. McDonald) expressed the opinion that the extension of the term was dangerous, in view of the severe penalties prescribed by the Act, but said he would have no objection to going back three years for fraud. It is for cases of that nature that we wish to make provision. If we can protect the revenue of the State without the expenditure of too much money, it will be in the best interests of the State, and will be much better than spending a lot of money providing inspectors to go around to ascertain what is going on in less than six months. I hope the Bill will be passed.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Sleeman in the Chair; the Premier in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 2 of the principal Act:

Hon. C. G. LATHAM: In this clause, the Premier proposes to set out what the basic income is. He proposes to impose a tax on the basic income as at the 30th June. I want to point out that this is not as simple a matter as the Premier thinks, as far as country people are concerned. It is not a question of country people endeavouring to evade the tax, but of their understanding it.

The Premier: We have altered it every year.

Hon. C. G. LATHAM: We have altered it, but we have fixed the sum of money. We have said that £3 15s. shall be exempt from the Act. That is a definite sum. Now we are going to say the basic wage.

The Premier: That is a definite sum.

Hon. C. G. LATHAM: It is indefinite.

The Premier: At the present time.

Hon. C. G. LATHAM: Yes, at the moment. The Premier knows that there is a great deal of employment of people in the country and that those people are on a rate below the basic wage.

The Premier: They will not be affected.

Hon. C. G. LATHAM: They will be affected.

The Premier: Those below the basic wage do not pay the tax.

Hon. C. G. LATHAM: It may be that they are employed at £3 14s. or £3 16s. The person does not know what the basic wage is. The Premier says that is not so. But I had an instance the other day. A person wrote to me and told me that he had employed two shearers. They told him they would affix the financial emergency and hospital tax stamps. When he got the receipt he found that there was only a penny duty stamp affixed. The employer was liable as well as the shearer.

The Premier: That is a different matter altogether.

Hon. C. G. LATHAM: I know. But I am telling the Premier the difficulties that occur. This man did not know whether he should charge these men at the rate of 1s. in the £ or 4d. in the £. I am not sure myself at what rate they should be taxed. I told him to pay 1s. and then apply for a refund. But that is a clumsy method.

The Premier: This clause does not refer to that at all.

Hon. C. G. LATHAM: I am referring to what the basic wage and the basic income are. If the sum had been fixed at £3 15s. and the rate was increased a penny for every 30s. above that——

Mr. Cross: What about moving for a rate of £4?

Hon. C. G. LATHAM: If the hon. member would support that I would do it for him.

Mr. Cross: I will.

Hon. C. G. LATHAM: Get a few of your friends on the crossbenches to support you, and there will be a first-class squabble between the Leader of the House and some of his supporters. I do not think I need support the hon. member in that direction. But I am sorry that the Treasurer has not agreed to do what he did previously. Every year I have known this Bill to be introduced there has been disagreement between the two Houses. On one occasion an undertaking was given by the representative of the Government in another place that this tax would be reduced and would be simplified. It has not been simplified at all but has been made more difficult. One question to which the Treasurer did not reply was as to what he proposed to do with the sustenance worker who, over a year, earns less than the basic wage.

The Premier: I said the other night that he does not pay the tax.

Hon. C. G. LATHAM: He did pay up to when I drew attention to it.

The Premier: He has been getting remission.

Hon. C. G. LATHAM: So long as that is simplified I do not mind, but it is not fair that 9s. should be deducted at the end of a man's period of employment, and that he should then have to apply for a refund. It is difficult to get refunds from the Taxation Department. I assure the Premier that a promise was given to reduce and simplify this tax. If another conference be suggested, I shall not support it. I shall stand firm against our legislating by three managers from each House. It is wrong in principle and the time has arrived when the practice should be checked.

Mr. STYANTS: I support the clause. In the matter of exemption, workers on the goldfields have never received equal treatment with those in other parts of the State. The basic wage on the goldfields is £4 7s. while in the metropolitan area it is £3 14s. 11d. Workers in the metropolitan area and in the South-West Land Division have been exempt from the tax, but not so those on the goldfields. The extra 12s. 1d. is paid to workers on the goldfields to meet the increased cost of living there, particularly rent, but it does not compensate for the extra disabilities and expenditure involved. If a fixed amount were stipulated, it would have to be over £4 7s. a week to meet the needs of the goldfields. Year after year a farcical position has been created by fixing a sum about 2s. above the then existing basic wage, in that the basic wage has subsequently been increased above the exemption. The amount fixed last session was £3 15s., but in the last quarter the basic wage for the South-West land division was raised to £3 15s. 10d. Workers in that part of the State then became liable for emergency tax, and the payment of it reduced their earnings below that of a worker in the metropolitan area. The Leader of the Opposition spoke of the difficulty experienced by employers in the country to ascertain the amount of the basic wage. Every alteration is published in the

Press and no difficulty need arise on that account.

Clause put and passed.

Clauses 3 to 6, Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—STATE GOVERNMENT INSURANCE OFFICE.

In Committee.

Resumed from the 12th October. Mr. Sleeman in the Chair; the Minister for Employment in charge of the Bill.

Clause 1—Short Title (partly considered):

Clause put and passed.

Clause 2—Interpretation:

Mr. WATTS: I move an amendment—

That the definition of "Accident insurance business" be struck out.

I do not propose to labour the question as I made the position plain when the Committee stage was first proposed. I indicated that it was not necessary at this juncture at any rate that the State Insurance Office should have the power to conduct this class of business. If this amendment is successful, it will entail the striking out of the reference to the definition in the same clause.

The MINISTER FOR EMPLOYMENT: I cannot accept the amendment. The clause will give the State Office the legal right to carry out insurance business based on the definitions. It is hardly reasonable that the State office should be limited to workers' compensation and employers' liability business, as those types of business are the least satisfactory from an insurance point of view. Of the other types of insurance enumerated, the State Office has had experience and is transacting business to a limited extent.

Mr. McDONALD: I hope members will accept the amendment because it follows logically on what has happened in respect to State insurance. The whole thing has a historical background. We found ourselves with the State Insurance Office as an accomplished fact. Although it was operating illegally, it was there, and to stop it would have been a matter of difficulty. The recent select committee approached the whole matter in a commendable spirit. All its members came to the conclusion that the past operations of the State Insurance Office should be legalised, and that we should allow the office to continue to function on the lines of its main operations so far, namely, workers' compensation and employers' liability. There is a feeling that those two lines of insurance are coming more and more within the province of the State, as being in the nature of social services. But as regards other insurance such as fire and accident the Bill proposes to place on the statute-book provisions for which there is no mandate, and which are already fulfilled by private companies. I support the amendment.

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

Ayes	16
Noes	24
Majority against	8

AYES.

Mr. Boyle	Mr. Patrick
Mrs. Cardell-Oliver	Mr. Sampson
Mr. Ferguson	Mr. J. M. Smith
Mr. Hill	Mr. Thorn
Mr. Latham	Mr. Warner
Mr. Mann	Mr. Watts
Mr. McDonald	Mr. Welsh
Mr. North	Mr. McLarty (*Teller.*)

NOES.

Mr. Coverley	Mr. Needham
Mr. Cross	Mr. Nulsen
Mr. Doust	Mr. Panton
Mr. Fox	Mr. Raphael
Mr. Hawke	Mr. Rodoreda
Mr. Hegney	Mr. F. C. L. Smith
Miss Holman	Mr. Styants
Mr. Hughes	Mr. Tonkin
Mr. Johnson	Mr. Troy
Mr. Marshall	Mr. Willcock
Mr. Millington	Mr. Withers
Mr. Munsie	Mr. Wilson (*Teller.*)

PAIRS.

AYES.	NOES.
Mr. Keenan	Mr. Collier
Mr. Stubbs	Mr. Wise
Mr. Brockman	Mr. Lambert

Amendment thus negatived.

Mr. WATTS: I move an amendment—

That in the definition of "Insurance business" the following words be struck out:—"Fire insurance business, marine insurance business, and the business of undertaking liability to make good any loss or damage contingent upon the happening of a specified event."

The amendment is intended to delete from the Bill the power to conduct the various types of insurance mentioned. The definition is too wide. I doubt whether an ordinary insurance company would undertake in general terms to deal with liability to make good any loss or damage contingent upon the happening of a specified event. I hope and

believe that in time some other means will be found of dealing in a satisfactory manner with employers' liability and accident insurance business. For that reason I subscribe to their inclusion in the Bill. No such argument can apply to fire and marine insurance, which are properly the subject of private enterprise.

The MINISTER FOR EMPLOYMENT: I have said that it would be unreasonable to ask the State Insurance Office to deal only in those classes of insurance which are the least satisfactory, and that statement I regard as a sufficient reply to the amendment. I may, however, quote from paragraph 14A of the Select Committee's report, which was dissented from by the member for Katanning and the member for Murray-Wellington. The paragraph states that the public should have the opportunity of obtaining fire and marine insurance cover from the State Insurance Office, where expenses with those classes of insurance would not be nearly so heavy as those now charged in the premiums demanded by private companies. The words proposed to be struck out also authorise the State Insurance Office to insure motor cars against accident and crops against damage by fire or hail. The amendment should be defeated.

Mr. WATTS: The Minister referred to a paragraph in the report of the select committee in which it is stated that the public should have an opportunity to get every class of insurance from the State Government Insurance Office, and went on to say that the expenses of the State office would be much lower than those of the private, tariff or other companies. I very much doubt if that is so. As he has raised the point, I propose to deal with it for a few moments. We have no guarantee that the expense ratio of the State office, if it was to effect fire insurances in opposition to other tariff or private companies, between whom there is at present considerable competition, would be such as to enable the office to carry out that work at any considerable saving. When speaking on the motion to consider the Bill in Committee, I referred to two insurance companies conducted in New Zealand by the Government. One operated in connection with accident insurance and the expense ratio was about 20 per cent., while the other office dealt with fire insurance business and had an expense ratio of 42 per cent. I pointed out that the expenses in connection with the fire business were more than double that associated with workers' compensation or accident business. The reason for that was probably that workers' compensation insurance was more or less compulsory and was obtained easily, whereas fire insurance and personal accident or sickness insurance, as well as other types of insurance, were difficult to get and almost impossible without considerable canvassing of individuals in order to secure the business. If the State office proposes to engage upon fire and marine insurance, and is to be content to sit down waiting for applications for policies, possibly the expense ratio may be comparable with that associated with workers' compensation business. On the other hand, if the office is able to undertake other classes of insurance, then I contend it will have to go about it in the proper way and seek the business, in which circumstances I believe the State office will find itself in the same expense ratio position as the New Zealand fire insurance office, and thereby comparable with the experience of companies that are carrying on business in this State. The Minister also said that the risky class of insurance business was being left to the State Government Insurance Office. I shall not reiterate what I said previously on that point, but I can say, in addition, that the State office is not finding the business of conducting workers' compensation and employers' liability insurance a particularly risky item. Even allowing an expense ratio that members of the select committee considered reasonable, namely, 10 per cent., there is a considerable margin between the premiums received and the combined losses and administrative expenses, particularly during the past five years. Certainly the experience during that period has not been unsatisfactory. There is ample evidence to show that the State Government Insurance Office can meet expenses. I believe the duty of the State in this matter will have to be reviewed in due course, but it is the duty of the Government to give employers cover at cost price, and there is no need for the State Government Insurance Office to make a profit.

Amendment put and negatived.

Clause put and passed.

Clauses 3 to 6—agreed to.

Clause 7—Administration:

Hon. C. G. LATHAM: Subclause 6 sets out that, in relation to the administration of the State Government Insurance Office, Sections 7, 8, 9, 10, 11, 12, 13, 14, 16, 17 (Subsection 2), 19, 20, 21 and 22 of the State Trading Concerns Act shall, so far as they can be made applicable, apply as if the State Insurance Office were a State trading concern. This is a slipshod method of drafting legislation. The proposal is that the State Insurance Office shall not be regarded as a trading concern but as an ordinary business undertaking. Here 14 sections are lifted from the State Trading Concerns Act and, by the mere mention of the section numbers, are made to apply to the State office. The proper way would have been to include the sections referred to in the Bill itself. Why was that not done? The cost of printing would be very little more. If included in the Bill, administration would be facilitated and the public would have a knowledge of what the Act contained. I hope the Minister will give consideration to the matter and, if possible, have the sections inserted in the Bill in the Legislative Council.

The MINISTER FOR EMPLOYMENT: Originally it was intended that the State Government Insurance Office should be established as a State trading concern operating under the State Trading Concerns Act. The members of the select committee considered that the transaction of insurance business on the restricted basis embodied in the Bill could not be regarded as State trading in the ordinary sense of the term, and we unanimously agreed to recommend to Parliament that the State Insurance Office be established under a separate Act. We then had to consider the administrative powers that were necessary and, after consultation with the Solicitor General, we agreed that the appropriate provisions of the State Trading Concerns Act could be used for the purposes of the State Insurance Office. Departmental officers who will be charged with the responsibility of conducting the affairs of the office will have no difficulty in becoming acquainted with the provisions of the State Trading Concerns Act, and if any member of the public desires to ascertain what they are, no difficulty will be experienced in getting that information. I do not think any difficulty will be created, but nevertheless I am prepared to give consideration to the suggestion by the Leader of the Opposition. If it is thought that the inclusion of the sections as clauses in the Bill will be helpful to the officials and to the general public, action toward that end can be initiated in the Legislative Council.

Hon. C. G. LATHAM: I am pleased that the Minister will give consideration to my suggestion. It is not easy to get copies of statutes in the country towns. The public have a right to know what the law states. I understand that the sections refer to the administrative side, but I cannot understand why the Solicitor General could even suggest that the method adopted in the subclause is the proper way. The Parliamentary Draftsman should know that what is included in an Act of Parliament should be set out as simply and clearly as possible. I am glad to have the assurance of the Minister that my suggestion will be considered.

Clause put and passed.

Clauses 8, 9—agreed to.

New Clause:

Mr. WATTS: I move—

That the following new clause be added to stand as Clause 10:—"This Act shall continue in force until the 31st day of December, one thousand nine hundred and forty, and no longer."

Mr. McDONALD: I hope the Committee will agree to this amendment. After all, this statute is to a large extent experimental.

Mr. Marshall: After ten years!

Mr. McDONALD: One reading the evidence of the Government Statistician will appreciate the statement that the financial results of State insurance are still largely a matter of conjecture. The Government Statistician did not pretend to know the complete results, for he said it was almost impossible to determine from past records precisely what the liability might be, and what premiums would be required to meet contingent liability of this sort. So I hope the Committee will recognise that the legislation covering the State Insurance Office should come up for review at fixed times. Then, if experience should justify the continuation of the system, it will be merely a matter of passing the ordinary continuation Bill, of which we have a number to pass every session. If, on the other hand, experience shows that too great a liability on the taxpayers is entailed, then Parliament will make such provision as it thinks fit.

While in some States of Australia, and in New Zealand, and in parts of America there has been a system of State insurance, the desirability is not by any means yet assured. In England, the matter was discussed by the House of Commons, and a select committee sat in 1919 to consider the question of workers compensation and how far it should be made the function of the State. That committee, after investigation, reported against State insurance, but set up the alternative of State supervision. So a Government departmental committee was appointed to supervise the work of all insurance companies operating in the field of workers' compensation. That committee laid down the principle that the total expenses should not exceed 30 per cent. of the premium income, and also prescribed a maximum rate of 5 per cent. to be paid in commission. It was believed that this ratio of 30 per cent. expense to premium income was the lowest at which the business could satisfactorily be done. The companies loyally accepted the departmental committee's recommendation, and they have ever since worked upon that percentage. Last year there was a move in the House of Commons to pass a Bill which involved a certain measure of State insurance and workers' compensation. However, the Bill was rejected on the second reading, one of the reasons for its rejection being that State supervision was giving all the advantages claimed for a State insurance office, without the cost of setting up an office, without the liability involved for the taxpayers, and without invading a field which could be covered by private enterprise. This idea of State supervision is by no means new, even in Australia, for in 1911 a Bill was introduced in the Commonwealth Parliament with the idea of setting up supervision over workers' compensation insurance. Three such Bills were introduced between 1911 and 1915. I think Sir George Pearce introduced one.

Mr. Marshall: And I think it was the last he will ever introduce.

Mr. McDONALD: He has introduced so many good Bills that maybe he has earned a rest.

Mr. Marshall: I know he has introduced many crook Bills.

Mr. McDONALD: As I say, this idea of Government supervision has worked well in England, and perchance in three years' time this House may decide that the same system might be preferable to State insurance. I mention these circumstances to emphasise the fact that State insurance is not the only idea for improving the position regarding workers' compensation.

The MINISTER FOR EMPLOYMENT: The proposed new clause would put a time limit on this legislation, which would then have to be continued from time to time.

Mr. Marshall: A few more of these continuation Bills, and we shall have no time for any other form of business.

The MINISTER FOR EMPLOYMENT: The arguments put forward in favour of this proposed new clause do not convince me that we should adopt it. This legislation is not of an emergency type, neither is it experimental. The State Insurance Office has been operating for ten years, and although it has been operating illegally the experience gained in the carrying on of the office has been sufficient to show that the office has justified its existence, and has proved that it is capable of efficiently carrying on certain classes of insurance business. State insurance has been legally operating in other States of Australia and certain other countries for many years, and to my knowledge no State insurance office has ever been closed by any of the Parliaments concerned. Therefore it seems to me unnecessary to put a time limit on this proposed Act of Parliament. If the Parliament of 1940, or any other future Parliament, should think that alterations should be made to this legislation, that Parliament will have power to make the alterations. The select committee unanimously agreed that the State Insurance Office should be legalised so that its future operations might be carried on within the law. Therefore it does not appear logical that we should limit the operations of the legislation to a period of three years.

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

Ayes	16
Noes	22
Majority against ..	6

AYES.

Mr. Boyle	Mr. North
Mrs. Cardell-Oliver	Mr. Patrick
Mr. Ferguson	Mr. Sampson
Mr. Hill	Mr. Thorn
Mr. Latham	Mr. Warner
Mr. Mann	Mr. Watts
Mr. McDonald	Mr. Welsh
Mr. McLarty	Mr. J. M. Smith (*Teller*)

Noes.	
Mr. Coverley	Mr. Needham
Mr. Cross	Mr. Nulsen
Mr. Doust	Mr. Panton
Mr. Fox	Mr. Raphael
Mr. Hawke	Mr. Redcreda
Mr. Hegney	Mr. F. C. L. Smith
Miss Holman	Mr. Styants
Mr. Hughes	Mr. Tonkin
Mr. Marshall	Mr. Willcock
Mr. Millington	Mr. Withers
Mr. Munsie	Mr. Wilson
	(Teller.)

Pairs.	
Ayes.	Noes.
Mr. Stubbs	Mr. Wise
Mr. Brockman	Mr. Lambert
Mr. Keenan	Mr. Collier

New clause thus negatived.

Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—JUDGES' RETIREMENT.

Second Reading.

Debate resumed from the 14th October.

MR. McDONALD (West Perth) [8.50]: As this Bill has been before the House on several previous occasions, it does not require further words from me on its general aspect. It could be made a more suitable measure if it contained a provision to enable the Attorney General or Minister for Justice to obtain the services of a judge at any time, although that judge might have retired. Under the Bill if a judge retires at an arbitrary age of 70 or 72, it will frequently happen that that judge will still be capable of a great deal of work. He may retire at that time, as many other people have done, still with full capacity to work. It may be very convenient to the State to be able to call upon the services of an experienced judge to sit on occasions when there is a pressure of business. There have been times in England, particularly in the divorce jurisdiction, when judges who have been on the retired list have come into the courts again and sat, and it has been possible to get through business expeditiously when otherwise there would have been a congested list. I hope some provision will be inserted in the Bill to enable the Attorney General or Minister for Justice to obtain the services of retired judges when such services would be of value to the State, thus enabling him to call upon a judge to sit in any particular court for any particular sessions or sittings when there may be need for additional judicial assistance.

MR. SLEEMAN (Fremantle) [8.52]: The arguments raised by the member for West Perth (Mr. McDonald) apply with equal force to other sections of the community. I do not propose to vote against the second reading, because that would leave it open for judges to remain in office until they reach a ripe old age. I hope that in Committee an amendment will be moved to bring them into line with some of the rest of the community. Men on the lower rung of the ladder in the Government service are put out at the age of 65 without a pension. Some are put out at that age with a small pension. Judges who retire with a respectable pension, and about whom there is no question as to established capacity, are to be kept on until they reach the age of 70. I do not see why judges should be kept in office any longer than civil servants should be kept in office. No doubt there are judges who are capable of holding office after they have passed the age of 65, but there are also many civil servants equally capable of retaining office. I do not see why we should make flesh of one and fowl of the other. If it is proper to retire civil servants at the age of 65, it is equally proper to retire judges at the same age. I hope that in Committee something will be done to bring the two into line.

Mr. Hughes: Why not bring the civil servants up to the judges?

Mr. SLEEMAN: I should be glad to see people retire at the age of 60 if they were adequately provided for. I do not want to see people thrown on the scrap heap at that age without any provision being made for them. Many men are thrown out of work at 60 or 65 without any pension or anything to live on. I should like to see everybody able to retire at 60, and provision made for them so that they could spend the rest of their days in happiness and with pleasure to themselves. I hope something will be done to bring judges and civil servants into line.

HON. C. G. LATHAM (York) [8.55]: I do not oppose the second reading of the Bill. As it does not apply to judges now in office, it does not seem to amount to very much. We should be very careful not to incur much liability in connection with pensions. We heard the other evening of the difficulties that have arisen through promises that were made by a former Government.

Mr. Sleeman: There is no such thing as established capacity in this case.

Hon. C. G. LATHAM: The judges are very definitely established. I suppose that two of our judges could be retired now if this Bill were to refer to them, and we should then be paying pensions to both of them. At the moment we are not paying pensions to any of our judges. There was one judge to whom we paid a pension. He resided in the Old Country, and we sent the money away to him.

Mr. Sleeman: We did not have him for long.

Hon. C. G. LATHAM: What about justices of the peace who sit on the bench when over 70 years of age? Not long ago two elderly justices over-rode the decision of a trained magistrate. Let us turn our attention to correcting anomalies there.

Mr. Sleeman: That has nothing to do with this Bill.

Hon. C. G. LATHAM: It shows the inconsistency of the Government. It certainly has to do with the administration of the law. Those two justices were over 70 years of age and they over-rode the decision of a trained man. We allow men who are serving in an honorary capacity to have power to over-ride the decision of a man who occupies a paid position. The Minister should turn his attention to that.

Mr. Sleeman: That is no concern of this Bill.

Hon. C. G. LATHAM: It concerns the administration of the law in this State. I have never seen the necessity for compulsorily retiring men at 65 years of age. There are many men who are old at 50, whilst there are others at 70 who are still at their best. Some of the greatest feats that have been performed by our statesmen have been performed after they have reached the age of 70.

The Premier: They are the exceptions.

Hon. C. G. LATHAM: Many of the judges in the Old Country are old men. Their decisions are very sound, and their law is very sound.

Mr. Cross: You could not say that of our judges.

Hon. C. G. LATHAM: By this Bill we are proposing to retire them at the age of 70, and pay them a pension of £1,000 a year, with a greater amount than that for the Chief Justice. I do not know that that is sound. It would be preferable to retire them after some kind of intelligence test. Some might be retired at the age of 50 whilst others would remain in office well beyond that age. I heard the ex-Premier say in connection with retiring men from the railway service that it amounted to throwing them on the scrap heap to put them out at the age of 65. This State cannot afford to be too generous in these matters, by putting out of work men who are still mentally capable of continuing that work and retiring them on pensions. I do not know why the Minister does not accept the suggestion which has previously been made in this connection. If this Bill is to be a hardy annual then we should direct our attention to more profitable legislation.

The Minister for Justice: You heard about uniformity throughout the States.

Hon. C. G. LATHAM: The Minister omitted to refer to that. It is the only point he did omit.

The Minister for Justice: I suppose all the other States are wrong.

Hon. C. G. LATHAM: I am sorry the Government have brought this Bill down again.

MR. MARSHALL (Murchison) [8.58]: To be consistent I should oppose the second reading of this Bill, but if the Government were consistent they would not introduce it. I am not accusing the Government of being the only one to practise inconsistency by the introduction of this type of legislation. How it can be reasoned that one small section of the community has to be more mentally alert in positions where mental alertness is of vital importance, than would be the case with another section of the community, I cannot say. In the position of a judge there is much more danger of mental incapacity than there is in many other avocations. Strange to relate, usually the person concerned is the last to observe the fact that he is not efficient. Therefore there is a necessity for an age limit in regard to judges, and, I will respectfully suggest, more so in the case of judges than in the case of anyone else.

Hon. C. G. Latham: What about members of Parliament?

Mr. Sleeman: They can go to any old age.

Mr. MARSHALL: The interjection is somewhat beside the issue, because after all, as a couple of our members representing this State know to their sorrow, the electors decide that they are too old. We can leave

that question at any rate in the hands of the electors. I do not think any of us will last any longer than that period at which the electors would consider we have outlived our usefulness. Why there should be any discrimination in established capacities as far as the Civil Service is concerned I fail to understand. The age of 65 is reasonable, and having regard to the fact that the judges when they retire will do so on an adequate pension, we should not permit them to occupy their office after they have reached the age of 65. If I could retire at 65 you, Mr. Speaker, would get my resignation immediately on my attaining that age. Really I would probably break my neck or a leg in my speed to get to the typist to dictate my resignation. All the same, I am not yet anywhere near 65. While I agree there should be an age limit I am not prepared to discriminate, and I reiterate that seeing that a judge retires on a good pension, the age limit should be 65. I will support the member for Fremantle if in Committee he moves to reduce the age limit from 70 to 65. Whilst I agree with the Leader of the Opposition that we have to be careful in respect to overloading the Treasury with pensions, we also have to be mighty careful that we do not overload our judiciary with men who have reached that stage where they may not be mentally capable of continuing to discharge their duties and where a possible miscarriage of justice may follow. I do not say that that is likely to happen, though it could easily be so.

MR. NORTH (Claremont) [9.5]: I intend to support the Bill. Already we provide that the President of the Arbitration Court shall retire at 70, and as that is an example set by our Parliament I shall support the second reading of the Bill.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Sampson in the Chair; the Minister for Justice in charge of the Bill.

Clauses 1, 2—agreed to.

Clause 3—Retirement of Judges:

Mr. NEEDHAM: I move an amendment—

That in line 4 "seventy" be struck out with a view to inserting "sixty-five."

I did not speak on the second reading because I was entirely in accord with the principle of the Bill. I am not saying that a man of 70 is not capable of carrying out the duties associated with the high position of a judge, but I am moving the amendment simply because I want the Government to be consistent on the question of retirements. For some years past the policy has been to retire officers of the service at 65, and I look upon a judge of the Supreme Court as being a servant of the State just as any other man employed by the Government. The policy has been to retire individuals at 65 irrespective of their mental or physical abilities. I know that there are men at that age quite capable of carrying on their duties, but it has been decreed that they shall go at 65, and so I consider a judge should also be retired at 65. Again, a judge on retirement receives half of his annual salary in the form of a pension. Other men who are compulsorily retired at 65 do not receive anything in the form of a pension, good, bad or indifferent, though it is true that some civil servants have been retired and are receiving pensions. The majority of them, however, do not receive anything, and perhaps have never been able to put aside anything for what might be called the evening of their lives. Many of these have nothing before them except the old age pension. Because it is the policy of the Government to retire officers at 65 I hope the Committee will carry the amendment I have submitted.

The MINISTER FOR JUSTICE: The fixing of the age at which we should retire a judge is necessarily the subject of an arbitrary decision. There are some men who decline both mentally and physically long before reaching the age of 70. There are a number of exceptions to the rule whose mental power, at any rate, does not appear to decline by the time they have reached 70. Generally speaking, however, it has to be admitted that although we could quote cases of men whose avocation makes a call chiefly upon their mental powers, and whom we would agree are fairly efficient with respect to their particular avocations, on reaching 70 most men develop some eccentricities. There is such a thing as Shakespeare referred to as the crabbed age.

Mr. North: "The slippered *pantaloon*," Shakespeare says.

The MINISTER FOR JUSTICE: Age does affect the mental powers to some ex-

tent. It affects one's judgment, so that we have to make some decision with regard to age.

Hon. W. D. Johnson: It is a question of the age at which these things happen. Some men do not decline until they are 80.

The MINISTER FOR JUSTICE: I think most men decline at 70.

The CHAIRMAN: Order! The Minister should address the Chair.

The MINISTER FOR JUSTICE: We are fixing the age by statute in the Bill and the age of 65 at which we retire civil servants has been fixed by administrative Act. Those to whom the retiring age of 65 applies are a big body of men who in many instances are following pursuits that make demands upon their physical as well as their mental powers, and we have had to adopt a general principle with respect to civil servants. The member for Perth says that the Government should be consistent. I think Emerson, the philosopher, says that "Consistency is the hobgoblin of little minds." However, that does not enter into the question because the respective bodies being considered are not comparable. In the Civil Service there is an upstream of men who are looking for promotion.

Mr. Sleeman: There is an upstream in the legal profession, too.

The MINISTER FOR JUSTICE: It is not so great. They might be looking for it but they are not qualified for it, unfortunately. It is not so easy, despite the fact that the legal profession is overcrowded at the present moment, to find men in it to fill these positions. With respect to the civil servants there is something to be said against the retirement of many of them at 65.

Mr. Cross: Some are too valuable to retire at that age.

The MINISTER FOR JUSTICE: That has geen recognised by carrying them on a little beyond that age. The depression was the cause of limiting the age at which those in the Civil Service should remain in employment.

Mr. Needham: It was long before that.

The MINISTER FOR JUSTICE: Well, it was due to the labour market being more or less flooded. The opportunity for promotion in the Civil Service declined. The civil servants and the judiciary cannot be compared from that point of view.

Mr. Sleeman: Why not?

The MINISTER FOR JUSTICE: Because there is not that upward flow of those looking for promotion, or who are qualified for promotion, to the positions in the judiciary.

Mr. Patrick: We have had to go abroad for them in the past.

The MINISTER FOR JUSTICE: Yes. The member for Kalgoorlie has remarked that some of those that we have got do not do too well.

Mr. Styants: They are overridden by the High Court judges time and time again.

Hon. C. G. Latham: That does not make them wrong.

The MINISTER FOR JUSTICE: Despite the fact that the legal profession is overcrowded, it is quite difficult to select from them men who can fill positions on the judiciary with satisfaction to people generally.

Mr. Lambert: They have been mostly political appointments, that is why.

The MINISTER FOR JUSTICE: Perhaps the hon. member can tell the House something about that; I do not know anything about it.

Hon. C. G. Latham: Do not encourage him to get up.

The MINISTER FOR JUSTICE: I am rather interested when he gets up, he usually indulges in quite a heap of assertions and very little argument.

Mr. Lambert: Are you talking in your sleep, or are you referring to me?

Mr. Marshall: He would be asleep when he was referring to you.

The MINISTER FOR JUSTICE: We have the other States to guide us in respect to this legislation. In Queensland and New South Wales the age has been fixed at 70 and in Victoria at 72. Another aspect of the matter is that the Supreme Court Act in this State and in most of the States provides that a judge shall serve 15 years before he qualifies for a pension. Therefore if we reduce the age at which he can continue in office and still insist that he has to serve 15 years to qualify for a pension, we must limit the appointments generally speaking to men under 50 years. That would again limit the range of selection.

Mr. NEEDHAM: The Minister tries to justify this measure on the ground that it operates in the other States but he does not tell us whether or not the Governments of those States compulsorily retire their civil

servants at 65. He says there is a danger of a man losing his mental alertness on reaching the age of 70, and it is because of that that 70 was the age fixed. But when a Government employee reaches the age of 65 there is no inquiry made as to whether he is fit or otherwise. A man physically fit at 65 has to go and there is no question of a pension. The majority have been on the basic wage and have reared families on it. Why, then, should there be this solicitude for the judge? I would have no objection to his remaining a judge until he felt inclined to retire, if the Government were not compulsorily retiring other Government servants at 65. The Minister said that Government employees had been retired at 65 because of the depression. That is not so. The depression started in 1930 and Government employees were retired before then and not through economic considerations. It is because of some kind of idea the Government have, but which they have not yet told us.

Mr. HUGHES: The Minister accused the member for Yilgarn-Coolgardie with making assertions without producing facts to substantiate them.

Mr. Lambert: He has not heard me speak yet.

Mr. Marshall: He will be more convinced of that later on, then.

Mr. HUGHES: What evidence did the Minister adduce for his contention that the reason we want judges retained till the age of 70 in Western Australia is because there is a lack of talent in the legal profession? That is a very foolish assertion. Why is it that we, who can produce people for every walk of life capable of holding their own in other parts of the world, cannot produce a quota of men capable of becoming judges? We have men with the training, temperament and qualifications that would fit them to be judges. I could select six to ten such men without difficulty.

The CHAIRMAN: The question is whether the word "seventy" should be struck out.

Mr. HUGHES: The Minister gave as a reason for retaining the age of seventy that there was no one in the State qualified to be appointed, and that there was no upward flow. If men do not get the opportunity, they will never be able to demonstrate their ability.

Mr. Lambert: Some would not have become Ministers for Justice without the opportunity.

Mr. HUGHES: No doubt the Minister for Justice holds the view that there should be no age limit for Ministers on the ground that there is no upward flow.

Mr. Lambert: They get that idea.

Mr. Marshall: I think there is every justification for it, too!

Mr. HUGHES: To disparage local talent is not argument. The Privy Council has overruled the High Court probably as often as the High Court has overruled the Full Court of the State. One of the disadvantages of the High Court is that the field for selecting judges is too restricted. They are selected from the larger States. Only on one or two occasions in 36 years has a judge of the High Court been selected from one of the smaller States.

The Premier: Sir Samuel Griffith was.

Mr. Lambert: He was the first and last.

The Premier: And about the best, too.

Mr. HUGHES: The last three appointees have been ex-politicians, which is a still worse limitation. The High Court would have a better outlook if there was a leaven of judges from the smaller States. A desirable amendment to the Commonwealth Constitution would be that each State should have the right to appoint one justice to the High Court bench, and that when he retired, the State should have the right to nominate a successor. That would make the court more representative, and give it a wider outlook. The High Court has a weakness for overruling State decisions.

The CHAIRMAN: The hon. member is departing a long way from the amendment.

Mr. HUGHES: I am replying to the Minister's argument.

The CHAIRMAN: I have allowed the hon. member considerable latitude.

Mr. HUGHES: Seventy is an age beyond which comparatively few people live. The Minister said that most people started to decline at that age, but I reply that most people have finished it before then. Ideas change more rapidly nowadays than heretofore, and judges should be in step with the ideas and morality of their time. Age, as a rule, is not a source of new ideas, and is not prone to study new conditions. A man's mind is well fixed by the time he reaches 60, and there is a tendency for him to adopt the conservative philosophy that what is, is

right, and should be retained. Some people consider that because something has been done previously or elsewhere, we should follow it. We have been told that other States have adopted seventy as the retiring age for judges. Cannot we take a step in advance of what they have done? It has been said that if we limit the age to 65, a judge will have to be appointed at 50 in order to get a pension. Men of 50 to 60 are probably in their intellectual prime, but that prime, in some instances, is not too good. There is no obligation on a man to accept appointment as a judge, but if he accepted such a position after passing the age of 50, he would know that between then and the age of 65 he would have to save enough on which to live after retiring. It does not follow that, because a man is a successful lawyer or a good pleader, he will necessarily make a good judge. For appointment to the Supreme Court bench a man should be of a scholarly disposition, energetic and with a desire for research.

Mr. Lambert: He should not have a Monday morning liver.

Mr. HUGHES: He must also possess suitable temperament, as well as a fairly large degree of patience. Judges are frequently called upon to suffer fools. I see no reason for retaining a judge after he has reached 65. The suggestion of the member for West Perth would be a retrograde step as regards the control of the judiciary. What is needed is a clear understanding that the position is secure from the Administration and that a judge has nothing to hope from the Administration. That is why judges have been given tenure of office during good conduct. We want our judges to understand clearly that they are free from political pressure and that they have nothing to hope from the Administration. It is going back four hundred years to suggest that after reaching the retiring age a judge may be retained at the pleasure of the Government. That puts the judge in a position of expectancy from the political power, and destroys the independence of the Bench. The members of the judiciary should know that they must do their duty without fear or favour up to a certain age and then retire. The retiring age of 70 years for justices of the peace has no bearing on this question. In the Fremantle case where two justices over-ruled the magistrate, the person charged was well connected. In another case of the same kind, where the accused was not well connected, the Crown appealed and the justices were over-ruled.

The CHAIRMAN: I shall be glad if the hon. member will show the relevance of this.

Mr. HUGHES: Rules of conduct for citizens of the State should be uniform. If a public servant must retire at 65 without reference to mental or physical fitness, that rule should apply universally; otherwise the law is brought into contempt. In fact, I do not know that the rules should not be extended to this Chamber.

The CHAIRMAN: But not by this Bill.

Mr. HUGHES: Judges should not be begrudged their leisure after reaching the age of 65. I support the amendment.

Mr. LAMBERT: It is a hollow sham to pick out the judiciary for special favour as to age of retirement. I do not know that the Bill does not err gravely in not applying retrospectively to the present judges. One could hardly grow over-enthusiastic regarding the present members of our judiciary.

The CHAIRMAN: The hon. member surely realises that we are not discussing the present members of the judiciary.

Mr. LAMBERT: An arbitrary age of 65 years for retirement is arrived at because it is conceded that at 65 a man has reached the limit of his life's usefulness. Under the Public Service Act there have been many retirements at 65 years of men who have given conspicuous service to the State, and that not merely by interpreting the intentions of Parliament as expressed in statutes. The decisions of the Federal High Court have proved the judiciary of Western Australia to be wanting in that respect. The Minister has not advanced a solitary argument in favour of the clause. The legal profession should not be granted a privilege that is withheld from every other section of the community. I hope the amendment will be carried. Taking the Minister's own argument, would he say that in the Works Department, the Mines Department, the Surveyor General's Department or the Education Department there are no officers to take the places of those who have recently been retired? Does he suggest that the Civil Service is so absolutely bankrupt of efficient officers that none can be found to replace those who have been retired? The Minister's reasoning is wrong, and his summary of the position has misled him in his outlook regarding the judiciary of the State.

Mr. SLEEMAN: The Minister has advanced no argument to influence me to oppose the amendment. It should be the same with judges as with other officers of the State. We do not say to heads of Government departments that they need not retire at 65 and that they may continue until they are 70 years of age. Such officers can be retired at 60, but are removed from office compulsorily at 65 years of age. The judges will not be thrown on the scrap heap if they are retired at 65, because they will be in receipt of good pensions. The Minister said there was no upward flow in the legal profession towards the judiciary, but I contend there is just as much upflow in the legal profession as there is in the various public departments. There are a number of lawyers capable of accepting judgeships. The Minister spoke of other States where the judges were retired at 70, and suggested we should follow their example. We are asked to do that when it suits us, but we are not asked to follow the example of other States that retire officers, for instance, at 65 years of age, and provide them with pensions.

Mr. McDONALD: I hope the amendment moved by the member for Perth will not be agreed to. The position with regard to judges and their occupation is not to be compared with that associated with any big department or big business. There are many men in the universities who are eminent figures at quite advanced ages, just as there are a number of men in English and Australian politics who, though far beyond 70 years of age, are leading figures, physically and intellectually.

Mr. Marshall: You will confess that they are rare.

Mr. McDONALD: I say that there may not be very many of them, but they are men who have particular gifts of physique and mentality. The Minister has justly said that the position of a judge is very exacting. It is hard to find people who possess all the qualifications that are required to fit them for such a position. There are comparatively few who fulfil all those qualifications and men who are selected for that high office are almost always men with gifts of physique and mental equipment that are a guarantee that they will be able to proceed with their task to the age of 70, rendering the best service to the State. It is the same in the universities. Men who occupy the highest positions possess special gifts and they remain in full possession of their powers and render most efficient service even beyond 70 years of age. I do not think that position can be compared with the services of men whose promotion to high offices in departments rests on seniority or term of service. They stand on a different basis altogether from that occupied by the few men who are picked to occupy high judicial office. The member for Yilgarn-Coolgardie spoke as usual in duplicate, one copy for Yilgarn and one for Coolgardie. He made reference to decisions of our judiciary and based his suggestion that they delivered wrong judgments upon the fact that some had been reversed by the High Court. His comment was very unfair, and was not borne out by facts. It was quite without foundation. For many years past our judiciary have held and still hold the confidence of the lawyers who practise before them, and they are in the best position to judge. As to the decisions of the Supreme Court being reversed, it must be remembered that only those cases in which there is a legitimate difference of opinion in the best legal minds go to the High Court, and it is futile to say that because decisions have been reversed by the High Court our Supreme Court judges are necessarily wrong, just as it would be to say that because High Court decisions are sometimes reversed by the Privy Council, therefore the judges of the High Court give wrong decisions.

Mr. Patrick: And even those judges are not always unanimous.

Mr. McDONALD: The Federal High Court judges are almost notorious for their differences of opinion. Very frequently judgments are issued with three judges on one side and two on the other. The bench are not unanimous, not because the judges are not men of highest ability, integrity and knowledge, but because the cases that come before them are those in which a genuine difference of opinion has arisen in the minds of men of the highest legal ability and intelligence.

Mr. Styants: That explanation would not fit the Burrows case.

Mr. McDONALD: I will not discuss that.

Mr. Styants: It is difficult to get round.

Mr. McDONALD: I will not discuss it because I do not know much about it. It must be remembered, however, that the High Court consists of people who have never sat in ordinary courts of criminal

justice except, I believe, one judge who acted for a little while. It is quite different months after a case has been heard, arguments have been presented, and the decision reserved for weeks before coming to a conclusion, and the position that arises in a criminal court where the judge presides at the trial, where a jury is present, new facts are brought to light, new situations arise, and judgments have to be arrived at on the spur of the moment. It surprises me that in the conduct of trials, especially in the criminal court, our judges are able to arrive at sound decisions so quickly, without being allowed time for consideration. We should bear those facts in mind, without indulging in remarks that are based on no foundation and that I regard as mischievous. I hope that we will not take such a pessimistic view as the member for East Perth regarding the years that are left in which judges can render their best service. We would be very unwise to accept the amendment proposed by the member for Perth. I did not suggest that judges should be retained for any length of time after the retiring age. I said that they might be available, as they are in England, on the request of the Attorney General or the Minister for Justice, for specifically named sittings in the case of pressure of work on the other judges, when their services would be of great assistance.

Mr. MARSHALL: An aspect which most hon. members have overlooked is that we are living in an age of young men. Over 25 or 30 years ago the then Government, although it respected, putting it crudely, whiskers as being wisdom, sought to retire all its servants at 65. That was the viewpoint taken by those who lived in an old men's age.

Hon. C. G. Latham: A Labour Government did it.

Mr. MARSHALL: I am talking about the Civil Service Act.

Hon. C. G. Latham: I am talking about the Civil Service Act, too.

Mr. MARSHALL: Well, it was a composite Government and not actually a Labour Government. The point is that in that age, when it was considered that unless a man was 60 or over he was too inexperienced to hold a high position in any station of life, legislation was passed to retire men at 65, while we, in this advanced age of young men, are extending the period by five years. The action is inconsistent with our own beliefs. Only a few years ago, if anyone suggested that a young man should stand for Parliament, he would have been laughed at by the electors, but to-day it is desired to get the youngest possible men who show any sign of promise. The Minister said there was an upward flow in the Civil Service, especially for the high positions, which does not appear to the same degree in regard to the judicial positions the State has to offer. But what encouragement do we give to young men to give the necessary time and study to qualify for those high positions? Almost invariably when we make an appointment we appoint a man who has practically outlived his usefulness. We have not appointed a man to a judgeship under the age of 45 years. I suggest that a man has arrived at his zenith and is beginning to decline at that age. He may hold his mental status and his physical capacity for a considerable time afterwards, but he is not going to improve. I understand that young men between 20 and 25 were called to the Bar recently. They have already had the best part of 10 years' experience, theoretically or practically, with lawyers, so they can have 10 years more in practice and still be young men and qualified at 35 to take on a judicial position. But we would not appoint them because they are too young, notwithstanding that we live in an age when we say that youth shall predominate. Bearing in mind that the judges retire on a pension—if it were not for the pension one might excuse the introduction of the Bill—instead of encouraging the old idea that old age is the only possible virtue necessary to enable one to hold a high position, we should be encouraging younger people to qualify for those positions. We cannot do that if we are going to introduce legislation of this character. I therefore support the amendment.

The MINISTER FOR JUSTICE: It should be remembered that there is no provision at all at the present time for a retiring age, and the Bill proposes to make a start in that direction. Those members who talk so much about consistency have to justify it. Not one of them has questioned the wisdom of retiring public servants at 65, but in the interests of consistency they say we should continue it in this measure and provide for the retirement of judges at 65. All I have to do is to justify the age of 70,

as fixed in the Bill. Reference has been made to the fact that judges retire on a pension. That is a concession the State makes to them in order to attract those who are best qualified to take up the position. One member said I had suggested there was no one fit to take the place of the Director of Public Works or of the Director of Education. I said nothing of the kind; on the contrary, I said there were plenty to step into their places. The member for Fremantle asked who wants to be Engineer-in-Chief. I say that every engineer wants to be the Engineer-in-Chief, but not every member of the legal profession wants to be a judge. Many highly-qualified members of that profession can earn much more in their private capacity than would be paid to them if they accepted positions on the judiciary.

Mr. Styants: Retiring a judge at 65 would make the position still more attractive, for the judge would then get his pension five years earlier.

Mr. Hughes: How many legal practitioners have refused a judgeship in this State?

The MINISTER FOR JUSTICE: I cannot say, but they do not all apply for such a position. It is for other members to justify the retiring of persons at 65.

Mr. Needham: No, it is for you to do that since it is the policy of the Government.

The MINISTER FOR JUSTICE: No, I am here to-night to justify the age of 70 as the retiring age.

Mr. Hughes: We are asking you to justify theoretically what you actually do in practice.

The MINISTER FOR JUSTICE: That is why there is so much disputation on the question. It is not possible to bring forward conclusive proof that the age selected is the proper age. There has been disputation over it in Victoria, where the age agreed upon was 72.

Mr. Hughes: But what you have brought down is of course what you think is right.

The MINISTER FOR JUSTICE: And that is what I am here to justify.

The CHAIRMAN: Order! The hon. member will address the Chair, not the member for East Perth.

The MINISTER FOR JUSTICE: I was not addressing him, I was addressing the member for Subiaco.

Mr. SLEEMAN: I find it easy to justify the retiring of public servants at 65 because my conscience tells me that 65 is a reasonable age at which to stop work, provided the men are cared for when they do retire. I am afraid that Cabinet have not seen to that. They justify a retiring age of 65 without any pension. I am satisfied that officers should be retired at 65, but only provided there is a pension for them. The Minister said that every engineer wants to be an engineer-in-chief, but that not every legal practitioner wants to be a judge. I think there are as many of the one who want to be judges as there are of the other who want to be engineers-in-chief.

Hon. C. G. Latham: But probably those who want to be judges are quite unsuitable for the position.

Mr. SLEEMAN: That is a hard thing to say.

Hon. C. G. Latham: I said all those anxious to be judges might be unsuitable.

Mr. SLEEMAN: And quite a lot might desire to become judges who are quite suitable. There are just as many able men in the legal profession as in any other profession, and I am satisfied there is an upflow that would give us suitable judges. Some men who accept appointments to the Supreme Court bench seek the high and honourable position and are prepared to make some sacrifice of money. Sixty-five is a fair age, and if they are not prepared to retire at that age, they should not accept the appointment. If it is right to retire civil servants at 65, it is equally right to retire judges at the same age. That is a fair age, so long as provision is made for them on their retirement, and judges are well provided for. I support the amendment.

Mr. MARSHALL: The Minister challenged members to justify 65 as the retiring age for judges. I thought we had proved conclusively that 65 was a fair and proper age. At one stage I said that a man commenced to decline after 45. The Minister's own words proved to me that 65 should be the limit when he stated that some men declined before they reached 70. He would retain their services although some of them show signs of decline before reaching 70. That justifies my supporting the amendment.

The Minister for Justice: Why 65? You said 45 just now.

Mr. MARSHALL: The Minister sends men out of the service he controls at the age of 65.

Mr. Lambert: For years hardly anyone has been retained after 65.

Mr. MARSHALL: The Minister has not the slightest compunction in retiring civil servants at 65, and they have to leave without any provision being made for them. Some of those men have young children.

Mr. Hughes: That is not a sign of declining powers.

Mr. MARSHALL: We shall be on the safe side if we make the age 65.

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

Ayes	12
Noes	23
Majority against ..	11

Ayes.	
Mr. Fox	Mr. Rodoreda
Mr. Hegney	Mr. Sleeman
Mr. Hughes	Mr. Styants
Mr. Lambert	Mr. Tonkin
Mr. Marshall	Mr. Withers
Mr. Needham	Mr. Raphael
	(Teller.)

Noes.	
Mr. Boyle	Mr. Munsie
Mrs. Cardell-Oliver	Mr. North
Mr. Coverley	Mr. Nulsen
Mr. Doust	Mr. Patrick
Mr. Ferguson	Mr. F. C. L. Smith
Mr. Hawke	Mr. Troy
Mr. Hill	Mr. Warner
Miss Holman	Mr. Watts
Mr. Johnson	Mr. Welsh
Mr. Latham	Mr. Willcock
Mr. McDonald	Mr. Mann
Mr. Millington	*(Teller.)*

Amendment thus negatived.

Mr. SLEEMAN: Will the Minister explain the first proviso contained in this clause?

The MINISTER FOR JUSTICE: It means that a judge will continue in office until the trial upon which he is engaged has been completed.

Mr. SLEEMAN: A case may last for as long as six months. Would he stay in office until the end of that time?

Mr. Marshall: Keep him on till he is 80 or 90, if you like.

Clause put and passed.

Clause 4, Title—agreed to.

Bill reported without amendment, and the report adopted.

House adjourned at 10.43 p.m.

Legislative Council.

Wednesday, 27th October, 1937.

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

QUESTIONS (3)—MINE WORKERS' COMPENSATION.

Payments Due to a Widow.

Hon. C. G. ELLIOTT asked the Chief Secretary: If a mine worker who has drawn £300 compensation at the rate of £3 10s. per week, under the Third Schedule of the Workers' Compensation Act, dies—1, Is his widow entitled to draw the same weekly compensation of £3 10s. per week until the full amount of compensation allowed, £750, becomes exhausted? 2, Or is the widow entitled to the balance of compensation, viz., £450, less interest, by virtue of a lump sum settlement? 3, After receiving such a lump sum settlement, is the widow entitled to a weekly payment from the Mine Workers' Relief Fund, and if so, what amount?

The CHIEF SECRETARY replied: 1 and 2, The widow is entitled to the difference between the amount the worker has already received and £600, which is the maximum amount payable under the Workers' Compensation Act in the case of death. As to how the amount is to be paid is left to the decision of the magistrate. 3, If the widow received a lump sum settlement she would then be entitled to receive the following benefits from the Mine Workers' Relief Fund:—If under 60 years of age, £1 10s. per week until re-marriage; if 60 years of