*Further Report*

Bill again reported, with a further amendment, and the report adopted.

**PYRAMID SALES SCHEMES BILL**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by The Hon. J. Dolan (Leader of the House), read a first time.

*House adjourned at 6.22 p.m.*

# Legislative Assembly

Thursday, the 29th November, 1973

The SPEAKER (Mr. Norton) took the Chair at 11.00 a.m., and read prayers.

**ANNUAL LEAVE BILL**

*Introduction and First Reading*

Bill introduced, on motion by Mr. Harman (Minister for Labour), and read a first time.

**DEATH DUTY ASSESSMENT BILL**

*Third Reading*

**MR. T. D. EVANS** (Kalgoorlie—Assistant to the Treasurer) [11.03 a.m.]: I move—

That the Bill be now read a third time.

**MR. R. L. YOUNG** (Wembley) [11.04 a.m.]: This Bill has been subjected to a very long debate and one which, for most members not connected with this type of legislation, was probably tedious.

Mr. T. D. Evans: Would you agree it has not been hastily rushed through this House?

Mr. R. L. YOUNG: I agree with that. The Bill covers an area which is so important to the people of the State that several years ago they elected a man to the Senate purely on the basis that he was standing for reform in this area.

When one is confronted with a technical Bill it is rather hard to work up enthusiasm, and I suppose it is rather hard for the Press to work up much enthusiasm for what goes on in this place in relation to a Bill of this nature. However, with due respect to the Press, I am afraid that the public will not be as aware of the fact that death duty amendments are before this Parliament as they would have been in the days when Senator Negus was elected to the Senate purely on this basis. I do not know whether people think this issue has now passed away with time and is of no great consequence, or whether it is because so many States have said they intend to do something about it.

I do know that this morning I received a letter from Senator Negus, and he pointed out a number of things about death duty legislation. For instance, in New South Wales the flat concessional deduction is in the vicinity of $50,000. I was not aware of that. This Bill proposes to increase the concessional deduction for a wife from what we thought at the time was a reasonable amount of $10,000, to $20,000. The deductions for children are also to be increased. As I pointed out to the Assistant to the Treasurer, that is good. However, I believe we could strongly describe the Bill as too late, and to some extent, too little.

When I use the term "too late" I want to point out—and the public should be made absolutely aware of this—that the adjustment of death duty was one of the policies upon which the present Government was elected. So often we hear the claim that the Government has the mandate to do anything set out in its policy speech. If we follow that philosophy, we must agree also that the Government has an obligation to do everything in its policy speech.

If we look at this Bill which is before us in the last few days of this particular Parliament, we see that it will come into effect on the 1st January, 1974. The first estates assessed under this legislation will be lodged for probate on or around the 1st July, 1974. So the Government has run its entire term, and it now wishes us to pass legislation which will not have cost it one cent if it does not remain in office after the next election. So the burden of its promise to the electorate prior to the last election will be borne by the incoming Government, of whatever particular colour it may be. It is not a bad lurk to introduce reforms like this when one may not have to pay for them. That is why the Bill is too late.

It is too little in some respects because some of the advantages given by the legislation will be taken away in certain circumstances by other provisions which I discussed in detail during the second reading and Committee stages of the Bill. Because those principles were espoused at such length on those occasions, I do not intend to go into them again. I do say that it is time Governments started to look at their absolute obligation to recognise they cannot have it both ways. They cannot continue to feed inflation and to feed on inflation by not amending income tax rates and death duty rates. As inflation proceeds, people are paying a higher proportion of the amount they earn in tax, and a higher proportion of the amount they leave in death duties. We cannot have it both ways—we cannot continue to tax people during their lifetime based on inflated incomes, and then turn around when they are dead and tax their estates at inflated values as well.

Governments must recognise that they cannot have it both ways. Governments create inflation by allowing it to continue. In fact, many a Government's

Budget is based on the fact that inflation will allow it to meet its next year's expenditure.

The result of allowing inflation to cause higher taxation upon which the Government will base the following year's Budget is that the taxes so raised are simply used to create further inflation; and so we get the case of the dog chasing its tail. The central Government of the day in Canberra —whether it be the Liberal-Country Party coalition of the past 23 years, or the much more accelerated inflator of the last year—is the Government which is creating inflation. This sort of legislation does not help the man in the street one little bit, unless the rates are constantly reviewed.

Another aspect which Governments must recognise is that there are certain assets left in a person's estate that do not necessarily make him a wealthy man. It may be said, and I think it is probably true, that over the years the farming community itself has been to blame for the inflated value of farming properties because on many occasions too much has been offered for properties which were not of the value of the amount offered. But notwithstanding that, the plain fact of the matter is that these properties are considered to be quite valuable, and yet they do not produce as a return to the farmer anywhere near the amount per annum that a similar capital investment in another area would be expected to return.

So when a farmer dies he leaves a piece of property that cannot be split up and sold to pay his taxes. An area cannot be cut off and sold. If it is a properly viable farm that is agronomically planned to produce the greatest amount of produce with the least amount of investment, his beneficiaries cannot simply carve off a paddock and sell it to pay the death duty. Nor can the beneficiaries of a manufacturer who has a properly orientated and well planned workshop with the right amount of plant, machinery, and buildings, which are all geared to produce at a certain level, sell part of those assets to pay death duty. Such a man has been taxed almost out of existence during his lifetime, yet when he dies on some occasions the only way the death duty based on those assets can be paid is by selling some of them.

What appears to have a tremendous monetary value does not always have a monetary value at all. I do not know how this can be overcome; I am not suggesting to the Assistant to the Treasurer that I know the answer.

Mr. T. D. Evans: But there is provision in the Bill for the commissioner to defer or postpone.

Mr. R. L. YOUNG: Yes, and in fact he does do that. He has done it quite fairly over the years under different Governments. I would say probably he has done it under instruction.

Mr. T. D. Evans: He did it in one case quoted by the member for Mt. Lawley.

Mr. R. L. YOUNG: That is right. I would say that he does defer duty on estates under instruction from the Government of the day. But welcome though that may be, it is not the point. The point is that the obligation to pay tax on certain assets should be removed. I am not saying that it should not be removed on an across-the-board basis for people who are ordinary wage and salary earners, but I do say that consideration must be given to the man who cannot split up his assets. He should not have an obligation hanging over his head notwithstanding the fact that the commissioner may be very generous in the way he administers the legislation.

So we have two vital areas of taxing legislation that we must consider. The first is that the Government cannot irresponsibly continue to feed inflation by relying upon inflation, combined with rates of tax, to earn enough money for next year's Budget. The second is that we must give serious consideration to the affairs of people whose estates may appear to have considerable monetary value, when in fact they have no more immediate liquid resource value than the estates of other people in the community. In many instances, probably they have even less. So with those words I will leave the third reading of the Bill. I do not think we can say that we are happy with the drafting of the measure, but we certainly would not like to see the Bill go through without the concession deductions included in it.

Mr. T. D. Evans: When you say you are not happy with the drafting of the Bill you do not mean to say that you are unhappy with all of its provisions?

Mr. R. L. YOUNG: I have referred throughout all the debates on the Bill to the way the measure has been drafted, but I do not intend to enter into any argument as to whether it was drafted deliberately in the manner it has been or whether there were mistakes in the drafting in some respects. I can only say that I do not think some of the provisions are intended to be used in the way they have been drafted, and I would not like to see the Bill go through the Parliament of this State without the concessional deductions being provided, and we certainly welcome the proposal to speed up the administrative process. Also, the Assistant to the Treasurer did accept some of the amendments that were moved, for which I am eternally grateful, but I still consider that some of the provisions in the Bill need further amendment.

**SIR CHARLES COURT** (Nedlands—Leader of the Opposition) [11.16 a.m.]: I rise to speak briefly on two points: firstly to commend the member for Wembley for the way he has handled the Bill on behalf of the Opposition. In measures that are technically difficult it is not always easy for a member on either side of the Chamber to spend time and energy studying, with the necessary knowledge, the legislation before us with meaningful purpose and the Parliament is the poorer if the Legislature does not look closely at whatever legislation is presented to it.

I know it can be irksome for Ministers and departmental officers who believe that once they have devised a Bill and have put it forward and had it accepted by Cabinet it then becomes Holy Writ. However, it is the task of Parliament to look closely at all legislation and I hope it long continues.

I consider the member for Wembley has handled this measure expertly. He has the advantage of some professional and practical knowledge of the subject. Members of the Country Party and the Liberal Party, and in fact all members of the Opposition, have had a special interest in wanting to see that a degree of equity is preserved and that in the attempt to close up so-called loopholes anomalies and unfairness are not generated as a result.

So I thank the member for Wembley so far as the members on this side of the Chamber are concerned for the contribution he has made to the debates on this Bill.

The other point I wish to make is that I believe, even at this late stage, in the light of the informed discussion that has taken place in the Chamber, the Government should again look at the matter closely before the debate ensues in another place. The Government has the advantage of views that have been expressed by those in this Chamber, and the views expressed publicly by various organisations and individuals. Regardless of whether the Government agrees with those views it should at least examine them because it will find there is some basic truth and logic in what has been expressed for important social and economic reasons.

One of the great problems that besets the nation at the moment is the fact that we are part of an international scene where there is an ever-increasing demand for food, fibre, minerals, and metals. In almost every case food, fibre, minerals, and metals are produced in a risk environment. They are produced in industries where those concerned are confronted with climatic conditions that are unpredictable or market conditions that are unpredictable or where it is found that both economic and climatic conditions are unpredictable.

It has been acknowledged in Australia, in a very sensible way, that cognisance has to be taken of these risk factors. So far as primary industry is concerned a sound structure has been developed in many fields, particularly in the field of income tax, which acknowledges these risks and unpredictable factors, such as the elements and the market scene.

I think of all these factors the elements are the worst. In respect of fire, flood, famine, disease within crops and animals, and the like, no-one—irrespective of how clever he might be—can legislate effectively against these setbacks.

However, we can introduce statutory provisions in the taxing machine which, to some extent but not completely, do insulate the industry against some of these natural disasters. Superimposed on top of these natural disasters is the unpredictable situation in respect of world markets.

I believe we are moving into an era when it will be possible to be more precise about the economic predictions. There will always be variations, but we can be more precise about them, and to some extent we can temper or cushion their worst impact.

It is in this atmosphere that I want to comment on the Bill and to ask the Government, even at this late stage, to have another look at it, even though the Government might have an inbuilt suspicion and an inbuilt antagonism to some elements in the community who have estates.

Mr. T. D. Evans: There is no antagonism at all.

Sir CHARLES COURT: I shall not agrue about that aspect. Some of the things which the Assistant to the Treasurer and his colleagues have said indicate there is deep-down resentment. Whether, in fact, they have or have not such resentment, there is a section of the community that needs special consideration.

It is traditional for such special consideration to be given in Australia and in other countries of the world. In Australia, more by practical politics than by science at the departmental level, we have devised a system which allows the farming community and the mining community to obtain certain inbuilt concessions, incentives, understandings—or call them what one likes—and these encourage production in risk areas of investment, and in physical risk areas so far as geography is concerned.

The last Federal Budget took away a great slice of these concessions in one fell swoop; and the Australian public, the Australian nation, and the Australian economy will be paying very dearly for this. At the same time, coincidental to this, the State Government has introduced a Bill in our Parliament which has exactly the same effect so far as the rural sector is concerned.

There are some people in our community who, when they die, leave estates which could be large or small; but their estates are of such a nature that if a part of them is sold there is no great catastrophe. I have known of some estates in respect of which the selling of a few shares did not bring about a great disaster. That reduced the wealth and the income of the beneficiaries, but no-one really suffered; no-one went without food, and a particular business or farm was not placed in jeopardy.

However, there are other people who, because of the nature of their enterprise, have a total asset which cannot be dismembered in any way.

Mr. T. D. Evans: The Bill covers that aspect by making provision for the commissioner to apply his discretion to defer payment.

Sir CHARLES COURT: This might sound nice.

Mr. T. D. Evans: It has been applied.

Sir CHARLES COURT: I am aware it has been applied, but there are many cases where this is not the answer. Even deferment of payment for five years does not solve the problem in some cases. At a time when we are very anxious to retain productivity, and when we are trying to give incentives for greater production of basic essentials—I refer to food, fibres, minerals, and metals—we have to be very careful that we do not build into the legislation certain provisions which make it impossible for expansion in the production of these things to take place.

Mr. T. D. Evans: We are only bringing a provision which appears in the Administration Act into the legislation before us. That provision was in the Administration Act at the time your Government was administering that Act.

Sir CHARLES COURT: The Government is not doing that at all. The Minister should listen for a minute. I am asking him to examine the Bill again before it is transmitted to another place. If the Government does not want to do anything about the bigger estates I shall not argue at the moment against its proposals; and if it does not care to do anything to prevent the partial dismemberment of estates where great harm is not caused, likewise I shall not argue against its proposal at this stage.

However, what I am concerned about are the people who operate and own basic industries which are vital to the economy of our country and to our productive capacity, and who need incentives because of the peculiar nature of their enterprises.

To be specific, let us get down to the case of the family farm, the whole of which has been made a part of the family arrangement. Let us consider also a small family business, or rather a moderate-sized family business, because a small one would be exempt anyway. This moderate-sized family business is part of an arrangement to keep the business intact; then, all of a sudden death intervenes and both those cases are classic examples of how a business cannot be dismembered without its being completely destroyed. A person cannot sell a back paddock and still have a viable farm, or sell a shed and still have a viable engineering business.

If the Government wants to close the so-called loopholes, it would not be beyond its ability to include provisions such as those which were suggested very effectively by the member for Wembley. These would deal with the particular case. It could be done by giving the Treasurer some discretionary power or by making some statutory provision which is quite specific. I prefer the specific provision because it would be a very difficult decision for a Treasurer to make in a particular instance. He could be faced with a complication regarding assets which, if realised, would not matter, or it could be a farm which, if dismembered in any way, would lead to tragedy. To arbitrate in a case like that would be a tough job for the Treasurer. However, it would not be beyond the wit of the draftsman to devise a scheme under which an appropriate body would be authorised to deliberate in order to take the burden from the Treasurer and his officers. The body so authorised could decide whether or not a particular case warranted exemption from the provision.

There was a Federal Treasurer of the Labor ilk who was a very wise man. He was not regarded as an academic economist, but he was always given great credit for having a sense of judgment and good common sense in dealing with economic matters.

Mr. T. D. Evans: You are talking of Ben Chifley, of course.

Sir CHARLES COURT: I suggest that that Federal Treasurer had a philosophy which the Assistant to the Treasurer could quite easily adopt to his advantage. The philosophy was this: When framing taxing laws it is not a bad idea to have a little hole in the corner where the mice can get through, because if such a hole is provided the Government of the day, and, for that matter, the community and the profession, know the situation. It is much better for the Treasurer of the day to understand the various techniques and devices which can be used quite openly and lawfully so that the Government will at least have a good idea of what is going on. I can tell the Assistant to the Treasurer this: The moment he closes the little hole in the corner where the mice get through, the rats will make a big one somewhere else and it will never be found.

It may seem a bit odd for things like this to be said in Parliament, but this is the type of practical thing which should

be said because it can guide Governments to be good Governments instead of just machines which try to interpret to the letter of the law without really knowing what is being put over them and what is being effectively accomplished.

Mr. Jamieson: I hope you are not trying to make the present Government a good one.

Sir CHARLES COURT: I would not pass judgment on the present Government, either State or Federal. We are not here to do that on this Bill. I am making a suggestion and request to the Assistant to the Treasurer, in view of the practical discussion which has ensued on this Bill. For instance, the member for Avon gave us a practical example of what can happen. It is not pleasant to present personal cases in Parliament to demonstrate the practicalities of a situation, but facts about someone's personal experience are much better than all the theory of a practitioner. It is much better when someone presents his personal case and thus demonstrates his sincerity of purpose.

What the member for Avon told us helped considerably and I would like to think the Government will take the opportunity to reconsider this matter very carefully, not in a stubborn manner. Even at this late stage, although the Government might insist on the machinery it introduced to close the loopholes, it may also insert provisions which will exempt the genuine case of a family business or farm the viability of which would be completely destroyed if it were dismembered in whole or in part.

My argument comes under two headings. First of all there is the question of the anomaly, inequity, and unfairness which will occur as a result of the Government's desire to close up loopholes, and I come back to the case I quoted earlier; that is, that it is not a bad idea to have a little hole in the corner where we know the mice go through and consequently we know what they take with them. Secondly, the Bill will result in another disincentive which I believe will have repercussions far wider than the Government realises.

The Commonwealth Government was advised by people who did not have a practical approach to the matter. It accepted advice which destroyed the greatest tax incentives available to farming, mining, and metal-making processes; in fact, all forms of processing.

Now that the Bill has been so widely canvassed I hope the Government will look at these alternatives because we are not talking about people who have shares, or that type of asset, or even about the people with the ordinary type of property asset. We are talking about people with a total asset such as a farm, a station, or a business and it is impossible to realise on part of that type of asset without dismembering or completely destroying the whole of the asset and the family undertaking.

MR. T. D. EVANS (Kalgoorlie—Assistant to the Treasurer) [11.31 a.m.]: I note the comments of both members who have contributed to the third reading debate, and I make the point that it is an inherent part and an essential ingredient of any taxation measure—particularly of this type—that it shall contain processes whereby the person who administers the Act—that is, the head of the department, in this case the commissioner and his officers—will act with equity between all taxpayers. It is inherent in any form of assessment measure that this shall be so, and in this Bill it is so.

Indeed, we are very fortunate that while the present law—the Administration Act—contains this type of direction requiring the commissioner to act with equity, we are also fortunate in having a man such as Mr. Ewing—and his staff—who acts with compassion. Be that as it may: The law already provides for equity.

I have no objection to an examination of the comments made by the Leader of the Opposition. However, I will make the point—and I do not want to be accused of casting a threat in the direction of the Legislative Council—which I have made many times during the second reading debate, that this measure has two important functions. Firstly, it will extend concessions right across the board; and, secondly, it endeavours—and I use that word deliberately—to bring about a situation where greater equity is available for all taxpayers; that is, those who pay death duty levied on assets. The aim of the measure is to provide greater opportunity for all to avail themselves of the provisions of the Act. It is the intention of the Government that these two functions should be preserved in the Bill.

I make the point—and I would be the first one to admit it—that I think the Bill as it leaves this Legislative Assembly is a better measure than the one which was introduced. I make that point and I believe that is the position as it should be.

As a result of debate which occurred on the Bill the Government took note of the points which were raised and without compromising its principles it saw the need to endeavour to meet—if not all—some of the wishes of the Opposition. As I said, I think the Bill is better as it leaves this Chamber than it was when it came in.

I have no objection to noting the comments of the Leader of the Opposition, not necessarily before the measure goes to the other House. Nevertheless, his comments can be considered and, if necessary, they can be acted upon while the measure is debated in the other place. However, I do make the point that the Government

does not intend to accept any fundamental changes to the broad principles I have outlined. If there is a fundamental change, then the Government would have to consider whether it would proceed with the Bill.

Question put and passed.

Bill read a third time and transmitted to the Council.

## DEATH DUTY BILL

*Third Reading*

**MR. T. D. EVANS** (Kalgoorlie—Assistant to the Treasurer) [11.36 a.m.]: I move—

That the Bill be now read a third time.

**MR. R. L. YOUNG** (Wembley) [11.37 a.m.]: Of course, this measure is linked to the other one which has just been passed by this House. I pointed out during my second reading speech, and also in debate in Committee that, by virtue of the fact that succession duty no longer existed under this taxing measure, certain benefits which people previously had enjoyed would disappear.

The Assistant to the Treasurer claimed that unless succession duty disappeared under the provisions of these two pieces of legislation, and unless certain other provisions were included in the legislation, then people whose estates were less than $15,000 would still be paying succession duty. The Minister said that they would be free of this under the particular taxing measure.

I put it to the Assistant to the Treasurer that it would be extremely simple to overcome that. All that would need to be done would be to write into one of these pieces of legislation, in an appropriate place, that no succession duty would be payable on any estate left by a person if that estate did not exceed $15,000. This is my answer to the claim made by the Minister during debate that the removal of succession duty will be of great benefit to certain people. I put it to the Minister that those people could easily be protected in another way.

Apart from removing succession duty, the only effect of this measure will be to write back in the rates of death duty which are already written into the previous legislation. I pointed out how this can, in fact, cause tremendous harm to people; namely, by continuing to leave the rates the same as they are on a graduated increasing scale while the value of all property is continuing to rise.

Obviously the day will come, as I have said, when Governments will have to revise their rates of taxation almost every year to make sure that those rates are kept honest. I say that any Government, regardless of its particular colour, will need to do this.

Unless the Government revises its rates of tax every year to have regard for the inflationary trend, it will be financing its operations purely out of nonproduced income—out of inflation itself. This is a bad thing for the country. It has been a bad thing for nearly 30 years on the Federal scene and it will become a bad thing on the State scene if Governments do not recognise this extremely important principle. That is all I have to say on the third reading.

Question put and passed.

Bill read a third time and transmitted to the Council.

## CRIMINAL CODE AMENDMENT BILL

*Second Reading*

**MR. T. D. EVANS** (Kalgoorlie—Attorney-General) [11.41 a.m.]: I move—

That the Bill be now read a second time.

Until comparatively recent times sexual topics were avoided in polite conversation. Young people were carefully shielded from too early an awareness of what was considered to be the more unpleasant side of life.

To the benefit of all, opinions have changed and, because of a realistic attitude towards human make-up and behaviour, with all the frailties, the community is now willing to confront that side of life which was previously shunned. Works on hitherto taboo subjects, such as marital adjustment and birth control, now circulate freely.

However, although lip service is paid to the ideal of an open attitude to sex, all too often prudery and obscurantism linger on, especially in relation to homosexuality. Attitudes of ignorance on this topic still abound, ranging from almost dread, through abhorrence and contempt, to an amused and prurient fascination.

Mr. O'Neil: You forgot the disgust of the Premier.

Mr. T. D. EVANS: The British Government's action in 1954 in setting up the departmental (Wolfenden) committee to look into English law on homosexuality and prostitution did much to break the long silence on these matters and brought serious social and psychological questions out of the atmosphere of derision into the arena of rational scrutiny.

Although strongly held opinions abound, incontrovertible facts about homosexuality and its possible causes are difficult to obtain. Serious medical and sociological investigations into this subject are comparatively few considering the importance of the questions in human terms. A recent memorandum of the Australian and New Zealand College of Psychiatrists strongly condemned community attitudes and laws which discriminate against homosexual behaviour between consenting adults in private.

It is the human issues which overwhelmingly justify the submission of this Bill to Parliament. Homosexuals are human beings whose sexual preference differs from that of heterosexuals. Rather than pretending they do not exist, or hoping to eradicate them by sheer weight of disapproval, it would be more realistic to find room for them in society, so that they can live unmolested and make their contribution to the common good. This desirable aim is inhibited by the existing law which condemns as criminals adult consenting males who act in private. Homosexuals acting within this context harm society in no way.

The point can be made, quite validly I believe, that experience shows that attempts to combat homosexuality by legal and social discrimination tend to exaggerate the very troubles they set out to combat. The frustration and social alienation of a minority—some say a substantial minority—of citizens is a high price to pay to preserve laws which quite obviously fail to control the conduct against which they are directed.

Some opponents of the policy of tolerance argue that to permit deviant practices would be to open the floodgates to a great upsurge of immorality, which would endanger family life. Such fears are grossly exaggerated. No such outcome has been experienced in Holland or in other countries that have long exercised legal tolerance.

An unanswerable argument against tolerance is the religious one; namely, that such acts should not be allowed because they are against God's will. The use of criminal law to enforce a religious dogma would be deprecated by most people, but the fact is that some church organisations have endorsed the Wolfenden report that homosexual behaviour between two consenting adults in private should no longer be a criminal offence.

Only this morning, *The West Australian* carried a news item stating that an education committee of the World Council of Churches in one of the Eastern States had called upon the Government of the State concerned to amend the laws along the lines contained in this measure. Press reports that the Government of this State proposed to introduce this legislation prompted the Director of the Department of Christian Citizenship to advise the Premier that the Methodist Church in Western Australia supported the Government's move. A recently held annual conference of the church reaffirmed the following resolution—

> That the State Government be urged to repeal those sections of the Criminal Code dealing with homosexual acts between consenting adult males.

I am sure that most people are aware of the vulnerability of male homosexuals to bashings, blackmail, and more subtle means of ill-treatment. Too few, I am certain, really appreciate the other agonies suffered by these members of our society.

Many sexual deviants suffer from neurotic guilt feelings; and as conversion to heterosexuality, as a result of treatment, is not highly successful, any alleviation of this source of distress by other means is a desirable end in itself. Relief from neurotic guilt not only relieves their suffering but makes them more effective members of the community. Homosexuals —especially male homosexuals—cannot be completely reassured because, whether rightly or wrongly, they are, in fact, the butt of much ill-feeling.

Legislation such as is now proposed, removing as it does any stigma attaching to their private acts, will assist homosexuals to gain confidence in themselves and in their dealings with others, and to lose many of their fear-inspired attitudes.

I have referred to treatment of homosexuals, and let me say that one must be wary not to adopt an attitude that all homosexuals should receive treatment. Indeed, to advocate attempts to change sexual orientation in established cases would be to disregard completely the questionable ethics of using psychiatric skills to tear to pieces a person's adjustment to life unless a new and better readjustment is assured.

This is an area for the highly-skilled psychiatrist only, but mention is made of treatment as I wish to direct my remarks to those who see merit in treatment through imprisonment.

For centuries there have been attempts by primitive means to stamp out all forms of homosexual expression. Such ferocious methods as ostracism, torture, and execution have been no more effective than when similar methods were applied to fornicators and their types. They may intimidate some people into enforced continence while incarcerated, but they do not change homosexual potentialities. The shame and frustration provoked by too harsh an approach may lead to still worse disturbances.

The repressions and mental conflicts so provoked may turn the individual into a social nuisance and misfit.

Treatment through imprisonment is not worthy, in my view and in the view of the Government, of serious consideration. A man submerged in prison routine and cut off from all feminine company is under the worst possible conditions for receiving treatment. Incarceration in a sometimes overcrowded prison serves only to encourage his homosexual practices.

Dr. Stanley-Jones, writing in *The Lancet*, said imprisonment is as futile from the point of view of treatment as to hope to rehabilitate a chronic alcoholic by giving him occupational therapy in a brewery.

Mr. Hartrey: Hear, hear!

Mr. T. D. EVANS: Having spoken on the futility of imprisonment in the treatment of homosexuals, I would at this stage reiterate that this Bill proposes that neither homosexual acts nor heterosexual sodomy between consenting adults in private will be a criminal offence.

There is no suggestion that the law shall be changed in respect of nuisance offenders who importune around lavatories, or seek the company of young persons for sexual purposes.

The law remains as it is, except in one respect that a new offence is to be created and written into the criminal law.

Although the penalty of imprisonment carries the disadvantages mentioned, there is no other realistic alternative to dealing with persistent offenders of this kind, especially as psychiatric clinics so often find such persons untreatable and uncooperative.

Nor is it intended that the activities of persons who procure others for the purposes of male prostitution should be legalised. That is not intended at all. The Bill provides that where two persons engage in a homosexual act that has been procured by a third person, that third person still commits an offence even if the act procured was legal; that is, an act between consenting adult males in private. A person procuring such an act will be guilty of an offence.

In accepting that homosexual acts between consenting adults in private should not be subject to the criminal law, the Parliament—if it accepts this measure—will remove a source of discrimination, harassment, and mental anguish from the lives of a section of our society.

I conclude with this thought: tolerance towards homosexuals is not the same as encouragement. It goes without saying that I commend the Bill to the House.

Mr. O'Neil: Before you sit down, is this a Government Bill?

Mr. Stephens: Is it up to date?

Mr. O'Neil: The Minister did not answer my question.

Mr. T. D. EVANS: Of course it is a Government Bill.

Mr. O'Neil: All members of the Labor Party regimented!

The SPEAKER: Order!

Debate adjourned, on motion by Dr. Dadour.

## AUCTION SALES BILL

*Council's Amendments*

Amendments made by the Council now considered.

*In Committee*

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

The amendments made by the Council were as follows—

No. 1.

Clause 2, page 2, lines 1 and 2—Delete all words in the clause and substitute the following—

> This Act or any provisions of the Act shall come into operation on a date or dates to be fixed by proclamation.

No. 2.

Clause 20, page 19, lines 13 to 16—Delete paragraph (a).

No. 3.

Clause 24, page 22, line 13—Insert after the word "who" the word "knowingly".

No. 4.

Clause 24, page 22, line 24—Insert after the word "false" the words "or misleading representation or".

No. 5.

Clause 24, page 22, line 26—Delete the word "true" and substitute the words "not false or misleading".

No. 6.

Clause 25, page 23, line 1—Delete the word "shall" and substitute the words "may be taken to".

No. 7.

Clause 25, page 23, line 33—Insert a new subclause to stand as subclause (4) as follows—

> (4) A sale shall not be a mock auction by virtue of paragraph (c) of subsection (2) of this section by reason of the seller providing without charge any or all of the following services—
>
> (a) food and refreshment for consumption during the course of the auction by persons attending the auction;
>
> (b) transport to and from the auction site for persons wishing to attend;
>
> (c) transport from the auction site of lots purchased;
>
> (d) catalogues.

No. 8.

Clause 27, page 26, line 3—Delete the word "demand" and substitute the following passage—"demand; or

> (c) an account from both the holder of the licence and the firm or corporation named in that licence if either the holder or that firm or corporation has

previously complied with the provisions of subsection (1) of this section".

No. 9.

Clause 30, page 29, line 15—Insert after the word "register" the words "for a period of three years".

No. 10.

Clause 30, page 29, line 17—Delete the words "three years" and substitute the words "twelve months".

No. 11.

Clause 30, page 29, line 30—Insert a new subclause to stand as subclause (4) as follows—

(4) A person appointed as an inspector for the purposes of the Stock Diseases (Regulations) Act 1968, shall not exercise, or be entitled to exercise, the powers conferred on him by subsection (3) of this section after the expiration of the day on which the sale is conducted.

No. 12.

Clause 30, page 29, lines 33 and 34—Delete paragraph (b).

No. 13.

Clause 30, page 29, line 35—Delete the word "such".

No. 14.

Clause 30, page 29, line 36—Insert after the word "corporation" the words "named in the licence of the licensee as that for the benefit of which the licence is to be used".

No. 15.

Clause 30, page 30, line 5—Delete the words "or its".

No. 16.

Clause 30, page 30, line 12—Delete the passage ", firm or corporation".

No. 17.

Clause 30, page 30, line 16—Delete the passage ", firm or corporation".

No. 18.

Clause 32, page 32, line 29—Delete the words "cattle or pigs" and substitute the word "livestock".

No. 19.

Clause 32, page 32, line 31—Delete the words "those cattle or pigs" and substitute the words "that livestock".

No. 20.

Clause 32, page 32, line 36—Delete the words "cattle or pigs" and substitute the word "livestock".

No. 21.

Clause 32, page 33, line 1—Delete the words "cattle or pigs" and substitute the word "livestock".

No. 22.

Clause 32, page 33, line 3—Delete the words "cattle or pigs" and substitute the word "livestock".

No. 23.

Clause 35, page 34—Add a new subclause (5) as follows—

(5) Where by reason of or arising out of any act or omission of the holder of a licence granted for the benefit of a firm or corporation that firm or corporation is charged with an offence under this Act, is required to show cause for the purposes of subsection (1) of section 22, or is required to satisfy the Court as to its fitness or repute upon any application for the grant or renewal of a licence it shall be an answer in any such case for the firm or corporation to show that—

(a) the act or omission complained of was committed or occurred without its knowledge and that it could not reasonably be expected to have known that any provision of this Act had been contravened or had not been complied with;

(b) the firm or corporation was not in a position to influence the conduct of the holder of the licence in relation to the act or omission; or

(c) the firm or corporation used all due diligence to prevent the commission or occurrence of such act or omission.

Mr. T. D. EVANS: I would like first of all to thank the Opposition for its co-operation in enabling us to consider this matter now. I have here a note from the Senior Assistant Parliamentary Counsel, and I believe this expresses the Government's view of the debate which took place in the Legislative Council. It says—

I refer to our conversation. I have had a discussion with Sergeant Primrose—

Sergeant Primrose was the police officer concerned with the inquiry into auctions, and particularly mock auctions. He took a particular interest in this legislation. To continue—

—regarding the amendment to the Auction Sales Bill introduced into the Council. I confirm with the exception of that introduced by Mr. Wordsworth that the text of the amendment has previously been agreed.

The debate in the Legislative Council showed that agreement had been reached in principle, both in and also beyond the Legislative Council. There was little disputation when the Bill was finally considered in another place, and as a result several amendments were passed. It is the Government's intention to accept all the amendments, but I feel some explanation is necessary. Many of the amendments are consequential upon others, and so I will deal with the main provisions only.

The amendment made to clause 2 was sponsored by the Government and accepted by the Legislative Council without demur. It will provide that the Act or any provisions of the Act shall come into operation on a date or dates to be fixed by proclamation. This will enable any one of the provisions of the Bill to be brought into operation before others. It was designed to allow the provisions relating to mock auctions to come into operation as early as possible.

The amendment to clause 24 is self-explanatory—to add the word "knowingly", after the word "who". This is in keeping with the undertaking given to the member for Vasse during the debate in this Chamber.

Clause 24 deals with misleading representations. Again, the amendment to this clause is in keeping with the tenor of the debate in this Chamber. Clause 25 refers to certain actions or courses of conduct in respect of auctions being taken into consideration. As the Bill left this Chamber it was mandatory for this conduct to be taken into consideration, but the amendment says that it may be taken into consideration. This will enable the court to exercise some discretion in making a determination as to whether an auction was in fact a mock auction and was against the best interests of the public. I have in mind the situation to which the member for Stirling referred of an auctioneer offering certain services to make his auctions more popular. The amendment will enable the court to determine that, because that auctioneer is selling genuine articles by orthodox auction; it is not a mock auction despite the fact that on the periphery of his activities he may offer certain services.

Another substantial amendment is to clause 27. The amendment was moved by Mr. Medcalf in another place and accepted by the Government without demur. It removes any possibility that there could be a double liability to account on the part of the auctioneer or a company for whom he has acted. Had this amendment not been made the auctioneer or the firm for which he acted could be called upon to account for the moneys received on behalf of the vendor.

Clause 30 is amended by amendments Nos. 9 to 11, and refers to the sale of cattle, sheep, pigs, or goats. Here again the amendments were moved by Mr. Medcalf. The Bill originally provided that the register together with all invoices and other accounts must be maintained for three years after the event. The amendments sustain that requirement in respect of the register, but in respect of ancillary documents it is now required that they be maintained for 12 months.

The next major amendment is in relation to clause 32 which originally referred only to the sale of cattle or pigs. It now covers all types of animals referred to in waybills.

Mr. O'Neil: Before you move that we accept the amendments, may I have something to say?

Mr. T. D. EVANS: Yes. I come now to the amendment moved in another place by Mr. Wordsworth. If members read the amendment they will find its meaning is clear. The Government has no objection to it. I understand the Deputy Leader of the Opposition wishes to speak before I move that the amendments be agreed to.

The CHAIRMAN: We must have a question before the Chair.

Mr. O'Neil: Move that No. 1 be agreed to.

Mr. T. D. EVANS: I move—

> That amendment No. 1 made by the Council be agreed to.

Mr. GAYFER: I told the Attorney-General a short time ago that no members from this section of the Chamber would speak. However, the member for Stirling has come across a point that he wishes to raise. I apologise to the Attorney-General for any inconvenience.

Mr. O'NEIL: The reason I requested the Attorney-General to move in respect of amendment No. 1 instead of moving that all the amendments be agreed to is for the very purpose mentioned by the member for Avon. The Attorney-General saw us before the Committee met and indicated that the Government desired to proceed with the consideration of this message as quickly as possible. We indicated that we had no objection; but we find ourselves in some difficulty in that we have no notice paper and we have only a schedule of amendments which we had to have duplicated.

In the brief time available we have been able to discuss with our colleagues in another place the circumstances surrounding the acceptance of the amendments by the Government. I am pleased that the Attorney-General has made an explanation. However, it has come to my notice that members on this side would like to have one or two points clarified or discussed. Perhaps it might be appropriate for those members to indicate which amendments they wish to discuss. This is an unfortunate circumstance which has arisen. Such circumstances usually arise during the last week of the session. I hope that augurs well for an early closing date!

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

Mr. T. D. EVANS: I move—

That amendments Nos. 2 to 6 made by the Council be agreed to.

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

Mr. T. D. EVANS: I move—

That amendment No. 7 made by the Council be agreed to.

Mr. BLAIKIE: I agree with amendment No. 7. The Attorney-General gave an explanation of how the court may exercise discretion in determining whether an auction is a mock auction. It has come to my notice that Western Livestock plans to conduct a beef promotion campaign at Boyanup during the middle of next month. The purpose of the campaign is to promote the beef industry and also, no doubt, to promote the firm. As the Bill was originally drafted the firm would have committed an offence. I believe the amendment has to some degree removed that possibility.

I appreciate the interpretation the Attorney-General has placed on the matter I am raising now. To all intents and purposes the stock company is honourable, and the members of this Chamber know full well that the intention of the clauses in this Bill is to prevent spurious and devious actions. I ask the Attorney-General to give some assurance that the fears I hold are completely groundless.

Mr. T. D. EVANS: I would be glad to refer the remarks expressed by the honourable member to those who in fact enforce and police our laws. I can do no more than that. I hope common sense will prevail. We are out to set a trap but only for those who act in a manner that is contrary to the welfare of the public, not those who are acting to promote something of a worth-while nature.

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

Mr. T. D. EVANS: I move—

That amendments Nos. 8 to 11 made by the Council be agreed to.

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

Mr. T. D. EVANS: I move—

That amendment No. 12 made by the Council be agreed to.

Mr. STEPHENS: I apologise to the Attorney-General for changing my mind in regard to speaking to this amendment, but I am a little unhappy he has decided to accept it. The clause relates to a license in which a firm or corporation is named. The effect of the amendment is that it will permit a firm to buy at an auction under its own name.

I would like recorded in *Hansard* the fact that, in my opinion, the amendment will leave the door wide open. Let me refer again to the Borthwick case. It is true that the employees of Borthwick benefited from what took place, but it is equally true it was possible for this staff of that firm to engage in malpractices only with the cooperation of the stock firm employees. They were the people who actually engaged in the malpractices.

As I see it, the deletion of this paragraph will make it possible for a member of a stock firm to buy in the name of his firm. I will not say all stock firm employees are dishonest, but it has already been proved that a number of employees of a stock firm were dishonest.

Unfortunately, once having purchased the stock in the name of the stock firm they could then try to dispose of it as they saw fit and it is not possible for the management to vet every stock transaction. So if subsequently a malpractice is discovered the firm can deny all responibility for it. Although the clause as it left this Chamber initially could be found to be a little inconvenient in certain circumstances, and on the odd occasion it could be construed that it would restrict competition, by deleting this paragraph from the clause a loophole is created through which malpractices could be committed.

I have quoted to the Chamber references in regard to what took place in the Borthwick case, and I would point out that in one sale the sellers of stock were defrauded of $363. That would not have to happen very often before a person would be disadvantaged more by a malpractice that could take place than by the possible restriction of competition. While I fully realise I will not be able to influence the Attorney-General to change his mind, I just want to record that I am not happy about this amendment made by the Council being accepted by this Chamber.

Mr. T. D. EVANS: If I may borrow some words used by the Leader of the Opposition, while I am afraid the word of a police officer cannot always be accepted without question as being Holy Writ, these amendments were referred to Sergeant Primrose and other officers of his staff to conduct the necessary inquiries to ensure the statutory form of auction sales will be manageable and he raised no objection to the amendment. If it were a question of weighing in the balance the liberty of the subject or the convenience of the police, I would be more inclined to come down in favour of the liberty of the subject as I always have done.

Mr. Hartrey: Hear, hear!

Mr. T. D. EVANS: On this occasion I cannot see that the liberty of the subject is involved. If it means the police are to be more vigilant, knowing that there is capacity in the Bill for certain action to be taken which the member for Stirling envisages could be taken, I think this is a

sound move. However, I am prepared to refer the honourable member's comments to the people on whom the Government must rely to ensure that the legislation is operable and manageable.

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

Mr. T. D. EVANS: I move—

That amendments Nos. 13 to 23 made by the Council be agreed to.

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

*Report*

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

## RURAL RECONSTRUCTION SCHEME ACT AMENDMENT BILL

*Second Reading*

MR. H. D. EVANS (Warren—Minister for Agriculture) [12.20 p.m.]: I move—

That the Bill be now read a second time.

It gives me great pleasure to introduce this Bill which seeks to approve and give effect to a supplemental agreement between the Commonwealth and the State of Western Australia on the matter of rural reconstruction.

The main purpose of this supplemental agreement is to extend the term of the scheme to the 30th June, 1976. Members will recall that the 1971 agreement proposed the utilisation in this State of $14,630,000 of Commonwealth funds for purposes of rural reconstruction over a four-year period, plus a further $2,194,500 added to the original allocation in February, 1972, but because of pressures of need the term was reduced to two years, expiring on the 30th June, 1973.

That this shorter term was justified is shown by the fact that by the expiry date the authority operating the scheme in this State had approved loans to 637 farmers and 23 rehabilitation loans totalling $17,260,365.

This amount was provided by the aforementioned $16,824,500 approved, and $430,243 from this State's Rural Relief Fund, with a small excess of $5,622.

At the rural reconstruction review meeting held between the Commonwealth and the States on the 16th March, 1973, the States agreed to accept from the Commonwealth for the current year a total amount of $36,000,000, of which Western Australia's share is $5,300,000.

It was unanimously agreed that there was a continuing need for financial support to sections of the farming community.

The Commonwealth and all States agreed that each year there should be a target percentage for farm build-up loans, which each State should endeavour to achieve, and a certain maximum percentage use of funds for debt reconstruction should not be exceeded without Commonwealth approval.

Funds to be provided by the Commonwealth for rural reconstruction for later years will be decided upon a review of circumstances to be carried out before the commencement of each financial year. For such review, the States will make submissions to the Commonwealth not later than the end of February each year.

The supplemental agreement also sets out that funds provided shall be utilised by a spread of commitments month by month throughout the year, thus preventing any hiatus in the scheme. However, should this not be possible, there is a right of appeal by the States for a variation of this condition.

In summary it is considered that the operation of the scheme in this State for the past two years has been successful, that its continuance for a further three years is justified, and that for the financial year 1973-74 the rural reconstruction needs of this State can be met from funds of $5,600,000, while the annual review for the following two years can be expected to provide funds which may be needed.

I commend the Bill to members.

Debate adjourned for one week, on motion by Mr. Gayfer.

## SPECIAL HOLIDAYS BILL

*Second Reading*

Debate resumed from the 22nd November.

MR. O'NEIL (East Melville—Deputy Leader of the Opposition) [12.25 p.m.]: It was some time ago that the Government announced, by way of a Press release, it intended to grant to all workers in Western Australia a holiday on New Year's eve. It is true that in this year both Christmas eve and New Year's eve fall on a Monday; and it is also true that approaches in respect of both these holidays have been made, and in this State the Government has made a determination that a holiday will be granted only on the Monday on which New Year's eve falls. This would give a break of 3½ days to people who are required to work on the Saturday morning, and a four-day break to those who do not work on the Saturday morning.

I suppose this is a matter to which we ought to give very adequate consideration. In general terms we must accept the fact that a holiday will be granted on New Year's eve, whether or not this Parliament agrees to it. The Government has made an announcement in this regard; and the Government has at its disposal a number of ways in which it can grant a holiday on New Year's eve. One way to do

that is by issuing a proclamation, and another is the course followed by the Government in this instance by way of issuing a proclamation as well as the passing of a Statute to deal with payments.

The Bill contains another provision which allows the Government to declare a holiday on a Royal visit, if and when such a visit occurs in the early part of next year. The options are left open for the Government to proclaim the holiday and for the date to be named in the proclamation. The Bill goes so far as to make provision for the holiday to be renounced should that become necessary.

If there is a change of plans on the part of the Royal Family, and the visit does not eventuate, there will be power to withdraw the holiday if, in fact, one has been declared.

There are some aspects of the Minister's second reading speech which I think epitomise to a large extent the attitude of the Government to that section of the community to which it refers as the employers. There are also other comments in his speech that indicate other attitudes with which I personally disagree.

In respect of the first matter the Minister had this to say—

> A standard clause in industrial awards permits the employer to avoid making payment of wages . . .

In my view that is a kind of expression which does not fit the circumstances at all. The fact remains there is a standard clause in some industrial awards which permits the worker not to work, and which in most instances does not require the employer to pay wages in such circumstances. The use of the expression "a standard clause in industrial awards permits the employer to avoid making payment of wages" implies there is a responsibility on the employer to pay. The fact is, there is no such responsibility.

Mr. Bertram: The Minister did not say evade payment, but avoid payment.

Mr. O'NEIL: I did not say the Minister used the word "evade".

Mr. Bertram: There is a big difference between the two.

Mr. O'NEIL: I do not know. Perhaps the honourable member should discuss that with his colleague. It seems that most of his speeches are made from his seat; they are in any case unintelligible. I am pointing out that the use of words and expressions by the Minister clearly indicate what sort of attitude members on the Government side of the House take to the group of people to whom they refer as the employers.

Mr. Bertram: Of course, it is not.

Mr. O'NEIL: The honourable member did not introduce the Bill. If he wants to make a speech he can do so in his own time, and not in my time. If he does make one he should make it intelligently, so that we can have an indication of his attitude. We were able to make a great deal of progress when he was away.

Having dealt with that interjection I want to refer to another comment made by the Minister in his second reading speech. The Minister said—

> . . . the Government has been, to some degree, influenced by the action taken in several other States to grant workers a slightly extended holiday break either at Christmas or New Year.

I wonder to what degree the Government has been influenced by what has happened in the other States, and to what degree it has been dictated to, because it was not on the initiative of this Government that the proposal is before us. I think I can prove that quite conclusively.

Anyone who reads the newspapers and who followed the sequence of events which led up to the announcement made by the Government will see clearly from where the move stemmed.

Mr. Harman: You would be wrong.

Mr. O'NEIL: Then the papers are wrong, too.

Mr. Hartrey: That is impossible!

Mr. O'NEIL: Firstly, let me say that basically we accept the proposition that there should be a holiday on New Year's eve. Let us accept that we do not entirely disagree with that if it is a fact that this will be the situation in some other States. It will not be the situation in all the other States and it will be granted under different conditions in most other States. Let us accept that the holiday will be granted here too; but let us remember that we already have an Act which clearly states the normal 10 paid holidays per year. Let us also accept that in industrial awards and agreements provision is made for special holidays outside the 10 statutory holidays.

Let us accept, too, that normally it is the responsibility of unions and employers to get together to negotiate on the terms and conditions upon which special holidays will be granted. That has always been the case. I can well recall that on one occasion the Government proclaimed a holiday and some confusion arose in respect of the terms and conditions which would apply to those who were required to work on that holiday; and many people are required to work on what otherwise is a proclaimed holiday. In some circumstances a substitute holiday is arranged for those people and in other circumstances a special arrangement in respect of rates of pay is made.

This has all been done traditionally by an approach to the Industrial Commission for an appropriate amendment to the

award. Confusion does reign when the time between the announcement of the holiday and the holiday itself is so short that machinery difficulties arise in arranging to have the awards and agreements brought before the commission for appropriate amendment.

I do not want to be quoted as having reported the exact situation, but I believe that on the last occasion several awards and agreements had not been appropriately amended and those employees and unions which had not had their awards before the commission decided, with the employers concerned, that they would adopt the provisions which had been incorporated in the other awards which had been adjusted by the commission and they would ratify the circumstances later. Even though time might have been short, consultation between management and labour did in fact produce the required result on that last occasion. In many instances labour and management, given time, can adjust to the circumstances which prevail, especially in regard to wages and employment when they know about a special holiday.

In respect of the big stores, the Minister must know the staff are rostered for work on Saturday mornings. As I understand the situation, two-thirds of the normal staff work on Saturday mornings and the other one-third have the time off, so that every member of the staff gets one Saturday morning off in every three weeks. Perhaps the consumer bears the brunt of lesser service on a Saturday morning which is, in fact, a busy shopping period anyway. In order to cater for the consumers as well as the employers and employees an arrangement could have been made in this respect under which the unions could have agreed to forgo the Saturday roster system for the three Saturdays prior to the holiday and then give the Saturday Christmas holiday without any disadvantage to anyone.

This has not been possible because we have had to wait until now to ascertain the Government's exact intentions under the Bill. I did, in fact, ask the Minister a question about what would occur because concern was expressed following the announcement. No indication had been given of legislative or any other kind of action the Government intended to take and the employers, employees, and the general public were anxious to know how the holiday was to be arranged—whether by proclamation or Statute—so that they could make necessary arrangements to cater for the additional holiday.

The holiday will cause some disruption because of the very day on which it falls. The Tuesday and Wednesday of the week prior to New Year's eve are holidays, they being Christmas Day and Boxing Day. Consequently the normal trading will resume on Thursday and continue on Friday and Saturday. It is well known that during that period stocks generally are low because of the preceding Christmas break and the pre-Christmas shopping rush. People will be able to shop on Christmas eve anyway. Consequently during that short period of 2½ days following the Christmas break retail stores and the like must restock to cater for what will be an abnormal shopping rush because shopping must be done in half the week. Consequently the pressure will be great in order to build up stocks of food and the like for the next long break which will be the Saturday and Sunday of the week following Christmas, and the Monday and Tuesday. So some problems will occur because the stores will have to keep well stocked with the appropriate supplies for the following long break as well as catering for what is an above-normal demand for shopping at those times.

These are some of the problems which face industry in respect of its maintaining a reasonable service to the public in this period. It is fortunate, of course, that these circumstances do not arise every year. I am given to understand that the last time these holidays so fell was in the period 1962-63 when the Tuesday and Wednesday of one week and the Tuesday of the following week were the normal holidays. So it is some time since this situation arose. On that particular occasion no additional holidays were created either through industrial awards or agreements or by legislative or administrative action of the Government. The situation 10 years ago did not warrant any change. I cannot recall that any great cries for change were heard or any great complaints were made about the situation. The Brand Government was in office at that time. It had been in office for three years and, in fact, in 1962 had been elected for its second term.

I mentioned that although the Minister said the Government was influenced to some degree by the action taken in other States, I believed the first influence came from a different quarter. In fact it was the secretary of the Millers' and Mill Employees' Union of Workers of Western Australia who approached the T.L.C. which, in turn, made representations to the Government and endorsed the request from the union for both Mondays—that is, the 24th December and the 31st December, 1973—to be made public holidays. In other words, as a result of the approach from the union, the T.L.C. made representations to the Government that both Mondays be made holidays.

The union requested two additional holidays without deduction of pay—I emphasise "without deduction of pay". I believe that is where the move started. That is not to say, of course, that when

this sort of situation arises some thought or consideration is not given to whether or not the holiday ought to be declared.

I would like to know the different circumstances which exist on this occasion compared with those which existed on the previous occasion 10 years ago and so caused a different set of circumstances to be proposed. The Minister has not explained that difference.

It is my belief—and my belief is confirmed by the many actions of this Government in respect of holidays—it is essentially a matter of the Government realising that it is facing defeat; defeat is staring it in the face. The Government is clutching at every political straw which is available. The Minister may well laugh.

Mr. Harman: We are that far in front it does not matter.

Mr. O'NEIL: The Government is that far in front that it is lonely. The ditch is only one step away; do not worry, the writing is on the wall and the Minister knows it.

I have mentioned some of the administrative difficulties and I think members are well aware of the existing provisions of the Act. I wish to indicate that although I may appear to be reading from notes, what I have before me is, in fact, essentially a typed copy of certain determinations made by the industrial authority in this State. I will refer to some industrial gazettes from which my quotes have been taken. So, although I might appear to be reading from prepared notes, I will be referring to copies of extracts from official documents. I understand that such action is in order and what I have said can be verified.

I will refer to a matter which was before the Western Australian Industrial Commission as recently as the 3rd December, 1971. It bears relationship to payment for special holidays; that is, holidays especially proclaimed outside of the normal 10 holidays created by Statute.

The Bill now before us proposes to create two special holidays, one on New Year's eve and another one on a day not mentioned, but which will be associated with the proposed visit of the Royal Family probably in March of next year. The matter to which I refer is related to a claim for variations in the metal trades awards, and others, to provide *inter alia* that any day gazetted by the Government as a public holiday shall be an award holiday—that is, a paid holiday—and it shall be an additional award holiday when any of the existing award holidays fall on a Saturday or a Sunday. Those were the two main claims before the Industrial Commission. In the *Western Australian Industrial Gazette*, volume 51, pages 1205 and 1206, the commissioner had the following to say—

> In looking to the claim there is to my mind a distinction between a public holiday and a holiday granted by this Commission. It is not our function to create holidays to be observed by the public but we are required to determine the days upon which a worker may be absent from work without loss of pay.

The appropriate reference to the Commonwealth provisions is inserted at this point. To continue—

> True, the days named as holidays by the Commission coincide with days appointed for the purpose of celebrating or commemorating an event of national or historical significance but it must be stressed that each such holiday does not always fall on the anniversary of the day upon which that event occurred even though, in practice, the anniversary of the particular event may be celebrated on that actual day.
>
> On a consideration of the material before us and in accord with what has been said, I consider that the claim for a holiday on "any other day which may from time to time be gazetted as a public holiday" should be refused. Sufficient evidence was put with regard to disputes on earlier holiday provisions to cast doubt on the wisdom of granting a provision so worded but, in any event, it was not shown that ten days without loss of pay is an unreasonable provision for workers covered by an award of this Commission.

*Sitting suspended from 12.45 to 2.15 p.m.*

Mr. O'NEIL: In order to recapitulate, prior to the luncheon suspension I was referring to a determination by the Western Australian Industrial Commission as reported in the *Western Australian Industrial Gazette*, volume 51, at page 1205, relating to the matter of an approach to that commission to amend the terms of the metal trades award in respect of the granting of paid holidays.

I had quoted extensively from the commission's findings in that matter. It was quite clearly indicated that the commission, in its own right, had no power in fact to declare additional public holidays and, indeed, that power was vested in the Government of the day by virtue of the Statutes and by virtue of Act No. 63 of 1972 which was assented to on the 31st October, 1972. That Act clearly lays down 10 statutory holidays.

The commission, in its determination, indicated it could not agree with the proposal to create additional holidays and also indicated, in essence, that its only area of jurisdiction was in respect of the manner in which those holidays would be taken so far as concerns work conditions and the like.

It is quite clear from my reading of the Public and Bank Holidays Act that the Government, too, must have found itself

in something of a dilemma because that Act provides only for the creation of additional special holidays or for the substitution of gazetted holidays. It does not, in itself, lay down any provision for the terms and conditions on which the holidays can be granted in respect of pay and the like.

It is evident that the Government has taken this particular step to achieve two objectives. These are to allow for the proclamation of a special holiday on New Year's eve and the proclamation of a special holiday in respect of the proposed Royal visit early next year.

The Government went one step further and it is in respect of this further step that we, on this side of the House, raise objection. We do not object to the proclamation of two additional holidays but we believe that the Government is overstepping its authority—it is, in fact, creating for itself a new authority—in determining that the holidays to be taken will be paid holidays or, in other words, award holidays.

I do not know to what extent the Government has given any real consideration as to what will happen in respect of this matter. The member for Murray asked a question which, under normal circumstances, could have been answered by now, but I appreciate that there has been some difficulty in obtaining the information and the question will, in fact, be answered today I understand. We have not yet reached question time and, consequently, I am indebted to the Minister for providing members on this side of the House with a "pre-copy"—if that is the right word—of the answer.

Mr. Harman: A preview.

Mr. O'NEIL: Yes, for supplying us with a preview of the answer. That is a better way to put it. As I expected, the answer can only be in general terms. It was not possible—and I appreciate this—to answer the questions of the member for Murray specifically, because that honourable member wanted a breakdown of the various businesses which employ one or two persons; three to five persons; and six to 10 persons. The Minister has indicated that, from the point of view of statistical information, there is no such breakdown which can be given.

However, we were looking for some indication as to the cost which would be placed upon industry if the proposals in the Bill are carried as the Government intends those proposals to be carried. It is quite clear that there will be imposed upon small businesses a financial burden in respect of payment which would, or could, result in additional cost to the consumer.

As a matter of fact, I have heard it mooted that there is likely to be a suggestion that a surcharge be applied on goods supplied from these businesses on the holidays because of the burden of additional pay. However, that has only been mooted. Quite frankly I cannot see the retailing industry taking such a drastic step. However, I do recall that there were very strong moves at one time to place a surcharge on the sale of petroleum products which were sold outside the hours regarded as normal trading hours. I think a proposal was contained in the report of the Honorary Royal Commission on the sale of petrol, which was quite some time before I entered Parliament. It was suggested that when fuel was to be supplied outside the normal trading hours of 7.00 a.m. to 7.00 p.m.—in other words, at rostered stations—a surcharge on fuel was warranted.

Let us look at what will happen in respect of this particular holiday if it is, in fact, a holiday in accordance with the Bill which is before us.

Firstly, under present conditions a special holiday would not be a paid holiday. That is quite clear. In the Bank Holidays Act the Government has not the power to make it a paid holiday. The Industrial Commission also indicated quite clearly that by virtue of its determinations it cannot create such holidays. So in the normal situation there would be a holiday when employees would not be required to report for work and employers would not be required to make payment.

I have said before—and I will say again—that if there were an agreement between management and labour certain arrangements could be made. I instanced the case of the retail traders in Perth, one-third of whose staff are off duty every Saturday morning. In order to allow the holiday to be taken, the time could be made up by temporarily cancelling that arrangement so that neither the public nor the retailers concerned would be disadvantaged. Other arrangements could be made. Approaches could be made to the Industrial Commission not to declare the holiday but to lay down in awards conditions under which people who worked on those holidays would be paid. That has been the usual practice in the past, but if the Government has its way on this occasion, New Year's eve on the 31st December will be a paid holiday.

It is my understanding—and I would like the Minister to clear up this matter because I am advised I am correct—that where the holiday is granted and no work ensues, every employee will receive a day's pay. That is the first proposition, as I understand it. If this Bill becomes law, there will be a holiday but it will be a paid holiday at normal rates for those who are not required to work, of whom there will be a considerable number. However, if it is a paid holiday in the terms

of this Bill and employees are required to work, they will be paid at 2½ times the normal daily rate.

If that is so, I question the answers given as to the financial burden which will fall upon such people as the taxpayer, the local government ratepayer, and the like. The answer to the question is worded in such a way that it does not have regard for the 2½ times rate of pay. For example, part 3 (b) of the question asks—

> (b) what is the cost to ratepayers for each such holiday granted to local government employees;

The answer states—

> (b) The estimated cost of the holiday for one day for 6,500 male and 1,200 female local government employees based on the wage rate calculated by the Bureau of Census and Statistics is $103,000.

That may be a statement of fact, but when we are talking about the holiday which is to be created under this particular Bill, is it the answer to the question? It is my understanding that one would multiply that figure by 2½. I hope the Minister will be able to clarify the situation.

It is true the Minister has said that various workers in exempt shops and the like under the Factories and Shops Act, which are not subject to restricted trading, would to a degree be exempt from the general provisions of this Bill. In other words, they may remain open. I want to ask the Minister a question: If they remain open, and not having regard for casual employees, what rate of pay is required to be paid to the permanent employees of the exempt shops? Will it be the standard single daily rate or will that rate, too, be multiplied by 2½?

It is my feeling that the provisions of this Bill make it incumbent upon such an employer to pay his permanent employees at 2½ times the normal rate. If that is so, it gives some credence to the rumour I have heard that consideration is being given to a special loading in respect of goods sold from this class of shop on that particular day.

I do not know whether the Government has in fact discussed this proposition with the employer group. I have reason to believe it has not done so. I received so many inquiries that I placed on the notice paper the question to which I previously referred and asked what was going to happen, how it was going to happen, and what arrangements management and labour would have to make. At that point the community, generally, was clearly working simply on a Press statement by the Government that New Year's eve would be a holiday.

I have had several consultations with the Retail Traders Association and the Employers Federation, and to the best of my knowledge these problems were not discussed with them. As I have mentioned before, if the holiday were simply to be declared a public holiday, and as such an unpaid holiday, room and time would have been available for management and labour to get together to discuss the proposition and make appropriate arrangements which were mutually acceptable and would ensure that service to the general public was not restricted in any way.

I understand that if the holiday were to be declared by way of proclamation, the latest date on which it could be proclaimed is the 10th December—three weeks before the holiday occurs. This period allows negotiations on the one hand, or approaches for the amendment of awards on the other hand, to take place. It is appreciated that because the holiday is at the end of December—namely, the 31st—the period of three weeks from the 10th to the 31st December would be badly eaten into by the festive season and other holidays.

I have said that I appreciate the dilemma in which the Government found itself and its course of action. Had the Government made up its mind a little earlier, it could have taken the course of action of simply proclaiming a day and allowing all arrangements regarding pay and the like to be made in the arena in which they belong. I refer to the matter of consultation between management and labour, or the ratification by the Industrial Commission of an agreed upon solution.

The Minister had something to say about what has happened in other States. My investigations reveal that no uniform course of action is being taken by other States. In Queensland the Government has refused requests in respect of Christmas eve and New Year's eve to be paid or unpaid holidays. I am also advised that it is not expected that unions will seek to invoke the jurisdiction of the Queensland commission to determine the matter. I also understand that the Minister said an extra holiday will be granted in Queensland at Easter.

Mr. Harman: They received an extra holiday last Easter.

**Mr. O'NEIL**: As far as Western Australia is concerned, that extra holiday is already covered by the special holiday to be granted in March of next year for the Royal visit. So, in essence, Queensland and Western Australia have a similar number of holidays. Queensland does not propose to make New Year's eve or Christmas eve a holiday, and as far as we can ascertain the industrial wing of the Labor movement in that State does not intend to make an approach.

New South Wales has gazetted the 31st December as a holiday for all employees. I am not sure whether or not the gazettal

of a holiday under the New South Wales Statute means it is a paid holiday. Perhaps the Minister can advise the House of that. Certainly there is a difference between a holiday and a paid holiday.

South Australia has created an additional paid holiday on the 31st December. South Australia is, of course, a Labor State.

Mr. Harman: A very progressive one, too.

Mr. O'NEIL: Well, I can assure the Minister it is a little more progressive than this State.

Mr. Harman: It hasn't got a Legislative Council like ours.

Mr. O'NEIL: In Victoria the Public Service and the banks will observe these two days as holidays, but I think that is generally accepted as being par for the course in respect of the Public Service and banks, anyway. This makes one wonder whether, if we pass a Bill to give all employees four weeks' annual leave, the Public Service will demand five weeks' leave and the officers of this Parliament will want six weeks' leave. I see they are smiling.

Various Federal awards have been affected. Applications for the 31st December to be an award holiday have been made in respect of the clothing, dry cleaning and textile industry awards, and these claims await determination by the Commonwealth commission, as the employers object to the applications.

So there is no uniformity of approach to this matter, other than to say that there will be a holiday in most States with the exception of Queensland. I understand Tasmania has made no provision for a holiday to be granted on either day; and that is a Labor State and a progressive one.

Mr. Harman: It has a Legislative Council, too.

Mr. O'NEIL: Does the Minister imply that the South Australian Government introduced legislation to establish New Year's eve as a holiday?

Mr. Harman: South Australia has a Legislative Council which is different from ours.

Mr. O'NEIL: That has nothing to do with the question. The Minister implies that the reason South Australia is in a different situation is that it has a Legislative Council which is different from ours.

Mr. Harman: Generally speaking.

Mr. O'NEIL: Anyway, that is a side issue which has nothing to do with the argument.

I have posed some pertinent and important questions to the Minister. What will be the cost effect particularly in respect of shops which the Minister said are exempt under the Factories and Shops Act? Is it a fact that in every holiday resort such as Busselton, Mandurah, and Bunbury, employers will be required to pay other than casual employees 2½ times the award rate on New Year's eve? Why is this action being taken on this occasion when on the last occasion 10 years ago no such action was taken by the then Government, and to the best of my knowledge the matter was resolved successfully in the arena in which it belongs; namely, consultation between management and labour or the ratification of awards determined by the commission? Is this one further step towards the emasculation of the Western Australian Industrial Commission? Why do we not leave the commission with this task?

Mr. Harman: I will tell you about that.

Mr. O'NEIL: The Minister says he will tell us about that. Let me say—if I have not said it before—that we do not object to the proclamation of New Year's eve as an additional holiday in Western Australia. However, we do object, and violently so, to the proposal of the Government to do it by legislative process and thereby usurp the right of the appropriate authority to make determinations in matters occasioned by the decision to declare a holiday.

Therefore, whilst we will give the Bill a second reading, I want to indicate now that we will oppose clause 5 which lays down the terms and conditions relating to pay and service which will obtain if the Government has its way.

**MR. W. A. MANNING** (Narrogin) [2.36 p.m.]: The Deputy Leader of the Opposition has covered the situation very well, and I do not intend to reiterate his remarks. I wish to add one or two points which seem to me to be fairly obvious.

The first is that the granting of a holiday such as this is a great step towards inflation. We are all worried about inflation at the moment. Immediately we start paying people for time they do not work, or paying something for nothing, we accelerate the trend towards inflation. Members might say that only one or two days are involved, but these things accumulate and they certainly tend to accelerate the inflationary trend.

There is no doubt about it that to anyone who is sensitive the idea of a holiday sounds very good. It is always very nice to have a holiday, and it is nice to get an extra holiday. It is also nice to grant such holidays. I suppose if this Bill is passed it could be said that the Government is giving people an extra holiday. But would that be correct? Does one give something if one gives it at somebody else's expense? I am not sure that one does give something under those circumstances, because someone else must pay for it.

In this case it is the employer who must pay in the first instance, and he must pay for work that will not be done; and not only that, but in some instances if work is done on the days in question it must be paid for at 2½ times the normal rate. So although these holidays may appear to be given gratis, someone must pay for them.

The point raised by the Deputy Leader of the Opposition in respect of local government is a fairly obvious one. The amount local government will be required to pay for work which will not be done comes home to all of us because as ratepayers we must pay for the employees of local government.

The question of paid holidays relates to everyone in the community, because no matter who receives the holiday at some time he must meet his share of the cost. These things must be passed on. When one receives a holiday, one is pleased; but one must contribute one's share towards what the next person receives.

Mr. Lapham: Are you saying that in the ultimate we all pay for each other's holidays?

Mr. W. A. MANNING: That is correct. No matter what our trade or business, costs are increased by paid holidays. If we receive a holiday we may be pleased about it, but we must remember that we are customers of other trades or businesses in which the costs must increase as a result of a paid holiday. So we pay for other people's holidays and they pay for ours. In the finish we all come out equal, but the cost has gone up. So it is no good saying that these will be holidays which will be given to people because they will be given at someone else's expense. I think we must be very careful about this.

It is very nice to grant a holiday to someone, but we all have to pay for it. A peculiar situation arises in respect of holidays in the Christmas period, particularly in the country areas where late shopping nights are observed. In some instances these late shopping nights are more of a social occasion than for the purpose of obtaining a greater amount of business.

The employees working on these late nights are paid overtime. In order to enable workers to celebrate the Christmas season it is proposed that they be granted a holiday for which they are to be paid. Similarly, when they work three hours' overtime on late shopping nights they are paid for those hours; but the employer will also pay for any holiday that is granted.

That is not fair. These holidays can be negotiated with the employers. In some cases the employers might say, "What about working the late shopping nights, and we will give you the day off?" This sort of arrangement could be arrived at between the employers and the employees.

Mr. Brady: Do you remember when some people used to work until 11.00 p.m. on Saturdays and received no pay for it?

Mr. W. A. MANNING: I do not. That did not happen in my lifetime.

Mr. Hartrey: I remember the shops at Boulder and Kalgoorlie being open until 8.30 p.m.

Mr. W. A. MANNING: That was always compensated for by extra pay or holidays. If the shops opened for an extra night to cater for the Christmas and New Year breaks the workers were compensated. I know what happened.

I would like these arrangements to be made by negotiation between the workers and the employers, but it seems difficult of implementation because in these days very many conditions of work are tied down by law.

I merely wished to bring forward the two points I have raised. Firstly, the proposal in the Bill is an inflationary one; and, secondly, everyone in the community will have to pay for any holiday that is granted. We are all part and parcel of the whole cost structure, and we all pay for the holidays.

MR. HARMAN (Maylands—Minister for Labour) [2.43 p.m.]: I would like to thank the Deputy Leader of the Opposition and the member for Narrogin for their comments on the Bill. Firstly, I want to clear up one matter that has been raised; that is, the Government was told by the Trades and Labor Council that it ought to bring in a holiday on the Monday before New Year's Day. The Government was certainly requested by the T.L.C. to give consideration to granting this holiday, as well as a holiday on the day before Christmas Day.

However, before that request was made, I had been giving consideration to what should apply in Western Australia as a result of what happened in the Eastern States. I felt that as a result of the action that had been taken in the Eastern States the workers in Western Australia should not be disadvantaged, as compared with their counterparts in the leading States of the Commonwealth.

Mr. O'Neil: I thought Western Australia was the leading State.

Mr. HARMAN: New South Wales is a leading State.

Mr. W. A. Manning: It was three years ago.

Mr. HARMAN: I also include South Australia. Why should Western Australia not be on the same level as the other States?

Mr. O'Neil: That argument is used when it suits you. However, when we use the argument the other way you say it is not valid.

Mr. May: It was ever thus.

Mr. HARMAN: In order that the workers of Western Australia will not be disadvantaged compared with workers in the other States to which I have made reference, the Government has decided to grant a public holiday on the Monday before New Year's Day. The Government has decided to proclaim that day as a public holiday. In this regard I have in mind the requests that were made by the member for Dale when he asked questions in the House relating to the bank officers and said that they should be given a holiday on the Monday before Christmas Day and before New Year's Day.

Mr. Rushton: I asked for all workers to be treated the same.

Mr. HARMAN: The member for Dale was in favour of a holiday being granted before Christmas Day and also before New Year's Day. After giving consideration to all the aspects of the matter the Government decided to proclaim the Monday before New Year's Day as a public holiday, so that the people in Western Australia may enjoy the benefits of an extended weekend; in other words, as has been pointed out, they would have the Saturday, Sunday, Monday, and Tuesday off.

Then arose the problem which this State had experienced before, when representations were made to the Industrial Commission by the trade unions and employers to arrive at an agreement on payment for that holiday which the Government intended to proclaim. In view of that I arranged for discussions to be held with the Acting Chief Industrial Commissioner. As a result of those discussions I determined the best way this could be handled was to deal with the question legislatively, so that we would cover every industrial award and agreement in Western Australia, and at the same time extend the holiday to workers who are not covered by awards. I realise there is a minority of such workers. However, I do not see why any worker in Western Australia should be placed at a disadvantage, compared with the workers who are covered by industrial awards.

If this matter were dealt with by the Industrial Commission some 600 industrial awards would have to be changed, and that would entail a considerable amount of work. The Acting Chief Industrial Commissioner is prepared to give me a letter if necessary—it may be necessary, and if so I shall supply a copy to my colleague in another place so that it can be read out—to indicate the tremendously complicated procedures which will have to be followed.

Mr. O'Neil: Who is that letter from?

Mr. HARMAN: The Acting Chief Industrial Commissioner.

Mr. O'Neil: I did not know that he was an adviser to the Government. You have now dobbed him in nicely.

Mr. A. A. Lewis: You have discussed it with him?

Mr. HARMAN: Yes, I would not say that if I had not discussed it with him. That was the course which the Government decided to follow. What this Government is doing is the very thing which the Liberal Government did in 1963. If we look at the Statutes we will find that the Liberal Government of that time did the very thing which the present Government proposes to do. However, on this occasion the members opposite are putting up all sorts of arguments against the proposal, but these arguments have no weight at all. They claim that this matter should be dealt with by the Industrial Commission, and that we should not interfere with the holidays. Yet, the Liberal Government of 1963 did the very same thing.

Mr. O'Neil: Will you read out the 1963 Bill?

Mr. HARMAN: When determining the action to be taken in Parliament in regard to the holiday on the day before the 31st December, I had in mind what the previous Liberal Government did on the occasion of the Royal visit in 1963. That is the answer to most of the points that have been raised by the Deputy Leader of the Opposition.

In this regard I draw attention to section 4 (1) of the Royal Visit Holiday Act of 1962. This states—

> Any Act or regulation, or any award or industrial agreement for the time being in force under the Industrial Arbitration Act, 1912, or any other Act, whether or not that Act, regulation, award or industrial agreement provides for certain specified days or a certain number of days to be observed or treated as public holidays, bank or public service holiday or empowers the Governor to proclaim, appoint or declare any day as a public, bank or public service holiday, shall be deemed to be amended so as to provide that the special holiday provided pursuant to this Act shall be treated as a public, bank or public service holiday, as the case requires, without deduction of pay.

Subsection (2) (a) reads as follows—

> (2) A person who is required by his employer to work on the special holiday—
>
> (a) shall be compensated for his work on that day in accordance with the provisions of the Act, regulation, award or industrial agreement that is applicable to that person and

to work done by an employee on a public, bank or public service holiday, as the case may be;

There it is set out. We are following a precedent established by the Liberal-Country Party Government when it was in office in 1962.

Mr. May: Exactly the same situation.

Mr. HARMAN: Exactly. Clause 5 of the Bill provides that a worker will be paid, and paragraph (b) (i) reads as follows—

(b) where such an employee works for his employer on the special holiday—

(i) if there are terms and conditions of his employment which provide for holidays without deduction of pay and additional pay for work done thereon, the employer shall pay the employee such additional pay as he would be required to do if the special holiday were a holiday without deduction of pay under those terms and conditions; or

**Mr. May:** The Opposition is now rather quiet.

Mr. HARMAN: When there was a Royal visit to this State in 1963 the Liberal-Country Party Government legislated so that the workers would be paid for the holiday. However, it seems that the Opposition is arguing that although while it was in Government in 1963 it provided for a paid holiday to commemorate the occasion of a Royal visit, now it is in Opposition a paid holiday for the same purpose should not be legislated for. How hypocritical can the Opposition be. How can the workers of this State be denied a holiday when we are following a precedent set by the previous Liberal Government under exactly the same conditions? We are now faced with the proposition of the Liberal-Country Party Opposition rejecting the proposal which follows a precedent set on a former occasion.

Mr. Blaikie: Does not the Minister agree that there might have been errors and omissions in the past.

Mr. HARMAN: What I have said is really the crux of the situation. We are well aware that holidays create additional costs; we do not deny that. During question time today I will be able to indicate the cost in certain areas. I do not deny that the holiday will increase costs to local government, but everybody realises that that will be the case.

It has been suggested that a surcharge will be added to goods purchased from stores which have to open on these holidays. That is only some sort of speculation, and even the Deputy Leader of the Opposition admits that that proposal is only mooted. Whether or not it will happen, I cannot even guess. Businesses have always opened at holiday resorts during the Christmas period, and whether the prices are loaded to cater for the cost of paying 2½ times the normal rates for labour, I do not know. One must bear in mind that usually business substantially increases at the holiday resorts during those periods and one would expect that the extra cost would not necessarily be loaded onto the items sold.

Mr. Blaikie: That is a ridiculous argument; I wish the Minister lived in Busselton.

Mr. May: He was referring to *Hansard* reports of speeches made by members of the previous Government.

Mr. HARMAN: Some members opposite who are interjecting were not in the House, and were not part of the Government in 1963.

Mr. O'Neil: Neither was the Minister.

Mr. HARMAN: The fact remains that in 1963 the Government provided for a holiday, and we have followed the precedent set on that occasion. We had the physical problem of making arrangements to suit various awards, so the Government decided to declare the holiday legislatively. Surely we are the highest court in the land and under those circumstances we are entitled to come to Parliament with a Bill containing the same principle adopted by the previous Government.

Mr. Brady: We are looking after the workers in Blackwood.

Mr. HARMAN: With those remarks, I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. Harman (Minister for Labour) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Effect of special holiday—

Mr. O'NEIL: This clause gives me an opportunity to refute some of the statements made, or arguments raised, by the Minister for Labour who made great play of the situation which existed in 1962-63 on the occasion of a Royal visit. There was a one-day holiday in 1963 and arrangements were made for it to be a paid holiday.

On that occasion it was a major Royal visit—if I can refer to it as such—and it was only one holiday in that year. This Bill proposes that two such holidays be covered by a blanket clause which enables workers to be paid for those holidays.

The Minister talked about a precedent being established in 1962 with the passage of the Royal Visit Holiday Act. However, he conveniently forgets that it was in 1972 that the present Public and Bank Holidays Act was, in fact, passed. Prior to that time the only Statutes covering holidays were the Anzac Day Act, the Anniversary of the Birthday of the Reigning Sovereign Act, and the Bank Holidays Act of 1970.

If my memory serves me correctly, the present Government was in power in 1972 and it introduced into this Parliament a Bill, which became a Statute of Western Australia, to provide for certain holidays to be known as public holidays. Those holidays are, New Year's Day; Australia Day; Labour Day; Good Friday; Easter Monday; Anzac Day; Foundation Day; Celebration Day for the anniversary of the birthday of the reigning sovereign; Christmas Day; and Boxing Day. There is also provision to substitute the following Monday for one or two of those holidays where, in fact, the anniversary occurs on a Sunday.

The Statute which created those holidays—and it was passed only last year—contains a provision for creating other special holidays. It contains no provision to determine what rates of pay the workers will receive for the particular holidays.

Suddenly, out of the blue, the Government has had its conscience pricked and, for the purposes of the two holidays we are discussing, is creating a separate and a new Statute.

Let us not talk about precedents. Last year the present Government consolidated the Bank Holidays Act, the Anzac Day Act, and the like to provide for the substitution of those holidays and for the declaration of special holidays, but it specifically omitted any provision in the Statute for the extra holidays to be paid. That is the precedent we ought to look at; namely, the 1972 legislation and not something which happened 10 years ago in 1962 when there was no such Act.

Mr. Harman: What about the precedent you set through legislation for a paid holiday in 1963?

Mr. O'NEIL: The Minister has not listened to me. I said that we ought to look at the 1972 precedent and not something which happened 10 years ago in 1962. The Minister piped up and said, "What about 1963?"

Mr. Harman: What about it?

Mr. O'NEIL: I have just told the Minister. As late as last year his Government decided to sort out the matter of public holidays under a special Act of Parliament. The Government repealed three previous Acts and said that from that time on there would be 10 paid holidays a year. The Government named those holidays and gave the Governor-in-Executive-Council the right to substitute for the existing ones and the right to create new —or special—ones. However, the Government specifically omitted the right to make them paid holidays. As I have said, somewhere along the line someone has pricked the Government's conscience and a special Bill has been brought before the House.

Mr. Harman: You would have done the same thing.

Mr. O'NEIL: I do not know.

Mr. Harman: If you were consistent you would have done the same thing.

Mr. O'NEIL: Had the Government been consistent it would have considered this special matter when it produced a special Act last year to cover public holidays. Why did the Government last year specifically omit the provision that special holidays created under that Act would be paid? Surely one cannot go much further back than that provision. The Act under which we operate now is a new one. It was assented to on the 31st October, 1972, and is only slightly more than 12 months old. It was introduced by the present Government. The legislation clarified the situation in respect of 10 public holidays a year; it named them; and it included the provision I have mentioned for the Governor to substitute and in special circumstances to create a special holiday, but it included no provision for that holiday to be paid.

The Minister can refer back 10 years ago if he likes. I heard him slightingly refer to some members who were not in the Parliament at that time. Neither was he, so that sort of remark will get him nowhere. It does not do the Minister any justice to cast slurring remarks in respect of comments made by members who are new to the Parliament because the Minister, too, is a new member.

Mr. Brady: It was a factual statement.

Mr. O'NEIL: If the Minister wants to object to my statement, the way is open to him under Standing Orders.

Mr. Harman: That sort of comment does not worry me.

Mr. O'NEIL: The Minister talked of a precedent, but the precedent in respect of holidays and the statutory provisions for them was set by his Government as late as last year. On the first occasion a special holiday arises, we see a special Bill brought to the Parliament.

Had we been in Government I do not know whether we would have declared a holiday for the Royal visit. However, if such a decision had been taken and a paid holiday declared, I am quite certain there would have been discussions with all parties concerned.

If we look back to the 1962-63 period, we can well ask: What was the reason? Was it not the occasion of the opening of the Empire Games? Was it not a great significant event in the history of Western Australia? Did we not expect the

great proportion of the citizens in the metropolitan region and the country areas to gather for the opening of this spectacular event?

Mr. Harman: The situation was that it was a Royal visit, no matter what was incidental to it.

Mr. O'NEIL: Be reasonable.

Mr. Harman: It was the visit of our Sovereign.

Mr. O'NEIL: We would not write into a Statute that people can have a holiday to go to the East Perth Football Club's annual dinner. I admit that is an important occasion and the Minister would probably be there along with me.

Mr. May: Did you write in the Empire Games?

Mr. O'NEIL: I cannot see the Minister's arguments. He is on my side.

Mr. May: Did you write it in?

Mr. O'NEIL: I will not use the expression of Senator Mulvihill.

Mr. May: You may end up the same as he did.

Mr. O'NEIL: The Minister is on the wrong tack. I have not checked the matter but I believe that Royal visit was occasioned by the opening of the Empire Games in Western Australia, which was a significant event in its own right. Certainly we did not write into the legislation that this was the reason for the holiday, but we certainly wrote into the measure that it was on the occasion of a Royal visit.

I do not think the Royal visit which is projected for 1974 is at that high level —if that is the way to express it. I admit it is important but I do not think it has the same importance to the State or the same significance as a visit which was associated with the holding of the Empire Games in this State.

Consequently, there was great justification to grant all the people in Western Australia a holiday on that ground alone, and the Royal visit became the medium through which it was granted.

I do not deny that it is quite possible we could have taken similar action in respect of the Royal visit next year, had we been in Government.

Mr. Harman: Be honest; you would have.

Mr. O'NEIL: I do not know. However, perhaps we will have the opportunity to find out if the Government will hold an election before then. That would be the solution to the argument. Let us become the Government and then we will make the decision.

The Minister's argument in respect of a precedent is shallow. It may well be that a precedent has been established in respect of a Royal visit. However, it is of great significance that the very latest Statute dealing with this matter specifically omits the provision for the Government to make such a holiday a paid holiday. The result is that a special Bill has been presented to the Parliament. The measure applies not only to a holiday on the occasion of the Royal visit but also to a holiday on New Year's eve. As usual, I think the Government has put its foot into it.

The Government could have proclaimed a holiday quite simply. There was ample time for it to do so, but it feared what would happen in respect of possible arguments and the rational examination of the proposition so far as concerns the wages side.

I do not deny the Minister the right to consult with the Industrial Commission. That is perfectly natural. However, I am a little disturbed by what the Minister had to say in respect of that consultation. As I have said, I do not deny him the right of consultation, but I do deny him the right to make certain implications. In a matter such as this, the Minister is prepared to dob in the Acting Chief Industrial Commissioner to the point of saying that he will bring to the Parliament a letter from the Acting Chief Industrial Commissioner expressing his point of view.

I do not think that is good enough. The Chief Industrial Commissioner, and in fact all the commissioners, operate under the Statute that Parliament sees fit to pass. The head of the department, if there is one, is the man who ought to give the advice, and not the Acting Chief Industrial Commissioner. It is the same as the Attorney-General saying, "The Chief Justice thinks this should be done, and I will bring a letter to Parliament giving his point of view."

Mr. Harman: If you do not want it I will not bring it.

Mr. O'NEIL: The Minister has done the Acting Chief Industrial Commissioner a disservice by even indicating that he was prepared to ask for such a letter.

Mr. Harman: I did not.

Mr. O'NEIL: What did the Minister say?

The CHAIRMAN: The honourable member has two minutes.

Mr. Harman: The proposition was offered.

Mr. O'NEIL: We will check that out. However, if the proposition were offered, the Minister should have had the political acumen to say he did not want it.

Mr. Jamieson: We can't win on this one!

Mr. O'NEIL: He should have had the political acumen not to mention it in this Chamber. The Minister for Labour administers the Industrial Arbitration Act;

he does not dictate to the Acting Chief Industrial Commissioner. Whilst he may discuss these matters with him, it is not incumbent upon a Minister to ask for direct political advice on a matter such as this. The Minister can refer to the departmental head who is experienced in matters relating to industrial relations. The head of the department may say, "This is a problem, and these are the ways out of it", and the Minister and the Government then make a decision on the course of action to be taken. It is the function of the head of a department to advise the Minister of the alternatives available, and the Minister makes the decision.

The CHAIRMAN: Order! The honourable member's time has expired.

Mr. O'NEIL: We oppose the clause.

Mr. GAYFER: I rise to say that I am most interested in the words of the Deputy Leader of the Opposition, and I invite him to continue his remarks should he so desire.

Mr. MENSAROS: The Minister put forward two arguments. He said that he wanted to bring the conditions of those employees who are not under any award up to the conditions enjoyed by employees who are under awards. This argument is weak in two specific ways. Firstly, one would, I think rightly, presume that those employees who are not under any award would not be members of a union. Therefore, the Minister indirectly advocates that the unions do not do their job properly in order to achieve for these people the conditions of work they seek.

The Minister stressed his second argument very strongly—why should not Western Australian employees enjoy the long holiday break which employees in other States will enjoy? At the same time this clause deals with employees whose annual leave falls during this period—and I assume this is the majority of employees. Almost every manufacturing industry, as well as building and affiliated trades, grant annual leave to their employees around Christmas time; either by custom or under awards. These employees commence their annual leave on a convenient day before Christmas and they return to work some time in January when they have had their three weeks' leave. I do not have any statistics, and I am open to correction, but I imagine my statement is correct that the majority of employees take their annual leave over the Christmas period. In this case the Minister simply provides an additional paid holiday for the majority.

Mr. Harman: What about the people who work through this period?

Mr. MENSAROS: I am dealing with the Minister's argument. He wants to give them a nice long weekend.

Mr. Harman: What you want to do is to—

Mr. MENSAROS: I do not want to do anything. I am saying that because the majority of employees are in this category, the Minister is merely giving them an additional paid holiday. As the member for Narrogin says, this must be paid for by someone. The Minister is playing Robin Hood again.

Mr. HARMAN: The remarks made by the member for Floreat were really a rehash of those made during the second reading debate. Likewise, the Deputy Leader of the Opposition added nothing new.

Mr. O'Neil: Thank you.

Mr. HARMAN: Therefore, I do not need to reply again to the member for Floreat. It is true that I do not know the actual number of employees who take their leave over this period, but we must remember those people who work through this period because they cannot take leave at that time. We cannot grant a holiday to those not on annual leave without granting a holiday to those who are. It has always been inherent in annual leave legislation that when a holiday occurs during a worker's annual leave, an additional day is granted in lieu of the public holiday.

Clause put and a division taken with the following result—

Ayes—23

| | |
|---|---|
| Mr. Bertram | Mr. Hartrey |
| Mr. Bickerton | Mr. Jamieson |
| Mr. Brady | Mr. Jones |
| Mr. Brown | Mr. May |
| Mr. Bryce | Mr. McIver |
| Mr. T. J. Burke | Mr. Norton |
| Mr. B. T. Burke | Mr. Sewell |
| Mr. Cook | Mr. Taylor |
| Mr. H. D. Evans | Mr. A. R. Tonkin |
| Mr. T. D. Evans | Mr. J. T. Tonkin |
| Mr. Fletcher | Mr. Moiler |
| Mr. Harman | *(Teller)* |

Noes—22

| | |
|---|---|
| Mr. Blaikie | Mr. Mensaros |
| Sir David Brand | Mr. Nalder |
| Sir Charles Court | Mr. O'Connor |
| Mr. Coyne | Mr. O'Neil |
| Dr. Dadour | Mr. Ridge |
| Mr. Gayfer | Mr. Runciman |
| Mr. Grayden | Mr. Rushton |
| Mr. Hutchinson | Mr. Stephens |
| Mr. A. A. Lewis | Mr. Thompson |
| Mr. E. H. M. Lewis | Mr. W. G. Young |
| Mr. W. A. Manning | Mr. I. W. Manning *(Teller)* |

Pairs

| Ayes | Noes |
|---|---|
| Mr. Davies | Mr. McPharlin |
| Mr. Lapham | Mr. R. L. Young |

Clause thus passed.

Title put and passed.

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

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

**BILLS (2): THIRD READING**

1. Tourist Bill.
2. Liquor Act Amendment Bill.

Bills read a third time, on motions by Mr. T. D. Evans (Attorney-General), and transmitted to the Council.

**BILLS (6): ASSENT**

Messages from the Lieutenant-Governor received and read notifying assent to the following Bills—

1. Industrial and Commercial Employees' Housing Bill.
2. Totalisator Agency Board Betting Act Amendment Bill.
3. Museum Act Amendment Bill.
4. Maritime Archaeology Bill.
5. Alumina Refinery (Worsley) Agreement Bill.
6. Iron Ore (Cleveland-Cliffs) Agreement Act Amendment Bill.

**PYRAMID SALES SCHEMES BILL**

*Second Reading*

Debate resumed from the 22nd November.

**MR. THOMPSON** (Darling Range) [3.25 p.m.]: At the outset I wish to indicate that the Opposition supports the principle of the Bill. We note with interest that the various States of the Commonwealth have either acted or are in the process of acting along lines similar to those being adopted by the Government of this State with the introduction of this Bill, and that the Commonwealth Government has, in fact, taken the same action.

I am a little concerned about the drafting of the Bill.

Mr. Harman: Do I understand you to say that you support the Bill?

Mr. THOMPSON: We support the principle that has prompted the Government to bring the Bill to the Parliament. I am a little concerned about the words the Minister used and the methods that have been employed to seek to carry out what we believe to be a very desirable objective. In introducing the Bill the Minister said that the method the Government would employ to define a pyramid selling organisation was to link two elements which appear to be common to all the pyramid selling organisations that have come to the notice of the Minister and his department.

I would agree that it is extremely difficult to define what a pyramid selling organisation is. It has always seemed strange to me that we are not able to say what we actually mean when drafting legislation. Throughout the community people have come to realise what a pyramid selling organisation is. I do not think there is any doubt about that, but when we come to the point of drafting legislation it seems we have to use flowery words.

Mr. T. D. Evans: You would probably be interested to hear what the New Zealand Attorney-General said on this point. He said, "Everyone can recognise it, but no-one can define the brute."

Mr. THOMPSON: Yes. I had a conversation yesterday with an accountant and I was discussing this very point with him. He told me that in business there is a practice known as "dividend stripping". In a particular Parliament where it was desired to enact legislation to prevent this practice from continuing, the draftsman tried all ways to define "dividend stripping", until eventually he wrote into the Bill the words "dividend stripping", because everybody knew what dividend stripping was and no satisfactory alternative could be found.

I think if we were to use more common language in legislation it would be more readily understood by a greater number of people in the community.

Mr. Hartrey: Don't you believe it!

Mr. THOMPSON: I must admit I have had a battle ever since becoming a member of Parliament to be able to read a Bill and understand what it is all about. In fact, I still have difficulty. The two elements linked in clause 4 (5) define a pyramid selling organisation as a scheme which includes a franchise which is sold to a holder to give him the right to sell a product and at the same time he shall have as his object the recruiting of others to do likewise. In simple terms, that is how the Bill proposes to define a pyramid selling organisation.

Throughout the community many distributors and manufacturers employ a franchise system of distribution. The motor vehicle industry can be included as being in this system. I believe it would also extend to the sale of agricultural machinery and to many other spheres where someone is given a franchise to sell an item produced by the various manufacturers.

I believe that under the Bill motorcar dealers could possibly come into the category of a pyramid selling organisation. In this respect I will be interested to hear the Minister's comments when he replies to the debate.

Clause 6 deals with referral selling and I believe that under this clause a certain practice in the motorcar distribution business will be outlawed. Many members will be aware of the fact that distributors of new motor vehicles offer what is known as a spotter's fee to clients in order to enable them to extend their business. I can recall that with one new Holden motor vehicle I bought a few years ago I received a kit containing a little booklet with a number of chits. The idea was that if a sale resulted from the return of one of the chits, the person whose name appeared on the chit would receive an amount of money. I submit to the Minister that clause 6 of the Bill will outlaw that practice and will make it an offence for a firm to offer an incentive to anyone to encourage business to go to that firm. On that point I would also like the Minister to comment when he replies to the debate.

The principal objective of a pyramid selling organisation is not to market goods, but to market franchise and to encourage people to take on a franchise to sell at various levels. From the material I have accumulated during my research on the subject I have been interested to realise how little is said during the promotion of a scheme about the product which is to be marketed. All the talk revolves around what is likely to accrue to a person who becomes involved in the scheme. Little is said about the merchandise being handled.

Another interesting aspect about the schemes is that they do not last very long. Americans and others in Western Australia and in the Eastern States have commenced a scheme to sell a certain product. The pyramid has collapsed and people have lost a great deal of money, but the promoters of the scheme have then moved into other areas with another scheme. It is unfortunate that many weak and foolish people are drawn into the scheme and, in some cases, throw their life savings into it in the hope that they might make some quick money.

What invariably occurs is that the system collapses around their ears and they are left with an accumulation of useless products they cannot sell or, if they are able to sell them, they are forced to do so at a price much lower than that for which they acquired them.

When he introduced the Bill the Minister said that promoters were issuing grubby invitations to people to meet at some clandestine spot for the purpose of being talked into taking part in schemes. My reading and experience of the subject indicate to me that while that may occur sometimes, in the main the people who promote these schemes do so on a very high level and at a fast pace. They are flashy people who entice others to meet at expensive venues. These promoters hire suites at most expensive hotels. I understand that in one case in the Eastern States the promoters transported people over long distances in air-conditioned, well-equipped buses to plush resorts, where they pitched their sales talk.

Members will recall that a few months ago the then Minister for Labour—now the Deputy Premier—tabled a tape recorder and also tapes of a promotion sales scheme. I listened to some of those tapes and I found that the whole emphasis was on glamour and glitter for the purpose of quick returns. This was the whole basis of the scheme.

A great deal has been written about pyramid selling organisations throughout Australia and I have an immense amount of material on the subject. I will not refer to it all as I do not wish to take up much time on this issue because we support the Bill.

However, I shall comment on one of the documents which has come into my hands. It is the transcript of a film sound track used by a firm known as Promotions and Marketing Pty. Ltd. It is designed to indicate to people how they can benefit from being involved in the company. The transcript contains no mention at all of the product to be marketed. It is devoted to talk about the scheme and is designed to sell to people the idea of joining the organisation at a certain level.

I want to read portion of the transcript to indicate the flowery words used to entice people who are silly enough to go along to these expensive venues where they are entertained by flashy gentlemen who appear as though they have made a fortune. Actually they certainly have made a fortune. It is the poor devils enticed into the schemes who lose money. The following is portion of the transcript—

> Let's take Henry Ford. He made a million and never drove a Cadillac. Seriously, when Henry Ford first went into business he had a friend by the name of George. He said one day, "George, if you will sell five of these cars I have manufactured I'll give you a 5-state franchise."
>
> Now George started to sell the cars. He wasn't sold on the idea but because of their friendship he went along with it. He managed to sell only two of them. He came back to Henry and said, "Henry, we have been friends for years and please don't think I am trying to discourage you. But at the same time I have to be honest with you.
>
> "I believe that your idea to sell cars is a poor one. I don't believe it will ever go over, so I'm giving up."
>
> Now let me ask you. Do you know how much a five state franchise with the Ford Motor Co. is worth today?

It is that sort of flowery approach which has been used by promoters to con people into parting with their money. All they can envisage is the glamour and glitter. If members read the transcript, as I have done, they will appreciate how some people could be induced to become part of the scheme. They are challenged and goaded into doing so.

I know of one gathering to which a number of people were enticed. About six outsiders were mingled with 10 or 15 fellows associated with the company concerned. The idea was that with all people standing each person who indicated an intention to take a franchise sat down. Of course each one of the fellows associated with the company sat down in turn. Eventually only three or four people—the outsiders—remained standing.

The people concerned were so embarrassed after being goaded and chided by the others that eventually they said they would become involved, and they committed themselves to expenditure they could not afford. It was necessary for these people to borrow money from the banks. In some cases they told lies and were, in fact, encouraged to tell lies by those who were promoting the organisation. This was done to enable them to raise money for loans.

One organisation actually made suggestions as to what the people concerned should say in their applications to the bank manager in order that they may obtain finance for the scheme in question. The people involved were told that the money would come back anyway; it was only a matter of getting a few dollars to start the scheme and, having got the money, they could then tell the bank manager to jump in the ocean. These are the sorts of tactics that were employed at the gatherings to which I have referred.

I would now like to quote from an article which appeared in *The Australian Financial Review* of the 4th May, 1971. The particular case concerned the Koscot Interplanetary company which started in the United States. The article states—

> Head of Koscot Interplanetary in the United States, Glenn Turner, for instance has the following approach: "If you check long enough, you can figure out reasons not to do anything.
>
> "Somebody who doesn't know how to check is making money while others are still checking.
>
> "Most of the great men in history made fast decisions."

This again demonstrates the type of approach that was made by the organisers of this scheme. They were very smooth talking gentlemen who would have appealed to a number of people. They dressed smartly, spoke exceptionally well, and had an answer to every question that was likely to be asked. In this way they were able to encourage people to take part in their scheme.

One particular scheme which had become established in Australia for some time was an outlet known as Holiday Magic. It was promoted by one Andrew R. Berliner, an American who adopted the slogan, "Holiday Magic loves you". I bet he loved everyone who took part in Holiday Magic because for every $3 put in he probably got $1. He was sitting back laughing.

Mr. W. A. Manning: A special paid holiday.

Mr. THOMPSON: Yes; he did not have to worry about four weeks' leave; he was on one big holiday.

Mr. Gayfer: He must have had to work long hours.

Mr. THOMPSON: I understand he did work long hours.

Mr. O'Neil: Counting his money.

Mr. THOMPSON: That is right. It was necessary for him to stay one jump ahead, because schemes such as this do not last very long, and while one is in there pitching one must give it all one has; because eventually such schemes fall off.

The Governments of other countries of the world have revised laws in an endeavour to control these "shysters"—that is all they can be called. They contribute nothing to the economy of the country and they take advantage of the weak and rob them of their money.

In 1969 an advertisement appeared in a paper in the Eastern States advertising the fact that Holiday Magic had reached a monthly sales volume of $1,000,000; and it went on to say that at this rate the volume of sales would be $12,000,000 annually. This was intended to indicate that it was a solid company and that it was going strong. In that way the company hoped to encourage people to come in and join as members.

There were four levels. The lower level was known as the "Holiday Girls".

*Sitting suspended from 3.45 to 4.03 p.m.*

Mr. THOMPSON: Before the afternoon tea suspension I was speaking about the activities of the Holiday Magic organisation. I would now like to outline the way in which that organisation operated.

There were four levels in the organisation. The lower level was generally designed to attract women to operate on a part-time basis, and mini-kits were sold to those ladies at $11.99, with a reputed resale value of $25. The full kit which was available to the "Holiday Girl" cost $39 and had a reputed value close to $100. In addition, the ladies were offered free training in the cosmetic field as often as they liked.

The second level in the pyramid was the organiser who paid $138.51, which entitled him to a certain quantity of the product, and he had the right to sell it to the "Holiday Girl" who was below him.

The third level was known as the master distributor. He paid $3,250 for his franchise, which entitled him to stock valued at $5,481.25. It is the odd cents here and there which intrigue me. With a deal of $5,481, I consider it indicates that it was a rather shady organisation. The holder of a master distributorship was also entitled to 12 months' membership in an organisation set up by Holiday Magic, during which period his books were done for him by the organisation, which was known as Combined Retail Services. The master distributor was able to buy his products at a 55 per cent. discount, and he had the right to sell to the organiser, who in turn sold products to the "Holiday Girl".

On a higher level still was the general distributor, who paid $5,750 for his franchise and had the right to buy products at a 65 per cent. discount. I wonder what the product actually cost.

That is as far as my research was able to take me. I do not know who was above that level, but obviously at that point he would be fairly close to the top of the pyramid.

It is not surprising that Holiday Magic and another company known as Koscot aimed at the cosmetic trade. In Australia in 1971, $230,000,000 was expended by Australian women on cosmetics of one kind or another. As far as I can establish, Holiday Magic covered the whole range, so it was pitched to take advantage of the $230,000,000 trade which was available at that time. The rate of growth in the sale of cosmetics in 1971 was 15 per cent. per annum. It can therefore be seen why these companies attempted to take advantage of that trade.

The other company to which I referred was Koscot. It was set up by a gentleman named Glenn Turner, an American who spent very little time in Australia—in fact he came here only twice—but who had the ability to get a scheme off the ground. It was his intention to establish 1,500 distributorships in Australia on much the same lines as the Holiday Magic scheme.

It is interesting to note that at some previous stage Turner had been a member of the Holiday Magic organisation. We therefore had the situation of a few of these pyramid selling organisations getting off the ground, with some of the underlings who were involved in the early schemes realising what a lucrative game it was, branching out into other areas and other parts of the world with another product, and thrusting their schemes into effect.

*The Australian Financial Review* of the 21st May, 1971, very soon after the article to which I referred a little earlier, carried a report of the activities of Holiday Magic, and from my reading it is clear that at that time the newspapers and the media, generally, took it that Holiday Magic was in trouble. The article in *The Australian Financial Review* of the 21st May included a simulated paper clipping indicating that at 1.00 p.m. sharp $3,000-worth of Holiday Magic cosmetics would be put up for auction. Someone who had been associated with Holiday Magic realised that the company was in trouble and found difficulty in distributing its products. In an endeavour to salvage something from the operation he made an offer to those people who had their storerooms and motor garages filled with products they could not sell at the price at which they needed to sell them in order to make anything out of the scheme. That person—whose name was Peter Rafferty and who was claimed to be the leader of a rebel group—made an offer of 20 per cent. of the retail price of the product in order that he could get his hands on it and start distributing it through another organisation.

That indicated the rot had set in with Holiday Magic, and it was not very long before the organisation closed up. It was not the people who bought in at the higher levels who were hurt; it was the ordinary people, the working class people, who were encouraged by the flashy sales talk and promotion to try to take advantage of something which was promoted as being a way of becoming rich or earning more money very rapidly. Auctions were held around Sydney and Melbourne when Holiday Magic was folding up, and the product was selling at between 33 and 50 per cent. below the retail price. It can therefore be clearly seen how much money was being lost by individuals who had become involved in the organisation.

In Western Australia we have had experience with a number of pyramid organisations. A little earlier I referred to one organisation about which the former Minister for Consumer Protection—who is now the Deputy Premier—had something to say. On the 4th April this year the member for Mirrabooka asked the following question of the Minister for Consumer Protection—

> (1) Has the Consumer Protection Bureau received any approaches with regard to the alleged pyramid selling organisation, Dare to be Great?
>
> (2) If the answer is "Yes", will he table any material that is pertinent?

The Minister replied that some complaints had been made to the Consumer Protection Bureau, and he laid on the Table of the

House for 24 hours a tape recorder and some tapes in order that members could have a look at the equipment which was being offered. Some members of the House, including myself, took the opportunity to play some of the tapes. The Minister advised the member for Mirrabooka, in answer to his question, that the $100 tape recorder and the tapes were alleged to cost $3,000, which included the right to sell the unit to other people; but in my view it was nothing more than a racket.

On the 5th April the Leader of the Country Party asked a further question of the Minister, to which the Minister gave a lengthy reply indicating what the Dare to be Great organisation was trying to do in Western Australia. Part of the reply states—

> The recordings, allegedly, are to motivate people to sell more of this equipment and thus make themselves quite wealthy. An advertisement appeared in *The West Australian* on the 3rd March, and it was to run for a month. The advertisement read as follows—
>
> > BUSINESS FOR SALE full price $3,000 finance arranged nett profit $1000 per month for further information apply in writing . . .

That is one example of a pyramid organisation which was operating in this State.

The Minister for Consumer Protection obviously took every opportunity to make statements in the House and to answer questions. He endeavoured to convey to the public the dangers inherent in becoming involved in that organisation, which at that time was legal and could have been carried on without the persons promoting it getting themselves into trouble.

Many statements have been made throughout Australia to warn people against such organisations. One such warning appeared in the *Sunday Mail* of Adelaide on the 3rd April, 1971. The following article appeared under the heading of, "Commissioner's warning over pyramid selling"—

> The Prices Commissioner, Mr. L. H. Baker, today issued a warning to would-be investors in an SA pyramid selling organisation.
>
> The warning follows complaints to the Sunday Mail about the organisation.
>
> Mr. Baker said his department had investigated it soon after it began a year ago.
>
> He warned the public: "As with any business venture involving a substantial investment, members of the public should weigh matters carefully before signing any contract.
>
> "Any business offering profits in excess of the usual gilt-edged investment must be considered with caution in view of the history of these types of companies."

That is an example of the Prices Commissioner of South Australia making a comment in the Press to warn people that these organisations should be regarded with a certain amount of caution.

In our own State we have had examples of warnings given in newspaper articles. One article in *The West Australian* referred to the management of a company, and the newspaper got into quite a lot of trouble. In fact, a successful libel case was taken against the management of the newspaper, which resulted in an award of $20,000 in favour of the pyramid company. This raises the issue of how far a newspaper should be allowed to go in the public interest. Had the Bill before us been law at that time, instead of the company successfully suing the newspaper, the company would have been liable to a fine of $50,000. That is the change that will take place as a result of this Bill.

I have referred to articles in *The Australian Financial Review* and the Adelaide *Sunday Mail*, and other articles and items appearing in Western Australian newspapers, and I have pointed out that newspapers do try to warn the public when they feel something unfair is occurring. However, unfortunately, in the case of some of these shady deals the people involved in the companies know just how far they can go under the law. They know the law exceptionally well, and as soon as a newspaper says one word more than it may under the law, the companies jump in and sue it for libel; and in some cases they succeed. I believe newspapers provide a service to the community by warning people of this type of operator. It is unfortunate that in some cases they find themselves in trouble as a result.

The Minister made available to me a copy of the Bill which was introduced into the Victorian Parliament. I thank him for it because it has enabled me to see what is being done in that State.

The ACTING SPEAKER (Mr. Brown): Order members! The *Hansard* reporters are having difficulty in hearing the honourable member.

Mr. THOMPSON: I understand that the Victorian Bill has not yet been passed.

Mr. Harman: I am not sure what stage it is at, but it has been introduced.

Mr. THOMPSON: I do not think it has become law yet. I would like to draw a comparison between the penalty provisions of the Victorian Bill and those in the measure before this House. In the Victorian measure the penalty for breaches of the legislation is $5,000 in two cases, and

$2,000 in another case. In the Bill before us the Minister is certainly taking a swing at the people concerned with these organisations. I quote clause 8 as follows—

> 8. A person who contravenes a provision of this Act is guilty of an offence punishable, on summary conviction by a court constituted by a stipendiary magistrate sitting alone,—
>
> (a) in the case of a person not being a body corporate—by a fine not exceeding Ten thousand dollars or by imprisonment for a period not exceeding six months; or
>
> (b) in the case of a person being a body corporate—by a fine not exceeding Fifty thousand dollars,

Mr. Harman: That is a maximum.

Mr. THOMPSON: Yes, it is the maximum; but it seems to be a fairly high maximum. I would be interested to hear the Minister comment on that provision and give the House some reason why he regards the penalty as being appropriate in this State when similar legislation introduced in another State Parliament contains penalties which are nowhere near that level.

The ACTING SPEAKER (Mr. Brown): The honourable member has five more minutes.

Mr. O'Neil: He has unlimited time. He is the first speaker.

The ACTING SPEAKER: I am sorry; it is five more minutes to three-quarters of an hour!

Mr. THOMPSON: I did not intend to speak for as long as I have. It is always difficult to judge for how long one will speak. I expected to take something like 20 minutes, but time slips away.

In conclusion I indicate to the House that the Opposition is not opposed to the principle of the Bill. However, we do have some qualms about the way the measure defines a pyramid selling organisation. As I said previously, I hope the Minister will clarify that point. I would like him to comment also on the point I made about clause 6, which I believe will outlaw the present practice in the motor vehicle selling industry of offering spotters' fees to purchasers of new vehicles as a means of attracting more sales.

Before I sit down I would like to refer briefly to clause 5(1) which states—

> 5. (1) The Governor in Council may, by notice in writing published in the *Government Gazette*, declare that the provisions of this Act, other than this section, do not apply or did not at a particular time apply to a specified trading scheme or to specified transactions forming part of a trading scheme or to a specified trading scheme promoted by a specified person.

Clearly that provision is included to ensure that a scheme which is on the borderline may be declared to be legitimate. I wonder whether perhaps the provision should not operate in reverse. I wonder whether the Commissioner for Consumer Protection should not be enabled in a borderline case to declare an organisation to be a pyramid selling organisation and one that contravenes the Act. With those remarks I support the Bill.

Debate adjourned until a later stage of the sitting, on motion by Mr. McIver.

*(Continued on page 5650.)*

## BILLS (3): MESSAGES

### *Appropriations*

Messages from the Lieutenant-Governor received and read recommending appropriations for the purposes of the following Bills—

1. Rivers and Estuaries (Conservation and Management) Bill.
2. Rural Reconstruction Scheme Act Amendment Bill.
3. Daylight Saving (Referendum) Bill.

## QUESTIONS (41): ON NOTICE

### 1. ABORIGINES

#### *Hospital Accounts*

Mr. FLETCHER, to the Minister for Health:

(1) Is he aware that patients of Aboriginal descent in Government hospitals invariably have accounts written off as a consequence of the patient not being in a benefit fund?

(2) Is he aware that the Director of Administration and Medical Health Services is on record as having admitted that no revenue is available to obtain payment of those accounts?

(3) Will he approach his Federal counterpart to have the hospitals and doctors and others if necessary reimbursed through the State Community Welfare Department as a consequence of that department's care for this category of patient?

Mr. H. D. Evans (for Mr. DAVIES) replied:

(1) This is not so. The Medical Department has gone to great lengths to enroll persons of Aboriginal descent in registered hospital and medical benefit organisations in order to obtain payment of accounts for treatment of such persons who are patients in hospital. The department also endeavours to collect in uninsured cases.

In 1972-73 approximately 48% of all debits raised in respect of Aboriginal patients was collected.

(2) No. The Director of Administration, Medical and Health Services, was asked a question by the Administrator, Fremantle Hospital, in relation to accounts for treatment where it is impossible to collect payment after having done everything possible to enroll Aborigines in a recognised fund. In these cases there is no alternative than to write off the uncollectable accounts.

(3) In view of the Australian Government's proposed legislation I do not propose to make any approach to that Government at this stage.

2. DENTAL THERAPISTS

*Employment in Perth Dental Hospital and Clinics*

Mr. HUTCHINSON, to the Minister for Health:

(1) Is there any legal bar to dental therapists being able to be employed by the board of management of the Perth Dental Hospital?

(2) If so, how is this bar overcome?

(3) If not, how many dental therapists are employed in all the various clinics, etc., by the board?

Mr. H. D. Evans (for Mr. DAVIES) replied:

(1) Yes.

(2) By amendment of Dental Act section 50A.

(3) None.

3. STATE HOUSING COMMISSION

*Offices: Tenders for Air-conditioning*

Mr. O'NEIL, to the Minister for Housing:

Referring to tender No. 583/73 for air-conditioning head offices, State Housing Commission—

(1) Is it a fact that this tender due to close at 12 noon on Monday, 17th September, 1973 was extended so as to close at 12 noon on Monday, 24th September, 1973?

(2) What was the reason for the extension of time?

(3) Will he quote the final paragraph which appears on tender form 583/73?

(4) Is it a fact that when tenders were opened there were eight tenders whose prices ranged from $398,919 to $323,000 or thereabouts?

(5) Was the lowest of these tenders that submitted by Walker Air Conditioning?

(6) Is it a fact that following the opening and public disclosure of these tenders a further tender was submitted by Modern Air Pty. Ltd. for an amount of $312,738 or thereabouts?

(7) Would not this latter tender normally be deemed to be ineligible because it was a late tender and, if not, why not?

(8) Was the matter of this late tender brought to the notice of the manager, S.H.C. in a letter from Mr. S. M. Walker dated 28th September, 1973?

(9) Did the penultimate paragraph of that letter contain these words: " . . . that an executive of Modern Air Pty. Ltd. has stated he would challenge your right to reject his company's tender even though his company did not comply with the rules your commission has set down for submitting tenders"?

(10) Is it a fact that during a discussion with Mr. S. M. Walker, both the assistant manager, S.H.C. and the chief architect, S.H.C., indicated that there was no way in which the State Housing Commission could accept a late tender?

(11) Is it a fact that on 26th November, 1973 the assistant manager, S.H.C., advised Walker Air Conditioning Pty. Ltd. that it had seen fit to consider all tenders—including that of Modern Air—as eligible tenders?

(12) If the answer to (11) is "Yes" who made that decision and on what grounds?

(13) If it is a fact, that the tender from Modern Air Pty. Ltd. is to be regarded as a legitimate tender, would he not agree that this action creates a most dangerous and inexcusable precedent, and, if not, why not?

Mr. BICKERTON replied:

Before answering the question I would say that I regret it is necessary for the Deputy Leader of the Opposition to ask this question. All the parts of the question are factual. A set of circumstances undoubtedly came about, and it was brought to the attention of the Deputy Leader of the Opposition. So, whereas I would normally hand in the answer to the question because it involves about 1½ foolscap pages, perhaps under the circumstances it would be more appropriate for me to read it.

(1) Yes.

(2) The commission's Consultant Engineer had recommended to the commission—an extension of time because an intending tenderer was engaged at the same time in preparing tenders for other contracts and they had assumed, in view of the restricted number of firms engaged in this class of work, that other intending tenderers would be in a like position. On this advice, the commission approved of a limited extension of one week as it considered that this limited period would have no detrimental effect on the principal contractors' building progress.

(3) Tenders must be placed in the tender box in the foyer of the office of the State Housing Commission (197 St. George's Terrace, Perth) not later than 12 (noon) on Monday, 17th September, 1973, in accordance with tendering requirements and procedures.

(4) No. When the tender box was opened in public there were therein eight sealed proposals for tender 583/73.

(5) Yes. Of the eight which were taken from the tender box.

(6) No. After the tenders taken from the tender box had been numerically sorted in public and the sealed covers had been opened, and the contents therein had been removed into their appropriate tender group, a further sealed tender was personally presented to the senior officer presiding at the opening and collation of tenders received.

Mr. O'Connor: That is nice. This is Rafferty's rules.

Mr. BICKERTON: The honourable member should not get excited. This question is being answered in the most truthful way it can be answered.

Mr. O'Connor: I disagree with that. By the look of it this is a pretty poor state of affairs.

Mr. BICKERTON: To continue with the answer—

The officer listened to the explanation given by the offeree and recorded the fact that the tender would be subject to investigation—which is normal long-standing policy applicable to public tendering for the commission's State-wide activities and as experience has regularly shown, there are many variable circumstances which can be thoroughly investigated to determine whether valid or not attempts have been made to conform to the conditions of tendering, of which that recorded in answer to question (3) above is but one.

This tender proposal was received from Modernair Pty. Ltd. for an amount of $312,783 and was called to the public present as being one of the nine tenders to be considered by the commission and its Consultant Engineer.

(7) Not by the officers opening the tender box and the tender proposals and collating them. The facts obtaining to a lodgment other than in the tender box were reported on by the officers and further investigation was carried out to enable the commissioners to determine the validity or otherwise of this tender.

(8) and (9) Yes.

(10) No. It was explained to Mr. Walker that it is policy not to accept tenders lodged late—unless circumstances revealed by commission investigation so justify.

(11) and (12) Yes. The commissioners had determined, after considering the reports on the reasons for Modernair Pty. Ltd. late lodgment and the circumstances of the lodgment, that there was justification that the tender of Modernair Pty. Ltd. would be accepted along with all other tenders as being valid for consideration.

(13) No. Because the commission has the right to accept or reject any tender after considering all relevant evidence and circumstances obtaining to its lodgment, terms and conditions, prices, etc. This policy has been of long standing and consistently followed with the commission prepared to give full reasons for its actions.

On top of that, I have received a personal explanation from the General Manager of the State Housing Commission, and if the Deputy Leader of the Opposition wishes to peruse it he may do so.

4. RAILWAYS

*Pensioners' Concessions*

Mr. SIBSON, to the Minister representing the Minister for Railways:

As in his Budget speech the Premier said that pensioners were to

get one free trip per year to anywhere in the State where there is a W.A.G.R. rail service available—

(a) is this privilege now available; and, if so—

(b) what procedures have to be carried out by a pensioner to obtain the benefit of this privilege?

Mr. MAY replied:

(a) No. The privilege will be available from 1st February, 1974.

(b) Details of the procedure to be followed are currently being determined by the Railways Department and will be released in the near future.

5. MUJA POWER STATION

*Extension*

Mr. JONES, to the Minister for Electricity:

In view of the Middle East oil crisis and the State's dependency on fuel oil for the Kwinana and South Fremantle power stations, is the State Electricity Commission investigating the possibility of extending the Collie Muja power station beyond the level of 640 MW's?

Mr. MAY replied:

The current Middle East situation does not call for immediate investigation of future power plant extensions. The planned extension of Muja power station provides for power needs as far ahead as the early 1980s. When the need for still further plant is established, secure and economical fuel supplies will be an important factor in consideration of the advantages offered by Muja.

6. COAL RESERVES

*Collie: Report*

Mr. JONES, to the Minister for Mines:

(1) Has he received a report from Western Collieries Ltd. and Peabody Coal Company advising—

(a) the proven reserves of both open cut and deep mine coal as a result of the drilling programme;

(b) the inferred reserves as a result of the drilling programme already completed?

(2) If so, will he advise Parliament of the information?

(3) Will he advise—

(a) the now proven reserves of both open cut and deep mine coal at Collie;

(b) the inferred reserves of open cut and deep mine coal?

Mr. MAY replied:

(1) (a) and (b) Reports have been received from Western Collieries and Peabody Pty. Ltd. giving the results of their recent coal exploration programme. The information contained in the reports refers to the gross in situ coal reserves for the areas where drilling was carried out. All reserve figures quoted in the reports are in the indicated and measured categories.

(2) No. Company reports submitted to the department are confidential.

(3) (a) and (b) The department has recalculated the reserves considered extractable at Collie under existing economic conditions. They are—

| | Extractable Coal Reserves (millions of tonnes) | | |
|---|---|---|---|
| | Measured | Indicated | Inferred |
| Open cut | 95.6 | 21.3 | 69.7 |
| Colliery | 13.5 | 82.0 | — |
| Total | 109 | 103 | 70 |

Grand total of extractable coal—282 million tonnes.

Grand total of coal in the ground —1,915 million tonnes.

7. POWER STATIONS

*Conversion to Coal Fuel*

Mr. JONES, to the Minister for Electricity:

In view of the threatened cut off of oil supplies will he advise—

(a) the programme determined, if any, to ensure continuity of electric power supplies for Western Australia;

(b) would it be necessary to convert any power stations at present using oil as a fuel back to coal fired stations?

Mr. MAY replied:

At the present time there is no threatened cut off of oil supplies. However, if such an emergency should arise then—

(a) The indigenous fuels coal and natural gas would be used to the practicable limit.

(b) Yes.

8. KWINANA POWER STATION

*Oil Fired Units*

Mr. JONES, to the Minister for Electricity:

(1) How many units are at present installed at the Kwinana oil fired power station?

(2) What additional units are to be installed and what are the anticipated dates the units will be brought into commission?

Mr. MAY replied:

(1) Three.

(2) Three.

One almost immediately.

One for the winter of 1975.

One for the winter of 1976.

9. *This question was postponed.*

10. HIRE-PURCHASE AGREEMENTS

*Prosecutions for Breaches of Law*

Mr. MENSAROS, to the Attorney-General:

(1) How many charges have been laid for breaches of existing hire-purchase laws during the past three years?

(2) How many of these charges resulted in convictions?

(3) How many individuals and/or companies lending money by way of hire-purchase agreements have been involved in these—

(a) charges; and

(b) convictions?

Mr. T. D. EVANS replied:

(1) Information provided by the Police Department indicates that figures are not available for charges laid for breaches of the hire-purchase laws as such offences are not classified under that heading.

(2) and (3) Answered by (1).

11. PYRAMID SELLING

*Complaints*

Mr. MENSAROS, to the Minister for Consumer Protection:

How many individual complaints have been received by him or his department concerning pyramid selling and how many businesses engaged in pyramid selling did they involve?

Mr. HARMAN replied:

As the bureau has not been in a position to assist people with complaints against pyramid sellers other than in an advisory capacity and by publicising the practices of these firms, very few formal complaint files have been kept. The bureau has general files 10 cm. thick, containing written complaints, submissions and background information. One hundred and fifteen people have contacted the bureau in writing or submitted documentation of their experiences. In addition, at least 1,000 telephone inquiries or complaints have been dealt with.

At the time Multi-Card folded up, the commissioner had meetings with many of the participants and attended a general meeting for participants which was called to see if anything could be salvaged from the wreckage.

The companies involved are Multi-Card (also known as Buy-Card), Dare to be Great of Australia Pty. Ltd. (who may also operate as Advancement Unlimited (Australia), Koscott Interplanetary or Golden Eagle or Dinkum Home Products Pty. Ltd), Holiday Magic Pty. Ltd. and Golden Chemical Products of Australia Pty. Ltd.

There is evidence to suggest that at least one firm is approaching charitable organisations and offering $1.00 to the organisation for every purchase arriving from names and addresses supplied by the organisation.

12. WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY

*Statutes*

Mr. MENSAROS, to the Minister representing the Minister for Education:

Could he please give information as to how many statutes of the Western Australian Institute of Technology have been gazetted so far and what are the dates of *Government Gazettes* in which they are published?

Mr. T. D. EVANS replied:

A total of nine statutes of the Western Australian Institute of Technology have been gazetted as under:

| Statute | Subject | Gazettal Date |
|---|---|---|
| 1 | Common seal | 21/5/1968 |
| 2 | Interpretation | 21/5/1968 |
| 3 | By-laws and Rules | 14/1/1969 |
| 4 | Student Guild | 14/1/1969 |
| 5 | Election academic staff to council | 11/6/1969 |
| 6 | Director | 11/6/1969 |
| 7 | Council | 9/2/1970 |
| 8 | Affiliation of colleges | 13/4/1970 |
| 9 | Election student guild representatives to council | 19/2/1971 |

13. EDUCATION

*Karmel Report: Criteria for Upgrading Schools*

Mr. RUSHTON, to the Minister representing the Minister for Education:

(1) Will he advise the Assembly the criteria the department is to apply in upgrading established schools from Commonwealth funds made available following the Karmel report?

(2) If the criteria have not yet been determined when will this information be available?

(3) Are these funds to be made available for upgrading the Kelmscott primary school this year?

(4) Will he please indicate if all, or which of the following necessary additions and alterations to the school are to be provided this financial year from Commonwealth or State finances—

(a) provision of adequate staff toilets;

(b) demolish the poorly repaired three Bristol prefabricated classrooms;

(c) build a three unit cluster classroom;

(d) acquire the Police Department land adjoining the school;

(e) install a resource centre;

(f) provide flexibility of use of the seven classrooms bordering River Road and Orlando Street by constructing outlet doors to grassed areas?

Mr. T. D. EVANS replied:

(1) and (2) The basic criteria are those of needs and priorities as outlined in the report. The department must consider the position in each of its 605 primary and secondary schools. Each will be considered on its merits and the most deserving identified for the first stages of the programme.

(3) and (4) The needs of the Kelmscott school are recognised but other schools are considered to have greater priority for 1974. The department is endeavouring, however, to acquire further land from the Police Department.

14. TOWN PLANNING

*Approved Building Blocks*

Mr. RUSHTON, to the Minister for Town Planning:

(1) Will he please advise for each of the five years prior to 30th September, 1973, the subdivisional statistics as to applications received, preliminary lots approved and lots actually created?

(2) By how many lots is the 5728 lots created to 30th June, 1972 and the 9637 lots created to 30th June, 1973, short of the necessary total to meet the demand for each of these years?

Mr. H. D. Evans (for Mr. DAVIES) replied:

(1) Subdivisional statistics prior to July, 1970 are not available. Figures for applications received, preliminary lots approved and lots actually created for the last three years ended 30th June, 1973 are given below:

| Year | Applications received | Preliminary lots approved | Lots created |
|---|---|---|---|
| 1970-71 | 1,004 | 8,371 | 7,627 |
| 1971-72 | 1,196 | 11,908 | 5,728 |
| 1972-73 | 1,723 | 19,949 | 9,637 |

(2) In the absence of a defined method of measuring demand I can only provide such factual information as is available.

It will be noted from the figures given in (1) above, that the number of lots for which preliminary approval has been given consistently exceeds the number of lots actually created. But as there must necessarily be a time lag between the granting of preliminary approval and the time when conditions are fulfilled (the "lots created" stage) accurate correlation between annual figures is impossible. Lots "approved" in 1971-72 may not appear as lots "created" until 1972-73. Even allowing for this time lag, it would appear that approvals by the Town Planning Board are well in excess of "demand" from developers.

On the other hand, "demand" might be taken as being represented by the number of lots used for building purposes. On that supposition I refer to my answer to the Member on 18th October last when the appropriate figures for the last three years were—

| | | |
|---|---|---|
| 1970-71 | .... | 7,100 |
| 1971-72 | .... | 8,800 |
| 1972-73 | .... | 10,400 |

On this basis, it might appear that the corresponding "lots created" figures fall short of demand, but it must be emphasised that the "lots created" figure only refers to new lots coming on to the market and is not the total of vacant lots in the region. They are additional to the lots created in former years which are still vacant.

15. ALBANY HIGHWAY-SOUTH WESTERN HIGHWAY JUNCTION

*Lighting and Landscaping*

Mr. RUSHTON, to the Minister for Works:

(1) Will he please advise of any deterioration to the bridge over the Neerigin Brook in the Albany Highway/South-Western Highway junction at Armadale?

(2) Is there any fear of the bridge collapsing?

(3) When is the lighting of this junction to be installed?

(4) When is the cleaning up of the area to be landscaped to be implemented?

(5) When is the landscaping to be completed and trees planted?

(6) If the landscape plan is complete will he please provide me with a copy?

Mr. JAMIESON replied:

(1) The bridge is quite satisfactory. However, some stone protection below the bridge remains to be done and will be completed during the summer.

(2) No.

(3) Arrangements for lighting are being made with S.E.C. by the Armadale-Kelmscott Shire Council.

(4) The area will be cleaned up during December.

(5) Landscaping will be completed by winter 1974.

(6) A landscape plan is in course of preparation.

16. ROCKINGHAM-KWINANA HOSPITAL

*Tenders and Cost*

Mr. RUSHTON. to the Minister for Health:

(1) What is the estimated cost of completing the Rockingham-Kwinana hospital—

(a) by day labour construction;

(b) by contract construction?

(2) Have tenders been received for completion of this hospital?

(3) Will he advise the value of the tenders received?

(4) When will the contract be awarded?

Mr. H. D. Evans (for Mr. DAVIES) replied:

(1) (a) Possibly slightly more than by contract because of the large number of apprentices in the day labour force.

(b) The lowest tender is $4,158,000 subject to rise and fall provision. Consultant's fees are estimated to cost a further $206,000.

(2) Yes.

| | $ |
|---|---|
| (3) Trident Construction Pty. Ltd. .... .... | 4,158,400 |
| Hobbs and Walters Pty. Ltd. .... .... .... | 4,193,496 |
| G.K.W. Construction and Development Pty. Ltd. .... .... .... | 4,195,744 |
| E. A. Watts Pty. Ltd. .... | 4,199,573 |
| Consolidated Constructions Pty. Ltd. .... | 4,211,640 |
| Jaxon Construction Pty. Ltd. .... .... .... | 4,224,220 |
| Leighton Contractors Pty. Ltd. .... .... | 4,463,300 |
| Geo. A. Esslemont and Son .... .... .... | 4,999,427 |

(4) A letter of intention was sent to the lowest tenderer on Friday, 23rd November, 1973. A contract would be awarded after the priced bill of quantities has been received and checked.

17. POINT PERON RESERVE

*Restrictions on Use*

Mr. RUSHTON to the Premier:

(1) Does the Government support the creation of more provinces of the Hutt River type?

(2) If "No" to (1)—

(a) has his Government created just such a province on Point Peron Reserve only with greater powers over his Ministers and the local authority as to land use and against the wishes and recommendations of the Shire of Rockingham and the Metropolitan Region Planning Authority;

(b) if so, why?

(3) What power did the Government use to alter the Shire of Rockingham town plan and the Metropolitan Region Planning Authority plan to remove the general public recreational zoning to a restricted use without reference to Parliament?

Mr. J. T. TONKIN replied:

(1) The Government does not support the creation of any fanciful provinces of the Hutt River type.

(2) (a) No, and if the Member thinks so he may be in need of medical attention.

(b) Answered by (a).

(3) The Member is invited to be specific to enable his question to be understood.

18. COMMUNITY HEALTH CENTRES

*Tenancy Conditions*

Mr. BLAIKIE, to the Minister for Health:

(1) Because of the degree of uncertainty that prevails would he advise terms and conditions of tenancy pertaining to a community health centre in relation to general practitioner medical services and dental services?

(2) Will persons providing medical (general practitioner) services and dental services have unfettered opportunity to continue their own private secretarial and accounting procedures in these centres?

(3) Would he table plans of the proposed centres?

Mr. H. D. Evans (for Mr. DAVIES) replied:

(1) In my answer to question 13 on 20th November, 1973, I advised the Member that proposed conditions of tenancy are in course of preparation. This is still the situation.

(2) Yes.

(3) Floor plans of both centres are tabled.

*The plans were tabled (see paper No. 522).*

19. RAILWAYS

*Country Passenger Services: Report*

Mr. BLAIKIE, to the Minister representing the Minister for Railways:

Would he table report of his department into country passenger rail services conducted in 1972?

Mr. MAY replied:

No. The subject matter is confidential.

20. NOXIOUS WEEDS

*Seeds on Imported Livestock*

Mr. BLAIKIE, to the Minister for Agriculture:

(1) Is it fact that noxious weed seeds have been found on livestock imported into this State recently from other States even though the livestock concerned were certified free of noxious weeds?

(2) If so, do certificates declaring produce free of pests diseases and noxious weeds guarantee sufficient protection for this State's primary industries, or does he believe that supplementary procedures are now necessary?

(3) Can this State impose any penalty on any person outside Western Australia for making a false declaration in respect of such diseases, pests and weeds?

Mr. H. D. EVANS replied:

(1) Yes.

(2) Certificates are considered to provide a basic protection.

Experience has shown however that a subsequent inspection is necessary at the time of the arrival of the animals or products in Western Australia to ensure their freedom from noxious weed seeds.

(3) The opinion of Crown Law Department will be sought concerning this matter.

21. BEACH EROSION

*Control: Report*

Mr. BLAIKIE, to the Minister for Works:

(1) Has his department prepared a report dealing with beach erosion control in the Busselton district?

(2) When does he expect the report will be completed?

(3) Will he give an assurance that every endeavour will be made to ensure that the report will be finalised as quickly as possible and distributed to the appropriate bodies in order that ample opportunity be given to its adoption and implementation or otherwise well before the commencement of the 1974 winter season?

Mr. JAMIESON replied:

(1) An internal report on beach erosion in Geographe Bay has been prepared and is currently being studied.

(2) Answered by (1).

(3) Yes.

22. HARVEY HOSPITAL

*Alterations*

Mr. JONES, to the Minister for Health:

(1) Are any alterations planned for the Harvey hospital?

(2) If so, when will the alterations be carried out?

Mr. H. D. Evans (for Mr. DAVIES) replied:

(1) Yes.

(2) This will depend upon the preparation of plans and the availability of loan funds. Planning staff are fully engaged on projects for which funds have been allocated this financial year.

23. POINT PERON RESERVE

*Lessees*

Mr. RUSHTON, to the Minister for Recreation:

(1) Will he substantiate by tabling the relative file, his claim and that of the acting director of the Community Recreation Council, Mr. John Graham, in the *Sunday Times* of 25th November last that Point Peron reserve was being developed in accord with the original Commonwealth lease?

(2) Is it a fact that Point Peron reserve was transferred to the State for the sum of $60,920 subject to

the existing leases and future use being restricted to a reserve for recreation and/or park land?

(3) Who were the original lessees?

(4) Is it a fact that original intention was to make areas of Point Peron reserve available for holiday homes for service organisations?

(5) How did it eventuate social clubs were given leasing privileges?

(6) Did the social clubs previously hold a separate lease or occupy part of the National Fitness Council lease?

(7) Has the Government now given the social clubs separate leases?

(8) What rates and taxes are paid to the Shire of Rockingham by the lessees for land occupied?

(9) What recompense does the Shire of Rockingham receive for its extensive expenditure for services for this area?

(10) Who are the members of the Community Recreation Council?

(11) Is the Minister responsible for appointing these members?

(12) If the answer to (11) is "No" who is responsible for recommending and making the appointments?

Mr. T. D. EVANS replied:

(1) Copies of documents relating to the intention of the Commonwealth lease have been extracted from Community Recreation Council and National Fitness Council files and are tabled herewith.

(2) Yes.

(3) The following are the subleases as at 12th December, 1966:

Anglican Church (On behalf of C.E.B.S.).
Catholic Church—(for Y.C.W. Youth Movement).
Methodist Mission.
Methodist Young People's Department.
Baptist Union.
Churches of Christ.
Apostolic Church.
Apex—(for Civilian Widows and Families).
Postal Institute (Workers).
Seamen's Union of Australia.
Waterside Workers' Federation.
Swan Brewery Employees.
Police Union.
Royal Perth Hospital Engineers.
Boans Sporting and Social Club.
Lands and Survey Recreation Centre.
Australian Broadcasting Commission Social Club.
East Perth Football Social Club.
East Fremantle Football Social Club.
Federation of Police and Citizens' Youth Clubs.
War-Blinded Ex-Servicemen.
Sister Kate's Home for Natives.
Caledonian Pipe Band.
Guild of Undergraduates.
Pt. Peron Aquatic Youth and Family Association.
Air Force Association.
Architectural Students' Association.
Education Department.

(4) to (6) The original intention was to make blocks available to youth organisations, religious groups and service organisations, and invitations were issued to all applicable bodies. However, too few of the invited groups had the necessary funds with which to commence development and it was difficult to police the unauthorised use of vacant land by "squatters". The National Fitness Council of the day decided to offer blocks on the Point to other organisations such as sporting groups, unions, social clubs of large firms, and other properly constituted organisations which could promote the principles of providing reasonably cheap recreational holidays for young people and families. The offers were made by invitation and advertisement, all were given an opportunity to apply.

That happened during the lifetime of the former Government. To continue—

(7) All groups, including the social clubs, are sub-lessees to the Community Recreation Council.

(8) and (9) The Community Recreation Council has agreed to make an *ex gratia* payment of $5,000 per annum to the Rockingham Shire Council.

(10) Mr. H. W. Dettman (Chairman)
Associate Professor J. Bloomfield (Deputy Chairman)
The Director-General of Education
The Town Planning Commissioner
Director, Community Welfare Department
The Public Health Commissioner
Mr. A. R. Tonkin, M.L.A.
Mr. K. Colbung
Mr. J. Fitzmaurice
Sir Thomas Wardle
Dr. G. M. Keys
Mr. V. H. Gubgub
Mr. J. Davies
Mr. Ray Galliott

Mr. R. Spencer
Mrs. S. de la Hunty
Mrs. E. Turnbull
Mr. A. L. Millen
Mr. A. E. White
Mrs. G. Chester
Mr. C. J. Crisp
Dr. K. Fitch
Dr. R. K. Gray
Mr. R. McMullen
Mrs. E. Underwood

(11) The membership of the council is set out in section 8, subsections (1) and (2) of the Youth, Community Recreation and National Fitness Act, 1972, as follows:—

8. (1) The Minister shall from time to time appoint a person to the office of Chairman of the Council, and may terminate such appointment at any time, but where at the time of such appointment the person so appointed is not a member of the Council he is by force of his appointment to the office of Chairman of the Council hereby appointed to be of the Council for so long as he continues to hold office as Chairman.

(2) Subject to subsection (1) of this section, the membership of the Council consists of—

(a) the Director-General of Education;

(b) the Commissioner of Public Health;

(c) the Town Planning Commissioner;

(d) the Director of Community Welfare;

(e) not less than fifteen nor more than twenty other persons appointed by the Minister as representatives of interests likely to be affected by the operation of this Act."

(12) Not applicable.

Perhaps the Leader of the Opposition may take appropriate action regarding the member for Dale having asked the question.

24. MINING

*Dredging Claim 269H*

Mr. BLAIKIE, to the Minister for Mines:

(1) Would he state when application for authority to occupy reserved and exempted land at Wonnerup, subsequently dredging claim 269H, was initially received and accepted by his department?

(2) What objections were lodged in respect of dredging claim 269H, and—

(a) by whom;

(b) when were these received by his department?

(3) Have the objections been heard and, if so, would he please advise decision to date?

(4) If "No" to (3), will he give reason for the delay of final decision in this matter?

(5) Has the applicant satisfied environmental conditions and, if not, would the Minister give further detail?

Mr. MAY replied:

(1) Application for D.C. 269H was received on 1/9/69. Application for authority to occupy reserved and exempted lands was received on 18/2/71.

(2) Objection 2411H/71:

(a) by the Shire of Busselton;

(b) on 17/5/71.

(3) Yes, the application and objection were heard on 30/5/73 and the warden recommended approval of the application in terms to ensure that rehabilitation of the mined area was assured.

(4) The final decision has been delayed by investigation into the conditions necessary to protect the beach front and environment as far as possible and ensure adequate rehabilitation.

(5) If the application is approved, the applicant will be required to comply with environmental and rehabilitation conditions as indicated above.

25. MUJA POWER STATION

*Tenders for Plant*

Mr. A. A. LEWIS, to the Minister for Electricity:

Further to my question 25 on Wednesday, 14th November, 1973—

(a) what are the closing dates for tenders for major plant at Muja power station;

(b) has any delivery date been specified to tenderers?

Mr. MAY replied:

(a) Tenders against specifications for turbo generator plant now issued will close on 20th December, 1973.

(b) Yes.

26. GEORGE STREET, BRIDGETOWN

*Closure*

Mr. A. A. LEWIS, to the Minister for Works:

Is it a fact that ratepayers in George Street, Bridgetown were given virtually no chance to protest against the closure of the street, the notices of closure being posted from Perth on 18th October and the last day of objections being 21st October?

Mr. JAMIESON replied:

No. Under the Public Works Act, no person was eligible to lodge an objection. In this instance, however, objections were considered and have been dismissed.

27. LAND

*South Coast: Reservation and Development*

Mr. A. A. LEWIS, to the Minister for Lands:

(1) Has his department a plan for the reservation and development of the south coast of Western Australia running west from Walpole?

(2) If so, would he table it?

Mr. H. D. EVANS replied:

(1) A proposal for reservations in this area was submitted by Forests Department officers in their private capacities and is at present under consideration by the Conservation Through Reserves Committee of the Environmental Protection Authority.

(2) It would be inappropriate to table the proposal whilst it is still under consideration.

28. NATIONAL PARKS

*Closure of Roads and Tracks*

Mr. A. A. LEWIS, to the Minister for Lands:

(1) Are any roads or tracks through national parks in the south-west being closed to the public by the National Parks Board?

(2) If so, why?

Mr. H. D. EVANS replied:

(1) Yes.

(2) To improve visitor control by directing traffic along prescribed roads or tracks and to reduce erosion and other damage to the environment.

29. HOMOSEXUALS AND BISEXUALS

*Number*

Dr. DADOUR, to the Attorney-General:

(1) What is the estimated percentage of male homosexuals in Western Australia?

(2) What is the estimated percentage of male "bisexuals" in Western Australia?

Mr. T. D. EVANS replied:

(1) No figures are available for Western Australia. However overseas estimates indicate that 10% of the population have homosexual tendencies.

(2) No figures are available.

30. HEALTH

*Gonorrhoea and Syphilis: Incidence*

Dr. DADOUR, to the Minister for Health:

What is the incidence of—

(a) gonorrhoea; and

(b) syphilis;

in Western Australia in—

(i) heterosexuals;

(ii) homosexuals?

Mr. H. D. Evans (for Mr. DAVIES) replied:

In 1972 there were 1,467 notifications of gonorrhoea and 258 notifications of syphilis in a population of 1,053,182.

There is no notification or record of sexual deviations.

31. *This question was postponed.*

32. FISHERIES

*Trout: Stocking in Dams*

Mr. RUNCIMAN, to the Minister for Fisheries and Fauna:

(1) What Government controlled—

(a) irrigation dams;

(b) metropolitan dams,

have been stocked with trout?

(2) On what basis and how often are the dams restocked?

(3) Is it considered that the stocking of fresh water dams with fish has been highly successful?

(4) What control measures are used to protect the fisheries from undue exploitation?

(5) Are these reasons considered to be adequate and, if not, how can the situation be improved?

(6) Is it considered that there are adequate stocks of fish to replenish the dams?

(7) If not, will an effort be made to keep the dams regularly stocked?

Mr. BICKERTON replied:

(1) The Wellington, Stirling, Harvey, Logue Brook, Samsons, Drakesbrook, Waroona, Serpentine, Canning, Mundaring, Bickley, Victoria, Churchman's Brook and other smaller dams in the south-west have been stocked with trout. I table the report by Dr. N. M. Morrissy of the Department of Fisheries and Fauna which provides more detailed information.

(2) Annually, depending upon the current status of the populations in each dam and subject to the availability of fry.

(3) Yes, with varying success between one dam and another for the reasons given in Dr. Morrissy's report.

(4) The Fisheries regulations provide:—

(a) That trout shall not be caught by any means other than a single rod or line held in the hand.

(b) That not more than ten trout shall be taken in one day.

(c) That immature trout or trout bearing "par marks" shall not be taken.

(d) That spawning trout shall not be disturbed.

(e) That trout of a length less than twelve inches shall not be taken.

(f) that trout shall not be taken for sale, and

(g) That an Inland Fisherman's license must be held.

(5) These measures are considered to be adequate. However, an additional inspector is being appointed to strengthen policing of the regulations.

(6) Fry are produced at the Pemberton trout hatchery each year to the maximum of the holding capacity of the hatchery and within the limits of the water supply available. These are distributed to the best advantage to dams and streams.

(7) In those years where water supply severely limits the production of trout fry, imports of trout eggs are made from Victoria. It is not envisaged that the hatchery facilities will be increased to provide greater numbers of trout fry for dams and streams.

Although the department holds the view that stocking with trout is required in these dams to provide fish for anglers, research has not been undertaken to determine the relationship between stocking rates in these dams and anglers' fishing success.

*The report was tabled (see paper No. 523).*

33. FISHERIES

*Freshwater License Fee*

Mr. RUNCIMAN, to the Minister for Fisheries and Fauna:

(1) Is it intended to increase the freshwater fishing license fees?

(2) If so, why?

(3) What research is being carried out in respect of marron?

(4) What controls does the department implement to see that this fishery is preserved?

(5) Is the policing of these controls considered to be adequate?

(6) If not, how can they be improved?

Mr. BICKERTON replied:

(1) No.

(2) Answered by (1).

(3) A research officer and three technical assistants are engaged full time on freshwater research. A major portion of their time is spent on marron research. In addition, a sum of approximately $23,000 has been made available from the Fishing Industry Research Trust Fund for research into farm dam culture of marron.

(4) The Fisheries regulations provide:—

(a) That not more than six drop nets or one polesnare or one hand scoop net shall be used in taking marron.

(b) That not more than thirty marron shall be taken in one day.

(c) That marron of a length less than three inches shall not be taken.

(d) That an Inland Fisherman's License must be held.

(5) No.

(6) Funds for the appointment of an additional full time inspector have been approved by the Under-Treasurer and the Public Service Board is currently being requested to approve the creation of this position.

34. GOATS

*Pastoral Leases*

Mr. COYNE, to the Minister for Agriculture:

(1) What progress is being made in the goat eradication programme in Murchison, Gascoyne and North Eastern Goldfields areas?

(2) With the deadline for the commercialisation of goat meat fast approaching, is the Minister satisfied with the present rate that carcases are being processed?

(3) If not, would he consider sending an officer into the pastoral areas to investigate any problems that may exist between pastoralists and trappers which could be restricting the continued supply to the abattoirs from staging points?

(4) What goat numbers have been taken from the following shire areas during the past 12 months—Yalgoo, Meekatharra, Mt. Magnet, Gascoyne and Leonora?

Mr. H. D. EVANS replied:

(1) From July, 1972 until 31st October, 1973, 258,000 goats were destroyed in these areas.

The goat population in the same areas prior to July, 1972 was estimated by pastoralists to be 311,000.

(2) Yes. Increased numbers of goats are expected to be processed during the summer-autumn period.

(3) Answered by (2).

(4) Yalgoo—20,543.
Meekatharra—8,266.
Mt. Magnet—3,534.
Upper Gascoyne—3,212.
Leonora—16,891.

35. BUILDING INDUSTRY

*North-West: Cost Study*

Mr. O'CONNOR, to the Minister for Development and Decentralisation:

(1) Were contracts recently called in connection with a cost study on construction costs in the Pilbara or north-west compared with the metropolitan area?

(2) Were the tenders open or selective?

(3) How many tenders were invited?

(4) How many tenders submitted were—
(a) from local tenderers;
(b) from overseas tenderers?

(5) (a) Who was the successful tenderer;
(b) was the successful tenderer local or from overseas?

Mr. TAYLOR replied:

The Pilbara Study Group advise as follows—
(1) Yes.
(2) Selective.
(3) Five.
(4) (a) One local firm.
(b) Four overseas firms with established Australian branches.
(5) (a) The Ralph N. Parsons Company Pty. Ltd.
(b) Overseas with an office in Sydney.

36. STEEL

*Railway Rolling Stock: Nonavailability*

Mr. THOMPSON, to the Minister representing the Minister for Railways:

(1) Is he aware that the drastic steel shortage in Western Australia is being aggravated because no railway rolling stock is available to transport thousands of tons of steel from B.H.P.'s Whyalla works?

(2) Will he state what action he has taken, or is prepared to take, to overcome the transport problem?

Mr. MAY replied:

(1) Yes. It is understood that Commonwealth Railways are experiencing difficulty in meeting the heavy demand for wagons at Whyalla, due to a shortage of suitable rolling stock. The shortage is said to be due to the slow unloading of wagons by consignees in the Eastern States.

(2) Western Australian Government Railways maintain constant contact with the Commonwealth system and do everything possible to have wagons released and returned without delay. Western Australian owned wagons are sent to the Eastern States whenever they can be spared from local commitments.

37. POLICE

*Disturbance of the Peace: High Wycombe*

Mr. THOMPSON, to the Minister representing the Minister for Police:

(1) Will he investigate complaints contained in a letter recently sent to the Commissioner of Police by the secretary of Range View Park Tennis Club in High Wycombe that drunken youths are disturbing the peace of the area by using obscene language and that the youths, on the night of 16th November, pelted members of the club with lemons, milk bottles and a live hen?

(2) Will he state why no response was received from the police when, during the disturbance on the 16th

November, a member of the club rang the Midland police station?

(3) Will he increase the frequency of police patrols in the area in an attempt to eliminate the undesirable behaviour?

(4) In view of the increase in undesirable behaviour in the foothills area, will he establish a police station in High Wycombe and Forrestfield?

Mr. BICKERTON replied:

(1) The complaint is at present under investigation by a senior police officer.

(2) Police attended within 25 minutes of receiving the call, but the offenders had departed by the time the 2 police officers arrived.

Mr. Thompson: With the chook?

Mr. BICKERTON: To continue—

(3) Patrols in the area will be increased so far as is practicable.

(4) No. For the more effective deployment of a police force the modern trend is towards the use of radio controlled mobile patrols operating from regional centres.

38. MIDLAND RAILWAY WORKSHOPS

*Unlicensed Vehicles*

Mr. THOMPSON, to the Minister representing the Minister for Railways:

(1) Is he aware that unlicensed vehicles used in the Midland workshops are being driven on the public road adjacent to the workshops?

(2) Will he have the vehicles registered, thereby providing third party insurance cover?

(3) If he is not prepared to register the vehicles will he prevent them from being driven on the public road?

Mr. MAY replied:

(1) to (3) On 22nd November, 1973, a front end loader was taken out of the Midland workshops' gate across the road to the parking area on railway property to carry out necessary work. The manoeuvre was effected with the aid of a flag man.

This vehicle had been inspected and passed by the Police Traffic Branch on 16th November, 1973, for the issue of a license, which became effective on 23rd November, 1973.

39. RACIAL DISCRIMINATION AND HUMAN RIGHTS LEGISLATION

*Communications with Commonwealth Government: Tabling*

Sir CHARLES COURT, to the Premier:

Will he table correspondence and other papers covering communications between the State and Commonwealth Governments on the Bills related to human rights and racial discrimination introduced into the Senate by the Attorney-General (Senator Murphy) last week?

Mr. J. T. TONKIN replied:

Yes. Papers tabled herewith.

*The papers were tabled (see paper No. 524).*

40. NEW YEAR'S EVE

*Holiday*

Mr. RUNCIMAN, to the Minister for Labour:

Having regard to the proposal to create an extra paid holiday on 31st December, 1973—

(1) What are the numbers of businesses employing—

(a) 1 to 2 persons;

(b) 3 to 5 persons;

(c) 6 to 10 persons?

(2) What is the estimated cost in wages to the small business as referred to in (1) for this holiday?

(3) (a) What is the cost to the Western Australian taxpayer for each such holiday granted to the Public Service;

(b) what is the cost to ratepayers for each such holiday granted to local government employees?

Mr. HARMAN replied:

(1) and (2) Payroll tax returns indicate that the lowest category into which businesses are divided are those with 0-9 employees and number 2,302. (Those businesses which pay less than $400 per week in wages are not included). The total monthly wage bill computed each February amounts to $4.5m for the 12,278 employees in this category. One day of holiday in this category would amount to $227,000.

(3) (a) Information not available.

(b) The estimated cost of a holiday of one day for 6,500 male and 1,200 female local Government employees, based on the wage rate calculated by the Bureau of Census and Statistics is $103,000.

41. FIRE BRIGADES

*Standards: Report*

Mr. HUTCHINSON, to the Minister representing the Chief Secretary:

(1) Highlighted by the recent fire tragedy in a New South Wales shopping complex where it seems that fire prevention by-laws are not as strict as our own, and in view of the fact that there was no Western Australian Fire Brigade representative on the Local Government Building Advisory Committee which drew up the proposed new uniform building by-laws to replace the 1965 version now currently before Parliament, will he urgently undertake to have an early report made to Parliament by the W.A. Fire Brigades Board which will enable the fire fighting services of the State to present the reasonable standards that have been set and should be set in regard to the prevention of fire and the loss of life and property thereby?

(2) Will he instance what are considered to be the major fire safety omissions from the 1973 uniform building by-laws?

Mr. HARMAN replied:

(1) Yes.

(2) Report tabled herewith.

*The report was tabled (see paper No. 525).*

## QUESTIONS (11): WITHOUT NOTICE

1. DEVELOPMENT

*Foreign Capital: Views of Minister for the North-West*

Sir CHARLES COURT, to the Premier:

(1) Will the Premier explain where the Minister for the North-West was at variance in his statements reported in today's issue of *The West Australian* with those he—the Premier—was reported to have made in *The West Australian*, of the 24th November, 1973?

(2) Will the Premier table the information he refers to in tonight's edition of the *Daily News* and about which he is reported as saying he—and I refer to Mr. Bickerton—would not or could not have said what he did "if he had the information available to the Premier"?

(3) The Premier is quoted as saying in tonight's edition of the *Daily News* that "there was no evidence that the money for every project proposed was not available." "I don't know of any instance where capital is not available".

How can the Premier reconcile this with the fact that important projects are held up in Western Australia because the conditions laid down by the Commonwealth Government make it impossible for them to proceed?

Mr. J. T. TONKIN replied:

(1) to (3) To enable me to give a perfectly accurate answer, I ask that the question be put on the notice paper.

2. STATE HOUSING COMMISSION

*Offices: Tenders for Air-conditioning*

Mr. O'NEIL, to the Minister for Housing:

My question relates to the answer given to question 3 on today's notice paper. The Minister for Housing may be able to answer part of my question, at least.

(1) Is it a fact that Modern Air Pty. Ltd., a company whose tender was under question, has been awarded the tender to provide air-conditioning for the new State Housing Commission building?

(2) Who was the intending tenderer referred to in part (2) of the answer in deference to whom the closing of tenders was extended by one week?

(3) Who is the commission's consulting engineer for the new S.H.C. building?

Mr. BICKERTON replied:

(1) to (3) I cannot thank the Deputy Leader of the Opposition for giving me any notice whatsoever of his intention to ask this question, but it arises out of the answer given to question 3 on today's notice paper.

This is a matter which is currently being discussed by the commissioners whom I will see at 5.30 this evening. The matter has been raised by the general manager as a result of the honourable member's question, and it has been referred back to the commissioners.

Mr. O'Neil: Shall I put this question on notice?

Mr. BICKERTON: The Deputy Leader of the Opposition may do so, if he wishes. Alternatively he is welcome to any information I have. At the moment I have no further information than that

which I gave this afternoon. However, I believe that after the commissioners' meeting I will be able to answer the question. I expect to learn of the decision in half an hour.

Mr. J. T. Tonkin: The Deputy Leader of the Opposition cannot ask the same question twice.

3. GOLDMINING

*Inquiry by Commonwealth Officer*

Mr. HARTREY, to the Minister for Mines:

(1) Is the Minister aware that Mr. Tom Wharton, a senior officer of the Commonwealth Department of Minerals and Energy, is reported to have recently visited Kalgoorlie "to assess the situation facing the goldmining industry" as was reported in *The Kalgoorlie Miner*, of Monday the 26th November, 1973?

(2) If so, did Mr. Wharton contact the State Government and/ or discuss with Cabinet the objects of his mission?

(3) Is the Minister aware of what other governmental or nongovernmental agencies, organisations, or persons Mr. Wharton has consulted for the purpose of making his proposed assessment of the State's goldmining needs?

(4) Can the Minister inform the House—

(a) how soon, and

(b) to whom, the contents of Mr. Wharton's report may be disclosed?

Mr. MAY replied:

I thank the member for Boulder-Dundas for giving me notice of his intention to ask this question, the answers to which are as follows—

(1) Yes.

(2) Yes. Mr. Wharton had discussions with several Ministers prior to his departure from Western Australia.

(3) It is understood that Mr. Wharton had discussions with local authorities, local mining companies, local unions, officials of the Kalgoorlie Branch of the Amalgamated Prospectors and Leaseholders Association and other persons genuinely interested in the goldmining industry.

(4) Mr. Wharton will report direct to the Minister for Minerals and Energy on his return to Canberra and the Minister for Minerals and Energy will decide whether the contents of Mr. Wharton's report will be made public.

4. MINING

*Allegation of Racket*

Mr. HUTCHINSON, to the Premier:

(1) Has he investigated the allegations made by Senator Mulvihill—Labor, New South Wales—in the Senate yesterday during the debate on an urgency motion that Senator Cant had told him that there was a racket in the Western Australian mining industry and in respect of which Senator Mulvihill said, amongst other things, "and if Senator Cant says there is, then there is"?

(2) If not, will he investigate this alleged racket and as a result, inform the House?

(3) Has he investigated the allegations made by Senator Mulvihill against the Minister for Mines, during yesterday's urgency motion debate in the Senate, when he said—

> I repeat, that I indict pretty boy Don May—and I use that term in the most venomous way that I can—who is the West Australian Minister for Mines. People like him are not prepared to do anything?

(4) If not, does this mean that he is throwing his Minister to the Canberra wolves of his own party?

Mr. J. T. TONKIN replied:

I thank the member for Cottesloe for some notice of this question.

(1) and (2) No.

(3) No, there is no need to as I am aware of the facts and the Minister is in no way culpable. I would point out further that it is the Minister's intention to make a public statement tomorrow covering the matters involved in these questions.

(4) What the member for Cottesloe chooses to believe is, of course, entirely up to him.

5. KALAMUNDA-DARLINGTON POWER LINE

*Town Planning Approval*

Mr. THOMPSON, to the Minister for Town Planning:

(1) Does the 132,000 volt power line recently constructed by the S.E.C. between Kalamunda and Darlington pass over land held by the

Metropolitan Region Planning Authority as public open space? If so, where is the land located?

(2) Was the Metropolitan Region Planning Authority consulted by the S.E.C. prior to construction of the line?

(3) Did the M.R.P.A. agree with the proposals?

(4) Is the M.R.P.A. satisfied with the standard of work done by the S.E.C. on the project?

Mr. H. D. Evans (for Mr. DAVIES) replied:

(1) Yes. The land concerned is on the south side of the Helena River. It was acquired in two parts—

(a) lots 2-10 inclusive and 279-280 of Helena Location 20A acquired on the 22nd November, 1972; and

(b) lots 259, 266-269 inclusive, Pt. lots 270-273 inclusive and Pt. lots 276-277 of Helena Location 20A acquired on the 2nd May, 1973.

(2) No. There was a consultation between a Town Planning Department officer and an S.E.C. officer at the initial planning stage.

(3) No. No formal application to commence development was lodged with the authority.

(4) The M.R.P.A. has not had an opportunity to examine the work.

6. DEVELOPMENT

*Foreign Capital: Views of Minister for the North-West*

Sir CHARLES COURT, to the Premier:

The Premier requested that I place a previous question on the notice paper, but I have now been advised by the Clerks that they cannot take the question for Tuesday as it was asked after 5.00 p.m. Therefore, the question will not come up until Wednesday of next week.

In view of the public interest in the matter, and because it is unfair to the Minister for the North-West if this matter is unresolved for too long a period, will the Premier be good enough to let me have his considered reply by tomorrow?

Mr. J. T. TONKIN replied:

I am very grateful that the Leader of the Opposition is concerned for the Minister for the North-West.

Sir Charles Court: I do not want to delay your reply, otherwise you will be saying you are holding it up until you can tell the Parliament.

Mr. J. T. TONKIN: In view of the touching concern expressed by the Leader of the Opposition, I will be very pleased to reply to the question he asked as quickly as possible.

Sir Charles Court: Very good.

7. LAND LEGISLATION

*Withdrawal*

Mr. RUSHTON, to the Minister for Town Planning:

(1) Now that the Environmental Protection Authority's annual report, 1973, adds its weight to the many other objectors to the poorly-conceived, unsubstantiated, and unresearched proposed Salvado 80,000-acre project, will he withdraw or defer the land legislation presently before the Assembly until the feasibility study is completed?

(2) Will he please advise me of the Western Australian organisations which have written to him supporting all or any of the land Bills?

(3) Will he please table the memorandum of the 22nd March, 1973, of the Director of Environmental Protection relating to a feasibility report into the developments north of the city?

Mr. H. D. Evans (for Mr. DAVIES) replied:

(1) to (3) As the Minister for Town Planning and Environmental Protection is away and because of the impracticality of my giving a full and responsible answer. I would suggest the question be placed on the notice paper.

8. KALAMUNDA-DARLINGTON POWER LINE

*Towers on Private Land*

Mr. THOMPSON, to the Minister for Electricity:

(1) Did he issue a statement yesterday to the Australian Broadcasting Commission who quoted him on "This Day Tonight", Wednesday, the 28th November, as having said that the steel structures of the 132,000 volt line linking Kalamunda and Darlington were constructed on private property and not on reserved land?

(2) Will he advise the names of the owners of the private land on which each of the steel towers stand?

(3) If some towers are constructed on other than private land, will he state which authority controls that area?

Mr. MAY replied:

(1) When speaking to the Australian Broadcasting Commission yesterday, I advised that I was in doubt as to the ownership of the land concerned, and asked it to refrain from making any reference to land ownership until I had had the opportunity to ascertain the latest position.

(2) and (3) When the work was initially negotiated, the major part of the land was in the ownership of William Marcet Milne Robertson, and the balance was a reserve under the control of the Shire of Mundaring.

During March of this year, the Metropolitan Region Planning Authority acquired, under a contract of sale, the property of the Robertson estate.

Three towers were planned for the then private land. One tower was planned for erection on the land controlled by the Shire of Mundaring.

9. BUILDING SOCIETIES

*Interest Rates*

Mr. SIBSON, to the Premier:

In view of the sharp increase in building society interest rates, would the Premier please indicate—

(a) If interest rates further increase after a loan is taken out, will a borrower have to pay that increase?

(b) If interest rates happen to reduce after a loan is taken out, will a borrower receive the benefit of that reduction?

Mr. J. T. TONKIN replied:

(a) Yes, either directly by increased instalments, or indirectly by a lengthened term of repayment.

(b) This would be the normal course. I would add to these answers that according to the Press there is a likelihood that the Australian Government will take action to control the situation in regard to loans by building societies and other financial institutions. So the present situation could be altered if legislation of this type is brought into action in due course.

10. POINT PERON RESERVE

*Lessees*

Mr. RUSHTON, to the Minister for Recreation:

(1) I seek clarification from the Minister of his answer to question 23, noting, of course, that the length of an answer does not prove its accuracy. By the Minister's answers he has confirmed as inaccurate and misleading his own and the acting director's claims that Point Peron Reserve was being developed in accordance with the original Commonwealth lease. Will he ask the acting director to correct this misleading statement publicly?

(2) As his answer to part (3) of the question is incorrect, will he obtain and table the names of the lessees who held leases on transfer of the Point Peron Reserve? That is what the question was all about.

(3) What interest does Mr. A. R. Tonkin, M.L.A., represent on the Community Recreation Council?

Mr. T. D. EVANS replied:

(1) to (3) Because the member for Dale has chosen to use somewhat intemperate language I do not intend to answer his question unless he places it on the notice paper.

11. KWINANA-BALGA POWER LINE

*Environmental Protection Authority: Consultation*

Mr. THOMPSON, to the Minister for Environmental Protection:

(1) Was the Environmental Protection Authority consulted by the S.E.C. prior to the construction of the 132,000 volt power line which passes over the Helena Valley between Kalamunda and Darlington?

(2) If it was consulted, did it agree with the S.E.C. proposal?

(3) Did anyone representing the authority inspect the area before construction of the line?

(4) Has an inspection of the area been made by a person or persons on behalf of the authority since the construction of the line?

(5) If "Yes" to (4), is the authority satisfied with the standard of work done?

(6) If no inspection has been made by the authority to date, will he have an immediate inspection made and report to Parliament before the end of the current session?

Mr. H. D. Evans (for Mr. DAVIES) replied:

(1) to (6) I pointed out earlier that the Minister is absent, and I ask the honourable member to put the question on the notice paper.

## STATE FORESTS

*Revocation of Dedication: Council's Message*

Message from the Council received and read notifying that it had concurred in the Assembly's resolution.

## PYRAMID SALES SCHEMES BILL

*Second Reading*

Debate resumed from an earlier stage of the sitting.

**MR. W. A. MANNING** (Narrogin) [5.26 p.m.]: I support the Bill—

Mr. T. D. Evans: This is wonderful—one for the books!

Mr. W. A. MANNING: —and I do not intend to speak for very long—

Mr. T. D. Evans: There must be something wrong with the Bill, if you will support it.

Mr. W. A. MANNING: Perhaps I could say "but"—

Mr. Jamieson: I knew there must be a "but".

Mr. T. D. Evans: Back to the drawing board!

Mr. W. A. MANNING: I have no intention of going into great detail about the reasons for the introduction of the Bill. That has been done already, and I see no point in saying what should have been done when the measure is already here before us. My concern is that the legislation may embarrass some people who are not indulging in pyramid selling. It is very difficult to find out just what pyramid selling is.

To illustrate the point I am making, I would like to refer to the people who sell Tupperware. I am assured that to become an agent with this organisation no cash outlay is involved, no payment is required, and no goods are given away at Tupperware parties. In fact, these people are simply selling the goods, and on my understanding they should not come within the scope of this legislation. Perhaps they will not be included, but I would ask members to look at the definition of "pyramid selling" as set out in subclause (5) of clause 4. Nowhere in that definition is there a reference to the fact that a franchise is sold.

Paragraph (a) of this subclause refers to goods and services, and it states that where goods or services, or both, are to be provided by the person promoting a scheme, that scheme will be classified as a pyramid selling scheme. There is nothing wrong with people who provide goods and services. Paragraph (b) reads—

> the goods or services so provided are to be supplied to or for other persons under transactions effected by persons (other than the promoter or any of the promoters) . . .

There is nothing wrong with that. Paragraph (c) refers to participants who receive payments or benefits in any one or more of the ways specified. This means that a selling scheme will be classified as a pyramid selling scheme if it comes within the ambit of any one of the five subparagraphs. I ask members what is wrong with selling schemes which supply goods to other participants, or which supply training facilities or other services to other participants? These are two of the criteria of pyramid selling schemes, as I understand the subclause, and this definition could embarrass people who are carrying out quite reasonable selling schemes.

I am a little alarmed about this definition. After all is said and done it is important because clause 4(1) reads as follows—

> A person shall not obtain a benefit, or seek to obtain a benefit, from a pyramid selling scheme.

Under the provision contained in that subclause a person shall be considered to have obtained a benefit from a pyramid selling scheme if—and only if—he is a participant in a pyramid selling scheme.

If a participant in a pyramid selling scheme is defined in the words I have already quoted to the House he is performing an illegal act under the provisions of this Bill. I therefore hope the Minister will be able to give a satisfactory answer in regard to this clause. In my opinion pyramid selling is selling a franchise to another person in the hope of obtaining a return. It is a question of selling a franchise to another person so that the holder of the franchise can sell the goods covered by it. This is an atrocious system of making money, and I have no sympathy for people who try to secure profits in that way.

I think the Bill before us contains a poor definition of pyramid selling and it can embrace people who carry on a legitimate and well-respected business. I would like to have this matter clarified by the Minister, and if it is clarified to my satisfaction I will have no objection to the Bill.

**MR. A. A. LEWIS** (Blackwood) [5.32 p.m.]: I support the principle behind the Bill, but I do not support the extravagant language used by the Minister when he introduced it, because I think it shows a complete lack of knowledge of all the matters associated with selling. Like the member for Narrogin, I am worried about who the Bill will cover and why they should be covered, because in his opening paragraph the Minister has copied the words used by the South Australian Minister in saying—

> The Pyramid Sales Schemes Bill is introduced to eliminate in this State a business scheme which has rapidly spread throughout various countries of the world and has left in its wake a trail of despair and destruction for many persons drawn into its operations.

If the Minister had any knowledge of selling he would know that all salesmen get caught up in this trail of despair quite often, so I do not think those words apply only to pyramid selling.

Anyone who takes up sales promotion is often in a state of despair. In regard to pyramid selling, in most of the examples I can obtain, the people who have accepted franchises under these schemes, whether it be Holiday Magic, Golden Products, or anything else are imbued with just plain, ordinary greed. They have had no sales experience and they think they will make a quick buck by entering these schemes. Therefore if the Minister really thinks he can protect greedy people of this type I think he is mistaken.

Mr. Hartrey: They are stupid.

Mr. A. A. LEWIS: Yes, they are both greedy and stupid. They see advertisements in the Press and they think they can make a quick buck overnight. They jump into these schemes which are similar to those associated with the forward selling of wool and buying shares in companies that offer high dividends, and subsequently they are left lamenting. The prime motive of the individuals who become involved in these schemes is greed, because they think they will earn a good deal of money without doing any work.

Like the member for Narrogin I wonder how many people will be covered by clause 4(5). I wonder whether Kentucky Fried Chicken will be covered by this subclause because that is a franchise which is bought. Others include Hungry Jacks and Avon. Even direct wholesale organisations such as Watkins and Rawleigh would come under this legislation. I realise that legislation such as this would be difficult to draft, because I have tried to frame some amendments to the Bill.

Mr. Harman: It takes quite a while to frame a definition.

Mr. A. A. LEWIS: That is quite correct and the fact still worries me. I believe that people conducting genuine and legitimate businesses could be placed under a cloud with the enactment of this legislation.

I will return to comment on the Minister's second reading speech. In doing so I do not intend to be nasty towards the Minister but I think the case has been overstated with his use of words such as "The untrained person is often no match for the highly organised and well trained businessman." In some respects that may be true, but the untrained person is often the one who is trying to become a highly trained businessman in his attempt to buy a franchise. In my opinion if such a person is not a highly trained businessman he should not be wasting his money in entering upon schemes which are the subject of this Bill. In making a quotation, the Minister also used the following words—

> Pyramid sellers are unscrupulous and dangerous men. They deliberately crawl into the lives of their unsuspecting victims to trap, cheat and rob them of their savings. The whole scheme of pyramiding is insidious.

Would the Minister apply those words to Kentucky Fried Chicken, Hungry Jacks, and Avon?

Mr. Harman: They are not pyramid sellers.

Mr. A. A. LEWIS: Under the definition in the Bill they are pyramid selling schemes; the Minister should read his own Bill. If Avon is not a pyramid selling scheme I would be extremely surprised. I am also very worried about the genuine franchise businesses in this State. Under the definition set out in this measure—and admittedly I cannot think of a better one—they could, at some time or other, be caught in the web.

Whilst agreeing that we should condemn and try to stamp out some of the pyramid selling schemes in this State, I think we should seek a better Bill than the one that has been introduced by the Minister. Obviously he has not seen any of the invitations that are issued by the promoters of these schemes to attend their meetings, because they are not issuing grubby little invitation cards; if he looks at the cards that were sent to me he will probably find they are the most flashy invitation cards he has ever seen.

Mr. Harman: I did not get an invitation.

Mr. A. A. LEWIS: The promoters of those schemes probably did not think the Minister had the brains to respond to their invitations and to take on their franchise; I had the brains not to.

I believe the genuine franchise dealer should not be brought under this Bill. After reading the measure and without having a great deal of knowledge of reading Bills I consider that subclauses (5) and (6) of clause 4 will embrace many people who should not be subject to the provisions of the Bill. I hope the Minister when replying to the debate can prove to me that the genuine franchise dealer will not come under the provisions of this measure, because according to my reading of them they will embrace all the franchise dealers in this State, and I think this would be a shame.

MR. HARMAN (Maylands—Minister for Consumer Protection) [5.40 p.m.]: I thank those members who have contributed to the debate on this Bill. I agree with what members have said in respect of the definition of "pyramid selling". It has been rather difficult to frame a definition that does not cover the ordinary franchise dealer, many of whom have been operating in this State for some time and about whom we know so much.

The definition in the measure before the Chamber is the same as the one contained in the legislation brought forward by the Australian Government, and we consider it does not cover franchise dealers, but would certainly embrace the person who is operating a pyramid selling scheme. If members read clause 4 they will find that it states—

> A person shall not obtain a benefit, or seek to obtain a benefit, from a pyramid selling scheme.

The clause then goes on to provide—

> (2) For the purposes of subsection (1) of this section a person shall be taken to obtain a benefit from a pyramid selling scheme if and only if—
>
> (a) he is the promoter of, or (if there are more than one) one of the promoters of, or is a participant in, the pyramid selling scheme;
>
> (b) another person who is a participant in that pyramid selling scheme, or has applied or been invited to become a participant in that pyramid selling scheme, makes any payment to him or for his benefit or to or for the benefit of a participant in that pyramid selling scheme; and
>
> (c) the person making the payment is induced to make the payment by reason that the prospect is held out to him of receiving payments or other benefits in respect of the introduction of other persons who may become participants in that pyramid selling scheme.

Paragraph (c) contains the important provision because it is there that we see the difference between the ordinary franchise system we have in Western Australia and the pyramid selling scheme.

For the information of members, let me refer to the example of the franchise for motor vehicles. A motor vehicle manufacturer grants a franchise to a particular dealer for the purpose of selling his vehicles. The dealer may or may not have to pay for that franchise, or he may purely have to forgo some of the commission he makes on the sale of every vehicle. That is what we know as the franchise system. Under that system, when a person buys a motor vehicle there is no obligation on him, in accordance with the provisions contained in paragraph (c) of clause 4, to accept the franchise with the prospect of his receiving payment, and also of earning further remuneration by introducing the scheme to other persons. This Bill is not designed to affect the ordinary franchise dealer.

Mr. W. A. Manning: They will be affected under clause 4.

Mr. HARMAN: The difference between pyramid selling and the franchise system is set out in paragraph (c) of clause 4(2), because with pyramid selling the system only works if a person continues to sell and entices more people to participate in the scheme.

Mr. W. A. Manning: The definition of "pyramid selling" is set out in clause 4(5).

Mr. HARMAN: No, the honourable member must go back and refer to the wording contained in clause 4(1) which is—

> A person shall not benefit, or seek to obtain a benefit, from a pyramid selling scheme.

It is under this subclause that the offence will be committed. To assure the member for Blackwood, who is absent from the Chamber for a moment, I took the opportunity to get in touch with the Direct Selling Association of Australia after the Bill had been introduced. Copies of the Bill were sent to the head office of the Direct Selling Association in Melbourne. Some months prior to the preparation of the Bill the representatives of that association discussed with me the type of definition we would use in the Bill, and we examined several definitions. Some appeared to be simple, but it was considered that their application could be difficult.

A considerable amount of effort, time, and research was devoted to the definition in the Bill. I want the member for Blackwood to take particular note of what I am saying because he referred to organisations such as Avon and Watkins, both of which are members of the Direct Selling Association. I believe that Tupperware is also a member. Yesterday I was informed by the Direct Selling Association that it had arranged for three independent solicitors in Melbourne to study our Bill. The study was made and today I received the following telegram from Mr. McDougall, the chairman of that association—

> Your drafting of the Pyramid Bill is to be commended stop Our Association supports the introduction of the Bill as it clearly defines the evil of the practice of pyramid selling without infringing on the established ethical direct sellers operation stop We wholeheartedly support the Bill stop
>
> Graeme McDougall Chairman Direct Selling Association

I hope that that telegram will allay any fears held by members of the Opposition. I am sure that if they again study the definition they will see that it does not apply to the normal franchise operation as we know it in Australia, particularly in connection with vehicle sales. As the member for Darling Range pointed out, clause 5 provides exemption in certain circumstances.

The member for Darling Range dealt with referral selling and stated that in his opinion clause 6 would render illegal the activities of spotters, particularly in the car sales industry. That is not our intention under the clause.

Mr. Thompson: That may not be the intention, but it will be the effect of the provision.

Mr. HARMAN: My advisers inform me that it will not detrimentally affect spotters. The important words in clause 6 are, "a person shall not induce another person". Clause 6 reads—

> (1) A person shall not induce another person to acquire goods—

This would include a motorcar. To continue—

> —or services by representing that that other person will, after the contract for the acquisition of the goods or services is made, receive a rebate, commission or other benefit in return for giving that first-mentioned person the names of prospective customers or otherwise assisting that first-mentioned person to supply goods or services to other persons,—

Mr. Thompson: That is precisely what a spotter does.

Mr. HARMAN: To continue—

> —if receipt of the rebate, commission or other benefit is contingent on an event occurring after that contract is made.

If members study that clause carefully I think they will realise that spotters will not be affected, because, to come under the provision, a person must induce another person.

I will give an example of what we mean by referral selling. A man might come to a person's home and make the proposition that he will cover the walls of the home with a type of material which gives the appearance of brickwork, and he will offer the home owner a rebate or commission—call it what we will—if the home owner can induce other persons to have the walls of their homes covered with the same material. The member for Narrogin has indicated that he is not in agreement with that type of selling because it has all the ingredients which could lead to snide operations. If the provision is examined closely it will be realised that we are not trying to get at the spotters.

Reference has been made to the fines which are proposed under the Bill. It is true that the fines stipulated in Victoria are lower than those in our Bill, but they are the same as the fines included in the legislation before the Australian Parliament. Pyramid selling has been banned in the U.S.A. where the maximum penalty is $100,000, while in the United Kingdom where pyramid selling is also banned, no maximum fine is stipulated.

We must keep in mind that under this legislation we are dealing with some fairly financial corporations and persons and in this case it is no good being lenient by imposing insignificant fines. For instance, a maximum fine of $5,000 in these circumstances would be ridiculous. If we intend to ban pyramid selling we must provide for a heavy fine so that those who engage in the insidious practice will be hit, and hit hard.

No regulations will be made under the Bill so as soon as it is passed in another place, which I am sure will occur, it will be proclaimed and pyramid selling can be banned in Western Australia. The Act will serve as a policeman because of its heavy deterrent provisions. However, officers from the Consumer Protection Bureau will be required to carry out inspectorial and investigatory work.

I am glad that on this occasion at least the House is supporting the legislation before it. I hope it will have the effect of making pyramid sellers realise that Western Australia is not a haven for their activities.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. Harman (Minister for Consumer Protection) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Pyramid selling—

Mr. THOMPSON: I believe that this clause will include a person who purchases a motorcar distibution franchise. Under the contract he must do certain things, including the distribution of vehicles to other dealers. It is for this reason I believe that such people will be breaching this clause, and particularly subclause (5). I hope the Minister can demonstrate that that will not be the situation.

I have had the Bill examined by one legal practitioner who tells me that he believes a motorcar dealer would be in trouble in the cicumstances I have related. I have also referred the matter to several car dealers who have obtained an opinion —I presume a legal opinion—and they tell me they can see no problem in the clause. I would like the Minister to clarify the position.

Mr. HARMAN: The definition has been studied by our draftsman and by the draftsman in Canberra and both agree it is the best possible definition which could be included. The definition has received the approval of the Direct Sellers Association, as was indicated in the telegram I read.

Mr. Thompson: The Direct Sellers Association would be interested only in their sphere of operation.

Mr. HARMAN: I cannot see how a normal franchise dealer can believe that he will be affected by the clause, because when the franchise dealer sells a car, that is the end of the matter. He does not place any obligation on the buyer to obtain further buyers for the firm. When the deal for the sale of the vehicle is completed, that is the end of the matter.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Referral selling—

Mr. THOMPSON: This is the clause which, I believe, could disadvantage those persons who offer fees to spotters in an endeavour to sell their motorcars. I listened with interest to the explanation the Minister gave when he replied to the second reading debate. It seemed to follow, almost identically, the procedure which is adopted by General Motors-Holden's dealers and others. In the case of, say, a Holden sedan the motorcar is offered for sale, and included in the deal is an incentive for the intending purchaser to pass on the names of other people who may be interested in buying a car.

To this end General Motors Holden's produced a booklet—although I do not know whether the company still does produce it—which was included with the papers which came with the motorcar. It was an inducement to the purchaser to advise the dealer of the names of other people who may be interested in buying a car. To my mind, that is referral. The purchaser of the car is referring to the dealer the name of another person who may be interested in buying a car.

The referral selling which the Minister described is the situation whereby a person is given something virtually only for advising the names of other people who may be interested in taking advantage of a particular product. Consequently the incentive is a bit of wallpaper.

It may be argued that the incentive for the person buying a motorcar is that his motorcar may be proportionately cheaper because a volume of business is generated by the system of people referring other people to a company. It is a means by which the company can sell more motorcars. Obviously the company will do its best to satisfy its clients and to have satisfied people driving its vehicles. In this way people would say to their friends, "It is a good car." The purchaser of the car refers another person to the company and there is a chance that a sale will be made.

I will be satisfied if the Minister says, quite categorically, that there is no chance that this is what will happen under this provision. It will then be recorded in *Hansard*. If someone wants to do this one day, I will then be able to remind the Parliament that this was not the purpose of the measure.

Mr. HARMAN: It is not intended that clause 6 could have any effect on the activities of spotters who have been operating in the industry for some time. Three people are involved; namely, a spotter, a person buying a car, and a dealer.

I refer the Committee to the actual wording of clause 6. If members keep reading the clause it will become clear that it is not aimed at a person who is known as a spotter. The purpose of clause 6 is to prevent the pyramid seller from getting around our definition of "pyramid selling" by carrying on the business under what is known as "referral selling". We all agree that this is not wanted in this State.

Clause put and passed.

Clauses 7 to 14 put and passed.

Title put and passed.

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

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

## WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY ACT AMENDMENT BILL

*In Committee*

Resumed from the 27th November. The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Progress was reported after clause 1 had been agreed to.

Clause 2: Amendment to section 4 (Interpretation)—

Mr. T. D. EVANS: When the Committee last considered the Bill we agreed to clause 1 and then progress was reported. I will not be in the Chamber after the tea suspension and I thought it advisable to spend a few minutes on this Bill now with a view to reporting progress and asking for leave to sit again. In this way, the Opposition will have the opportunity to realise that, after tea, we will be proceeding with the next item on the notice paper.

I believe it is fitting for me to comment now on the point raised by the member for Floreat who, at the second reading, spoke to clause 2 of the measure. I was not involved in the actual preparation of the Bill nor was I associated with the drafting of it. Of necessity, I had to refer the comments made by the member for

Floreat to the Western Australian Institute of Technology and also to the draftsman concerned. The draftsman, in turn, also had to refer to the institute for further advice. I now have a report on the matter. I hope the Deputy Leader of the Opposition will concur that it is an official report furnished by the Parliamentary Counsel as a result of his having referred to the institute. The Parliamentary Counsel referred to a report which was furnished to the institute some time ago and it is mentioned in his report—this is the report which the Parliamentary Counsel has now furnished to me.

The Parliamentary Counsel advises—

> The reference in the second reading speech to the definition of the word "Statute" was inaccurate. Of course, the proposed extended definition is "prescribed". The honourable member—

I interpolate to say that the Parliamentary Counsel is referring to the member for Floreat. To continue—

> —will no doubt be aware that in the Interpretation Act, 1918 "prescribed" means prescribed by the Act wherein the term is used or by a regulation, rule or by-law made thereunder. In an Act such as the Western Australian Institute of Technology Act new classes—

This is most important. To continue—

> —of subordinate legislation are mentioned and provided for, for example Statutes, and rules made under those Statutes as distinct from rules made under an Act itself. Therefore, when the Institute Act was passed by Parliament in 1966, it was necessary for the purposes of that Act to go beyond the meaning of the word "prescribed" in the Interpretation Act, and so the definition of "prescribed" was put in the Institute Act.

It is that definition which this measure seeks to amend. To clarify the position, the Bill is correct but I concede that the speech notes referring to this provision were, indeed, inaccurate. The Parliamentary Counsel goes on to make a point which is apposite. He is referring to what happened in 1966 and says—

> However, at that time no mention of rules made under Statutes was made in the definition, and the proposed addition to the definition in the Bill before the House is only to put in what it is considered should have been put in in 1966.

The next point I wish to deal with is related to another matter. It would be more appropriate to deal with it *in toto* on another occasion. I suggest that the member for Floreat should seek leave to sit again when I resume my seat.

*Progress*

Progress reported and leave given to sit again, on motion by Mr. Mensaros.

*Sitting suspended from 6.13 to 7.30 p.m.*

## ANNUAL LEAVE BILL

*Second Reading*

**MR. HARMAN** (Maylands—Minister for Labour) [7.31 p.m.]: I move—

> That the Bill be now read a second time.

This Bill is designed to achieve two objectives: firstly, to enable Western Australia to comply with international standards contained in I.L.O. Convention No. 132 (Annual Holidays with Pay); and secondly, for Parliament to acquiesce in a minimum entitlement for all workers in Western Australia of four weeks' annual leave.

The consensus of opinion of some 123 member States of I.L.O., tripartite in nature by comprising Government, employer, and worker representatives, results in the formulation of I.L.O. conventions. Convention No. 132, if ratified, requires a member country to specify the length of holiday on a declaration appended to its ratification. and although the maximum period is flexible the convention requires that it shall, in no case, be less than three working weeks for one year of service. The convention also contains other relevant standards which have been incorporated in this legislation.

The Bill for augmented annual leave is intended to convey to those persons in the work force in Western Australia an amenity which is already enjoyed by many people in society today. In the light of technological advancement and modern social development, it represents a significant landmark and is part of the process of a more equitable distribution of the fruits of progress.

Those who are activated by an unreasoned fear of change or who are interested only in maintaining the *status quo* will argue and expound many factors in opposing this innovation, and the clamour that the time is not right for such a change will no doubt be heard again. However, the quantum of leave already exists for many employees not only in this State but also in other States of Australia.

In the earlier part of this session two other Government Bills providing for minimum standard conditions were introduced. One, the Sick Leave Bill, was defeated in another place; while the other, the Long Service Leave Act Amendment Bill, was drastically emasculated in another place before it was returned in a saddened state for this House to make the best of the remnants.

Arguments advanced on those two Bills spoke of the impropriety of the Government legislating directly in areas traditionally the preserve of industrial tribunals. The principal duty of an industrial tribunal is to prevent and settle industrial disputes. The Industrial Arbitration Act of this State establishes the Industrial Commission and sets guidelines on which it can efficiently and effectively operate. It is not improper for the Government, through Parliament, to legislate on matters of community concern and of financial import which are often part of a policy on which a mandate to govern is obtained. In the sense of being the pacemaker and setting the goal, this Government sees fit to legislate on a matter in which minimum standards have been adopted by a majority of countries meeting at an international forum to the ideals of which we fully subscribe.

In doing so it will also enable an industrial tribunal, properly constituted by the Parliament of this State, to operate effectively to determine the peripheral and related conditions so that the minimum standards of annual leave can be achieved and practically implemented.

Clause 5 of this Bill does not derogate powers from the commission but rightly allows that jurisdiction, amongst others, to provide for more favourable conditions than this Bill provides. So there is nothing to restrict employers or unions making application to the commission for the insertion in awards of conditions relevant to annual leave, and this can happen as long as the minimum standards, at least, are observed.

Direct legislation is also desirable to protect workers who are not covered by awards or industrial agreements. This group is a minority, and some may receive an annual leave benefit due to the operation of the Factories and Shops Act. Nevertheless, no matter how few in number this group of workers may be, they are entitled to the minimum standard of annual leave and their situation should be covered.

It was in June, 1963, that the Western Australian Court of Arbitration, after a general inquiry concerning annual leave and public holidays, adopted three weeks as the new minimum standard for the normal period of annual leave in State awards, with four weeks for seven-day shift workers. This followed a judgment of the Commonwealth Conciliation and Arbitration Commission on the 18th June, 1963, which had the effect of increasing from two to three weeks the period of paid annual leave for employees under Commonwealth awards. Queensland, likewise, had amended its provisions to three weeks from the 1st June, 1963.

In more recent years in Western Australia four weeks' annual leave provisions have been applied to employees of the State Public Service under the Public Service Act from the 1st January, 1972, and by administrative action the same period of annual leave was also granted to Government wages employees for annual leave falling due on or after the 1st January, 1973, until various industrial awards and agreements could be suitably amended to reflect this decision.

Employees of the Fremantle Port Authority, both salaried and wages staff, and other waterside workers also receive the benefits of the longer annual leave. In the annual leave case before the Commonwealth Conciliation and Arbitration Commission in 1971, the commission commented in respect of equality of treatment for blue-collar and white-collar workers and could see no reason why all employees, blue-collar and white-collar, whether in public or private employment, should not get the same minimum annual leave. The decision in this case gives all employees in the Commonwealth and its agencies a minimum of four weeks' leave from the 1st January, 1973.

In New South Wales public servants and other semi-governmental employees have enjoyed four week's annual leave since 1964 and this has flowed into other areas of work in that State. In South Australia, Government wages employees have enjoyed the longer period since 1968, and Public Service Act employees since 1971. On the 1st January, 1973, the Queensland Government extended four weeks' leave to its salaried and wages employees.

However, by far the most important decision was given by the Full Bench of the Queensland Industrial Conciliation and Arbitration Commission earlier in November, 1973, following its hearing upon an application by the A.W.U. for a declaration of a general ruling or policy in relation to standards and conditions in industrial awards and agreements. It declared a general ruling to operate from the 3rd December, 1973, that the minimum basic period of annual holidays would be five weeks a year for continuous shift workers and four weeks for other workers.

The Queensland commission, in making its decision, was confronted with the current serious inflationary trends, coupled with labour shortages in some areas of business activity. However, other important factors such as the improved economic situation since 1971, the large number of employees who have been granted additional annual leave since 1971, and the fact that the added benefit has already been conceded by many major employers in that and other States, weighed significantly in the decision to increase the annual leave standard.

I would now like to make brief reference to the clauses of the Bill.

Clauses 1 to 3 deal with the short title, date of commencement, and arrangement of the Bill. Subject to the Act receiving

the concurrence of Parliament, an appropriate date to introduce the increased entitlement would be from the proclamation of the Act.

In clause 4, words commonly used throughout the Bill are explained in the definitions.

The words "less than the number of hours ordinarily worked per week" in the definition of "part time worker" mean less than the standard number of ordinary hours, as distinct from overtime, fixed by the terms of the employment for a full-time worker.

The term "worker" relates to the term as contained in the Industrial Arbitration Act. As members are aware, the term "worker" is the subject of amendment to widen its scope in the Bill to amend the Industrial Arbitration Act, which is at present being dealt with in another place. The wider definition is appropriate to the intentions concerning a worker contained in this Annual Leave Bill.

The intention of clause 5 is to allow for more favourable annual leave provision than the minimum standards set by this Bill to be made in any other Act, award, industrial agreement, or contract of employment.

In New South Wales, where the Annual Holidays Act has been in existence since the 1st January, 1945, the Industrial Commission in that State has held that the benefits conferred by any other instrument must be looked upon as a whole, and compared with the relevant benefits provided by the Annual Holidays Act regarded in the same way.

The commission has stated—

> ...the intention of the Act was that the instrument in question should be weighed against the Act, and if viewed as a whole, the provisions of the contract or other instrument are more favourable than the relevant provisions of the Act taken as a whole, the instrument continues to apply.

Clause 6 refers to absences which count as continuous service for the purpose of establishing annual leave entitlement. It is related to provisions mentioned in Article 5 of I.L.O. Convention No. 132—which revises earlier conventions including Convention No. 42—and some of the other provisions are already standard clauses in most awards.

It is considered that the absences of a worker from his job for the reasons mentioned have either long been or should legitimately be regarded as continuous service to protect his rights to annual leave entitlement.

Clause 7 makes provision to protect the past continuous service of a worker for annual leave purposes when a business is subject to transfer. It is a clause which has been included in the Long Service Leave Act—section 6(4)—of this State since 1958. Both the incoming and outgoing businessmen therefore have the opportunity to know the effect of this clause and the financial implication when transfer of a business is contemplated.

Clause 8 is an important clause. It sets down that the minimum standard of annual leave will be four weeks a year paid at the ordinary wage or salary from the coming into operation of the Bill.

It also provides for *pro rata* annual leave based on the period of continuous employment where a worker has not been employed for a sufficiently long period to enable him to draw the full entitlement, this *pro rata* grant being contingent upon a worker having been employed longer than one month from the date of his commencement of work.

Article 4 of the convention obliges those countries ratifying the convention to make such provision. In common with what applies in employment today, provision is made for part-time workers to receive *pro rata* annual leave.

Clause 9: I.L.O. Convention No. 132 specifies certain obligations in respect of when and how entitlements shall be taken so that workers obtain relevant benefit from their leave and at the same time meet the convenience of an employer. Articles 8, 9, and 10 of the convention are also relevant to this clause of the Bill.

Clause 10: It has always been recognised that certain events or happenings during a period of annual leave shall not be counted as part of that annual leave and article 6 of the convention refers to such matters; that is, public holidays and workers' compensation.

Clauses 12 to 36 comprise several parts of the Bill, as follows—

Part IV: Board of Reference

Part V: Appeals from Board of Reference

Part VI: Enforcement

Part VII: Miscellaneous

Similar provisions were written into the Sick Leave Bill which was dealt with earlier in this session of Parliament. They relate to the Long Service Leave Act as it is considered similar procedures should operate for dealing with questions and disputes and the rights and obligations of employers and workers under this Bill.

The enforcement provisions and powers of inspectors are necessary to implement the intention of the Bill properly. I commend the Bill to the House.

Debate adjourned for one week, on motion by Mr. O'Neil (Deputy Leader of the Opposition).

## MACHINERY SAFETY BILL

*In Committee*

Resumed from the 14th November. The Chairman of Committees (Mr. Bateman) in the Chair; Mr. Harman (Minister for Labour) in charge of the Bill.

Clause 7: Application—

Progress was reported on the clause after the member for Roe (Mr. W. G. Young) had moved the following amendment—

> Page 8, lines 39 and 40—Delete the words "and on which no labour for reward is employed".

Mr. GAYFER: Much discussion has taken place on this clause, and I feel I must make a contribution in the absence of my colleague.

Having read through *Hansard*, I find that the member for Roe is espousing a very noble cause. The clause as it stands is ridiculous in respect of farming. I can read into it things that possibly the member for Roe has not seen. As the clause stands—and I refer members to the way it is worded—not one piece of farm machinery which may be operated by employed labour will be exempt from its provisions. Not a single operation will be able to be carried out in agricultural areas unless the machinery is inspected; because very few farmers can possibly carry out their seeding and other operations on their own.

Those farmers who employ their sons—and there are thousands of them—put them on the pay-roll, deduct taxes from them every week, and pay workers' compensation for them, will be included under this clause because they are employing labour. In my experience the sons of farmers commence work on the farms at a very young age. The family unit farmer will be required to have all his machinery inspected purely and simply because he pays his son.

I will recite to the Chamber a list of machinery which under this measure will be required to be registered, inspected, have a prescribed fee paid in respect of it, and may not be repaired without the permission of an inspector. The list includes shearing plant; wool presses, either hydraulic or electric; augers; bale loaders; hammer mills—

Mr. Blaikie: Perhaps you had better describe them; they will not know what they are.

Mr. GAYFER: This is the bread and butter machinery of the farmer. The list also includes roller gristers; and hay balers, p.t.o. and engine functioned. Do not forget that all p.t.o. machinery is included in this because it is driven by a wheeled tractor, except in the case of crawler tractors.

I refer also to hay rakes; wheat bins at sidings on the back of a truck, because they have an engine mounted on them to empty the wheat into the silo; power-take-off hay slashers; power-take-off mowers; headers, both power-take-off and self-propelled; and power-take-off seeder bins, which are coming onto the market now.

If any employee gets onto the footboard of any machine which has a p.t.o. on it, the farmer will be required to have a certificate of registration for that machine. I point out that farm machinery breaks down, and probably permission will be required before it may be repaired. I cannot understand the mentality of the department in fostering the wording of this clause or the mentality of the Minister for pursuing it—and I could include Cabinet for agreeing to it. What did the Minister have to say at page 5047 of the current *Hansard*? He said—

> As I said previously, it is not our intention to change anything which relates to the farming industry.

Mr. Harman: That is right.

Mr. GAYFER: The Minister continued—

> We see the *status quo* remaining as it is. Where exemptions have been obtained before under the old legislation they will continue to be obtained under the new legislation.

Mr. Harman: Why don't you read the present Act?

Mr. GAYFER: I am reading the Bill, and it deals with all the items to which I have referred.

Mr. Harman: Read the present Act.

Mr. O'Neil: If it was never enforced under the present Act, why not take it out of this Bill? Why carry over something that has never been enforced?

Mr. Taylor: The Deputy Leader of the Opposition is covering for the member for Avon because he knows the Act and the member for Avon doesn't. The point is taken.

Mr. GAYFER: The Deputy Leader of the Opposition has every right to cover for the member for Avon. Whilst on this subject, I might tell the Deputy Premier that 14 members are absent from the Chamber tonight.

In my opinion we would be far better off if we all went home to bed and forgot about the legislation, because members from both sides are away attending to the business of the State.

Mr. Taylor: I think it was suggested on both sides that those members would be absent.

Mr. GAYFER: We have had only one week in which to put our house in order.

Mr. Taylor: It was agreed to by members of all parties.

The CHAIRMAN: Order! This has nothing to do with the amendment.

Mr. GAYFER: It was arranged last Thursday night; that was when final notice was given.

The CHAIRMAN: Order! We will not get involved in an argument over whether or not members have nights off. We will deal with the amendment. The member for Avon.

Mr. GAYFER: Certainly, Mr. Chairman. I make the point that if one reads this provision—and I do not care about the Act; I am considering the Bill—and understands how it will apply, one can see that farmers will be in plenty of trouble if the words proposed to be deleted are not deleted.

Mr. A. A. LEWIS: Obviously the Minister cannot see how ludicrous this provision is. If he tried to be constructive instead of saying, "Read the Act" he would probably remove this provision completely. I would like to see the necessity for licensing and inspections removed from the legislation. Let us consider the practicalities of a breakdown in the field. If a self-propelled hay baler or header breaks down and the farmer repairs it with a power-take-off welder—which will have to be licensed and inspected—then the repairs will have to be inspected. One boggles at all the paper work involved, let alone anything else. This is an example of the Minister having lovely theories but no practical knowledge whatsoever of what he is talking about.

If we look at this provision calmly it will be realised that, depending on where the inspector is situated, at least six hours longer than is necessary will be spent on the repair of some agricultural implement. With modern machinery today such a delay could probably represent 600 or 700 bags of grain, and yet the Minister states, "The provision is in the old Act but has never been used." It is all right for the Minister under a socialistic Government to keep this type of provision going.

Mr. Taylor: The capitalistic Government kept it going, too.

Mr. A. A. LEWIS: I will make allowances for that. People who do not think a great deal—

Mr. May: Do you think this is a repertory club or something?

Mr. A. A. LEWIS: A capitalistic Government holds out some incentives for people but under the members of this Government and their colleagues in Canberra these incentives are not available. How much thought does the present State Government and the Federal Government in Canberra give to the rural economy in this country? They do not mind beating hell out of the farmers. They think people will stay in the bush to make money merely to pay for all these grandiose schemes that Labor Governments evolve. I can tell them that they will be mistaken. We will have people leaving the bush in droves. In fact, since this Government has been in office we have had people leaving the bush continuously.

Mr. A. R. Tonkin: Are you sure of that?

Mr. A. A. LEWIS: Yes; let the honourable member look at the figures.

Mr. A. R. Tonkin: That has been going on all this century.

The CHAIRMAN: Order! We are still drifting away from the amendment and I ask the honourable member to return to it.

Mr. A. A. LEWIS: Very well, Mr. Chairman, I will return to the amendment. It is ludicrous to accept the clause as printed in the Bill. The members on this side of the Chamber know that what I am saying is correct; and if those on the Government side were not bound by the rules of their party, they would get up and say what they really think, because they know what I am saying is correct. However, the Minister will not accept my statements because he is bound hand and foot to do what he is told.

All the provisions in this Bill merely represent another impost on those engaged in agricultural pursuits in this State. If the Minister adopted a tolerant view and agreed to the deletion of the words in the amendment he would be performing a service to the State.

Mr. HARMAN: I do not intend to get into a "tizz" over the amendment moved by the member for Roe and supported by the member for Avon and the member for Blackwood. I merely wish to refer to the present situation that obtains under the Act which was in existence for 12 years while the Liberal Party and Country Party members formed the Government of Western Australia.

Mr. O'Neil: That does not make it good, does it?

Mr. Taylor: It does not make it bad, either.

Mr. HARMAN: But the previous Government did nothing about it.

Mr. O'Neil: Neither did the department.

Mr. HARMAN: Section 4 of the Inspection of Machinery Act reads as follows—

> This Act shall not apply to any boilers or machinery—

Then subsection (7) reads—

> (7) driven by an internal combustion engine or by electricity, and which is used exclusively by an agriculturist, pastoralist, dairy-farmer, market-gardener, orchardist, or pearler in pursuit of his calling as such and upon which no labour other than that of the owner is employed.

That provision has been in the Inspection of Machinery Act for many years and yet the member for Avon and the member for Blackwood say this Government seeks to place a further imposition on those engaged in the agricultural industry. We are not doing that at all. That provision was in the Act during the 12 years the Liberal-Country Party Government was in office in this State.

Mr. A. A. Lewis: How often has it been used?

Mr. HARMAN: It has never been used, so why did not the previous Government delete the provision?

Mr. O'Neil: Because we were not asked. Take the whole Bill back and have another look at it.

Mr. HARMAN: This provision was looked at for 12 years while the honourable member was a Minister.

Mr. Gayfer: Why do you want it left there?

Mr. HARMAN: The only interest the member for Avon has in this provision is from the point of view of the farmer.

Mr. O'Neil: What you read from the Act is not the same as the provision in the present Bill. That provision was looked at and left in the Act.

Mr. HARMAN: I am coming to that. Paragraph (d) of clause 7 (2) reads as follows—

> (d) machinery driven by an internal combustion engine or by electricity, not being a wheeled tractor, used exclusively by a miner, prospector, pastoralist, agriculturist, dairy farmer, market gardener, or orchardist, in pursuit of his calling and on which no labour for reward is employed;

Mr. O'Neil: What happened to the pearlers?

Mr. Jamieson: You're a "purler"!

Mr. O'Neil: The Government has driven that industry out of existence.

Mr. HARMAN: Pearlers have been excluded from this paragraph.

Mr. O'Neil: It has been looked at, so why not pull the whole provision out? It has never been used.

Mr. HARMAN: There was probably a good reason.

Mr. O'Neil: What is the reason? The Minister should know before he puts something before us.

Mr. May: Give him a go.

Mr. O'Neil: He does not deserve a go.

Mr. May: You are the one who said the Minister is wrong.

Mr. HARMAN: If we agree to the amendment and the words are deleted it will mean that the miner and the prospector will then be exempt, which is what the farmers want. The reason the provision has not been applied as was intended—

Mr. Gayfer: You intend to apply it now?

Mr. HARMAN: No. I have stated—and the member for Avon quoted my words from *Hansard*—that there will be no change. Control is difficult; because, as the honourable member knows, we would need an army of inspectors to attend to all these matters. If we had a situation where a miner had a machine driven by an internal combustion engine or by electricity and employed a person to attend to that type of machinery, under the honourable member's proposal he would be exempt. We do not want that to apply because the purpose of the provision in the Bill is to promote safety. We want safety provisions to apply to persons who are working machinery that is used in mining and in prospecting. If the words set out in the amendment are deleted these safety provisions would not apply. I do not think it is intended that the provision will apply in the agricultural industry and therefore farmers have nothing to worry about. The *status quo* will remain for the reasons I have given.

Mr. O'Neil: What are they?

Mr. HARMAN: The Deputy Leader of the Opposition knows the difficulty of enforcing such a provision because it was under his jurisdiction for six years.

Mr. O'Neil: No it was not. That is how much the Minister knows about it.

Mr. HARMAN: Well, for three years.

Mr. O'Neil: No it was not; that is how much the Minister knows about the position.

Mr. HARMAN: Well, the Government of which the Deputy Leader of the Opposition was a member had it for 12 years. In the situation I have outlined there will be no change in the *status quo*. If we take that provision out the law will be less effective.

Mr. O'Neil: It is useless.

Mr. HARMAN: It is not being enforced. We need to know that the provision exists, and for that reason it should be left in the legislation. It is not the intention of the Government to impose any hardship on the agricultural industry. In the past it has not done that, and it will not do so in the future.

This Government has administered the Inspection of Machinery Act for the past 2½ years, but it has not created any hardship. This Government has retained the *status quo*.

Mr. O'Neil: Our only consolation is that your Government will not be in office much longer.

Mr. HARMAN: If these words are deleted, then the miners and prospectors will be affected. Where a person is engaged on a piece of sophisticated machinery in the mines the safety features of this legislation should apply to it.

Mr. O'NEIL: I have not heard a worse argument than the one the Minister has just put up. He keeps on repeating the argument that we on this side administered the Act while we were in Government, but that does not make the legislation good.

In the second reading debate we on this side accepted the basic principle that it is important to update the legislation. We indicated there was another piece of legislation which related to safety on construction sites, and we supported that too.

On this occasion the Minister is being stubborn. The existing legislation has been reviewed and the Bill has been introduced as a result of that review. Those who have framed the Bill should have looked at the provisions which have not been enforced or applied, and should have deleted them. It may well be that provisions relating to safe working on mines and mining equipment ought to be retained. There is no reason for the Government to be lazy in reviewing the legislation.

The Government should not take a section from an existing Act, and say that because it has been in operation for some years it should be included in the Bill. That is not the correct way to legislate; that is crass laziness.

The Minister says he will not do anything to disturb the existing position, and he will not make any different rules relating to farm equipment and machinery. If that is so then when he is given an opportunity to revise the legislation he should delete the parts that are not needed.

Mr. T. J. Burke: Do you say that every time your Government revised legislation it did that?

Mr. O'NEIL: Often. I am suggesting that the course to be followed in respect of the Bill should be the same course that was followed in respect of the Construction Safety Act. That legislation was under review by the department and by all the parties concerned over a long period of time. It so happened that I was the Minister for Labour at the time and I had the opportunity to examine the legislation. I experienced no trouble, because I was aware of the procedures to be followed when that legislation was being revised. I do not know whether on this occasion the Minister can tell me that the same sort of consideration has been given to the Bill before us.

If that consideration has been given then there appears to be something amiss; but if it has not been given then the Government has failed to follow the procedure that should be followed.

We on this side do not oppose legislation which seeks to provide safety in the use of machinery. I accept the general principle behind the Bill, but I would point out there are some members in this Chamber who have had practical experience of what will happen if the letter of the law is observed. We have reached the stage where we have been told what will happen if the letter of the law is observed.

Recently when another Bill was before us the member for Boulder-Dundas said—and I am sure the member for Mt. Hawthorn will agree—it was not what the Government intended the Bill to do, but what the wording says it will do that counts.

No useful purpose is served by the Minister saying, "We will not do anything different from what has been done in the past, despite the fact that we are introducing some provisions in a new law." Here we are given an opportunity to revise what certainly has been an outdated piece of legislation. The Minister says that the farmers do not have to worry about it, because certain provisions appear in the existing Act. That is not so.

Mr. Lapham: We have deleted the pearlers.

Mr. O'NEIL: We have lost more than the pearlers. I suggest to the honourable member that he read the similar provisions in the Act and in the Bill. The first provision has been examined, and a new provision has been introduced. The fact that the existing provision has not been repealed indicates that the Government intends it to be part of the law.

On this occasion when we have the opportunity to update legislation we should do the best we can. Let us not be satisfied by an assurance given by the Minister who says, "This is the law, but we will not enforce it."

Mr. May: When you were the Minister in charge of these matters, did the department deal with any cases similar to the ones mentioned by the member for Avon?

Mr. O'NEIL: The Minister said firstly that the existing legislation was under my control for six years. When I told him he was wrong he said it was under my control for three years. I told him he was wrong again, and he then said it was under the control of the previous Government for six years. In fact it was under the control of the previous Government for 12 years.

I am not sure of the exact date when the Machinery Branch became the responsibility of the Minister for Labour. However, that is the portfolio under which the branch ought to be administered. The fact that it came under the jurisdiction of the Department of Labour provided the incentive or opportunity to look into the laws which the branch administered.

Mr. May: Can you tell us of any cases that cropped up when you were the Minister in respect of which the member for Avon has misgivings?

Mr. O'NEIL: Of course I cannot. We are told that when a law has been in existence for a long time and has not been applied it should be retained.

Mr. May: That does not make it right.

Mr. O'NEIL: Of course, that does not make it right. An opportunity has been given to revise a very old law and to update it. Therefore the first thing we ought to do is to strip from that old law the provisions which have not been used or ought not to be used.

No doubt, members will recall that on a number of occasions early in the regime of the previous Government we were assailed with great masses of legislation repealing old laws. There were schedules upon schedules of laws which had existed on the Statute book for years, and they were being repealed. These were ineffective and inoperative laws. There was a move made through the Law Reform Committee to get rid of the ineffective and inoperative Statutes. That policy ought to be observed in respect of the legislation that is before us.

Mr. Harman: This does not get rid of the law.

Mr. O'NEIL: The Minister has said that he has transferred the provisions from the existing Act to the Bill before us.

Mr. Harman: Yes, we have the two classifications of miners and prospectors.

Mr. O'NEIL: The Government has deleted the pearler.

Mr. Harman: You do not want to listen; that is your problem.

Mr. O'NEIL: I asked by interjection what had happened to the pearler, and the Minister did not answer.

Mr. Harman: They are covered by another Act.

Mr. O'NEIL: I am bound to talk through you, Mr. Chairman. The Minister should talk to you when it is his turn.

The CHAIRMAN: The Deputy Leader of the Opposition has two minutes.

Mr. Harman: You do not want to listen. I am trying to be helpful.

Mr. O'NEIL: There is a difference in the expression, "when no labour for reward is employed". That is not the wording in the parent Act, so there has been a change in that regard. The Government has examined the provision and decided to make a change, but it has not ensured that those farmers who have their sons as employees will not come under the legislation. However, the Minister says that the farmers have nothing to worry about because the law will not be enforced.

Is that the way to draft revised legislation? What is the point in writing into a Statute a provision it is not intended to enforce? I suggest that someone should bring some sanity back into the argument because we will argue the matter to the nth degree until the Minister sees some sense. The only way he has a chance of doing this is by reporting progress so that he can reconsider the matter.

Mr. GRAYDEN: I support the remarks of the Deputy Leader of the Opposition. The Government is acting reprehensibly in the extreme. The Government will press ahead and force through an amendment it does not propose to enforce.

Mr. Blaikie: So the Minister says!

Mr. GRAYDEN: Those to be affected are listed in subclause (2)(d). The Government intends to press ahead with legislation of this nature and then turn a blind eye when the provision is being broken.

Mr. Harman interjected.

Mr. GRAYDEN: Let us consider the people with whom the Minister will catch up and we will realise precisely what he has in mind. Immediately those people mentioned in paragraph (d) employ labour for reward, and that labour uses the machinery, the employer will be breaking the law, and will thus be caught under this dragnet provision. The first person mentioned is a miner. Such a miner with one employee might have a small pump driven by an internal combustion engine. The Minister tells me that if he can catch up with that sort of person he will. It does not matter whether the Minister catches up with him or not, he will still be breaking the law. The Minister is making sure of that by including this provision. A miner in a remote area will be breaking the law if he obtains a small compressor in order to undertake a little drilling. If he has one employee and that employee uses that compressor the miner is in trouble.

The next person mentioned in the paragraph is a prospector, and he is in the same situation as the miner. He will have in the back of his vehicle a small fridge powered by a small internal combustion engine, and if that prospector has an employee who uses that fridge, the law will be broken. The Minister has said that if he

can catch up with individuals who are breaking the law like that, he will do something about it.

I am trying to emphasise the absurdity of the heinous situation in which the Minister is placing people throughout Western Australia. If anyone mentioned in paragraph (d) crosses one of the machinery inspectors, that inspector will be able to throw the book at the offender. Is that a desirable state of affairs? It is precisely what will occur.

The next individual mentioned is the pastoralist, and we all know that such a person invariably has a small welding plant driven by an internal combustion engine. He also has shearing equipment driven in the same way. In fact, he has a thousand and one items which come into this category. The moment that pastoralist employs one person, he is caught up under the Act.

The agriculturist will be in the same position because he will invariably have in his wheat shed a bag loader driven by a little 7 horsepower internal combustion engine. The moment he employs an individual, he will be breaking the law.

The member for Avon mentioned numerous items of farm machinery which will come into this category.

The dairy farmer is mentioned in the provision and he will be in virtually the same position, because I suppose he would have some sort of internal combustion engine. The same can be said of the market gardener, and we know the Deputy Premier has many market gardeners living in his electorate. The moment one of them employs someone who starts up a little rotary hoe, he will be liable under the legislation because he will be breaking the law. Such an internal combustion engine could not be described as a wheeled tractor.

And so we could go on to the orchardist, and mention other items of machinery. If an orchardist sprays his fruit trees he invariably uses equipment driven by an internal combustion engine.

The CHAIRMAN: Order! The honourable member has two minutes.

Mr. GRAYDEN: Thank you, Mr. Chairman. It is absurd of the Minister to refuse the suggested amendment. Every individual in Western Australia to whom I have referred, will be placed in the position of breaking the law, not occasionally but virtually every day for as long as this Statute endures. Nothing could be more idiotic, more stupid, or more reprehensible than what is proposed by the Government. The Government will prosecute offenders, not in every case because it will not be able to catch up with everybody. To take the amendment to its logical conclusion the Government will be able to prosecute every miner in the State and also all those persons engaged in the other occupations listed in the Bill.

*Progress*

Mr. GRAYDEN: I move—

That the Chairman do now report progress and ask leave to sit again.

Motion put and negatived.

*Committee Resumed*

Mr. BLAIKIE: It is disappointing that the motion moved by the member for South Perth was not agreed to. I support previous speakers from this side of the Chamber but I feel the member for South Perth was rather patronising of the Government in the remarks he made.

The argument put forward by the Minister has not been substantiated in any way. He said that these provisions have not been used in the past and he expects that they will not be used in the future. However, that is no reason to pass legislation in this form. We realise that certain provisions will be removed.

Mr. Harman. They are covered by another Act.

Mr. BLAIKIE: What about nurserymen and viticulturists? We could mention a great number of people who are not included.

Mr. Harman: They are not included now.

Mr. BLAIKIE: If those people have been omitted, either by intention or because the Government did not know about them, why include agriculturists, market gardeners, and dairy farmers? No argument has been put forward for the retention of this clause as it is. I support the amendment moved by the member for Roe.

Mr. GAYFER: I listened to the Minister and, of course, I also listened to the other members who have spoken. I find it hard to understand why the Minister should support his previous remarks that it is not his intention to change anything which relates to the farming industry and that he wants to retain this provision in case it is wanted in the future. The Minister has said he has no intention of doing anything to affect the farming areas, and yet for two nights he argued the point regarding cabs and roll bars on tractors. It is obvious that he has every intention of making that part of the Bill law, otherwise he would simply have said it was not his intention to proceed with that provision.

Mr. Harman: Why does the honourable member not stick to facts?

Mr. GAYFER: I am. The Minister said that this provision has been in the Act for 12 years but has never been enforced, and that it was not intended that it should

be enforced. Why did he not use the same argument in respect of roll bars on tractors?

Mr. Harman: Because 11 people have been killed as a result of tractors overturning in Western Australia.

Mr. GAYFER: If it is the intention of the Government that tractors should have roll bars it is quite possible that the other provisions of this legislation will be put into effect.

Mr. Harman: All I have said is that roll bars will have to be fitted at some time in the future and we need to make regulations.

Mr. GAYFER: If all these provisions are not to apply and, as the Minister has said, it is only intended to cover the miner and the prospector, why not delete pastoralists, agriculturists, dairy farmers, and market gardeners? The Minister has not done that; he has said it will not apply to those people.

Mr. Lapham: The provisions may be required in the future. It has to be admitted that farming is becoming highly mechanised.

Mr. GAYFER: If this clause is passed—as it will be because the majority is on the other side of the Chamber—the provision could be used immediately.

Mr. Lapham: The same as it was 12 years ago.

Mr. Harman: But I cannot enforce it; you fellows opposite will not co-operate.

Mr. GAYFER: We are arguing for the deletion of the words "and on which no labour for reward is employed". It has been proved that the provision will cover the son of a farmer working on the property for wages. In the event of an accident, what will be the view of the Workers' Compensation Board with respect to this provision? It will be operable even though the Minister does not enforce it.

Mr. Harman: If a person on a farm is injured he is covered by the Workers' Compensation Act.

Mr. GAYFER: But if that person is injured while working on a machine covered by this Act, which machine should have been inspected, the owner of the machinery will be in trouble.

Mr. Lapham: Accidents have been occurring on farms for years.

Mr. GAYFER: That is true but they have never been highlighted as they will be under an Act such as this. This measure has been introduced for some reason; make no mistake about that. If it has not been introduced for some specific reason we are wasting our time.

Mr. Lapham: I think you are.

Mr. GAYFER: I also think we are. The measure has been introduced for a purpose and I cannot be kidded that the *status quo* will remain. There is no intention of delaying the enforcement of the Act.

I agree with the Deputy Leader of the Opposition that progress should be reported so that the measure can be referred back to the Farmers' Union and the Pastoralists and Graziers Association to see what they think of it. I cannot understand the Government—which I imagine will be in a little bit of difficulty at the next election—

Mr. O'Neil: That is an understatement.

Mr. GAYFER: —bringing in legislation such as this. It will go around the country like a lead balloon, believe me.

Mr. I. W. MANNING: Something is going wrong because we are losing sight of what the Minister set out to achieve when he introduced the legislation. If it is the Govrnment's intention to exclude from the measure the items which are referred to in this provision, which items affect the agricultural industry, why are they mentioned at all?

I have another question to ask. There is too much back to front talk, because surely we could have legislation which sets out the items to be included rather than have a dragnet clause and the condition that certain items will be excluded from the provisions of the legislation.

In drafting legislation it would be far more helpful if we had regard to this approach in the wording. We would then have a clearer understanding of what it is all about.

From the tenor of the debate and from what the Minister had to say, it seems he is not anxious to include in the provisions of the measure the type of machinery outlined by the member for Avon. Without question or doubt, the list of machinery itemised by the member for Avon will be affected by this legislation. Not only will that machinery be included but I could add to the list the honourable member gave by simply referring to machinery on my property which would be affected. There would be no common sense in trying to bring such machinery under the provisions of the legislation.

The whole matter has become rather confused in that the Minister is saying on the one hand that he does not desire to have certain items affected by the legislation and, on the other hand, he insists that they be included—and, consequently, they will be affected by it.

I do not wish to add to the confusion but I would like to see the situation clarified. I take a strong line in support of the comments made by the member for Avon when he itemised that list of machinery, because

this is the factual situation. It does not matter what the Minister has to say. He must either say, "Yes, these items must be included. Yes it will be policed" and that is it. Alternatively he must say that he does not intend these items to be included and he will permit them to be excluded from the legislation.

The phrase, "and on which no labour for reward is employed" is all embracing; because, for example, the moment my son drives the machinery on our farm all the machinery on the farm is included in the dragnet clause and is required to be inspected. I support the amendment.

Mr. HARMAN: I wish to clear up a couple of points. First of all accusations have been made that this legislation has not been considered by people in the industry. It has taken over three years to prepare the measure to the stage where it is now. A draft of the Bill has been forwarded to employer organisations to be examined by them and not one comment was made.

Mr. O'Neil: Did the Farmers' Union look at it?

Mr. HARMAN: As far as I am aware, yes.

Mr. O'Neil: Did the Pastoralists and Graziers Association look at it?

Mr. HARMAN: As far as I am aware, yes.

Mr. O'Neil: That sort of assurance is not much good. It could mean "No".

Mr. HARMAN: The draft legislation has also been sent to other departments to look at; for instance, the Department of Agriculture. I had to sit in the Chamber and listen to an argument presented by the member for South Perth and that argument, to say the least, was quite stupid. The measure refers to the situation where labour is employed. The member for South Perth advanced an argument about a refrigerator and said that an employee could handle a refrigerator.

The measure refers to labour being employed to operate machinery which is driven by an internal combustion engine. No-one can tell me that anyone is employed to drive a refrigerator! What happened is that the member for South Perth suddenly found out that the safety provisions would apply to a miner and a prospector. This is when he became interested. Why should the provisions not apply to an industry—whether it be farming or mining—when labour is employed?

Mr. O'Neil: Are you going to enforce the provisions of the Act in their entirety?

Mr. HARMAN: Where labour is employed, one needs the authority to enforce provisions.

Mr. O'Neil: Are you going to enforce the provisions of the Act?

Mr. HARMAN: Certain provisions have already been enforced where they can be enforced. I am told that they cannot be enforced in the agricultural industry.

Mr. O'Neil: If it is not enforceable, why include it? We do not care what the Minister has been told; we want to know what he thinks.

Mr. HARMAN: I have been told that a technical measure, such as this, would be difficult to enforce in the agricultural industry because of a lack of co-operation.

Mr. O'Neil: Who has refused to co-operate? Name one person.

Mr. HARMAN: The principle in the Bill applies to labour which is employed on machinery which is driven by an internal combustion engine or by electricity. In these cases the safety provisions should apply. This is all it amounts to. This has been the case since the Inspection of Machinery Act became law.

We are not trying to place any additional impositions on any industry. We are including the mining and prospecting industries under the paragraph when people in those industries employ men to operate highly sophisticated machinery. It is as simple as that.

It is not possible for me to agree to the amendment because I feel in my own mind that where labour is employed in an industry to operate the two types of machinery—those driven by an internal combustion engine or by electricity—the statutory provisions should apply.

Mr. GAYFER: I wish to make one small point in relation to the discussions with the Farmers' Union. I refer to page 5037 of *Hansard* and I quote as follows—

> Mr. HARMAN: What we want to do is to ensure that in Western Australia we draw up regulations under the Act, after discussions involving the Farmers' Union and other parties.
>
> Mr. E. H. M. Lewis: Have you involved the Farmers' Union?
>
> Mr. HARMAN: We have not yet involved the Farmers' Union, because the Bill has not yet been passed.

Mr. Harman: That is on the question of roll bars.

Mr. O'Neil: The Minister does not know who is involved in this.

Mr. GRAYDEN: I rise to take exception to some of the remarks made by the Minister. First of all, however, I will touch on the question of refrigeration. Virtually every landrover which is used for prospecting or mining in the north-west carries a refrigerator. Often that refrigerator is operated by an internal combustion engine.

If an employee in the course of his duties handles any part of that refrigerator because he is called upon to do so, he would come within the provisions of the legislation.

Let us suppose that in an isolated camp there may be two individuals; namely, the proprietor of the mine and

one employee. The employee, say, in the course of his duties operates the refrigerator in which their food is stored. He, too, would come within the provisions of this measure.

It is idiotic for the Minister to talk in terms of employees not being required to touch refrigerators; but of course this legislation goes further than that. I have spoken about one way in which it is absolutely reprehensible. It will place all employees in the constant position of breaking the law.

Let us take an employee who decides to insist that the provisions of this legislation are carried out in respect of the machinery on the farm. He would simply approach his union and the union would insist that the provisions of the legislation be carried out. So we would have union representatives going out to see these individuals—irrespective of whether they are working in the pastoral industry, the mining industry, the agricultural industry, dairy farming, market gardening, or the fruitgrowing industry—and insisting on the observance of the provisions of the legislation.

Mr. Blaikie: Do you think they would be representatives of the T.W.U.?

The CHAIRMAN: I think the honourable member has departed from the amendment.

Mr. GRAYDEN: We are speaking about clause 7. The member for Roe has moved that the words "and on which no labour for reward is employed" be deleted. I have put the situation where at the drop of a hat an employee can insist on the provisions of this Bill being carried out, and one can imagine the position in which the employer would be placed. The provision covers all internal combustion engines, irrespective of how small they are. They do not have to be four-stroke internal combustion engines. They could be two-stroke engines or powered model aeroplanes. It sounds absurd, but if an employee touched an internal combustion engine of that size he would be caught up in this provision.

Mr. Sibson: What about a lawnmower?

Mr. GRAYDEN: If an employer had an employee pushing a lawnmower around the farm, it would certainly come under this legislation, and the employee could ring up his union representative and sit under a tree while he waited for him to come out.

Mr. Lapham: Would you not use a lawnmower for domestic purposes?

Mr. GRAYDEN: A lawnmower could be used around a shearing shed, on a road verge, or somewhere like that. It is as silly as that.

The Minister indicated that industry has been consulted. I cannot believe that for one moment because, had industry been consulted, we would not have the clause in the first place, but certainly the concession would not have been confined to miners, prospectors, pastoralists, agriculturists, dairy farmers, market gardeners, and orchardists. We could go much further. A forester is equally deserving of these concessions. What about an apiarist? There are apiarists all over the south-west and they are on a par with dairy farmers, agriculturists, and pastoralists. Why not include apiarists? Shooting is a big industry in the north-west. Why not include shooters? Why not include fishermen and nurserymen?

It is arrant nonsense for the Minister to say this is a well-researched clause and industry has been consulted. Had this clause been sent to the Farmers' Union or the Pastoralists and Graziers Association, it would have been rejected out of hand. Had it been shown to any member of Parliament who is familiar with rural industries, it would have been rejected out of hand. How can the Minister say that industry has been consulted in respect of something as idiotic as this is? It is crass stupidity. But the worst aspect of it is that every individual will be placed in the situation of breaking the law day after day for as long as this clause remains on the Statute book. Legislation of that kind is reprehensible and has no place on the Statute book of Western Australia. If the Minister does not report progress and seek more advice on it, more fool the Minister.

Mr. STEPHENS: I will be very brief because there is no point in reiterating what previous speakers have said. However, a few moments ago the Minister stated that this Bill had been discussed with all employer organisations, and he quoted the Farmers' Union. I have just telephoned Mr. Tom Sullivan of the Farmers' Union who told me the Bill was not discussed with the union prior to its introduction, so the Minister has misled the Chamber in making that statement.

Mr. GRAYDEN: Mr. Chairman—

The CHAIRMAN: The honourable member has already spoken three times. He spoke to this amendment two weeks ago.

Amendment put and a division taken with the following result—

Ayes—17

| | |
|---|---|
| Mr. Blaikie | Mr. Mensaros |
| Sir David Brand | Mr. O'Neil |
| Mr. Coyne | Mr. Ridge |
| Dr. Dadour | Mr. Runciman |
| Mr. Gayfer | Mr. Sibson |
| Mr. Grayden | Mr. Stephens |
| Mr. Hutchinson | Mr. R. L. Young |
| Mr. A. A. Lewis | Mr. I. W. Manning |
| Mr. W. A. Manning | *(Teller)* |

Noes—18

| | |
|---|---|
| Mr. Bertram | Mr. Fletcher |
| Mr. Bickerton | Mr. Jamieson |
| Mr. Brady | Mr. Lapham |
| Mr. Brown | Mr. May |
| Mr. Bryce | Mr. McIver |
| Mr. B. T. Burke | Mr. Sewell |
| Mr. T. J. Burke | Mr. Taylor |
| Mr. Cook | Mr. A. R. Tonkin |
| Mr. H. D. Evans | Mr. Moller |
| | *(Teller)* |

Pairs

| Ayes | Noes |
|---|---|
| Mr. W. G. Young | Mr. Hartrey |
| Mr. McPharlin | Mr. J. T. Tonkin |
| Mr. E. H. M. Lewis | Mr. Davies |
| Sir Charles Court | Mr. T. D. Evans |
| Mr. O'Connor | Mr. Jones |

Amendment thus negatived.

Mr. GAYFER: I would like to ask the Minister a question in relation to paragraph (e) of subclause (2). The dictionary gives a definition of "traction" as follows—

> The drawing of a body along a surface.

Mr. Brown: You have a few experts on that over there.

Mr. GAYFER: The dictionary also tells us that a traction engine is an engine for dragging heavy loads on ordinary roads, or ploughs, etc. My question to the Minister is this: Why does not a crawler tractor have to be covered by the same regulations as a wheeled tractor? A crawler tractor going through the scrub and pulling a roller behind it would be far more dangerous than a wheeled tractor pulling a combine around a paddock. Why is the crawler tractor excluded from these safety provisions?

Mr. HARMAN: I am not qualified to answer that particular question, but I will undertake to supply the information to the honourable member as soon as possible. The regulations in New South Wales and Victoria have been geared to the wheeled tractor. The accidents to which I have referred have occurred only with wheeled tractors. There is no need to introduce safety regulations for traction machinery. However, I will check this and advise the honourable member.

Mr. GAYFER: Paragraph (k) relates to such other machinery as is prescribed. This is a blanket clause, and I take it the Minister will use it to prescribe exemptions. In other words, this is the let-out clause.

Mr. HARMAN: I do not have the Act here at present, but I believe this provision appears in the present Inspection of Machinery Act. It may happen in the future that we feel some new machinery ought to be prescribed by regulation, and we may do it under this paragraph. It adds a little flexibility to the measure.

Clause put and passed.

Clauses 8 to 10 put and passed.

Clause 11: Registration—

Mr. GAYFER: Subclause (1) of this clause reads as follows—

> (1) The prescribed particulars of all machinery to which this Act applies shall be entered in a Register to be maintained by the Chief Inspector.

Subclause (2) commences—

> (2) At the time of the first entry of the particulars relating to any machinery in the register the Chief Inspector shall determine whether it is to be treated as—
>
> (a) classified machinery, being a boiler, pressure vessel, crane, lift, escalator or other machinery which shall not be used or operated unless there is in force in relation thereto a valid certificate of inspection;

This will mean that virtually every machine operated on a farm will have to be registered, including the machines operating in all the other areas to which the member for South Perth referred.

The clause states that the registration of machinery in relation to which no certificate of inspection is required will continue in force for such period, being a period of not more than 18 months, as the chief inspector enters in the register. So even if a certificate of inspection is not required, the machinery must still be registered. It appears that our tractors will have to be registered every 18 months and that all the machinery to which I referred previously must be registered and certificated. I think this provision is as crazy as the previous clause we debated.

Mr. HARMAN: I think the clause is valid. It does not affect the provisions of clause 7 to any great extent, except where labour is employed. Under the clause all classified machinery must be registered, and it shall not be used or operated unless there is in force in respect of it a valid certificate of inspection. What is wrong with that?

Mr. Gayfer: So all the machines previously referred to will have to be registered and inspected.

Mr. HARMAN: No; I refer the member to subclause (2). Clause 7 lists the machinery to which the measure does not apply.

Mr. Gayfer: We have proved that every machine a hired hand operates will be covered. We have shown that hired hands are necessary to operate farm machinery. Therefore, all machines will have to be registered.

Mr. HARMAN: That is what the Bill says. I come back to the point I made previously. Why should not people who have machines on which labour is employed, which machines come within the provisions of clause 11(2), register those machines? The Bill applies only to machinery driven by an internal combustion engine or by electricity and upon which labour is employed.

Mr. Gayfer: I gave you plenty of examples a while ago of machines on which labour is employed.

Mr. HARMAN: The Bill is intended to cover the classified machinery set out in subclause (2), and that machinery must be registered.

Mr. GRAYDEN: Either the Minister does not realise what is in the Bill or he is misleading members. I would point out that subclause (1) is very clear; it refers to all machinery to which the measure applies. If we refer to clause 7 we find that the measure applies to all machinery driven by an internal combustion engine or by electricity, upon which somebody is employed.

So when this Bill becomes law every farmer in the State must register all his machinery. So must every miner, prospector, pastoralist, agriculturist, dairy farmer, market gardener, and orchardist throughout the length and breadth of the State. They must immediately make an inventory of all machinery driven by internal combustion engines or electric motors, and they must register that machinery. If they do not they will be breaking the law. The measure in that respect is absolutely unequivocal.

Subclause (1) is an all-embracing provision. It applies to the tiniest two-stroke motor; even one of only ½ horsepower which operates a small pump to aerate water.

I cannot understand how the member for Merredin-Yilgarn can agree with this provision. In his electorate he has miners, prospectors, pastoralists, and agriculturists. He may even have a couple of dairy farmers to supply Merredin with milk. When this Bill becomes law if his constituents do not make a list of all their machinery and have it registered, they will be breaking the law. The Government is prepared to enact legislation and then to turn a blind eye to it because, as the Minister said, it is not possible to enforce it in every case. What sort of outlook is that? If legislation is necessary, it should be enforced. I cannot understand how the member for Merredin-Yilgarn can agree to a provision which will inconvenience the agriculturists, farmers, miners, and prospectors in his electorate.

Mr. Brown: And speedboat owners.

Mr. GRAYDEN: Even you, Mr. Chairman, have market gardeners in your electorate. I think the Government is doing the wrong thing by its own loyal supporters. I can well imagine the member for Merredin-Yilgarn going to Merredin and being accosted by irate farmers.

Mr. Brown: Nuts!

Mr. GRAYDEN: He will not be able to tell them to ignore the law; he will have to tell them to register their machinery. If he does not do that he will be encouraging them to break the law. It is as simple as that.

In the circumstances I cannot understand why the Minister will not accept the amendment because it is logical in the extreme. I can only say that when the Bill goes to another place the members there will realise what has been done and will make some amendments to the measure. Therefore, I protest that legislation such as this has been introduced into the Chamber. Apparently no thought has been given to it otherwise it would not be before us now. If this is the position it is disgraceful.

Mr. NALDER: I cannot understand why this all-embracing clause should apply in those areas where the provisions contained in it cannot be policed. This has already been said, but apparently it must be repeated. If the Minister could tell us that the provision would apply only within a radius of 10 to 15 miles from the G.P.O., I would agree with it. Perhaps the provision is necessary so that it can be applied to ensure the safety of those in the work force. It may be necessary for the department to have a record of all machinery and where it is used.

Mr. May: Most of the mining areas are a long way from Perth.

Mr. NALDER: Well the provision could be made to apply within a certain radius of a mining centre. However, to make it all embracing so that every farmer must register every piece of his machinery creates an impossible situation. If inspectors are to be sent all over the country to inspect every piece of machinery, an army of inspectors will be needed. I do not know whether that is what the Minister desires.

Mr. W. A. Manning: They will have to inspect centres ranging from Esperance to Kununurra.

Mr. NALDER: That is quite correct. I cannot see why we have to have legislation on the Statute book which cannot be policed. The properties of hundreds of people throughout the State will not be visited by an inspector, and yet they will be subjected to all this inconvenience. Anyone would think that Western Australia was in a state of war where it is necessary to supply information regarding all the machinery in one's possession. But we are not in a state of war, and I do not think we should burden the people with the task of completing forms that will be of no value. I therefore oppose the clause.

Mr. HARMAN: I wish to make some observations for the benefit of the member for Katanning. First of all, this is a Bill "to provide for the safe design, construction, installation, and operation of machinery, for the inspection of machinery and the conditions under which it is used, and for the safety of persons".

Mr. Nalder: That is quite right.

Mr. HARMAN: That is the reason we are introducing this Bill.

Mr. Nalder: Who will enforce it?

Mr. HARMAN: Then clause 11 provides—

> The prescribed particulars of all machinery to which this Act applies shall be entered in a Register to be maintained by the Chief Inspector.

Mr. O'Neil: It will be like a Domesday Book.

Mr. HARMAN: Paragraph (a) of clause 11(2) then reads—

> classified machinery, being a boiler, pressure vessel, crane, lift, escalator or other machinery which shall not be used or operated unless there is in force in relation thereto a valid certificate of inspection;

Mr. O'Neil: What about a wristlet watch?

Mr. HARMAN: On page 11 clause 11(5) reads—

> The Chief Inspector shall give notice in writing to the owner of any machinery registered—
>
> (a) as to whether it is to be treated as classified machinery;

Mr. Gayfer: He makes up his mind into which category it shall be placed.

Mr. HARMAN: Yes; that is correct. If it is placed in the category referred to in paragraph (b) of subclause (2) of clause 11, it means it is unclassified and there is no need for any further inspection. It also means that if there is no problem in regard to working that piece of machinery there is no need for it to be further inspected.

Mr. Gayfer: Then why does the clause say that the machinery has to be inspected every 18 months?

Mr. O'Neil: And even if it is not inspected the prescribed fee has to be paid.

Mr. HARMAN: I draw the attention of members again to clause 11(2)(b).

Mr. O'Neil: That means that a person pays another fee even though his name is not in the book and the machinery doesn't have to be inspected?

Mr. HARMAN: The clause does not provide that the certificate has to be renewed, either.

Mr. O'Neil: This is becoming sillier still. What happens when the machinery runs out of registration? Does not the owner need to re-register it?

Mr. HARMAN: We would need to know where the machinery is situated.

Mr. O'Neil: Why?

Mr. HARMAN: The purpose of the Bill is to ensure that machines are of a safe design and that people are working under safe conditions.

Mr. O'Neil: If it is intended that the piece of machinery shall be inspected, and it is registered once and the certificate of registration then expires, it is no longer subject to inspection?

Mr. HARMAN: It will be reclassified.

Mr. O'Neil: What good will that do? It will simply give someone a job to write things into a big book.

Mr. HARMAN: The benefit of an all-embracing provision such as this is that a classification can be made. That is what is intended by the clause, and no amendment has been suggested.

Mr. GRAYDEN: We are going from the sublime to the ridiculous now.

Mr. O'Neil: It is an absolute farce!

Mr. GRAYDEN: If this provision is to embrace every market gardener, prospector or orchardist, just imagine the work that will be involved in registering every piece of machinery. Suppose there are 100,000 individuals who are obliged to prepare a list of the machinery in their possession and to send it in to the department even though it may not be used in any way. The registration of the machinery will lapse after 18 months and no doubt will have to be renewed. However the provision goes beyond that. I wonder how many small internal combustion engines and small electric motors are sold every year in Western Australia. Every time an agriculturist or pastoralist purchases an internal combustion engine or an electric motor he must add it to his list.

It is not a question of his listing it at the beginning and leaving it at that. From that time onwards, every time a pastoralist or an agriculturist buys a machine he has to have it listed.

Obviously the Minister will require an army of employees to sift through the 100,000 inventories, and to collate the returns that come in. Every time an internal combustion engine or an electric motor is purchased in Western Australia by the persons mentioned in the various categories in the Bill, such purchases will have to be notified to the department.

I understand that some 100,000 pumps are sold each year in the State for fire-fighting and other purposes, and on each pump is a small internal combustion engine to drive the pump. So here are another 100,000 forms to be filled in.

There are about 20,000 farmers in Western Australia, and it is possible that each of them purchases an internal combustion engine every year. Some of these engines have a life of 100 hours only, because they have plastic bushes or bearings. This requires another 20,000 returns to be sent in.

I do not know how many handpieces for crutching purposes are sold each year. Many farmers take such a piece of machinery on the back of their vehicles to

crutch the sheep as they go around the paddocks. There may be 10,000 of these pieces of machinery sold each year; and the purchasers will have to notify the department.

An unsuspecting pastoralist might purchase a lawnmower and ask one of his employees to operate it. If he does that he will have to set aside everything he is doing, and fill in a form to be returned to the authority.

Mr. Nalder: Will he have to do that if the employee is a pensioner?

Mr. GRAYDEN: If the pastoralist did that he would come under this clause of the Bill.

Mr. Bickerton: Would that not bring about full employment?

Mr. GRAYDEN: I have mentioned a few of the engines which are used to drive machinery. Many people buy ½ horsepower engines to drive compressors to aerate water. When a person in the categories mentioned purchases such an engine he will be required to send in a return.

This clause in the Bill affects the farmer, the pastoralist, the miner, the prospector, the dairy farmer, and the agriculturist, wherever he might be in the State.

The CHAIRMAN: The honourable member has two more minutes.

Mr. GRAYDEN: Just imagine a prospector in the northern part of the Kimberley ordering a small internal combustion engine and having it sent there by air freight or by ship. If that person is 400 miles away from Wyndham just imagine the difficulties he faces. He has to take delivery of the engine, and then find out where to send the form after he has filled it in. After the department has received the form, obviously it will not do much with it.

I draw attention to subclause (4) of clause 11 which provides—

> (4) The registration of machinery in relation to which no certificate of inspection is required continues in force from the date on which the registration is effected—
>
> (a) for such period, being a period of not more than eighteen months, as the Chief Inspector enters in the Register; or
>
> (b) until sooner suspended or cancelled by an inspector in accordance with the provisions of section 32.

The Minister cannot tell us exactly what will happen after the 18 months, but it is possible that the farmers will have to go through the rigmarole all over again.

This provision will put many people in Western Australia to a great deal of trouble. After the department has received the information it will not make much use of it, and the cost involved will add to the burden of the taxpayer. I oppose the clause.

The CHAIRMAN: The honourable member's time has expired.

Mr. FLETCHER: I have asked the permission of the Minister to say a few words.

Mr. O'Neil: I did not think you were that tightly controlled.

Mr. FLETCHER: I see nothing wrong in seeking the permission of the Minister, because he is in charge of the Bill. The Minister does not have an engineering background, and he indicated that he would not mind my making a contribution.

Mr. O'Neil: That is very kind of him. I will ask him for permission next time.

Mr. Jamieson: You will not get it.

Mr. FLETCHER: Country Party member's should be concerned about people who are employed to drive machinery, and who through the lack of adequate precautions might be killed, maimed, or lose an arm or leg. Some people have been found injured beside the piece of machinery they were using in a paddock, just because the guard had been left off the machine.

Mr. O'Neil: Registration will not prevent that happening.

Mr. FLETCHER: That is the reason I support the clause. I realise that some farmers will ask me what I know about farming. Not very much, but I do know something about the machinery which they use.

Mr. Gayfer: The Minister has said this will not apply to farm machinery.

Mr. FLETCHER: Recently I saw a photograph in the Press showing an unfortunate person walking on 1½ legs, the other half being an artificial foot. He had sustained an accident in using a rotary hoe, at Wanneroo, with the result that his foot was torn off.

Mr. O'Neil: Will this legislation stop that?

Mr. FLETCHER: I suggest that safety guards should be left on pieces of machinery while they are in use.

Naturally the machinery department wants to know what sort of plant and machinery is being used on the various farms. The officers will not go to the ridiculous extreme and order that washing machines and sewing machines must be licensed. They will be interested only in farm equipment, and if any piece of machinery becomes worn out the farmer need not register it the following year. Inspectors in the metropolitan area ensure that all safety devices are used on machinery and I see nothing wrong with an inspector being allocated to a certain rural area.

Mr. Sibson: The Minister has said he cannot police the provision.

Mr. FLETCHER: Whether or not the Minister has said that, I consider it is possible. A certain area of the farming community could be allocated to an inspector. In this way he could ascertain whether or not the equipment on the farms is safe. Members opposite know that serious and dangerous accidents do occur as a consequence of equipment not being used in the proper manner. The more reasonable members on the other side know I am making a valid point. I see nothing wrong with the provision for the registration of equipment which can do a great deal of harm. I hate people being maimed.

This subject is a serious one, but as soon as those on the other side see the chink in the armour of the Minister who is new to the portfolio they take advantage of it.

Mr. Nalder: Talk a bit of common sense.

The CHAIRMAN: Order!

Mr. FLETCHER: I ask only for fair play.

Mr. Nalder: Give it then. You will get what you give.

Mr. FLETCHER: All I ask is for fair play for the Minister in charge of the Bill.

Mr. Nalder: Give fair play yourself.

Mr. FLETCHER: Despite his pretence to the contrary the member for Katanning can be vindictive. I am not being vindictive. I am merely asking for fair play for the Minister.

Mr. Nalder: You are starting to hit below the belt. That is your level.

Mr. FLETCHER: I am saying that members opposite are starting to attack him.

Mr. Nalder: We are not.

Mr. Thompson: We are attacking his legislation.

Mr. Nalder: We are attacking the Bill. What next! Attacking the Minister! We are attacking the legislation.

Mr. FLETCHER: In my hearing, members opposite have made the situation appear ridiculous.

Mr. O'Neil: You are ridiculous.

Mr. FLETCHER: Members opposite have given extreme examples. I am talking seriously because machinery can kill and maim, and supervision is required. I see nothing at all wrong with the proposition that inspectors be allocated to certain country districts because such a system would be physically possible to operate. If the necessary form is completed, the inspector would know the location of all the equipment and would thus be able to inspect it.

As a consequence I can see nothing wrong with the clause which I hope is retained for the benefit of employees, farmers, and their families.

Mr. BLAIKIE: Obviously confusion exists on the Government side because the member for Fremantle has just let the cat out of the bag. The truth has now been revealed. The Minister has said that the Bill would not relate to farm machinery. This has been said time and time again. However, with the good grace of the Minister, the member for Fremantle was given permission to speak to the Bill, and we laud the Minister's discretion.

The CHAIRMAN: The honourable member must keep to the Bill.

Mr. Bertram: At least he was practical.

Mr. BLAIKIE: The member for Fremantle said this Bill will apply to the registration of all machinery.

Mr. Fletcher: I did not. I said it related to certain machinery.

Mr. BLAIKIE: The member for Fremantle specifically said it would apply to all machinery.

Mr. Fletcher: I did not. I said it referred to machinery that could kill or maim.

Mr. BLAIKIE: The member for Fremantle said that he also supported the registration of equipment.

Mr. Fletcher: That is right.

Mr. BLAIKIE: Clause 12 deals with applications and indicates that an application will be made in the prescribed manner accompanied by the prescribed fee.

The CHAIRMAN: The honourable member must keep to clause 11.

Mr. BLAIKIE: We know that every piece of machinery is covered. I consider that the Government has two objectives. One of these is to create a bureaucratic monster which will be required to implement the Act, and the other is to create a source of revenue.

Mr. Gayfer: Have you noticed all the "shalls" in clause 12?

Mr. BLAIKIE: Clause 25 covers the functions of the inspector, and many of them are laudable. I wholeheartedly agree with the provisions of clause 25 because we all desire the accident rate to be controlled. However, one of the major functions of the inspector will be to ensure that all provisions of the Act are met, and one of the most important provisions will be the registration and certification of machinery.

Mr. Gayfer: "Shall" be.

Mr. BLAIKIE: That is right. With regard to the definition of machinery, we know from what the member for South Perth and the member for Avon have said that

a wide range of machinery will be included. Clause 25 indicates that one of the principal functions of an inspector is to ensure generally that the provisions of the Act are met. Then, in clause 27, in connection with the registration and certification of machinery, the powers and duties of the inspector are stipulated.

The DEPUTY CHAIRMAN (Mr. A. R. Tonkin): To which part of the clause is the honourable member referring?

Mr. BLAIKIE: Clause 11, dealing with registration and certification. I am endeavouring to point out the ridiculous situation which will prevail regarding registration and certification. The most important people concerned with this Act are those who will police it—the inspectors.

An inspector can also call on any member of the Police Force to assist him. I can well imagine an inspector accompanied by a police officer, going onto a property owned by the member for Avon for the purpose of carrying out his duty within the provisions of the Act; to examine for purposes of registration, a petrol motor attached to a grain auger.

Mr. Harman: The member for Vasse is absolutely ridiculous; he is imagining things.

Mr. BLAIKIE: Very well; take that provisfon out of the Bill.

The DEPUTY CHAIRMAN: Order! I would like to know to which clause the honourable member is referring.

Mr. BLAIKIE: I am relating my remarks to clause 11 which refers to registration and certification. The powers which the inspectors will have will make this clause ridiculous in the extreme.

The DEPUTY CHAIRMAN: I suggest that the member for Vasse should not refer to other parts of the Bill until we are dealing with the particular clauses.

Mr. BLAIKIE: In deference to you, Mr. Deputy Chairman, I accept your worldly knowledge and I will continue my argument as best I can while following the indication you have given me.

"Registration and Certification" are only words contained in the Bill and they are meaningless without some form of implementation. The meaning of the words will be implemented by the inspectors and, therefore, I believe I am quite correct in proceeding along the line of argument I have been pursuing.

Clause 26 of the Bill lays down that a person who is or has been an inspector is not personally liable for any matter or thing done or omitted in good faith in the exercise or purported exercise of any power or function conferred on or exercisable by him by or under this Act. This means that if an inspector makes a booboo he has a let-out. The Bill as it stands is very loose.

We have repeatedly asked the Minister to withdraw the Bill and give it further consideration. While the safety features are commendable the Bill is far too wide-ranging in its application. If the Minister will not withdraw the Bill I suggest he should report progress and seek leave to sit again.

Mr. THOMPSON: I have a suggestion which I believe would overcome all the problems which have been expressed by members from this side of the Chamber. I understand the Minister desires to have machinery inspected to ensure that it is in safe condition before it goes into service. Once an inspector is satisfied that a piece of machinery complies with all the regulations, there will be no need for any re-registration.

I will outline the situation regarding electrical equipment. Every piece of electrical equipment which is put into service in this State is submitted to the State Electricity Commission and examined to ensure that it complies with all safety standards. The user of the equipment is not put to the trouble of submitting it for examination.

The manufacturers of machinery in this State would soon become well known to the Inspection of Machinery Branch and the machinery could be certified before it was put into service. I feel sure that there is similar legislation in the other States relating to machinery, just as there is similar legislation relating to electrical equipment. There is a standard code as far as electrical equipment is concerned and I should imagine there would very soon be a standard established for machinery safety throughout Australia.

My suggestion is that every piece of machinery sold in Western Australia could first be inspected by the Inspection of Machinery Branch to see that it complied with the required standards. A problem would arise in the case of imported equipment but, here again, this is distributed through a very small number of channels and could be controlled by the Inspection of Machinery Branch. Any imported machinery which did not comply with Western Australian standards would have to be modified.

I can recall a particular brand of washing machine—a French brand—which was imported into this State and used extensively by the Medical Department in country hospitals. The particular machine was wired to European standards and had a red-covered conductor for the earthing system. The State Electricity Commission very smartly directed the distributor to rewire the machines to the standards which apply in Western Australia.

I submit that my suggested method would be a better way for the Inspection of Machinery Branch to control machinery.

The inspectors will not have the capacity to ensure that every piece of machinery which goes into service on a farm or in industry will remain in a safe condition because there will not be sufficient inspectors to carry out that work.

An inspector could call on one day and see that the safety guard was on the machinery. He could go away and the following day it could be taken off.

Mr. Harman: He should know where the machinery is so that he can inspect it.

Mr. THOMPSON: The Minister has said, "so that he can inspect it", but he has admitted that the department would not have the capacity to inspect the machines.

Mr. Bertram: We do not have the capacity to enforce traffic regulations.

Mr. THOMPSON: That is true. I do not think there ought to be any great argument over this. I hope the Minister has not reacted adversely to the suggestion I made.

Mr. Harman: That is all very well. How would it be possible to inspect the machinery if there is no provision in the legislation to do so?

Mr. THOMPSON: How does the State Electricity Commission carry out its inspections?

Mr. Fletcher: The S.E.C. knows where everything is.

Mr. THOMPSON: It does not. Registration of electrical equipment is not necessary.

Mr. Fletcher: The S.E.C. knows where every lead-in and every power point is.

Mr. THOMPSON: What about pieces of equipment which are connected by a plug to a general purpose outlet? Does the commission know where every one is? These could be just as dangerous as a piece of equipment worth $1,000 which would be subjected to close scrutiny by the electrical inspector at the time of installation. It would be possible to buy from a shop an electrical appliance which could kill a person stone dead in the same way as equipment, which is inspected by the State Electricity Commission, could kill a person stone dead. The same applies with machines.

A portable piece of equipment could be taken onto a farm and could kill a person in the same way as a more sophisticated and massive machine could kill. I agree with the principle behind this. I can see what the Minister is driving at. The Government wants to ensure that machinery, when it goes into service, is in a satisfactory condition. However, it will never be possible for an inspector to go onto every property and ensure that the machinery is operated with safety guards and other safety features. The department will simply not have the capacity to do that.

Why involve all the individual purchasers of equipment in having to register it and why have a gang of departmental officers recording that equipment? This would simply be building up the Public Service for no good purpose.

Mr. Harman: Where does one draw the limit?

Mr. THOMPSON: What does the Minister mean? There is no limit.

Mr. Harman: Either it applies to everybody or to nobody.

Mr. THOMPSON: How many outlets would there be for mechanical equipment? There would certainly be fewer than the number of users of mechanical equipment. It would soon be realised by those who manufacture mechanical equipment in this State that they would need to obtain a clearance from the machinery inspection branch before a machine could go into service. The distributors would smartly realise that if their equipment was not up to standard they would be picked up and would be forced to recall everything they had sold, and modify the machinery.

There would be co-operation in the same way as there is with manufacturers of electrical equipment. There is a responsibility on the part of people who manufacture or distribute electrical equipment to obtain a clearance from the State Electricity Commission before they sell it and the equipment goes into service.

The machinery safety standards could be applied in this way and there would be no involvement in recording useless information. It would be useless, because the purpose of the registration is merely to enable somebody to look at the machine in the first place. Nothing will be done after it is recorded.

Mr. Harman: It depends whether it is classified or unclassified. If it is unclassified, there is no problem.

Mr. THOMPSON: The Minister is thinking, apparently, of lift installations which require regular inspections. There would need to be some line of demarcation and I now take the point he made earlier. I can see that there would be some difficulty in having a cut-off point. However, it would certainly be better to draw the line somewhere and register machinery which is to be regularly inspected. However, for goodness sake, do not make it a requirement that machinery should be registered when that machinery will not be inspected regularly anyway. This is simply a waste of time.

*Progress*

Progress reported and leave given to sit again, on motion by Mr. Moiler.

## LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

*Second Reading*

Debate resumed from the 22nd November.

**MR. NALDER** (Katanning) [10.07 p.m.]: I can assure the Minister who is representing the Minister for Local Government that he will not encounter any difficulties in having this legislation passed. I notice that the introductory speech given by the Minister in this House was practically identical with the speech made in another place by the Minister for Local Government. I was rather intrigued to note that the Minister in another place started off by saying that this was urgent legislation. It was introduced in another place on the 11th October and, consequently, it will have had rather a long passage.

I assure the Minister it is not my intention to speak at any length because, to my mind, this is the type of legislation which must be given a trial. I do not think there will be any difficulty in giving it a trial because already a great deal of thought and inquiry has been given to the matter which is the subject of the legislation.

For some years now Ministers for Local Government in all the States and representatives of the Northern Territory and the Federal Capital have been meeting and discussing this Model Uniform Building Code. There is a good deal to commend it although there are those who would argue that it could be difficult to reach agreement when so many different conditions exist in the other States. However, the inquirers got together and reached agreement and I understand from the Minister that the legislation has already been passed in New South Wales and South Australia. The other States of the Commonwealth will shortly be in the process of passing similiar legislation, if they are not already doing so.

I have read the speeches of several members, including that of the Minister for Local Government in the previous Government, who had a long experience with local government. The views he expressed indicate that he supports the legislation. After studying the various clauses he was quite satisfied that the legislation should be passed and brought into being in Western Australia.

I think the legislation has been adequately covered and that we would do well to pass it and let it run its course for a few years. Experience will then indicate whether the legislation should continue as it is or whether amendment is necessary.

I wish to comment about a matter which was not mentioned in another place. I know problems are associated with it. Clause 2 says—

> At the request of a council the Governor may by Order, from time to time suspend the operation of all or any of the provisions of this Part in its district or any portion thereof to which they apply for such period as he thinks fit.

I can see the value of this provision. In certain circumstances it may be necessary to suspend the provisions of an Act for the time being. This can be understood. All a council has to do is to request the Minister to allow the suspension of the legislation for a certain time. I see no problem there.

However, I make this point: I can recall—perhaps not so much in recent years but in earlier years—the Government being criticised for erecting an office or some other building for a department, very often without conferring with the local authority. This may not be such a problem today.

Mr. Brady: It is done in relation to additions to schools now.

Mr. NALDER: I think there should be a provision in the legislation to ensure that at least the Government notifies the local authority when it proposes to carry out work in a local authority area.

Clause 4 says—

> Notwithstanding that an Order is so made, the provisions of this Part shall not apply to buildings owned or occupied by, or under the control or management of the Crown in right of the State, or a department, agency, or instrumentality of the Crown in right of the State.

I can recall this happening in my own area, and members of the previous Government mentioning this situation.

I would like the Minister to convey to the Minister for Local Government my opinion that any Government department or instrumentality which proposes to erect a building should confer with the local authority. I emphasise this because I think it is very important, in order to obtain the support of the local authority and the local people and to build up confidence in the area. I take my hat off to local government, and I think every member of this House speaks well of local government for the work it has done and the contribution it has made to the development of this State.

It is desirable, where possible, for the States to get together and achieve uniformity in matters which are of interest to the States, and to the local authorities in particular, and I indicate my support for the legislation.

**MR. MENSAROS** (Floreat) [10.15 p.m.]: I would like to make some brief comments. While I see some merit in the uniformity which it is aimed to achieve, in the past there have been many complaints that professional people and building firms which might operate interstate have to become accustomed to various rules, and under the prevailing conditions they even have to become accustomed to the by-laws of various local authorities.

At the same time, if uniformity is enforced to the ultimate, I can see a great deal of demerit in it and many problems which could arise. When the Uniform Building By-laws concept was first introduced, I think it was based on a better principle because although the by-laws applied throughout the State it was up to each local authority whether it wished to accept them, and even those local authorities which did accept them had the right to modify them later to suit a particular locality.

As I understand this measure, after enumerating all the matters which can be regulated by the local government authority the Bill then says that all these matters can be regulated by or provided for by the State Government itself. Once this is done throughout the whole of the State or in certain areas, the individual local government authorities cannot alter the uniform by-laws.

Let us stop and think about the type of regulation which could be brought down. A regulation could apply to building materials. The member for Katanning rightly said that the regulations will apply throughout Australia, although the Bill itself does not say that. One of the most important building materials is timber, and different types of timber are used in Western Australia as compared with the Eastern States. If a roof truss is to be made of a certain size of timber, one must know the type of timber referred to, because Western Australian jarrah can be half the size but have more strength than some of the softwood timber used in the Eastern States. I could go on to speak of other materials. It might be a minor matter, yet it might vary from State to State.

I go a step further. Because it is my nature not to like uniformity in everything, I can understand that some local authorities might want to be different. A local authority in a seaside holiday resort that has few permanent residents, or a local authority in a hills area, might want something different. A local authority in the hills might want development where all the houses are set further back from the road. I can see tremendous merit in flexibility, even though there may be a basic uniform law.

The other matter I would like to mention—and I think I brought it up several years ago—is that in relation to building regulations some interesting experiments have been tried in other parts of the world, with the full support of the architectural and engineering professions, and I think they have been quite successful. I refer to the phenomenon which is known as performance by-laws.

In other words, rather than specify the exact type of material for certain purposes, we could specify the purpose to be achieved with the material; that is, the minimum performance required for a particular building, whether domestic, industrial, or any other type.

I realise that regulations of this type would mean that we will need more highly qualified supervisors, and particularly in the area of local government. However, from overseas experience, it is apparent that regulations of this type are working very well. The first city to try these so-called performance by-laws was New York, and they have been found to serve the building industry and those involved in development much better than do the by-laws which specify the use of a particular material.

Performance building by-laws are very much simpler to devise than the by-laws under which we operate at present, and they do not have to be subject to frequent alteration. We all know that new materials are coming onto the market every day. It is not so long ago that all water pipes were galvanised. The industry then gradually turned to copper pipes, and now many builders are using plastic pipes. It takes a long time for the by-laws to catch up with developments of this type. It takes a long time for the promoters of new materials such as plastic pipes to convince local authorities that the by-laws should be changed because a certain material had proved to be more efficient. If we were operating under performance by-laws in this field, the promoters, whether manufacturers or distributors, would have to satisfy the local authorities only as to the extent that the new material will perform in the same way as the old material did. As I said, I do not oppose the Bill, but I am not enthusiastic about it.

**MR. HARMAN** (Maylands—Minister for Labour) [10.23 p.m.]: I would like to thank the member for Katanning and the member for Floreat for their support of this Bill which came here from another place. I would advise both members that their comments will be brought to the notice of the Minister for Local Government. I will undertake to arrange this as soon as possible.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by Mr. Harman (Minister for Labour), and passed.

*House adjourned at 10.26 p.m.*