It seeks to amend the Parliamentary Superannuation Act by altering the date in subsection (2) of section 28 from the 31st December, 1970, to the 30th June, 1971.

The purpose of this is to make it more practicable for an actuarial assessment to be made of the Parliamentary Superannuation Fund. The previous assessments have been made at the 30th June whereas the Act indicates they should be made at the end of a calendar year. As it is more practicable to have the assessment made in June, this Bill has my full concurrence and requires no further comment. I recommend that members accept it.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the House) [5.32 p.m.]: Briefly I want to thank the honourable member for his remarks. He spoke in an authorative way which indicates that the Bill has the concurrence of all members.

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.

House adjourned at 5.34 p.m.

Legislative Assembly

Thursday, the 18th November, 1971

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

SPEAKER'S COMMISSION

THE SPEAKER (Mr. Norton) [11.01 a.m.]: I wish to report that I have received from His Excellency a Commission to swear-in honourable members, and this I hand to the Clerk to read to the House.

The Commission was read.

QUESTIONS

Statement by Speaker

THE SPEAKER (Mr. Norton) [11.03 a.m.]: I wish to announce that questions will be accepted until 2.15 p.m. on Thursdays and Fridays. On those days questions will be answered at a convenient time after lunch.

BILLS (4): INTRODUCTION AND FIRST READING

1. Supreme Court Act Amendment Bill.
2. Administration Act Amendment Bill (No. 2).
3. Evidence Act Amendment Bill.

Bills introduced, on motions by Mr. T. D. Evans (Attorney-General), and read a first time.

4. Railway Standardisation Agreement Act Amendment Bill.

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

LAPSED BILLS

Restoration to Notice Paper: Council's Message

Message from the Council requesting the restoration to the notice paper of the following Bills now considered:—

Censorship of Films Act Amendment Bill.

Adoption of Children Act Amendment Bill.

Property Law Act Amendment Bill (No. 2).

Natives (Citizenship Rights) Act Repeal Bill.

Fire Brigades Act Amendment Bill.

Mr. J. T. TONKIN (Premier): I move—

That the Legislative Council's message be agreed to.

Mr. NALDER: I have no objection to this proposal but yesterday the Premier indicated to the House that there would be only about three more new Bills. I took him to be referring to the introduction of new Bills in this House. Can the Premier indicate the number of new Bills that will be introduced in the Legislative Council?

Mr. J. T. TONKIN: I regret that, offhand, I am unable to give that information to the Leader of the Country Party but I shall make inquiries from my leader in another place and let him know as early as possible.

Question put and passed.

ADMINISTRATION ACT AMENDMENT BILL

Council's Amendment

Amendment 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 amendment made by the Council was as follows:—

Page 2—Delete proposed new subsection (2) in lines 17 to 22 and substitute the following:—

(2) In any proceedings where a person relies on a matter of fact made relevant by the provisions of subsection (1) of this section—

(a) that fact shall not be taken to be proved unless it is established to the reasonable satisfaction of the Court; and

(b) where the father and mother are not, or have not been, married to each other, the relationship between a child and his father, and all other lineal or collateral relationships, shall be recognised only—

(i) if paternity is admitted by or established against the father in his lifetime; and

(ii) where the purpose for which the relationship is to be determined enures for the benefit of the father, if paternity has been so admitted or established in the lifetime of the child.

Mr. T. D. EVANS; I move—

That the amendment made by the Council be agreed to.

As members will recall, this Bill has already passed through this Chamber and was passed with an amendment in another place. The Administration Act Amendment Bill was accompanied by two other Bills —a Bill to amend the Property Law Act and a Bill to amend the Wills Act. Each of those Bills has likewise been amended by the Legislative Council consequent upon the amendment to the Administration Act which I propose this Chamber should accept.

Briefly, these three Bills seek to grant inheritance rights moving to and from illegitimates. When the Bills were before this Chamber they quickly received approval. In the Legislative Council a doubt was expressed as to proof in the case of an illegitimate claiming an inheritance right after the death of a testator or the father or mother. Doubt was also expressed as to the adequacy of proof in the case of a person of lineal descent claiming an inheritance right from a deceased illegitimate child.

To overcome these doubts, amendments were proposed in the Legislative Council, and it might be said that the common reason for the drafting of the amendments was to ensure that an alleged illegitimate relationship would be established to the reasonable satisfaction of the court—that is, on the balance of probabilities—and then only if the relationship were admitted by the father or established against the father during his lifetime. It will be up to the court to decide whether or not, and on what evidence, the relationship is to be regarded as admitted.

In the case where a person alleging himself to be the father of a deceased child can benefit, he will have to show that the relationship had been admitted or established whilst the child was still alive.

Mr. MENSAROS: I am grateful that the Attorney-General has accepted these amendments. It is true that this doubt arose in the Legislative Council but, to refresh the memory of the Committee, I should say the same doubt arose in this Chamber during the second reading debate, when both the member for Wembley and I indicated that there could be not only doubt as regards proof but, if we extended the provisions of this Bill to cases of illegitimacy, circumstances could also arise in which, the stage where any proof could reasonably be given having passed, certain people might use this provision with a bad will. I think the member for Boulder-Dundas pointed out that the way would be opened for blackmail to take place. We brought this matter up and it was properly drafted in the Legislative Council.

Of course, the three Bills mentioned by the Attorney-General cannot be dealt with together, but they are complementary. Members will notice that the wording of the amendments of two of the Bills is almost identical. The wording of the amendment to the third Bill is slightly different but it amounts to the same thing.

In order to co-operate in passing these amendments, I indicate at this stage that not only do we agree to them but, for the record, I also mention that these doubts were first raised by us in this Chamber during the second reading debate. The significant difference is whether the benefit would accrue to the father or to the child. If the benefit would accrue or enure, as the words of the amendment read, to the father, the illegitimacy must have been established during the lifetime of the child; if the benefit would accrue to the child, the illegitimacy must have been established during the lifetime of the father. This is expressed by this amendment and the subsequent two amendments to the two complementary Bills. I support the amendment.

Mr. W. A. MANNING: During the second reading of this Bill I raised the possibility of embarrassing action arising out of the extension to the Bill. In reply the then Attorney-General said this did not impress him. I am very pleased members in another place and also the present Attorney-General were impressed. If paternity is established during the lifetime of the father it overcomes the difficulty I raised. I am happy to support the amendment.

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

Report

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

PROPERTY LAW ACT AMENDMENT BILL

Council's Amendment

Amendment 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 amendment made by the Council was as follows:—

Page 2—Insert after proposed new subsection (4) a new subsection to stand as subsection (5) as follows:—

(5) For the purposes of this section, the relationship between a father and his illegitimate child, and any other relationship traced in any degree through that relationship, shall be recognised only if paternity is admitted by or established against the father in his lifetime; and where the purpose for which the relationship is to be determined is a purpose that enures for the benefit of the father the relationship shall be recognised only if paternity has been so admitted or established in the lifetime of the child.

Mr. T. D. EVANS: When considering the Legislative Council's message No. 21, it was indicated that this is a complementary measure to give effect to the principal remedy sought. I would like to add I am grateful for the support of the members for Floreat and Narrogin in their remarks on the previous Bill. For the reasons then outlined I now move—

That the amendment made by the Council be agreed to.

Mr. MENSAROS: On behalf of the Opposition I support this amendment for the reasons I enumerated before.

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

Report

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

WILLS ACT AMENDMENT BILL

Council's Amendment

Amendment 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 amendment made by the Council was as follows:—

Page 2—Delete subsection (2) of proposed new section 31 in lines 34 to 39 and substitute the following:—

(2) In any proceedings where a person relies on a matter of fact made relevant by the provisions of subsection (1) of this section—

(a) that fact shall not be taken to be proved unless it is established to the reasonable satisfaction of the Court; and

(b) where the father and mother are not, or have not been, married to each other, the relationship between a child and his father, and all other lineal or collateral relationships, shall be recognised only—

(i) if paternity is admitted by or established against the father in his lifetime; and

(ii) where the purpose for which the relationship is to be determined enures for the benefit of the father, if paternity has been so admitted or established in the lifetime of the child.

Mr. T. D. EVANS: Message No. 23 concerns an amendment effected by the Legislative Council to the Wills Act Amendment Bill. The amendment is complementary to the other amendments we have considered and I therefore move—

That the amendment made by the Council be agreed to.

Mr. MENSAROS: I wish to indicate the support of the Opposition for the same reason mentioned before. The difference between this amendment and the amendment to the Administration Act Amendment Bill is the difference between a person's dying testate or intestate.

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

Report

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

COMPANIES ACT AMENDMENT BILL

Second Reading

MR. T. D. EVANS: (Kalgoorlie—Attorney-General) [11.29 a.m.]: I move—

That the Bill be now read a second time.

This Bill proposes to increase fees payable to the registrar up to the amounts which have been agreed by the States as being fair and reasonable.

Members will realise that for many years there has been an understanding between the States that uniformity is desirable in respect of the provisions of the Companies Acts and there is no reason why this should not apply in the case of fees.

The last increase in this State was approved by Parliament with effect from the 25th November, 1969. However, on that occasion the increases were deferred from 1967 in view of the impact on companies of increased receipt duties which had recently come into effect. Therefore, in considering the time lapse between the increases it is fair to consider the time as 1967 and not 1969.

It is expected that in a full year the increases now proposed will produce additional revenue of $200,000. The Bill is recommended for favourable consideration.

Debate adjourned, on motion by Mr. R. L. Young.

BILLS OF SALE ACT AMENDMENT BILL

Second Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [11.33 a.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to increase the fees on registration or renewal of bills of sale, including hire-purchase agreements. The present fees, which were fixed in 1957, are—

Where the amount or value of the consideration or the sum secured—

	$
does not exceed $100	1.00
exceeds $100	2.00

It is proposed that the fees be increased in the first case from $1 to $2.50 and, in the second instance, from $2 to $5.

When considering these proposals members should take into account the lapse of time since the last increase—1967 being the date concerned—and the devaluation of money since then. In addition, the registration covers a period of three years so that by present-day standards the annual charge is small for any service.

It is estimated that on present volume of business additional revenue of $214,000 will be produced by the proposed increase. I understand that amount would apply to a full year.

The increases proposed in respect of companies and bills of sale registration are to be brought into effect on the same day. It is fair to advise members that increases which can be effected by regulation are to be made concurrently with fees payable for registration or renewal of business names. As with registration fees under the Bills of Sale Act, these fees cover a triennial period. The increase from $5 to $10 will produce extra revenue of $40,000 per annum. These fees are generally deductible for taxation purposes. The Bill to amend the Bills of Sale Act is submitted for consideration.

Debate adjourned, on motion by Mr. R. L. Young.

COAL MINE WORKERS (PENSIONS) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th October.

MR. WILLIAMS (Bunbury) [11.35 a.m.]: This Bill was introduced before Parliament was prorogued, and I would like to thank the Minister for Mines for his most clear and concise explanation of the amendments to the Coal Mine Workers (Pensions) Act. When the Minister introduced the Bill he provided much detail and stated what the parent Act does and also what the measure intends to do. I thank him for this, and I would like to relieve his mind by saying that the Opposition is in favour of the amendments.

I would like very briefly to pass some comments on the fund itself and perhaps to make some suggestions as to what might be done in the future now that the coalmining industry is becoming more active than it possibly might have been in the last few years. As the Minister explained, the amendments are concerned mainly with facilitating the gaining of a pension for both a mineworker and a widow. It is proposed that the length of service required will not be as long as in the past. This also applies to the continuous payments which must be made to the fund by a retired mineworker or a deceased mineworker in order that he or his widow may qualify for a pension.

Also, a further problem has been evident over the years; that is, when there is an increase in the Commonwealth social services payment in the main it has not been passed on to the recipients of coalmine workers' pensions for some six months. This has caused a great deal, not so much of trouble, but of discussion between the tribunal, the companies concerned, and in some cases, perhaps, the Ministers concerned from time to time. It is proposed, of course, that this will now be an automatic adjustment and the Minister may from time to time, as he considers fit, make an adjustment and call on the companies and the employee representatives to make an adjustment to the payments made to the fund by each group respectively.

I have often wondered—although I have never encountered this problem—whether the mining unions or perhaps any Government has looked at this scheme in the light of superannuation schemes which are available through insurance companies. I

realise, of course, that this legislation was introduced in 1943 and at that time I doubt whether group superannuation schemes were available through insurance companies. However, I think we are all well aware of the fact that over the last 10 years insurance companies and other organisations have been putting forward propositions for group superannuation schemes.

The Act at present limits investments from the fund to Government stock and semi-Government and local authority loans and I wonder whether other areas might be investigated with the purpose of possibly providing a greater return to the fund which, in turn, could be passed on to the recipients of pensions. I think there is a possibility that the part limiting fields of investment could be taken out of the Act. I do not think there is anything grand and glorious in being covered by an Act of Parliament provided some arrangement could be made between the companies, the Government, and the employees to guarantee that the employees' superannuation would carry on. I think this could be done if sufficient time and study were devoted to the matter. I am sure a number of companies would be willing to submit quotes in this regard. However, this is merely a suggestion on my part; I may have overlooked something in my ignorance of the Act as it stands at present. Nevertheless, I think it might be worthy of investigation, bearing in mind that it would provide a greater return to the fund and to the pensioners in general.

I notice from the twenty-seventh annual report of the Coal Mine Workers' Pensions Tribunal for the year 1970-71 that the workers, from the point of view of the pensions scheme, fare rather well under it and, of course, I do not begrudge them this benefit. In past years, at any rate, it would seem that the men engaged in some jobs on the coalmines had a very onerous task. The conditions they work under are not pleasant, although the men are far better off now than they used to be. Let us hope that the conditions of work will continue to improve. Of course, some men do not work underground at all. Because of the open-cut method of coalmining the number of men who used to work underground has been greatly reduced.

During 1970-71 the contribution rate for the mineworker was $1.56, and for the mineowner $5.85. The total contributions to the fund for the 12 months amounted to $50,263.20 by the mineworkers; $189,645.30 by the mineowners, and the State Government, $90,000. On looking at these figures it will be seen that the companies provided 3¾ times the amount of contribution paid by the mineworkers, and twice as much as the State Government. In addition, the interest earned on approximately $2,800,000 of funds invested amounted to something like $156,138.

This amount is getting close to the sum contributed by the mineowners to the pensions fund, and that is the reason I suggested that this sum of $2,800,000 should be invested in other spheres if this were possible. I know that care would have to be taken because Government money is involved. However, if the Government contribution was deducted from the amount of money to be invested in other spheres this might overcome the problem and the mineworkers could gain more interest on the money invested, but still be secure in the knowledge that their capital sum was safe. For example, money invested in Government securities or Government loans could earn about 6 per cent. per annum. Further, there are many other secure areas of investment in which interest rates of 8, 9, and 10 per cent. per annum can be earned. For example, many building societies, on long-term investment, will pay 10 per cent. interest.

Although not specifically dealt with by the Bill before the House, the principal Act provides for the compulsory retirement of a coalmine worker at 60 years of age. This provision was inserted in the legislation mainly because, in 1960, when the whole of the coal industry was reviewed following the granting of contracts and discontinuance of the cost-plus system, a number of men were retrenched, and the main purpose of compulsorily retiring men at 60 was to allow other mineworkers who were still fairly young and who had been retrenched to return to the industry.

Mr. Jones: When did you say this was?

Mr. WILLIAMS: About 1960.

Mr. Jones: The retiring age was 60 years when the pensions Act was introduced in 1943.

Mr. WILLIAMS: The member for Collie would be well informed on this matter having been associated with the fund itself in his capacity as an executive of the Coal Mine Workers' Union. I believe consideration has been given to this matter in the Eastern States, but I do not think it has ever been incorporated in the legislation in those States. However, should the time arrive when the coal industry expands, it would be a pity if this provision for a compulsory retiring age of 60 were to remain in operation, especially in the light of experience that has been gained overseas. If the provision were not enforced this would probably increase the local production of coal which our local industries could use for their energy source.

If a situation arose whereby there was an insufficient number of workers in Collie necessary to extract the coal required, perhaps consideration could be given to waiving this provision in the Act and allow men to continue working in the industry until 65 years of age should they elect to do so. I make this suggestion bearing in mind that coalmining is a fairly specialised job

in many cases and men cannot be trained in a short period of time to do the work.

Mr. May: I would certainly like to see this situation arise.

Mr. WILLIAMS: So would I, and so would the member for Collie and the people of Collie.

Mr. May: It is just the opposite at the moment.

Mr. WILLIAMS: I agree. The Minister for Mines knows more about the situation than I do, having lived in Collie for many years. However, the existing situation could alter fairly rapidly. The Minister for Mines would know of the trends that have been talked about for years now and may come to fruition in the future. I am sure all of us would welcome this from the point of view of the sale of coal from the Collie coalfield.

Mr. May: Of course, you have at the moment the production of indigenous fuel from natural gas.

Mr. WILLIAMS: That is true; this is another competitor against the local Collie coal, and no doubt this will bring further problems. Nevertheless, I still say that should the position arise where we are short of coalmine workers in the area, the men should be given the opportunity to elect to carry on in the industry until they are 65 and not have to retire compulsorily at 60. Members in this Chamber will agree that very often when a person retires and he has nothing to do to occupy himself—either in another occupation or with a hobby—he rapidly fades away as a result of such inactivity. We can sit here and think about how nice it would be to do nothing for years, but I am sure most of us after a period of weeks or months with nothing to do would be glad to interest ourselves in some other occupation or hobby. This applies to most people and it would apply to the men who are engaged in this industry if they have nothing to do to fill in their spare time after retirement. If they are able to carry on in the job they are acquainted with they should be permitted to work in the industry until they are 65 instead of their skills being lost at 60 years of age. With those remarks and the few suggestions I have made, I support the Bill.

MR. JONES (Collie) [11.48 a.m.]: It is not my intention to delay the passage of this measure, but I would be failing in my duty if I did not make some reference to the amendments contained in it. It is very pleasing to hear the member for Bunbury support this move by the Government to improve the conditions relating to the Coal Mine Workers (Pensions) Act. We appreciate the support coming from the other side of the House, because if the records were reviewed one would arrive at the conclusion that the number of amendments in the Bill before the House were the subject of applications to the previous Government, but unfortunately they fell on deaf ears.

Members will appreciate that in this legislation some sweeping changes are proposed so far as the mineworkers themselves are concerned. Many benefits will accrue to them. During my long association with the industry, for many years in an executive position with the Coal Mine Workers' Union, we asked the previous Government on several occasions to consider introducing some of the amendments that are contained in this Bill; but, unfortunately, the Minister in charge of the portfolio at that time would not support the representations made on behalf of the coalminers, and, as a result, the mineworkers, their widows, and their dependants have suffered unduly over the years.

In the main, the amendments before us completely change, in many respects, the qualifications necessary for the granting of pensions to widows, workers, and to others covered by the legislation. For example, the period of service required to enable a widow to qualify for a pension has been reduced. I do not intend to speak on all the changes that are proposed in the Bill.

One of the most important amendments to the Act is the automatic flow-on of any increases that are made to social service pensions. Last year we saw a classic example of where the mineworkers had to wait a long period for the increase. They waited six months before the social service pension increase could be passed on to them. What happened was that the Coal Mine Workers (Pensions) Act prescribed that mineworkers and their dependants could only receive a certain level of pension, and unless the Act was amended they could not enjoy the benefits of social service pension increases, which flowed on to other pensions generally.

On the last occasion—and this happened in the period of office of the former Government—the pensioners at Collie had to wait six months to obtain the benefit of the social service pension increase. Unfortunately such delays create extra work for the Department of Social Services and the Coal Mine Workers (Pensions) Tribunal when they are considering adjustments to pensions. For that reason it is very refreshing to see that the Bill before us contains an amendment which provides that social service pension increases will from now flow on automatically to the recipients of coalmine workers' pensions.

To my knowledge this is something which the coalmining industry has been trying to achieve for the last 17 to 20 years. In line with this, it is also very refreshing to note the Act prescribes that, in association with any increases that are applied, the question of contributions will also be considered.

It is good to see that all sections of the industry—the employers, the employees, and the tribunal—recognise the need for

the fund to remain stable and to be actuarially sound. Provision is made in the Bill for the rate of contributions to be considered immediately after alterations have been made to the levels of pensions. I cannot emphasise too strongly to the industry and to the Government the importance of ensuring at all times that the fund is kept on a very sound financial basis.

Although it might not be apparent to members, one of the most important amendments contained in the Bill appears in clause 6. This seeks to amend section 21A of the Act. Under the existing legislation we find that some workers in the industry, who have been employed for 20 years in coalmining, will not qualify for pensions on retirement. The coalmining industry considers that this is completely unjustified—that a worker could spend 20 years in the industry, but upon retirement would not qualify for any pension at all. This occurs, because the existing provisions of the Act prescribe that a man over 35 years of age who commences work in the industry must be engaged in the industry for 25 years and pay contributions continuously for 15 years before he qualifies for a pension. Under the amendment in the Bill the worker will be required to pay contributions continuously for 15 years and be employed in the industry for 20 years before he qualifies for a pension. I think this is a very worthy amendment.

I know of many cases concerning New Australians who entered the coalmining industry in the 1950's. They came to Australia from overseas countries, and they made coalmining their vocation. When they retired at 60 years of age they did not receive a pension, and they were not eligible for social service benefits. It is not easy for a person of 60 years of age to obtain employment. The amendment will somewhat meet the needs of the industry and relieve some workers of the considerable hardship that is occasioned by the existing legislation, under which as a qualification for a pension they are required to be engaged in the industry for 25 years and to pay contributions continuously for 15 years.

The existing provision in the Act is of great concern to the coalmining industry, and I do not think any member of this House is in favour of it. I suggest that members themselves enjoy a much better superannuation scheme than do the coalmine workers under the Act. Under the existing provision the workers in the industry, including engineers, who have been engaged in the industry for only 20 years will not qualify for a pension.

The amendment in the Bill is a big step forward. In this connection I would point out that I have received a number of letters from the trade unions at Collie in which they applauded the Government and the combined mining unions for their foresight in having the existing legislation revised, in order that the period of qualification may be shortened. I would like to quote one of the letters I have received. It shows that the workers are now receiving some of the benefits to which they are entitled. The letter is from the Branch Secretary of the Australasian Society of Engineers dated the 9th October, 1971. It states—

> Dear Tom,
>
> Thanking you very much for sending a copy of the Bill to amend the Coal Mine Workers Pensions Act.
>
> I can assure you that all the members of the above Union Collie branch are grateful to you and to your Goverment for working on bettering our conditions.
>
> We wish you all, all the best and all the success to be able to do all what you want to achieve for the Workers.
>
> Thanking you again.
>
> Yours fraternally,
>
> T. Mika,
> Branch Secretary.

Not only have I received many similar letters, but also the congratulations from the workers and pensioners generally. Without being critical of the former Government, I should point out that the amendments contained in the Bill have been asked for repeatedly by the mining industry, but unfortunately all requests have fallen on deaf ears. It is only now, with the return of a Labor Government, that we are able to give the coalmine workers of Collie their just reward, and better conditions for qualifying for pensions. Even the member for Bunbury agreed that the amendments are warranted. I therefore congratulate the Government for its foresight in introducing the legislation at such an early stage of the session.

I wish to touch on only one other point—and this has also been raised by the member for Bunbury. It relates to the contributions of mineworkers to the fund. In his submission the member for Bunbury indicated that the contributions paid into the fund in the last financial year by the mineworkers amounted to $50,263.20, by the mineowners $189,645.30, and by the State Government $90,000. He said that the mineowners in Western Australia paid 3¾ times as much as did the mineworkers. I would draw his attention to the position in the Eastern States where the mineowners pay in 4½ times as much as do the mineworkers. It will be seen that the legislation in Western Australia is not as favourable to the mineworker as is the legislation in the Eastern States.

Mr. Williams: In Western Australia the State itself, or the State Electricity Commission, buys most of the product.

Mr. JONES: The honourable member has touched on that point, but in fairness he should take into account the relative positions of the coalmining industry on a national basis. The other point touched on by the member for Bunbury was the retirement of a worker at 60 years of age. Because of the nature of the industry, retirement at 60 years of age has been agreed to generally. The honourable member did suggest that perhaps later on we might look at the requirement or qualification of a worker to retire at 60 years of age. I would point out to him that some three years ago the Miners' Federation served a log of claims on, and made a submission to, the coalmine owners in the Eastern States and to the Joint Coal Board to permit optional retirement. The request was rejected by the coalmine owners and the companies in the Eastern States.

A formula which indicated the approach of the Miners' Federation to this question was presented. I have to agree that many workers of 60 years of age are healthy, fit, and capable of continuing work for two or three years longer. However, the formula was produced, but unfortunately it was rejected by the coalmine owners and by the Joint Coal Board in the Eastern States.

There is little more I wish to say at this point of time. The Bill has my full support, and I hope that all members of the House will also give it their full support. In conclusion, I cannot emphasise too greatly that this amending Bill is long overdue. I thank the Government and the Minister for Mines for the interest they have shown in matters affecting the coalmining industry. Without appearing to be too critical I must point out that in the past the coalmining industry has been a forgotten industry, particularly during the term of office of the previous Liberal-Country Party Government.

Mr. Williams: We amended the Act on many occasions.

Mr. JONES: Yes, but we have been asking for this for the last 20 years.

Mr. Williams: We have not been in office for 20 years.

Mr. Court: A Labor Government has been in office during that time.

Mr. JONES: That is so, but I am referring to the latter period since I have been in Parliament and an executive officer of the union.

Mr. Court: We amended the Act three times, and always in consultation with the industry.

Mr. JONES: Every time we approached the Minister for Mines to obtain automatic adjustments which had applied under the Federal Act for years, his answer was "No." It is only since the election of a Labor Government that we have been able to copy the Eastern States.

Mr. O'Neil: The Minister will tell you when Cabinet, and which Cabinet, agreed to the majority of those amendments.

Mr. JONES: I know which Cabinet it was. It was the Labor Cabinet. I know because I have been very closely associated with the amendments to this Act.

Mr. O'Neil: Not close enough.

Mr. JONES: It is very refreshing indeed for the coal industry to witness the interest the present Minister is showing in Collie. I could be wrong, but during the time of the Brand Government the then Minister for Mines visited Collie on four occasions only. My research reveals that on four occasions only during his term of office did he find time to go to Collie, but our Minister has already been there on four occasions in an official capacity and on one occasion in an unofficial capacity.

Mr. Williams: I think he is trying to do you a good turn.

Mr. O'Neil: Making sure you win next time.

Mr. JONES: It is good to see a Minister taking an interest in Collie at last.

Mr. Court: From what we heard he was trying to retain the loyalty of the member for Collie.

MR. MAY (Clontarf—Minister for Mines) [12.02 p.m.]: I take this opportunity to thank the member for Bunbury for his comments in connection with these amendments. It is refreshing to have the support of the Opposition, but particularly so when the speaker is someone who knows something about the industry under discussion.

I need not mention the interest displayed by the member for Collie because he has already indicated this. I am quite sure the House has many times witnessed his interest during the years he has been in Parliament.

When these amendments were first brought to my notice consultations were held with the companies and the unions in an endeavour to arrive at some equitable compensation for the miners in Collie. This was necessary because of the depressed nature of the industry. A number of people were retiring at the age of 60, but were not able to obtain any compensation. Obviously the business people in Collie were not prepared to employ these miners because of their age and as a consequence they had to leave the town to seek jobs elsewhere.

The amendments in this Bill are just and warranted. I am sure that if those members who have no appreciation of the length of service some miners have worked without any compensation were to obtain this information they would approve of the amendments. Therefore, I intend to

reveal a few facts to the House, and these will indicate why we felt a necessity existed to amend the Act.

In Collie at present is an employee who will have rendered 29 years of service when he retires at the age of 60. He will have paid 20 years' contribution into the fund, but has never received any refund at all during his lifetime in the industry.

Another employee, an electrical engineer, upon retirement will have had 22½ years' service in the industry and will have paid continuous contributions during that period to the fund, when he retires in November, 1975.

Mr. O'Connor: What would those contributions amount to, do you know?

Mr. MAY: I do not know, but I could find out if the honourable member so desires. Another employee, who was a member of the F. E. D. & F. Union, Muja open cut branch, recently retired and his service records show that he commenced work in the industry in February, 1951, and retired because of age on the 26th August, 1970. This means he had 19 years and 7 months of continuous service during which he paid continuous contributions.

Another electrical engineer commenced work in the industry on the 7th October, 1950, and retired on the 24th July, 1970. He had 19 years and 10 months of continuous service and paid continuous contributions to the fund. He did accept a refund of contributions on the 1st July, 1970, because he felt he would have no chance of qualifying for a miner's pension and was not aware that the union was approaching the Government in an effort to have workers in this category covered for pension entitlement.

A further worker commenced on the 25th November, 1952, and was invalided out on the 20th February, 1971, but he was due to retire because of age on the 12th November, 1972. He would have been just short of paying contributions for 20 years.

Finally, a worker commenced on the 15th February, 1954, and retired on the 10th April, 1971. He left the industry with 17 years' payments and 17 years' service without qualifying for a pension.

These examples reveal the length of time these workers were employed in the industry, and I believe the amendments before us will go a long way towards assisting other workers in the industry who will be retiring in the very near future.

We are endeavouring as much as possible to assist the coal industry. The State Electricity Commission, for which I am the Minister responsible, is taking 98 per cent. of the coal extracted at Collie, and because of the restricted quantity of coal being used by the Railways Department it is quite obvious that the State Electricty Commission will, for some time, be the major consumer of the coal.

The advent of natural gas, the pipeline for which has been extended as far as Pinjarra, which is 50 miles or so from Collie, is another source of concern to the people in the industry. One of the biggest problems in Collie is the lack of employment for young people, who consequently must leave the area. One of the companies has employed quite a number of apprentices but, as a result, it is overstaffed. Nevertheless, it felt it must do something to help, despite the fact that its own finances are affected. Both the Griffin Coal Mining Co. Ltd. and Western Collieries Ltd. are endeavouring to help in the present hiatus period. The State Electricity Commission is, as I have said, buying most of the coal until such time as other industries can be attracted to the Collie area. If we can do this, and the position which the member for Bunbury envisaged eventuates, some of those miners will have an opportunity to be re-employed; and we sincerely trust this will be the case.

Mr. Williams: At present there are 600-odd persons employed, but, according to the report, over the next 10 years 200 will retire because they will have reached the age of 60.

Mr. MAY: I have had a look at that report and, as a matter of fact, a deputation is being received tomorrow. The points raised by the honourable member are valid, but with the attraction of other industries to Collie we hope the young people will be able to remain in the district.

Most members appreciate the fact that these people who must leave Collie own their homes, and at the moment those homes have no sale value. At present the State Housing Commission has homes vacant in Collie and those owners wishing to quit their homes are not able to obtain enough money for them to enable them to buy other houses when they go to the metropolitan area or any other place. We are also endeavouring to help in this situation.

However, we will study the scheme suggested by the member for Bunbury. Several queries have been raised in regard to this type of scheme and I know that those queries have been investigated. Nevertheless, I will ascertain whether any further investigation is required and let the honourable member know in due course.

I would like to congratulate the member for Collie on what he said in support of the Bill. We are all very much aware of his interest in the industry, and he has worked particularly hard in conjunction with the unions to bring this measure to fruition. I am sure the industry at Collie should also be congratulated because of the lack of industrial unrest in that area over the last decade. I believe it is recognised, Australia-wide, that the Collie coalfield is the most harmonious industrial area in Australia at the present time. This measure

will help those workers who are prepared to help themselves, and I have pleasure in commending the second reading of the Bill.

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. May (Minister for Mines), and transmitted to the Council.

COMMONWEALTH PLACES (ADMINISTRATION OF LAWS) ACT AMENDMENT BILL

Second Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [12.15 p.m.]: I move—

That the Bill be now read a second time.

Members who were in this Chamber during 1970 will recall the then Minister representing the Minister for Justice (Mr. Court) introducing a Bill which became the parent Act. The need for this legislation arose because of a decision given by the High Court which might be said to have completely upset legal administration within the States throughout the Commonwealth of Australia.

This particular subject—the administration of State Law in places occupied by the Commonwealth—was able to amass quite a voluminous history in a very short time, as members may well assess from looking at the four files on this very subject which I have received from the Crown Law Department.

By way of brief background, section 52 of the Australian Constitution provides that the Commonwealth Parliament shall have exclusive jurisdiction to make laws in Commonwealth places and in places subsequently acquired after the coming into operation of the Australian Constitution. The legislation which is now before us is to extend the life of the parent Act which, as I have already said, was passed in 1970, for a period of three years from the 1st January, 1972, until the 31st December, 1974.

The purpose of the parent Act was to complement legislation enacted by the Commonwealth to overcome the problems created by the decision, to which I have referred, in what has become known as the "Worthing Case." Until that decision was given it had always been understood that State laws were operative throughout the whole of the State, including within Commonwealth property.

The States, during 1970, whilst agreeing to enact legislation to overcome this difficulty, were unanimous in expressing the view that an amendment to section 52 of the Commonwealth Constitution should be sought by the Commonwealth; that the legislation then agreed upon was only a satisfactory short-term solution to the problem. Accordingly, last year, it was decided by each of the States to limit the operation of the complementary legislation passed in each State until the 31st December, 1971, and no longer. That was to enable the Commonwealth to pass the necessary initiating legislation to seek the approval of the people by way of a referendum. However, that was never done.

The action taken by the States was meant to make it clear to the Commonwealth that the States regarded the legislation as a stop-gap measure only. However, no initiating legislation for a referendum was effected by the Commonwealth. At the meeting of the Standing Committee of Attorneys-General of Australia, held in Melbourne during July of this year, the Attorneys-General agreed to recommend to their respective Governments that the operation of the respective Acts be extended for a further period of three years.

Having regard for the general agreement, this legislation is now recommended for the favourable consideration of members. I will conclude by restating the view I expressed last year; namely, this action is only a short-term remedy. I feel the only effective and responsible solution to the problem would be an amendment to the Commonwealth Constitution to give both the Commonwealth and the States concurrent jurisdiction in Commonwealth places. However, I now have the opportunity to extend the life of this legislation by seeking, in the first instance, the approval of this Chamber. I now seek that approval.

Debate adjourned, on motion by Mr. Mensaros.

IRON ORE (MOUNT GOLDSWORTHY) AGREEMENT ACT AMENDMENT BILL

Second Reading

MR. MAY (Clontarf—Minister for Mines) [12.23 p.m.]: I move—

That the Bill be now read a second time.

The Bill before members seeks ratification of an agreement executed on the 26th August, 1971, between the State and the parties to the Iron Ore (Mount Goldsworthy) Agreement of 1964; namely, Consolidated Gold Fields Australia Limited, Cyprus Mines Corporation, and Utah Development Company. Throughout the agreement parties other than the State are referred to as the "joint venturers."

Under clause 11 of the 1964 Goldsworthy agreement, the joint venturers were required to carry out certain exploration and investigational work following which they were required by August, 1971, to apply for a mineral lease in respect of mining area "B" or any part or parts thereof, and of mining area "C" or any part or parts thereof, and at the same time to submit full proposals to the State concerning any proposed development on mining areas "B" and "C."

In the normal way, these proposals would deal with further port development, railway development, town sites, housing, and roads.

The agreement executed on the 26th August this year—known as the "first variation agreement"—allows the joint venturers to make the proposals to which I have referred, in respect of mining area "B" only. Mining area "C" has been excluded and provision made for an investigation of this area to proceed so that proposals for secondary processing facilities to treat material from this area may be submitted by the 31st December, 1974.

Primarily then, this agreement amends the provisions of the Iron Ore (Mount Goldsworthy) Agreement of 1964 in so far as the secondary processing of iron ore is concerned and makes a major amendment to the definition of "f.o.b. revenue." I might mention the f.o.b. revenue clause is of considerable interest, as it is the first time it has been included in a major agreement of this nature.

There are a number of consequential minor amendments and others which bring royalty clauses into line with similar clauses in later iron ore agreements and with iron ore agreements which themselves have been amended since the original agreement Acts were passed. I will deal later with the more important amendments that have been made.

Under the 1964 agreement, the joint venturers hold three mining areas designated "A," "B," and "C," the former two being situated at Goldsworthy, Shay Gap, and Kennedy Gap, whilst mining area "C" is very much further to the south-east and adjacent to the Ophthalmia Range area.

The Goldsworthy joint venturers also hold certain temporary reserves not included under the provisions of the 1964 agreement but these particular reserves have always been regarded as having been held in association with their agreement. One such reserve is number 3837H and under the variation agreement this reserve has become part of mining area "B".

As briefly mentioned earlier and, in particular, under clause 11 of the Goldsworthy agreement of 1964, the joint venturers were required to continue their preliminary exploration and investigation prior to making a complete and thorough geological and, as necessary, geophysical investigation firstly of mining area "B" and secondly of mining area "C," so that by August, 1969, their exploration and investigation would be completed with a view to proving iron ore deposits in those mining areas.

When the exploration investigation and proving work to which I have referred had been completed, the joint venturers were, by 1971, required to apply for a mineral lease in respect of mining area "B" or part or parts thereof, and of mining area "C" or part or parts thereof.

Despite systematic exploration, no significant tonnages of beneficiable ore have been located in the Goldsworthy-Shay Gap-Kennedy Gap areas and the joint venturers did not wish to proceed—and there was no point in their proceeding—with the installation of secondary processing facilities to treat material from these areas.

Because of the absence of suitable ore the joint venturers sought the waiving of the secondary processing provisions contained in clauses 12 to 17 inclusive of the original agreement in so far as those clauses related to mining areas "A" and "B."

On present indications the bulk of the joint venturers' presently-known reserves are located at mining area "C" and it is their intention to continue the investigation of that area vigorously and to finality.

I might interpolate at this point to say that area "C" has an estimated 700,000,000 tons of high-grade iron ore, but unfortunately it is very high in phosphorus.

In most of the deposits it is as high as .12 or .13. As is generally known by the House, the Japanese are keen on having an optimum of .06 or .07.

In executing the variation agreement the Government has agreed to waive the secondary processing obligations in respect of mining areas "A" and "B", but subject to certain conditions which the joint venturers must meet. In summary, these conditions are—

(1) That payment be made to the State of $1,000,000 in total, by way of additional royalty, in each of the financial years commencing in 1970, 1971, 1972 and 1973. Let me make it clear that the additional royalty is not $1,000,000 each year, but a total of $1,000,000 spread over the four years mentioned.

(2) That an exploration and study programme of mining area "C" be undertaken and completed by the 31st December, 1972, with quarterly progress reports supplied to the State.

(3) That submission of acceptable proposals for secondary processing be made by the 31st December, 1974.

(4) That Goldsworthy forfeit mining area "C" if the joint venturers fail to comply with the State's requirements regarding the exploration programme or submission of satisfactory proposals.

(5) That annual export tonnages of iron ore from the mineral lease obtained from mining areas "A" and the new "B", be restricted to 3,000,000 tons per annum of direct shipping ore and 2,000,000 tons per annum of other types of iron ore as from the date Goldsworthy fails to comply with the obligations imposed on it in respect of exploration and submission of secondary proposals under the variation agreement.

I point out, however, that annual tonnages permitted for export would not be less than those necessary to meet contracts which the State had approved and which did not exceed the approved capacity of Goldsworthy's port facilities at Port Hedland.

On the other hand, if Goldsworthy complied with our conditions but was able to demonstrate that it was impracticable to submit acceptable proposals for secondary processing which were economically viable then higher tonnages for export would be negotiated:

(6) That conditions for development of mineral lease (excluding mining area "A") would be renegotiated if, after the variation agreement has been executed, it became apparent that there was a greater tonnage of iron ore available from the mineral lease than the tonnage estimated to be available and agreed between the State and Goldsworthy at the date of the variation agreement.

Renegotiation would take place only if the tonnage subsequently found in the deposits proved to be 20 per cent. in excess of the agreed tonnage at the date of the variation agreement.

In negotiating the conditions for mining, transporting, processing, and marketing of this additional ore, we would have regard for the overall economics of such operations, additional to the tonnage estimated to be in the mineral lease. Let me make it quite clear that the joint venturers would have to accept commitments not less than those applicable to the other iron ore in the mineral lease. These additional commitments to be negotiated could take the form of higher royalties, rents, wharfage or other charges (or a combination of such charges), contributions to additional assets, processing, or a combination of all or any of them.

If agreement could not be reached on these additional commitments then the matter would be settled by recourse to arbitration.

Under the amended clause 12 the secondary processing obligations of the joint venturers are the same as those required of them under the 1964 agreement, and provide for the establishment of a plant capable of treating not less than 2,000,000 tons of iron ore per annum by the end of the year 1982.

The progression to this maximum capacity is such that by 1977 the plant would process not less than 500,000 tons of iron ore per annum, and by the end of the year 1978 this would be increased so that not less than 1,000,000 tons of iron ore could be handled.

The capital cost of the plant must be not less than $16,000,000. The agreement, of course, allows for the Minister to reduce the company's obligations if he is satisfied that the mining operations are not producing quantities of iron ore suitable for treatment at a rate of 2,000,000 tons of iron ore per annum on an economic basis.

The agreement provides that if by the 31st December, 1974, proposals for secondary processing are not approved by the Minister, or if following arbitration the question is decided in favour of the Minister, the State will not grant mining area "C" to any party other than the joint venturers until after the 31st December, 1975. After that date the State will not grant mining area "C" to any other party on terms more favourable on the whole than those available to the joint venturers until after the 31st December, 1979.

The agreement makes it quite clear that if the joint venturers do not carry out a satisfactory exploration and study programme, or if they do not submit proposals by the 31st December, 1974, they will cease to have any rights to mining area "C" and will be restricted in the annual rate of export of iron ore after the 31st December, 1976.

As mentioned earlier, the restriction would allow them to export not more than 3,000,000 tons of direct shipping ore and 2,000,000 tons of fine ore, fines, or other iron ore per annum unless prior to the 31st December, 1978, the Minister had approved, in writing, of the joint venturers entering into a contract or contracts for export of ore after the 31st December, 1980, at an annual rate in excess of the figures quoted.

However, if the joint venturers had carried out a satisfactory exploration and study programme and could demonstrate

to the reasonable satisfaction of the Minister that it was impracticable to submit acceptable proposals, then there is discretionary power to permit the export of greater tonnages than those mentioned.

To amplify what I have said earlier, the agreement also contains a provision that if at any time it is shown that the iron ore deposits in the area of the second mineral lease—this means excluding the joint venturers' original mineral lease—are greater by 20 per cent. in the aggregate for each of the 48,000,000 tons of high-grade ore—60 per cent. and higher in Fe content—and the 79,000,000 tons of low-grade ore—minus 60 per cent. in Fe content—now estimated to be available, the conditions of this agreement in relation to the future mining of iron ore from the mineral leases shall be renegotiated by the parties with a view to increasing the obligations and commitments of the joint venturers to the State. It is anticipated that the renegotiation would be by mutual agreement, but failing this it would be determined by arbitration.

Earlier I mentioned that the opportunity has been taken to amend the definition of "f.o.b. revenue." The reason for this amendment is that there has been some doubt over the years concerning the charges to be deducted to arrive at a fair value on which royalty should be calculated. The previous Government was negotiating this f.o.b. revenue clause prior to the time it went out of office.

The new definition makes it quite clear that the allowable deductions are to be made from the price for iron ore which is payable by the ultimate purchaser or the person smelting the ore. Export duties, export taxes, and all costs and charges properly incurred and paid by the joint venturers to a third party after the departure of the ship on which the ore is loaded from the joint venturers' wharf to the time the ore is delivered and accepted by the ultimate purchaser or the person smelting the ore are deductible.

In addition, the Minister now has the discretionary power to determine whether a cost or charge shall be deductible. This also allows the joint venturers to submit for the Minister's consideration any cost or charge which they feel should be allowed but which is not specifically covered by words contained in the definition of "f.o.b. revenue."

At the time that the joint venturers sought an amendment to their 1964 agreement they submitted proposals to the State for development of their areas at Shay Gap and Kennedy Gap, and these proposals have now been approved. Under the proposals the joint venturers were required to pay the State the sum of $900,000 as a contribution towards infrastructure costs in relation to water supply, hospital, education, and police facilities in the Port Hedland area.

The payment of this $900,000 has been taken care of in the amendment to the 1964 agreement so that the sum involved may be paid as additional royalty commencing in the financial years of 1970 to 1973 inclusive. The arbitration clause in the 1964 agreement has also been replaced to bring it into line with similar clauses in later iron ore agreements, the main change being that the provisions of the Arbitration Act no longer apply in any case where the State, the Minister, or any Minister is given either expressly or impliedly a discretionary power.

A new clause has also been inserted in the agreement in connection with environmental protection. By virtue of this clause the joint venturers must comply with any requirement in connection with the protection of the environment arising out of or incidental to their operations under the agreement. In other words, they must comply with any requirement made by the State, by any State agency or instrumentality, or by any local or other authority or statutory body of the State pursuant to any Act in force from time to time.

Other clauses under the 1964 agreement which have been amended or replaced are—

> Clause 9(2)(j) subparagraph (viii): Under the 1964 agreement this subparagraph provides for the royalty rate of 1s. 6d. a ton on fines and iron ore concentrates to be adjusted up or down proportionately to the variation of the average of the prices payable for foundry pig iron f.o.b. Adelaide.

In practice it has been found difficult to obtain the prices referred to and, therefore, this subparagraph has been amended under the first variation agreement to allow adjustments to be made in accordance with any variation in the average of the basic prices of foundry pig iron c.i.f. Australian capital city ports as announced by the Broken Hill Proprietary Company Limited or any subsidiary thereof.

The existing clause 21 has been deleted and a new clause inserted. The main change in the provisions of the new clause compared with those of the old is that where in the opinion of the Minister an agreement made pursuant to subclause (1) of the new clause constitutes a material or substantial alteration of the rights or obligations of either party to the agreement, the Minister shall cause the agreement made under the variation clause to be laid on the Table of each House of Parliament within 12 sitting days of the date of its execution and be subject to disallowance.

A new clause 12A has been added which allows leases, licenses, reserves, and tenements to be granted not only to the joint venturers but also to a company nominated by them provided that company

is approved by the Minister. For example, this would allow grants to be made to Goldsworthy Mining Limited—the operating company for the joint venturers.

Subclause (2) of this new clause, however, obliges the joint venturers duly and punctually to observe, perform, and comply with all the covenants, agreements, and obligations to be performed or observed by the nominated company. Any default by the nominated company in the performance or observance of any such covenant, agreement, or obligation is acknowledged by the joint venturers to be a default by them under paragraph (1) of clause 10 of the first variation agreement.

Mr. Court: Before you complete your speech, could you clarify two points to facilitate our agreement? I anticipate the Government desires to expedite this legislation. First of all, I suppose you will be bringing down in this session a separate agreement for Nimingarra?

Mr. MAY: I cannot give the Deputy Leader of the Opposition that assurance. However, that is the intention at this stage.

Mr. Court: Secondly, can you tell us very briefly the difference between this agreement and the agreement reached earlier with the joint venturers?

Mr. MAY: The only difference is in the f.o.b. clause.

Mr. Court: This is the condition under negotiation with all companies?

Mr. MAY: I think the Deputy Leader of the Opposition will appreciate this is the first time the f.o.b. clause has been inserted in a mining agreement.

Mr. Court: We had to sort out the agreement with Goldsworthy Mining Limited about deductions?

Mr. MAY: That is right.

Mr. Court: So far as you are aware, there is no other difference in the agreement?

Mr. MAY: There is no other difference. I commend the Bill to the House.

Debate adjourned, on motion by Mr. Court (Deputy Leader of the Opposition).

Message: Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

Sitting suspended from 12.44 to 2.15 p.m.

PUBLIC ACCOUNTS COMMITTEE

Election of Chairman and Deputy Chairman

THE SPEAKER: I have to announce that Mr. J. J. Harman (member for Maylands) has been appointed Chairman of the Public Accounts Committee, and Mr. W. A. Manning (member for Narrogin) has been reappointed Deputy Chairman.

PARLIAMENTARY COMMISSIONER BILL

Second Reading

Debate resumed from the 23rd September.

MR. COURT (Nedlands—Deputy Leader of the Opposition) [2.16 p.m.]: This Bill, referring to the appointment of a Parliamentary Commissioner is, of course, more commonly known as the Bill relating to an ombudsman. We have heard this matter discussed almost *ad nauseum* in this Chamber over a period of years. It is something that is very dear to the heart of the Premier and, as Leader of the Opposition, and even before that, he pushed this matter in the Parliament. I think on every occasion he brought it forward—I would not be sure whether it was every occasion, but on most occasions anyway—I had to make virtually the same speech in reply, and my views are unchanged.

I concede, however, that the Government put this forward as part of its policy at the elections and, as such, is entitled to claim that it has a mandate in respect of this appointment. That is not in question. However, it does not change my views and one is entitled to have one's own views on matters such as this.

I believe that members who feel that we need such an appointment are admitting that they are incapable of dealing with the needs of their electorates and their electors. We are in a rather unique situation by world standards. We have a comparatively small population. We have fairly intimate electorates; they are not large so far as the number of electors are concerned. We have a bicameral system which means that the public are represented by Legislative Councillors and members of the Legislative Assembly. In many cases there is a situation in which within the boundaries of a Legislative Council Province there are a number of Legislative Assembly electorates which are represented by more than one party. It is not as though the electors are confined to an area in which they are represented by only the Liberal Party, the Labor Party, or the Country Party.

In other words, if a person finds it repugnant or distasteful in any way to go to a member of the Liberal Party because he has strong Labor leanings—or *vice versa* —there is usually a way around the problem. On top of this, we have a Senate system in the Federal sphere and those gentlemen have a commission to roam over the whole of the State. Then we have the House of Representatives. We also have our local authorities which provide a wider and even more personal representation than is possible by parliamentarians. We have a free Press; it is as free as any in the world. In addition to this, we have a parliamentary system which enables private members to ask as many questions

as they like. Whether or not they get the answers they want is another matter; but they are free to ask questions with or without notice and to follow up those questions.

Then, under normal circumstances, we have a private members' day and we have that great institution known as grievance day which I think is not used as much or as aggressively as the author of it—the member for Pilbara, now the Minister for Housing—originally thought it would be used.

Mr. Bickerton: It is used every time it is available. There has been the maximum number of speakers on every occasion.

Mr. COURT: I merely instance this to make the point that there is no lack of methods and channels of representation.

Mr. Bickerton: How does a member get information that the Government does not want to give to him?

Mr. COURT: It has been my experience that if any Government sits on something for too long, and indiscreetly so, it is only a matter of time before members on one side of the House or the other will start to do something about it. In addition, there is also the Press and, goodness only knows, the mass media today has a freedom which to my knowledge is not available to it in any other country.

However, I just make the point that there is no lack of freedom of expression in this country. There is no lack of sources through which one can obtain information. There is no lack of channels through which one can make representation. If any member does not agree with this he is saying, of course, that he is not in touch with his electors and that he is not in touch with the electorate, generally. He is virtually saying that the system has failed; that he has failed. I make this point with some emphasis because I believe it to be true and I feel strongly about it. I know it is very nice to go along with a new institution. People get sick of the old institutions and they get sick of having members of Parliament they know.

Sometimes they have them for a long while. They do not place a great deal of value on members of Parliament because, unfortunately, there is a general desire to rubbish the establishment, particularly in these days, and I believe we bring some of this on ourselves. The pattern seems to follow the lines of the joke that was told about the mother-in-law in the old vaudeville days. She was always good for a joke on the side and it is much the same with members of Parliament. Therefore, there is always a tendency for people to grab onto anything new, because they think it is the answer for everything.

When the ombudsman, the parliamentary commissioner, or whatever he may be called is appointed—and no doubt he will be called many names when he is appointed—there will be a certain amount of enthusiasm as there always is with new institutions, and after he has been operating for a while the novelty will wear off. When this occurs I can predict there will be a certain degree of disenchantment about his position, and I can visualise speeches being made in this House in about two or three years' time in relation to the ombudsman not giving the answers the constituents of the complaining member expect.

Mr. J. T. Tonkin: It has not worn off in Denmark after 100 years.

Mr. COURT: The only thing wrong with the Premier's interjection is that he has made it five minutes earlier than I expected he would. In selecting Denmark I think he has picked a bad example, because Sweden, one of its neighbouring countries was the first to introduce an ombudsman back in 1809, I think. However that country did not appoint him for the benefit of the poor, but to protect the rich, because the emperor at that time was allegedly insane.

In that country the ombudsman was appointed to protect the nobility against the emperor. If my memory serves me correctly, it was not until about 1953 that one of its neighbours, Denmark, introduced a similar system. That is what that country thought about it, because 150 years elapsed before the appointment was made, and I do not think it has made much difference in Denmark.

As I said earlier, this is a novel system, and like all novel and new institutions there is always a tendency to embrace them until the period of disenchantment sets in. I predict that some people, who go through all the channels of representation they had in the past, will eventually go to the ombudsman to state their case, and when he has come to the same conclusion that most of us have reached they will find they are no better off.

Mr. Hartrey: What makes you think he will come to the same conclusion as you?

Mr. COURT: I am arguing on the basis that the members of this House, members in another place, and Federal members of Parliament, all conscientiously put forward and represent any complaints that are made by their electors.

Mr. Hartrey: What about creating an agency to redress them?

Mr. COURT: We are merely introducing another piece of red tape.

Mr. Hartrey: This Bill provides the scissors to cut the red tape.

Mr. COURT: The member for Boulder-Dundas is only highlighting the significance of my remarks. Apparently he is also in favour of a new institution because it is novel. I am making the point that it is novel and for a while it will take the pressure off a few people—particularly

Ministers and members of Parliament. Because one cannot find the answer one wants, or would like to get, the question will be referred to this poor unfortunate person who, in the end, will be the wailing wall.

Mr. Hartrey: Can a private member gain redress in his electorate?

Mr. O'Neil: In most directions he can.

Mr. Hartrey: Of course he cannot!

Mr. COURT: I return to the point that if a member of Parliament is unable to gain satisfaction as a result of his representations through normal channels, he will then, if the matter is of some importance, move a motion in this House. If it is a matter that involves a genuine grievance, I would suggest that in practically every instance some solution is found to the satisfaction of all concerned.

The honourable member who interjected on this matter has had a great deal of experience with vexatious litigants and he will know there are some people who are never satisfied even if one is successful in gaining for them what they want; they are miserable because someone has made them happy. Therefore, there is always this type of person who, I am afraid, will use up the ombudsman. Some people will say, "Thank goodness for that; maybe we will get them off our backs for a bit," but I do not like that sort of thing at all.

I still have the same conviction that I had in the first place; namely, that I do not agree it should be assumed that members shall meet with failure in any representations they make. Let those members who feel strongly on this point stand up and say where they have failed whenever they have attempted to gain satisfaction when representing a reasonable case. There would be very few members who could say that they have failed, in those instances where they had a genuine case, regardless of what Government was in power.

I have had experience of a Labor Government for six years—from 1953 to 1959—and then as a member of a Government for the next 12 years, and currently as a member of the Opposition in this Parliament. I take my mind back to my previous period as a member of the Opposition when I had many cases to present to the Government, and in most instances I found that I gained satisfaction provided I was making representations on sound grounds and the person I was representing had a genuine grievance. As members know, one of the great problems with constituents—when approached by those who have had less experience in public life than others—is to get them to state, fairly and properly, the full facts of their case.

They are the general matters of the subject. I now want to deal more particularly with various aspects of the Bill, but before doing so I wish to conclude the first part of my remarks in relation to the person who will be the commissioner. I do not envy that person his appointment. He will need to be a man of rather unique characteristics. In my opinion he will need to be a man with more common sense than brilliance, because one of the facts that emerges in public life is that it is the people with common sense who resolve problems and not necessarily those with any brilliance.

The person who is appointed will have to develop his own characteristics and his own reputation; a reputation which will need to engender confidence in those who will make representations to him and, generally speaking, it will be very difficult to find such a person to fill this position.

If he succeeds, of course, he will be an even harder person to replace because the first incumbent in a position like this sets a certain standard or pattern and forever and a day he haunts his successor.

I want to make a few general comments and I hope in replying the Premier will refer to some of them because this could facilitate the consideration of the Bill in Committee and it will in fact give an indication of the reasons for some of the amendments on the notice paper. On other points I am merely seeking an explanation concerning why the Government has used certain verbiage in the Bill.

First of all the Bill contains a provision about the appointee not being a member of Parliament. I think we all go along with this, but it is suggested that to remove any possibility of the appointment of a person who has been too close to the political scene as either a back-bench member or a Minister, there should be a period between his membership of the Parliament and his appointment. I do not suggest that forever and a day a member of Parliament should be precluded from appointment because some men as a result of their training, experience, and characteristics and because of the very reputation they have established might be ideal appointees. However, I do believe a separation period should be provided—a purging period I think is the expression used in America—between the time he held office as a member of Parliament, which of course could be as a Minister, and his appointment. This explains one of the amendments on the notice paper.

Mr. May: Don't you think you would achieve a lot more by having him appointed shortly after he was a member of Parliament?

Mr. COURT: Well, perhaps I express a personal view in this regard, but I believe some appointments are made too soon after a person has severed his association with a political party or Parliament, and particularly if he has held a ministerial position.

Mr. Hartrey: Are you criticising the Chief Justice of Australia?

Mr. COURT: If I had my way no man would be made Chief Justice or a Judge of the High Court if he had been a member of the Federal Parliament for three or five years before his appointment.

Mr. Brady: What about the Governor-General?

Mr. Hartrey: I think you are right.

Mr. COURT: We are digressing now, but I do not think it is right that a person should be sitting in a judicial position when he has been a Minister—

Mr. Hartrey: I think you are right.

Mr. COURT: —and when he could be sitting in judgment on some of his own opinions. That is not the point before the Chair at the moment, but the honourable member has touched on a sore point with me. I will leave personalities out of it, but as a matter of general principle, regardless of what party is in power, that is my opinion.

The next point I want to make is that clause 7 contains reference to the appointment of an acting parliamentary commissioner. The words which are of particular significance are—

> in such cases or in such circumstances as may be provided for under this section. . . .

As I read the section I cannot for the life of me find out what these circumstances are. It may be that the Government has a special reason for the verbiage used, and no doubt it would have discussed the matter with the draftsman. However, if the Premier in replying could give some indication about this clause it might save time in Committee. As a layman I found it very difficult to determine circumstances as may be provided for under the section. The clause goes on—

> (2) In such cases or in such circumstances as may be specified in Rules of Parliament the Acting Commissioner may exercise the functions of the Commissioner. . .

Are the cases or circumstances specified in the rules the cases and circumstances provided for in the section under which the Governor may appoint an acting commissioner? Some conflict exists there. However, getting back to the point, as a layman I cannot determine what are the cases and circumstances under which the acting commissioner is to be appointed. I am not suggesting an acting commissioner should not be appointed, but I do believe that Parliament—particularly in view of the special nature of this appointment and of the fact that he is to be a parliamentary commissioner—should know the circumstances and cases in which an acting commissioner shall be appointed.

One can readily appreciate that a man could be on extended leave or have a protracted illness. He could even die, and it might be felt necessary to appoint an acting commissioner whilst the Government decided on someone of more prominence. However, I think that if possible the circumstances and cases should be included in the Bill. I have not attempted an amendment on this matter because I believe it is the type of amendment which can be submitted effectively only by the Government which has the drafting facilities available to it.

Mr. J. T. Tonkin: Actually it is intended that if and when an acting commissioner is appointed he shall have all the powers and authorities of the commissioner, and he is to be appointed only if the commissioner is not in a position to act.

Mr. COURT: I do not dispute this, but there must be circumstances and cases which could be understood by Parliament as to when he would be appointed. They are not clear in the Bill. I may have misunderstood some of the words, but I have referred the matter to some legal people—not to the Crown Law Department, naturally—who agreed with me that it is impossible to determine the cases and circumstances.

I am not disputing the need for an acting man. It would be quite silly if such an appointment were not made if the commissioner could not act for, say, six months. I would like the Premier to clarify the matter. I repeat it is not the sort of amendment the Opposition can introduce because it must be done in the context of the total drafting and concept of the Bill. It is not merely a question of altering a word or two. This is not a criticism of the acting appointment.

Mr. J. T. Tonkin: No.

Mr. COURT: I would also like the Premier to comment on clause 12 (3). This refers to rules of Parliament which must be submitted for this legislation. Clause 12 (3) particularly states that the rules of Parliament must be agreed to by each House of Parliament. I have been trying to locate some precedence for this to ascertain whether there is any significance in the word "each." The reference is usually to both Houses and I am wondering whether in this case a drafting error has been made. An anomalous situation could arise if it is intended that there be two sets of rules because the poor old commissioner and the public would be at somewhat of a loss if working under one set of rules laid down by the Legislative Assembly and another set laid down by the Legislative Council. I am assuming it was intended there be one set of rules.

Mr. J. T. Tonkin: That is right: agreed to by each.

Mr. COURT: I am aware of that, but only one set of rules would be in existence.

Mr. J. T. Tonkin: One set of rules as may be amended from time to time as agreed to by each.

Mr. COURT: That is right. As I read the provision, and as it was interpreted to me by one of the legal people, I understand that it is intended the rules would have to be agreed to by each, but meaning both; that is, there would be one set of rules after each had agreed to it.

Mr. J. T. Tonkin: I put the question to you: Can a Bill become law until it is agreed to by each House of Parliament?

Mr. COURT: The point is that a Bill cannot become an Act unless it is agreed to by each House, and then it becomes a decision of Parliament. However, under our Standing Orders—and this is the point I am trying to make—we can have rules for each House which can be different.

I am not referring to these specific ones because it would be quite crazy to have a set of rules for this House and a set for the other in a matter which is of general public interest and application. Anyhow, it is not a matter for argument if the legal drafting is, in fact, clear and we do not finish up with a crazy situation. As it is, it will be confusing enough.

Another point I wish to raise at this stage, in general terms, is in relation to clause 13 which refers to the people who will be subject to investigation by the commissioner. I have two queries in respect of the schedule. The first is that the schedule includes the Police Force, as distinct from the Commissioner of Police and the Deputy Commissioner. The second is that the Government can add to the list. I believe the matter is so vital that additions to the list should be notified to the Parliament and, in fact, approved by the Parliament. I will explain my point in a minute.

I also ask the Premier, when he replies, to comment upon the verbiage used in clause 13(1) where it says—

> . . . and to any other Government departments or other authorities . . .

A query has been raised with me with respect to the "other authorities," because there is no definition in the Bill that would restrict this to Government authorities. I assume the Government intends this to be related only to Government authorities.

Mr. Hartrey: The wording is "Government departments or other authorities." That means Government authorities.

Mr. COURT: The Bill states, "or other authorities."

Mr. Hartrey: It means to any other Government departments or Government authorities.

Mr. COURT: The member for Boulder-Dundas is not his useful helpful self today.

Mr. Williams: A bit grumpy.

Mr. COURT: I am referring to the wording "other authorities." I assume, as does the member for Boulder-Dundas, that when the Bill refers to "Government departments or other authorities" it means "Government departments or other Government authorities." However, I am told by legal people—I am not expressing my own viewpoint—that this leaves the term "authority" wide open. Consequently it is important for the Government to make it clear, even if no amendment is necessary, that Government authorities are meant. I refer to normal Government authorities and instrumentalities, but as the clause is worded it could mean an authority outside normal Government authorities.

Two other points are concerned with this same clause and I feel I should comment upon them now because they will be of some concern to members of the House. The first is that if I read the measure aright the Police Force can be investigated by the ombudsman. I think this is bad in principle.

Mr. Hartrey: Why?

Mr. COURT: I am not talking about the Police Department but the Police Force. The Police Force has its own code of discipline under Statutes laid down by the Parliament. There are many people who would like to have some other influences bedevilling the Police Force and I think the public of the State would be disturbed if they felt the force, in the course of conducting its work, could be subject to study by the ombudsman.

Mr. Hartrey: They would be more disturbed if they thought it was a police State.

Mr. H. D. Evans: They might appreciate it in New York.

Mr. COURT: If the member for Boulder-Dundas will contain himself I shall make my point. It is not a question of having a police State or allowing police tyranny. We are talking about a Police Force which, I believe, has served us well. There will always be someone wanting to have a Royal Commission into the Police Force. For example, the State Exceutive of the A.L.P. wanted an inquiry, but the Minister for Police, to his credit, has resisted this according to published statements. This was done for good reason. Previous Ministers have acted similarly because the Police Force is in an entirely different situation from any other Government department. We need to retain the dignity, integrity, and respect of the Police Force in this community.

It is a strange thing but the people who criticise most are the first to want the police on hand when there is anything amiss. I well remember the problem at the university when Mr. Peacock gave his address there. Yahoos came along with filthy language and tried to upset what was intended to be a serious paper. As soon as

some people were fed up and decided to throw them out—I do not know how they contained themselves for as long as they did—the first thing the yahoos did was run to get a policeman. They wanted the policeman to come along and look after them. We have to place this kind of thing in its proper perspective.

The other point I wish to mention is in an entirely different context altogether. If I read the Bill aright the Rural and Industries Bank could be subject to study by the ombudsman. I would like the Premier to tell us quite categorically whether he intends the ombudsman to be able to study the accounts of the Rural and Industries Bank. I am talking of customers' accounts. If the ombudsman is to have that right it will cut the business of the R. and I. Bank to half overnight. There will be an exodus of accounts. Governments of all colours have always protected the Rural and Industries Bank against this sort of thing.

Mr. J. T. Tonkin: From the Commissioner of Taxation, for example?

Mr. COURT: I am talking about the Rural and Industries Bank.

Mr. J. T. Tonkin: Does the Government protect the Rural and Industries Bank against the Commissioner of Taxation?

Mr. COURT: I do not know.

Mr. J. T. Tonkin: The Deputy Leader of the Opposition knows the answer is "No."

Mr. COURT: Let me deal with one point at a time. I shall come back to the Commissioner of Taxation, but the Premier knows that is entirely different. If I try to do what Bill Hegney used to do, the Premier may remind me. Time after time Governments of all colours have refused to answer questions in this House about customers of the Rural and Industries Bank.

Mr. J. T. Tonkin: The reason being that the answers given would be public.

Mr. COURT: The bank would not have a customer left. If I, as a citizen, could come along to an ombudsman and have him investigate a complaint against the Rural and Industries Bank, it would only be a matter of time before people would be saying, "This is not for me." Because the Rural and Industries Bank happens to be a Government bank I do not think it is fair it should be subjected to this kind of thing when it is not intended other institutions in competition with that bank would be subject to the same investigation. I know what any other bank would do; it would sooner shut its doors than give this information. I know the Rural and Industries Bank people have been very vigilant about this. Many members of Parliament have the mistaken idea that because it is the Rural and Industries Bank they should be able to obtain information which they could not obtain from the Commonwealth Bank or the Bank of New South Wales. It is to the credit of the Rural and Industries Bank that they do not obtain that information. Neither they should.

I think the Government should have second thoughts on this. This brings me to the point that if the Rural and Industries Bank had been excluded from the list, this would only add to the significance of my earlier remarks that additions to the list should not be made without reference to the Parliament in order to protect the particular institutions concerned.

Another important matter of principle is involved in clause 14 (6) which contains provision for some immunity in respect of legal advisers to the Crown. However, there is no reference to other legal advisers. There is a certain amount of privilege as the member for Boulder-Dundas would agree, in respect of people who are acting as counsel for litigants. I cannot understand why the Government has put in an express provision to protect legal advisers to the Crown but has excluded others. I believe, as I have suggested in my amendments on the notice paper, that some provision should be made to ensure that the same protection is extended to other persons. I think it would be quite wrong to have any differentiation.

Another query I have relates to the fact that the commissioner may commence his investigation, if he so desires, without being thoroughly satisfied that the person has used all the remedies available to him. I believe this is wrong. He should satisfy himself that all available remedies have been used. Then and only then, should he take steps to study the case. Otherwise the ombusdman could be used as an unofficial legal aid to people not prepared to utilise facilities made available to them by Parliament for the redress they seek. The ombudsman could turn himself into an extraordinary clearing house and this would defeat the purpose of the Bill. He would be prevented from looking into cases which justify his time and talents.

The Bill provides that the decision as to whether a person should be represented by counsel is at the discretion of the commissioner. I believe this decision should be left to the person and not the commissioner. Again, I have placed an amendment on the notice paper to give effect to this provision.

Another point which will be dealt with when this Bill is in Committee is the question of people having to make documents available under certain circumstances which would not be forthcoming under other Statutes. This is not right. We should not provide a set of rules to go beyond what can be foreshadowed at

this particular time. If we find the commissioner is restricted in his work, we should do something about it later. In this context I am reminded of the Premier's query about the Commissioner of Taxation. He has always been in a separate category because of the nature of his duties. The Commissioner of Taxation holds a special place in all countries. Extreme precautions are taken and very severe penalties enforced if anyone violates the secrecy provisions applicable to taxation and excise. Special provisions are made for access to documents in these cases.

I wish also to refer briefly to the reports that the commissioner makes. There is reference in the Bill to the fact that if he is making an adverse report he is obliged to show the report to the person concerned. This does not go far enough. A person in this situation is not at trial in the ordinary way; he has not been tried and found guilty. To a large extent the commissioner would be operating in a layman's fashion when seeking his information, and in fact there is provision in the Bill for this. It is far too dangerous to allow this type of information to be made public unless the person concerned is fairly treated. If the commissioner publishes such an adverse report, even if it has been shown to the person concerned, I believe that person is entitled to insist that his defence is published with it. In this way the public can form its own opinion.

My next point is that the protection given to the commissioner is far too sweeping. He should not be protected against negligence or defamation. He is only a human being. He has to have restrictions placed on him. If the commissioner publishes something about a person that could be defamatory he should be exposed to some responsiblity in the matter. We could say no person who would act irresponsibly would be appointed. I come back to the point I made: he is still a human being. There is no person alive who could be perfect in all things. He might make a report in all good faith and yet be negligent in his findings. This would be quite unfair to the person concerned, and the commissioner should not be protected in these circumstances. Our amendments cover this situation.

My next point is the question of secrecy. Matters of trade processes, and so on, should be amply protected by the legislation. The provisions in the Bill at the present time are inadequate. These can be dealt with when the Bill is in Committee.

I come back to what I said earlier: I do not like the legislation; I do not believe it is necessary, and it will not cure all the ills some people claim it will. It will be a palliative for a while—a wailing wall. Plenty of people will use it up. The idea has a certain enchantment which will eventually turn to disenchantment.

The Government had a mandate to bring in this legislation; therefore it is assumed the Government will use its numbers to take the Bill through to Committee. I then propose to move the amendments standing in my name on the notice paper. I gave a broad outline of these amendments seriatim to the Premier and I hope this will save some time in Committee.

MR. FLETCHER (Fremantle) [2.56 p.m.]: The honourable member who just resumed his seat invariably gets me on my feet. However, I will be a few minutes only.

The member played his traditional role of objecting to an ombudsman, an umpire, as it were, between officialdom and the community. It is natural he would take this line as he took exception to any such authority breathing down his neck in respect of the administration of his office when he was a Minister.

No doubt the fact that the honourable member lives in the area of Nedlands accounts for his viewpoint differing from members living in electorates such as mine.

Mr. Williams: Why is that?

Mr. FLETCHER: The number of social problems he would find in his electorate would be very limited. As a consequence he would have less knowledge of this type of problem and less dealings with the downtrodden. The people within his electorate could afford to seek legal assistance.

Mr. Court: I used to have a part of my electorate which voted three to one against me!

Mr. FLETCHER: The member's electorate is not representative of the general community, and his thinking is coloured accordingly.

Mr. May: I'll bet he found plenty of problems when door-knocking in Ascot!

Mr. Court: I found plenty of objections to the present Government.

Mr. FLETCHER: I do not want to start a spate of interjections.

Sir David Brand: It is the other side which is playing up.

Mr. FLETCHER: The ex-Minister has asked for an example and I rose to supply one. When he was a Minister I sought his assistance on behalf of one of my constituents. This was a case of injustice, and I asked for an *ex gratia* payment from the Minister for Railways for a Mrs. Shields, who still lives at 86 Marine Terrace. To illustrate her circumstances, I mention the fact that this lady pays more than half her pension by way of rent.

As members may or may not know, the railway line used to cross Marine Terrace and it was not fenced. This lady wandered out of a side street, into a stiff breeze with sand flying all around, and walked in front of a train which crossed the main road. Half her foot was amputated and she is still a cripple. I asked questions in this House regarding her legal entitlement. The Minister said she was trespassing on railway property. I asked him both by questions and by correspondence to give consideration to an *ex gratia* payment to assist this lady. I have since destroyed the correspondence because I lost the argument, but the questions are recorded in *Hansard*, and no doubt the correspondence would be on file still.

I suggest to the House that an ombudsman would adopt a far more humanitarian attitude and make a far more humanitarian recommendation than did the Minister at the time, and that is my purpose in rising to my feet on this issue.

Mr. Court: What is the ombudsman going to do about that case?

Mr. Jamieson: That is just it.

Mr. FLETCHER: The Deputy Leader of the Opposition said that all he can do is make a recommendation. All the Minister needed to do was to recommend an *ex gratia* payment to the lady to whom I have referred, who is still living at the address I mentioned, and who is still suffering from a disability.

Mr. Court: What has the present Government done for you since it took over?

Mr. FLETCHER: Do not worry about the present Government; I have asked what the Deputy Leader of the Opposition did when he was the Minister.

Mr. Court: I am asking you what your present Minister said when you went to him.

Mr. FLETCHER: Why should I go to the Minister now after losing the case over five years ago?

Mr. Court: You still seem to feel strongly about it.

Mr. FLETCHER: The Deputy Leader of the Opposition was a Minister for 12 years, but the present Minister has been there for only a few weeks.

Mr. Rushton: You were—

Mr. FLETCHER: I do not want any interjections from the source from which they appear to be emanating at the moment. Nothing the honourable member can say will destroy the case I have represented. It is on record that the Minister did not do the humane thing. An ombudsman would be far more humane than the Minister was then. Yet he takes exception to the creation of an ombudsman to see fair play. I support the Bill.

MR. W. A. MANNING (Narrogin) [3.02 p.m.]: I am not sure that I can follow the argument of the member for Fremantle because I do not think he gave any proof that an ombudsman would have granted any compensation—

Mr. Fletcher: I said he would have recommended it.

Mr. W. A. MANNING: —or even recommended compensation, because it would depend on the information which was available. So I do not think that proves the honourable member's argument. However, I do not wish to dwell on that.

The Deputy Leader of the Opposition has spoken in partial opposition to the Bill. I agree with some of the remarks he made, although not with all of them. I know that in the past his main argument against the appointment of an ombudsman has been that members of Parliament have the opportunity to do exactly the same thing. I never could and still do not agree with this because a parliamentary member has not the same privileges as an ombudsman. For instance, clause 21 (1) states—

> For the purposes of conducting an investigation under this Act, the Commissioner may, at any time, enter any premises occupied or used by any government department or authority to which this Act applies, and inspect those premises or anything for the time being therein.

I would like to see any member of Parliament attempt to do that. I would like to see a member of Parliament attempting to gain information in that manner from any Government office, or from the office of any Government authority. So, for a start, that is a decided power which will be available to the ombudsman, but which members of Parliament do not have. It is also stated in the Bill that the proposed commissioner shall have all the powers, rights, and privileges specified in the Royal Commissions Act. This is where it would be an advantage in having an ombudsman to delve into matters which are not being dealt with properly by Government departments.

I regret that the word "ombudsman" has not been properly understood due largely to the use of that word in the *Daily News*. That paper has an ombudsman who inquires into all sorts of difficulties which arise but which have nothing whatever to do with Government departments. Yet the prerogative of this proposed ombudsman is confined to Government departments, and I think the people have been misled in this regard.

I know that members who are now on the Government side spoke along these lines previously when they supported motions moved in this regard. This indicates that they also thought an ombudsman covered these things. But his responsibility is very limited.

However, he may have some uses, and I would like to refer to the report of the New Zealand Ombudsman issued on the 31st March, 1968. That ombudsman attended a conference of the World Asembly for Human Rights in Montreal. That conference paid particular attention to this subject, and the following is a passage from the final report of the conference:—

> In every country of the world, no matter how developed or underdeveloped it might be economically, and irrespective of the character of its political system or social organization, some specialized institution needs to be established by law, in addition to the courts, to which a citizen who considers himself deprived . . .

Note that it says, "considers himself deprived"; it does not say, "is deprived." To continue—

> of his rights may turn seeking redress and may either have it established that he was mistaken or obtain effective remedies.

I think that is an important statement because it indicates that the purpose of the ombudsman is to deal with cases where people think they have been deprived or oppressed in some way. In many cases it turns out that they have not been deprived, but they think they have been and the job of an ombudsman is to hear their complaints and then decide whether or not they are mistaken. No doubt this has some beneficial effect on the people concerned because they feel that somebody has looked into their problems and said, "You have made a mistake; you have no rights; the matter has been dealt with correctly"; or else, if some remedy is required, it is dealt with properly.

Therefore, I feel there is something to be said for the appointment of a person who may take this action, because it is something a member of Parliament cannot do.

There is another angle we must take into account, and that is the cost. I noticed in *The West Australian* recently the Premier, when commenting on the remarks made by Sir Guy Powles, the New Zealand Ombudsman, said that Sir Guy had told him that it cost $42,000 a year to maintain the office. The Premier said he was anxious to find out how it was run so cheaply. So it is evident that our Premier thinks an amount of $42,000 a year is very cheap and we may assume that he does not expect to make this appointment at a figure less than that. I wonder what we are going to get for our $42,000 or more a year.

In a further Press report relating to the New Zealand Ombudsman the following is stated:—

> Between October, 1962, and March, 1969, the ombudsman office dealt with 4,498 complaints.
>
> Of this number it found 386 justified, a further 1,657 were investigated and found unjustified and 1,533 were outside the ombudsman's jurisdiction.

I think that emphasises the point I made earlier—that many do not understand what are the duties and powers of an ombudsman. Out of a total of 4,498 complaints, only 386 were found to be justified, which is indeed a very small percentage. I point out that this is over a long period—from March, 1962 to March, 1969. In some of the years in which he has been operating only about 55 cases were found to be justified; and this at the cost of $42,000. That is a lot of money to satisfy about 50 to 60 people.

Mr. Jamieson: Don't you think their rights are important?

Mr. W. A. MANNING: If the Minister will be a little patient—

Mr. Jamieson: I have been patient with you for years.

Mr. W. A. MANNING: Yes, so have I. If the Minister is patient he will find that I am drawing attention to the situation we must face. This is going to cost us money and I have already pointed out that this is an avenue for something to be done in those cases which are beyond the powers of a parliamentary member.

Before the Minister interrupted me I was about to say that I support the Bill, because it provides an avenue where something which has been advocated can be tried out in order to satisfy the people. There are many in the community who think we need an ombudsman in the State, but whether or not the people really require one will be determined possibly in the next two or three years. These people think there is a gap in the functions of the Government, and they are not given the proper service or attention that they should get. They seem to think they are downtrodden.

At this stage I think the House would be well advised to appoint a person to fill the gap which seems to be apparent to some of the people, if not apparent to members of this House. Although it will cost money to put this proposal into effect, I am sure the situation will be proved in the next year or two by appointing someone.

I have quoted the figures dealing with the functions of the Ombudsman in New Zealand, which has only one House of Parliament. Consequently many of the matters that arise in New Zealand do not arise in Western Australia. For instance, some of the subjects dealt with by the Ombudsman in New Zealand relate to customs, taxation, and other matters which in Australia come under the jurisdiction of the Commonwealth. These same matters will not arise in Western

Australia. Furthermore the population here is less than half that of New Zealand. So, we may find in the future that the effective complaints in this State amount to few in number. However, at this stage I am not concerned with that aspect; I think the experiment should be made, in order to ascertain the result. It is only by doing this that we will be able to find out what are the demands of, and how effective is, this office. I conclude by indicating that I have no intention to oppose the Bill.

MR. HARTREY (Boulder-Dundas) [3.12 p.m.]: The first part of the Bill, which I commend entirely, is worth special attention; I refer to the title. This is a Bill for an Act to provide for the appointment of a parliamentary commissioner for administrative investigations. Anyone who knows anything about administration—I take it we all do—is aware that it is conducted mainly under regulations. Similarly, anyone who knows anything about departmental regulations is aware that the Arbitration Court or its equivalent in any State looks with the greatest disfavour upon Government servants who completely bog down the operation of Government services by obeying the regulations strictly. This is called a "regulation strike."

If the State Shipping Service, the air transport service, the railway service, or the postal service decides to obey, literally and absolutely as they are ordered to by the regulations, the various devices and practices that have been developed over the years then those services will become bogged down straightaway and a farcical situation will be created.

If that is true when the regulations are obeyed slavishly by many, is it not also true of the individual citizens of this State? Is it not true that the citizen can have his rights completely swamped in a mass of red tape; and is it not highly desirable, despite the plausible though not persuasive arguments of the member for Nedlands, that we need a man with a sword to cut the Gordian knot of red tape? That is the prime object of the Bill, as its title indicates. We need a parliamentary commissioner for administrative investigation into how departments are being administered, and whether justice is being obtained from them. We are told by the member for Nedlands that there should not be an investigation of a particular department—the Police Department.

Mr. Court: I did not say the Police Department; I said the Police Force.

Mr. HARTREY: It is all right if the honourable member likes to separate the two. I do not know what sort of a Police Department we would have without a Police Force.

Mr. Court: The two are entirely separate, and the Bill separates them.

Mr. HARTREY: I do not separate them, and what is more I do not either denounce them or laud them. I would compare the Police Force with fire: it is a very good servant but a bad master. The police are good and, in fact, indispensable servants of the people, but they have to be kept as servants of the people, and not as their masters. Neither this country nor any other British country of white origin that I know of is a police State; and may God grant that they do not become police States. This State will not if Parliament is vigilant and discharges its duty to the people. Let us not think that the Police Force, or for that matter any other force which is controlled and paid by the State and is used to provide service to our constituents and fellow citizens, will ever become our masters. The Police Force will not, nor will any other force. That is the essence of democracy: the safeguarding of the rights of the individual.

The people are not a mass or a herd to be stampeded. Each individual has a separate vote, and he individually determines the election of each member of this House. The same applies to the individual rights of those electors. It does not matter to me if I am in trouble and cannot get justice that somebody else is able to do so. My immediate aim is to see what I can do to assert my rights.

There are times when administrative injustice is much more difficult to redress than any other sort of injustice. As the member for Narrogin quite rightly and wisely pointed out, we as individual members of Parliament cannot give the people redress, and frequently we cannot get them redress from a Government department—whether the Government be one of our own political complexion or one of the political complexion of the Opposition. We have not the power to barge into Government departments, to ask what the officers are putting up in the pigeon holes. However, the person proposed to be appointed under this Bill will have that power, and a great many other powers. I sincerely hope he will have the power to investigate any force, bureau, department, or person other than those expressly excluded by the Act. I agree that it is perfectly right to exclude the judiciary and also the official advisers to the Crown, just as other legal practitioners are exempted from the need to betray the confidence of their clients.

The Act is a sound one, and it is based upon a very sound principle. I say further, it appeals to a very sound instinct which is in the heart of every human being: the idea that a person should not have to go round the world three times to get justice. We have been told through an interjection by the Premier that the idea is as old as 1809. I can assure the House that it is a great deal older than that. Those of us who are familiar with ancient Roman history can remember the very early days of

the old Roman Republic when tribunes of the people were instituted or appointed to serve the people. Their function was to sleep in their own houses every night for a whole year with both front and back doors wide open, so that any citizen could go in during the day or night.

Mr. Court: That represents only one class of Romans.

Mr. HARTREY: That was to ensure that justice was done. If an appeal was made the tribune would get out of bed to attend to the matter. He was available day and night for 12 months of the year, and he got on with his job. If the member for Nedlands did the same I would be satisfied! That is the essence of the idea, and it is rooted in the hearts of human beings. This Bill is calculated to give effect to a human instinct: that there should be somebody in authority whom a citizen could approach, without the need of going through a court, to suitors and counsel, and all the rigmarole of issuing summonses, writs, discovery and so on. If a citizen did that he might discover finally that he did not have the money to proceed with the case.

Mr. McPharlin: Not a great number of countries have appointed an ombudsman.

Mr. HARTREY: Well, Western Australia will be one which will, and I am very pleased to be able to say so. The remarks of the member for Nedlands—that a man should exhaust all the legal possibilities of a situation before he can get any redress—are very discouraging to the poorer type of individual who cannot afford such a process. That is very discouraging indeed.

Mr. Court: This measure will encourage a lot of people who can afford to bypass the process.

Mr. HARTREY: The situation was very well put by the brilliant French satirist, Anatole France, when he said "the law, with majestic equality forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread." It is quite true the law does not allow the rich to do those things any more than it allows the poor to do them but how many rich people are tempted to do so?

If the Colonial Sugar Refining Company or B.H.P. consider that they are not getting their rights, they will not run to the ombudsman. They will run to the Supreme Court, then to the High Court, and if there lies any other form of appeal, possibly to the Privy Council. However, ordinary people cannot do those things, and they are the people who are backing us in bringing forward this Bill. Those people are represented by members from both sides of this House and it would be well for the members from the other side to give consideration to the thoughts of their constituents. Supporters of the Liberal Party, the Country Party, or Independent members are just as anxious to have a short cut to justice as any Labor supporter. If members opposite do not believe what I have said they should ask the shopkeepers, the farmers, and any other people they will associate with in the next 24 hours.

I have much pleasure in supporting the Bill and I sincerely hope it will be passed. I hope it will not only be supported by members from this side of the House, but by all intelligent and just members on the opposite benches.

MR. MENSAROS (Floreat) [3.23 p.m.]: Unlike the Deputy Leader of the Opposition I have been involved in this subject only once. If I can recall correctly that was the occasion of my second speech in this Chamber. At that time I had an opportunity to study the subject in depth and prepare my speech. I do not want to repeat the history of this institution because what I have said is in *Hansard* for anyone who is interested to read it.

Personally I am not in favour of the Bill. However, since the Opposition has agreed not to obstruct the passage of this Bill, I concur with the majority decision and I will not vote against it. I think that those who support the measure are influenced, to some extent, by the media and perhaps many people do not understand the functions of an ombudsman. In my view many people confuse the institution we are discussing with the *Daily News* ombudsman.

The member for Fremantle said that perhaps the constituents of the Deputy Leader of the Opposition were in a different position from those living in other electorates, because many of those people could not afford to employ lawyers. Well, this Bill does not refer to any matters in common law, or to any matters which usually come under legal representation. It refers to administrative matters only.

The principle involved in the Bill is quite laudable and acceptable. It sets out to curb the patronising attitude and, if one wants to be unkind, the occasional bullying attitude of civil servants or local authorities. However, apart from the principle involved, I cannot support the measure because of the methods which will be employed. It has already been pointed out several times that the measure will not provide help to complainants by way of an appeal. The commissioner will simply register complaints and submit reports.

The member for Boulder-Dundas has said that some justice is sought, but I do not think the Bill will provide any justice if a report is made and some recommendations or suggestions are submitted to a department without remedying the grievance. In fact, all that the measure will do—and perhaps this is an advantage—is

to highlight and publicise certain actions which otherwise might be hidden. The mere publicising of certain events might have a blackmailing effect on some public servants, although they are not always wrong.

I still think the Public Service compares more than favourably with those countries which have this type of institution of a parliamentary commission. Perhaps it is inherent that Parkinson's law becomes involved and red tape and empire building becomes apparent. However, apart from these inherent faults I think our Public Service is better than those of other countries. As the Deputy Leader of the Opposition has already said, we have nearly 100 parliamentarians to represent 1,000,000 people. We also have many local government representatives. In the United Kingdom there are 625 parliamentarians which is equivalent to one parliamentarian to each 100,000 people. If local government representatives are taken into account in this State, there would be one representative for each 1,000 people. It therefore seems quite obvious that the appointment of a parliamentary commissioner is superfluous with such a lot of representation.

Contrary to what was said by the member for Fremantle, in the short time that I have been a member of Parliament I have not once been unsuccessful in making representations on behalf of my constituents. In fact, I believe that without publicity, and using common sense, one can achieve better results. A parliamentary commissioner would inevitably involve quite a lot of administrative action and red tape. A member of Parliament can take immediate action, as I did recently when I rang the Commissioner for State Taxation. Within two days I received an answer on a very complicated matter, and that answer was to the entire satisfaction of my constituent.

There are many more experienced and more efficient members than I in this House and I am sure that they have had experiences similar to the one I have mentioned. As I have said, I do not see any reason for changing my ground and giving my blessing or support to the appointment of an ombudsman.

On the other hand, as mentioned by the Deputy Leader of the Opposition, the Bill itself could almost be interpreted as a certificate of our failure or as a public admission that we are unable to represent our constituents in the way they deserve to be represented. Yet the representation will now come from a public servant. Apparently those who drafted the Bill considered the ombudsman would be a public servant; otherwise superannuation and other conditions to apply during his term of office would not have been incorporated in the Bill.

Although the commissioner and his staff have a different status from that of members of Parliament—and reference is made to section 34 of the Interpretation Act—in fact the commissioner, in certain ways, has many more privileges than a member of Parliament has; but to my mind that is not a sufficient reason for saying he would be in a better position to remedy any injustices.

I think it is worth while mentioning another aspect. There is an inherent characteristic in such an office or department—as undoubtedly it will be—which, according to Parkinson's Law, could very easily lead to some sort of empire-building. Clause 9 (1) of the Bill provides that the commissioner will recommend the appointment and number of staff. Nothing could prevent him from building up, in time, a number of staff around him and creating a huge department. To a certain extent, his recommendation will determine the salaries of his staff. Knowing human nature, I do not think I am wrong in imagining that in due course another Public Service empire will be built on this basis.

At the present time great stress has been laid upon saving. Taxes, charges, and fees are rising, and the expenditure of money is being curtailed, postponed, or withheld for many matters which, to my mind, are necessary. I pointed out some months ago that a fire hazard in a school cannot be removed because there is no money available to give this matter priority. In those circumstances, I cannot see why an institution should be created which will obviously absorb a great deal of money. I think it is a luxury.

If the Government thinks that perhaps the rights and privileges of members of Parliament are not adequate, the same objective could be achieved by extending them in certain cases to enable them properly to represent their constituents. Perhaps a standing committee of this Parliament even with the rights of a Royal Commission could be created which would perform the functions of the so-called ombudsman.

As the Opposition will not obstruct the passage of this Bill, it might be worth while to examine in detail several points which can be discovered in the Bill, some of which may represent discrepancies. I do not propose to suggest amendments to the measures that has been attempted by the Deputy Leader of the Opposition. As it is a Government Bill, if it needs any correction it should be amended by the Government. Nevertheless, I would like to direct attention to certain points and I would be grateful if the Premier would take note of them; he might feel they have some merit.

With regard to clause 7, I consider it might be a defect in the Bill that rules of Parliament are mentioned as containing

certain conditions, yet we do not have rules and do not know what these important conditions are. Also the appointment of the acting commissioner and the circumstances under which he will act are interpreted as being the same but it has not been expressed that they are the same. This matter needs some clarification.

The Deputy Leader of the Opposition mentioned the reference to each House of Parliament. I would like to draw attention to a different aspect because the Premier interjected and said there would be one set of rules, which is obvious. Of course, both Houses of Parliament must agree to one set of rules. However, neither this Bill nor the Standing Orders makes provision in the event that the two Houses of Parliament disagree. No machinery is set out in the Bill and I do not think any of the Standing Orders would apply in the case of disagreement. No mention is made of managers or subsequent agreement.

If one House does not pass the rules or amends them without the other House concurring there will not be any rules at all; but the rules are necessary in the circumstances I have mentioned in connection with clause 7. The functions of the commissioner and the acting commissioner must be regulated by those rules of Parliament.

The next matter I wish to mention might appear to be of minor importance, but I have been puzzled by the different kinds of oaths prescribed for the commissioner and the officers of the commissioner. Clause 8 states that the commissioner and the acting commissioner must each take an oath that (1) they will faithfully and impartially perform the duties of the office, and (2) they will not divulge any information received by them under this Act. In clause 9 (3) we see that the officers of the commissioner must take only the second oath; that is, that they will not divulge the information received by them. They are not obliged to take the first oath—that they will faithfully and impartially perform their duties.

However, according to clause 11(1), the commissioner may delegate to any officer the exercise of any of his powers. An officer may therefore be in the position of exercising the full powers of the commissioner, yet he takes a different oath. Clause 11(6) states—

> Any act done by an officer of the Commissioner in the exercise of the powers delegated to him under this section has the like effect as if it were done by the Commissioner.

My point is that under certain circumstances there may be no difference in the functions, yet the oath is different.

Another matter which I would be grateful if the Premier would clarify concerns clause 13(3)(f), which says that the Act does not apply to the Parliamentary Privileges Act, 1891. My question—which perhaps can be very easily answered—is: Does that provision apply in reverse? I realise that the commissioner cannot investigate members of Parliament, but it appears that if the commissioner were to make a defamatory remark regarding members of Parliament there would be no remedy against him.

There appears to be a contradiction in the provisions of the Bill on the question whether investigation under the proposed Act and the general conditions associated with it do or do not apply to members of a board. I base this contention of an anomaly on the fact that in clause 4, which deals with definitions, "appropriate authority" means a "Government department or other authority." I might say here that when the Deputy Leader of the Opposition brought this point forward I do not think he mentioned that there is a definition of "appropriate authority." For my part I have been right through the Bill and I cannot find any reference to "appropriate authority" yet numerous references to Government departments or other authorities occur in the drafting of the Bill.

However, according to clause 4 the interpretation of "appropriate authority" means "Government department or other authority" by which or on behalf of which the action that is the subject of an investigation under this Act was taken.

To my mind this would appear to include a board. On the other hand clause 13(1), apart from the enumerated exceptions of courts, judges, magistrates, the Auditor-General, and parliamentarians, could place in the schedule the Government departments and other authorities specified. I again emphasise that this refers to "other authorities" and not to "appropriate authorities" which to my mind seems to include boards, because there are a number of boards specified in the schedule.

The contradiction in connection with members of the board appears in clause 13(4)(a). There is reference to Government departments and other authorities and we have seen that "other authorities" includes boards specified in the schedule. But this clause includes reference to each of the members, officers, and employees of the board. On the other hand, clause 13(6) states that members of boards are not included.

I think these provisions need some clarification to ensure whether members of either statutory or other boards in the schedule are or are not affected by the investigation. For example, the chairman of the board is a member. Is he subject to investigation?

Another point I would stress is that the Bill states that the Governor by proclamation declares the authorities to which the Act shall apply. I think this is somewhat

excessive and fairly wide in its implications because in my view it definitely points to rule by regulation rather than rule by Parliament.

I cannot see why the Government should bother at all to enumerate the boards in the schedule if the Governor—which, of course, means the Government—can decide by decree, without consulting Parliament and without Parliament having the right to disallow such decree, which authorities or which boards can be the subject of investigation and be placed in the schedule.

I again emphasise the fact that because section 36 of the Interpretation Act is excluded no means are provided for Parliament to disallow any decrees which decide which authorities are to be investigated by this appointee.

In clause 14(1) the subject matters of investigation are any decisions, recommendations, acts done, or omitted, in the exercise of any power or function conferred by or arising under any enactment. The provision does not add, "or rule of law."

Yet in clauses 22 and 25(1)(c) we find reference to rule of law and practice respectively. Accordingly I wonder whether this was meant to be omitted in clause 14(1).

Sitting suspended from 3.45 to 4.03 p.m.

Mr. MENSAROS: In the course of a somewhat detailed examination of the provisions of the Bill my next question would be directed to what appears to me to be a somewhat biased and contradictory provision which appears in clause 14(2)(c), when one compares it with the provision appearing in clause 14(3). Clause 14(2)(c) states that the making of any recommendation, including a representation made to a Minister of the Crown, can be investigated; but subclause (3) of the same clause states that this provision does not authorise the investigation of any decision made by Cabinet or by a Minister of the Crown, or the merits of any such decision.

As we all know, most of the decisions by Ministers are made on some sort of recommendation. Although subclause (2)(c) of clause 14 provides that the making of any recommendation can be investigated by the commissioner, and subclause (3) of the same clause provides that any decision made by Cabinet or a Minister shall not be investigated, it still appears to me that despite the fact that these decisions cannot be investigated, the making of any recommendation which will be the subject of a ministerial decision can be investigated. In other words, the commissioner can investigate the recommendation upon which the Minister of the Crown will base his decision which, in turn, cannot be investigated.

The next item I wish to raise is one which the Deputy Leader of the Opposition has mentioned, and I consider it to be a very serious instrusion into professional ethics. I am referring to what is implied by the provision contained in clause 14(6), which reads—

> The Commissioner shall not conduct an investigation into any action taken by a person acting as legal adviser to the Crown or acting as counsel to the Crown in any legal proceedings.

This means implicitly that any investigation can be made into any action by legal advisers who act in connection with other authorities set out in the schedule, or the action of anyone who advises the subject of the investigation.

I go a step further and mention that on the analogy of the legal adviser, there is no mention of any other professional adviser. What will happen if there is a medical adviser? Will the recommendation of the medical adviser be subject to investigation? I wonder what the Law Society or, for that matter, the A.M.A., will say about this provision? Or, what will be the opinion of the A.M.A. in regard to it? As I have said, the advice of a medical practitioner can be investigated, or even the advice of an architect if he is acting as an adviser in his professional capacity. I mention the case of Mr. Lilienthal who was asked by the then Minister for Industrial Development to come to this State and advise the Government. In such an instance, would his recommendation be subject to an investigation by the ombudsman?

I wonder whether some of the strong supporters of the appointment of an ombudsman have considered why only the aggrieved person can complain. The scope of the investigation is very wide. It includes even an Act of Parliament, with which I do not agree. Yet the investigation is not intended to be for the benefit of all; it is only the aggrieved person who can initiate it. No other person can make a complaint. Why is it that an observer, who surely would include a member of Parliament, cannot make a complaint? The member for Fremantle pointed out that members of Parliament may take into consideration the investigations made by the ombudsman, but according to the provisions of this Bill, members of Parliament, as such, are not in a position to make a complaint or to initiate an investigation, because clauses 17 (2) and 18 (1) (c) say so implicitly. Clause 18 (1) (c) states that an investigation can be refused if—

> the person aggrieved has not a sufficient personal interest in the matter raised in the complaint;

In this connection, it comes to one's mind that even public servants could be regarded as outsiders, but if the intention of the Bill is genuine—and I have no doubt it is—a public servant may wish to initiate some investigation. Who, other than a public servant, is in a better position to know whether there is something wrong in

the administration of the department in which he is employed? Yet, in accordance with the regulations of the Civil Service a public servant is debarred from saying anything about his department, although he would be the one who would know the inside story and would be in a much better position to know whether something was wrong in the department than an aggrieved person.

I merely suggest that if the intention of the Bill is genuine surely its provisions should have been extended to include public servants having the right to lodge a complaint. When one reads subclause (3) of clause 19 it creates the impression that a complete dictator is to be appointed. I would like to read this subclause to the House. It states—

> (3) Subject to any Rules of Parliament made under this Act, the Commissioner is not required to hold any hearing for the purposes of an investigation and he may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit and may determine whether any person may be represented, by counsel or otherwise, in the investigation.

In accordance with that provision the commissioner is not required to hold any hearing for the purpose of conducting an investigation. He may obtain information from such persons and in such manner as he thinks fit. Yet he may determine whether the person being investigated shall be represented by counsel or not.

I might be accused of indulging in too much fantasy, but surely anyone would infer from this provision that the commissioner can make an investigation and even torture a person if he so desires and still be in a position to determine whether this person can be represented by counsel or otherwise. I cannot recall any Act of Parliament or any constitution which states that a person cannot be represented in the holding of an inquiry. In fact the contrary is very much the case. In a court hearing, when an accused or defendant cannot afford legal representation, then, as the member for Fremantle has said, he would, by various means, be accorded that legal representation.

Under this provision, however, the commissioner can say, "No, you cannot be represented by a legal adviser or anybody else." If this is the genuine intention of the Bill I will have to leave it at that, but I hope the Premier will consider the remarks I have made.

I now refer to clause 21 which contains a provision I never like to see in any Act, apart altogether from my personal feelings on the matter—and at this point I invite any interjections by members, or replies during debate, to the effect that Liberal Governments have included this provision in legislation. Despite this I still do not like it. I do not agree that any inspector should be permitted to enter any premises. I realise that this provision is restricted to Government premises, and the premises of other authorities and boards, but I still think that anyone who is allowed to enter premises without a warrant takes away the privilege enjoyed by a private citizen—a right of which we are very proud—and subjects industrial instrumentalities to industrial espionage.

At any time additions may be made to the schedule. When these investigations are being made the investigator might pick up some industrial secrets which would be very detrimental to our economy and the State as a whole.

I do not agree with the provisions of clause 25 (1) (g) which places a crown on a complete dictator's head. Democratic legislation should not include a provision which allows the ombudsman to act if he thinks the action he has investigated is wrong. I cannot comprehend this. If this be the case then the whole legislation as it is worded is unnecessary. All that is required is one clause to provide that if the ombudsman thinks something is wrong he shall act as he thinks fit, and no-one can do anything against him. That is what this subclause states.

Mr. Hutchinson: Lawyers would never be content with that, would they?

Mr. MENSAROS: I am coming to the point raised by the member for Cottesloe. I can well recall in my young years during the Nazi times when the last sort of nail in the coffin was when the courts of Germany, which were very conservative and did not like the political development, were told they should generally disregard the laws if they did not comply with the feelings of those in office. Of course, the judges who were appointed were those who would exercise this power. By this means, the dictatorial power could do what it wanted without relying on any provisions of any law.

This is what I am complaining about now because the Bill simply states that the commissioner can do anything if he thinks something is wrong.

What is equally appalling to me is the provision in clause 30 (3) which states that no prerogative writ—no habemus or mandamus—can be issued against the commissioner, not even if he has acted outside his authority and did not ask the court whether his jurisdiction applies. This provision does not apply to any other person in the State—not to the highest civil servant, a Minister, or even the Premier himself, because these people can be sued. Yet, we have this dictator—this ombudsman—who is absolutely free of all obligations. He has more privileges than any member of Parliament or any high civil servant—indeed, even a judge.

Finally I would like to deal with the schedule, and my interest lies in a significant and only too indicative omission. The ombudsman can investigate any one or any thing, including those instrumentalities in the schedule or those which will be added by decree; but, of course, he cannot investigate any industrial union. The Government supports compulsory unionism and therefore the unions are not private bodies. Everyone who wants a job must belong to a union.

Mr. Hartrey: They are not Government bodies.

Mr. MENSAROS: No, but neither are many of those organisations in the schedule. Because unionism is compulsory a person cannot extricate himself from a union. He must belong to one if he wants a job and to me, therefore, unions are almost the same as Government bodies. People must belong to them; furthermore, unions have a statutory place in bargaining and determining awards. Sometimes these cases do not even go to the commission because they are agreed between the union and the employers. Yet, the unions cannot be investigated.

I ask: Why is this? Is it because they never do anything wrong or is it that there is some ground or they have some reason for not wanting to be investigated? I am very curious to hear the Premier's explanation of this.

Mr. Hutchinson: He will not explain it.

Mr. MENSAROS: It has never been mentioned. The member for Fremantle referred to the legal advice the ombudsman will give to people, but that is not referred to in the Bill. The ombudsman will investigate only actions of administration, but at the same time unions cannot be investigated—not even administratively. Apparently they never do anything wrong.

I would now like briefly to summarise the most contentious points. I am genuine in my remarks and I hope that some consideration will be given to the anomalies I raised.

The main points I mentioned were firstly that the commissioner can investigate persons in their professional capacity as advisers, except the legal adviser to the Crown. The second point was that the Governor by decree can add any body or any one to the group in the schedule which can be investigated. The third point is that the commissioner can obtain the information in a manner he sees fit and yet he can determine whether a person being investigated can or cannot have a lawyer to represent him.

The SPEAKER: The honourable member has five more minutes.

Mr. MENSAROS: Thank you, Mr. Speaker. The last point I made was that the commissioner can make reports and statements which might be defamatory to people in their business and private lives, but those people can take no action against him; not even a prerogative writ can be issued against him.

I will conclude the same way I concluded three years ago. The learned judge to whom the Premier referred at the beginning of his second reading speech (Mr. Justice Burt) said—and I think this is worth reading—

> The success of the idea will depend upon the man.
>
> He must be wise, humane, understanding, knowledgeable, diplomatic, humble and of the highest integrity.
>
> The wrong man in the position could be a disaster.
>
> Hence, paradoxically, he should be the finest man in the land and have no legal security of tenure in his office.

This was not incorporated in the Bill. Those words of Mr. Justice Burt were also quoted at a legal convention in Western Australia in 1963. The learned gentleman who quoted them concluded his address by adding the following question to the quote:—

> Do we believe we could always find such a man in W.A.?

With this citation I conclude; and I repeat that I personally cannot bless this legislation, but concur with the majority of my party and will not vote against it. I feel that the problem, if a problem exists, could have been solved by educating the public to use the representation of their elected parliamentarians. Instead the Government has jumped on the bandwagon and created a new public servant who in turn will create an empire in due course.

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

(Continued on page 149)

QUESTIONS (39): ON NOTICE

1. COMMONWEALTH AID ROADS FUND

Grants to Local Authorities, and Expenditure by Main Roads Department

Mr. I .W. MANNING, to the Minister for Works:

(1) What amounts of money have been paid from Commonwealth Aid Roads Funds annually for the years 1968 to 1971 to each metropolitan local authority?

(2) What amounts have been expended annually by the Main Roads Department in each metropolitan local authority from Commonwealth Aid Roads Funds for the years 1968 to 1971?

(3) For 1971-72, what grants have been allocated—

(a) to metropolitan local authorities;

(b) to be expended in the metropolitan area by the Main Roads Department?

Mr. JAMIESON replied:

The information sought is contained in statements "A", "B", and "C" respectively which, with permission, I hereby table.

The statements were tabled.

2. INDUSTRIAL EFFLUENT

Owen Anchorage Area

Mr. COURT, to the Minister for Development and Decentralisation:

(1) Has he seen the article in *Fish Co-op News*, October 1971 issue under the heading "Industrial Waste survey of the Owen Anchorage Area"?

(2) Are the comments in this report substantially correct and in accordance with the Departmental studies and the report commissioned by the Department of Industrial Development in conjunction with other Government departments and interested parties?

(3) Does he plan to make an official statement on the studies that have been made and what is proposed for the treatment of industrial effluent and waste in this area?

Mr. T. D. EVANS (for Mr. Graham) replied:

(1) Yes.

(2) Yes.

(3) Yes. An official statement will be made when negotiations between the Fremantle Port Authority and the Special Industries Committee constituted by the Chamber of Manufactures regarding implementation of the report are completed.

3. ELECTRICITY SUPPLIES

Charges: Past and Current

Mr. GAYFER, to the Minister for Electricity:

(1) What were the electricity charges pertaining prior to 1st November, 1971—

(a) in country towns;

(b) on farm power;

(c) in the city?

(2) What now are the relative charges as in (1)?

Mr. MAY replied:

(1) and (2) Tariff schedules of the Commission's charges prior to 1st November, 1971, and after that date are tabled for—

(a) The Commission's interconnected country system including the area surrounding Geraldton and the Morawa area. (Tariff Schedule No. 2).

(b) The Commission's metropolitan system (Tariff Schedule No. 1).

Farm power is either Table "A" or Table "C" on Tariff Schedule No. 2 and is Table "FX" or "F" on Tariff Schedule No. 1.

The schedules were tabled.

4. *This question was postponed.*

5. TOWN PLANNING

Reserve at Kelmscott: Designation

Mr. RUSHTON, to the Minister for Town Planning:

(1) Is it still intended the reserve at the corner of Third Avenue and First Road, Kelmscott, will be a high school site?

(2) What is the purpose of the intensive surveying being undertaken on the site recently?

(3) Has the land been designated for educational purposes?

(4) What is the acreage of the site?

Mr. TAYLOR (for Mr. Graham) replied:

(1) Yes. The reserve is held for educational purposes and is to be developed as a combined high and primary school site.

(2) I have no information on this point.

(3) Yes.

(4) 25½ acres.

6. MAXIMUM SECURITY PRISON

Site

Mr. RUSHTON, to the Premier:

Referring to the recent press release of Cabinet's authorisation for a maximum security prison to be built in the outer metropolitan area—

(1) Will he advise the sites under consideration for the prison?

(2) Will the Government confer with the Shire within whose boundaries the prison is to be built prior to making a final decision to ensure the local authority's planning and interests are not totally disregarded?

Mr. J. T. TONKIN replied:

(1) The Department of Corrections, the Town Planning Department, the Public Works Department and the Lands Department are to hold discussions concerning a suitable site. Until these discussions are finalised no decision can be made.

(2) Yes.

7. URCH ROAD, ROLEYSTONE

Upgrading

Mr. RUSHTON, to the Minister for Works:

(1) Has the Main Roads Department made provision for the completion of the upgrading of the small section of the scenic highway, Urch Road, Roleystone, now in bad condition?

(2) If "Yes" when will the work commence and at what cost?

(3) If "No" when is it expected to upgrade this small section remaining?

Mr. JAMIESON replied:

(1) No.

(2) Answered by (1).

(3) The responsibility for the construction and maintenance of Urch Road rests with the local authority, the Armadale-Kelmscott Shire Council. However, the Main Roads Department has in the past provided funds to assist the local authority with improvements.

If the council is prepared to give this road a high priority in its requests for financial assistance for road works, the department will give consideration to providing funds in future programmes.

8. YUNDURUP CANALS DEVELOPMENT

Government Guarantee

Mr. RUNCIMAN, to the Premier:

(1) What is the present position regarding the Yundurup canals development project?

(2) Has the Government agreed to assist the project by becoming its guarantor?

Mr. J. T. TONKIN replied:

(1) Approximately one-third of the work has been completed.

(2) Yes.

9. HOUSING

Mandurah

Mr. RUNCIMAN, to the Minister for Housing:

(1) How much land is owned by the State Housing Commission at Mandurah?

(2) Is the commission giving any consideration to purchasing more land in that area?

(3) How many applications are there for State rental homes at Mandurah?

(4) What is the current building programme?

Mr. BICKERTON replied:

(1) Thirty-three residential allotments for individual, duplex and group housing, and a broad acre holding of 10½ acres.

(2) The commission will consider any offers of land at prices which the commission considers are suitable to its requirements and operations.

(3) Seventy-seven applications are outstanding and two of these have been made offers which were declined. Of the remainder eighteen are not resident locally and from the application information could be housed at either Pinjarra or Kwinana.

(4) At present the programme intention is fourteen units at Mandurah, fifteen at Pinjarra and two hundred at Kwinana.

The other areas being mentioned as these are in travelling distance to Mandurah.

10. COUNTRY HIGH SCHOOL HOSTELS

Lack of Accommodation

Mr. W. A. MANNING, to the Minister for Education:

What proposal will he make to parents of children who cannot continue their education because of lack of country high school hostel accommodation?

Mr. T. D. EVANS replied:

Although additional travelling may be involved, accommodation is still available at the Esperance Hostel and the Methodist Girls' Hostel, Albany. The Country High School Hostels' Authority is prepared to re-open the 100 bed hostel at Bunbury providing parents indicate that sufficient boarders will take up residence.

11. COUNTRY HIGH SCHOOL HOSTELS

Subsidies

Mr. W. A. MANNING, to the Minister for Education:

What subsidy is paid—

(a) to committees of management under the control of the Country High Schools Hostels Authority;

(b) to parents of children attending such hostels?

Mr. T. D. EVANS replied:

(a) A hostel subsidy for each student of $1.50 per week, of which it is expected that $1.00 will be deducted from the boarding fee accounts rendered to parents.

(b) In addition to the above deduction, most parents qualify for the boarding away from home allowance which varies from $120 to

$261 per annum according to the zone of residence of the parents and the year of education of the pupil. In 1972 increases ranging from $51 to $90 per annum will be applied.

12. WHEAT

Quotas

Mr. W. G. YOUNG, to the Minister for Agriculture:

(1) Has the committee appointed to inquire into the system of allocating wheat quotas submitted its report?

(2) If the report has been submitted, when will its contents be made public?

Mr. H. D. EVANS replied:

(1) No, but the report is expected within the next two weeks.

(2) Answered by (1).

13. BARLEY AND OATS

First Advance on Price

Mr. W. G. YOUNG, to the Minister for Agriculture:

(1) Has a first advance price been fixed for each of the following grains—

(a) six row barley;

(b) two row manufacturing barley;

(c) two row feed barley;

(d) oats?

(2) If the price has not yet been decided upon, when will it be known?

Mr. H. D. EVANS replied:

(1) No.

(2) The matter is receiving urgent attention.

14. CONDITIONAL PURCHASE LAND

Deferred Repayments

Mr. W. G. YOUNG, to the Minister for Lands:

(1) When a conditional purchase leaseholder has been granted deferment of his repayments, is he then fined at the rate of 10% on these arrears?

(2) If so, what advantages are there in the leaseholder seeking deferment?

Mr. H. D. EVANS replied:

(1) (a) Where payment of rent due on a conditional purchase lease is deferred pursuant to the provisions of section 63A or 63B of the Land Act, fines are not charged. This would apply where individual economic hardship has been established, rather than a temporary shortage of funds.

(b) The Land Act (section 139) requires debiting of fines when payments are overdue, but with Governor's approval fines may be waived (section 23 (2) (c)). Where hardship is established it would be usual to waive fines.

(2) A possible ground for forfeiture of the lease is set aside.

15. ELECTRICITY SUPPLIES

Additional Power Station

Mr. THOMPSON, to the Minister for Electricity:

(1) When will the State Electricity Commission need to decide on the construction of a new power station to cater for the growing demand on the State grid?

(2) How long after committing themselves to a new station will it be before the commission would have the unit operational?

(3) What sites are being considered for the next power station?

(4) With the increase of load on the northern terminal because of the extension of the grid to Northampton and the development of the metropolitan area, will consideration be given to placing the next power station north of Perth?

Mr. MAY replied:

(1) When the annual review of load trends indicates that plant on order would be insufficient to meet forecast growth. The last review indicates that needs are met up to winter of 1976.

(2) New plant could be commercially operational in 3 to 10 years depending on the type of plant.

(3) See (1). Existing sites are capable of further development.

(4) The reasons given in the question would not be the only factors to be taken into account, and they might not alone require the next station to be north of Perth.

Power station sites are determined by the following factors:

(a) Presence of load.

(b) Availability of economical fuel.

(c) Abundant quantities of cooling water from an assured source.

All sites with these characteristics including north of Perth will be considered.

16. HOUSING

Pensioners

Mr. THOMPSON, to the Minister for Housing:

How many units of self-contained accommodation for single aged and service pensioners have been built with moneys advanced by the Commonwealth under the States' Grants (Dwellings for Aged Persons) Act—

(a) in 1969;

(b) in 1970;

(c) in 1971?

Mr. BICKERTON replied:

(a) 28 units in 1969-70.

(b) 76 units in 1970-71.

(c) For 1971-72 twelve units are under construction and Commonwealth approval is being sought for approximately 95 units to be commenced during this financial year.

17. EDUCATION

Natives: Departmental Committee

Mr. THOMPSON, to the Minister for Education:

(1) Has a committee representative of the Native Welfare Department and divisions of the Education Department been formed to examine Aboriginal education?

(2) Who are the members of the committee, and which divisions of the Education Department are represented on this committee?

(3) Has the committee met and, if so, what recommendations have been made, and to whom?

(4) Is the officer in charge of adult Aboriginal education a member of the committee?

(5) If not, why not?

Mr. T. D. EVANS replied:

(1) Yes. The terms of reference related, however, to Aborigine absenteeism from schools.

(2) Representatives of the primary, secondary and technical divisions of the Education Department, the Teachers' Union, Department of Native Welfare and Department of Child Welfare. The individual representatives have been subject to change.

(3) The committee has met on several occasions and a survey of absenteeism in selected areas was initiated. Further meetings will be held when the results are collated.

(4) Yes.

(5) See answer to (4).

18. *This question was postponed.*

19. INDUSTRIAL ARBITRATION ACT

Repeal of Section 146 (2): Financial Impact

Mr. MENSAROS, to the Treasurer:

What is the estimated cost in Western Australia for the remainder of this financial year, and for the full financial year of 1972-73—

(a) to the Government in different departments and direct Governmental instrumentalities;

(b) statutory boards;

(c) to the private employers,

of the repeal of subsection (2) section 146 of the Industrial Arbitration Act 1912-1971?

Mr. J. T. TONKIN replied:

As the question of entitlement to equal pay is a matter for determination by an independent judicial authority—that is the Industrial Commission—and such decision would be based on the merits of any case submitted to it, it is not possible to give any such estimate of increased cost.

However, with regard to Government departments, instrumentalities and boards, the likely increase in expenditure is expected to be minimal as the number of females who have been refused equal pay because of this section is small.

Also, as it is considered that the Industrial Commission already has powers to set awards for women which, though not necessarily described as "equal pay" none-the-less result in a total wage equivalent to that of a male worker in a like occupation, e.g. barmaids and, in some instances, female cooks, it is not anticipated that the removal of the section referred to will result in automatic salary or wage increases, but only in those instances where a case can be proved to the satisfaction of the commission.

20. INDUSTRIAL AWARDS

State Determinations: Government Intervention

Mr. MENSAROS, to the Minister for Labour:

(1) How many industrial awards or amendments to awards have been decided upon by the State Industrial Commission involving increases in wages and/or salaries since the Government took office?

(2) Could he list the industrial award determination or amendment cases where the Government has intervened against a wage determination which on account of considerable increases is tending to have inflationary consequences to the State's economy?

Mr. TAYLOR replied:

(1) Excluding the basic wage hearing the Industrial Commission, by decision, has increased wages and/or salaries by way of new award or amendment in 49 cases since the Government took office.

(2) The Government did not intervene on the grounds of the possible inflationary consequences, in any of these instances. However, as a point of interest, of the 776 awards or amendments dealt with by the commission for the year 1970-71, (two-thirds of which approximately would have been heard during the period of office of the former Government and against none of which did that Government intervene on the grounds of possible increased inflationary consequences), some two-thirds were by consent and, therefore, the Government of the day may not have been able to intervene even had it so desired. As well, a very considerable number of increases in awards or salaries would have been, and are, agreed to, outside the jurisdiction or knowledge of the Arbitration Commission, e.g. the recent findings of the State Parliamentary Salaries Tribunal in respect of Members' own salaries.

21. INDUSTRIAL AWARDS

Commonwealth Determination: Government Intervention

Mr. MENSAROS, to the Minister for Labour:

(1) Can he state how many industrial awards or amendments to awards have been decided upon by the Commonwealth Conciliation and Arbitration Commission involving labour in this State and including increases in wages and/or salaries since the Government took office?

(2) Could he list the industrial award, determination or amendment cases where the Government has intervened against a wage determination which on account of considerable increases is tending to have inflationary consequences to the State's economy?

Mr. TAYLOR replied:

(1) This information is not held in the State Department of Labour, but would have to be obtained from the Commonwealth Minister for Labour and National Service.

(2) As far as can be ascertained, there was, during the last few years, no instance of intervention by Governments of this State in connection with matters before a State sitting of the Commonwealth Conciliation and Arbitration Commission, expressing concern over the possible inflationary consequences of such an application.

Neither, as far as can be ascertained, has the Commonwealth Government intervened on the above grounds, in any case before the Commonwealth Conciliation and Arbitration Commission sitting in this State during the same period.

22. EDUCATION

Rockingham Beach School: Classrooms

Mr. RUSHTON, to the Minister for Education:

(1) Is it intended to continue to use the two old rooms at Rockingham Beach school for classrooms next year?

(2) When is it planned to have these old displaced classrooms revert to the parents and citizens' association for general purposes?

(3) Has an estimate been prepared for providing permanent classrooms to accommodate expected growth?

(4) If so, will he advise the details?

(5) What is the present enrolment and student numbers estimated for commencement of 1972 school year?

(6) As these old rooms now being used as classrooms are considered to be in urgent need of repair and maintenance, will he have this work carried out immediately?

Mr. T. D. EVANS replied:

(1) A decision will be dependent upon enrolments in 1972.

(2) A decision has not been reached at this stage.

(3) No.

(4) Not applicable.

(5) 650.

(6) One of the rooms concerned was repaired and renovated in 1970. On present predictions the use of sixteen permanent rooms plus the renovated room should be sufficient for enrolments. The accommodation for 1972 will be reviewed according to actual enrolments.

23. EDUCATION

Forrestdale School: Site

Mr. RUSHTON, to the Minister for Education:

(1) Has a site for the Forrestdale School been selected and acquired?

(2) When will the school be built?

(3) Is it intended that the present transport arrangements will continue to take the children to Armadale primary school until the local school is ready to occupy?

(4) In calculating the time and necessity for building the Forrestdale school, has the fact been taken into account that building conditions imposed on purchasers of blocks in the townsite will increase the rate of growth of numbers of school children in the area?

Mr. T. D. EVANS replied:

(1) No.

(2) A decision has not yet been reached.

(3) Yes.

(4) The decision will be dependent upon the number of students and the accommodation in neighbouring schools.

24. EDUCATION

Student Union

Mr. MENSAROS, to the Minister for Education:

(1) Does the reported meeting of secondary school students and the proposal of forming a "student union" have his approval and support, or alternatively his disapproval?

(2) Are there any regulations under the Education Act which cater for the formation, aims and working of such student unions?

(3) In case of forming such a student union, how will the inhibiting conditions in connection with secondary school students' minor age be solved?

(4) Is he aware whether the forming of such student unions—considering that the meeting was held in the Trades Hall—means to achieve that the influence of Labor Party politics will be allowed and encouraged in State secondary education?

Mr. T. D. EVANS replied:

(1) The aims of the reported meeting are not known to the Education Department.

Many individual secondary schools, however, have student councils which enable students to discuss issues associated with the school policy and administration. Reports indicate that such councils contribute to school welfare and, as such, have departmental endorsement.

(2) No.

(3) Until the aims of any such council are known and its activities indicated, it is not possible to define limiting conditions.

(4) No.

25. QUARANTINE

Mobile Check Unit at Norseman

Mr. W. A. MANNING, to the Minister for Agriculture:

Will he report on the success of the mobile check unit based at Norseman to prevent the importation from the Eastern States of stock diseases and noxious weeds?

Mr. H. D. EVANS replied:

This subject has already been dealt with in reports given to this House on the 11th August and the 17th August in answer to questions.

These reports were fairly comprehensive and would have covered, I think, everything that was required.

In summary, the three months trial was successful in relation to quantity of prohibited plant material seized. No stock disease problems were encountered.

26. PRIMARY PRODUCTS

Overseas Markets

Mr. W. A. MANNING, to the Minister for Agriculture:

(1) What research into overseas markets has recently been made by officers of the Department of Agriculture?

(2) Is further action contemplated?

Mr. H. D. EVANS replied:

(1) Assessment of statistical market information is a continuing function. Mr. H. G. Neil recently returned from an investigation of meat market opportunities in the United Kingdom, Europe and Middle East countries. The Director of Agriculture, Mr. E. N. Fitzpatrick, accompanied the recent Farmers' Union trade mission to Asian countries.

(2) Yes.

27. STAMP DUTY ON RECEIPTS

Refunds

Sir DAVID BRAND, to the Treasurer:

(1) When does he intend to make the first payments to those who make applications for refund of receipt duty paid to the State Treasury?

(2) What other States have promised refunds of receipt tax and under what conditions?

Mr. J. T. TONKIN replied:

(1) During the financial year 1972-73.

(2) None, so far as I am aware.

28. CATTLE

Number Slaughtered, and Transported Interstate

Mr. RIDGE, to the Minister for Agriculture:

(1) During the 1971 season how many cattle were killed at—

(a) Broome;

(b) Derby;

(c) Wyndham?

(2) How many cattle were shipped to Robb Jetty from Kimberley ports?

(3) What number were trucked to points south of the Kimberley region?

(4) What number were transported to the Northern Territory and Eastern States for killing and/or breeding?

Mr. H. D. EVANS replied:

(1) (a) Broome—25,398.

(b) Derby—11,066.

(c) Wyndham—31,373 (8,269 ex-NT Stations).

(2) 4,185.

(3) 4,894.

(4) South Australia—6,276.

Northern Territory—6,714 plus 564 calves.

Queensland—5,767 plus 264 calves.

29. RAILWAYS

Wool Transport to and from Albany

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

(1) What moneys have been received by the Railway Department for the cartage of wool by rail to Albany for sale in the years 1967-68, 1968-69, 1969-70, 1970-71?

(2) What moneys have been received by the Railway Department for the cartage of wool by road to Albany for sale in the same period?

(3) What moneys have been received by the Railway Department for the cartage of wool by rail from Albany to the metropolitan area for the same period?

Mr. MAY replied:

	$
(1) 1967-68	56,659.
1968-69	64,457.
1969-70	67,191.
1970-71	60,116.

(2) The Railway Department carries no wool direct into Albany by road. Wool is brought into Katanning on the railway road service for onwards carriage by rail to Albany. The exact road freight is not readily available but will be specially extracted, if required. However, it is unlikely that this would amount to more than $4,000-$5,000 in each of the years in question.

	$
(3) 1967-68	133,147.
1968-69	150,186.
1969-70	202,206.
1970-71	255,864.

30. WYNDHAM HARBOUR

Extension: Commonwealth Financial Assistance

Mr. RIDGE, to the Minister for Works:

(1) Has the Government submitted a case to the Commonwealth for financial aid to extend the Wyndham harbour berth and to improve the storage and handling facilities?

(2) If "Yes" when was the case submitted?

(3) In broad terms, what improvements are envisaged?

(4) Has the Commonwealth Government indicated if it will support the proposal?

Mr. JAMIESON replied:

(1) Yes.

(2) In May, 1971.

(3) The improvements covered:—

(i) A 338 feet extention southwards of the existing jetty to provide a total length berthing face of 1,240 feet.

(ii) A wharf gallery of 528 feet length located at the rear of the south berth with a conventional type ship loader, with an overall travel of 430 feet.

(iii) A 270 feet by 200 feet covered storage ashore for sorghum, connected to the wharf gallery by a 1,540 feet length belt conveyor.

(4) The Commonwealth has indicated that it will not support the proposal.

31. *This question was postponed.*

32. *This question was postponed until the 23rd November.*

33. ALWEST ALUMINA REFINERY

Acquisition of Land at Bunbury

Mr. WILLIAMS, to the Minister for Development and Decentralisation:

(1) Under resumption or any other powers of the Alumina Refinery (Bunbury) Agreement, has Alwest, verbally or in writing, requested the Government to assist them in acquiring land in the Bunbury or nearby areas?

(2) If so, what was the Government's reply and the reasons for this reply?

Mr. T. D. EVANS (for Mr. Graham) replied:

(1) No.

(2) See answer to (1).

34. BUNBURY HARBOUR

Dredging Contract

Mr. WILLIAMS, to the Minister for Works:

(1) In terms of cubic yards and also as a percentage, how much of the Bunbury harbour dredging contract has been completed?

(2) Have negotiations been finalised for an extension of the contract because of the increased amount of hard rock encountered?

(3) By approximately what cost and period of time will the contract be extended?

Mr. JAMIESON replied:

(1) A total of 3,351,000 cubic yards has been dredged to 31st October, 1971, in the current dredging contract representing 37% of the total quantity to be dredged.

(2) The contract envisaged the removal of hard rock and no extension is being considered at present.

(3) See answer to (2).

35. BUNBURY HARBOUR

Dredge "Hyundai Ho"

Mr. WILLIAMS, to the Minister for Works:

(1) Is the dredge *Hyundai Ho*, which is engaged on the Bunbury harbour project, to leave Bunbury shortly?

(2) If so, what are the reasons for its departure and when is it expected to return?

Mr. JAMIESON replied:

(1) Yes, on 22nd November, 1971.

(2) The dredge *Hyundai Ho* is to be slipped at Fremantle slipway and should return to Bunbury at the end of November.

36. CARAVANS

Deletion of Model By-law 14

Mr. WILLIAMS, to the Premier:

(1) On 8th January, 1971 when replying to a query from the W.A. Caravaners Association regarding clause 14 of the 1970 draft model by-laws, which refer to the maximum permissible time for caravans to remain on a caravan park, did he state "The Labor Party will, if it becomes the government, have the restrictive clause 14 deleted."?

(2) If "Yes" why has it not been fulfilled?

(3) If steps taken in recent months are sufficient to overcome the problem why did he not state this in his reply to the W.A. Caravaners Association?

Mr. J. T. TONKIN replied:

(1) Yes.

(2) Cabinet agreed that a person may cause or permit a caravan to be occupied for a period of six months in any one year and any extension of the period may be granted by the local authority, but in the event of a refusal such persons shall have the right of appeal to the Minister for Local Government.

(3) Action is in course to give effect to the decision of Cabinet and in the meantime all requests for extension of time have been made by the Minister for Local Government.

It must be fully understood that the by-law referred to is a draft model only, and has not been adopted by all municipal councils. All applications for extension of time at a caravan park have so far been granted.

37. WITHERS HOUSING DEVELOPMENT

Shopping Sites

Mr. WILLIAMS, to the Minister for Housing:

(1) Has the shopping site at Withers, Bunbury, been—

(a) sold;

(b) leased,

and, if so, to whom?

(2) What is the negotiated price for the site or conditions of the lease?

(3) When did negotiations commence and at whose instigation?

(4) What timetable and conditions have been or are to be imposed on the developer?

(5) What size store is proposed by the main tenant, what ancillary stores are proposed and what rentals are these ancillary stores required to pay?

(6) Were the proposed—

(a) hotel site;

(b) Totalisator Agency Board site;

(c) service station site,

included in the negotiations?

(7) If "Yes" have these sites been—

(a) sold;

(b) leased,

to whom, for what price and on what conditions?

(8) What areas have been set aside for off-street parking and, in vehicle numbers, what is the total capacity?

(9) Before entering into private negotiations or whilst negotiations were proceeding, was the State Housing Commission aware that there were others who may have been interested in the development?

(10) Other than by advertisement was any opportunity offered to all of those developers who submitted proposals on a previous occasion?

(11) If not, why were these people not contacted and given the opportunity to negotiate or participate?

(12) What advertising was carried out to notify prospective developers and when?

(13) Does the State Housing Commission require similar conditions to be met with the present development as those imposed on the developers who submitted proposals on an earlier occasion?

(14) If not, for what reasons and in what way have the conditions been altered?

Mr. BICKERTON replied:

(1) to (14) Only the shopping site at Withers (Bunbury) has been leased as a consequence of no tenders having been received to comprehensive advertisements in metropolitan, Bunbury region, and trade papers.

The commission is satisfied as to the lease negotiations, and these are available to the Member to peruse on a confidential basis on appointment at the office of the State Housing Commission.

The lease does not include the hotel, service station, or T.A.B. agency site.

The development details will be resolved between the commission, the developer, and the local authority in accordance with town planning requirements.

The commission was aware of the interest of others of those who had registered an interest, and were written to and notified of the commission's decision to call further tenders.

38. CATTLE

Brucellosis: Compensation Payments

Mr. I. W. MANNING, to the Minister for Agriculture:

During the current brucellosis testing campaign in the south-west—

(a) what number of farmers have made application for compensation;

(b) to what number has compensation been paid;

(c) how many approved applications are awaiting payment;

(d) to date what sum of money has been paid out by way of compensation?

Mr. H. D. EVANS replied:

(a) 82.

(b) 52.

(c) 30.

(d) $72,690.50.

39. *This question was postponed.*

QUESTIONS (2): WITHOUT NOTICE

1. ABATTOIRS

Proposals for New Establishments

Mr. COURT, to the Acting Minister for Development and Decentralisation:

Yesterday I asked a question of the Acting Minister for Development and Decentralisation. He said he would endeavour to obtain the information and I was wondering whether he was able to do so.

Mr. T. D. EVANS replied:

The Deputy Leader of the Opposition asked yesterday, in respect of the answer to the second part of question 18, what other abattoir proposals are currently under consideration by the department. I have checked this and the answer given to part 2 of question 18 yesterday is correct.

The department is giving consideration to only two abattoir proposals at the present time—the T.L.C. and the United Farmers & Graziers' Association project, and an abattoir to be located near Pinjarra. The department has completed its investigations regarding the Katanning abattoir and a decision has been made by the

Government to provide financial assistance to this project under the Industries Assistance Act.

The department, during the past 12 months, has been approached regarding a number of abattoir proposals in various locations, but none of these reached the stage where an application for financial assistance was made, and the proposal subjected to detailed investigations.

2. TRAFFIC FATALITY

Landini Castafaro: Withdrawal of Charge

Mr. RUSHTON, to the Attorney-General:

Reverting to question 29 of the 17th November, relating to the withdrawal of charges by the Crown, as the answer given is not readily understood—

(1) Does this mean the charge has not been withdrawn?

(2) Does this mean that the case under question is *sub judice*?

(3) If "Yes" to (2), in what court is the charge to be heard?

(4) If "Yes" to (1), and "No" to (2), will he now answer 1 (a), (b), and (c), and 2 contained in my question 29 of the 17th November, 1971?

Mr. T. D. EVANS replied:

I thank the honourable member for giving me notice of this question. The reply is as follows:—

(1) The charge of manslaughter has been withdrawn.

(2) Yes.

(3) In a court of petty sessions.

(4) Covered by (1), (2), and (3).

LAPSED BILLS

Restoration to Notice Paper: Council's Message

Message from the Council received and read notifying that, as requested by the Assembly, the Council had agreed to resume consideration of the following Bills:—

Government Railways Act Amendment Bill.

Abattoirs Act Amendment Bill.

Parliamentary Superannuation Act Amendment Bill.

Suitors' Fund Act Amendment Bill.

Main Roads Act Amendment Bill.

Alumina Refinery (Upper Swan) Agreement Bill.

LOTTERIES (CONTROL) ACT AMENDMENT BILL

Receipt and First Reading

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

PARLIAMENTARY COMMISSIONER BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

MR. McPHARLIN (Mt. Marshall) [4.55 p.m.]: I support the principle behind this Bill which is attempting to break new ground in Western Australia. No other State in Australia has a parliamentary commissioner, or what is known as an ombudsman. Attempts were made recently in the Northern Territory to appoint six parliamentary commissioners, but this was declared illegal in the Northern Territory Supreme Court by Mr. Justice Forster. The Northern Territory has made other attempts but the Commonwealth Government has consistently opposed the idea. In the court action, the Commonwealth's contention that the Legislative Council had exceeded its powers in creating this committee was upheld.

I am not suggesting similar action would be taken in the event of an ombudsman being appointed here. The point I am making is that the idea of an ombudsman does not have universal appeal.

In his second reading speech the Premier named countries in which ombudsmen had been appointed and the scheme is operating. There are six of these countries and they are Sweden, Finland, Denmark, Norway, New Zealand, and England. There are many other countries with far greater populations than these countries which have not appointed an ombudsman.

I support the principle behind the idea because it reflects the concept of protection of the rights of an individual at a time when we seem to be subjected to an ever-increasing number of rules and regulations. This would provide an outlet for a citizen to air his grievance and gain comfort from the idea of beating bureaucracy, something which would appeal to the ordinary citizen. That is the main virtue in favour of the appointment of an ombudsman.

Under this Bill power would be given to the commissioner to cut through the red tape which seems, to the ordinary citizen at least, to be so unnecessary. Red tape is a feature which abounds in much of the Public Service and other semi-government organisations.

Sometimes the letter of the law can be cold and heartless, and on many occasions the law appears to lack common sense.

We hope that the commissioner, if appointed, will be able to interpret the cases before him with moral and legal correctness.

If we in Western Australia assume that our Public Service is no better or worse than that operating in New Zealand, it is fair to say that mistakes, carelessness, delay, rigidity, and possibly heartlessness, are all part of our bureaucratic structure. That has been the experience in New Zealand. Perhaps each one of us, as a member of Parliament, can describe himself as an ombudsman looking after an electorate and endeavouring to solve many of the problems that come before him. We have probably each found examples of bureaucratic bungling, and we should try to obviate these.

If we draw on the experience of New Zealand, we would expect an ombudsman in this State to handle about 360 complaints a year. The ombudsman would find that about half these complaints would be outside his jurisdiction, and about 20 per cent. of the balance would be justified. In other words, we would expect about three satisfied customers a month from our population of just over 1,000,000 people. It is this estimate which brings me to the main point of my criticism.

In practical terms, it makes me wonder whether we in this State have advanced sufficiently in number of population to justify the expenditure of whatever it might cost—perhaps $30,000 or $40,000—to create the necessary office structure at a time when we are all being urged to tighten our belts in many other directions.

New Zealand, the closest country to us, has a population of something in the order of 3,000,000 and from the figures available to me I find that the New Zealand Ombudsman (Sir Guy Powles) last year handled about 1,100 complaints for righting about two wrongs on average each week. No doubt many would argue that even if our proposed commissioner corrects fewer than that, his appointment would be justified and worth the money. However, I have expressed reservations in the past about this aspect, and I express them again. I still have some doubts. States which are much bigger than our State have not seen fit to appoint an ombudsman and I do not think those States which have not appointed an ombudsman are foundering for the lack of such an appointment. However, I believe legislation is being contemplated in South Australia, which also has a Labor Government. Perhaps at this point I could suggest—although I can hardly expect you to agree with me, Mr. Speaker—that these two States need an ombudsman more than the others.

We have heard on past occasions that members of Parliament are indeed ombudsmen and, accordingly, the appointment of an ombudsman or parliamentary commissioner is unnecessary. I do not agree with that line of thought because I believe an ombudsman could relieve members of Parliament of a great deal of their onerous duties, thus saving their time and allowing them to concentrate more freely on other matters important to the State. Despite what the critics might say, the duties of a member of Parliament can be quite onerous.

The idea of an ombudsman is not new. We know that the Premier has had this in mind for a number of years. On every opportunity he has endeavoured to have an ombudsman appointed in Western Australia. Now that he is in a position to do something—a far stronger position than before—he has wasted no time at all in having a Bill presented to Parliament. However, this might be only a temporary situation of which the Premier is taking advantage; so perhaps he had best enjoy the situation while he is in a position to enjoy it.

In the experience of the New Zealand commissioner most of the complaints which come forward lie in the welfare field—social securities, health, education, deprivation of personal liberty, and so on. I suppose it is not hard to appreciate that, with the myriad of rules and regulations under which we operate, the man in the street is easily befuddled. How often do we see Bills come before Parliament to correct some anomaly or other, or to legalise some practice which has been going on undetected for years? Our legal advisers are not always right; they make mistakes. Nor are we perfect; so how much harder must it be for the man in the street?

I indicated earlier that the help provided by a parliamentary commissioner could be of value. I believe the *Daily News* Ombudsman has had some beneficial effect. Of course, he has nowhere near the powers that will be conferred upon the commissioner proposed to be appointed under this legislation. However, the very fact that he has the power of publicity up to a point does, I believe, have a beneficial effect and a number of apparent wrongs have been righted by his office. I think it is this glare of unhealthy publicity which has the desired effect in many instances.

When I read of the anticipated appointment of the commissioner in New Zealand I noticed that the Civil Service objected most strongly to the appointment. I understand this has been the practice wherever it has been suggested that an ombudsman be appointed. However, after he has been operating for some time it seems that the Civil Service does not wish to see the office discontinued. Apparently it helps the members of the Civil Service and the departments. I think it is quite a significant point that the New Zealand Ombudsman has continued under successive Governments and the Civil Service still wishes to retain him.

I am not suggesting that an ombudsman would perhaps encounter malpractices in the Public Service. From my reading of the situation in New Zealand I understand that there has been no evidence of malpractice; but rather there are imperfections in the system arising out of carelessness, delays, and inflexibility.

The Bill before us proposes to give the parliamentary commissioner the powers of a Royal Commissioner to ensure that he is unfettered in carrying out his inquiries within the terms of the legislation. He is to be appointed for a term of five years and I note that a retiring age of 65 has been set. I assume this has been fixed to operate on a basis similar to that under which public servants operate, as distinct from the judiciary and, of course, members of Parliament who are not obliged to step down at any specific time—barring electoral mishaps.

I believe the matter of the salary to be paid to the ombudsman has been left to the determination of the Government and I can only express the hope that in the determination of this salary consideration will be given to making it sufficiently large to attract the best applicants and also to provide an unbreakable guarantee of the integrity of the person occupying the position, so that even the suggestion of anything untoward being done by the commissioner—which would wreck the entire proposal—will be obviated.

The Bill states that no members of the State or Federal Parliament will be appointed to the position of commissioner. As I understand the position, this does not preclude a member resigning to take up the appointment. The disadvantages of having a former member of Parliament, or perhaps a serving member of Parliament as a commissioner are obvious. However, I think there are also some advantages in that such a person would have at least some of the necessary qualifications. Members are often called upon to inquire into the actions of certain departments on behalf of their constituents. I think this experience adds to their background. Combined with this, if a member of Parliament had a background of legal training it would be an advantage and would equip him fairly well to carry out the onerous tasks of an ombudsman.

I have a question I would like to put to the Premier on the matter of the jurisdiction of the proposed commissioner. Clause 13 (5) of the Bill refers to those persons who shall be deemed to constitute the officers and employees of a department of the Public Service. The list runs from the permanent head of the department down through the other officers. I would like the Premier to clarify whether or not the Director of Environmental Protection will be included in this category. I would hope that this legislation has been framed so that environmental protection matters are not excluded from the scope of the parliamentary commissioner. Surely it is just as possible that an injustice might occur in this field as in any other field.

It is appropriate that a provision has been included in the Bill for either House of Parliament to refer matters to the commissioner for investigation. Problems arise periodically and it is possible to foresee that in certain instances the Government may allow a particular matter to be referred to the commissioner for examination, although it may not feel the matter warrants the appointment of a Select Committee or a Royal Commission.

With regard to the question of getting things done, the commissioner would appear to have ample scope to make his presence felt. He can recommend action to the head of an authority and send a copy of his recommendation to the relevant Minister. He can request notification within a specified time of what action has been taken or is proposed to be taken to meet his wishes. If he fails to receive satisfaction he can go to the Premier. Further, he can report to the Parliament on any matter about which he sends a report to the Premier. So any official who wishes to buck the commissioner would virtually need to have a watertight case because he would know he would have to face the entire Parliament to justify his action in refusing to carry out the commissioner's recommendation.

The number of offences which can be committed under this legislation is limited. All the offences are covered by a general penalty clause set out on page 23 of the Bill. This provides a maximum fine of $250 or imprisonment for 12 months, or both. I would like the Premier to assure me that those two alternatives are compatible. If the term of imprisonment is correct, then it would seem on the surface that the proposed pecuniary penalty of $250 is insufficient. I would ask the Premier to clarify that point.

In conclusion, I agree with the principle of a parliamentary commissioner. He could be a public watchdog, helping to correct bureaucratic mistakes, streamlining action where it is justified, and rejecting it where it is not. He can help members to win justice for their constituents. However, against those benefits I must again question whether at this stage of its history Western Australia really needs such a man. We have been warned repeatedly over many months about inflation—to the point where Governments of all colour and type have been forced to prune expenditure. In those circumstances, and remembering that our population is only one-third of that of New Zealand, we should consider seriously whether the money needed to establish the commissioner would not be better spent on education, the provision of hospitals, or on alleviating some other

pressing need. I think it is all a question of priorities within the final limitations of the time.

Whilst at this stage I do not propose to vote against the legislation, I believe it is up to the Premier to convince the House that we need an ombudsman and that the Premier is not just getting his own way on one issue at the unjustifiable expense of another.

MR. GRAYDEN (South Perth) [5.14 p.m.]: I will be extremely brief in my remarks because on other occasions when the Premier has brought forward motions to achieve the same purpose I have always taken the opportunity to speak at length. I certainly do not wish to waste the time of the House by recapitulating the arguments I put forward then, especially as the passage of the Bill through this House is a foregone conclusion.

Having invariably supported this type of legislation in the past, I want to take this opportunity to congratulate the Government on introducing the Bill on this occasion. I am delighted to see it before us, and subject to certain amendments which have been foreshadowed I will certainly support it.

I appreciate there is a big body of public opinion which feels that in a State of the size of Western Australia, which has a Parliament comprising 51 members in the Legislative Assembly and 30 members in the Legislative Council, the appointment of an ombudsman is unnecessary. I believe that people who hold those views do so very sincerely and for very practical reasons, but I do not agree with them for two main reasons. Firstly, where a parliamentary commissioner has been appointed in other countries, a great number of cases each year have come forward for investigation. Some years ago an ombudsman was appointed in New Zealand, and since that time he has had to consider several hundred cases each year.

It has been suggested that as there are 81 members in the State Parliament we should be able to consider all the cases that come forward; and certainly in the past members have attempted to do that. However, it would be rather ludicrous if we were to bring all the cases before Parliament, because if we did the time of Parliament would be occupied fully with them, possibly to the exclusion of far more important business.

We know the position in this Parliament. At present we are struggling to get through a massive legislative programme before Christmas. The Premier has indicated that notwithstanding the great number of Bills that are on the notice paper it is the Government's intention to deal with the major ones, and the others will be dropped to the bottom of the notice paper. In those circumstances what chance has a member of Parliament to bring before Parliament a case of injustice affecting one of his constituents in the hope of reaching a successful conclusion?

That is the position at the present time, and it was the same in previous years. It seems that at the end of every session of Parliament we find ourselves in the position where we say very little in order to expedite the business of the House.

The fact is that many of the cases could be considered equally well by an ombudsman. That being the position, is it not better to delegate the responsibility to him rather than occupy the time of 81 members in dealing with matters which could be dealt with equally well if not better by an ombudsman?

My second reason for not agreeing with the argument of the people who say the cases should be dealt with by members of Parliament is that the original concept of this Parliament has changed very drastically and markedly over the years. It is no longer a free and a deliberative type of assembly, as was envisaged when it was constituted in this State. With the effluxion of time the party system has become much more strongly entrenched in Australian politics. In those circumstances, many of the cases which members bring forward become the subject of a party vote. The matter is considered by the party in the party room and a vote is taken; therefore it would be useless for the member concerned to bring the matter before the House. That applies in most cases.

It was only about three years ago that the present Premier, when giving advice to new members who had just been elected, told them they could not expect to obtain law and justice in this House, because of the party system. I go along with those sentiments entirely. Many of the cases of injustice which have come before members are involved in the extreme. When a member realises that he will be frustrated at every turn, and no matter how long he presses the particular case he will get nowhere, very often he is reluctant to enter into a commitment or—to use a colloquialism—to put his neck out and buy into something which will involve him in a great deal of work stretching maybe over a period of months or years. I think every member of Parliament who has served for any length of time has had the experience of taking up cases which stretched on for years, of eventually accumulating files a couple of inches thick, and not being able to reach satisfactory conclusions with them.

There are some members of Parliament who suffer from infirmity, and who are not able adequately to represent their constituents. The sense of justice of different members of Parliament varies greatly; some are extremely sensitive to injustice and will go to great lengths to ensure that justice is done, while others

are extremely insensitive and do not appreciate the position of their electors at all. I have found from my experience that some members are insensitive to the extreme and they cannot see anything wrong with cases of injustice which are to most people as obvious as the sun in the sky.

That being the position I suggest that the obtaining of justice in this Parliament or any other Parliament in Australia is a case of hit and miss. If a citizen happens to go along to the right member or lives in a constituency which is represented by a member who is sensitive to justice then he can expect his case to be ventilated thoroughly. There are many instances where a citizen approaches his member of Parliament who, perhaps through lack of knowledge of the particular subject, is not prepared to take up the case. I have seen this happen over and over again, to the extent that I am absolutely convinced the appointment of an ombudsman will bring about a worth-while complement to our parliamentary system.

Apart from the points I have raised, one of the great advantages in having an ombudsman is that he has a very salutary effect upon Government departments. Of the many hundreds of cases that are investigated by the ombudsman in New Zealand each year, very few in some years and none in other years require further action. Many of them are resolved merely by the intervention of the ombudsman. The fact that he is able to go along to a Government department very often results in a case being resolved.

Apart from the fact that he is able to resolve cases, there is the other aspect of possible intervention by him; and this has a salutary effect on Government departments. That means if a member of Parliament or anybody else drew to the attention of a Government department a case of maladministration, the Government service would look at the case very carefully, realising full-well that the ombudsman might intervene.

I agree that at the present time a member of Parliament can take up a case on behalf of a constituent, but he has to accept the statement of Government departments or Ministers. He is not empowered to look at the departmental files, and often it is vital to do so if justice is to be done.

As I pointed out at the outset, I do not wish to speak at length in this debate. However, I want to take this opportunity to congratulate the Government on introducing the Bill before us.

MR. J. T. TONKIN (Melville—Premier) [5.26 p.m.]: I am most appreciative of the contributions which members have made to this debate, and it is obvious there will be little or no difficulty in having the Bill passed in this House. I do not intend to deal with all the matters which have been raised, because I think they can be dealt with more appropriately in Committee; and to deal with them now will only result in repetition, because in a number of instances the matters will have to be dealt with in Committee.

All members who have spoken in the debate, with the exception of two, are in favour of the Bill. Those opposed to it are the Deputy Leader of the Opposition and the member for Floreat. They have been consistent in their opposition, and both have spoken previously in opposition to similar measures. The argument advanced by those who are opposed to the Bill is that in the main the appointment of an ombudsman is superfluous, because members of Parliament are able to carry out quite adequately all that is required.

When I introduced the second reading of the Bill I referred to an opinion which had been expressed by a gentleman who is now a judge of the Supreme Court of this State, but he was not a judge at the time he expressed the opinion. I refer to Mr. Justice Burt. On that occasion he said—

> The problem of legal control of the exercise of executive power could not be solved within the existing law. New institutions and attitudes would have to be created.

There is the opinion of a man who is skilled and who has had vast experience in the law. He came out with a clear-cut declaration that new attitudes and new institutions would have to be created to deal with the situation which now exists. I think that goes a long way towards defeating the argument that the appointment of an ombudsman would be superfluous. When I introduced the second reading of the Bill I said that about eight or nine years ago I had asked a prominent member of the New Zealand Parliament what he thought of the appointment of an ombudsman in that country. Time passes so quickly that I was not able to assess correctly then the length of time which had gone by. Of course, eight or nine years ago could not possibly be right, because there has been an ombudsman in New Zealand only since 1964. From memory I think it was a couple of years after the ombudsman had been appointed that this member of Parliament who was a member of the Liberal Party was here in this building. In the presence of The Hon. Arthur Griffith, I asked this question: "Has the ombudsman been a success in New Zealand?" The answer was, "Absolutely and unequivocally, a success."

I have with me the 1971 report of the New Zealand Ombudsman, and it shows that during that year 491 cases were fully investigated. The number of complaints received exceeded 1,000, and of the 491 cases which were investigated the ombudsman reported that 106 of them were cases

in which the complaints were fully justified. I ask: Are all the members of Parliament in New Zealand asleep? When 1,000 complaints go to the omudsman that does not suggest that making a complaint to a member of Parliament is adequate. The real difference between what a member of Parliament is likely to be able to accomplish and what an ombudsman can do lies in the fact that the ombudsman is clothed with the power that no member of Parliament ever gets.

An ombudsman is able to go to a Minister and demand a file, not on the basis that what he sees in the file is confidential, but on the basis that what he sees in the file he can use. I will take my own experience, which is longer than that of any other member in this House. I have seen files only on the basis that they were confidential. I have subsequently felt that certain cases were justified so I have moved in this House for the production of the papers concerned. I have not been able to get them because the Government has used its majority to defeat the motion. Therefore, having seen the file on a confidential basis, not being able to use the information contained in the file, and being refused the papers which, if made available, would have enabled me to use the information, the particular case remained just where it was.

Mr. Hutchinson: By way of interest, have you ever refused a file to a member of the Opposition?

Mr. J. T. TONKIN: Not to my knowledge.

Mr. Thompson: Your Ministers have.

Mr. Hutchinson: Have any of your Ministers refused a file to a member of the Opposition?

Mr. J. T. TONKIN: Not to my knowledge.

Mr. O'Connor: They have refused files to me in this House.

Mr. J. T. TONKIN: That is emphasising what I am saying.

Mr. Hutchinson: That is quite all right as long as we know you will produce the files if we ask for them.

Mr. J. T. TONKIN: I do not think I need to say any more on this aspect. There is a vast difference between what a member of Parliament can accomplish and what an ombudsman can accomplish. An ombudsman can see the papers and use what is contained in them; whereas if the case is a difficult one a member of Parliament can only see the papers—if he sees them at all—on a confidential basis. If he moves in the House for the papers to be tabled his request will be refused. So, could one look for a stronger argument? I will supply a little more information from the report because it deals with some of the points raised. On page 10 of his report the ombudsman states as follows:—

> . . . that the Ombudsman should be granted an absolute discretion to determine whether or not to investigate a complaint. This ought to enable him to organise the work of his office better and to concentrate on cases of significant hardship. I think the absolute bar to jurisdiction which exists if there is a right of appeal to any court or tribunal should be made discretionary.

The Deputy Leader of the Opposition objects to this and desires to take away the discretion which we have included in the Bill. However, I had the advantage of a personal discussion with Sir Guy Powles, the New Zealand Ombudsman, who came to Western Australia.

I discussed with him the operations of the law in New Zealand, and I asked him what he regarded as the deficiencies after a number of years of experience. It is as a result of his advice that we have gone somewhat further in our Bill than what is already provided in the New Zealand legislation.

The Deputy Leader of the Opposition said that the person to be appointed should be one with more common sense than brilliance. I do not go along with that at all.

Mr. Hartrey: Hear, hear!

Mr. J. T. TONKIN: I want both attributes, if possible. I want brilliance and common sense, and I think we will be able to find such a combination. It is true that the success of the legislation in New Zealand has depended very largely upon the outstanding ability and common sense of Sir Guy Powles. I do not think New Zealand has any monopoly of common sense. I will be very disappointed if I cannot find a person who is brilliant and who has plenty of common sense to fill the position which we will establish.

The question was raised as to whether it was right that an ombudsman should investigate the police. It is interesting to read the report of Sir Guy Powles on this subject, and I quote from page 5 as follows:—

> The year also saw the most extensive investigation which the office has yet carried out, namely, the report upon the allegations of police violence at the time of the demonstrations during the visit of the Vice-President of the United States to Auckland. This investigation resulted in a special report which was presented to the House on 18 August 1970. Another important police investigation, on the right of an arrested person to have early access to his solicitor, is recorded in this report as Case No. 5326.

It is clear that an occasion—or occasions—has arisen in New Zealand where it was desirable for the ombudsman to make a

report on the police. Members will recall that there was a movement in this State on one occasion for an inquiry into the police. The Government did not agree to the holding of an inquiry but a strong request was made. It concerned allegations against the police for excessive vigilance in certain cases when demonstrations occurred at the airport.

This sort of thing is left to the discretion of an ombudsman. If a complaint is made it is up to him to determine whether or not he should make an inquiry. The report I have quoted is clear evidence that the ombudsman in New Zealand considered it desirable to have such an inquiry.

The Deputy Leader of the Opposition wanted to know whether it was intended to enable the ombudsman to inquire into the Rural and Industries Bank and to look at the accounts of clients. At the time I raised the question—and I raise it again—that there is no objection to the Commissioner of Taxation looking into what happens in private banks.

Mr. Court: But he looks at every bank and every business. He has statutory rights. It is not a question of one organisation picked out against another.

Mr. J. T. TONKIN: The Deputy Leader of the Opposition was arguing that the ombudsman should not go into any bank.

Mr. Court: That is true.

Mr. J. T. TONKIN: Now his argument is that he objects to the ombudsman going into the Rural and Industries Bank because he will not go into the other banks.

Mr. Court: It is not that at all. The Premier is missing the point and distorting the situation.

Mr. J. T. TONKIN: That is the way the Deputy Leader of the Opposition is arguing.

Mr. Court: You are telling us, I gather, that you are prepared to allow the Rural and Industries Bank to be subjected to this.

Mr. J. T. TONKIN: There is a very good reason. The proposal for the ombudsman permits inquiry only into Government departments or authorities, and into local authorities. It does not permit inquiry into private businesses.

Mr. Court: That is understood.

Mr. J. T. TONKIN: Yes, and that is the same principle with regard to the bank. How could I be justified in excluding one Government department or authority when the whole basis of the inquiry is into things being run by the Government, whether they are run by banks or anyone else. Accordingly, I would not be justified in making an exclusion.

This much is certain: No ombudsman endowed with the brilliance, or common sense, for which we are looking would go into the Rural and Industries Bank for the purpose of obtaining information about clients' accounts in order to make that information public. It is quite conceivable, however, that a complaint may be made against the Rural and Industries Bank. A client, possibly a primary producer, may advance information of unfair treatment or discrimination and the only way in which such a charge could be investigated would be for the ombudsman to go and have a look. Consequently I believe there is every justification for not excluding any Government department.

Mr. Court: I do not agree with you in the case of the Rural and Industries Bank, but you have answered my question and made it clear the Government intends the bank to be subjected to study.

Mr. J. T. TONKIN: We certainly do not intend to chase away clients.

Mr. Court: You will.

Mr. Hutchinson: It is possible this could happen.

Mr. J. T. TONKIN: I do not think it will happen; as a matter of fact, my view is the opposite. I feel it will attract clients, because they will feel that if anything untoward goes on in the bank there is a possibility of its being investigated.

The member for Narrogin effectively answered the Deputy Leader of the Opposition in regard to members of Parliament being quite adequate to do the job and that there was no need for an ombudsman. However, in my opinion he went on to spoil his argument by trying to show that the cost involved in having an ombudsman was hardly justified. I would like to point out to him that in those cases in New Zealand where justice was obtained, it was obtained much more cheaply per case on average than could possibly have obtained had the people concerned been forced to go to a court of law. If one were to take these cases which were investigated by the New Zealand Ombudsman and work out what it would have cost for the people to have a law case, there would be no comparison between what the State had to pay to obtain justice for these people and what the people themselves would have had to pay had they gone to court by themselves.

Surely members have had the same experience I have had; it may not be to the same extent, but it is the same experience. Frequently I have had to advise people that their only chance of obtaining redress is to go to law but to do so would be a very costly proposition. Invariably the result has been that they have not gone. I have these cases almost every month. People come to me and I feel there is an injustice, but it is a civil matter and the only way that redress can be obtained is to go to law. Often they say, "Unfortunately, I cannot afford it." There is always some risk anyhow. An ombudsman will not help these people,

because theirs are private cases, but he will help a number of cases where people come forward and are able to show they have suffered some injustice one way or another, as has happened in New Zealand.

If members have the opportunity and the time I recommend that they should read this report because some of the cases mentioned in it demonstrate unmistakably the real value of such an officer being available to those who need assistance.

I was somewhat amused at the illustration given by the member for Mt. Marshall —somewhat facetiously I think—wherein he said the reason for advocating an ombudsman in Western Australia and for the possible appointment in South Australia is that those States apparently need an ombudsman most. I would like to remind the honourable member it would not surprise me after 12 years of Government by the Opposition parties if we do really need one in Western Australia. However, he has overlooked completely the fact that the Liberal Premier in Tasmania has been trying desperately to appoint an ombudsman, but the Legislative Council in that State will have none of it.

Mr. Lewis: They were in Opposition for a long time, too. They must have felt the need for it.

Mr. J. T. TONKIN: I do not think it is any argument to say that only six countries in the world have appointed an ombudsman and no State in Australia has yet done so. This could be argued against every innovation. It could be said, "Nobody has ever done this before so it would be better for us not to do it either."

It is a significant factor that the first three countries to adopt an ombudsman were the Scandinavian countries. One Scandinavian country made the appointment and it is understandable that other Scandinavian countries in proximity to the first would have had pressure brought to bear upon them to do likewise. These ideas take a long time to catch on.

Mr. Court: It took 150 years.

Mr. J. T. TONKIN: It is most remarkable, as I have said, that no country which has appointed an ombudsman has ever discontinued the office. Surely there has been long enough time for Denmark, Norway, and Sweden to try out an ombudsman and to get rid of him if the appointment was not justified.

I believe there will be no cause at all for regret if we make this appointment. We will find it will be a tremendous assistance to people generally and they will be extremely grateful for what has been done.

Mr. O'Neil: Before the Premier sits down could he say whether there is any reason why both the Workers' Compensation Board and the State Government Insurance Office do not appear in the schedule to the Bill?

Mr. J. T. TONKIN: They will be covered. It was not considered necessary to spell them all out but at the commencement of the schedule it is clearly stated, "Government Departments and other Authorities to which this Act applies. All Departments of the Public Service," excluding (a) and (b). Then local authorities are mentioned. Paragraph (c) under local authorities reads—

> (c) any other body constituted under an enactment that has the power to levy, or cause to be levied, a rate on or with respect to, land.

I took this matter up with the draftsman to ensure we were not excluding any Government department or authority and I have been assured—as far as one can be assured by his lawyers—that the situation is covered. I am reminded of a statement made by my predecessor (The Hon. A. R. G. Hawke) who said, "There is a great need in this country for one-armed lawyers because if you go to those who have two arms they say 'On the one hand it is this and on the other hand it is that.' "

Mr. May: And they charge twice as much.

Mr. J. T. TONKIN: I am no lawyer so I am bound to accept the advice tendered to me. But I say this—and I think it is all the Deputy Leader of the Opposition wanted—that I give him an assurance that it is not the Government's intention to exempt any Government department or authority from the jurisdiction of the ombudsman, other than for the specific exclusions of individuals who are mentioned.

Mr. McPharlin: Have you yet made an estimate of the cost?

Mr. J. T. TONKIN: Yes, but it is not completely reliable. I am going on what Sir Guy Powles told me. We have not yet determined the rate of salary to be offered; that is subject to discussion with the Public Service Board. The rate must be sufficiently high to attract the type of person we want, yet it must be below the salaries paid to judges. It will be somewhere in that range.

Having regard for the size of the office in New Zealand, I do not consider that in the initial stages a great number of office staff will be required. However, if the work load is such as to require further assistance, it will be evidence of the need for such an office and the Government will not hesitate to find the money to meet the obligation and have the service rendered.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. J. T. Tonkin (Premier) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Appointment, etc., of Commissioner—

Mr. COURT: I have an amendment on the notice paper which I explained briefly in the course of my second reading speech. I move an amendment—

> Page 4, line 33—Insert after the word "is" the words "or has been within the preceding three years".

Subclause (8) of clause 5 at present reads—

> No person who is a member of either House of Parliament or of the Parliament of the Commonwealth shall be appointed as Commissioner . . .

The desire is to add the words "or has been within the preceding three years." I do not propose to elaborate on the reasons for the amendment, which I have already given, but I have a strong view that there should be a separation period between the time a person had been active in the Parliament of either the State or the Commonwealth and the time of acceptance of an appointment such as this. I believe it would also give adequate assurance to the people that it would not be a political appointment. I do not say this of the present Government but of Governments, generally.

Mr. J. T. TONKIN: I have mixed feelings about this amendment. I have no great objection to it and I would be prepared to accept it because it does not make a great deal of difference. However, I cannot see that this provision is really necessary because it would be a remarkable coincidence if the position of ombudsman became vacant at the same time as a member of Parliament lost his seat.

What I see against the proposal is this: Should it happen that the office of ombudsman became vacant and there had been in the Parliament an outstanding person who would have been admirably suited for the position, this provision would deny to the Government the opportunity to use the services of that person, even though he might be by far the best person offering.

There are many examples of persons who have been in Parliament being appointed to offices outside. The Hon. F. J. S. Wise resigned from Parliament and was appointed by a Commonwealth Government of an opposite complexion to ours as Administrator of the Northern Territory. Apparently the Commonwealth Government felt he was the ideal man for the job. If a provision had existed that a man who had been in Parliament during the preceding three years could not be appointed as Administrator of the Northern Territory, Mr. Wise could not have been appointed. Sir Garfield Barwick could not have been appointed as Chief Justice of the High Court if such a provision had existed.

To get down to tin tacks, what virtue is there in excluding a person who has been a member of Parliament two or three years before and appointing someone who has been a member of Parliament four years before? Whilst I have no strong feelings about it, I think the restriction is unnecessary because, as the Bill stands, it is unlikely to lead to any action on the part of the Government which could not be strongly supported.

I would prefer to leave the position as it is so that we have a wider choice. In this way a person would not be excluded from holding such an office purely because he was a member of Parliament during the last three years. He could be by far the best person offering at the time, so why should he not be appointed? In my experience any person who has been a member of Parliament and has subsequently been appointed a judge has discharged his responsibility with a full appreciation of his obligations. I have never heard a criticism of any such appointment.

As my views are more on the side of retaining the Bill in its present form, I oppose the amendment, although, as I say, I have no very strong feeling about it.

Mr. MENSAROS: The Premier says he would like to believe he is able to appoint any member of Parliament, whereas the Deputy Leader of the Opposition says the contrary. The Deputy Leader of the Opposition would not argue the fact that that particular member could be the best appointee. We know that some appointments are made by a Government to get rid of a particular member. There might be a contestant for the premiership or the ministership—

Mr. Jamieson: You make your own admissions.

Mr. Court: It happened with the Labor Party.

Mr. Jamieson: Do not tie us in with that.

The CHAIRMAN: Order!

Mr. MENSAROS: I am not saying this happened in any particular political party. However, I ask the Minister for Works can he not recall any cases where appointments were made for the specific reason of getting a particular gentleman out of Cabinet or out of the party?

Mr. Jamieson: That is what you would call being kicked upstairs. It was a Federal habit—not a State habit.

Mr. MENSAROS: Is it to the benefit of the State that such appointments can be made? Is it to the benefit of the State to allow this to happen or is it better to take advantage of the situation now and see that it does not happen?

Mr. COURT: I hoped the Premier would go along with this. However, he has to argue his point of view and that is our reason for being here. I submit to the Committee that the special nature of the duties of the commissioner is such that we want to ensure a situation does not arise where he is appointed in a contro-

versial atmosphere. I do not question that a man who is in Parliament or has just retired from Parliament could be the ideal appointee for any position, whether it is as an ombudsman, a judge, or the head of a commission. He could be the best man because of his experience in Parliament.

I must say quite frankly, because I have expressed myself publicly about this on many occasions, I do not like to see members of Parliament appointed as judges, and particularly if they have been in Cabinet. The present Chief Justice of the High Court of Australia is a man of undoubted international reputation as a jurist; no-one questions this. However, the fact is, because of the atmosphere surrounding his appointment, a lot of criticism was generated. No doubt the Premier has read some of the opinions expressed—for instance, that of Sir Henry Bolte, and the comments of some prominent people in the legal profession.

Mr. Davies: They appointed Spicer to the Arbitration Court in similar circumstances.

Mr. COURT: I am not questioning the capacity of any of these gentlemen. There is no doubt that the present Chief Justice of the High Court of Australia is a prominent jurist of eminent standing. His services were sought by Governments, corporations, and private individuals all over the world. However, it does not alter the fact he went straight from a ministerial position to this very high office, which could be compared with the positions of Governor or Prime Minister. For this reason I believe we would be right to make this provision. It would mean that a Government would have to make sure it did not select a person who had been very active in a political field over this short period.

I have no desire to make a further issue of this. However, I feel the matter should be aired in Parliament, and perhaps the Premier will have second thoughts about it so as to remove any label of a political appointment.

Mr. Lapham: Is it your feeling a member of Parliament should suffer a disability because of his position?

Mr. COURT: It is one of the prices he pays. I am suggesting a three year purging period.

Mr. Hartrey: How would he be a better qualified man after three years out of Parliament?

Mr. COURT: He will not have been a member of either the State or Federal Parliament during those three years. I think the honourable member will agree with me that after a period of three years a man is separated sufficiently from his previous connections. In those three years he would have been performing in other fields within the community. If the Government of the day still wanted him after three years it would be because he had increased his stature and had removed any suggestion that he had a party-political bias. I think the Premier will agree that if an appointment was made of a person who was, say, in the Ministry today and who resigned tomorrow to take up the position of parliamentary commissioner, that person would start off behind scratch. I can imagine what the news media, politicians, and the local gossips would do to him. I must admit that I can hardly imagine a Government being so blatant as to do that because it would know that the commissioner would start off behind scratch. That is why I believe the provision is reasonable.

Mr. J. T. TONKIN: I must say that I have listened to the Deputy Leader of the Opposition in amazement because the illustration he chose to make was one which can be related to something his Government did. It must be known that the Deputy Leader of the Opposition was a big power in the previous Government; he was a member of the Government which appointed The Hon. A. F. Watts as chairman of the licensing bench straight from his position as a Minister.

Mr. Court: That is so. But it is an entirely different matter in the case of a parliamentary commissioner who is a single judge.

Mr. J. T. TONKIN: Well!

Mr. Court: He was one of a court of three. My argument still holds because that is quite different.

Mr. J. T. TONKIN: I cannot find any great distinction between filling the position of ombudsman where the person is to act in a semi-judicial capacity, and appointing a person as the chairman of the licensing bench where he acts in a straightout judicial capacity.

The Government of which the Deputy Leader of the Opposition was a powerful member did just that, and I do not recall that the media went to town on it. Therefore, I believe there is no valid reason why we should put in this exclusion. If there is a member of Parliament or a person who has been a member of Parliament in the last two or three years who is available for the position and who is regarded as eminently suited to it, then why should he not be appointed? We have all emphasised that the prime requirement of this job is to get the best man available. The success of the position depends upon getting a person of quality. Why should the Government be denied the possibility of having an outstanding person for the job simply because during the previous three years he had been a member of Parliament? Yet he would be all right if he had not been a member of Parliament for three years and one week. I do not think there is much sense in that.

Mr. McPHARLIN: I do not wish to intrude when the big guns are shooting at each other. I can clearly see the point made by the Deputy Leader of the Opposition and supported by the member for Floreat. However, one point does project itself into my mind and that is, if a member of Parliament is regarded as qualified enough to take the position and he is not allowed to take it for three years, he will certainly engage himself in another occupation. Then he would not be available for the position.

Mr. J. T. Tonkin: Then there is no need for the exclusion.

Mr. McPHARLIN: I merely wished to make that point.

Amendment put and negatived.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Acting Parliamentary Commissioner—

Mr. COURT: I raised this matter during the second reading debate, and no doubt the Premier has given it some thought. I do not seek to move an amendment, but I think that the Premier should have a look at this clause from the point of view of drafting and for the sake of regularity. This clause refers to the acting commissioner being appointed in such cases and in such circumstances as may be provided for in the subclause.

The query I raise is: What are these cases and circumstances? Also, reference to cases and circumstances is made in subclause (2). Is this intended to be the same reference or a related reference? It has been pointed out to me by a member of the legal profession that they are not connected. This is not the sort of amendment the Opposition can make, and I think it calls for some clarification.

Mr. J. T. TONKIN: I have given thought to this since the question was raised by the Deputy Leader of the Opposition. However, I cannot see how it would be possible to meet the situation he has in mind. Even if we tried to specify the instances in which a deputy could be appointed, we might find that we have not the necessary power when we want it. It is axiomatic that as soon as we specify, we limit. It is not possible to conceive of circumstances in which it would become necessary to act in place of the ombudsman because the ombudsman is not able to act. It is not intended that when the ombudsman is available to do his job, his job should be given to somebody else. However, it is conceivable that the situation could arise where it is necessary for an inquiry to proceed, or for the officer to be available, and for some reason or another he is not available.

Sitting suspended from 6.15 to 7.30 p.m

Mr. COURT: Before the tea suspension the Premier had been commenting on clause 7 of the Bill and the query that had been raised in respect of the words, "in such cases or in such circumstances." I made it clear earlier in the evening that apparently it was a question of drafting and I was hoping the Premier would have undertaken to have the provision redrafted. In reading subclause (1) of this clause it seems to finish in mid-air. It does appear to me, therefore, that words have been omitted unintentionally and that such words provide the key. It seems that in subclause (2) under the rules of Parliament, there will need to be stated the circumstances under which an acting appointment can be made.

Mr. Tonkin: I will have the point looked at.

Mr. COURT: No-one is objecting to the actual appointment, but I can visualise a difficult situation arising.

Clause put and passed.

Clause 8 put and passed.

Clause 9: Staff of the Commissioner—

Mr. MENSAROS: I have not been accorded the courtesy of receiving replies to the points I raised during the second reading of the Bill. Without taking too much time I will just refer to the points I made previously so that the Premier may be able to give some clarification of the difference in the oaths that are prescribed for the commissioner and his deputy on the one hand, and the officers of his department on the other.

As I pointed out, the occasion could arise, under the provisions of the Bill, when the same functions and duties performed under the oath taken by the commissioner or his deputy could be performed under the oath taken by the officers themselves which is a different oath.

Mr. TONKIN: I think the honourable member is being unduly apprehensive over this provision. The person who undertakes the job of ombudsman is not likely to do all sorts of things he should not do. Surely the provision contained in the clause is clear enough, and it is very essential. Also, it is clearly stated in subclause (2) that the terms and conditions of service of the officers of the commissioner shall be such as the Governor determines within the framework of the Act and it cannot possibly be determined outside the Act.

Before he commences his duties an officer of the commissioner shall take an oath or affirmation to be administered by the commissioner that, except in accordance with the provisions of this legislation, he will not divulge any information received by him under this Act. Obviously, what he has to do is to take a straightout oath that, in accordance with his duties

under this provision, he will not divulge any information that comes into his possession.

To start with, this is a requirement that has to be fulfilled by all civil servants—that is, that a public servant shall not divulge any information that comes to him in the course of his duties. Surely the honourable member does not want spelt out in the provision the exact wording of the oath he has to take. The commissioner, who will be responsible for what is going on, will certainly take steps to ensure that the oath taken is one that will fit the requirement of the Act. Anything else would be of little value, and anything more would be onerous. I do not think there is any need whatsoever for any concern.

Clause put and passed.

Clause 10 put and passed.

Clause 11: Delegation of functions of Commissioner—

Mr. COURT: Without seeking to labour the matter unduly I want to return to the point that was just commented on by the Premier and is related to this clause.

The member for Floreat was trying to get across the point that under this clause an officer who has taken an oath that is different from the one taken by the commissioner or his deputy can be given duties delegated by the commissioner and, so far as those duties are concerned, he has the same powers as the commissioner for that purpose, except, of course, the right of delegation.

What concerns the member for Floreat and also myself was that for some extraordinary reason they have a different form of oath. It is only a query, because it did seem odd to me that the person who is to perform these duties—and they could be onerous—does not have to take the same oath as the commissioner or his deputy. We are hoping that some explanation can be given for this.

Normally, the oath that is prescribed for the officer in the course of his duties is the one taken by a member of the Civil Service. However, in this sphere the operation that is entered into is far different from the work performed by a clerk in the Civil Service.

Mr. TONKIN: It seems to me that it should be obvious that an officer appointed by the commissioner would not have the same powers and responsibilities as the commissioner himself. Therefore all that is required of him is an oath in regard to the area of administration in which that officer shall operate. To expect him to take an oath in regard to matters that are not within his purview seems to me to be absolutely unnecessary.

However, as the commissioner is responsible for performing duties in a much wider field, and also is responsible for appointing his officers, it is expected that he should take a different kind of oath. Members of Parliament take an oath and it is a special kind of oath, but it does not cover all the matters imaginable in regard to the work that they might perform. Therefore I cannot see there is any need for concern about the difference in the two oaths. In the circumstances it is quite logical and reasonable.

Mr. MENSAROS: What the Premier has said has really strengthened our argument. He said that the reason for the difference in the two oaths is because the commissioner or his deputy will have different responsibilities from those of his officers. Clause 11 (1) provides that the commissioner may delegate to any officer the exercise of any powers conferred on him under this legislation. This means that the officer can exercise the same powers as the commissioner except—and this is spelt out in the Bill—the redelegation of this authority and the power to make any report. In other words, he can do everything the commissioner can do. The only thing he will not be permitted to do is to redelegate power to another officer in turn, or to make a report.

Mr. J. T. TONKIN: Although Ministers take the oath which every member of Parliament takes, they also take a different kind of oath because they have further responsibilities.

Mr. O'Neil: Can the Minister delegate his authority to a member of Parliament?

Mr. J. T. TONKIN: No.

Mr O'Neil: But the parliamentary commissioner will be able to delegate all powers, except the power of delegation, to an officer and the officer takes a lesser oath than the oath which the commissioner takes.

Mr. J. T. TONKIN: In those circumstances does not the honourable member believe that the commissioner, in delegating powers which he ordinarily exercises himself, would ensure that he bound the officer with regard to those powers? That would happen as a matter of course. If the member for Floreat wants to put forward an amendment in respect of the oath, I have no objection to looking at it.

Clause put and passed.

Clause 12: Rules of Parliament—

Mr. COURT: I want to comment on subclause (3). This aspect has been covered substantially in the course of the second reading debate, and again I think it is a matter of drafting. I would like the Premier to have a look at the point I am raising. It is not a matter of the Opposition drafting an amendment. It is rather difficult to ascertain how the rules will be made. No doubt the initiative will be taken by the Government and Parliament will act sensibly to arrive at the

rules so that the commissioner operates under one set of rules. I agree that those rules will have to be agreed to by both Houses.

If the Premier undertakes to look into this matter I will be satisfied. I have looked through the various interpretations, but I could not find an answer. It appears to be a matter of drafting to make sure we have one set of rules.

Mr. J. T. TONKIN: Personally I do not see any difficulty at all, but I am prepared to ask the draftsman to look into the matter and to have regard for the point raised by the Deputy Leader of the Opposition. If it is found that an addition is required, the necessary action will be taken in another place.

Clause put and passed.

Clause 13: Departments and authorities subject to investigation—

Mr. COURT: This is the clause in which we first come in contact with the schedule, and it is mentioned in subclause (1). Earlier I made it clear that we on this side believe it is not right for the ombudsman to investigate the Police Force as such. This is a body which is constituted under a Statute, and it has its own system of administration and discipline. I believe the Police Force should be kept distinct from other departments. I want to foreshadow that when we come to the schedule I will be referring to this particular matter.

There is also the question of the State Government Insurance Office and one or two other bodies. The Premier has expressed the view that a part of the schedule automatically incorporates those bodies. I have looked at it, but am not able to bring the State Government Insurance Office under this provision.

I am raising this point in anticipation, because the reference to the schedule appears in this clause; therefore it is pertinent to give notice that when we reach the schedule I will raise this matter again.

Clause put and passed.

Clause 14: Matters subject to investigation—

Mr. MENSAROS: I rise to raise an objection, and to reiterate one query which requires an answer. Why is it that in subclause (2)(c) the making of any recommendation, including a recommendation to a Minister of the Crown, has been included as a matter subject to investigation, whereas subclause (3) prescribes that the decision made by a Minister is not? Because all decisions are made upon recommendations, I consider that they should not be subject to investigation. If they are, it means that from the time when the Minister receives a recommendation, and until he makes up his mind, the matter can be investigated; but as soon as he has made up his mind the matter cannot be investigated. I do not think any of the recommendations should be investigated, because they result from the delegation of the responsibilities and the powers of a Minister.

The second point, and perhaps this is much more important, is in connection with subclause (6) which states that the commissioner shall not conduct an investigation into any action taken by a person acting as legal adviser to the Crown or acting as counsel to the Crown in any legal proceedings. It does not exempt the counsel of a local authority or the counsel of any other board which is subject to investigation under the terms of this Bill, and neither does it exempt the other kind of professional advisers. I refer particularly to medical practitioners who might very well be placed in the position of having to give professional advice within the terms of this legislation. Under this clause such advice would be subject to investigation.

Mr. J. T. TONKIN: If I understand the member for Floreat correctly, he is objecting to the fact that this clause provides that under no circumstances shall the commissioner investigate a decision of the Cabinet or the decision of a Minister.

Mr. Mensaros: The recommendation is subject to investigation.

Mr. J. T. TONKIN: If the honourable member looks at subclause (3) he will see that this provision does not authorise or require the commissioner to investigate any decision made by Cabinet or by a Minister of the Crown, or question the merits of any such decision.

Mr. Mensaros: That is so, but I do not agree with the provision in subclause (2)(c) which states that a recommendation to a Minister of the Crown may be investigated.

Mr. O'Neil: A senior Government officer would not be prepared to make a recommendation if it is to be subject to investigation, but the commissioner would not be able to investigate after a decision had been made by the Minister.

Mr. J. T. TONKIN: I am not prepared under any circumstances to agree that a decision of Cabinet or a decision of a Minister shall in any way be investigated. We will not even permit questions to be asked in Parliament with regard to that. There is no reason why any other decisions relating to Government departments which have a full bearing on the subject of an inquiry should not be investigated; because if further exemptions are provided the provision will become ineffective.

If the ombudsman has a complaint against a Government department we have to make it possible for him to approach the head of the department without actually investigating the decision of the Minister. If in his investigation with the head of the department he reaches the

point where he wants to know what direction or instruction the head of the department has received from the Minister, all that the head of the department has to say at that stage is, "You are not allowed to question me with regard to that matter." That is where the inquiry will stop.

I think it is essential to a proper inquiry that the ombudsman should have access to files and the right to question officers of the department regarding any complaint which he feels warrants inquiry by him. That should enable the inquiry to proceed the full distance, except where it involves decisions of Cabinet or decisions of Ministers.

Mr. O'NEIL: In an endeavour to assist I say the Premier is still missing the point. We certainly do not object to denying the parliamentary commissioner the right to question a decision of a Minister or Cabinet; but most of the decisions are made on the recommendation of a department. The measure permits the commissioner to investigate the recommendation made to a Minister, but we do not believe he should.

Mr. J. T. Tonkin: Why not?

Mr. O'NEIL: Let us assume the Minister makes a decision contrary to the recommendation of his senior adviser. That decision is not questionable and cannot be examined by the commissioner, but the recommendation can be.

Mr. J. T. Tonkin: Yes; and it ought to be, and I will tell you why.

Mr. O'NEIL: I would dearly like the Premier to tell us why, because a conflict can exist between the advice of a senior public servant and the Minister's decision. I admit that on many occasions Ministers make decisions either totally against or only partly along the lines recommended by their senior officers. If a Minister makes a decision completely opposite to the recommendation, his decision cannot be questioned, and I agree; but the officer's recommendation can be inquired into and reported upon. He would not make any recommendations if he knew that.

Mr. J. T. TONKIN: It seems the complaints are likely to arise as a result of some wrong administrative act and if the administrator responsible has deliberately brought about the situation about which the complaint is made, it is conceivable he has deliberately given his Minister the wrong advice, and upon that wrong advice the Minister has made a decision. Now, in order to correct what is wrong, the ombudsman would have to follow through to the point where he concludes that the advice which was given was contrary to what should have been given.

If he is not allowed to investigate the recommendations he cannot conclude whether in his opinion correct or incorrect advice has been given. It seems to me that if we cut this off at the stage that the recommendation was made, we reduce very substantially the effectiveness of the ombudsman; and I am not prepared to do that. I believe it is necessary that the ombudsman should be able to follow his case right through to the stage where he ascertains what recommendation was actually made which brought about the decision he thinks is wrong. If he is not allowed to find out what the recommendation was, he could quite easily conclude wrongfully that the Minister was at fault, whereas if he had the opportunity to study the recommendation made to the Minister, he would be in a better position to conclude whether the Minister or the administrator was at fault.

Mr. O'Neil: I thought he was not allowed to do that.

Mr. J. T. TONKIN: Oh yes, he is permitted to say whether the Minister is right. The history of ombudsmen all over the world indicates that at times an ombudsman has had to report that a Minister has been at fault, or he has had to draw a Minister's attention to the fact that he was at fault and the Minister has corrected the matter without its never having been reported to Parliament.

Mr. Court: That is not in the Bill, of course. If a Minister or Cabinet has made a decision on a matter, the commissioner is not allowed to start an investigation.

Mr. J. T. TONKIN: I know. He does not investigate the Government's decision or the reasons for it, but he is entitled to know up to that point what recommendation was made. He knows the Minister's decision because that is the basis of the complaint. What he is prevented from doing is to question the Minister as to the reasons for his making that decision.

If the ombudsman is not to know what recommendation brought about the decision into which he is inquiring, how on earth can he be in a position to say whether or not anyone is at fault? Experience has shown that this is essential.

This provision is already in the New Zealand legislation and has apparently worked all right there without any complaints. Therefore I cannot see why we in this State, having the benefit of experience elsewhere, should start off by making it difficult for the ombudsman to discharge his obligations responsibly, completely, and adequately.

Mr. COURT: I want the Premier to accept that we are approaching this Bill in a constructive way.

Mr. J. T. Tonkin: I do accept that.

Mr. COURT: We expressed our view in the second reading debate which is that we do not like the Bill. However, the Government has the mandate and the decision has been made.

J. T. Tonkin: I think the clash of opinion is all to the good.

Mr. COURT: We are endeavouring to raise points which we consider are important in the administration of the legislation. The Premier should not forget that he must live under this. We are, in good faith, pointing out an anomaly.

During the second reading debate the member for Fremantle was upset because I was alleged to have treated someone harshly or unfairly because I would not make an *ex gratia* payment. I tried to say by interjection, but he would not pause a while, that the matter he was raising would not have reached the ombudsman because a decision had been made by the Minister. Subclause (3) very clearly indicates that the commissioner cannot investigate a decision made by Cabinet or a Minister, or question the merits of any such decision. I do not want to press the matter any further, but I do want the Premier to understand that we are trying to point out that if he leaves in subclause (2) (c) he actually defeats the objectives of subclause (3). The ombudsman could get right to the stage of the recommendation made to the Government and then find the Minister had made a different recommendation, probably for a good reason.

The Government will often take a broader view than the departmental officers. Then when the ombudsman makes his recommendation he, of course, is immediately in conflict with the Ministry when in point of fact, under subclause (3), he should not have investigated the matter because a decision had been made.

Mr. Bickerton: A decision made by whom?

Mr. COURT: By a Minister or Cabinet.

Mr. Bickerton: That is right, but the point the member for Fremantle was making was that had there been an ombudsman he would have taken the matter to the ombudsman and not the Minister and therefore a decision would not have been made.

Mr. COURT: The Minister is missing the point. If the member for Fremantle had referred his case to an ombudsman, the ombudsman would have been denied the right to investigate it.

Mr. Bickerton: If you had made a decision, yes; but not before.

Mr. COURT: We are not seeking to amend this provision, but I would suggest the Premier studies it because in practice a great conflict will occur as the intention of subclause (3) will be defeated due to the inclusion of subclause (2) (c).

If, on the other hand, the Premier wants to expose the decisions of Cabinet and Ministers to some criticism and public comment by the ombudsman, the legislation would have to be altered again. I do want members to understand the position thoroughly. In its present form subclause (2) (c) laughs at subclause (3).

Mr. J. T. TONKIN: Firstly I make it quite clear I have no objection to a clash of opinion. I think it is very necessary and desirable because unless we have a clash of opinion and an interchange of ideas we are not likely to arrive at what is really intended. I do not accept the reasoning of the Deputy Leader of the Opposition that these provisions are in conflict.

I think it is very necessary that the investigation by the commissioner shall enable him to investigate recommendations which have been made from the counter up to the under-secretary. If the commissioner feels that an investigation of a complaint is justified then somewhere along the line a mistake has been made. That mistake has to be made as a result of a decision made without a recommendation, a decision in accordance with a recommendation, or a decision contrary to a recommendation.

To be able to determine what has gone wrong the commissioner will have to know what the recommendation was and who made it. He has to have that information at every level until he reaches the actual decision made by the Minister or the decision made by Cabinet. At that stage he is not allowed to say whether it is right or wrong because if he finds the recommendation is in conflict with a decision and is satisfied that the recommendation is correct he does not take any action. The responsibility is on the Government for what has been done.

However, if he finds that somewhere along the line a wrong recommendation has been made, either deliberately or in error, then he is in a position to determine what redress ought to be given. Unless he is able to investigate a recommendation he has no hope in the world of finding out what has gone wrong. I think this is very essential.

To delete the provision and say that he cannot investigate a recommendation is to stultify him, in my opinion. As I believe it is our collective idea that this should be made as effective as possible I think we have to leave this provision in the Bill. If he cannot investigate a recommendation what does the ombudsman investigate in a department? Surely there must be a recommendation before there can be a decision.

Mr. Court: If you go along with that argument you have to alter subclause (3).

Mr. J. T. TONKIN: Oh no, I am not going to alter subclause (3).

Mr. Court: If a Minister, or Cabinet, made a decision the matter would be closed.

Mr. J. T. TONKIN: That is so. He can investigate all the way through from the counter to the decision and if he is satisfied it is right that is where the investigation stops. I do not want him to be entitled

to ask the Minister why he made a certain decision. Standing Orders provide that any question in the Parliament is inadmissible if it seeks to find out a decision of Cabinet. It is an inadmissible question if it endeavours to ascertain anything regarding the proceedings of Cabinet.

Mr. Court: That is right; we go along with that.

Mr. J. T. TONKIN: Then that provision has to stay in the Bill. Let us look at the desirability or otherwise of preventing the ombudsman from examining a recommendation. I repeat: unless there is a recommendation from somebody at some stage there will not be a decision. There will be many decisions about which the Minister knows nothing. Everything which will be investigated will not be something which has been wrongly done by a Minister. Many of the investigations will be into complaints which will be solved very quickly by talking to the officers concerned. If the commissioner is not allowed to find out who made the recommendation and what the recommendation was, how on earth can he inquire into anything?

Mr. Mensaros: Could the Premier explain subclause (6)?

Mr. J. T. TONKIN: The obvious reason for the provision in subclause (6) is that the legal adviser to the Crown would be acting on the advice of his Minister, and would be acting in accordance with the Minister's decision or Cabinet's decision. I think it is a very necessary provision.

Mr. COURT: So far as subclause (3) is concerned, we have done our best to try to explain the anomaly. If the Premier is prepared to live with the clause in its present form we will let experience look after it.

We will have an anomalous situation concerning subclause (6), which reads as follows:—

> (6) The Commissioner shall not conduct an investigation into any action taken by a person acting as legal adviser to the Crown or acting as counsel to the Crown in any legal proceedings.

If the Bill had been silent on this matter I would not have raised the point because I would have assumed the commissioner would not be able to investigate a legal practitioner under those circumstances. However, I am curious as to why special reference has been made to the legal adviser and the counsel to the Crown. There will be people involved with legal advisers not acting for the Crown. There is specific reference here to the exemption for the legal adviser or the counsel to the Crown, but the other party's lawyer could, in fact, not have the same exemption.

Mr. J. T. TONKIN: To me the explanation is simple. The ombudsman will not investigate private businesses or the actions of private individuals, but what goes on in Government departments and authorities. Therefore, there is no possibility of investigating what a private lawyer does for somebody else.

Mr. Court: Of course there is. If somebody was acting for the W.A. Turf Club they would not be acting for the Crown.

Mr. J. T. TONKIN: If the organisation to which you refer is one which is included in the ambit of the Bill—

Mr. Court: It is included in the schedule.

Mr. J. T. TONKIN: —then he would be acting for the Crown in the same way.

Mr. Mensaros: Not for the Crown. That is what we are saying.

Mr. J. T. TONKIN: What is intended is that this shall not be an investigation into private matters outside the ambit of Government departments or local authorities.

Mr. O'Neil: There is the Western Australian Trotting Association.

Mr. J. T. TONKIN: Therefore, counsel acting on behalf of those organisations which can be investigated—but not other counsel—would come under the provisions of this clause, and the commissioner would not conduct an investigation.

Mr. Mensaros: The Crown Law Department will not supply legal advice to local government. Counsel to local government will not come under this.

Mr. O'Neil: Or the turf club or trotting association.

Mr. Mensaros: Counsel to local government, which can be investigated, would not come within the provisions of subclause (6).

Mr. J. T. TONKIN: What does the honourable member want to do?

Mr. Mensaros: If the counsel to the Crown cannot be investigated—

Mr. J. T. TONKIN: Never mind about that. What does the honourable member want to put in the Bill?

Mr. Mensaros: To include not only counsel to the Crown but also counsel to any of those authorities included in the schedule. In other words, to include counsel to local authorities, the Rural and Industries Bank, or any of the others listed in the schedule. This is exactly on the same lines as the Premier has indicated. If somebody is acting as legal adviser to any of those bodies he can be investigated. The clause only says "adviser to the Crown" and does not say "adviser to the Crown and any authorities which can be investigated." This is all we want.

Mr. J. T. TONKIN: I will agree there is no justification for any distinction if it should apply to all departments or authorities which can be investigated. I am prepared to refer this to the Parliamentary Draftsman to see whether something can

be done to meet the situation which the member for Floreat and the Deputy Leader of the Opposition have been dealing with.

Mr. Court: I have an idea that when he looks at it he will find the clause is not necessary and will allow the normal privilege to legal advisers to apply. The only reason for raising this was that it has been specifically mentioned.

Clause put and passed.

Clause 15: Investigations on reference by Parliament—

Mr. COURT: I move an amendment—

Page 13, line 12—Delete the word "may" and substitute the word "shall".

By way of explanation, the subclause in question reads in part—

> (3) Subsection (4) of section 14 does not apply to a matter referred to the Commissioner under this section, but where, in relation to that matter any person aggrieved thereby has or had such a right or remedy as is referred to in that subsection the Commissioner may refrain from commencing any investigation into that matter until he is satisfied that that right or remedy cannot or will not be exercised or sought . . .

I believe he should commence his investigation only after a person has used normal remedies available and, consequently, the word "shall" should be included in lieu of the word "may" in this clause; otherwise the commissioner will be placed in the extremely delicate situation of having to make a decision on these matters when people have not used normal facilities available to them.

It can be argued that the Government is trying to save cost and inconvenience for people who may not have the means and the experience. I do not think that is the point. I think people should use the facilities provided for them and then, and only then, should the commissioner try to find the answer to an administrative problem.

Mr. J. T. TONKIN: This provision was included in the Bill in this way at the suggestion of Sir Guy Powles, with whom I had a discussion. I propose to read what he says about this very matter, and I quote from page 9 of his report for 1971. He says—

> I believe that after over 8 years of operation of the office the time has now arrived when consideration ought to be given to making useful amendments to the statute prescribing the jurisdiction. I would like to see the jurisdiction balanced and streamlined in such a way that the resources of the office can be applied to the investigation and relief of as many specific cases of individual complaint as possible, while at the same time not having to employ too much of its efforts in rather fruitless tasks.
>
> The number of complaints I receive which are not within my jurisdiction still continues to run at a high level. In addition to that, I continue to receive a number of complaints from State employees about various matters associated with the terms and conditions of their service. For example, last year I received 198 of these complaints, including 33 from teachers. Only 20 of the total received were considered to be justified. This gives a percentage of only about 10 per cent. which is less than half the overall average. It should be emphasised that these cases were all strictly within the jurisdiction because they did not concern matters which were appealable to the various tribunals. I think, therefore, that the Ombudsman should be granted an absolute discretion to determine whether or not to investigate a complaint. This ought to enable him to organise the work of his office better and to concentrate on cases of significant hardship. I think the absolute bar to jurisdiction which exists if there is a right of appeal to any court or tribunal should be made discretionary, and the Ombudsman should be empowered to determine whether, in the particular circumstances of the case, he should or should not exercise jurisdiction. Both these discretions have been given to the United Kingdom Ombudsman by his statute and appear to work well there.

Sir Guy Powles has been an outstanding success in the job. He has had eight years' experience and has specifically made this recommendation to me and to his own Parliament. As discretion has been given to the Ombudsman in the United Kingdom I see no reason for denying it in Western Australia.

Mr. COURT: I think the Premier has just made the best speech against this Bill which has been made today. Here is "Parkinson" at work—the very thing we are afraid of. No-one could expect any ombudsman in the world to say his job is not necessary. People are not born like that. In that report he is saying he wants *carte blanche* to undertake all sorts of work which authorities in New Zealand and Australia have already been established to do. His reference to the United Kingdom is misplaced, because an individual cannot go to the Ombudsman in Britain unless he goes through his local member of Parliament.

Mr. O'Neil: That is right.

Mr. COURT: A person simply does not rush off to an ombudsman but is sifted before he gets to him.

Mr. J. T. Tonkin: How does that have a bearing on whether an ombudsman should have discretion?

Mr. COURT: It has a great deal of bearing. The members of the British Parliament were jealous of their own reputations.

Mr. J. T. Tonkin: How does it have a bearing on the point at issue?

Mr. COURT: Many matters would not reach an ombudsman if they first go through members of Parliament. There is a sifting process. Had the Premier put forward a different argument we could go along with him. Had he suggested that the ombudsman may proceed in his discretion if a person cannot follow the full courses available through lack of finance, I could have gone along with him. However, this does not apply like that. It could be somebody else who could use facilities that are available but simply will not. The person may prefer to go through an ombudsman, because it would be free. In this way the ombudsman could find himself completely cluttered up.

Mr. T. D. Evans: He has discretion in those circumstances and more often than not he would not act at all.

Mr. COURT: It will only embarrass the ombudsman by giving discretion in these circumstances. If he had discretion to decide to proceed because the person did not have the wherewithal or the facilities to proceed I would be all for it.

Mr. T. D. Evans: Give him a universal discretion.

Mr. COURT: I am not prepared to give the universal discretion the Government wants to include in the legislation. For that reason I believe the word "shall" should be substituted. I hoped the Premier would throw some light on this. To my mind, the information from New Zealand only reinforces our attitude in the matter.

Mr. J. T. TONKIN: Although I pressed the Deputy Leader of the Opposition to state specifically how what he was saying as far as the United Kingdom is concerned related to the point at issue, he did not do so.

Mr. Court: I did. The matter has to go through a sieve first.

Mr. J. T. TONKIN: We will assume that someone in Great Britain makes a complaint to a member of Parliament in connection with a matter on which there is an appeal to a tribunal, and the member of Parliament takes the matter to the ombudsman. The Ombudsman in Great Britain has the power to do precisely what I want to provide in Western Australia. It makes no difference whether the complaint goes directly to the ombudsman or indirectly through a member of Parliament. The point is in Great Britain when the Ombudsman receives a complaint in connection with a matter on which there is an appeal to a tribunal, he can exercise his discretion as to whether or not he commences his investigation. It does not make the slightest difference how the complaint reached him.

There is another aspect of the matter. The ombudsman will be a lawyer. It is therefore expected that he will be familiar with the possibilities of a successful appeal to a tribunal. If he became convinced that in the ordinary way the tribunal would not give redress to the complainant, why should he be held up? Why should he not be able to proceed with his inquiry in the meantime? And who is harmed? If in his discretion the ombudsman decides he will undertake the task of inquiring into a matter—and he would only be giving himself more work—why should he not be allowed to do so? Apparently it works very well in Great Britain.

Mr. Court: Why do you say the commissioner will be a lawyer?

Mr. J. T. TONKIN: The objective is that he will be a legal man who is familiar with legal processes. Apparently legal men are the most successful people in this job. If we cannot secure the services of a satisfactory legal man, we will have to appoint somebody else. He will be the best judge, in all the circumstances, as to whether he should proceed immediately on a complaint or wait for some months until the complaint is rejected by a tribunal and then commence his inquiries. Why should we not allow the ombudsman discretion to inquire—only discretion to inquire? Why should we say he shall not? I think the Deputy Leader of the Opposition has read this provision wrongly. The intention is not to make it obligatory for him to commence an inquiry on every complaint but to allow him to refrain if he wants to. If that provision were not included, once a complaint was made to him which he considered to be justified he would be obliged to go ahead with it.

Mr. Court: You are giving him a universal discretion in the matter.

Mr. J. T. TONKIN: The intention of the wording is to enable him to say he will refrain from proceeding with his inquiry if he believes the ordinary processes of appealing to a tribunal will offer relief. That would be his complete answer and it would enable him to reply to any criticism that a matter was referred to him and he did not proceed with it. In any event, I think he should have the discretion to determine whether or not he will go ahead, and if he is worth his salt he will make the right decision.

Amendment put and negatived.

Clause put and passed.

Clause 16 put and passed.

Clause 17: Complaints—

Mr. COURT: I move an amendment—

Page 13, line 29—Delete the word "may" and substitute the word "shall".

Subclause (1) of clause 17 reads—

> Except as otherwise provided in this section a complaint under this Act may be made in writing by any person or by any body of persons, whether incorporated or not.

I would like to see the word "shall" substituted for the word "may" because I am told if that is not done the commissioner could accept verbal requests, which I think would be quite a foolish thing to do. I would be amazed if he did receive them but in order to facilitate matters I think we should make it clear that any complaint shall be in writing because people who do not put complaints in writing do not have a complaint worth following up.

Amendment put and passed.

Mr. COURT: I have on the notice paper an amendment for the deletion of subclauses (3) and (4). I apologise for not getting in touch earlier with the Premier about this amendment. I made a mistake; it is not subclauses (3) and (4) I wish to have deleted, it is paragraph (a) of subclause (3). Subclause (3)(a) reads—

> The provisions of any enactment prohibiting or restricting or authorising or requiring the imposition of prohibitions or restrictions on communication to any other person do not apply to any communication made for the purpose of making a complaint under this Act.

It appears to me to be rather odd to have a statutory provision whereby people are prohibited from communicating certain information and to waive the prohibition under the power given to a parliamentary commissioner. I can foresee circumstances in which this waiver could be used mischievously by means of the parliamentary commissioner. I move an amendment—

> Page 14, lines 1 to 6—Delete paragraph (a).

Originally I had a look at paragraph (b) and had I been successful in deleting subclause (3) I would, naturally, have had to move for the deletion of subclause (4). However, having reflected on paragraph (b), and in view of the fact that some of those circumstances already apply in other cases, it would be quite futile to seek the deletion of paragraph (b).

Mr. J. T. TONKIN: I cannot see the reason for the Deputy Leader of the Opposition's concern regarding this. If the complaint is made in writing and somebody is libelled he could have recourse to a civil action. The ombudsman has the discretion whether to take action on the complaint. Why should we impose restrictions and limitations on the making of the complaint? The making of the complaint gives the ombudsman a chance to investigate it.

If we did as the Deputy Leader of the Opposition suggests, we would inhibit the timid people. Many of them would be scared to take their complaints to the ombudsman. It would be the initiated and sophisticated people who would not hesitate. These people could find out precisely what the situation was and lodge their complaints. However, the average individual with limited means would be inhibited if he felt he was under restrictions and prohibitions. What is the necessity for these restrictions? Why should he not have an untrammelled right to put his complaint in writing to the ombudsman and let the ombudsman take it from there? Why should we hedge this around with limitations and restrictions which will only scare people?

I suggest the Deputy Leader of the Opposition has another look at this. It cannot possibly harm anybody the way it is but it could limit the effectiveness of the legislation if we take this subclause out. I oppose the amendment.

Mr. MENSAROS: As the Deputy Leader of the Opposition did not rise again, I would like very briefly to reiterate the remarks I made at the second reading and that is concerning subclause (2).

Mr. COURT: I think the Premier has missed my point completely. I would be satisfied if he would look at this from a drafting point of view.

It is another point altogether if a person is restricted from communicating say because he is in gaol. I do not think we have to worry about him. What I am concerned about is a person who is forbidden to communicate under an Act because of secrecy provisions but can communicate taking advantage of subclause (3) (a). This is a totally different situation from the one the Premier was talking about. We cannot ignore the fact we would virtually be releasing that person from the requirements of another Statute if the material was of a confidential nature.

Mr. T. D. Evans: But only for the purpose of making a legitimate complaint to the commissioner.

Mr. O'Neil: Do not forget about the education regulation. There was a regulation debarring a teacher from criticising his department.

Mr. T. D. Evans: Yes, there was a regulation.

Mr. O'Neil: It exists elsewhere, but that would deny a person the right to communicate certain things to the parliamentary commissioner.

Mr. COURT: If I might just make myself clear, as I hope the Premier will look at this again: If it is intended to release people from secrecy provisions I would not have a bar of it, but if it is designed to permit a person to lodge a legitimate complaint, that is another matter. However, as I read this subclause, and as it has been interpreted for me by legal people, it does appear to cut right across secrecy provisions.

The Premier referred before to the Taxation Department. This department has always had special privileges for seeking information. It has also been subjected to very severe provisions to safeguard that secrecy. If the Taxation Department did not have access to that information it could not function effectively. Therefore everyone has accepted its powers.

I do not think this particular clause was intended to release people from secrecy provisions, but in fact it does that. We have secrecy provisions for good reasons; it is an offence to have certain information communicated. Therefore, it would be an intolerable situation for a person to take advantage of (3) (a) just because he has a gripe against his boss. If it is merely to facilitate communication where people have a genuine complaint, and secrecy is not involved, I would not object. However, I think there should be some provisos where the subclause relates to matters of secrecy covered by a statutory provision.

Mr. J. T. TONKIN: The point of view expressed by the Deputy Leader of the Opposition is reasonable enough. In the circumstances I am prepared to have it looked at and if it does release people from the secrecy provisions I will have something done about it.

Mr. COURT: Under the circumstances, may I ask leave to withdraw my amendment?

Amendment, by leave, withdrawn.

Mr. MENSAROS: I would like to reiterate this question which was just put to me. Why, according to this clause, is it only an aggrieved person can make a complaint?

A short while ago the member for Fremantle said that had there been an ombudsman earlier he would have taken his constituent's complaint to him. In actual fact he could not have taken it; the most he could have done was to advise his constituent to go to the ombudsman. According to subclause (2), only an aggrieved person can make a complaint.

This query has been made to me: Why is it that a member of Parliament cannot make a complaint on behalf of his constituents? Or why cannot a public servant complain? He might not be aggrieved personally, but he is the man who knows best if anything goes wrong in his department. If there is an ombudsman and this particular public servant has a genuine desire to better things, he would be the best qualified person to place the material before the ombudsman.

Mr. J. T. Tonkin: What clause are you on—17 (2)? We have just finished with 17 (3).

The CHAIRMAN: You cannot go back.

Mr. MENSAROS: I understood you did not put the question that 17 (3) be agreed to. We are still discussing the clause.

The CHAIRMAN: Order! The Deputy Leader of the Opposition withdrew his amendment.

Mr. MENSAROS: I understand that clause 17 is before the Chair.

The CHAIRMAN: That is right.

Mr. MENSAROS: I am merely pointing this out and I would be grateful if the Premier would explain the matter. I feel that especially in cases where a member of Parliament feels that something relating to administration is wrong, and he is not personally aggrieved because it is a matter affecting his constituents or his constituency as a whole, he should have the right to take the matter to the ombudsman. As I mentioned, the same thing applies to a member of the Civil Service. I had a case not long ago—and I know that members opposite may say that this happened under our Government—in which a member of the Forests Department pointed out certain anomalies in connection with reafforestation about which he obviously knew much more than I. Perhaps no-one else would have been able to pick up the anomaly.

Mr. J. T. TONKIN: I have to admit that I had the greatest difficulty in following the honourable member, so I do not know whether I have correctly judged what it is he is complaining about. Subclause (2) simply provides that if there were a person who, if he had not died, would have been likely to make a complaint, then a complaint may be made on his behalf. The complaint may be made by his personal representative, by a member of his family, or by another individual suitable to represent him—for example, a lawyer or a member of Parliament. If he is unable for one reason or another to make the complaint himself, surely it should be made. It does not force the ombudsman to do anything about it. It merely facilitates the making of the complaint, which must be made in writing. What on earth is wrong with that?

If our purpose is to ensure that there is an opportunity to make complaints, and there is an officer available who, at his discretion, will investigate the complaints which he feels are justified, why on earth should we put any obstacle in the way of the complaints being made? If we want to help the people to get their wrongs redressed, we should facilitate the process and not make it more difficult.

Mr. Mensaros: That is what I am saying.

Mr. J. T. TONKIN: If that is what the honourable member is saying he is satisfied with the Bill, because that is what the Bill intends.

Mr. HARTREY: I think the member for Floreat has a point which perhaps has not been understood. The Premier has pointed out that in certain circumstances

other people can act for the complainant. However, the suggestion of the member for Floreat, as I understand it, is that even if the complainant does not wish to complain, the matter may be something about which a complaint should be lodged. Obviously, if the complainant dies, then he certainly cannot make the complaint. However, a person who does not want to make a complaint is not necessarily a person who is unable to act for himself.

It is only where a person is unable to act for himself or is dead that anybody else can make the complaint. After all, the idea of the ombudsman is to redress grievances and wrongs; and a wrong will still be wrong although it is not complained about. I do not think there is any harm in the suggestion of the member for Floreat. The effect of it would be to expand the circumstances under which a complaint may be lodged. If it is a genuine complaint there is no harm, and if it is not a genuine complaint the ombudsman will take no notice of it.

Mr. J. T. TONKIN: I do not accept the point of view of the member for Boulder-Dundas, because I think this would merely open the way for mischief makers. If the individual who has suffered the wrong does not wish to make a complaint, I do not think we should open the way for any busybody to make a complaint on his behalf without his authority.

Surely we are doing all that is necessary if we make it possible for the person who believes he has a wrong to place a complaint before the ombudsman. If he is not prepared to take the initiative, then we should not allow anybody around the place to do it for him.

Mr. Williams: What if he suffers from some sort of disability?

Mr. J. T. TONKIN: Then he is unable to act, and the Bill provides for that. Why should we extend the provision further to allow somebody who believes that a complaint ought to be lodged but is not lodged to go along and lodge it and start something off? There would be no end to it. Some people have vivid imaginations and they can see wrongs where none exist. Surely the individual himself is the one to determine whether or not he wants to lodge a complaint. There is ample provision here for him to do so.

Mr. O'NEIL: I wish to make a small point, but I will not argue about it. When the Premier introduced this Bill I interjected and asked whether a member of Parliament would be regarded as acting as an agent for an aggrieved person if a constituent made a complaint to him and asked him to take it to the ombudsman for consideration. I think the Premier replied, "Yes." However, it is quite clear now that the Premier was wrong. The only occasion upon which a member of Parliament may make representation on behalf of an aggrieved person is when for some reason that aggrieved person cannot lodge the complaint himself. I think this matter should be cleared up.

Mr. J. T. TONKIN: I recall the situation quite well. However, my answer could still apply because if the person dies before he has made the complaint, although he has made it to the member of Parliament, the member of Parliament can go ahead with it.

Mr. O'Neil: You were partly right.

Clause, as amended, put and passed.

Clause 18 put and passed.

Clause 19: Proceedings on investigations—

Mr. COURT: I move an amendment—

> Page 15, lines 27 to 29—Delete all words after the word "fit" down to and including the word "investigation".

If my amendment is successful I intend to add a further subclause (4). Subclause (3) will then commence, "Subject to any Rules of Parliament . . ." and continue down to the words, "as he thinks fit."

I want the subclause to end there and I seek to delete the words that follow. If my amendment is agreed to I will be seeking to introduce a new subclause to provide that where the commissioner holds a hearing for the purpose of an investigation any person concerned in the hearing may be represented by counsel.

According to the words contained in subclause (3), down to the word "fit" in line 27, if the commissioner does not hold a hearing the question of legal representation does not arise, but if he does hold a hearing it should be quite categorical that legal representation is permitted.

Mr. J. T. TONKIN: I have no objection to the amendment, but I would still prefer that discretion in the matter be left to the ombudsman, because he will not be a person without common sense and knowledge. In all the circumstances of a particular case it would be fair enough for him to decide whether a person should be represented by counsel. The commissioner will be a person with wide discretion in most matters and he will have to report to Parliament in regard to what he does. Therefore I cannot imagine he will be unfair in anything he does. I do not think it is likely that anything unfair will be done under the provision in the subclause.

The Deputy Leader of the Opposition wants the subclause to conclude with the word "fit" in line 27, and take away from the commissioner the discretion to determine whether any person shall be represented by counsel or otherwise in the investigation, which does not necessarily mean that it is a hearing. Why should not the ombudsman, if he is conducting an investigation, decide at any given point that a person may be represented by counsel? I assume that in every case there would be

a hearing, but in the case of an investigation a person may decide that he wants to be represented by counsel.

Mr. Court: In that case there is a hearing.

Mr. J. T. TONKIN: What authority does the Deputy Leader of the Opposition have for saying that?

Mr. Court: If the commissioner decides not to have a hearing, but merely to look at the facts before him, he will just be making an investigation.

Mr. J. T. TONKIN: Suppose the ombudsman enters the Lands Department and commences to interrogate an officer in regard to the inquiries he is conducting. He asks some questions for a short while. Is that a hearing?

Mr. Court: I would say not.

Mr. J. T. TONKIN: At this stage the officer then says, "I want some legal advice. I am not prepared to continue answering these questions. I would like my legal adviser present." Surely at that stage the commissioner should be able to say, "All right, you can get your legal adviser."

Mr. Court: Then he would start a hearing.

Mr. J. T. TONKIN: But it would not be a hearing at that stage.

Mr. Court: I do not wish to split straws on this. There are two distinct forms before the commissioner. One is where he merely looks at the facts as they are and if they are obvious he would not bother about a hearing.

Mr. J. T. TONKIN: It seems to me that the Deputy Leader of the Opposition, in his endeavour to try to be fair all round, could be taking away from an officer who is being interrogated the right to have a solicitor present, because I do not concede that an ordinary inquiry constitutes a hearing, and at some point in that inquiry the officer concerned could say that he wanted to have his legal adviser present before he answered any more questions. As the Bill now stands the ombudsman could agree to the request or he need not agree.

However, if we agree to the amendment put forward by the Deputy Leader of the Opposition, and during the course of the interrogation—which is not a hearing—an officer asks for legal advice, there would be no authority for the ombudsman to agree to his request. If the Deputy Leader of the Opposition will reflect a little longer on the situation he will appreciate that what I am saying could be correct, because it all depends on what constitutes a hearing. I do not agree that an ordinary interrogation, which would happen in most cases—because a hearing would be held only at the odd time—could be construed to be a hearing. It can only be construed to be a hearing if we agree with the Deputy Leader of the Opposition that representation by counsel enters the question.

So as I view the situation I am not prepared to deny a person being interrogated the right to be represented by counsel if he makes such a request to the ombudsman.

Mr. COURT: I believe the Premier is trying to make a mountain out of a molehill. He agrees with the principle we are seeking to achieve and I hope he will continue to do so. I point out to him that the disability he reads into my amendment does not exist. If at the point where the subclause ends with the word "fit" in line 27, the commissioner decides there shall be no formal inquiry, he will undertake the inquiry in the way he thinks fit. If someone objects and seeks legal advice, it is entirely up to him. He makes the investigation entirely in the manner he thinks fit.

The real impact of this provision in practice is that it is intended that he might only have to make a telephone call to the head of the department and say, "I have a woman here who is distressed about a housing problem. What are the facts?" and that is the end of the matter. However, if the matter becomes more involved and he is making his inquiries through a number of channels, the commissioner is not inhibited in his methods, and I agree with this, because if we do inhibit him all kinds of obstructive tactics could be followed. Up to that point he is the master of the situation.

Mr. T. D. Evans: What does the Deputy Leader of the Opposition read into the meaning of the term "hearing"?

Mr. COURT: I consider that a hearing would be held when the commissioner had the views of both parties put to him in a formal way; when there would be a chance of people being interrogated in connection with a particular issue.

I come back to the point I made. If the commissioner decides a matter is of such moment that it requires a formal type of hearing, surely he should be entitled where he thought it was fair and reasonable to permit a party to the hearing to obtain legal advice. We are not depriving any person of help, if help is needed; all we are providing is that in a formal type of hearing the parties thereto shall have the right of legal representation.

Mr. T. D. Evans: Would you agree that where an aggrieved person lodged a complaint, and some person who was suspected of being the cause of the complaint were entitled to engage counsel, a new type of tribunal could be created?

Mr. COURT: Under the terms of the Bill the commissioner has the power to determine whether any of the parties may be represented by counsel. All I am asking is that all parties be given the right to engage counsel.

Mr. T. D. Evans: Under the Bill he is to be given a great deal of discretion, and I am sure he will exercise it fairly.

Mr. COURT: In my opinion the engagement of counsel as a right should be available to all the parties. There could be two people appearing before the commissioner, one having special expertise and training and the other without it. In the hearing the latter would be greatly disadvantaged, whereas if he had the right to engage counsel he would not suffer any disability. The parties do not have to engage counsel.

Mr. MENSAROS: The only complaint we have is that the commissioner may determine whether any person may be represented by counsel or otherwise. Our fear is that the commissioner may determine that a person may not engage counsel. Irrespective of any amendment to the clause, it should ensure that the commissioner shall not be given the right to deny a party the right to engage counsel.

We must bear in mind that the commissioner may make a damaging report, but no action can be taken against him. It may be a report which is defamatory to a person, and damages his reputation, business, or future plans. Despite this he is to be denied the right to engage counsel in a hearing.

Mr. J. T. TONKIN: It is not desired to make inquiries by the ombudsman wonderful opportunities for lawyers, who are already in short supply, to appear in them. The best way to implement this provision is to leave the discretion to the ombudsman. It is conceivable that at some part of an investigation a party being interrogated might feel that he was in a spot and he might ask to be represented by counsel. The ombudsman ought to be empowered to decide whether or not he felt such representation was desirable. If we are to do as has been suggested, then I am sure in all hearings lawyers will be present.

Mr. Court: They do not have to be engaged. It is only a right given to the parties to engage lawyers.

Mr. J. T. TONKIN: It is taking the discretion away from the ombudsman.

Mr. Court: It is fair enough to give the parties that right.

Mr. J. T. TONKIN: I do not think so.

Mr. Court: Furthermore it would relieve him of the onus of having to make a determination.

Mr. J. T. TONKIN: If this was a sound principle at all times then the law would have provided that in every circumstance when a matter was before the Court of Arbitration any party thereto could engage a lawyer; but we all know that the engagement of legal representation is only permitted by agreement between the parties. So, the principle in the clause is not a new one.

I believe that instead of loading up this provision with formalities and restrictions which will result from the engagement of lawyers, it is better to keep these inquiries as simple as possible. For that reason I do not look favourably upon the amendment, because I still believe it will have the effect of taking away legal protection in the case where a person who was being investigated or interrogated asked for legal advice when no actual hearing was taking place. If there is a hearing it is conceivable that half a dozen people could be appearing before the commissioner. Is each party to be entitled to have legal representation?

Mr. Court: If a person is a party he should be entitled to legal representation. A person's reputation or career could be at stake.

Mr. J. T. TONKIN: Under the amendment an inquiry could be held up for days. If the ombudsman were to go to the extent of conducting a hearing, very often a number of people would be involved. Under the amendment each one would be entitled to be represented by a lawyer.,

Mr. Court: Let us not forget that under the terms of the Bill the ombudsman can do this if he wants to.

Mr. J. T. TONKIN: He is not likely to.

Mr. Court: I hope he will give the right of legal representation if a person's career is involved.

Mr. J. T. TONKIN: I hope that all the commissioner will do is that in a case where a person who is being interrogated asks for legal advice, the commissioner will give consideration as to whether in all the circumstances legal representation is warranted. I think that is sufficient.

Amendment put and negatived.

Clause put and passed.

Clause 20: Commissioner has power of Royal Commission and Chairman thereof—

Mr. COURT: I hope I can demonstrate that one provision in this clause is very difficult for any Parliament to accept, and I cannot see the reason for its incorporation. The provision I want to deal with appears in subclause (2).

I move an amendment—

> Page 17, lines 1 to 11—Delete subclause (2).

Unless some extraordinary reason exists for the inclusion of this provision I will have to persist with my amendment because it does seem quite odd that having made provision in one Statute we then relieve people of their obligations; and complaints could be made for no reason other than to achieve a breach of the provision, if this protection is given.

Mr. J. T. TONKIN: Of course I cannot agree to this amendment because this provision is the whole basis of the legislation.

The ombudsman is to be appointed for the purpose of investigating complaints against action in the Civil Service, and in order to find out whether the complaints are justified he must ask questions of the civil servants. If we are to say that they have a complete answer should they tell him they are not permitted to answer questions we will be wasting our money in setting up the inquiry.

Obviously the ombudsman must have the authority to obtain the answers to questions he finds necessary to ask. If the civil servant is able to fall back on the regulation and say he is not permitted to divulge any information from his department, that is the end of it. We are proposing that the ombudsman should have the right not only to talk to civil servants, but also to ask for files. Is the civil servant to say he is not allowed to make the file available; that the ombudsman cannot have a look at the files because the regulations prevent him from making them available? That would make nonsense of the legislation.

Mr. Court: There are some cases under your legislation where he does not have to produce the files, you know; the next subclause, for instance.

Mr. J. T. TONKIN: That is all right. He is protected there; but if the amendment is passed then the inquiry would not get any distance at all. I do not think that would be of any advantage to anyone and it would not justify the expense of the office.

Mr. Court: This does not refer to ordinary office information. This refers to special cases.

Mr. Jamieson: But it still must apply.

Mr. T. D. Evans: It has universal application.

Mr. J. T. TONKIN: It would be information which, in the ordinary course, a person was not entitled to get. This legislation enables the ombudsman to get information which other people, not clothed with this authority, cannot obtain.

Mr. Court: That is ordinary departmental information.

Mr. J. T. TONKIN: If the amendment is carried it would place the ombudsman in almost the same position as any outsider. There would be no sense in that.

Mr. Court: You are reading too much into it.

Mr. J. T. TONKIN: The regulations prevent a civil servant from divulging to people outside matters which come within his purview in the department.

Mr. Court: But this goes further than that. This applies to where there is an enactment which says that information will not be divulged.

Mr. J. T. TONKIN: I am afraid I cannot accept this amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 21 to 24 put and passed.

Clause 25: Procedure on completion of investigation—

Mr. COURT: I move an amendment—

> Page 21, line 4—Add after the word "matter" the words "and his defence is fairly set forth in the report".

The commissioner could be reporting on a matter which is of considerable importance to the career of a man. The commissioner must comply with subclause (7) but that does not provide that he must state the defence in the matter. The commissioner is only human. Whilst he might be above average, he is not a superman to the point where he is always right, and we must allow for the fact also that he is given extraordinary protection. Even though some of the comments he makes might ultimately be proved to be defamatory the commissioner is protected. The least we can ask is that when an adverse report is made the person concerned is given the opportunity to be heard in the matter and his defence stated in the report. In this way anyone reading the report will also be able to read the other side of the story. I am referring only to those instances when an adverse report is made.

Mr. J. T. TONKIN: I am pleased to say I can accept this amendment because I believe it is an improvement.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 26 to 29 put and passed.

Clause 30: Protection of Commissioner and officers—

Mr. COURT: I move an amendment—

> Page 22, line 21—Insert after the word "done" the words "negligently or".

I can only accept the explanation given me by experienced legal people that this amendment would at least give some protection to those who were the victims of negligent action by the commissioner or one of his officers. One could build up a case—but I have no intention of doing so—to claim that provision should be made in this legislation for the commissioner, under certain circumstances, to be liable to some action in connection with defamation, to ensure he is extra-cautious in his reports; but arguments could be raised against that.

Mr. T. D. Evans: Should he have less immunity than a judge?

Mr. COURT: Yes, for a very good reason. A judge is governed by a code of procedure which is very strict and entirely different from the procedure under which this person will function.

Mr. T. D. Evans: Should he have less immunity than a traffic inspector?

Mr. COURT: Some restriction should be placed on him when he is making his report. I am not going to argue as to whether we should provide for claims for defamation and so on. But history will eventually record arguments in this Parliament as to whether a commissioner was entitled to make some of his findings. I believe it is fair enough to add the words which I have proposed.

Mr. J. T. TONKIN: This is a reasonable amendment and I am prepared to accept it.

Amendment put and passed.

Mr. COURT: My next amendment is consequential and I therefore move—

> Page 22, line 29—Insert after the word "acted" the words "negligently or".

Mr. J. T. TONKIN: I have no objection to this consequential amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 31: Penalties—

Mr. COURT: I do not propose to move the amendment which I have placed on the notice paper. I put the amendment on the notice paper to invite attention to the extraordinary situation regarding imprisonment and the apparent smallness of the fine.

I realise this is experimental legislation and it is difficult to determine what is an appropriate penalty. Perhaps the Premier can advise us why there is this apparent disparity.

Mr. J. T. TONKIN: In explanation I would point out that whilst on the surface there does appear to be a discrepancy between the amount of the fine and the length of imprisonment it is provided that there can be a fine and imprisonment. If the monetary penalty is considered to be insufficient then the punishment can be increased by imposing imprisonment as well.

Clause put and passed.

Clause 32 put and passed.

Schedule—

Mr. O'NEIL: The absence of the State Government Insurance Office and the Workers' Compensation Board—and there may be others—from the schedule occasions me some concern. The Premier did mention the preliminary part of the schedule which states that the Act shall apply to all departments of the Public Service, but excluding certain officers.

I can understand that the Rural and Industries Bank is particularly mentioned in the schedule because no officers of the bank are, in fact, employed by the Public Service. It is fair enough that they should be covered by the schedule. However, all officers of the State Government Insurance Office are public servants, but I do not know whether the State Government Insurance Office can be regarded as a department of the Public Service. I am led to this conclusion because I notice the State Housing Commission is mentioned in the schedule and all officers of that commission are public servants, except for some wages employees. I would like an assurance from the Premier that he will have the schedule re-examined.

Mr. J. T. TONKIN: I referred a question of this nature to the Parliamentary Draftsman and I was assured that all departments were adequately covered. However, the point has been raised and I give an assurance without hesitation that I will look at it again.

Mr. COURT: I want to refer to the inclusion of the Commissioner of Police and the Deputy Commissioner of Police under the Police Act, 1892, and the Police Force and Police Department. I do not think that those two officers should be included in the schedule. Also, the Police Force is subject to a very special situation. There are some people who always want to complain against the Police Force. Overtures have been made to the Government by the T.L.C. and the State Executive of the A.L.P. for inquiries into the Police Force.

There is provision for such inquiries. I do not think an ombudsman should deal with this sort of thing in the ordinary course of his duties. A complaint could come from the type of person who misbehaves just to make mischief, and I do not think it is fair or right and proper that the Police Force should be subjected to an inquiry by the ombudsman. I think that would undermine the morale of the Police Force.

The course is readily open to the Government to conduct any special type of inquiry. The Government can select somebody with special qualifications who would devote himself entirely to any particular complaint. That is how it should be done and how it would be done. To allow an ombudsman to inquire into every tuppenny-ha'penny complaint would undermine the morale of the Police Force, and it would also cause perturbation in the minds of the people.

The people in this State are starting to respect the Police Force more and more as a result of its performances in recent times. The people are beginning to expect more and more of the Police Force in this rather extraordinary society in which we are living. It is not a question of having a police State, and it is not a question of giving the Police Force unbridled power; it has not got it. The powers of the Police Force are clearly laid down in the Statutes. The members of the Police Force work under conditions quite different from those which apply to most people who work for the Government.

Therefore, I believe it is quite wrong for the Police Force to be included in the schedule. I would like to hear the Premier's comments on this, although I assume from his earlier remarks that he is diametrically opposed to the removal of the Police Force from the schedule. We, on this side, feel differently. I come back to my point: If the Government of the day were to receive a complaint which it thought was sufficiently serious, it could conduct an inquiry, internally or externally, into the Police Force. However, this should be kept separate from the ordinary run-of-the-mill, rank-and-file types of protests we will see once the machinery is set up.

I think it would not be fair to the ombudsman and would detract from some of his other duties. I personally oppose the inclusion of the Police Force in the schedule, but I will wait to hear from the Premier before I move an amendment.

Mr. J. T. TONKIN: If the position was as stated by the Deputy Leader of the Opposition, he would have a case, but it is not.

Mr. Court: Why isn't it?

Mr. J. T. TONKIN: Firstly, the Deputy Leader of the Opposition said that if a person makes a complaint against the police the ombudsman will have to investigate it. He will not have to do anything of the sort. The Deputy Leader of the Opposition further went on to say that the ombudsman would have to inquire into every tuppenny-ha'penny complaint. He will not have to do anything of the sort. The ombudsman will be given discretion to determine what complaints—whether they are against the police or anybody else—he will inquire into.

Sir David Brand: Wouldn't he find it more difficult to reject a complaint against the police than one against any other Government department?

Mr. J. T. TONKIN: I do not think so.

Sir David Brand: I think so.

Mr. J. T. TONKIN: I have before me an example of what actually goes on in practice. According to this report, last year the Ombudsman in New Zealand received 1,098 complaints and only 491 were investigated. This means that more than half were not investigated at all. Consequently it is quite wrong to say the ombudsman will have to investigate every tuppenny-ha'penny complaint. The ombudsman will determine which complaints he will investigate and which he will not.

In New Zealand an investigation of the kind mentioned was apparently found necessary. It was one of the complaints which was justified. I quote from the report which says—

> The year also saw the most extensive investigation which the office has yet carried out, namely, the report upon the allegations of police violence at the time of the demonstrations during the visit of the Vice-President of the United States to Auckland.

Mr. O'Neil: Does the Premier know who initiated the complaint?

Mr. J. T. TONKIN: It must have been in accordance with the Act.

Mr. O'Neil: Parliament can ask the parliamentary commissioner to examine this.

Mr. J. T. TONKIN: That strengthens the case for the retention of the right to inquire into the Police Force. If we take out that right, it would not matter who made the complaint.

Mr. O'Neil: Parliament can appoint a Royal Commission to examine this.

Mr. J. T. TONKIN: It is necessary to have the power included in the measure for the ombudsman to investigate the Police Force along with other authorities. It would be at the discretion of the ombudsman whether or not he carried out the investigation. It is not a question of examining every tuppeny-ha'penny complaint. The objection of the Deputy Leader of the Opposition was that all sorts of people with grievances against the police would be making complaints which the ombudsman would have to investigate. His words were that he will have to investigate them. He will not have to do anything of the sort. All this does is to give him the power to investigate if he feels a complaint is justified and requires investigation. What is wrong with that?

Mr. Lewis: While the Premier is on his feet, the query I have does not relate to the point he has just made, but I wonder why the university and the Institute of Technology are not included in the schedule.

Mr. J. T. TONKIN: They are not Government departments.

Mr. Lewis: That is right. Are they classed as Government departments?

Mr. J. T. TONKIN: They are classed as Government authorities.

Mr. Lewis: The Bill does not specify them.

Mr. J. T. TONKIN: My advice was that it is not necessary at this stage to include every authority in the Bill—every authority, that is, that can be thought of at the time. There is power in the Bill to include additional authorities by proclamation.

Mr. O'Neil: The Minister for Education declined to give information about W.A.I.T. and he said that it was necessary to write to the authority. This makes it a little difficult.

Mr. J. T. TONKIN: I do not think the ombudsman would accept that. It is not intended that he would.

The list is not conclusive. There is power to add other Government authorities or departments which are not covered already. However, there is not power to add outside bodies, other than local authorities and Government departments. No private organisation can be included. Consequently, I do not think there is any cause for worry. If there were no power to add to the list there may be cause for complaint; but if the list does not cover everything that ought to be covered it can be extended. I am certainly not prepared to go along with the suggestion of the Deputy Leader of the Opposition.

Mr Lewis: Why is Co-operative Bulk Handling included? Is that a private organisation?

Mr. J. T. TONKIN: It is a private organisation.

Mr. Gayfer: It is listed.

Mr. Jamieson: So is the Turf Club and the Trotting Association.

Mr. O'Neil: The West Australian National Football League is not listed.

Mr. J. T. TONKIN: As the member for Moore has said, the question he has raised is irrelevant to the matter under discussion. What we are determining at the moment is whether or not we should delete the Police Force. We are not discussing whether we should add some other departments.

I repeat I consider it necessary and desirable to allow the ombudsman to have discretion to investigate complaints against the Police Force if he feels he ought to do so.

Mr. GAYFER: In listening to what the Premier has just said, I cannot see why Co-operative Bulk Handling Limited which actually works on a shareholding basis—although certainly with Government guarantee and under an Act—should be included as a Government department. The Government has no power over it whatsoever. For this reason I cannot see the purpose of including it in the Bill.

Mr. May: I thought you would welcome it.

Mr. GAYFER: I should like to prevail upon the Premier to look at this again.

Mr. O'Neil: He could get the "trouble-shooter" to look at the schedule.

Mr. GAYFER: I hope the Premier will see whether it is possible, in the interests of Co-operative Bulk Handling and those who respect it as a non-Government instrumentality, to see whether it can be excluded from the schedule.

Mr. J. T. Tonkin: Yes, I will look into it.

Mr. COURT: Perhaps I may come back to the subject of the Police Force. For the reasons mentioned by the member for Avon in connection with C.B.H., I, too, have some strong views about the inclusion of the Western Australian Trotting Association and the Western Australian Turf Club. It seems that some have been included while others, which should be subjected to much more investigation than those two, have been left out.

The Premier mentioned some comments I made about every tuppenny-ha'penny case being investigated, but he is simply splitting straws.

Mr. J. T. Tonkin: That is exactly what you said.

Mr. COURT: What I meant, as the Premier well knows, is that people will come by the dozen if they feel this man has the authority to investigate complaints, and some of the complaints will not be those which should normally be dealt with by the commissioner.

The Police Force must have a degree of discipline and control from the commissioner and his deputy; otherwise we would be wasting our time. There is plenty of machinery for cases of sufficient magnitude to be examined. It is within the prerogative of the Government of the day to appoint a Royal Commission to investigate a bad case. The Bill itself provides that the Parliament can give the ombudsman virtually anything to do—either House; not even both Houses. That is part of the Bill and Parliament is the master of its own destiny in that matter, so we cannot write in restrictions on Parliament, nor would we want to.

As far as the ombudsman is concerned, if we leave this reference to the Commissioner and Deputy Commissioner of Police and the Police Force—I am not so concerned about the Police Department because that is an ordinary department which should be investigated in the ordinary course of events—I believe we will expose them to unnecessary irritation, bearing in mind that the Government itself in the last few months has been under pressure from its own political party to have the Police Force investigated and, to the relief of the public, generally, the Government would not agree to it.

If the Commissioner of Police, his deputy, and the Police Force remain in the schedule, the very people who raise the complaints would be in the ombudsman's office like a shot and he would be placed in a very embarrassing situation. If I were in his position I would be sorely embarrassed if the T.L.C. or the State Executive of the A.L.P. descended upon me with such a complaint and said, "You have the discretion to investigate this matter." The ombudsman would be put to the test if he wanted to say, "I do not want to interfere with the police unless the matter is much more serious."

I believe the matters should normally rest with the Commissioner and Deputy Commissioner of Police and that in a very

serious case it should rest with the Government to say whether or not there would be an inquiry into the Police Force. In that way the Police Force will be kept different from other Government departments.

I hope the Government will have another look at the schedule to get it in its proper perspective. I do not propose at this stage to move the deletion of the R. & I. Bank because I hope the Premier will have a look at the whole schedule—for instance, the absence of the university and the W.A.I.T. and the inclusion of C.B.H. and the W.A.T.C. The schedule is inconsistent. I think the Commissioners of the R. & I. Bank would be horrified at being subject to the scrutiny of the ombudsman under this schedule. It could go a lot further than the Premier thinks at the moment and could have a disturbing effect.

Only in the last 72 hours one of my constituents referred to me a case concerning the R. & I. Bank. He had a complaint and felt that because it was a Government bank I could ring up the chief commissioner and have the complaint remedied. I explained that it was not right and proper that I should do so. If he had been a customer of the Bank of New South Wales I might, at his request, have spoken to the manager and obtained an explanation, but I was not prepared to go any further. He seemed to think that because it was a Government bank a Minister or a member of Parliament had or could demand some special rights in this matter.

I did obtain in a routine way an explanation from the bank about the particular type of transaction—not the transaction itself—and I believe the constituent was being unfair to the bank in his criticism. I did not pursue the matter. If that matter had been referred to the ombudsman and he had decided it was a matter he should investigate, I think it would have been quite unfair to the bank.

Mr. J. T. Tonkin: Why would the ombudsman come to a decision that was different from yours?

Mr. COURT: I had no power—nor did I want the power—to go any further. I am glad I did not have the power and I am glad no other member of Parliament has the power. I would not have taken this matter up with any other bank—the Bank of New South Wales, the Commercial Bank, or the Commonwealth bank—because it was a matter between the banker and his customer, which is a very special relationship.

Mr. J. T. Tonkin: You said in your opinion the complainant was being unfair to the bank. If you came to that conclusion, why would you not expect an ombudsman to come to the same conclusion?

Mr. COURT: For a very good reason, which I will explain. I felt he was being unfair to me and to the bank because it was entirely a matter between the banker and his customer; it did not concern the merits of the transaction. If he were not satisfied, he could go to another bank. If the complaint had concerned the Bank of New South Wales or the Commonwealth Bank, I would have said, "This is between you and your bank manager." It should be left that way. It is a poor show if we, as members of Parliament, think we have some special rights regarding the R. & I. Bank as distinct from other banks. We are proposing to give the ombudsman some special rights in connection with the R. & I. Bank which he would not have in connection with other banks. I think it is quite wrong to create doubt in the minds of customers of the bank. I hope the Premier will talk the matter over with Mr. Chessell.

Mr. LEWIS: Mr. Chairman, would it be in order for me to move now that the University of Western Australia and the Western Australian Institute of Technology be added to the schedule? If so, I will move an amendment to that effect.

The CHAIRMAN: Would the honourable member put his amendment in writing.

Mr. LEWIS: Might I ask the Premier a question in the meantime? Does he insist the Onion Marketing Board should be investigated? That is listed but it went out of existence two years ago.

Mr. Court: This is like *The Mikado*—"I have a little list."

Mr. LEWIS: I move an amendment—

Add at the end of the schedule the following:—

"Western Australian Institute of Technology" and "University of Western Australia".

Mr. J. T. TONKIN: I suppose we could think of additional bodies that should be included but I would point out that there is power in the Bill to add to the list by proclamation. As additions become obvious, they will be made. I have no objection to the amendment. I am quite prepared to accept it.

Amendment put and passed.

Mr. J. T. TONKIN: Would I be in order to move for the deletion of the reference to the Onion Marketing Board?

Mr. Gayfer: Would you move for the deletion of Co-Operative Bulk Handling Limited?

Mr. REID: I would like to refer to the Fruit Growing Industry Trust Fund Committee. I find it very difficult to see why this is included. Every cent in this fund is paid in by the growers of this State. The Government has no concern in it whatsoever, except for the management of it and perhaps the interest that accrues.

There is very good reason why this also should not be included. In recent times we have seen much upheaval in this committee and I think it is well known that it is fairly shaky. Many attempts have already been made in Western Australia to investigate it, and any further attempts could bring down the very structure it is based on here and also in a number of other States. This statement is based on legal opinion. The Fruit Growing Industry Trust Fund Committee is best left alone. Certain individuals have been most active in having this investigated and I see a potential danger to an industry which cannot afford it. I therefore move—

The CHAIRMAN: You cannot move; you cannot go back.

Mr. I. W. Manning: The member for Moore added something to the end.

The CHAIRMAN: The member for Moore added two parties to the schedule.

Mr. REID: If I cannot move it I can ask the Premier to delete it from the schedule.

Mr. J. T. TONKIN: I regret that I cannot accede to this request. Firstly, this is a trust fund, and if there is a legitimate complaint about it which the ombudsman feels he ought to investigate, he should be allowed to do so.

Some members seem to be worried that because an authority or department is included in the schedule, it is going to be investigated. It does not mean anything of the sort. In the first place a complaint in writing is required and then the ombudsman has the right to determine whether a case has been made out and an inquiry is justified. The ombudsman has to report to Parliament, and if he is fully conscious of his responsibilities, he will ensure that a complaint is sufficiently strong to warrant an investigation. He could investigate the trust fund, not only for the purpose of putting something right which may be wrong, but also for the purpose of showing the trust fund is being run properly and is above suspicion. If we put in a provision that a trust fund cannot be investigated irrespective of the strength of the complaint, this will only cast suspicion upon it. I am not prepared to do anything about deleting this from the schedule.

Schedule, as amended, put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

RIGHTS IN WATER AND IRRIGATION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 17th August.

MR. I. W. MANNING (Wellington) [9.56 p.m.]: The Minister for Works introduced this measure on the 17th August. I have been waiting since that day to make some comments on it, so it will be understandable if I make a long and detailed speech after this length of time.

In his explanation the Minister said the Bill is presented to give the Government control of nonartesian water in every part of the State. There is already provision in the Act for this north of the 26th parallel. This was highlighted in 1962 when an amendment was introduced into the Rights in Water and Irrigation Act because of the situation in Carnarvon.

I would have offered the strongest resistance to this Bill in previous circumstances. However, the provisions already in the Act have proved very useful in controlling the water-boring activities of the mining companies north of the 26th parallel, and also in bringing about some rationalisation of underground water supplies in that area. There is now so much mining activity south of the 26th parallel, in the drier areas, that it is understandable that the Public Works Department, which controls that water supply for the State, is interested in gaining control over underground water.

In these circumstances we could not offer opposition to a request of this nature. However clause 4 of the Bill reads as follows:—

> The owner or occupier of land shall, within one month after completing the construction of or the deepening of any nonartesian well on the land, furnish, in the prescribed form, to the Minister or to such other person as the Minister may direct such information in respect of the well as is prescribed.

Under this provision a person who owns a bore or a well anywhere in the State is required to notify the department of any construction or deepening of it.

I think members will readily understand that landholders throughout the length and breadth of the south-west in particular will view this provision as one which is indeed most irksome and an infringement upon their rights to search for water on their own land. Possibly it is desirable that the Government, or the Government departments responsible —that is, the Mines Department and the Public Works Department—should know what underground water is being drawn from the aquifer and this is one means of obtaining that information. However, it is also a fact that at the present time those departments are collating a great deal of information. I understand that someone from one of the departments undertakes an investigation of the books.

of all water-boring contractors to ascertain what bores are put down in what areas, and the result of the drilling.

So, very largely the department must be up to date with all the activity in this regard. There is also a provision in the annual agricultural statistics issued by the Government Statistician requiring landholders to indicate their water supplies. The information sought to be obtained by this amendment could be readily gained from that source, or else an amendment to the statistical sheet could provide for the information to be given by the landholders. That could be done annually.

Provision for prosecution is written into this measure in the case of landholders who fail to comply with these proposals. This is merely another method of bringing about more prosecutions. The Minister also indicated in his speech—and this is contained in the Bill—that he has the authority to exempt certain areas or to proclaim certain areas. I notice that both the member for Dale and the Minister have amendments on the notice paper designed to ensure that any proclamation made under this measure shall be laid on the table of the House before obtaining the force of law. Under those suggested amendments Parliament will be able to debate, area by area, the proclamation of such prescribed areas under the provisions of the Act.

When the Minister replies I would like him to clarify this point because I have some slight conflict in my mind as to just what is to be the procedure: Will the Minister proclaim the State area by area and bring it under the provisions of the Act, or will he exempt the State area by area from the provisions of the Act? I think that needs to be clarified.

In general the desire on the part of the Government to have control of all underground water is a good one in principle. However, it is quite unnecessary to exercise that control in certain areas and, conversely, it is quite necessary to exercise control in those areas mentioned by the Minister in his speech—I refer to the Goldfields areas and the drier areas of the wheatbelt. I repeat that I can see a conflict between the provisions of this Act and the desires of landholders in the South-West Land Division in particular where underground water is readily obtainable. I already have knowledge of a clash of interests between agriculturalists and the department over water boring in the Bunbury area. The department says that the undergound water is required for industry, and the landholders say they desire to tap the aquifer for stock water supplies or for irrigation purposes. So it will be of considerable interest to me to hear what the Minister has to say in this regard.

Also, I would like the Minister to make it clear just which Government department is vitally interested in the recording of data which will be supplied by landholders who are required to furnish information of their boring activities and their well-sinking operations. I would also like to know whether the Minister intends to prosecute landholders who fail to furnish a return within one month of servicing a bore. Farmers frequently have to service bores and clean them out or perhaps deepen them. On farming properties wells in particular have to be cleaned and sometimes deepened, and I would like the Minister to let us know whether he intends to prosecute a landholder who fails to furnish a return in this respect.

I imagine—and I feel sure I would be pretty accurate—that it will take sometime for this message to get through to the landholders. I imagine it will take some time before they realise that they cannot undertake any boring or wellsinking operations without furnishing returns. At this point I offer my qualified support to the measure. I can see some merit in it, but I can also see that it could well come into conflict with many farming communities.

Debate adjourned, on motion by Mr. Harman.

House adjourned at 10.09 p.m.

Legislative Assembly

Friday, the 19th November, 1971

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

BILLS (2): INTRODUCTION AND FIRST READING

1. Land Act Amendment Bill (No. 2).
   Bill introduced, on motion by Mr. H. D. Evans (Minister for Lands), and read a first time.
2. Abattoirs Act Amendment Bill (No. 2).
   Bill introduced, on motion by Mr. H. D. Evans (Minister for Agriculture), and read a first time.

CENSORSHIP OF FILMS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th October.

MR. R. L. YOUNG (Wembley) [11.08 a.m.]: The Bill before us deals with the censorship of films and it has already passed another place unscathed. I think the speeches made in that Chamber indicate the general willingness of members