

the necessary information before talking too much about the matters in question. I was going to have something to say about the suggestion of the member for North-Perth (Mr. Abbott), but I feel that it would be unreasonable at this hour to attempt to deal with his recommendation to the effect that we should establish certain protected industries, take them right away from the Arbitration Court, and give a Minister of the Crown the job of deciding the wages that should be paid and the working conditions that should obtain in those protected industries.

Mr. Wilson: Heaven help the Minister!

The MINISTER FOR LABOUR: Yes, and Heaven help every other factory and workshop in this State after one or two so-called protected factories have been established and set moving. Their wages and their industrial conditions would soon become the standard for every factory and workshop in Western Australia, and everything that has been achieved over the last 30 or 40 years would suddenly be destroyed. There would be no wage-fixing at all. There would be no protection for workers in those industries. The workers would have to negotiate through their bosses with the Minister and get whatever could be given.

Mr. McDonald: Not with you as Minister.

The MINISTER FOR LABOUR: When the member for North Perth said that the workers in such factories should be taken away from the protection of the Arbitration Court, he immediately suggested, in effect, that the standards established by the Arbitration Court were too high and that any Minister charged with this responsibility would have to fix lesser wages and lower standards for men and women working in those suggested factories of his than are now fixed by the Arbitration Court for similar factories and workshops in Western Australia. So I desire to thank hon. members for the suggestions they have made and for the constructive criticism that has been offered, and I undertake to give every possible consideration to those suggestions and to that criticism.

Vote put and passed.

Votes—Factories, £7,650; Arbitration Court, £5,825; State Insurance Office, £5; Council of Industrial Development, £3,760; Child Welfare and Outdoor Relief, £143,150—agreed to.

Progress reported.

House adjourned at 11.2 p.m.

Legislative Council,

Wednesday, 6th November, 1940.

Question: Drought stricken areas, starving stock	1723
Leave of absence	1724
Bills: Lotteries (Control) Act Amendment 18.	1725
Bills of Sale Act Amendment, report	1725
Bush Fires Act Amendment, Com.	1725
City of Perth (Rating Appeals), recom.	1733
Registration of Firms Act Amendment, 2n.	1734
Tramways Purchase Act Amendment, 2n.	1733

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

QUESTION—DROUGHT STRICKEN AREAS, STARVING STOCK.

Hon. A. THOMSON asked the Chief Secretary:—With regard to starving stock: 1, What instructions have been issued to the committee appointed by the Government to deal with this matter, and to receive applications from settlers for transfer of such stock by the Railway Department? 2, As each case is supposed to be dealt with according to its merits, what are the conditions upon which the committee decides each case? 3, What concession, if any, is being made by the Government to owners who are compelled owing to the drought to transfer their starving stock for agistment?

The CHIEF SECRETARY replied:

1, The committee has been instructed to deal with every case on its merits. Application forms for assistance have been supplied to all Agricultural Bank branches and are available at the Department of Agriculture. When the questions thereon have been answered, the committee will be in a position to come to a decision. A copy of the application form is attached thereto. (See Minutes of Legislative Council proceedings, page 116.) 2, Answered by No. 1. 3, The terms under which assistance will be granted were set out by the Hon. Minister for Lands and Agriculture in a statement which appeared in the Press on the 23rd October, and were as follows:—(a) To those farmers who have means or have had good seasons, but are forced into the decision of removing their stock for agistment previously arranged for, consideration will be given to the free return of stock to the property following the agistment period. (b) To those farmers whose position is not good and who have no means,

and also have had a run of bad seasons, the State to consider each case separately, freight to be on a concession basis involving free return to the farmer's property when the season breaks next year. All of these matters will be included in requests for farmers to submit applications for drought relief, forms in connection with which will be available in a few days.

LEAVE OF ABSENCE.

On motion by Hon. J. M. Macfarlane, leave of absence for six consecutive sittings granted to Hon. J. A. Dimmitt on the ground of ill-health.

HON. J. M. DREW (Central) [4.37]: I move—

That leave of absence for six consecutive sittings be granted to Hon. T. Moore (Central) on the ground of private business.

HON. E. H. H. HALL (Central) [4.38]: We frequently hear members commence their speeches with the statement that they do not care to cast a silent vote. I do not care to cast a silent vote on the motion before the Chair. You will remember, Mr. President, that many years ago, shortly after I entered this Chamber, I rose to explain my reason for voting against a similar motion, the object of which was to grant the late Sir Wm. Lathlain leave of absence from this Chamber on the ground of urgent private business. Mine was a lone voice; I received no support. I did not expect it. I endeavoured to express my opinion in a courteous manner. The late Dr. Saw dealt very trenchantly with me for daring to express my views on the motion before the House. This afternoon I shall endeavour, in the few words I have to say, again to couch my language in terms as courteous as possible. I have to ask myself whether I am justified in sitting in my seat and agreeing to something of which I do not approve, or whether I should rise, as I have done this afternoon and as I did on a previous occasion, to state my views. Some weeks after the motion to which I have already referred—that for the purpose of granting leave of absence to the late Sir Wm. Lathlain—a similar motion was submitted for the purpose of granting leave of absence to the late Mr. Hector Stewart. I voted

against that motion. Therefore, as Sir Wm. Lathlain was a Nationalist and Mr. Stewart was a member of the Country Party, it could not be said that I was actuated on that occasion by any party motive. Neither am I this afternoon. My opinion has not changed. I have not taken the trouble to look up the Standing Orders, but you, Mr. President, will correct me if I am wrong when I say that the rules of the House permit hon. members to absent themselves from the Chamber for six consecutive sittings without asking leave of anybody. If an hon. member has availed himself of that concession and desires further leave, a motion similar to that now before the Chair must be submitted. On the former occasion on which I drew attention to this matter, I said that if ever the time came when I wished such a motion to be moved on my behalf, I hoped I would have principle enough not to draw money for duties I was not performing. The late Mr. Lovekin, who was sitting just in front of me, waved his finger at me and said, "The hon. member had better be careful or he will be hoist with his own petard." I have not taken the trouble to refer to "Hansard." I did not need to, because I was amazed at the treatment I received from members of such standing as those who sat in the House at that time. I was amazed at the treatment I received for daring courteously to object to a procedure of which I did not approve. I have held the same views ever since and, holding those views, I would be a coward if I allowed this occasion to pass without again having the courage to rise and express my opinion, no matter what may be the result. I am making no personal attack. I have never done so since I have been in the House, but I have had and hope I always will have the courage to say what I think.

The motion asks for leave of absence for an hon. member on the ground of private business. That hon. member, according to the records, has absented himself from the Chamber on 23 out of the 33 sittings which have been held this session. I have been told that I am frequently absent, and that is perfectly true. But I can look you, Sir, or any fellow member or any of my constituents in the face and say without fear of authoritative contradiction that I have never been absent from the Chamber on my own private business. No country shows have been held this year on sitting days with the

exception of that at Carnamah which I attended, and that was held during a week in which the House was not sitting. I find no fault with members who are absent from Parliament in order to visit the people they represent, but for an hon. member to absent himself for 23 occasions out of 33 on private business is wrong. We are frequently reminded by people whom we meet that the business of Parliament is a sideline. If this kind of practice is permitted to continue there will be some justification for that remark.

On the previous occasion on which I referred to this matter it was said that never before had exception been taken to granting leave of absence to a member to allow him to attend to private business. As I have already said, I am entitled to state my views, and I am doing so this afternoon. I make no personal attack, but am dealing with the matter from the public point of view. I have no doubt that I shall not receive any support, but that does not worry me in the slightest. As I have frequently said, every hon. member must please himself what he believes. He has the right to do so. I accord other hon. members that right and in return ask them to grant me the same privilege. Previously I was told that this was a matter between a member and his constituents. I do not agree with that contention. An hon. member's constituents certainly have an opportunity to deal with him when he appears before them, but the constituents of Mr. Moore's province are not asked to agree to this motion. Members of this House are asked to do that; but if one feels that he cannot conscientiously agree to a motion such as this, I want to know whether he is not justified in stating his objection. I oppose the motion.

Question put and passed.

BILL—LOTTERIES (CONTROL) ACT AMENDMENT.

Introduced by the Chief Secretary, and read a first time.

BILL—BILLS OF SALE ACT. AMENDMENT.

Report of Committee adopted.

BILL—BUSH FIRES ACT AMENDMENT.

In Committee.

Resumed from the previous day; Hon. J. Cornell in the Chair; the Honorary Minister in charge of the Bill.

Clauses 2 to 4—agreed to.

Clause 5—Amendment of Section 7:

Hon. L. CRAIG: As this clause reads, anyone who wishes to burn off at any other time than between the 31st May and the 1st October must obtain permission to do so. That is unreasonable, at any rate, as applied to the South-West. In that part of the State, May is definitely a wet month, and yet permission would have to be sought before any attempt to burn off was made. I move an amendment—

That the words "thirty-first day of May" be struck out and "thirtieth day of April" inserted in lieu.

Hon. W. J. MANN: I support the amendment. In the greater part of the South-West it is practically impossible, even in April, to start a bush fire. Copious rains frequently fall about that time of year. Indeed, I have known practically ten inches of rain to fall in May.

The Chief Secretary: How much rain fell last May?

Hon. W. J. MANN: Sufficient rain has fallen to give us a good carry-over, and the crop of meadow hay will be better than was expected.

The HONORARY MINISTER: Members have overlooked the point that in a fire-protected area the Act already provides that a permit must be obtained before a fire can be started at any time.

Hon. W. J. Mann: There are only two fire-protected areas in the State.

The HONORARY MINISTER: This clause was framed after careful thought, experiment, and experience of the existing provisions of the Act. It will be a benefit rather than a hindrance to those concerned.

Hon. G. B. WOOD: The amendment moved by Mr. Craig will merely restore the clause to what it was when originally dealt with in another place. An amendment which provides for the 31st May was moved in another place and accepted by the Minister for Lands.

The CHAIRMAN: It is contrary to the Standing Orders for members to refer to the debates in another place during the current session.

Hon. G. B. WOOD: The amendment is desirable, and will restore the clause to its original state.

Hon. H. TUCKEY: I drew attention to this clause when speaking on the second reading, and therefore support the amendment. In the South-West difficulty is experienced in starting a bush fire even in March. There should be no necessity for people to obtain a permit at that period of the year every time they wish to burn their scrub.

Amendment put and passed; the clause as amended agreed to.

Clause 6—Amendment of Section 9:

Hon. G. B. WOOD: I move an amendment—

That in line 5 of subparagraph (ii) of proposed new subsection 2 the word "ten" be struck out, and "six" inserted in lieu.

The provision for two fire-breaks of not less than ten feet in width is altogether too drastic, and wholly unnecessary. Ample protection would be afforded by a break of six feet. I know of breaks that are merely the width of a 4-furrow plough.

Hon. H. TUCKEY: Much narrower fire-breaks are sufficient. We do not go in for wide breaks in the South-West, though in the wheat belt they are wider.

Hon. L. CRAIG: It is unreasonable to expect, especially in the smaller areas, two 6 ft. breaks with a chain of grass in between; six feet is ample.

Amendment put and passed; the clause, as amended, agreed to.

Clause 7—Amendment of Section 10:

Hon. W. J. MANN: I fail to understand the meaning of paragraph (d), which reads "by adding to subsection (1) after paragraph (d) a paragraph as follows:—'the fire is lighted on a day other than Sunday.'" I cannot connect that up with the Act and though I know what it means, it does not appear to make sense.

The HONORARY MINISTER: This is an additional provision to provide that on a Sunday no burning shall take place between the 1st October and the 31st May.

Hon. W. J. MANN: Perhaps the Minister will have this looked into and it can be cleared up on recommitment.

The HONORARY MINISTER: Very well.

Hon. A. THOMSON: I move an amendment:—

That paragraph (e) be struck out and the following inserted in lieu:—(e) By deleting subsection (3) and substituting the following:—

(3) No person shall be liable for any actionable damage sustained by any other person in consequence for any burning operation or for payment to any local authority or the Forest Department of the amount of any expenses incurred by it in preventing the extension of the fire started by such person in case it escapes from the land of such person if such person shall have complied with the conditions prescribed in subsection (1) of this section and shall not have been negligent in carrying out any such burning operation.

The Bill appears to me to be placing a great responsibility on a man who is law-abiding, a man who has complied with every condition laid down in the Act and who is held responsible if a sudden violent puff of wind carries a blaze 200 yards into an adjoining field. It is only fair to say that the person who has complied with every provision set out in the Act, and has done everything possible to prevent the spread of a fire, should not be held responsible. I hope the Committee will agree to delete the paragraph and substitute that which I have read.

The CHAIRMAN: The amendment moved by Mr. Thomson is not strictly in accordance with the Standing Orders. I suggest that he should first move to strike out paragraph (e).

Hon. A. THOMSON: I am sorry I have transgressed the Standing Orders. I shall withdraw my amendment as I submitted it to the Committee and then move to strike out the paragraph.

Amendment by leave withdrawn.

Hon. A. THOMSON: I move an amendment—

That paragraph (e) be struck out.

The HONORARY MINISTER: The paragraph is vital and I strongly oppose its deletion, particularly as it seeks to amend Subsection 3 of the Act. Does the hon. member consider it reasonable that the Government should bear the expense that would be entailed by allowing a labourer in the employment of the Forests

Department to assist in fighting a bush fire? Surely the Government is entitled to be paid reasonable expenses.

Hon. L. CRAIG: To protect State forests?

The HONORARY MINISTER: A person who was the cause of the fire might, if the amendment is agreed to, escape scot free. I have received the following opinion from the Solicitor-General on the matter—

Subsection (3) of Section 10 of the principal Act as it stands at present does not create any new law, but is merely a saving provision which makes it clear that the fundamental principle of law which was established by the decision in the case of *Fletcher v. Rylands* given in 1866 and which is still followed shall not be affected by the principal Act.

The decision in the case of *Fletcher v. Rylands* was that where one person for his own purposes brings upon his land and collects and keeps there anything likely to do mischief if it escapes, such person is *prima facie* answerable for all the damage which is the natural consequence of its escape.

In that case the defendants with every care and without any negligence whatever constructed a reservoir on their own land. Unknown to the defendants the reservoir was constructed above some old underground mine workings, and when the reservoir was filled with water, the water broke through into the said mine workings and, travelling through the same, damaged the plaintiff's land. The court held that the defendants were liable to compensate the plaintiff, although the defendant had not been guilty of any negligence or other wrongful act.

Under the law as it stands today, having regard to the said decision, if a man starts a fire on his own land for his own purposes, he does so at his own risk, and if it escapes he will be liable for any damage resulting from its escape, even though he had not been negligent.

Subsection (3) of Section 10 in its present form merely preserves that law. The amendment of that Subsection (3), as proposed in Clause 7 (e) of the Bill, is intended to extend the saving operation of the subsection so as to cover expenses which a local authority or the Forests Department may necessarily have to incur in order to prevent that extension of a fire which a farmer has started on his land, but which has escaped.

The proposed amendment will not operate so as to give the local authority or the Forests Department a right to payment of the said expenses, but it will operate so as to make it clear that if the local authority or the Forests Department had a right to such payments at common law, then they will not be deprived of such right by anything contained in the Bush Fires Act.

The amendment proposed by Mr. Thomson is directly intended to put an end to the existing law and to create, for the benefit of one

section of the community only, a new law which is directly hostile to the existing, long-established principle of law.

If Mr. Thomson's amendment is passed, the effect will be that when one farmer starts a fire on his land and it escapes, other farmers and owners of property will be deprived of their right to compensation for damage caused to their property. That is to say, the law will be protecting the farmer who lights the fire at the expense of other property owners.

Hon. G. W. Miles: So that is the law as it stands to-day?

The HONORARY MINISTER: Yes.

Hon. H. Tuekey: Suppose the farmer is not responsible for starting a fire?

The HONORARY MINISTER: That does not enter into the matter. The clause deals with a farmer who takes all necessary precautions and obeys the law, but nevertheless the fire escapes.

Hon. G. FRASER: I am not clear what the amendment means. Suppose a person who started a fire took all necessary precautions, but the fire escaped, is he to be absolved from all liability for any damage that might be caused? If that is so, it would appear that everybody else who suffers damage will be at a loss, while the man who started the fire will go scot free.

Hon. H. Tuekey: Probably he would be the first to be burnt out.

Hon. G. FRASER: Yes, but if he took the necessary precautions no claim could be made against him.

Hon. H. L. ROCHE: I support the amendment and would like the Committee to consider this aspect: A farmer who takes all necessary precautions is not likely to allow a fire to escape. If he takes such precautions, then we should not adopt the attitude suggested by the Honorary Minister. We can carry stringency too far in this matter and by doing so make it impossible for many people to burn; or there may be many unaccountable fires.

Hon. A. Thomson: That is the danger.

Hon. H. L. ROCHE: The man who complies with the letter of the law and does everything to protect his neighbours, and incidentally himself as well, will be put up and shot at. I speak from actual experience of fires and contend that no person can definitely say that a day will be ideal for burning. It may appear to be so, but a willy-willy might take a fire 10 to 15 chains away. That would appear to be an act of

God, but the man who was foolish enough to advise his neighbours that he intended to burn, and who also had witnesses in attendance, would possibly be liable to considerable claims for damages. My personal view is that no man should have a claim for damage by a fire out of control unless he himself has adequate fire breaks and has taken all reasonable precautions. Some farmers do not wish to burn or have done most of their burning. They do not trouble to protect their properties and even object to neighbours' burning. Voluntary effort must remain the basis of all fire-fighting in the rural areas, but if we are not careful, the plant of local authorities and the fire-fighting teams will be dragged all around the country to attend to fires. When difficulties arise there is a tendency for settlers to ask what the road board is doing. The amendment might not appeal to officials who desire letter-of-the-law control, but if we try to reach that stage, I am afraid we shall not be successful.

Hon. C. F. BAXTER: At first I was inclined to favour the amendment, but I can now see that it would not be satisfactory. There are persons worthy of consideration other than the one who starts a fire. If a fire escapes from one property, why should not neighbours receive compensation for the damage done and for the protective measures they have to take? The amendment contains the words "has not been negligent in carrying out such burning operations." How could negligence be proved in a court?

Hon. G. B. WOOD: I oppose the amendment, which might prove dangerous. If a man had a crop of high grass and a neighbour wished to burn, even though all the requirements of the Act had been complied with, the fire might break away. If the concurrence of the person who sustained the damage had to be obtained, the amendment might be satisfactory, but to get that concurrence would be impossible.

Hon. H. L. ROCHE: A fire control officer would have to give permission for the fire to be lighted. Some protection must be afforded the man who is complying with the Act; otherwise it will be impossible to conduct ordinary burning-off operations.

Hon. G. B. WOOD: Two days' notice must be given to a fire control officer before a fire is lighted, but no provision is made for his permission being obtained.

Hon. L. CRAIG: Unless a settler receives some protection, he is not likely to comply with the Act. The amendment, however, strikes fundamentally at our laws in that it would relieve a man of responsibility for damage done to a neighbour's property. Under certain conditions it should be possible to exempt a person who has complied with the Act. People will not obey the law unless they are encouraged to do so. If a whirlwind came and carried a spark to another property, the settler who started the fire would be liable.

Hon. H. L. ROCHE: Even if the neighbour had been negligent.

Hon. L. CRAIG: Yes, by not providing fire breaks. Some people are mean enough to await opportunities to sue a neighbour. Unless we get further information I cannot agree to the amendment, but we should be able to devise means of protecting a man who complies with the law. Otherwise there would be many fires of unaccountable origin.

The Honorary Minister: It is a dangerous matter to handle.

Hon. L. CRAIG: Admittedly, but it could be handled.

Hon. A. THOMSON: The Act provides far-reaching and elaborate safeguards. I want the Committee to realise the conditions under the Act. The Honorary Minister asked, why should people be put to the expense of fighting fires. If a fire got away from a forest reserve, would the Crown be liable? In the case of farmers burnt out by the Railway Department, it has been extremely difficult to obtain compensation. The average farmer, moreover, is not in a position to take a Government department through the various courts. The object of the clause is to ensure that if local authorities and the Forests Department are put to any expense, they shall be entitled to compensation. The interests of authorities are to be conserved in every case, but the individual is not to be entitled to any protection. A farmer complies with every provision of the law, and then, through no fault of his, through what might be termed an act of God, his fire suddenly gets away; and he is to be liable for all damage caused thereby. The Minister says that if the farmer is on the Agricultural Bank, of course nothing can be got from him. However, a

farmer who has an equity in his land would be fair game. I prefer to retain Subsection (3) of Section 10 of the Act.

Hon. H. L. ROCHE: Would the Honorary Minister be prepared to postpone consideration of this clause with a view to some alternative being discovered?

The HONORARY MINISTER: There is no alternative to paragraph (e).

Hon. J. Nicholson: The Committee need not adopt paragraph (e).

The HONORARY MINISTER: Paragraph (e) places part of the community in a favoured position. Mr. Thomson might withdraw his amendment.

Hon. V. HAMERSLEY: There is a danger in the measure, insofar as it tries to compensate the Forests Department and local authorities for assisting to put out bush fires. There is a risk of money being made out of bush fires. In all country districts known to me everyone goes in to lend a helping hand, seeing that it might be his turn next year, and somebody else's turn the year after, to suffer from a fire. Some men go for the sake of the beer that is provided, and I have known cases where on the next day, because of the beer, an adjoining place has been burnt. In the good old days I have known a place to be deliberately set on fire because there was unemployment, those responsible reasoning that people with properties could well afford to put up new fencing. In those days nobody was paid to come along and help put out a fire. What the Bill proposes will grow like a bottle of yeast, and there will be more fires in the country than would otherwise occur. If everyone ploughed the boundaries of his paddocks, the effect would be to minimise a fire when started. I would prefer Section 10 of the Act as it stands to this amendment.

Hon. Sir HAL COLEBATCH: Mr. Thomson's arguments seem to establish a case for the initiation of some form of third-party insurance, which I do not think would be impossible as the matter stands. "A" starts a fire, and "B's" place is burnt down. Obviously, someone has to suffer the loss. It seems much more just that "A" who started the fire should suffer the loss, than "B" who has had nothing to do with it.

Hon. J. Nicholson: That is the law.

Hon. H. TUCKEY: We have heard much about the liability of the farmer. The Forests Department's policy is to lock up the

forests, as it does not like to see a fire at any time. The result is that stretches of forest are not burnt for years; and when a fire does start in such a stretch, it may burn out several farms. This matter is highly important. The Bill should treat everyone alike; there should be nothing one-sided.

The Honorary Minister: That is the legal position.

Hon. H. TUCKEY: I would prefer that the law should remain as it is.

The HONORARY MINISTER: I think members have argued the position on a wrong basis. The object is merely to retain the rights at common law of local governing authorities and the Forests Department. The clause is intended to extend the saving operation of Subsection (3) of Section 10 so as to cover expenses that a local authority or the Forests Department may necessarily incur in order to prevent the extension of a fire which a farmer started on his holding. The Crown Solicitor advises that the amendment embodied in the Bill will not operate so as to give the local authority or the department a right to payment for such expenses, but so as to make it clear that if the local authority or the department has a right to such payments at common law, they will not be deprived of that right because of anything embodied in the Bush Fires Act. The amendment originally proposed by Mr. Thomson was intended to put an end to the existing law and substitute one directly hostile to the existing long-established principle of law.

The CHAIRMAN: At any rate, that amendment has been withdrawn.

Hon. L. CRAIG: All Mr. Thomson seeks to do is to put things in the position in which they were in the past. The effect will be to place local authorities and the Forests Department on the same basis as ordinary people. Should a fire get out of control and the local authority or the department render assistance in subduing the fire, they will be on the same footing as ordinary people with regard to any expense to which they have been put. That is merely reasonable.

Hon. G. B. WOOD: I hope the Committee will delete the paragraph, which I regard as iniquitous. It must have emanated from the Forests Department for no local authority would advance such a proposition.

Amendment put and passed; the clause, as amended, agreed to.

Clause 8—New section, Precautions to be taken with regard to motor vehicles equipped with producer gas apparatus:

Hon. L. CRAIG: It would be advisable to make the dates consistent and provide for the 30th April and the 1st October throughout. If it is dangerous to pull coal out of a gas producer, it must be equally dangerous to light a fire. I move an amendment—

That in lines 2 and 3 of proposed new Sub-section 2 the words "thirty-first day of May" be struck out and the words "thirtieth day of April" inserted in lieu.

Amendment put and passed; the clause, as amended, agreed to.

Clause 9—Amendment of Section 11:

The CHAIRMAN: Unless any exception is taken to that course, a consequential amendment will be made by deleting the words "thirty-first day of May" and inserting "thirtieth day of April" in lieu.

Clause, as consequentially amended, agreed to.

Clause 10—Amendment of Section 12, Sale and use of certain kinds of matches may be prohibited:

Hon. G. B. WOOD: I move an amendment—

That in lines 3 to 5 of proposed new Sub-section 1 the words "with self-igniting heads and of other matches which have wax-coated or grease-coated cotton stems" be struck out, and the words "other than safety matches" inserted in lieu.

The HONORARY MINISTER: This is rather important. What is a wax match? The definition embodied in this legislation has been arrived at after consultation with the Government Analyst. If the amendment be agreed to, it may result in dangerous matches being used, although they may not be wax matches.

Hon. W. J. Mann: But the amendment clarifies the position, seeing that it deals with all matches other than safety matches.

The HONORARY MINISTER: I oppose the amendment. I consider the provision in the Bill will prove more effective.

Hon. G. B. WOOD: The object of my amendment is to prohibit the use of matches of any kind, which are not safety matches. I will move a further amendment, the object of which will be to pro-

vide a definition of "safety match." Some wooden matches are just as dangerous as wax matches.

Sitting suspended from 6.15 to 7.30 p.m.

The HONORARY MINISTER: The department's opinion is that the amendment does not cover the provision as effectively as does the clause.

Hon. G. B. WOOD: I cannot agree with the Honorary Minister. The amendment exempts every match except the ordinary safety match.

Hon. L. Craig: What is a self-igniting head?

Hon. G. B. WOOD: That is the point. It is very hard to say. My amendment exempts all matches and allows the use only of safety matches. I would point out to members representing the North-West Province that this would not apply to that district which the Government would first have to proclaim a prohibited area.

The Honorary Minister: What about matches that are sold as, but really are not safety matches?

Hon. G. B. WOOD: My definition of a safety match overcomes that difficulty.

Hon. J. NICHOLSON: The definition in the Bill is not entirely satisfactory. In these days of invention, types of matches other than those specified may be produced and I suggest that we might include in the definition words to the effect that the term "safety match" means such matches as are approved by the Minister. If some control were left in the hands of departmental officers, the position would be safeguarded.

The HONORARY MINISTER: The position is that since the Act was proclaimed, imitation safety matches have been put on the market to evade the Act and the amendment was designed to prevent their use.

Hon. G. B. WOOD: I consider that the further amendment I propose to move overcomes the difficulty mentioned by the Minister. My proposal is to have a new sub-section inserted defining safety matches as being those which can be ignited only on a surface on which is red phosphorous or on a specially prepared surface.

The CHAIRMAN: I understand that Mr. Wood's second amendment will not be necessary if his first is not agreed to.

Hon. G. B. WOOD: That is so, but I thought that it would clarify the position if I intimated what I propose to move.

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

Ayes	..	..	..	..	6
Noes	..	..	..	..	14
					—
Majority against	..	..	..	..	8
					—

AYES.

Hon. C. F. Baxter	Hon. A. Thomson
Hon. V. Hamersley	Hon. G. B. Wood
Hon. H. L. Roche	Hon. E. H. H. Hall
(Teller.)	

NOES.

Hon. L. B. Bolton	Hon. J. J. Holmes
Hon. Sir Hal Colebatch	Hon. W. H. Kitchin
Hon. L. Craig	Hon. W. J. Mann
Hon. J. M. Drew	Hon. G. W. Miles
Hon. G. Fraser	Hon. J. Nicholson
Hon. E. H. Gray	Hon. H. S. W. Parker
Hon. W. R. Hall	Hon. E. M. Heenan
(Teller.)	

Amendment thus negatived.

Clause put and passed.

Clause 11—Amendment of Section 14:

The CHAIRMAN: This clause will be consequently amended in that the words "the 31st day of May" will be altered to read "the 30th day of April."

Hon. W. J. MANN: I move an amendment:—

That in lines 1 and 2 of paragraph (b) the words "garden or" be struck out.

It is not essential that every one in the State should have to burn a small quantity of garden rubbish in an iron or brick container. To insist upon that would be to carry this legislation too far.

The HONORARY MINISTER: This provision will be a blessing to people in the metropolitan area. Few things are more annoying than to have one's home permeated with smoke from an adjoining property. Small orchardists and other people should be just as careful as farmers are expected to be with regard to the lighting of fires. This particular paragraph has been asked for by the department.

The CHAIRMAN: I am inclined to think that the clause itself is foreign to the title of the Bill, which deals only with bush fires.

Hon. H. S. W. PARKER: This clause will put an end to Guy Fawkes celebrations. If this clause is passed children will not

be allowed to light bonfires in the future. No one will be permitted to burn rubbish anywhere in the metropolitan area during the prohibited period.

The Honorary Minister: If the honourable member will read the clause he will find it applies only to prohibited areas.

Hon. H. S. W. PARKER: Few of my constituents own properties large enough to provide an open space 40 feet wide in which to light a fire. It would be unreasonable to enforce such a provision in the metropolitan area.

Hon. C. F. BAXTER: Many fires are started in country towns through the carelessness of people when burning rubbish in their gardens. Section 7 of the Act states that the Governor may, by notice, define any portion of the State as a fire-protected area, but that would not affect Guy Fawkes celebrations in the metropolitan area.

Hon. W. J. MANN: The only two fire-protected areas I know of are at Mundaring and Collie.

Hon. H. S. W. PARKER: Does the Act itself apply only to fire-protected areas or to the whole State? If the former is the case, in what portion of the Act is that laid down?

The HONORARY MINISTER: The Act applies only to certain zones. I do not know that the metropolitan area is brought into it in any way.

Hon. G. W. WOOD: I support the amendment. Further on in the Bill provision is made for the burning of the carcase of a horse, but that does not provide that this shall be done in a brick or iron container. Why should not similar freedom be accorded to those who wish to burn the rubbish in their gardens?

The HONORARY MINISTER: In country towns and the outskirts thereof there is always a danger that general fires will be started through rubbish being burned under conditions that are unsafe.

Hon. L. CRAIG: The only words in the paragraph to which I object are those providing "unless such fire is lighted and kept within a brick or iron container." To-day the practice is growing to prune in summer, in which case the prunings must be burnt up. As a rule they are burnt in a container or on ploughed orchard ground. There is no chance of a fire escaping from an orchard in summer because the orchard is all cultivated and there is no grass. If "container"

could be eliminated, the clause would not be objectionable. People then would be able to burn their prunings in the orchard.

Hon. H. S. W. PARKER: The Bill will apply to the whole State. The clause is dangerous and I do not think it was intended to mean what I believe it really does mean.

Hon. A. THOMSON: Mr. Craig's suggestion will overcome the whole difficulty. He proposes to strike out the words relating to the brick or iron container.

The HONORARY MINISTER: Members will realise the danger that would exist in places like Collie or Donnybrook from people lighting fires in backyards.

Hon. L. CRAIG: They are not fools.

The CHAIRMAN: Does Mr. Mann insist on his amendment?

Hon. W. J. MANN: No; with the permission of the Committee, I withdraw it.

Amendment, by leave, withdrawn.

Hon. L. CRAIG: I move an amendment—

That in lines 7 and 8 of paragraph (b) the words "such fire is lighted and kept within a brick or iron container" be struck out.

Hon. J. J. HOLMES: The words the hon. member proposes to strike out are really the safety valve of the clause. How will people in the metropolitan area get rid of their rubbish? The containers, which are really oil drums, are supplied by the City Council at a cost of 5s., and the rubbish in them is burnt without any trouble. If the use of containers is to be prohibited, will people have to throw their rubbish about the backyard?

Amendment put and negatived.

Hon. H. S. W. PARKER: I move an amendment—

That in line 8 of paragraph (b) all the words after "container" be struck out.

The words I propose to strike out are those referring to the ground around the container having a radius of at least 20ft. from the container as the centre has been previously cleared of all stubble, scrub, branch wood and other inflammable material. I am speaking about the conditions around the city and suburbs. If we leave in the words I propose to strike out, the only place in which we can light a fire will be in a right-of-way between two houses. There will be no scrub within 20ft. of the containers.

Hon. A. THOMSON: From the bush we have now come to backyards. The debate to me is really amazing. There is no intention to apply this measure to the metropolitan area.

Hon. H. S. W. PARKER: It does apply to the metropolitan area.

Hon. A. THOMSON: We do not look upon it as being necessary to bring the metropolitan area under the Bush Fires Act.

Hon. H. S. W. PARKER: Of course you do.

Hon. A. THOMSON: Have we not fire brigades within a few minutes of every part of the metropolitan area? There is no provision in the Bill for bringing in the fire brigades. We are really going from the sublime to the ridiculous. Let us exercise a little commonsense, and apply it to the Bill.

Hon. E. M. HEENAN: I think I can see a way out of the trouble into which we have landed ourselves, and that is to substitute "ten feet" for the "twenty feet" mentioned in the paragraph.

Hon. G. B. WOOD: I consider that we have messed up the clause. Mr. Mann set out to improve it, and I supported him. He desired to exempt orchards.

Members: Gardens, not orchards!

Hon. G. B. WOOD: Now we have got away completely from the point. I am sorry that Mr. Mann withdrew his amendment. I agree with the Minister that a person should use a container in a small yard, but I cannot go so far as to say that an orchardist should be required to provide a container, because he is protected by his cultivable land.

The HONORARY MINISTER: The metropolitan area is gazetted under the Act.

Hon. H. S. W. PARKER: That is not so.

The HONORARY MINISTER: The Committee would be well advised to leave the provision as it stands.

Hon. H. S. W. PARKER: The Committee would be well advised to postpone consideration of this clause. The Governor has no power to exempt or to include the metropolitan area. This trouble has arisen because an attempt is made to deal by this Bill with fires that may occur in the metropolitan area, whereas the measure is designed to deal with bush fires. If the amendment is agreed to, every householder in the metropolitan area will become liable to a penalty for lighting a fire. I agree that many should suffer a penalty for the smoke they create. If the amendment is carried,

there will be many prosecutions out of spite. I am of opinion that the subclause should be struck out.

Amendment put and negatived.

Hon. E. M. HEENAN: I move an amendment—

That in line 9 of paragraph (b) the word "twenty" be struck out and the word "ten" inserted in lieu.

The CHAIRMAN: The hon. member may not move that amendment, because the paragraph has been agreed to.

Hon. J. NICHOLSON: It would be well to add the following words to paragraph (b):—"Provided that nothing in this subclause contained shall apply to the metropolitan area or to the metropolitan-suburban area."

The Honorary Minister: That would apply to Armadale and Kalamunda.

Hon. J. J. Holmes: A source of danger from fire to-day is King's Park.

Hon. J. NICHOLSON: As Mr. Parker has pointed out, the paragraph refers to the State as a whole. Unless some distinction is made between town lands and bush lands, there is likely to be confusion and many people may be subjected to penalties it is not intended they should incur.

Hon. J. J. Holmes: Is the hon. member on the King's Park Board?

Hon. J. NICHOLSON: Yes. I am glad the hon. member has referred to that board. The men actually controlling the park have formed fire-fighting gangs. They have also, under the supervision of Mr. Kessell, the Conservator of Forests—who also is a member of the board—made suitable fire-breaks.

The CHAIRMAN: Nevertheless, the clause would apply to the King's Park Board.

Hon. J. NICHOLSON: That is so. We ought not to cover by this measure people owning small blocks of land who at times find it necessary to destroy garden refuse.

On motion by the Honorary Minister, further consideration of the clause postponed.

Clause 12—agreed to.

Clause 13—Amendment of Section 17:

Hon. G. B. WOOD: I move an amendment—

That in lines 7 and 8 of proposed Subsection 9 the words "shall be ascertained and

fixed by the Minister" be struck out and the following inserted in lieu:—"and may be recovered by the Minister in a court of law."

The CHAIRMAN: That is not the amendment of which the hon. member gave notice.

Hon. G. B. WOOD: The proposed subsection would enable the Minister to assess the damage done. He would be the assessor, judge and receiver.

The HONORARY MINISTER: The costs referred to would have been incurred because either the local authority or the owner of the land had failed to carry out certain requirements which the Minister rightly and lawfully called for. The defaulter would not be entitled to any particular consideration. The Minister would be unlikely to give an incorrect certificate, and the need to prove the actual costs and expenses in the court would increase legal costs and difficulties. In any event, the clause merely gives to the Minister the power that local authorities possess under Subsection 4 of Section 17, whereby a certificate signed by the mayor or chairman is conclusive evidence of the amount of any costs or expenses incurred by the local authority's officers. The hon. member would be wise to withdraw the amendment.

Hon. A. THOMSON: As paragraph (e) of Clause 7 has been struck out, only portion of the subclause might be required. I suggest that further consideration of the clause be postponed.

Hon. G. B. Wood: I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

On motion by Hon. A. Thomson, further consideration of clause postponed.

Clauses 14 to 18—agreed to.

Progress reported.

BILL—CITY OF PERTH (RATING APPEALS).

Recommittal.

On motion by Hon. C. F. Baxter, Bill recommitted for the further consideration of Clauses 3, 5 and 7.

In Committee.

Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

Clause 3—Sections 401 to 404 of Municipal Corporations Act not to apply to City of Perth:

Hon. J. NICHOLSON: I move an amendment—

That in line 2 the word "both" be struck out.

Amendment put and passed; the clause, as amended, agreed to.

Clause 5—Constitution of board:

Hon. C. F. BAXTER: Yesterday I withdrew an amendment of which I had given notice. I move an amendment—

That after the word "practices" in line 3 of Subclause 4 the words "and recommended by the institute" be inserted.

The Minister should get a recommendation from the Commonwealth Institute of Valuers and the public would then know that the member so recommended was the right man for the position. The retention of the latter part of the subclause providing for a representative of the ratepayers nominated by the Minister renders the amendment the more necessary.

The CHIEF SECRETARY: There is no need for the amendment. I do not think the institute would admit that any of its members was not a fit and proper person for the position. In making appointments of this kind, the Minister would fortify himself with all possible information regarding the qualifications of the person to be appointed. I am thinking of the interpretation that might be put upon the amendment.

Hon. L. Craig: I do not think there is anything behind it.

Hon. J. J. Holmes: It does not follow that the Minister must accept the recommendation.

The CHIEF SECRETARY: If I was not satisfied with a recommendation, I would seek a further one.

Hon. J. J. Holmes: That is why we provided for the chairman to be "recommended" instead of "nominated."

Hon. C. F. BAXTER: The amendment will strengthen the hands of the Minister. Departmental officers would not be in as good a position as the institute to say whether a man was suitable for the position. The institute would know its members and their limitations.

Amendment put and passed; the clause, as amended, agreed to.

Clause 7—Powers of board:

Hon. C. F. BAXTER: I repeat my contention that the words in paragraph (b)

empowering the board to determine appeals in relation to "the amount of any rate assessed in respect of any rateable land" are unnecessary. The rate is assessed by the council and from it there can be no appeal. An appeal can be made only against the valuation. To retain the paragraph is only cumbering the Bill with meaningless words.

Clause put and passed.

Bill again reported with further amendments.

BILL—REGISTRATION OF FIRMS ACT AMENDMENT.

Second Reading.

THE HONORARY MINISTER (Hon. E. H. Gray—West) [8.47] in moving the second reading said: This Bill proposes to prohibit the use and registration of a firm name where such name contains certain words such as "Commonwealth," "State," "Crown," "Empire," "Royal," and so on, without the consent of the Governor. In its present form the proposed new section to be inserted in the principal Act will impose such prohibition not only upon future applications for registration but also upon the continued use of firm names already in existence where the words in question form part of the name.

This matter was brought to the notice of the Crown Law Department in 1939 by correspondence addressed to the Premier of the State by the Prime Minister, which reads as follows:—

I desire to inform you that applications have from time to time been made by companies, on their registration under State law, for permission to include the word "Commonwealth" in their registered names. These applications have been directed to the State authorities who have, before taking action, obtained an expression of the views of the Commonwealth in the matter.

The Commonwealth objects to the registration of companies which apply for registration under a name which includes the word "Commonwealth" as it is considered that the inclusion of the word as part of the name of a company is calculated to suggest connexion with the Government of the Commonwealth.

I would point out that the Companies Act, 1893, of Western Australia, as amended, has no specific provision which prevents a company being registered under a name which includes the word "Commonwealth." The Companies Act, 1938, of Victoria, on the other hand, prohibits the use of the word in the name of a company without the consent of the

Governor in Council. The relevant provision is portion of Subsection (2) of Section 17 of the Act which is as follows:—

17. (2) (a) Except with the consent of the Governor in Council signified by Order published in the "Government Gazette" no company shall be registered by a name which—

(i) includes the word "Royal" or the word "King" or the word "Queen" or the word "Crown" or the word "Empire" or the word "Imperial" or the word "Commonwealth" or the word "State" or in the opinion of the Registrar-General suggests or is calculated to suggest the patronage of His Majesty or any member of the Royal Family or Government support or patronage.

Section 353 of the Act extends and applies this provision to companies and societies formed or incorporated outside Victoria which are required, in accordance with Division 12 of Part (1) of the Act, to file certain documents and particulars with the Registrar-General of Companies.

It would be appreciated if your Government would consider the question of amending the Companies Act, 1897, of Western Australia, as amended, on the lines of sections 17 (2) and 353 of the Companies Act, 1938, of Victoria, in order that the Registrar of Companies may have power in future to refuse the registration of companies the names of which include the word "Commonwealth."

Recently objection has been raised within this State by a Government department to the use by certain furniture merchants of the name "The State Furniture Company" as leading to a belief on the part of members of the public that the State Furniture Company is a State trading concern. Also fear was expressed by the State Government Insurance Office that confusion might be created if a private concern commenced to carry on insurance business under the name "The State Insurance Company." Under the Registration of Firms Act 1897, any person carrying on business for himself may register a trade name in relation to his business. For instance, a restaurant proprietor may carry on his business under the name of "The State Café." A picture theatre proprietor now carries on his business as "The State Theatre."

The Bill, therefore, seeks to give effect to the Prime Minister's reasonable request and to satisfy certain misgivings in regard to registrations which may be calculated to deceive. In the first instance, the principal object in introducing the Bill was to prohibit the use of the words "Commonwealth"

and "State" in firm names. Certain other words have been included, with the idea of making the law in this State uniform with that in other States. In fact, this proposed new section is copied from the present corresponding Act with some modifications. I said at the outset that it was proposed to apply the new provision, not only to future registrations, but also to firm names already in existence. I propose to place an amendment on the notice paper for the retrospective provision to apply only to the words "Commonwealth" and "State."

This is not a retrospective provision in the ordinary sense of the word because it will in no way affect any rights the firms in question may have under agreements or contracts entered into under the old name. The Crown Law authorities advise that a change in the firm name would not have any prejudicial effect whatever on such contracts. In this regard, although an individual or a partnership registers and uses a firm's name, in all legal documents the name of such individual, or the names of the several partners, as the case may be, must be stated as the names of the parties to the contract. The usual manner in such cases of naming the parties in an agreement is as follows:—

"Agreement made the . . . day of . . . 1940, between John Smith trading under the style or firm name of "State Furniture Co."

It will thus be seen that the Bill will not affect the rights which any firms may have under agreements and contracts. The Crown Law authorities agree that the provisions of the Bill are most desirable, and the Bill is accordingly brought forward for the approval of the House. I move—

That the Bill be now read a second time.

HON. H. S. W. PARKER (Metropolitan-Suburban) [8.56]: I have seen the Bill, and consider it to be necessary; I would however like the Honorary Minister to obtain further information as to whether the measure in any way affects limited liability companies. My own opinion is that it does not; and the letter that was read out has nothing whatever to do with the Bill, which affects firms. There is a statute relating to firms which provides that if a person trades under some name other than his own, he must register that name as a firm. Even if he adds only "and Co." to his own name, he is liable to prosecution if he does not register. The firm may consist of one man,

but if the firm is not a limited liability company it does not come under the Companies Act. Therefore this Bill, so far as I can gather, covers only firms, and not limited liability companies. It appears to me that another Bill will be needed to cover the Prime Minister's request. I certainly support this measure, but I would like to obtain further information if possible.

HON. W. J. MANN (South-West) [8.58]: I support the Bill, for I consider the time has arrived when the general public are entitled to a little more information regarding some of the people with whom they trade. Quite recently a man in this city of Perth wanted to make a purchase, and he spoke to another man and asked for the name of a suitable firm. The other man named two or three firms. One of these bore a really good Scottish name, old and honoured; and my friend proceeded to make his purchase of that firm. After he had made it, he proudly announced the fact to yet another man, who coolly informed him that the person trading under the name so well known in Scotland was a gentleman from Jerusalem. There are around the city many businesses carrying on under good English names, but if the real names were known they would often be found to end in "vich". I should like to see this Bill go just far enough to make people trade in their real names.

Hon. L. B. Bolton: The real names would have to be registered.

Hon. W. J. MANN: That fact does not convey anything to the general public. The Minister mentioned a certain furniture company, and I can testify to the fact that many people believe that company has a connection with the State. They do not know that the gentleman who owns the concern is a Polish Jew. From the point of view of honesty, a man should be compelled to trade in his own name. In the case of a company, it is a different matter. I would like to see the Bill go further than it does. I support the second reading.

HON. J. NICHOLSON (Metropolitan) [9.1]: I agree with previous speakers concerning the desirability and necessity for this measure which has been introduced none too soon. The earlier it is placed on the statute-book, the better. I am inclined to

suggest that it should be made retrospective to a limited extent, though there is a danger involved, namely, that there are certain bona fide businesses conducted under names that have acquired a certain goodwill and it would be wrong to deprive the owners of those businesses of the opportunity to continue using those names. However, the House might give consideration to making the measure retrospective to a recent date. If the Bill is passed, it will become effective only from the date it is assented to. True, at the end of the Bill provision is made that any firm or person which or who, through inadvertence or otherwise, is registered under any firm name prohibited or containing any word or words or combination of letters prohibited, may obtain the sanction of the registrar to change the name. There would be no compulsion on that individual to change the name, but if he desired to do so he could do it without any trouble.

The Chief Secretary: What would be the effect on registered documents when the name was changed?

Hon. J. NICHOLSON: It would not affect the position because as Mr. Parker has pointed out the Bill applies only to firms and not to companies. The Companies Act provides that no two companies can have the same or similar names. If I arrange to form a company and present my memorandum and articles with a name like that of an existing company duly registered under the Act, the registrar would have power to refuse registration of my company whether I submitted the name innocently or with intent. The Bill relates to registration of firms and there are no similar provisions in the Companies Act. The Bill will not only extend the scope of the Act but will also give the registrar power to prevent the use of names already being used. I forget the substance of the Minister's question.

The Chief Secretary: I asked what would be the effect on registered documents, say on mortgages or hire purchase agreements or registered bills of sale.

Hon. J. NICHOLSON: The position is that a mortgage, a bill of sale or any sort of document must be in the individual names of the partners because this is a Firms Registration Act and not a Compan-

ies Act. Documents such as those referred to would be in the names of the individual partners, but if they were of the type mentioned by Mr. Mann, they would take the precaution of forming themselves into a limited liability company and perhaps using a name preceded by "State," "Empire" or some other pleasing title. They would constitute a limited company and the deed would be in the name of the company as an incorporated body. So far as firms are concerned, deeds such as those referred to by the Minister are taken in the name of the individual partners. Therefore those individual partners would still be the same whether they traded under the name of the "State" so and so or any other name. Once the Bill became law, however, they could not use the words "Royal" or "State."

Hon. L. Craig: Unless they were formed into a limited company.

Hon. J. NICHOLSON: Even then they could not use the word "Royal."

The Chief Secretary: Suppose this applied to a company, how would those documents be affected?

Hon. J. NICHOLSON: They would not be affected. The company is a separate entity from the individual shareholders. A company is a corporate body and is entitled to sue and be sued. It has not a soul to be damned.

The Chief Secretary: Or a body to be kicked.

Hon. J. NICHOLSON: That is so. The Bill deserves commendation but I think we would be wise to make it retrospective to a year ago. We must not go too far back because an injustice might be done to a bona fide concern which has established what we might describe as goodwill through the use of a particular name. If the measure were made retrospective for some years past, an individual owning such a business would be deprived of the goodwill and the rights built up under the name used. It would be wrong to do that without compensation.

The Chief Secretary: Does not Clause 2 make this measure retrospective?

Hon. J. NICHOLSON: I did not notice that. It will apply only to firms registered after the Bill has become law.

The Chief Secretary: It applies to firms already registered.

Hon. J. NICHOLSON: No. The beginning of Clause 2 reads—

A new section is inserted in the principal Act after Section 4 as follows:—"4A (1) From and after the commencement of this section and notwithstanding, etc."

The Honorary Minister: That deals with future registrations. Paragraph (a) deals with firms using names including certain words such as "State" and "Commonwealth." Such names will have to be altered.

Hon. G. Fraser: They will have three months to alter them.

Hon. J. NICHOLSON: I had not read the Bill until just now but I will look into the matter and make sure of the point. It is a subject that can be dealt with in Committee. I support the Bill.

HON. L. B. BOLTON (Metropolitan) [9.15]: I support the second reading. If it is the intention of the Honorary Minister to inquire into the matter referred to by Mr. Nicholson, I suggest he should make an inquiry into another aspect of the position. It seems to me the measure may deprive individuals of the opportunity to trade under their own surnames. I know of an individual in this State whose name is Mr. State. If he desired to trade under his own name as "State," and as applied to brickworks or a butchery business, what would be the position?

Hon. J. Nicholson: I have never heard of such a surname.

Hon. L. B. BOLTON: The Honorary Minister might inquire whether such an individual would have the right to trade under his own surname in such circumstances. Suppose a man's name was Thomas Henry Edwards, and he added his initials to the firm name "T.H.E. State Butchery?"

Hon. L. Craig: He should not be allowed to have a name like that. Suppose his name was "King?"

Hon. J. Nicholson: What about King Atkins?

Hon. L. B. BOLTON: Again, the name "Commonwealth" might not be applied to any firm but to an hotel, for instance. I trust the Honorary Minister will look into those points before we reach the Committee stage.

Question put and passed.

Bill read a second time.

BILL—TRAMWAYS PURCHASE ACT AMENDMENT.

Second Reading.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West) [9.17] in moving the second reading said: By this Bill it is proposed to discontinue paying to local authorities 3 per cent. of the gross receipts of tramway revenue, which the Treasurer is obliged to pay under the Tramways Purchase Act 1912. A similar Bill was introduced and defeated in this Chamber last session. It is introduced again this session in an endeavour to convince Parliament that the proposal is fair, and that the best interests of the State as a whole will be served by the passing of the Bill. Last year I dealt fully with the reasons for discontinuing these payments, and on this occasion I would emphasise that there is an added justification for the introduction of the measure. Members are aware that we have given an undertaking to the Federal Government to balance our Budget as far as it is possible to do so. None of us foresaw the adverse climatic conditions, under which the agricultural and pastoral areas of this State are suffering, and no one will deny the extreme disadvantages which have been placed in the path of the Government in its endeavours to stabilise its financial position.

This, on top of war-time difficulties, has placed the State in an extremely difficult position in regard to its assurance to the Federal Government; and so I say that besides the case which was advanced for the Bill last year, there is an added justification for the termination of the payment of this 3 per cent of tramway revenue to the local authorities concerned.

Members, I trust, will be prepared to look upon this matter from a State viewpoint, having in mind that the interests of local authorities, whilst important, should not prevail as against those of the State whose interests are not bound by certain limits, but are scattered throughout the length and breadth of Western Australia in multifarious avenues for the benefit of the whole of the people. The facts are that under the Tramways Purchase Act 1912, the Government acquired from the Perth Electric Tramways Ltd., the tramway system as it existed at the 31st December, 1912, at a purchase price of £475,000. By the

time negotiations had been completed, the actual cost to the Government was £488,452. The payment of 3 per cent. of the tramway revenue was provided for in Section 8 of the Act, which reads as follows:—

As from completion of the purchase until the year 1939 and thereafter until the Parliament shall otherwise determine—

- (a) The Colonial Treasurer shall pay half-yearly to the credit of a trust fund to be kept at the Treasury three pounds per centum of the gross earnings derived from the workings of the tramways, and such percentage shall be paid to the local authorities as hereinafter provided, and
- (b) The track of the tramways shall be maintained and repaired by the Government to the extent of the liability of the Company.
- (c) The local authorities may use the poles of the tramways for the purpose of street lighting, provided that the tramway lines and wires, and the electric current, shall not be interfered with.

It is not proposed to interfere in any way with paragraphs (b) and (c) which refer to tramway tracks and poles. When the Bill for the Tramways Purchase Act was introduced in the year 1912, it provided that the obligation to pay the 3 per cent. of receipts should be imposed as from the completion of the purchase and until Parliament otherwise determined, meaning that Parliament could remove the obligation to pay at any time it wished to do so. Attempts were made in the Assembly to impose the obligation in perpetuity, but this was defeated by a substantial majority. The Bill eventually left the Assembly with the provision as introduced. On reaching this Chamber, a motion was moved to the effect that the Bill be read six months hence. This was unsuccessful, but a motion to refer the Bill to a select committee succeeded.

It was on the recommendation of that committee that Clause 8 was amended to provide that the rights conferred by that clause should be fixed definitely until 1939 "and thereafter until the Parliament shall otherwise determine."

On the return of the Bill to the Assembly, the Premier said—

The Government now had to view the position from the standpoint whether they would pay this amount for the term stated or not. The City Council were not satisfied that this was a fair compromise for what they claimed to be their rights, and they were not satisfied with the action of another place in agreeing

to the amendment. On the other hand, the Government were quite satisfied that the municipal authorities were fairly treated by the Bill as it left the Legislative Assembly. The position, however, now was that the insertion of the words suggested by the Legislative Council might be accepted in the nature of a compromise. The Government had to view the matter from the standpoint, not only of the City Council, who after all were only a body acting on behalf of the ratepayers, but also from the standpoint of the ratepayers and the others who made up the people who used the tramways, and if the Government were compelled to draw a certain proportion of the earnings of the tramways to pay to the City Council, or anyone else, that amount of money would have to be made up; it would have to be earned in some way, either by compelling the people to pay more than they otherwise would have to do, or compelling those who were working on the trams to accept less in the way of salaries and wages. That was the position the House would have to take into consideration. It was not his intention, however, to ask the House to object to the amendment, his reason being that he was doubtful in the event of the Assembly not accepting it, whether another place would agree to alter their attitude with regard to this particular clause. It was a matter of urgency that the Bill should become law, or dropped altogether.

By this it will be observed that the Premier reluctantly accepted the amendment. He indicated that the matter was one of urgency and was doubtful whether another place would agree to alter its attitude. The Bill was, therefore, agreed to as amended in this Chamber. In recounting this information, I do so with the idea of informing members what was in the mind of the Government in 1912 in regard to continuing the payment of this money to the local authorities concerned. At the date of sale the municipalities in which the tramway system operated had certain rights to purchase the tramways after a certain number of years, and if not purchased by 1939 the trams would revert to the council without payment except for the realty, which would have to be purchased at the actual price which was paid by the company.

Then again, during the period up to 1939, the company was obliged to pay 3 per cent. of the gross earnings to the council, and the tracks had to be kept in repair. In 1912 a considerable amount of argument and debate occurred in both Houses on the question of the reversionary rights of the council in relation to its agreement with the company, but the then Premier indicated that he was not prepared—nor did he think Parliament

was prepared—to approve of the purchase unless the reversionary rights could be taken over from the local authorities.

In this regard it is very interesting to read the select committee's report. I will quote just a few extracts—

At the outset, it was decided to confine the evidence so far as possible to ascertain what, if any, were the reversionary rights of the Perth City Council in the trams; and if there were such rights, what would be a fair value to place on them assuming it was decided that the trams be nationalised, as proposed by the Bill before the House.

Further on in the report we find the following:—

That being so, it becomes necessary to ascertain what the City Council, who, by the Bill, will be deprived of their right to these advantages, should receive in lieu thereof by way of compensation. It is difficult to assess an amount to cover this compensation, as opinions so widely differ as to what the value of these rights is. It must be taken into consideration that the present high fares will not be allowed to continue and that the trams will be run at a minimum of profit, so the ratepayers and general public residing in the city will undoubtedly receive great benefit from the fact that the system will be operated in the future mainly in the interests of the travelling public.

Again, towards the conclusion of the committee's report, we read—

It is also agreed that the concession at 1932 and 1939 will be of little intrinsic value to the council, as in all probability the present system will be obsolete, and, even if not obsolete, of very little residual value. Taking all these facts into consideration, the committee are of opinion that the rights of the Council will be fully provided for if Clause 8 is amended to provide that the rights conferred by this clause be fixed definitely until the year 1939 and thereafter until Parliament determines.

Thus, after hearing and sifting all the evidence available at its disposal, the select committee indicated that the Council would be amply repaid by the 3 per cent payments by the year 1939, and that Parliament should then determine the matter. It also indicated that if the tramway service reverted to the Council in 1939, the service by then would be in such a condition that, practically speaking, no residual value would be left.

The matter of reversionary rights, agreements, etc., was closely debated by the Parliament of 1912, so much so that I feel if members of this House were to take the time and trouble to read "Hansard" dealing with the debate, particularly the ex-

planation made by the then Premier (Mr. Scaddan), they would realise that the best interests of all concerned were served by the nationalisation of the tramway system. The numerous agreements indicated in the Schedule of the Act of 1912 were thoroughly dealt with by the then Premier, and the information supplied by him should leave no doubt in the minds of this Parliament that certain legal complications would arise which would indicate that the trams would not have passed over to the Perth City Council without complications, as hon. members led this House to believe when debating the Bill last year.

I have already indicated that the cost of purchasing the tramway system in 1912 was, in all, £488,452. Since then, the following line extensions have been constructed by the Government—

Section.	Years.
Perth-Crawley-Nedlands	1915, 1918
Beaufort Street extensions to Inglewood	1917, 1924, 1930, 1933
Victoria Park—Duplication and extension	1918, 1919, 1934
Milligan Street to Pier Street via Murray Street	1918
Barrack Street—Duplication and loop at jetty	1921
North Perth—Duplication and extension to Charles Street	1921, 1927
Subiaco—Duplication to Keightley Road	1921
Osborne Park—Duplication	1922, 1924
Causeway—Como and Zoo—Jetty	1923, 1928
Claremont line	1924, 1929
Wembley line and extension	1926, 1934
Maylands line	1928
Hay Street East—Trotting ground	1930
Walcott Street—Extension to Blake Street	1930
Bazaar Terrace—Duplication Barrack Street-William Street	1931

The policy of the Tramway Department over the past few years, as members are aware, has been to utilise trolley buses where possible. The net capital expenditure on extensions of lines, etc., and rolling stock is as follows:—

—	Track, etc.	Rolling Stock.	Total.
To 1938	£ 363,093	£ 237,077	£ 600,170
1938-39 and 1939-40	Cr. 1,879	.....	Cr. 1,879
	£361,214	£237,077	£598,291

Then again there are these particulars of special expenditure on renewals, replacements, etc.—not ordinary maintenance:—

Track, etc.	Rolling Stock.	Total.
£ 245,061	£ 94,347	£ 339,408

Included in these figures is an amount of £84,000 for belated repairs carried out between 1913 and 1920.

A summary of the Tramway Capital Account is as follows:—

Original purchase payments, 1913-15	£	£ 488,452
Capital expenditure by the Government to 30th June, 1940	598,291	
Flotation Charges	37,216	
	635,507	
Less amounts written out on account of closure of lines	16,557	
		618,950
Capital on 30th June, 1940		£1,107,402

These figures indicate that it is extremely doubtful whether the local authorities would have been able to finance such an undertaking. The extensions of the tramway system, coupled with the introduction of one-penny terminal sections, and the substantial increase in the number of passengers carried—10,700,000 in 1913-14; 35,500,000 in 1929-30 to 31,600,000 in 1939-1940—have had a considerable influence on the financial results. It is not possible to define the actual effect, but taking the weighted average earnings per passenger (2.493d.) for the five years preceding the first (1919) alteration, in comparison with the relative figures for the five years 1921-1925 (2.286d.) and the term 1920-1937 (2.277d.), the decrease on an average of over 30 million passengers would be approximately £25,000 per annum.

Since taking over the trams there has been a considerable advance in wages. The largest single item of expenditure in this direction is represented in the payment of conductors and motormen, and the following details—if allowance is made for the intervening fluctuations—give a pretty fair indication of the added costs of working since the Government assumed control:—

Year.	Wages Paid.	Employees (Conductors and Motormen).	Rate per annum.	Percentage Increase over 1914-15.
1914-15	£ 26,919	160	£ 168	%
1928-29	107,423	412	261	55
1939-40	113,329	450	252	50

With all this information before the House, it will be observed that the expense entailed in the proper conduct of a tramway system is a huge undertaking, and in this case, one that only the Government could entertain. Whatever justification there might have been at the time for the company to pay the local authorities, by

way of franchise, 3 per cent. of the gross takings in lieu of rates, would hardly apply to-day. There is little doubt that the general progress made in the city and the metropolitan area has been due, to a large extent, to the improved communications introduced by the Government during its period of control. Land values have increased to a huge extent in districts served by the tramway system and its extensions, and the local authorities, while benefiting from the higher rateable value of the properties, have not contributed in any way to the capital costs or upkeep of the facilities that have made such a result possible. The contribution of 3 per cent. of the gross takings of tramway revenue to the local authorities can be termed a generous subsidy on the part of the department, as may be seen from an examination of the details hereunder of such payments since the inception:—

—	Year ended 30th June, 1939.	Year ended 30th June, 1940.	Total from inception to 30th June, 1940.
	£	£	£
Perth City Council	5,633	5,550	* 151,169
Subiaco Municipality	364	347	19,036
Perth Road Board	23	18	551
Subiaco-Nedlands	183	179	4,599
	£6,203	£6,094	£169,355

* Including amounts totalling £863 paid to Leederville, Victoria Park and North Perth Councils prior to amalgamation.

In other words, a total of £169,355 has been paid by the Tramways Department from 1913 to the 30th June of this year by means of the 3 per cent. provided by the Act.

Hon. L. Craig: What were the amounts paid in 1912 and 1913?

The CHIEF SECRETARY: I do not know. They were very small.

Hon. L. B. Bolton: The money received by the Perth City Council has been made good use of by that council. The ratepayers have had less rates to pay.

The CHIEF SECRETARY: Nobody questions the use that the council has made of the money received from this source. It is generally conceded that the City Council has done a good job; but I question whether that has anything to do with this particular argument. I would suggest that if the Government had had the money, it also could have made good use of it. The City Council is not the only authority capable of

making good use of money received from this source.

Hon. L. B. Bolton: You would not agree that the Government could have made better use of it?

The CHIEF SECRETARY: To continue these payments is an injustice to all the taxpayers of the State. Any member viewing this matter impartially should recognise that it was never intended to continue such payments beyond 1939. This was the intention of the Parliament of 1912, and if members will read the debate of that time on the matter, they will find that that is so.

Linked up with the subject of the Bill is the supply of electric power by the Government to the Perth City Council. The General Manager of the Tramways is also the officer charged with the control of the power house and the costing and clerical duties of the two enterprises. In addition, certain testing and other technical duties are carried out by the one staff in the head office of the Tramways Department.

After the City of Perth and the Fremantle Municipal Councils, the Tramway Department is the Electricity Supply's best customer, nearly 12 million units having been utilised for the twelve months ended 30th June, 1939, in current for the tramway system. The average price paid by the department for electric current last year was .85 pence per unit compared with .75 pence which the City of Perth has paid for many years and which under the present agreement—entered into in 1913—cannot be exceeded for a further period of 24 years.

Hon. J. Cornell: Outrageous!

The CHIEF SECRETARY: That the Government was actuated by motives of service rather than profit is fully borne out by the terms of the agreement, which provided that the council was to be supplied with current at cost price; and to allow for any rise in working costs that might reasonably have been anticipated at the time, a maximum of .75 pence per unit was fixed. At the time the agreement was negotiated the City Council's power plant required extensions to cater properly for the metropolitan area. State revenues were then buoyant, but the City Council and other local governing bodies were under heavy expense in developmental work and were struggling financially. The City Council did not then include such suburbs as Leederville, North

Perth and Victoria Park, and had it prepared an extensive power scheme it would have been faced with the task of securing a composite agreement between all the various local authorities concerned. So the Government said that it would undertake the scheme for the trams and sell the current to the local authorities. The great advantage to the City Council was that it was relieved of the responsibility for providing the facilities and negotiating an agreement between the various bodies, while at the same time it secured an excellent agreement for the provision of power, out of which it has made a substantial profit ever since. It received power at a cost of .75d. per unit, whereas prior to the agreement the cost was just under a 1½d. per unit.

Hon. L. Craig: Just half.

The CHIEF SECRETARY: Yes.

Hon. C. F. Baxter: It was a bad agreement.

The CHIEF SECRETARY: That is what we say after the event.

Hon. C. F. Baxter: It was bad at the time.

The CHIEF SECRETARY: Of course, I was not in office then. Probably no one then contemplated a world war which would cause costs to soar. We all know what happened during and after the war, and no doubt that could be put forward as the reason why the City Council secured its current at a rate below cost.

Hon. J. Cornell: The real trouble is that a review was not possible for 50 years.

Hon. C. F. Baxter: That is so. It was a terrible provision.

Hon. J. Cornell: Half a century!

The CHIEF SECRETARY: I desire to quote some interesting figures referring to electric current supplied to the City Council by the Government at .75 pence per unit, showing cost per unit. These figures are set out in the following table:—

Period.	Units Supplied.	Amount Charged.	Cost.		Loss.
			Per Unit.	Amount.	
1916-1939	727,633,685	£ 2,273,855	d. 858 to 799	£ 2,703,702	£ 429,847
1939-1940	74,730,147	233,582	826	257,196	23,614
Total....	802,363,832	£2,507,437	...	£2,960,898	£453,511

It is reasonable to presume that the City Council could not have provided a generating plant for itself to produce current at

the price paid under the agreement; and these figures indicate that the Council has reaped a direct benefit to the extent of £453,511.

Hon. G. W. Miles: At the expense of the State.

The CHIEF SECRETARY: Yes, it has cost the Government that amount of money. The Council has reaped an incalculable benefit from the tramway service in the form of development and increased values, all at the expense of taxpayers generally, who have provided the wherewithal.

Some of the statements made by members during last year's debate indicate that in their opinion the rights of local authorities should have preference over those of the State. It is agreed that local authorities are doing excellent work, work that is appreciated by the Government; but State affairs are paramount in importance, and we should take into consideration the fact that the continuance of the payment of a little over £6,000 per year to an affluent body at the expense of an impoverished country experiencing droughts, the like of which have not been surpassed in our history, is an injustice to the taxpayers of the State. That £6,000 per year is needed for the revenues of the State. It may not sound much in annual amounts, but it can be well used in many avenues by the Treasurer, who, to the best of his ability, is endeavouring to balance the Budget in accordance with his undertaking to the Commonwealth. I submit that this proposal is fair and reasonable, and trust that on this occasion members will not take the parochial viewpoint expressed by some members last session, but, on the other hand, will agree that the time has arrived when these payments should cease, and that the Bill should pass. I move—

That the Bill be now read a second time.

On motion by Hon. L. B. Bolton, debate adjourned.

House adjourned at 9.59 p.m.