ditions are complied with, orders that the land be freed from this charge and the money invested in some suitable security to provide the income. This Bill simply aims to extend the powers of the judge in a way that I thought was already covered but Mr. Parker, who has had much more experience than I have in these matters, assures me there is some doubt on the point. That being so, I am satisfied that the Bill is in order. I support 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.

Bill read a third time and transmitted to the Assembly.

House adjourned at 10.35 p.m.

Legislative Assembly.

Wednesday, 6th December, 1944.

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

QUESTION—GOVERNMENT EMPLOYEES.

As to Industrial Awards and Agreements.

Mr. DONEY asked the Minister for Works:

(1) In what Government departments are the terms and conditions of employment not regulated by an award or industrial agreement?

(2) Are the employees of (a) the Agricultural Bank; (b) State trading concerns; (c) Fremantle Harbour Trust; (d) other harbour boards. (e) other Crown instrumentalities subject to industrial awards or agreements?

The MINISTER replied:

(1) Employees of all Government departments are regulated by Awards or Industrial Agreements.

(2) Yes.

BILL—GOVERNMENT EMPLOYEES (PROMOTIONS APPEAL BOARD).

Message.

Message from the Lieut.-Governor received and read recommending appropriation for the purposes of the Bill.

BILL—CRIMINAL CODE AMENDMENT.

In Committee.

Resumed from the 1st November. Mr. Fox in the Chair; Mr. McDonald in charge of the Bill.

Clause 2—Reckless, negligent or dangerous driving:

The CHAIRMAN: Progress was reported on this clause, to which an amendment had been moved by the member for Brown Hill-Ivanhoe to strike out in lines 3 and 4 of Subsection (1) of proposed new Section 291A the words "whereby death is caused to another person."

Mr. MARSHALL: The Committee will agree that if we do not vote for this amendment, this measure will not be on all fours with some of the legislation quoted by the member for West Perth when introducing the Bill. As I pointed out when speaking on the last occasion, it appears that the Bill will give some privilege to motorcar owners and drivers. If the life of any person is taken by virtue of someone handling a car recklessly by speeding or driving in some other way dangerous to the public, it will be possible for that person to be charged under this measure instead of being charged with manslaughter as is the case today. I hope the Committee will not agree to the Bill at all because of its special characteristics. The member for West Perth has decided to endeavour to have the Bill recommitted with a view to altering it. I have conferred with him but he still insists upon leaving in the

words which the member for Brown Hill-Ivanhoe desires struck out.

If this amendment is carried and the words given notice of by the member for West Perth are inserted on recommittal, this legislation will be exactly the same as that in Queensland, which provides that the life of a person need not be taken before the driver of a car can be charged under it. No argument has been advanced to support the contention that it is right for a person in one section of the community not to be charged with manslaughter if he takes the life of a person by being careless, whereas another individual must be charged with manslaughter even though he has unintentionally caused a death. This is a special piece of legislation for a special class of the community. The Queensland legislation provides that if a person drives a car in any way dangerous to the public and injures some member of the public, then the driver can be charged under that law, but if he takes the life of some member of the public, he is charged with manslaughter. The Minister for Justice said that juries hesitate to bring in a verdict of guilty on a charge of manslaughter because of the fear of the punishment. The punishment meted out to motorists convicted of manslaughter has been mean in proportion to the offence—12 months or two years. A motorist who killed a man on Riverside-drive and took the body several miles into the bush received only three years' imprisonment. The Bill would be acceptable if the member for West Perth agreed to the amendment.

Mr. McDONALD: When a similar measure, introduced by the Minister for Justice, came before us last year, it was not proceeded with because members thought the matter required additional consideration. What the member for Murchison has said is substantially correct. If the amendment is carried, the offence will be one that need not involve the death or even injury of anybody. It will be an offence if a motorist drives recklessly or dangerously without injuring anyone.

The Minister for Justice: That is an offence under the Traffic Act.

Mr. McDONALD: Yes. The member for Brown Hill-Ivanhoe said that if his amendment were passed, he would move a further amendment to reduce the penalty from a maximum of five years to one or two years' imprisonment. I am seeking to create an offence, where the death of a person is involved, that will carry a penalty less than that for manslaughter, but a substantial penalty up to five years' imprisonment. The Bill attempts to deal with a stage between the serious crime of manslaughter and the comparatively trifling crime of driving recklessly or dangerously. This is an offence under the Traffic Act punishable by a fine up to £50 or imprisonment for three months. Under the amendment, although a motorist may have killed other people, if he was not charged with manslaughter, the most that he could be punished would be by imprisonment for one or two years.

Mr. Marshall: He could be charged with manslaughter.

Mr. McDONALD: But it might be considered that, in the circumstances, a jury would not convict of manslaughter, and there would be nothing else with which the motorist could be charged under the amendment than an offence punishable by one or two years' imprisonment. Under the Bill, I want to create an offence that will punish a motorist more severely when another person is killed. The Bill will, therefore, be a much greater deterrent against reckless driving than would the amendment because, under the amendment, the offence need not involve death or injury to anyone and the maximum penalty could be not more than a year or two. The drawing of the Bill occasioned considerable thought. I introduced it at the request of the Justices' Association, whose idea was to punish motorists that now get off because the authorities feel that a conviction could not be secured on a serious charge like manslaughter.

The Queensland Act contains the offence of dangerous or reckless driving, although nobody may be killed or hurt, and the maximum penalty is two years. On consideration, it seemed to me that a difficulty would occur in the practical working of the Bill as I had introduced it, because the charge of manslaughter is really a charge of reckless driving. In the Bill which I introduced it is also an offence to drive recklessly and cause the death of a person. It seemed to me that a judge might be put in some difficulty in saying to a jury, "If you think the accused has killed this person by reckless driving then you may find him guilty of manslaughter," and then having to proceed to say, under this proposed Bill, "If, however, you think that under the recent amend-

ment of the Criminal Code you can find the accused guilty of the offence of reckless and dangerous driving set out in that amendment, then you may find him guilty on a lesser charge.'' If the jury finds him guilty of reckless driving under the proposed legislation, it ought to find him guilty of reckless driving for the purpose of a charge of manslaughter.

All this sounds rather technical. The result is that I came to the conclusion that the form of the Bill introduced by the Minister for Justice last year was more satisfactory than the form of the Bill which I have introduced myself. I propose to have the Bill recommitted so as to describe the offence in the form in which it is described in the Minister's Bill of last year. That Bill adopted the general principle which is already contained in the Criminal Code and which has been there ever since the Code was first enacted. By Section 266 of the Code—

> It is the duty of every person who has in his charge or under his control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger; and he is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

In other words, the Code now lays down that, with regard to anything, moving as well as stationary, the person in charge must use due precautions to ensure that the thing in his charge does not cause injury to the life or health of any person. The Minister, in his Bill of last year, brought forward these words, namely, that in the use of the vehicle the person in charge must use all due precautions to ensure that it did not cause damage to any other person; and if as a result of that use a person loses his life—in the absence of those precautions—then the person in charge of the vehicle shall be guilty of the offence. I feel, therefore, that the Minister's Bill on the whole provides a better description of the kind of negligence in the use of a car and that it is more consistent with the Code than is the Queensland Act. If the Bill is recommitted, the amendment which I propose would make the offence read in this way—

> Any person who has in his charge or under his control any vehicle, and fails to use reasonable care and take reasonable precautions in the use and management of that vehicle, whereby death is caused to another person, is guilty of a crime and liable to imprisonment with hard labour for five years.

In short, the amendment which I propose, including the words on recommittal, imposes an offence involving a substantial penalty up to five years' imprisonment for a person who, as a motorist, occasioned the death of another person but does not get convicted of manslaughter. If the amendment of the member for Brown Hill-Ivanhoe is agreed to, then a person who occasioned the death of another person by the negligent use of a motorcar can be liable for no greater penalty than a year's or two years' imprisonment. Obviously, a maximum penalty of five years' imprisonment would not be imposed for the negligent use of a vehicle where nobody is injured at all. A motorist may simply drive recklessly down St. George's-terrace and not hit anything or injure anybody; a penalty of five years' imprisonment could not be imposed for that.

Mr. Marshall: But he would deserve it!

Mr. McDONALD: That may be so. The Queensland Parliament would not go beyond a maximum of two years' imprisonment.

The Minister for Justice: In parts of America there are no restrictions on speed.

Mr. McDONALD: That may be so.

Hon. N. Keenan: In France the pedestrian is responsible.

Mr. McDONALD: Yes, if he gets in the way of a vehicle. Briefly, the difference between the two measures is this: I want to provide, at the suggestion of the Justices' Association, whose anxiety is to rope in motorists who kill somebody and now escape punishment, a substantial penalty up to five years. The amendment, on the other hand, will relate to offences which do not necessarily involve death or even injury. I oppose the amendment, which is designed to strike out the words limiting this offence to cases where death is occasioned. I hope the Committee will create an offence which will be associated with the offence of manslaughter and so catch the offending motorist who cannot be convicted of manslaughter, but who deserves, having occasioned the death of another person, a substantial penalty for his lack of care.

Mr. MARSHALL: The member for West Perth has clearly pointed out that the purpose of the Bill and of the amendment

which he proposes is to provide a second ground for convicting a person so charged. He pointed out that magistrates and juries hesitated to convict on certain evidence. We know from experience that the police force is always anxious to succeed if it brings a charge. What will happen if a motorist takes the life of another person in such a way that evidence is not forthcoming to substantiate fully a charge of manslaughter acceptable to the police? If this Bill becomes law, what will happen? If this goes on the statute book 99½ per cent. of the charges that should rightly be conducted under the Criminal Code—those guilty being charged with manslaughter—will come under this provision, for the sake of a conviction being recorded. Why should the member for West Perth say that the penalty of two years suggested by the member for Brown Hill-Ivanhoe is not sufficient? Can he tell me of one charge of manslaughter that succeeded wherein a greater penalty than two years was imposed under the charge of manslaughter?

Under the charge of manslaughter the penalty could be 20 years' imprisonment, yet those who have been convicted have suffered no greater punishment, with one exception, than two years. Here we have a limit of five years and I venture to say that 99 per cent. of the charges will be heard under this provision. This provision will be used by the police in levelling a charge, because it will succeed; and, in such circumstances, what would be the punishment? Based on past experience, I should say it would be a month's or two months' imprisonment. The member for West Perth quoted the Queensland Act. Why does he wish to depart from that Act? Why does he want someone to be killed before this can be given effect to? If a man drives a car recklessly or dangerously in the congested parts of the city and arrives at his destination safely, that is no credit to him. He might have killed two or three people on the way. Because he did not do so, he has not the right to treat the law with impunity.

Mr. Styants: He might have been a good driver.

Mr. MARSHALL: It might be a matter of good driving; it might be a matter of good luck. In the majority of cases I think it is just good luck. A person cannot drive recklessly or negligently or speed and avoid accidents by being a good driver. That sort of thing can be done with an element of luck, but people who do it should not escape punishment just because they did not destroy somebody's life.

The Minister for Justice: Generally speaking fast drivers are more competent than slow drivers.

Mr. MARSHALL: I agree; because a person who has been driving fairly fast is probably one who is a better judge of speed than is a slow driver. But the slow driver is one who will not figure, as a result of his own carelessness, as the cause of another person's death. The member for West Perth is endeavouring to avoid having these charges of manslaughter laid. Instead of men being charged with manslaughter, they will be charged under this provision.

The Minister for Justice: Even if they are not charged with manslaughter a verdict of guilty of manslaughter can be returned.

Mr. MARSHALL: That is true, and vice versa. We know all that, but as the law stands it should be left. Careless and negligent driving and driving in a way dangerous to the public should be treated away from the Criminal Code altogether.

The Minister for Justice: Why not amend the Traffic Act then?

Mr. MARSHALL: Leave the Criminal Code alone and deal with the matter under some other head and I will have no objection. If we want to punish people for speeding in motorcars, or driving negligently or under the influence of liquor, let us deal with them under some other measure, but do not let us give the police the opportunity to proceed under this provision, where people's lives have been destroyed, just for the sake of succeeding in 100 per cent. of their charges.

Mr. McDONALD: The effect of this measure will be just the opposite to that mentioned by the member for Murchison. He rightly said that the police naturally desire to secure a conviction and do not want to make a charge and then find that the charge is not sustained. So, also, coroners do not want to commit a man for trial for manslaughter and then find that the jury disagrees with them. But if this Bill is passed the effect will be this: The coroner and the police will feel that if a man is charged with manslaughter they are

doubly sure of a conviction, because if they fail in the manslaughter charge the man can be convicted on this lesser charge. At present, if a manslaughter charge fails the man gets right off; there is an acquittal and the trial is abortive. The idea of the Bill is not to lessen the penalties on reckless motorists who kill somebody else, but to provide adequate means of conviction beyond what now exist.

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

Ayes	15
Noes	23
Majority against	8

AYES.

Mr. Coverley	Mr. Rodoreda
Mr. Cross	Mr. Seward
Mr. Graham	Mr. Telfer
Mr. J. Hegney	Mr. Willcock
Mr. Marshall	Mr. Wise
Mr. Millington	Mr. Withers
Mr. Needham	Mr. Triat
Mr. Panton	*(Teller.)*

NOES.

Mr. Berry	Mr. North
Mrs. Cardell-Oliver	Mr. Nulsen
Mr. Doney	Mr. Owen
Mr. Hawke	Mr. Perkins
Mr. Hill	Mr. Shearn
Mr. Hoar	Mr. Styants
Mr. Keenan	Mr. Tonkin
Mr. Kelly	Mr. Watts
Mr. Leahy	Mr. Willmott
Mr. Leslie	Mr. Wilson
Mr. McDonald	Mr. Mann
Mr. McLarty	*(Teller.)*

Amendment thus negatived.

Clause, as previously amended, agreed to.

Clauses 3 and 4, Title—agreed to.

Bill reported with an amendment.

Recommittal.

On motion by Mr. McDonald, Bill recommitted for the further consideration of Clause 2.

In Committee.

Mr. Marshall in the Chair; Mr. McDonald in charge of the Bill.

Clause 2—Reckless, negligent or dangerous driving:

Mr. McDONALD: In accordance with the explanation I made earlier, I propose to move an amendment the effect of which is to adopt the suggestion made by the Minister last year, which I regard as preferable to the wording of the proposed new Section 291A. I move an amendment—

> That in lines 1 to 3 of Subsection (1) of proposed new Section 291A the words "who drives a vehicle recklessly or negligently or at a speed or in a manner which is dangerous to the public" be struck out and the words "who has in his charge or under his control any vehicle and fails to use reasonable care and take reasonable precautions in the use and management of such vehicle" inserted in lieu.

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

Bill again reported with a further amendment and the reports adopted.

MOTION—STATE-WIDE POST-WAR WORKS.

As to Government Planes for official Inspections.

Order of the Day read for the resumption from the 16th November of the debate on the following motion by Mr. North (as amended):

> This House realises that it cannot adequately handle the various problems which arise in the 1,000,000 square miles of our Western Australian territory unless the most modern transport facilities are utilised. It therefore advocates that the Government should acquire some well-found transport planes to enable Ministers, members of Parliament, and particularly engineers of the P.W.D., etc., to cover all parts of the State including the Kimberleys, paying particular attention to the need for and possibilities of water conservation and the utilisation of the rivers of the north-west of this State and the development of tropical and semi-tropical agriculture.

Question put and passed; the motion, as amended, agreed to.

MOTION—OLD AGE AND INVALID PENSIONERS.

As to Earnings and Basic Wage Equivalent.

Debate resumed from the 16th November on the following motion by Mrs. Cardell-Oliver (as amended):—

> That, as this House approves of a living wage for all citizens, and realises that, in many cases, the income of pensioners does not allow for a decent standard of living, it urges the Commonwealth Government to take steps to raise the rate of pensions to those who are aged and infirm, and to allow all those pensioners able to work to earn an income, including the pension, equivalent to the basic wage, the foregoing also to include the recipients of widows and invalid pensions; and pledges itself to support the Commonwealth Government to achieve the changes in banking policy requisite to enable such heavy increased payments to be made.

to which an amendment had been moved by Mr. Watts as follows:—

> That at the end of the motion the following words be added:—"by the issue of bank credit by the existing means at the disposal of the Commonwealth Bank if the Prime Minister is still of the opinion he was (in regard to this matter) when Leader of the Opposition."

Amendment put and passed.

MR. LESLIE (Mt. Marshall) [5.20]: I cannot allow this opportunity to pass without expressing surprise and concern at the opinions advanced by some members regarding the motion moved by the member for Subiaco.

Mr. J. Hegney: It is only propaganda—pure propaganda!

Mr. LESLIE: The motion was submitted to the House with a view to certain action being taken. I am mindful that it has been amended. At the moment there is a conference in progress in Perth at which motions will be submitted and certainly will be carried suggesting that the heads of the movement should take certain action and that some of the resolutions passed should be submitted in higher places. The ordinary people—the man in the street and the men belonging to sectional organisations—have one way only in which their desires can be expressed. It is by the submission of motions that are agreed to or rejected by those concerned. To suggest that the carrying of resolutions is merely an ineffective way of achieving objectives is simply a reflection upon those who advance such a suggestion. It implies that conferences of organisations, such as that now being held in connection with the movement to which members on the Government side of the House belong or others conducted at other times by the organisations to which members on the Opposition side of the House may belong, are so much waste of time and effort. It implies, too, that the submission of motions at conferences and meetings is merely so much pious effort that is quite ineffectual and simply amounts to a propaganda effort, as the member for Middle Swan observed. I deplore such a suggestion emanating from a reasonable body such as this House which is expected to give heed to the requests submitted by the people or their representatives, particularly when the Commonwealth Parliament is expected to give heed in turn to the suggestions and requests from the highest authority that can submit them on behalf of the State. In submitting her motion, the member for Subiaco was actuated by real sincerity of purpose.

The Minister for Mines: You will be popular!

Mr. LESLIE: Members on the Government side of the House agreed that the payments to pensioners were inadequate and, in effect, gave their support to the motion but condemned the member for Subiaco for submitting it.

Mr. J. Hegney: It is deluding and misleading the pensioners.

Mr. LESLIE: To whom should these people look in order to have attention directed to their problems? To whom can they look for an effort to conserve their interests and rights with greater justification than to the State Parliament? Had this motion been submitted to an outside organisation, it could not have the weight attached to it that it must have if this Parliament endorses it, and particularly if the Government itself takes subsequent action. The suggestion that we are deluding and misleading the pensioners is unwarranted or unjustified; or does it mean to suggest that if the motion be agreed to, the Government will take no action at all?

Mr. Triat: No, it has been amended since then.

Mr. LESLIE: Granted; but the remark to which I refer regarding the deluding and misleading of pensioners was also made before the amendment was put to the House. I supported the motion and I accept the amendments, although I am not in agreement with them altogether. I did not think the motion itself went far enough.

Mr. Holman: But you were in agreement with my amendment.

Mr. LESLIE: Yes. As I say, in my opinion the original motion moved by the member for Subiaco did not go far enough. During the debate it was stated that this Parliament had never agreed to the principle of a living wage. I do not think there is any question about that agreement.

The Minister for Mines: What is a living wage?

Mr. LESLIE: I am not concerned about that. I am speaking about the wording of the motion. What I claim is that not only every pensioner but everyone else is entitled to a reasonable standard of comfort.

Mr. J. Hegney: And what is that?

Mr. LESLIE: Today members opposite are talking about a living wage.

Mr. J. Hegney: But who is to determine what is a reasonable standard of comfort? This Parliament?

Mr. SPEAKER: Order!

Mr. LESLIE: Today people are looking for something more than a mere existence such as they experienced hitherto. All this talk about a living wage simply serves to indicate that some members want a mere continuance of conditions that obtained in the past, whereas the people are looking for more than a mere existence and are asking for a reasonable standard of comfort.

The Minister for Mines: They have always asked for that.

Mr. SPEAKER: Order!

Mr. LESLIE: They have never enjoyed it and it is up to this Parliament to see that they have something better in the future than they had in the past.

Mr. J. Hegney: Your Party was——

Mr. SPEAKER: Order. I must ask the member for Middle Swan to cease interjecting. He has already spoken to this motion.

Mr. LESLIE: The object the member for Subiaco had in view was, I believe, that this Parliament should take some action to see that the Commonwealth Government, which controls the purse strings, should realise its obligation to the people and see that they enjoy more than a mere living existence; that they should have at least a reasonable standard of comfort. The problem of social legislation is far-reaching, and the phase under discussion is a minor aspect—quite small in comparison with the full problem. It is regrettable to find that such comments as we have heard should have been made use of. Personally, I should like this House to settle down to a full-dress discussion on the question of social legislation with the idea of securing the total abolition of such imposts as the means test, as it exists today not only with regard to pensioners but in other directions as well.

Mr. Holman: What about starting on the Employers' Federation?

Mr. LESLIE: The people contribute taxation which makes up the finance for the social services and amenities provided by the Government. They pay for them, and those persons are entitled to them. Most unfortunately, the majority of people who pay, irrespective of amount, are excluded from participation in the benefits of the social legislation existing today. In pensions, education, and health all alike, a means test applies. That means test excludes from the benefits, or reduces them to a considerable extent, due to those people who have contributed while they were able to do so. I cannot support the whole of the amendments which have been tacked on to the motion, but I support the original motion itself because I agree with the vital principle it expresses. I commend rather than criticise the lady for her efforts on behalf of people who appeal to this House as the only source from which they can expect betterment of their position.

MR. SHEARN (Maylands): In view of the various speeches which have been contributed to the subject during the last few weeks, I do not wish to cast a silent vote on this motion. It appears that some members regard the member for Subiaco as having uttered, by her motion, a veiled threat against the present Commonwealth Labour Government. From that view I dissociate myself; and I shall not be at all surprised if the mover, in her reply, intimates that she has been actuated solely by a desire to support the various movements directed towards improving social conditions, and with no relevancy whatever to the Commonwealth Government now existing. My experience of this House is that we frequently have brought under our notice the injustice which is wrought on old age and invalid pensioners by anomalies in existing Commonwealth legislation. I support the motion because I believe it will fortify other efforts made outside this Chamber for a complete review of the relevant Commonwealth Act. Fundamental improvements should be made in the existing system, and pensions should be increased. The anomalies in the existing Act should be ironed out, for they operate to the detriment of pensioners.

It has been said, and quite truly, that 27s. per week represents the highest pension paid in the world in this connection; but it cannot be successfully argued that people should regard that amount as providing a reasonable standard of living. I would not attempt to estimate what is a living wage, but we have a clear case that a pension of 27s. per week is preposterous under present conditions. The motion could have been, in

my opinion, better worded, since this Parliament has no direct power in the matter; but, as the last speaker said truly, it is the duty and the prerogative of Parliamentarians to assist a move on behalf of the people they represent. Federal members have had this matter ventilated in the Commonwealth Parliament. With the principal motion I am in entire accord, though I cannot support some of the amendments which have been carried. I do hope, whatever may be the ultimate result of the motion, that it will prove to be the means of at least ensuring that there will be a complete review of the existing system, so that the many anomalies operating harshly against both invalid and old age pensioners may be corrected, and that these worthy people may be enabled to enjoy some semblance of living in comfort.

MR. MARSHALL (Murchison): At the outset let me say that I see no reason for any heat whatever being injected into this debate. The principle of the original motion is one to which we can all subscribe. It is open to any of us to move a similar motion should we so desire. Had I done so, and had I been accused of making political capital out of the subject, I would have been incensed. I subscribe strongly to the motion of the member for Subiaco. I subscribe also to the abolition of the means test. At one time we boasted of our social legislation, but now we find even conservative England outstripping us by abolishing the means test. In England pensions are now granted as a matter of right. No cross-examination of applicants for pensions is permitted in England. The same system could obtain in this country, and more so than in many other countries. Australia could afford a much higher standard of living for the pensioner and for the individual who happens to be unemployed.

The Minister for Justice: I think there should be automatic superannuation for anyone, irrespective of station.

Mr. MARSHALL: There should be a national or social dividend paid to people upon reaching the age when it is impossible to compete for employment against the youthful section of the community. Each and every individual has been forced by law to contribute so much towards social betterment. During this war such people have been forced to pay more than they could afford into the Australian Treasury, through the medium of indirect as well as direct taxation. They have paid a relatively huge premium for many years, and have given the community loyal service. Had they paid similar amounts to a life assurance company, they would now be receiving annuities far in excess of 27s. per week, and without any means test being applied. Most of these persons have carved homes out of the virgin bush, or have built our roads and railway and cities. They have blazed the trail of civilisation for us. There should be no hesitancy about granting them pensions.

Member: What about the Commonwealth Government?

Mr. MARSHALL: There are limits to which a State's capacity extends, but there is no limit other than the productive capacity of this nation in the case of the Commonwealth. If the problem was worked out on a statisitical basis, it would be found that not only can pensioners enjoy a living wage or basic wage, but that every individual could enjoy it—man, woman and child. Here we parade our poverty with pride. We seem proud of the fact that we live in a miserable state of poverty. The old people who have done so much for Australia exist in a condition of anxiety and in undignified circumstances. That fact reflects no credit on Australia. I have no hesitation in supporting the motion. All my life has been spent in trying to lift up my section of the community to a higher rung with better conditions. I support the motion enthusiastically, irrespective of who moves it. I do not know that such a resolution will do much good, for I fear that the Commonwealth Government is now so busily occupied with restrictive legislation that it will not have much time for consideration of the proposal contained in the motion. We are getting a good illustration of abridging freedom while we are denied it. That applies to pretty well all the Governments of this period. In the main there is nothing wrong.

I really believe that every pensioner who can work should be allowed to do so when labour is so badly needed, or should at least be permitted by the Commonwealth Government to do so. The Commonwealth Government should remove the embargo it has imposed. Many pensioners

are afraid to go to work, because they fear that if they do so they will lose their pensions. A disgraceful aspect of the situation is that these poor people who have served the nation in the past are obliged to live as liars and deceivers because they eke out their means of existence. How can they tell the truth and live? There is not a member of this Chamber but knows some pensioner who has done a little odd job here and there and then has answered his questionnaire in the negative—"No employment." Who can blame such a pensioner? Much more time should be devoted by this House to debating the all-important question of standards of living. Instead of tinkering with the shadow of our laws, we should get back to the substance of them, the cause of them. Then we would not have so many conflicts of opinion here regarding what is fit and proper in a thoroughly mechanised, modern age such as that in which we live.

Mr. Hoar: You would not wish to make pensioners work, though!

Mr. MARSHALL: We could afford many more pensioners at an age considerably below that of 65 years. The time is right here and has been for many years when the working hours per day should be reduced. We are not permitted to take advantage of those geniuses who have evolved so many inventions, or of the wonderful discoveries of scientists, because our minds are too fully occupied with the thought of work, just as if work was the only thing of consequence in our lives. Even the savage when his stomach is full has the sense to lie down until he becomes hungry again. In these days of ultra-civilisation people cannot do that. Of course, that is another question. I do not think there should be any disagreement with regard to the substance of this motion. The amendments that have been passed are acceptable to me and I see nothing wrong with them. I am satisfied that I can confidently support the motion.

MRS. CARDELL-OLIVER (Subiaco—in reply): It was my intention to reply to every member who had said anything at all against this motion, and I was going to reply to every argument that they had put up. I listened with interest to the remarks of the member for Murchison. I have always liked him—not more so because he has supported this motion—because I have always felt that he really was wholeheartedly for the working man. Even when he tells us to stand up when we are not obliged to, I always feel we ought to do so because he says it. After his speech just now I feel I could not say anything if I wanted to that was hostile towards those who have criticised the motion. The one point I wish to stress is that to a certain extent the motion has been sabotaged by certain members because they are antagonistic rather to the mover than to the motion itself. I feel there is not a member of this Chamber who would not agree to this motion. With those members I agree that it was not worded perhaps as it should have been. I may not be the right person to do these things.

The reason why I brought the motion forward was that the two instances mentioned by one member opposite, occurred in my own electorate. One was the case of a woman who had subscribed to the war loans and had her pension reduced, and another was the case of a woman who had put in an insurance for her old age and, because it came to £70, just a little above the money she should have in cash, her pension was reduced. That is what made me bring this motion forward. The member for Forrest said I did not include widows. If members will look at the motion they will see that I have included every kind of pensioner. The motion urges—

> The Commonwealth Government to take steps to raise the rate of pensions to those who are aged and infirm, and to allow all those pensioners able to work to earn an income, including the pension, equivalent to the basic wage.

I do not know exactly what the basic wage is, because it varies from time to time. I know, as I instanced when bringing forward this motion, that there are many widows today who have children and are able to work, young women who want to work and whose children are perhaps at school and they have time and ability to work. They do not want to rely only upon their pensions, but want to earn enough to live upon, if they are able to do so. Another member asked, "Should we make pensioners work?" I point out that they work today. They say they are allowed to earn up to 12s. 6d. a week, and they go to a house and express their willingness to do the gardening that is required. You know, Mr. Speaker, that it may cost you £1 or £2 to have such gardening

done, but if you give the pensioner 12s. 6d. you will still get the work done, cheaply. That is exploitation. We know that if pensioners were allowed to earn up to the basic wage people would have to pay the right amount to those gardeners, or to those women who go to houses and offer their services as housekeepers. Instead of people saying, "We will give you 12s. 6d. a week for doing our housekeeping," they would have to pay 35s. or £2 a week. They would have to give the equivalent of what is being paid to the ordinary person, and that would allow the pensioners the right to earn up to the basic wage.

That is why I brought forward this motion. It allows honesty of purpose. All members must realise that I am honest in my motive in this regard. I do not care two hoots how they regard me, but I do know that I am endeavouring, to the best of my ability, as the member for Mt. Marshall also endeavours, to help those who are on the lowest rungs of the ladder. It is my life to do it, my vocation, and I shall do it until I get out of politics and even until I die. In bringing forward this motion, therefore, I felt I was doing something decent. One member told me it was most impertinent on my part to bring it forward. What occurred to my mind when the hon. member made that remark was the famous picture of the little dog yapping at a big St. Bernard. There was a large St. Bernard dog and facing it a little dog yapping. The picture is called "Dignity and Impudence."

Mr. J. Hegney: Are you the St. Bernard?

Mr. SPEAKER: The hon. member must not reflect on other hon. members.

Mrs. CARDELL-OLIVER: I am not reflecting on any hon. member. I am the St. Bernard. Another member said my motion was hypocritical, a pious motion, and that he would never vote for it. We will see! The point is this. I am very glad to feel that there is a member of the House who is now converted, and that he will never again vote for what is called a pious motion. Since I have been a member of this House there have been 26 motions passed by members on the opposite side of the House, as well as by those on this side of the House, dealing with Federal matters which have been considered as pious motions. The hon. member in question voted for every one of those, but I am glad he has been converted and that he will not vote for this or any other pious motion.

Mr. J. Hegney: I say it is deceiving the pensioners, because they cannot possibly improve their pension as a result of this motion.

Mrs. CARDELL-OLIVER: If this House wholeheartedly supports the motion, and if every member would go out to every organisation to which he belongs and get a similar motion to this passed, and all those resolutions were sent to the Commonwealth Government, I think that Government would take steps as a consequence of such action to increase the allowances to pensioners. I have the greatest respect for the member for Brown Hill-Ivanhoe, but he is always an oppositionist. He was born one and he cannot help being one; it is the consistency in him that keeps him an oppositionist. He referred to what the New Zealand Government was doing. He was not quite accurate in what he said. I took the opportunity, after he had made his speech, to send over and obtain the facts. Am I at liberty, Mr. Speaker, to read the information I have received?

Mr. SPEAKER: The hon. member is not in order in quoting what is done in New Zealand if she is raising new matter.

Mrs. CARDELL-OLIVER: The member for Brown Hill-Ivanhoe told us what pensioners were getting in New Zealand, and I want to correct the statements he made.

Mr. SPEAKER: If the member for Brown Hill-Ivanhoe quoted New Zealand, the member for Subiaco can reply to him.

Mrs. CARDELL-OLIVER: The hon. member quoted New Zealand and told us that pensioners there were receiving certain money. His statements were not correct. I sent over and got the figures. Invalid pensioners there can get £3 4s. a week, 10s. 6d. a week for each child, and have a permissible income of £4 10s. a week. A couple of old age pensioners receive £3 5s. a week and may have a permissible income of £4 1s. They can earn income up to that amount. Widows receive £2 11s. a week and their permissible income is £4 1s. a week, so that they can earn up to that amount, although their income is only £2 11s. a week. Members will also realise that in New Zealand pensioners enjoy other benefits which pensioners do not receive in this State. I am grateful to those members who have supported the motion, and to

those who feel as I do that it was moved from altruistic motives, and certainly not from any political motive. Leaders of my party and members of the Country Party can tell the House that I did this off my own bat. I did it knowing that it was something the State needed and because I felt every member of this Chamber would support it. That was my only reason for moving the motion. I realise that it will be supported, but supported perhaps from motives which I did not anticipate. I wanted it to be supported as if it were the original motion, the one of which I gave notice.

Question put and passed; the motion, as amended, agreed to.

BILLS (2)—RETURNED.

1, Metropolitan Milk Act Amendment.
2, Loan, £975,000.
Without amendment.

BILL—OPTOMETRISTS ACT AMENDMENT.

Second Reading.

Debate resumed from the 22nd November.

MR. NEEDHAM (Perth) [5.59]: Before this Bill was introduced it might have been well if the sponsor had consulted the Optometrists Board. Had that been done a certain amount of light would have been thrown upon the question at issue. It has been suggested that there is a shortage of optometrists, and that if this Bill became an Act it would remove that shortage. It was also suggested that there is a delay in the supplying of spectacles and that people who desired to have their eyes attended to have to wait a considerable time. I admit that there is some delay in the supplying of spectacles but that is not because of the shortage of optometrists but because of the shortage of materials and the shortage of optical mechanics. I recently wanted a new pair of spectacles and I had to wait some weeks before I got them. That delay was not because of a shortage of optometrists but because of a shortage of skilled mechanics and the necessary materials. The shortage of mechanics and materials is brought about as a result of war conditions. In the four years since the principal Act was agreed to by this Parliament it has proved itself worthy. I do not know of any necessity at the present time to amend the measure, particularly in the way suggested by the member for West Perth. I understand from his speech that only one person will be affected by this amendment.

The Minister for Health: Only one person that he knows of.

Mr. NEEDHAM: It is rather strange to amend legislation for the sake of conveniencing one individual. I understand that legislation is always agreed to in order that the greatest good shall be done for the greatest number. It would be very unwise to open the door now by altering the Optometrists Act to admit one particular individual to its benefits. If the refusal to amend the measure and admit the person referred to is going to cause any inconvenience to the people it would be a different matter, but I do not think it will. As was mentioned by the member for West Perth, the individual referred to is a refugee. I have every sympathy with the man who has to leave his country owing to the present war conditions, but I point out that there is no legislation in any of the other States to admit refugees to practice optometry. I further point out that refugee dentists are not permitted to register in this State. Mention has also been made of the shortage of doctors. It was suggested that refugee medical doctors have been admitted.

Mr. Marshall: This chap is not a refugee.

Mr. NEEDHAM: I understood that he was.

Mr. Marshall: I did, too, but that is not so.

Mr. NEEDHAM: It is agreed that refugees have been admitted to the medical register, but it must be remembered that there was a shortage of doctors when that was done and there still is a shortage of doctors to attend to the civil population. Furthermore a refugee medical practitioner had to serve a probationary period in the Perth Hospital to prove ability before being allowed to practise in this State. That was insisted upon although the refugee doctor had a medical certificate from some university. There are no facilities in this State for optometrists to serve a probationary period. It is important to remember that. It is said that this gentleman has practised for five years in enemy-

occupied countries. That is not sufficient guarantee that he is competent to practise in Western Australia, particularly when the country from which he came had no legislation to control the practice of optometry. The refugee doctors had the guarantee of a university certificate or the legislation of the country from which they came, but we have no guarantee that the country from which this man came had any legislation to control the practice of optometry, at least on the same scale as is observed in Western Australia.

Again, admission to the register of persons whose optometrical qualifications are unknown and not guaranteed by any responsible authority would defeat the object of the principal Act, which aims to provide competent and qualified optometrical service to the public. Another feature that might be borne in mind is that if registration is to be for five years, as suggested in the Bill, there is no guarantee that at the end of that time this man will cease practising. When the principal Act was discussed the question of allowing refugees to practise was prominently before the House. I think the consensus of opinion was against it for the reason I have mentioned, namely, that there was no legislation in the occupied countries to regulate and control optometry. I have no more to say except that I cannot support the second reading for the reasons I have advanced. I think it would be unsafe to open the door to admit people to the practice of optometry except as already arranged and provided for.

MR. MARSHALL (Murchison): My first reaction to this measure was one of direct and emphatic hostility. I have had long experience of Malaya and I immediately became interested. I may say—and I do not want any laughter at this—that I am of opinion that things in general have much improved there since I left. In my time the unfortunate people of the Far East, even though they were born and lived under the Union Jack, received anything but fair treatment. So it was that self-appointed opticians and dentists practised in the native parts of Singapore and other large towns in Malaya. The member for West Perth also left me under the impression that the man in question was a refugee and was of foreign origin. But, knowing Malaya as I do, I immediately became interested and made some authentic investigations in regard to him because I realised the possibilities of impersonation, of credentials being falsified or of those credentials being of little or no value when compared with what we require. I sought information, from the people who should know, as to what this man's qualifications were, his nationality, and whether he was a refugee. I asked people who knew him when practising in the city of Singapore.

I found that this gentleman is not a refugee, but that he is an evacuee. Like General Gordon Bennett he escaped. Had he not escaped he would have been a prisoner-of-war because, I understand, he was born under the British flag and can thus claim to be a British-born subject. Even this aspect of the situation, when it is analysed, does not count for much, because after all those whom we refer to as "barbers"—Straits Settlements born Chinese—are people of Chinese origin born under the British flag in Hong Kong and Singapore. They are all British-born subjects as are the Indians, but I am given to understand that the parents of the party concerned in this piece of legislation are, to an extent, Anglo-Indians or like origin which probably places him in a different category entirely from many others. I sought advice of a person I know who was an engineer on a boat operating between Singapore and Australia. This man gave me an assurance that the party concerned in this legislation practised, to his knowledge, for at least 19 years in Singapore.

The Premier: Did he do any good?

Mr. MARSHALL: Yes, I am given to understand that he is so highly qualified and so well renowned in those islands and around the southern parts of Asia that many people who could afford to do so travelled to Singapore soliciting his services and, in the process, passed by a number of optometrists who had not the reputation of this man. I also made investigations of an association composed of people who lived in Singapore, and from each and every one of its members, with whom I spoke, I received the highest commendation of this man.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. MARSHALL: I have made inquiries from many reliable sources to ascertain whether the credentials of the party concerned are true and accurate. From what I have been able to gather, the credentials are of a high character, and the man's capacity to perform the necessary services in the profession indicates that his skill is very high. I am quite satisfied from the information I have obtained that we would not be entitled to rule him out. With regard to there being no particular organisation that might examine him, my information is that he has been employed by optometrists in this city and is doing work of a highly skilled nature for them.

Mr. Cross: Are you satisfied with that?

Mr. MARSHALL: For many years we have been rather prone, from a wish to protect the public, to create monopolies for a specially selected few. It might be doubtful whether the public is getting the service that we anticipated it would get from legislation such as this. I remember two brothers who had a men's mercery business in a Goldfields town in this State. After many years, the goldmining industry declined and the business fell off, though it had been good while the town had its population. A few weeks later the two brothers returned to the town as opticians, and as they had practised and qualified, they are no doubt optometrists now and are entitled to join in the monopoly of treating the eyes of people in this State. Those men had no such qualifications as this man has. They had not had the schooling; nor had they attended the clinics or colleges he has. We are told that only one man is likely to qualify. This man was a member of the Volunteer Corps in Singapore and was obliged to retire on account of physical unfitness. I understand that he suffered from a duodenal ulcer. Consequently he endeavoured to render service to the Empire, although that part of the Empire is somewhat foreign to most of us.

As the member for Perth pointed out, those who became eligible to practise as medical practitioners did pass an examination and serve a period of apprenticeship at the Perth Hospital. If this man, however, is sufficiently qualified to do the work of registered optometrists, he must necessarily be qualified to practise in a business of his own. I cannot subscribe to the theory that there is no shortage of optometrists in this State. My reaction to this argument is that this profession would have supplied its quota to the Services, just as did the legal and medical professions. Unquestionably, if one has need to call for spectacles or for any of the requisites provided by the profession, one has to wait before being supplied.

Mr. Cross: Half the time the stuff has to come from Sydney.

Mr. MARSHALL: That is largely due to the fact mentioned by the member for Perth. I had a pair of spectacles, and when I took them to an optician, I was told that he was so short of labour that he had to do the work in rotation, namely, first grind the lenses, then make the rims and then fit the glasses in the rims.

The Minister for Lands: Due to a shortage of material.

Mr. MARSHALL: No, it was a matter of shortage of artisans to do the work.

Mr. Cross: Why did you not buy some already imported, of which there are plenty?

Mr. MARSHALL: If one needs any information, one can always look to the encyclopaedia for Canning to supply it. It is a logical conclusion that optometrists were required by the Services as were dentists and probably doctors, though not to the same degree. I consider that the member for West Perth made a small mistake in drafting his Bill. If he had fixed the period for anybody to practise as the duration of the war and no longer, it would have been more satisfactory, but he has fixed a period of five years and no longer. That is definite, and this man could not practise any longer unless the measure was amended. Consequently we have a safeguard there. Although I have never contacted this man, I am assured by those who know him well that he will eventually return to Singapore or Batavia, for his businesses at both those centres were flourishing. I was under a misapprehension for a time and my first inclination was one of hostility to the Bill but, having investigated the matter fully and seen that the Bill is limited to a period of five years, and as I believe there is room for a man of his qualifications in Perth, we should permit him to practise on his own account. If we deny him that right, he could still continue to practise by virtue of his employment by some registered optometrist. We shall not be doing anything in the

way of protecting the public if we prevent this man from being registered.

The Bill will not have the effect of opening the door wide, because a person to qualify must have evacuated from a British possession now occupied by the enemy. Anyone else who could qualify under this measure would have long since been here, unless he could perform the feat of escaping from an internee camp in Japan or one of the occupied countries. This man was fortunate in being able to get out of Singapore with his wife and family before being overtaken by the Japanese. We ought to do this man justice by permitting him to practise on his own account. He has been employed to work for men who desire to retain a monopoly, and no doubt has been paid high emoluments for his services because of his high qualifications. Those are the circumstances and the facts of the case as I have obtained them from reliable sources. Bearing all the facts in mind, I am quite prepared to take the risk, if there is any, of voting for the second reading of the Bill.

MR. McDONALD (West Perth—in reply): I shall not delay the House long in replying. I have already told members, when introducing this small Bill, that as far as I knew it applied only to one man, and I put it on the basis that it is a case where a fortunate country like Western Australia might extend hospitality to a refugee or an evacuee by enabling him to continue his ordinary occupation, when he had been compelled to cease it owing to enemy occupation of the country in which he had previously carried it on. I do not know whether the man in question can properly be described as a refugee or an evacuee. I understand from him that he left Singapore after the Japanese had crossed the causeway and entered the city of Singapore. He then received a permit from the authorities which enabled him to leave Singapore and proceed to Australia. He got as far as Batavia, where he also had a business; but almost immediately he managed to get a passage by ship to Australia, after the Japanese had already attacked Java.

To put the matter quite accurately, the man in question is being employed by optometrists in the metropolitan area today. He is doing optometrical work, but not what I understand is called refractive work, that is work which can only be done by registered optometrists. He can, I understand, of course do that work; in fact, he had been doing it for 20 years in Singapore and Batavia, but he could not do it here as an employee without committing a breach of the Act. It is a breach of the Act for any person not registered to do what is called refractive work. The Board of Optometrists has known of this case for some months. Before the Bill was read a first time I wrote to the board, sent it a copy of the Bill and asked for any comment or suggestions it would care to make. The board replied before the Bill was read a second time, but made no suggestion. It simply said that it was definitely opposed to the Bill. The man in question is a naturalised British subject. I have seen a copy of his naturalisation certificate.

Mr. Cross: What is his nationality?

Mr. McDONALD: He was born in Bagdad, judging from the papers. I do not know where his parents lived subsequently; it may have been in Singapore or British India, but this man has held a naturalisation certificate since 1931, that is, 13 years ago. He is described in the certificate as being an optician of Singapore. The Bill provides that it will only enable any such person to practise for five years, and no man can be admitted under it unless he applies before the 30th June of next year. The Bill will, therefore, cease to have any effect after 5½ years. Any man who is admitted under it must, after that time, make provision either to return to the country from which he came or else qualify by examination in the ordinary way under the terms of the Western Australian Act. The basis of the admission is practical experience, and this was the basis accepted for optometrists in this State when the registration Act was passed in 1940. As I said, I have felt that this small Bill will extend a measure of protection to a man and his family placed in unfortunate circumstances. I submit the measure for the consideration of the House.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Marshall in the Chair; Mr. McDonald in charge of the Bill.

Clause 1—agreed to.

Clause 2—New section:

Mr. TRIAT: Whilst I personally have no objection to refugees or evacuees coming into this country to practise their profession, I think certain safeguards should be inserted in the Bill similar to those which were placed in a measure dealing with refugee doctors. I move an amendment—

> That at the end of paragraph (b) of proposed new Section 34A the following words be added:—"and can pass the necessary examination as an optometrist under the principal Act."

If this man is a qualified optometrist he should be able to pass the examination.

Mr. McDONALD: If the amendment is agreed to, the Bill will not be worth while, because any man in such a position might just as well enter on the usual course. This man is 45 years of age and it would be difficult for him to set to work to pass a theoretical examination which normally would occupy a young student a period of study of five years. I venture the opinion that no prominent medical or other professional man would feel at all pleased to be obliged to pass such a theoretical examination as he passed during the five or six years he was going to the University, because perhaps after 20 years in practice many theoretical aspects would have escaped his mind and it would not be so easy for him to absorb them again at the age of 40 or 50 years. The basis of the Bill is that any applicant must show that he has had five years' bona fide practice as an optician or optometrist in the country from which he came. That is the same basis on which the opticians in this State who had not passed through the prescribed course were registered.

Mr. TRIAT: I remember reading recently an article written by an authority on various diseases, especially diseases of the eye. The article dealt with surgical operations which had been performed by dark persons. The operation was for the removal of cataracts from the eye and the patients were operated on without anaesthetics. They suffered no pain, but in 99 cases out of a hundred they were later afflicted with blindness. I am not for a moment suggesting that the person now in question is of the same type; but I consider it only right he should be compelled to pass an examination in order to prove that he is fully qualified to practise his profession. We have one man from Sourabaya or Singapore who I understand is one of our leading oculists today. It is likely that the man in question will prove to be a leading optometrist in a short space of time. I do not know whether it is too difficult for him to pass an examination. If my amendment is too drastic, I would like the member for West Perth to introduce one to provide for the board to be satisfied that this man has the qualifications required. If he knows his job, he should be able to convince others engaged in the same work as to his abiilty.

Mr. HOLMAN: If the member for Mt. Magnet had listened to the remarks of the member for West Perth he would have realised that this man is an optometrist and has the necessary qualifications.

Mr. Triat: What qualifications?

Mr. HOLMAN: I have here a list. He has practised in Singapore for 20 years, with 12 employees. In addition, he graduated at and was awarded the degree of Doctor of Optometry in the Philadelphia Optical College. He also has the degree of Bachelor of Optics of the Needles Institute, Chicago. In addition, he has done voluntary work in the general hospital at Singapore. He has letters of recommendation from the Secretary of the Malayan and Far Eastern Association, Perth, and from many Malayans residing in Western Australia. I would suggest to the member for Mt. Magnet that he has a definite knowledge of his work.

Mr. NEEDHAM: The fact that the member for West Perth opposes the amendment exposes the weakness of his case. The qualifications of this gentleman, as enumerated, indicate that he should not be afraid to sit for an examination. We are told that he has practised for many years in another country now occupied by the enemy. He was running a business of his own there. He has references from professional people in that country and from some of his fellow-countrymen here. That suggests to me that the member for West Perth, in opposing this amendment, is not doing justice to the man, who would probably be willing to undergo an examination.

Mr. Holman: How long would it take?

Mr. NEEDHAM: I am not a member of the Board and cannot answer the question, but if he possesses the qualifications he should not be afraid to face a test in theory or practice. The amendment seeks to safe-

guard the position. Other people in this country who desire to become optometrists must pass this examination. Why should an exception be made in the case of this gentleman simply because he has been compelled, through world conditions, to come to this country? We know how serious a matter are the eyes. We need to make certain, before our eyes are attended to, that the man about to attend to them is qualified to carry out his work. That was the whole spirit actuating the introduction of the principal Act.

Mr. RODOREDA: The hon. member who moved the amendment is suggesting more safeguards than are necessary. In the Bill itself there is a sufficient safeguard inasmuch as the board must say whether or not it will admit the man. A person who applies must attend before the board and prove to its satisfaction, if required, that, amongst other things, he has been engaged for five years continuously and bona fide in the practice of optometry. That means that the board must satisfy itself regarding his qualifications, and if it is not satisfied it would not admit him. We are rather off the track in referring to the qualifications of one particular man, because this Bill refers to any man. Possibly five or six people might apply in this State to be registered under this measure, who may now be registered in the Eastern States. I rather think the hon. member who introduced the Bill made a mistake in introducing it for the purpose of providing for one particular individual. I do not think we should be engaged in passing laws for the benefit of one person. However, the Bill does not stipulate that it is intended to apply to one individual, but rather to any man who can prove to the satisfaction of the board that he has the qualifications.

Mr. Styants: Where does the Bill say that?

Mr. RODOREDA: In Clause 2. I do not think there is any harm in the Bill and I am prepared to vote for the measure, realising that any person possessing the qualifications may be admitted to the profession if the board is satisfied.

Mr. BERRY: The qualifications of this gentleman were read out just now and it was made very clear that he had actually been awarded American degrees. Looking further into his qualifications, I find that he was elected to and awarded the Life Fellowship Certificate of the Institute of Opthalmic Opticians, London. That is good enough for me. If a man has a decent qualification from the City of London I should think it is almost good enough for Western Australia. If I had a degree from the City of London and I was told by Western Australians that it was not good enough, I would think what a poor crowd of people they were. I believe there is a board of control here and we can assume that it consists of qualified men who would surely know enough about the qualifications enumerated just now to decide whether they were sufficient to meet the requirements of the Act. It is ridiculous to ask a man of 45 to take a technical examination and answer all sorts of questions which are things of the past. I would like to suggest that there is no member in this House who would be able to take the Junior Certificate examination and pass it without putting in a great deal of time. What qualifications have the members of the board? Are they all qualified optometrists? If so they are capable of deciding whether the qualifications of this man are satisfactory.

Mr. Styants: The board has no jurisdiction in this matter.

Mrs. CARDELL-OLIVER: I had no intention of speaking on a Bill like this because I do not know much about this subject, though I do know a lot about the medical profession. If there is a board qualified to say whether a man should enter the profession, that should be quite all right. I can recall that when my husband was a medical man it would have been difficult for him to enter his profession in other parts of the Empire unless he were able to pass an examination and pay a certain amount of money. In Canada, in particular, it was not possible to become an optometrist or a doctor unless one could pass a certain board. I feel that a safeguard is necessary. As the member for Perth said, the eyes are very important, and unless there are safeguards to provide that, before a man enters the profession, he should pass the board, we should not agree to this measure. I have no doubt that the member for West Perth has provided the necessary safeguards in the Bill but I should like to hear the Minister for Health on this matter because it is very important. I have visited all parts

of the Empire and I know of no part where a man can enter a profession such as this unless he passes an examination set by a board.

Mr. HOLMAN: In considering this man's capabilities, the fact that he has been employed by various firms speaks for itself. If he were not qualified those firms would not employ him. That is the point.

Mr. Styants: It is not the point. What about other men who could be admitted?

Mr. HOLMAN: I am speaking of this particular individual.

Mr. Styants: This is a one-man Bill.

Mr. HOLMAN: This individual has been employed for the past 12 months by Nelson & Manning.

Members: Who are they?

Mrs. Cardell-Oliver: Never heard of them!

The Minister for Health: Such is fame!

Mr. HOLMAN: Have those people better qualifications than this man? They have employed him.

Mr. Triat: As a mechanic or what?

Mr. HOLMAN: He has been dispensing oculists' prescriptions and doing frame-fitting and other mechanical work.

Mr. Triat: Then he is a mechanic.

Mr. HOLMAN: Furthermore, 16 other firms have made use of his ability in repairing and welding shell-frames.

Mr. Cross: Why not leave him in that job? He is doing all right, and is getting a good salary.

Mr. HOLMAN: That may be. On the other hand, what are we holding up? Do we desire to monopolise the whole show?

Mr. Cross: There are too many quacks in this community.

Mr. HOLMAN: If 16 firms are willing to employ him on this type of work, that is good enough for me.

The MINISTER FOR HEALTH: I have been asked to explain the position under the Act. I have seen a good deal of this gentleman and his wife, who visited me at my office. I told them, as I told the board, that this was a matter for Parliament to decide and not for me. I was asked to introduce the Bill but I was not prepared to do so because I did not think it was a matter for the Government to handle as only one person was involved so far as I could see at the moment. Listening to the debate, one would think that the Optometrists' Registration Board was old-established and had been carrying on for many years. As a matter of fact, it was on the 16th December, 1940, that the Act was assented to and before that date there were no registered optometrists in Western Australia. Anyone could set himself up as an optometrist, and no one could say nay to him. Then the Act was passed and Section 34 set out the position as follows:—

> Any person who within six months after the commencement of this Act makes application in the prescribed manner to the board for registration under this Act, and proves to the satisfaction of the board and, if so required after personal attendance before the board, that—
>
> (a) he is over the age of 21 years and is a person of good character, and
>
> (b) immediately prior to the commencement of this Act he had been continuously and bona fide engaged in Australia for not less than five years in the practice of optometry, either as an optometrist or optician, or as an employee of an optometrist or optician, or partly as such optometrist or optician, and partly as such employee; or
>
> (c) immediately prior to the commencement of this Act he had been continuously and bona fide engaged within Australia for not less than three years in the practice of optometry as an optometrist or optician, or as an employee of an optometrist or optician, or partly as such optometrist or optician and partly as such employee, and passes to the satisfaction of the board a reasonable practical test of his competency to practise optometry.
>
> shall be entitled, on payment of the prescribed registration fee and the prescribed certificate fee, to be registered as an optometrist under this Act, and shall be so registered by the Board.

Subsequently the board was established and the board had the right to say, in accordance with the provision of that section, who should be registered as an optometrist or optician.

Mr. Holman: Did the members of the board have to go through the same tests?

The MINISTER FOR HEALTH: I will not reply to any question, about the answer to which I am not quite sure. I agree with the member for West Perth that it is very difficult for a man of 40 or 45 years of age, though he may be the most practical man in the profession, to sit down and pass a theoretical test. I know of plenty of men who, though possibly among the finest practical miners in Australia, get hopelessly lost when it comes to submitting themselves to a theoretical test. I have an open mind on this question.

Mr. WITHERS: The Minister has clarified the position. I support the amendment and feel myself in opposition to the clause itself. The Minister has pointed out that he introduced the original Act for a specific purpose which was to protect the people engaged in the profession of optometry. That was only four years ago. Yet here we are asked to amend the Act for the sake of one man. Where will the Act get to if we are to deal with it in this way?

Mr. Holman: What qualifications do the members of the board possess?

Mr. WITHERS: I do not know.

The Minister for Health: The members are qualified optometrists.

Mr. WITHERS: They must be qualified or they would not be appointed to the board. The Bill is not introduced to provide for optometrists of practical experience who may come here from other parts of Australia or from oversea. It is for one man. It may be for someone else tomorrow. I do not know what influence this particular man has exercised over members, but he has certainly infringed the Act if he has been practising as an optometrist.

The Minister for Health: I do not think that is right.

Mr. WITHERS: During the debate it was stated he had practised here as an optometrist.

Mr. Holman: He has been employed by optometrists.

Mr. WITHERS: The hon. member said clearly that he was employed as an optometrist by other optometrists. He should have more knowledge of the matters that are placed in his hands for presentation to the Committee. For optometrists practising in Australia it is a problem where they can get their supplies, and now the proposal is to allow other men to come into the profession here. Is there going to be blackmailing? Apparently a stranger to this country can come here and obtain optometrical appliances, when optometrists established here for many years have to apply for leave to purchase. The member for West Perth introduced the Bill and said this man was a Jew, whereupon the member for Murchison interjected, "That is enough!" If we allow this man to be registered under a special amendment, we are also going to allow others to come in. Where, under the quota, will they get their supplies? I shall support the amendment, although I am rather surprised that this Chamber accepted the Bill so readily on the second reading.

Mr. KELLY: The amendment has been approached from a wrong angle altogether. It should be viewed wholly and solely from the aspect of the profession. Does the amendment mean, in practice, that a person coming into Western Australia, irrespective of his possibly having the highest qualifications in the world, must remain here for five years, or in certain circumstances for three years, before he can be admitted to practise as an optometrist? Will it be necessary for that man, at the end of the period of years, to qualify by sitting for an examination which he probably could have passed 25 years ago?

Mr. CROSS: The amendment is not aimed at this particular man. All I know of him I have learnt by interjections to the effect that he is 45 years of age, was born in Bagdad, and worked in Malaya and Batavia. If we could get down to his pedigree, we would probably find that he was a Palestinian Persian. We all know what is practised in Bagdad; many books have been written on that subject. We also know how some American diplomas can be obtained. And diplomas can be secured in London for a price. It is about time we safeguarded the Western Australian public with regard to diplomas. Under the existing law, anybody can set up in Perth as a herbalist. Some years ago Parliament set out to protect the interests of the people and declared that if men are going to set up here as optometrists they must prove satisfactory qualifications and professional knowledge. The man here in question was not born in the British Empire at all. He was born in Bagdad, which at that time belonged to France. The member for West Perth said the man was born in Bagdad. This seems to me a one-man Bill, but I shall support the amendment and leave the Optometrists Board to see that the man is given a practical try-out. I can understand that a man of 45 might not know all the theory that he was familiar with when he sat for examinations at the age of, say, 25 years. If this man is so good an optometrist, he will have no difficulty in satisfying the Optometrists Board as to his qualifications.

Mr. McDONALD: I appreciate the concern of the member for Mount Magnet,

and I would be the last to feel that any risk should be incurred of enabling a man to practise here as an optometrist if he might do any damage at all to his patients. The Bill applies to this man the same requirements as to our own people—five years' experience. If the member for Mount Magnet would consent to withdraw his amendment, by leave of the Committee, I would be prepared to move an amendment adding one further qualification, that the man must have passed a reasonable test in the practical work of an optometrist as prescribed by the Optometrists Board. That would, in effect, be similar to the section in the parent Act which requires a practice of three years in the profession. I do not think that any suggestion is justified that this man has committed any breach of the law. He has been most scrupulous in confining himself to mechanical work.

Mr. TRIAT: I did not know the man, or where he came from, when I spoke. My only intention was to ensure that the people of Western Australia would be protected against a man holding himself out as an optometrist while not a qualified optometrist. Having heard the statement of the member for West Perth, I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. McDONALD: I move an amendment—

> That a new paragraph be added to proposed new Section 34A as follows:—"and (c) has passed a reasonable test in the practical work of an optometrist prescribed by the board."

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

Title—agreed to.

Bill reported with an amendment and the report adopted.

BILL—LOTTERIES (CONTROL) ACT AMENDMENT (No. 2).

Received from the Council and read a first time.

MOTION—CROWN SUITS ACT.

As to Rights of Subjects.

Debate resumed from the 8th November on the following motion by Mr. McDonald:—

> That, in the opinion of this House, the Government should without delay introduce legislation to provide that the subject shall have the same rights of action and redress at law against the Crown as exist between subject and subject.

THE MINISTER FOR JUSTICE [8.45]: I shall deal as briefly as I can with this motion. On account of the High Court decision in Dalgety's case, the subject's right of action against the Crown in Western Australia is confined to the Crown Suits Act of 1898, and all the old common law precedents and superstitions have gone by the board. The rights of the ordinary individual against the Crown are, therefore, very clear as they are codified in one short statute. It is true the subject has not as wide a range of actions against the Crown as he has against his fellow citizen. This position is not confined to Western Australia, however. At the same time, it is an exaggeration to say that the subject is greatly handicapped by the existing legal position. It is also not strictly correct to state that except under the Crown Suits Act the subject cannot sue the Crown in tort in Western Australia.

A complete statement would disclose that with modern legislation various Crown departments have been established by Act of Parliament under a Minister, who is a body corporate and is liable to sue and be sued both in contract and tort. Proceedings against such Ministers are taken by exactly the same procedure as an action between subject and subject. Actions are frequently brought against various Ministers of the Crown for alleged wrongs or breaches of contract done or committed by servants of the department concerned. In fact, there are very few actions which would come under the Crown Suits Act at the moment, not because the Act itself is deficient but because the rights and remedies of the subject against the Crown have been enlarged by the statutory creation of a department controlled by a Minister who is a body corporate and can be sued just as easily as a company or a private individual. Dalgety's case had to be brought by petition of right because the department concerned was the Treasury, which still remains a true Crown Department in the old sense and is not a body corporate.

When one goes through the records of the Supreme Court it is found that petitions

of right under the Crown Suits Act have rarely been used since the Crown Suits Act was passed. In the last six years only one or two petitions of right under that Act have been issued. In the same period only one common law petition of right has been issued and this procedure is even more rare than the procedure under the Act. The last petition before Dalgety's case was the Ravensthorpe Smelters case and that was in 1928 or 1929. Incidentally, if the point which was taken in Dalgety's case had been taken in that case, the Government would have been saved hundreds of thousands of pounds.

I think the member for West Perth has not clearly represented the true facts in Dalgety's case. He says the Crown received moneys amounting to several thousands of pounds which belonged to a private firm, and which were wrongfully paid into the hands of the Crown under circumstances where there was a clear contract—and therefore legal obligation on the part of the Crown—to repay the moneys. Actually the position was that the company, by its own gross carelessness and parsimonious attitude, had an inefficient or inexperienced staff handling its finances or the finances of its clients. Because of this state of affairs, one of the company's servants, over a period of 10 or 12 years, perpetrated innumerable frauds whereby he obtained cheques drawn in the names of fictitious persons or in the names of persons whose signatures he forged. This individual cashed the cheques with commercial people in the city and also with the Treasury. He was buying a war service home and he would pay the instalments with cheques, keeping the change.

These cheques were paid by the company's bank over this long period of time, and no tally was made by the company when the cheques finally came back to it. In these circumstances, it indicates colossal nerve when any suggestion is made that there was a clear contract with the Crown or that the moneys were wrongfully paid into the hands of the Crown. It was no fault of the Treasury that this individual was allowed to rob his employer or his employer's clients of thousands of pounds, and that he was permitted to indulge in a systematic system of fraud and forgery over such a lengthy period of time. There was no clear contract with the Crown at all. In fact, a transaction of this nature only becomes a quasi contract by operation of a specific statutory provision. At common law the individual who cashed a not-negotiable cheque got a good title to the cheque no matter what its origin might have been. The Bills of Exchange Act altered this position and created a liability to repay. Liability to repay under a defective not-negotiable cheque is not in ordinary parlance a contract at all, and no layman would understand that a contract was being created when he cashed a not-negotiable cheque.

There was absolutely no merit whatever in Dalgety's case and yet if the Crown's defence had not succeeded it would have had to repay some £10,000 out of Consolidated Revenue. Dalgety's would have got their money back and the public would have been the loser although the original sin was committed by the company. The Crown could not recover from Dalgety's servant because he had spent the money so fraudulently obtained and was financially "a man of straw." It will be found that there is no uniformity throughout Australia or the Empire with respect to claims against the Crown. In England there still is no remedy whatever against the Crown in tort. There is such a remedy in New South Wales, Queensland and South Australia, but it is doubtful if there is a general remedy in Tasmania. There is no remedy whatever in tort in Victoria, whilst in Western Australia and New Zealand there is a remedy as long as the tort was committed with respect to a public work. All these statements, of course, must be amplified by repeating that a complete remedy exists against all Crown departments which are bodies corporate, and the only deficiencies apply to what I have called true Crown departments. The member for West Perth failed to make this clear when he was dealing with the article of Mr. Justice Lowe in the Australian Law Journal. His Honour states at page 404:—

> To avoid misunderstanding I should emphasise that I am not referring to cases such as I have already mentioned in which Parliament has for certain purposes created a quasi governmental corporation and imposed on it liability which approximates that of an individual.

It is hardly a good argument to drag in an English Bill which was apparently rejected by the House of Commons. A Bill to give a general right of action in tort against the Crown was introduced into the

English Parliament in 1929 but it was rejected, and I suggest that if it was good enough for the House of Commons to act in this fashion then there is no reason why the State Legislative Assembly should act otherwise. I suggest that the main reason why there should not be a general remedy against the Crown arises from the fact that Crown moneys are public moneys. If a Crown department is a trading concern, it should have no special immunity and, as I have pointed out more than once, State trading concerns have no special immunity. True, Crown departments, however, are like the Treasury; they handle public funds for the benefit of the public and not of the individual. If an individual, therefore, has an action because of some wrong done by a public servant, it is considered that he should take his action against the servant and not look to the public purse for the repayment of his loss.

Mr. Watts: Do the State trading concerns claim priority in bankruptcy and on the liquidation of companies for the payment of their debts?

The MINISTER FOR JUSTICE: They are strictly on the same lines as are private individuals, in accordance with the Act passed by Parliament.

Mr. SPEAKER: Order! The Minister will address the Chair.

The MINISTER FOR JUSTICE: As there cannot be said to be any standard legislation governing the rights of the subject against the Crown, the best comparison is between the Western Australian law and the English law. Members will find that in England there is a statute known as the Petition of Right Act which is very much like our Crown Suits Act. The subject also has a statutory remedy against the Ministerial head of a great number of departments in exactly the same way as we have in Western Australia. It is true that the old common law petition of right still survives in England and it was thought in certain circles that this old common law petition still survived in Western Australia. The High Court has said that the common law petition no longer applies in this State and it seems that the Crown has, in the past, been wrongly required to pay under this old system.

One major difference between the English law and the Western Australian law is that in a great number of cases actions in tort can be brought against the Western Australian Government. This is not so in England. Even the use of the old common law petition does not extend the subject's right against the Crown to a case of tort. In these circumstances, the Western Australian law is more liberal in favour of the subject against the Crown. Finally, the proposition that special legislation should be introduced against the Crown comes rather badly from the member for West Perth. He was counsel for Dalgety's before the Western Australian Supreme Court. On the final appeal the case went against Dalgety's and the hon. member is suggesting that because this case was lost legislation should be introduced to defeat the High Court decision. I can remember a great number of instances when such a suggestion against the Government was very strongly urged. Amendments to the workers' compensation law have often been alleged to be an attempt to override a court decision. The motion amounts to a direction that the Government should introduce legislation to defeat the decision in Dalgety's case.

Mr. McDonald: This has nothing whatever to do with Dalgety's case.

The MINISTER FOR JUSTICE: I am simply replying to the member for West Perth in accordance with the speech he made. He used Dalgety's case as an example.

Mr. McDonald: As a statement of the law. This has nothing to do with Dalgety's claim. It is an impertinent suggestion to say that I brought the motion forward to deal with Dalgety's case.

The MINISTER FOR JUSTICE: I have great respect for the hon. member and what he states is probably correct. I am simply replying to the statements he has made and he used Dalgety's case as one in point.

Hon. N. Keenan: As an illustration.

The MINISTER FOR JUSTICE: Yes, and that is one of the reasons why I am replying in this direction.

Mr. McDonald: I did not even mention the name of the case in any of my speeches. I simply said, "A decision of the High Court."

The MINISTER FOR JUSTICE: That is the case I have put up, and it seems to me to be wrong to say that the Crown cannot be sued in tort because any depart-

ment that has been created a body corporate by statute can sue or be sued. It seems to me that in the case I have already referred to there was gross negligence on the part of the firm concerned. It did not seem to have any control over its employees, and the particular employee in question was allowed to defraud not only the company, but the clients of the company for 10 or 12 years. The original sin was not created by the Crown, but by the company itself. This person took the cheques along to pay instalments and kept the change, and not only did he go to the Treasury, but he also changed cheques with commercial people in the city. This was carried on for 10 or 12 years. In a case such as that, it seems to be rather ridiculous that the Crown should be held liable for the amount.

Mr. Seward: Were they open cheques or not-negotiable cheques?

The MINISTER FOR JUSTICE: They were not-negotiable cheques. I have changed thousands of pounds worth of not-negotiable cheques.

Mr. Seward: That would be done at your own risk. You could not get a good title to them.

The MINISTER FOR JUSTICE: I did get a good title. This would not have been so bad if it had been carried on for only five or six months, but it continued for 10 or 12 years.

Mr. Seward: The Crown was in fault for doing it.

The MINISTER FOR JUSTICE: I do not agree with that.

The Premier: He was also doing it with private firms.

The MINISTER FOR JUSTICE: Yes, and private individuals, too. It was through the company's inefficiency or inexperience that this continued. Perhaps through parsimony, the company was not paying for a staff with the qualifications necessary to protect it from men inclined to be untruthful. It was a case of inadequate supervision.

Mr. Seward: What about the case at the State Insurance Office? Who was at fault there?

The MINISTER FOR JUSTICE: That did not extend over 10 or 12 years, and it did not concern the passing of not-negotiable or any cheques. That man got away with some money and was detected. The two cases are not at all comparable. I do not intend to prolong the argument. The Bills of Exchange Act is not a law of Western Australia, although we understand that when a cheque is marked not-negotiable, the man who cashes it takes a certain amount of responsibility. Such responsibility is being taken by business men throughout the State. If the cheques in question had been open cheques, there would have been a good title to them.

Mr. Seward: Of course there would, but they were not open. That is the whole point.

The MINISTER FOR JUSTICE: When a person has defrauded a company and forged the signatures of the company's clients for 10 or 12 years before being discovered, the company should take some responsibility, although the cheque might be marked not-negotiable. I feel that the company must accept a certain amount of blame. The sin originated in the company's office. Although the cheques were marked not-negotiable, the ordinary individual would not understand the position as regards those cheques. I repeat that in my business we still accept cheques marked not-negotiable. If we did not, in many instances, we would not be paid. We take the risk, but we expect companies or those with whom the cheques are negotiated to show some business acumen and to take steps for the protection of the public. In this instance the matter was allowed to go on for 12 years before it was discovered and then the company said, "We want all our money back," although it was the company's fault to a great extent owing to the lack of supervision.

HON. N. KEENAN (Nedlands): This motion in no way relates to any specific case. It is simply a motion asking the House to agree that the Government should without delay introduce legislation to provide that the subject shall have the same rights of action and redress at law against the Crown as exist between subject and subject. If it were adopted by the House and if the Government did take action—it would still remain for the Government to do so—the motion would have no retrospective effect. It would not be worth the use of an old stamp as far as Dalgety's case is concerned.

The Minister for Justice: No one suggested that it would.

Hon. N. KEENAN: Why discuss Dalgety's case?

The Minister for Justice: Did you read the speech of the member for West Perth?

Hon. N. KEENAN: I read the motion. That is the matter before the House and that is the matter with which I am dealing.

The Minister for Justice: I read his speech.

Hon. N. KEENAN: I intend to deal with the motion. Before doing so I wish to clear the air regarding the reference to the decision in the Dalgety case, which has nothing to do with this motion. Before departing from that irrelevant consideration, I might remark that it is extraordinary that the Crown should stand on a pillar and ask for admiration for doing something that any private citizen could not do without incurring responsibility and that every citizen who did in fact do it admitted his liability for in the Dalgety case. The only party that did not admit liability was the Crown. But did the Crown dispute it on merits? Not a bit of it! The Crown disputed it on technicalities pure and simple.

The Premier: No, on the law.

Hon. N. KEENAN: One technicality was this, that the practice which, to my certain knowledge, has been observed in this State for the last 45 years, namely, that every citizen of Western Australia had a right to proceed by petition of right, had ceased to exist after the passing of the Crown Suits Act of 1898. It was contended that instead of being able to proceed under a petition of right, the subject was confined to the Crown Suits Act of 1898. That was a technicality. There was also another technicality, and a more wretched one I never heard, namely, that the petition of right should have been presented to the Governor of the State and not to the King. That was portion of the case to the High Court and I venture to say it was treated with contempt. What does it matter whether the petition of right was addressed to the Governor of the State or to the King since the Governor represents the King? That technicality was relied on by the Crown.

The Premier: The King gave his decision.

Hon. N. KEENAN: If, in fact, the petition of right had been addressed to the Governor, the Governor would have had to give assent in that form. Now I wish to deal with a consideration which should never have been allowed to come into this debate, and the member for West Perth had a perfect right to resent it. I refer to the statement that he was interested as a pleader and brought that case forward because he was interested in it as a pleader. That was a piece of simple impudence and the document alleging it should not have been read in this House by the Minister. Under the Crown Suits Act of 1898, it is quite true that a subject has the right to proceed against the Crown to a limited degree in tort. I propose to remind the House what that limited degree is. In Section 33 it is provided—

> No claim or demand shall be made against the Crown under this part of this Act unless it is founded upon and arises out of some one of the causes of action mentioned in this section.

Then it mentions claims arising out of breach of any contract with which we are not concerned at the moment. Then Subsection (2) reads—

> A wrong or damage, independent of contract, done or suffered in, upon, or in connection with a public work as hereinafter defined.

There is no right to proceed against the Crown in tort except to the limited extent I have explained. Now what is the position of the Commonwealth? We are often told that the Commonwealth is the most advanced in its ideas. Under Commonwealth law, there is no difference between subject and subject and subject and Crown.

The Minister for Justice: Nor in New South Wales, either.

Hon. N. KEENAN: I am not talking about New South Wales. Let me submit what I wish to say.

The Minister for Works: The Minister is trying to help you.

Hon. N. KEENAN: I wish on some occasions he would not try to help me. This reference to the Commonwealth stands pre-eminent. If it is the law the Commonwealth observes, it is a very strong argument that this State should follow suit and be a party to framing our law on the lines of the Federal law. In the Commonwealth there is no limitation such as our Crown Suits Act imposes against the right to proceed in tort against the Government. There is exactly the same right as one would have against a fellow subject, and that is all the motion asks for. What is the answer? The

discussion over Dalgety's matter was irrelevant, the idea apparently being that a large sum was involved and for that reason the claim had to be resisted, not because it was not a right and proper matter that the Crown should pay. It was a large sum accumulated over a number of years, and therefore should not be paid. Surely that is not an argument that any Government should put forward on behalf of the Crown! It is an argument that contains no merit whatever.

The only matter that should be in our minds and on which a determination should be based is whether it is right and proper to have only a restricted right given to the subject such as the Act of 1898 gives, or whether we should follow the example of New South Wales—if I may accept the Minister's hint—and of the Commonwealth and allow the subject here to have the right to proceed against the Crown in the same way as the subject may proceed against another subject if wronged by that subject. I do not know of any answer that can be made to such a claim. It is of no use looking to England for a precedent. Under the law of England it is true that the petition of right at common law has certain limitations, but in Australia it is an entirely different matter. In only a very few relations of life has the Crown anything to do with the subject in England. In wartime exceptional matters may arise, but in peacetime the Crown in England takes very little interest in the ordinary life of any of its citizens. It is only on very rare occasions that an opportunity arises for any wrong to occur between the Crown and any of its citizens; and, moreover, although the Crown is not responsible in tort, the individual is, and that for all practical purposes is quite sufficient in England. But in Western Australia the Crown every day enters into relation with its subjects. Every day it is doing something which might create a right of action on the part of the subject.

The Premier: All those actions are outside the Crown Suits Act; I refer to the State trading concerns, the railways and others.

Hon. N. KEENAN: A good many of them are.

The Premier: All of them.

Hon. N. KEENAN: Not all. That is proved by the Act of 1898. Special provision was made in that Act in favour of the railways. I think I am correct in making that statement. Is any member in this House prepared to rise and submit that the Crown should be in the position of doing a wrong to a subject of Western Australia and not be liable to answer for it, although it is a wrong in respect of which the subject would have a clear case against a fellow-subject? What member would rise and say that?

The Premier: I would.

Hon. N. KEENAN: The Premier would do it simply because he is sitting on the Government benches. If he were on this side of the House he would not hold that view. If I were on his side, I would not hold it.

The Premier: I hold it as a taxpayer.

Hon. N. KEENAN: I find, Mr. Speaker, that my recollection is correct. Subsection (4) of Section 33 of the Crown Suits Act provides—

> No action shall lie against the Commissioner of Railways under the Railways Act, 1878, or any amendment thereof, in respect of any claim or demand unless the same be founded upon, or arise out of some one of the causes of action before mentioned in this section . . .

The Premier: The Railway Act has been amended since then; and the Commissioner has been made a body corporate. That was in 1904.

Hon. N. KEENAN: I do not know what is meant by reference to a body corporate. The fact is that the Commissioner of Railways was specially exempted in the Act of 1898, except for causes of action which are covered by another paragraph of that section, and that is in the case of a tort which is suffered in, upon or in connection with a public work.

The Premier: That is an obsolete statute so far as the railways are concerned.

Hon. N. KEENAN: The Premier is quite correct; it is an obsolete statute and the Crown is relying on it. It is the only statute upon which the subject is entitled to rely—this obsolete statute! The High Court has declared that a petition of right is no longer available. I would be ashamed of this House if it adopted the attitude that justice would be denied to a citizen of Western Australia on the ground of an obsolete statute. And so I ask the House to accept the motion and agree that this obsolete statute be no longer law.

THE PREMIER: I did not intend to enter into this debate at all, as I have not given any great consideration to it. So far as the motion is concerned, however, notwithstanding that it is said that Dalgety's case should not be considered, the motion was moved because of the fact that Dalgety's had brought the case. That is the reason for the motion.

Mr. McDonald: It is a new statement of law.

Hon. N. Keenan: If that action had not been taken, this statement of law would never have been made.

The PREMIER: I do not want to go into the merits or demerits of the Dalgety case. All that I know is that if Dalgety & Co. had won their case the sum of £10,000 would have been paid out of the Consolidated Revenue of this State for nothing at all. The people who were in the wrong, Dalgety & Co., could have taken steps to prevent the loss of their money. So could the people concerned in the Ravensthorpe case. In that case, because of the alteration of a word in the regulations, action was taken against the Crown and the Crown had to pay £50,000 or £60,000. The Crown could have protected itself under the Crown Suits Act had it so desired. No injustice was done by the Crown either to Dalgety & Co. or to the Ravensthorpe people. The Crown never did any harm to Dalgety & Co.

Hon. N. Keenan: Neither did Mr. Glowrey. He paid.

The PREMIER: No.

Hon. N. Keenan: Yes.

The PREMIER: He paid, but there was no injustice. There was law on the side of a man who paid something. He gave value for a cheque. That was absolute injustice to Mr. Glowrey, and that injustice was owing to the inadequate supervision of the firm which allowed this matter to go on as long as it did. I do not think any Government would claim the protection of the Crown Suits Act if it felt that it was morally in the wrong. Cases are brought against the Crown on technical points which are decided on law, not on justice. It would be quite wrong for this State to be mulct in the sum of £10,000 because some firm had not taken steps to protect itself in respect of non-negotiable cheques. Such a cheque or bill of exchange presupposes that it would be paid to a certain person in due course.

Mr. Seward: It is a contract between the drawer and the bank.

The PREMIER: The drawer makes it payable to some person, who should take steps to see that he receives the money. If he does not do so for the space of ten years, that is lack of supervision. The people who cross the cheque should take steps to find out in what manner the cheque was paid. If a wrong payment is made, it should be brought under the notice of the drawer of the cheque, who should take steps to rectify the matter.

Mr. Seward: They do it at their own risk.

The PREMIER: But they do not accept the risk. The statute of limitations could be made to apply to a great deal of Dalgety's claims. Fancy their wanting to make a claim after ten years on a non-negotiable cheque that was not paid according to the instructions on the face of the cheque! The cheque should have been paid within 12 months, or payment repudiated. No bank will cash a cheque more than 12 months old, and no firm should be able to take action on such a cheque after eight, ten or 12 years.

Mr. Watts: Suppose the claim had been brought within 12 months, should the Crown have paid?

Hon. N. Keenan: Do not answer that question.

The PREMIER: I will answer it. I do not think the Crown should be called upon to pay out money belonging to the people of Western Australia in a wrongful way or illegally. No individual got any benefit out of this case. The taxpayers of the State were prevented from being mulct to the extent of £10,000 or £12,000 because the law provided that that should not be done in the circumstances. I think the Treasurer or the Crown Law Department would be lacking in duty if he or it allowed the Crown to be mulct in such a sum. In regard to the Ravensthorpe case, in which the Crown paid some £50,000 or £60,000, the Solicitor General at the time became almost obsessed with it. It was almost responsible for his losing his reason, and he certainly had a breakdown in health over it. The law provides that the Treasurer is the custodian of the public funds. He takes an oath on assuming Ministerial office that he will do justice and right between individuals

and the State. If somebody brings an action against the Crown which the Crown considers to be wrong, the Treasurer would be lacking in his duty if he did not contest it. Had I paid out the money in the Dalgety case, I might have had to face a vote of censure in not testing the matter to the extreme limit of the law. The whole question was whether the Crown was morally and legally bound to pay out the money.

Hon. N. Keenan: Now get back to the motion.

The PREMIER: Yes. In any case where the Crown is likely to b ewronged or mulct in any money for which it would get no value at all, advantage should be taken of the statute which exists for the protection of the Crown from a brigandage attack. I think the Treasurer would have been blamed had he allowed the matter referred to to go by the board without trying to defend the taxpayers of the State against the payment of money which should not have been paid out. I read the account of the case in the High Court, and even one of the judges said that the Crown had got some advantage. The Crown did not make a penny out of the case. The Crown certainly did get, through the War Service Homes Board, payment of portion of the monthly rent due by the individual in question. The Crown was acting on behalf of the Commonwealth Government then, and would have got the money in any case because it had a mortgage over the land. It could have recovered the amount by law. No Government, notwithstanding what the member for Nedlands has said, has any right to pay out money for which it is not getting value.

Every Government must protect the finances of the State by law. If the law decides that the Crown must pay out money, then the Government must pay it. As a matter of fact, in Dalgety's case the Crown did not insist on its full rights. Costs were allowed against Dalgety & Co., and the Crown met that firm by wiping off the costs, which amounted to about £1,000, so as, to some extent, to recompense them for the trouble they had in this case. I do not think any responsible Minister has the right to suffer an attack on the finances of this State and allow money—which rightly belongs to Consolidated Revenue—to be paid out to people who are not entitled to it, when the court declares that it is not a legal payment.

Hon. N. Keenan: Do you allege that the Crown should not answer to the subject when the subject would be entitled to get an answer from another subject?

The PREMIER: Yes, I think the Crown occupies a privileged position inasmuch as, in many instances, it does justice to people when they are entitled to it. We are continually making compassionate grants to people for all sorts of reasons. When we are not entitled to make any grant under process of law, there is no reason why we should. The old tradition that the King can do no wrong should be scrapped, but so should the tradition that the Government, which is in charge of public funds, should allow itself to be mulct in a lot of money because it might be possible for a legal process to be taken.

Hon. N. Keenan: You disagree with the Commonwealth legislation?

The PREMIER: Yes, I disagree with anything that would allow people to obtain from the Crown money to which they are not entitled.

Hon. N. Keenan: That is not the legislation.

The PREMIER: Yes, it is.

Hon. N. Keenan: No. The legislation gives the right to a subject to proceed against the Crown as if the Crown were another subject.

The PREMIER: While we have a law to uphold, we are going to uphold it. If the House, in its wisdom, thinks we should not exercise our rights under the Crown Suits Act, but allow the same position to arise as arises between subject and subject, then it must take the responsibility.

Mr. Perkins: You are asking that the Government should be the judge of its own case.

The PREMIER: No. I am asking that the law should be carried out as it stands. So far as this Government is concerned, it is not going to abrogate its right under this law in regard to the Petition of Rights and the Crown Suits Act. If any other Government decides to do so, that must be the responsibility of that Government. But this Government does not feel inclined that way, particularly when it never can be said that the Crown has done anybody any injustice. This is the highest court in the land; and, if anybody thought that an in-

justice had been done in the case we have been discussing, a motion could have been submitted and carried by a majority, and the Government would then have paid out the money. We occupy the position of being the highest court of appeal. So long as Parliament agrees to take the responsibility, we can do anything. But there has been no move for redress by anybody who thinks that an injustice has been done by this Government. The Government feels that no injustice has been done to anybody. If it has, no member has been inspired by anybody to move a motion in this, the highest court in the land, to have that injustice removed.

MR. WATTS (Katanning): I propose to support the motion, though perhaps for different reasons from those expressed by some members who have addressed themselves to it. I did not intend to say anything about it, and would not have done so but for the concluding remarks of the Minister for Justice. I do not think he treated the subject, as put forward by the member for West Perth, in that fair and reasonable way for which he is notorious in this House; for he made it appear that the member for West Perth had produced this motion because he had some personal axe to grind. I have perused with care, for the second time, the speeches made by the hon. gentleman on the question, both in regard to his Bill which was rejected and in regard to this motion; and it is quite clear to me that in his observations —and that is all the Minister and I can work on—there is no justification for the Minister's contention. I am not a bit concerned with what Dalgety & Co. did or did not do, or what the Crown did or did not do in regard to that case. I intend to approach the matter on quite general grounds. I have never been able to appreciate in these modern times why the Crown, in so many instances, should have a special type of protection as distinct from actions between subject and subject.

The Premier: It is acting in the public interest; that is why.

Mr. WATTS: That would be a very fine theory so long as the Crown was acting in the public interest, dissociated from all trading and commercial concerns and from all public utilities and matters of that kind, which must be taken to have altered very substantially our outlook on the relationship between the Crown and the people.

The Minister for Justice: They have no rights of litigation.

Mr. WATTS: That is where the Minister and I disagree, because there is a substantial measure of difference in the treatment meted out, so far as rights of litigation are concerned, to individuals, and the treatment given to such corporations as, for instance, the Commissioner of Railways. The Commissioner of Railways has received honourable mention on more than one occasion this evening, and I have taken the trouble to turn up the Government Railways Act and see what is the position in regard to the Commissioner. Section 36 states—

> All actions, suits, claims, and demands against the Crown relating to any railway, or arising from the management, maintenance, or control thereof, shall be brought, maintained, and enforced against the Commissioner, and not otherwise; and, subject to the limitations and provisions of this Act, the Commissioner may be sued in respect thereof in any Court of competent jurisdiction.

The "limitations of the provisions of this Act" are to be found in Section 37, which reads—

> No action shall be maintainable against the Commissioner—
>
> (a) For any loss or damage to or in respect of any goods received upon any railway, whether in transit or before or after transit, unless the action is commenced within three months after its cause shall have arisen; or

So there we have the special protection that it is necessary to commence an action in regard to loss or damage of goods in transit within three months, but as between subject and subject the time would be up to six years. The next subsection reads—

> (b) For any other cause, unless the action is commenced within six months after its cause shall have arisen.

So once again there is a special privilege for the Commissioner of Railways in that regard. Then the section goes on to say in Subsection (3)—

> The Commissioner shall be deemed to be a common carrier and, except as herein provided, shall be subject to the obligations and entitled to the privileges of such carrier.

The position is very different when it comes to a question of damages in regard to a

common carrier, in the ordinary meaning of that term, who is not protected by special legislation of this kind. When one realises the position of a person suing the railways with a limitation of damages of £2,000, which is another provision of the Act; and that nobody can bring an action with respect to a personal injury unless he has first submitted himself to a medical practitioner appointed by the Commissioner; and considers the other limitations contained in the measure, one begins to see that there are special privileges applied to the Commissioner of Railways and other institutions of a similar character carrying on under the Government in this State and under other Governments elsewhere which would not be given to private people or, as this motion says, between subject and subject.

The things that can happen in regard to the Commissioner of Railways and the position that can arise on behalf of those who suffer by reason of loss in transit or damage in transit, when one bears in mind these various limitations, can be amply demonstrated by a nice little record which was issued on the 12th October, 1944, and signed by R. M. Evans, Deputy Chief Traffic Manager. It contains a list of missing goods, parcels, luggage, etc., and on it we find items such as this: Missing since the 16th September, 58 bales of wool; since the 30th September, 9 bales; since the 4th October, 10 bales; since the 11th September, 7 bales; since the 21st September, 20 coils of barbed wire required at Tammin; and a parcel of goods, the property of the Royal Netherlands Navy —11 packages of gear weighing 716 lbs. So there were 58 bales of wool, and also 716 lbs. weight of goods belonging to the Royal Netherlands Navy which have been missing for six weeks and are still missing; yet it is necessary to bring an action within three months for loss or damage in transit!

The Minister for Lands: It is probably due to a train running late!

Mr. WATTS: I have brought this matter up to show that there are two sides to the question, especially in these days. I am not going to deny the ground-work of the Premier's argument. It may be that his argument is exceptionally sound so far as times gone by are concerned, but there is room for a modification today; and I view the motion, shorn of the embellishments given to it by the Minister for Justice, as a request to this House to give consideration to a measure that will bring about not exactly a similar state of affairs between the Crown and the public as exists between subject and subject but a state of affairs that will do a greater measure of justice to the subject, when dealing with Crown instrumentalities of one kind and another which are being constantly added to from year to year, than he is getting at the present time. I believe this House and the member for West Perth will be very satisfied for some such forward move to be made and I propose to support the motion.

I agree that any Government is entitled to take advantage of the law that exists in the protection of its rights or revenue, but that is not to say that the law should not be changed or that the Government should not have less rights so as to ensure that there is no possible injustice done to anyone. Suppose the law were altered so that equal rights were given the subject to sue the Crown as already obtain for the subject to sue a fellow subject, there is nothing to prevent the Crown from taking advantage of every opportunity available to it to offer any defence open to it in accordance with its obligations and under the operating system. That would not be depriving the right of the citizen to sue if negligence could be proved. Where negligence has to be proved as between subject and subject in order that that claim should be enforced, that should equally apply in enforcing claims against the Crown.

As I see the position it simply amounts to this: The law today is rather restrictive of the rights of the subject as against the Crown and the trend on the part of many governmental institutions is to enlarge the protection they have rather than to minimise it. On the other hand, there is also a trend to increase Government activities that affect people in their work and living. So we should not hesitate to give consideration to the enactment of new laws which while not putting the Crown in any invidious position, which I would not support, would at least alter the existing state of affairs to give the subject a reasonable chance of protecting his interests against the Crown and its instrumentalities in a manner that is not provided for under the existing law. Here we have an example of what is going on.

We see day after day how fires break out occasioned by the passage of railway trains, and there is no redress. Whereas between subject and subject the law is that if one causes a fire that does damage to the property of another person redress can be obtained, if the fire is caused by the Commissioner of Railways he can burn the whole countryside and it is sufficient answer to any claim for damages for him to say, "We have spark arresters." The installation of spark arresters on engines will not restore burnt out crops, or damaged feed. Notwithstanding that, under existing conditions an effective answer to any claim against the Commissioner is, "We have spark arresters." Inefficient as they may be it is still a satisfactory answer to any claim against the Commissioner of Railways respecting any damage that may be caused through such fires. Is that to be the alpha and the omega in connection with our legislation as between the subject and the Crown? I support this motion. I do not suggest that the whole implied meaning of the member for West Perth should be put into the form of legislation but something should certainly be done to alter the position as between the Crown and the subject regarding proceedings between those parties.

MR. McDONALD (West Perth—in reply): In the Press this week we read the report of a case in the Supreme Court. A man had been killed and his widow and children instituted proceedings for damages. The jury awarded damages to the extent of £3,000. Had that action been taken against the Commissioner of Railways the widow would have lost £1,000 under the Crown Suits Act.

The Premier: How would she have lost that amount?

Mr. McDONALD: She would have been worse off to the extent of £1,000. She would have recovered £1,000 less than was considered by the jury in the Supreme Court to be fair compensation for the injuries sustained by her and the children of the deceased. That such could be the position is unjust.

The Premier: The law is different in the different States. There are discrepancies in the law.

Mr. McDONALD: There should be no discrepancy from the standpoint of justice. If a person suffers injuries to such a degree that a widow and the children should be compensated to the extent of £3,000, then that is the just compensation to those who have suffered whether it be in England, Melbourne, Adelaide or elsewhere, allowing for the difference in exchange.

The Premier: If you had a dozen juries, you would probably get a dozen different verdicts.

Mr. McDONALD: Let us admit that there can be such variations. On the Premier's argument it would never be possible to get any decision because juries vary in their decisions. We may accept the jury's verdict, which as not been appealed against so far, and accept their assessment as such proper compensation as human ingenuity and wit can arrive at. The Premier suggests that there should be a different law for the Crown so that when it wishes it can plead that special law and defeat the claim of the subject. That subject may have a claim which could be enforced against any other private citizen but because of the special immunity enjoyed by the Crown it could defeat what might be a very just claim. The Premier says it is a good idea because if the Government thought a claim was unjust it could plead immunity, whereas if it regarded the claim as fair it could be paid. The member for York put his finger on the spot when he said that that meant the Government would be the judge as to the rights of the individual instead of the individual having the right to go before a judge and jury to recover the damages he claimed. In other words, it would mean that one of the parties—not a third party—would be the judge of the merits of the case, that party being the one that would be called upon to pay.

The Premier: But the Crown would act on the advice of its legal officers who are impartial.

Mr. McDONALD: Those legal officers are employed and paid by one party to the proceedings. I do not wish to disparage the legal officers of the Crown——

The Premier: They are paid to serve the people.

Mr. McDONALD: I hope they are. I do not wish to disparage the legal officers of the Crown but the fact remains that they are employed and paid as Crown servants. No doubt they advise the Crown to the best

of their judgment, but nevertheless they and the Crown are judges of their own side of the case. This point, I think, was specifically dealt with by Mr. Justice Lowe, of the Victorian Supreme Court, whose remarks I quoted previously. Therein he mentioned that this invidious principle should never have been brought forward at all. The Premier says the Crown should be able to plead immunity and decide whether it was acting in the public interest. What constitutes public interest? In my opinion the Crown should set an example by paying its just debts and paying compensation on the same principle and in the same measure as it would require one individual to act towards another. There is no question about that. The same rule that applies to the subject should apply to the State. If we are to say that the same law shall not apply to the Crown as applies to the individual, we shall be travelling along a very dangerous road, one along which people in Europe have gone far to their cost. No, Mr. Speaker, the Crown should set an example in all things and should at least observe the standards of obligation and fairness which are laid down to be observed as between subject and subject.

The Premier: The Crown quite often acts generously.

Mr. McDONALD: Often the Crown possibly does make gratuitous payments. I myself have paid out pounds that I was under no obligation at all to pay. An employee may leave the office after long service, but I contribute towards something when he goes. Sometimes payments are made because people are poor or unfortunate or because their cause is worthy. The Crown does the same thing. None claims special merit because of any such action.

The Premier: But it is more than that.

Mr. McDONALD: In view of the Crown's resources, I think it can afford to be generous to a far greater degree than can thousands of private individuals in this State. The case of Dalgety's was most unfortunately introduced into the discussion. In my speech I never referred to Dalgety's, which firm has nothing to do with this matter. This motion does not affect that firm at all. A Bill that I introduced earlier was ruled out of order, but that Bill had nothing to do with Dalgety's. The case in question is over and done with. This motion is looking to the future. Just one word regarding Dalgety's case, most regretfully though I propose to refer to it. The case concerned cheques marked "not negotiable," which had been issued by Dalgety's. The person concerned was a trusted servant of the firm who had been employed there for a lifetime. He was a man they had no cause to suspect.

The Premier: He proved unworthy of the trust in him.

Mr. McDONALD: Even the Crown has been robbed by trusted employees over a period of years. I have seen several items in the Treasury accounts dealing with defalcations over years. We cannot watch over and suspect every individual. In this case the man had cheques drawn in favour of people in the country and the cheques were marked "not negotiable." He cashed them at the State Treasury which, in turn, immediately presented them at the bank, so the cheques were not outstanding. They were cashed straight away and debited to Dalgety's account at the bank. If a cheque is marked "not negotiable" it is the same as writing in letters in red ink, "Anyone who cashes this cheque does so at his own risk and if the cheque happens to have been stolen or unlawfully obtained by the man who presents it, should you cash it you will have to make good the amount of the cheque to the firm that has drawn it."

In Dalgety's case the marking "not negotiable" meant that anyone who took the cheque had to regard it as a warning that the firm did not guarantee that the cheque was in the right hands and if any person cashed it and the man who tendered it had no right to it, the person cashing it would have to repay the money to the firm. The law says, in accordance with the Bills of Exchange Act, that if anyone after such a warning and without making inquiries, cashes a cheque that is tendered by a man who is not entitled to be in possession of it, that person is liable to make good the amount of the cheque. A not negotiable cheque is like the Premier's motorcar or anything else that he owns. If the motorcar is removed by an unauthorised person and sold, the Premier does not lose his title to it, but is able to take the motorcar back even though the buyer has paid a large sum for it.

The Minister for Justice: Not after ten or twelve years, though!

Mr. McDONALD: I think that after six years is the limitation, but I would not be too sure on the point of time. A cheque is just like that; in other words, the owner retains his title to it. Now, Dalgety's merely happened to be the name of the case in which the Crown took the point that the petition of right procedure was no longer available. It had been thought to be available, and had been used, for 45 years; but the High Court held, on the Crown's contention in the case of Dalgety's, that the petition of right had been abolished 45 years ago by the Crown Suits Act. That materially limited the right of the subject to sue the Crown. In addition to the other matters which have been mentioned, the decision made all the more glaring the limitation of rights of redress against the Crown. I therefore moved this motion.

Many people are deeply interested in the motion and its fate, not because they will get any money by it, but to see what sort of standard of civilisation we have got to in our State, and whether we still stick by the principle that the King can do no wrong—which was evolved something like 1,000 years ago, and flourished in the time of a King who lost his head through being too fond of it, King Charles the First. We can decide whether we will still proceed on a mediaeval basis, retaining a principle which is no longer tenable in a modern country. I regret that the law adviser of the Minister made some unfortunate remarks in the notes he gave to the Minister. I know the Minister's unfailing courtesy, and I know it was due to the notes that he suggested that any member was using his position in the House for some ulterior purpose. There was no ground whatever for any such suggestion. I hope the Crown Law officer will be censured by the Minister for a reflection on a member of the House, which very ill comes from him. I commend the motion to the Chamber. I do not think the Premier has given it very much consideration, as he has many other things to do. I am sure that, on reflection, he and his Cabinet will agree that the time is now long past when we as a Parliament should say to the people, "There is one law for you, and another law for those who form the Government and for the employees of the Government."

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

Ayes	15
Noes	18
Majority against	3

AYES.

Mrs. Cardell-Oliver	Mr. Owen
Mr. Hill	Mr. Perkins
Mr. Keenan	Mr. Seward
Mr. Leslie	Mr. Shearn
Mr. Mann	Mr. Watts
Mr. McDonald	Mr. Willmott
Mr. McLarty	Mr. Doney
Mr. North	*(Teller.)*

NOES.

Mr. Coverley	Mr. Needham
Mr. Cross	Mr. Nulsen
Mr. Hawke	Mr. Panton
Mr. J. Hegney	Mr. Telfer
Mr. W. Hegney	Mr. Triat
Mr. Holman	Mr. Willcock
Mr. Leahy	Mr. Wise
Mr. Marshall	Mr. Withers
Mr. Millington	Mr. Wilson
	(Teller.)

Question thus negatived; the motion defeated.

BILL—WESTERN AUSTRALIAN TURF CLUB (PROPERTY) PRIVATE.

Returned from the Council without amendment.

MOTION—NATIVE ADMINISTRATION.

As to Royal Commission Inquiry by Commonwealth.

Debate resumed from the 29th November on the following motion by Mr. McDonald (as amended):—

> Inasmuch as the reforms and improvements necessary for the better education and the moral and physical uplift and care of natives are substantially dependent on the availability of ample money, the Commonwealth Government should, this House considers, make available to the State a sum of not less than £50,000 per annum for three years to supplement the present expenditure by the State, and enable necessary reforms and improvements to be put into effect——

to which an amendment had been moved by Mr. Mann as follows:—

> That the following words be added:—"and that a Royal Commission should (in the opinion of this House) be appointed by the Government of this State for the purpose of recommending the best method to be adopted for the better education and the moral and physical uplift of the natives of Western Australia, and particularly of the half-caste population."

THE MINISTER FOR THE NORTH-WEST (on amendment) [10.11]: Firstly,

I wish to express the hope this amendment will not be accepted. I say that not because I have no faith in Royal Commissions, but because it was my privilege in August of 1933 to move for the appointment of a Royal Commission, firstly to inquire into exaggerated statements made in the Press, and secondly, to inquire into the administration of the Native Affairs Department. That Royal Commission was appointed in 1934, and much good has resulted, or did result, from it in the administration of the Native Affairs Department and in many good suggestions put forward and given effect to, in spite of the fact that as soon as a contradiction is made the statement contradicted reappears in the Press or in pamphlet form that none of the Royal Commission's recommendations were put into effect. I have no intention of repeating the analysis of the Royal Commission's recommendations, but I merely refer members who may have forgotten, or members who do not know, to the fact that an analysis of those recommendations was given here in 1942.

For the benefit of any member sufficiently interested, I would refer to "Hansard" of 1942, Vol. 2, page 1978. There members will find a very complete analysis of the recommendations made by the Royal Commission, those that were put into operation, and the reasons why the other recommendations were not given effect to. I want to point out that that Royal Commission was very costly; but the expense was justified because much good came out of the Commission's investigation. Again, I wish to point out that not one of the statements or accusations made through the Press was ever attempted to be justified before that Royal Commission. We find that those who had most to say, in what I term exaggerated statements, made no attempt to prove their assertions when the Royal Commission was appointed. There is, however, this difference, that the amendment reads—

> and that a Royal Commission should, in the opinion of this House, be appointed by the Government of this State for the purpose of recommending the best method to be adopted for the better education and the moral and physical uplift of the natives of Western Australia, and particularly of the half-caste population.

I am opposed to the amendment because, in my opinion, there is no need for a Royal Commission to inquire into the best method for educating and uplifting the natives of Western Australia. We already have in Western Australia competent people who have made inquiries and laid down curricula for the education of the half-caste people of Australia. The best recommendation I have been able to find is that made by Mr. G. R. Henderson, a Bachelor of Commerce, and inspector of schools in Queensland. I am not going to quote all the paragraphs of that recommendation, but with your permission, Mr. Speaker, I will lay a copy on the Table of the House for the benefit of members interested. The curricula laid down and carried out in Queensland have been examined and inquired into by the Western Australian Director of Education, and have been adopted in conjunction with the Commissioner of Native Affairs. That policy will be put into operation in the New Year.

Firstly I say that we have had a competent inquiry by a Bachelor of Commerce who has laid down a system that is accepted by the Queensland and Western Australian Governments, and will be put into operation in the near future in connection with the educational system of the half-castes of Western Australia. I remind members that we have a big percentage of half-caste children already attending State schools and receiving education under our State educational system. They are at the moment receiving the same education that our white children receive. It is not necessary to have a Royal Commission to tell us that a fair and reasonable opportunity is not being given to the half-castes of Western Australia. It is well for me to give some figures in this respect. A check recently made of the number of children in Western Australia shows that south of the 28th parallel, which is a line running approximately through Northampton to the South Australian border, we have 1894 half-caste kiddies of which 900 are of school age. Of those 900 children 285 are in the care of Government institutions, namely Moore River and Carrolup, about which we have heard a lot recently. An undertaking has been given that these schools under the direction of the Education Department are intended to be reopened in the New Year. Of the 900 children, we have 285 who will be catered for under the Queensland curriculum in the New Year. At the country centres 483 half-

caste children are already receiving a State school education.

I do not want to read the names of the various State schools, but they are here for the information of members. I have also the number of children attending each State school and I am prepared to allow members to see this information if they so desire. That number of 483 does not apply to the metropolitan area. I did not have time to get the figures for the metropolitan area but quite a number of half-castes attend the East Perth, the West Perth and other metropolitan State schools. The 483 children do not include those children at places like the Mt. Margaret Mission. I am positive that something like 30 to 40 children are in attendance at that school, which is a good one. There are other institutions not included in this list. It will be remembered that a Mr. Boyle recently commenced a school at Kellerberrin. His commendations were for a mission, but unfortunately for him his information was entirely incorrect. The Kellerberrin children to whom he was referring are the entire responsibility of the Education Department and are being taught by a teacher of that department. The school is in no way connected with the mission to which he referred. However, that is only by the way. This list does not include the Kellerberrin school, the metropolitan schools or the mission schools that I have mentioned.

Members will see that there are very few half-caste children of school age that are not already receiving the equivalent of our white children, namely, a State school education. In view of these facts I cannot see that this House is justified in asking for the appointment of a Royal Commission to inquire into our educational system, and I am not in a position to agree that we should spend money on an inquiry that is not necessary. That money can be much better expended upon facilities for the children at present attending the schools and those who will enter the schools from now onwards. I have but briefly touched upon the curriculum laid down by the Queensland Bachelor of Commerce. It is necessary for me to explain that in this report of an estimate child population of 6,171 there are 2,750 attending schools. It is estimated that 289 children, not at school, are nomads and the remainder either not of school age or not accessible to schools. We compare very favourably indeed with the Eastern States so far as the attendance of children at State schools is concerned.

I am not going to delay the House any longer. I merely point out that we compare favourably with the best of the other States if we take the numbers of half-caste children who are already admitted to schools and educated under the control of the Education Department. We can also make a comparison between the position of the natives and that of the white children of the back country of Western Australia. As I have said, a few who are at the moment not receiving educational attention will be provided for in the new year. In the face of these facts I hope this House will not agree to a huge expenditure of money that is not warranted. I will now lay this Queensland report on the Table of the House.

MR. SEWARD (Pingelly—on amendment): I am sorry the Minister has not seen fit to agree to this amendment. He stated that it was not advisable to embark upon a costly Royal Commission. I agree with him in that respect. I do not think that was the purpose of the mover of the amendment. But if an improvement can be brought about in the condition of the half-castes, particularly, then it would be a difficult matter to say what would be a costly Royal Commission. Even if the commission cost a lot of money—and I do not see why it should—if it resulted in bringing about better conditions for the native it would be well worth while. I would be quite agreeable that any commission appointed should confine its activities to the southern part of the State. I am not conversant with conditions in the North and can offer no criticism of them. I do not intend to offer any great criticism of the southern part of the State. The Minister has pointed out that improvements have taken place in the condition of the half-castes in the South, and I accept his statement because he, no doubt, is quoting from official records. But, from what is to be seen of the half-castes in the southern part of the State, I unhesitatingly say that there is still much to be done before we can claim that we have achieved sufficient for these people. The mere fact that we are abreast of what is being done in the other States does not imply that we have done all that we might.

The Minister has quoted the number of half-castes receiving education. What he has said may be so.

I previously stated that on one occasion I visited Carrolup where I saw a little boy who was going to sit for his Junior examination that year. But unless we make provision for the suitable employment of these people after we have educated them we are only going to intensify their troubles, because they will then realise the injustice of their position. An investigation by a Royal Commission might reveal certain avenues of employment that can be opened up for them, and this would make the inquiry worth while. I see numbers of half-castes. Whether the number is greater or smaller today than it was some years ago, I cannot say, but to me there seems to be more of them. I have been particularly struck in the last two years by the number of half-castes I have seen in the town of Pingelly. I do not know where they come from but there seems to be a sudden influx of them. I do not know what happens on week days; their parents may be employed around the district. I notice them on week-ends. Whether they are always profitably employed or not, I do not know, but I still think there is work for a Royal Commission to do in investigating this matter to see whether certain methods of employment and treatment cannot be found to their advantage.

It must be remembered, too, that part of this resolution asks for a grant of £50,000 a year to be made for three years by the Commonwealth. If we are successful in getting that sum in addition to what the department is already spending there will be grounds for a Royal Commission to investigate and make recommendations for a future policy. I am not taking part in any of the controversies on the improvements made, but simply say that whilst certain improvements may have been effected during recent years there still remains much to be done. I do not know of any half-caste children attending the Pingelly school. They may be attending other schools, but there is still a reluctance on the part of many white people at Pingelly to have their children associating with the half-caste children. Consequently if the half-castes are to be educated some efforts should be made to have a building or room made available for that purpose. But the great thing is to give them an occupation after they have been educated. The Native Affairs Department could be completely staffed by half-castes and so could many other departments. I was, with some others, in the Midland country a little while ago and when we were returning we called at New Norcia for a meal. A half-caste girl waited on the table and no waitress in Perth could have given better attention.

The Minister for Justice: I have a half-caste girl in my hotel and she is excellent. She is clean, tidy and quick.

Mr. SEWARD: There is an avenue for the useful employment of these people all over the country as domestic helps. I know of several women who want someone to go on their farms to mind the young children, etc. All such avenues are open to them. I still think that a useful purpose could be served by a commission, and if the Minister can see his way to approve of the appointment, I feel sure that he will get some useful advice from it, though some of the proposals that might be made would already be known to him. I support the amendment.

MR. SHEARN (Maylands—on amendment): I support the amendment moved by the member for Beverley, although this is a matter that need not necessarily be referred to a Royal Commission. I agree with the Minister to that extent, but I am supporting the amendment in order to get some inquiry. As has been pointed out by other members, whoever the Minister for Native Affairs might be, he has a very difficult task to cope with the situation as it affects natives and half-castes. I have had some small experience with organisations whose aims are to further the welfare of natives and half-castes, and this leads me to the opinion that there is a lack of co-operation between the various units that have been brought into existence for the wellbeing of these people. Whether it is due to the attitude of the department or the attitude of these organisations, I cannot say, but it is obvious to me that there is a lack of co-operation. I would like to see a Select Committee appointed to formulate a scheme. It is not our duty to delegate this task to any outside body. There are members of this House, apart from the Minister, who have had con-

siderable experience of the natives for many years.

I suggest that means should be devised whereby representatives of those organisations which have shown a consistent and earnest interest in the well-being of the natives, whether in relation to their education or vocational training, would be given an opportunity to submit their views. At the conferences they would have an opportunity of presenting their case and having it discussed from the departmental as well as their own point of view. I suggest that some good should come of conferences of this kind. Within my knowledge there is ample evidence that something is missing, and I suggest that what is missing is co-operation.

There is no reason why a Select Committee should not be appointed and converted into an honorary Royal Commission, and then next session it could present concrete proposals to the House. I feel sure that the outcome of such an investigation would lead to a spirit of co-operation being engendered that would not only be helpful to the department but would give the people in the mission field an opportunity to show their earnestness of purpose which, by the way, the Minister has not disputed. Judging by the public outcry session after session since I have been in the House, all is not well in regard to native affairs. If the matter were approached in the way I have suggested, the department could be put on a basis that would make everything harmonious and each organisation would be able to play its particular part in the general interests of the natives.

MR. KELLY (Yilgarn-Coolgardie—on amendment): I did not like the original motion and I like the amendment far less, and shall not shed any crocodile tears if the natives get nothing more out of this debate than they have received in the past. To appoint a Royal Commission would not only entail unnecessary expense but would bring nothing further to light than has already been given to the House. I speak from considerable experience of natives. I have worked as many as 70 or 80 natives at a time and over long periods, and I realise how futile any objective is that has as its basis the putting of the natives of this country to continuous useful work. The department has fulfilled most of its obligations to the extent that available finance would permit, and I do not think the spending of a large sum of money such as is envisaged by the amendment would put the natives on any better plane than they have occupied in the past. No useful purpose would be served for the natives.

The member for Irwin-Moore put the position clearly when he said that our best and sincerest interest in the natives would be shown by giving them the customs and rights to which they have been used. If Parliament placed the natives in a position to have their children reasonably educated to a standard that would enable them to become useful employees, it would have done them a very good service. We should also provide for the natives reasonable living conditions, especially for those unable to work. We would be ill-advised to appoint a Royal Commission and incur expense in that direction. I have very little time for the suggestion that the Commonwealth Government be brought into the matter of controlling, in any shape or form, the natives in this State.

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

Ayes	.. .. ..	14
Noes	.. .. ..	22
Majority against	..	8

AYES.

Mrs. Cardell-Oliver	Mr. North
Mr. Hill	Mr. Perkins
Mr. Keenan	Mr. Seward
Mr. Leslie	Mr. Shearn
Mr. Mann	Mr. Watts
Mr. McDonald	Mr. Willmott
Mr. McLarty	Mr. Doney
	(Teller.)

NOES.

Mr. Berry	Mr. Needham
Mr. Coverley	Mr. Nulsen
Mr. Cross	Mr. Owen
Mr. Graham	Mr. Panton
Mr. Hawke	Mr. Rodoreda
Mr. J. Hegney	Mr. Telfer
Mr. W. Hegney	Mr. Triat
Mr. Kelly	Mr. Willcock
Mr. Leahy	Mr. Wise
Mr. Marshall	Mr. Withers
Mr. Millington	Mr. Wilson
	(Teller.)

Amendment thus negatived.

MR. McDONALD (West Perth—in reply): Just a few sentences! The original motion aimed at two things; firstly, the provision of Commonwealth money for this State, and secondly, an inquiry which might recommend a native welfare policy not only to

this State but also to the other States of the Commonwealth. The motion has survived to this extent, that the part which asks for financial assistance still remains. We shall not get any money under this motion, or under any motion, from the Commonwealth unless the Commonwealth makes available money to every other State that has a native problem. That is a certainty. The Commonwealth will only make money available to all the States which have a native problem. Another certainty is that the Commonwealth will not make available any money without first making inquiries through a representative of its own. That is why I suggested a Commonwealth Royal Commissioner who would make an inquiry as to how the money is to be spent. I wish to add, finally, that under my motion, which involved a Commonwealth appointment and money being found available for all the States with native problems, we would have got the money. Under this motion we have not got a chance.

Question put and passed; the motion, as amended, agreed to.

BILL—PARLIAMENTARY ALLOWANCES AMENDMENT.

Message.

Message from the Lieut.-Governor received and read recommending appropriation for the purposes of the Bill.

Second Reading.

Debate resumed from the previous day.

MR. McDONALD (West Perth) [10.45]: The Bill proposes to increase the Parliamentary allowances of members to the extent of the increase which would have been made in the basic wage to compensate for the increase under the cost of living since 1936. I agree that in any case the Parliamentary allowance of members in this Chamber is not adequate. That is particularly the case where members are representatives of constituencies outside the metropolitan area. That inadequacy has become still more acute owing to the sharp rise in the cost of living during the last few years. I agree that the question of the allowance must necessarily have been re-examined in order to grant members some more adequate provision for the services which they endeavour to render through their Parliamentary work. The Bill is, more than most Bills, a matter of personal feeling and personal opinion; and my own opinion is that it should be deferred to a later stage. We have fixed the rents of all landlords since 1939, quite justifiably, and many people who live on rents have very small assets and have no added means to meet the cost of living or otherwise. In the case of mortgagees we have, in my opinion rightly, maintained restrictions still on them which are due to the position that obtains at the present time. I do not intend to go further into the matter than to say that I acknowledge the case there is for an increase in Parliamentary allowances, but that I think it is a matter which we could better defer until some later period.

HON. N. KEENAN (Nedlands): I quite agree that if the whole matter of allowances to members was the subject of inquiry, some difference should be made between the allowance to metropolitan members and the allowance to country members, especially those who are living in town and in many cases maintaining also a home in the country, and who at any rate must incur an expenditure entirely different from the expenses incurred by metropolitan members. I also agree that there may be other reasons why some consideration should be given to the question of altering the allowance; but I am opposed to the Bill, and I desire to state shortly the reasons why I am opposed to it. I wish to make it abundantly clear that I do not in the slightest degree impugn the motives of those who support the Bill. I have no doubt that they are acting entirely from proper and commendable motives, and I do not wish to suggest in the slightest degree that I have a right to claim that I occupy a position of any special credit because I am opposed to the Bill. But there are grave reasons which appeal to me, and which I would like to lay before the House. The first reason is this: What we receive is not paid as salary or wages, but as an allowance. It is something in the nature of a gift. It is a gratuity.

The Premier: Do you not think that we render service?

Hon. N. KEENAN: One often renders service for gratuities. We are very proud—and no-one more so than the Premier himself—of the service we render, but what we receive is only an allowance, not a wage.

Mr. Rodoreda: It is the sole source of livelihood for some members.

Hon. N. KEENAN: Let me point out that the only operative clause in the Bill seeks to put the allowances on the basis of wages, which will rise or fall according to the rise or fall in the basic wage. That is an indignity we should not place on members of this House, unless for very grave cause. It is, of course, quite possible that under certain circumstances which would compel us to consider an increase cause might arise, but I know of no occasion at present existing to justify such increase. It would require a very grave cause and, as I said, no grave cause exists now. As the member for West Perth reminded the House, persons in receipt of rents and living on them have not been allowed, and are not allowed today, to increase the rents which they were receiving in 1939, although everyone knows that the purchasing value of the rents has very much decreased since 1939. In fact, the whole fall in money value and the whole rise in costs have probably taken place since 1939. The same applies to persons in receipt of interest on mortgages. Yet who would suggest that this is the proper time to revise the rights of those who are receiving rents or interest?

For those reasons, Mr. Speaker, apart from the reason I have just put before the House that this is an allowance or gratuity, it would be unseemly that we should enter on the question of increasing the allowance at this stage. There are other reasons I would like to put before the House. This seems to me to be essentially a matter which, before we deal with it, should be submitted to the electors. We certainly should not increase the allowance in any way that could suggest that the electors knew nothing about the matter, because what are we in respect of the public purse? In another discussion here tonight the Premier reminded us—and I think very properly reminded us—that he is the trustee, as indeed we all are, of the public purse. We have the right to dispose of the public money only as trustees. It is not our money: it is in our custody and we must dispose of it under certain proper and well-defined rules. Could it be suggested that any trustee is entitled to dispose of the moneys of the trust in his charge without the prior consent of the beneficiary? I may possibly be making use of a technical term, but I mean the real owner. The real owners of the public money are the electors of the State. At the last election, from which we have only just come, no mention was made of any intention or idea of increasing the Parliamentary allowance. Not a single party leader made the slightest mention of it in his policy speech. The Premier certainly did not do so.

Mr. Withers: No-one asked us about it.

Hon. N. KEENAN: The electors did not ask us about it because they had no reason to do so. My point is that the electors knew nothing about this matter. It was not mentioned in the Premier's policy speech. Although the Premier covered an immensity of ground in that speech—as I can well inform him, because I listened to it and I think he exhausted every possible matter that could be referred to—he did not mention any increase in Parliamentary allowances. Yet this Bill seeks to increase the allowance without the knowledge of the electors, and without a mandate from them. Those are grave grounds, Mr. Speaker. I do not for one moment suggest that because I differ from other members I alone am acting in a manner that is commendable. I am not criticising others, but I simply could not be a party to this proposed increase and for that reason I must object to the passing of the Bill.

MR. McLARTY (Murray-Wellington): The member for Nedlands said that we had not got a mandate for this Bill. Certainly, I have not a mandate from my electors. I undertook to serve them at a salary of £600 a year and I do not feel like increasing it without consulting them. I disagree with the member for Nedlands in his reference to this £600 a year as an allowance. I regard it as a salary, and I know that some members have to live on it. I admit that they must find it rather difficult to do so in these days. Even so, I do not consider that to be any justification for the Bill. There are many people outside Parliament whose wages and salaries are pegged and who are finding it equally difficult to manage. I am wondering what effect this Bill, if it is passed, will have on a great many people who are earning salaries and wages today. I fear it might have an unsettling effect. In Queensland, the members of Parliament raised their salaries.

On reading the Queensland papers, it rather strikes me that their action in raising their salaries at a time like this has had the effect of dividing the State. All the members of one party have decided not to accept the extra salary; they are going to leave the increase in the Treasury. They may or may not do so, but I am prepared to accept their word. As I move about my electorate, money is being sought for various works and I am repeatedly telling the people that, owing to the exigencies of war, it is not available. If we pass this Bill, the first thing we will have slung in our faces is this: "You can find additional money to raise your own salaries, but you cannot find additional money for particularly urgent works." We have been discussing the position of old age and invalid pensioners. We propose to give ourselves a greater increase by this measure than those pensioners are receiving. They are receiving 27s. per week. If we pass this Bill, we will be giving ourselves between 28s. and 29s. a week extra.

Mr. Withers: This Government does not control old age and invalid pensions.

Mr. McLARTY: I do not approve of all that the Commonwealth Government is doing. Federal members are proposing to give themselves a secretary each. I consider that unjustifiable at a time like this; but whilst I admit that members who have to live on their Parliamentary salary are hard put to it, I do not consider the present position justifies us in increasing our salary. I suggest to the Premier that the proper way to do this is to mention it when the Governor's Speech is submitted. That is what I would have liked to see done on this occasion. If it had been done, the public would have been given an idea of what was proposed and an opportunity to offer any criticism they desired to make.

On motion by Mr. Watts, debate adjourned.

House adjourned at 11.1 p.m.

Legislative Council.

Thursday, 7th December, 1944.

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

ELECTORAL REFORM SELECT COMMITTEE.

Report Presented.

HON. C. F. BAXTER (East) [4.37]: I desire to submit the final report of the Select Committee apopinted to inquire into electoral reform as follows:—

The Committee has completed its inquiries regarding electoral reform. There is nothing to be added to the interim reports submitted to the Council on the 28th November. The Committee has resolved to introduce Bills to amend the Constitution Acts Amendment Act and the Electoral Act; such amending Bills will cover the findings of the Committee Time does not permit of further investigations into other matters of importance.

Report tabled.

BILL—MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT.

Read a third time and returned to the Assembly with amendments.

BILL—FINANCIAL AGREEMENT (AMENDMENT).

Second Reading.

Debate resumed from the previous day.

HON. H. SEDDON (North-East) [4.40]: This Bill is the result of an agreement arrived at between the Commonwealth and State Governments at a meeting of the Loan Council. I suppose it is most remarkable for the fact that it demonstrates that the